

So This Is Democracy?

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

2005



On February 18 2005, Botswanan President Festus Mogae signed an order declaring Australian-born political science professor Kenneth Good an unwanted immigrant, and served him with an expulsion notice. The deportation order came shortly after Professor Good gave a lecture in which he seriously criticised the ruling Botswana Democratic Party - which has held power since independence in 1966 - and Ian Khama, Vice President and Mogae's hand-picked successor. Good's lawyers made an immediate appeal, halting his deportation, but on May 31 2005, the High Court in Botswana upheld the deportation. Botswana's Immigration Act allows the President to declare a foreign citizen a threat to state security and order deportation without having to furnish reasons.

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

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

In 2006 for the first time, *So This Is Democracy?* includes the African Media Barometer (AMB) reports from six SADC countries, i.e. Angola, Botswana, Mozambique, Namibia, Swaziland and Zambia.

The AMB, developed by the Friedrich Ebert Stiftung (FES) and jointly implemented in SADC by FES and MISA, is the first in-depth and comprehensive description and measurement system for national media environments on the African continent. Whereas MISA's traditional monitoring sheds light on the number, context and nature of violations of media freedom and freedom of expression, the AMB provides insight into civil society perception of media freedom, media content and professionalism.

The AMB is a groundbreaking initiative and presents powerful lobbying tools. We therefore have to say "thank you" to FES for considering MISA as its natural implementing partner in SADC region.

Also, a special word of thanks to Sarah Taylor for sharing her excellent copy-editing skills, and Jerry dos Santos who coordinated the translation of portions of this booklet into Portuguese.

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

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



State of media freedom and freedom of expression in southern Africa

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Notes on Classification

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



Beaten



Legislated



Killed



Victory



Bombed



Detained



Sentenced



Others



Censored



Expelled



Threatened

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



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



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



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



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



CENSORED - This is where information is suppressed or prevented from being published, or where media workers are somehow or other prevented from getting their information out. It involves 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.



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



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



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



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



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



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

Regional Overview

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State of media freedom and freedom of expression in SADC

Estado de liberdade de meios de comunicação e liberdade de expressão em SADC

Panorâmica Regional

Por Zoé Titus

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On the surface media freedom and freedom of expression activists have reason to celebrate, especially in light of the declining number of media freedom violations being recorded in the 11 Southern Africa Development Community (SADC) countries that MISA monitors. In fact, MISA has since 2003 consistently recorded fewer violations in these countries, a trend that was recently also noted by Reporters Sans Frontières in its annual report for 2005.

Before letting down their guard, however, media freedom activists should consider that perpetrators of media freedom violations are employing less conventional strategies to repress dissenting voices and, in so doing, closing the democratic space.

Deeper analysis of the violations recorded in 2005 reveal that the tools of oppression are indeed changing. Zimbabwe's Central Intelligence Agency's (CIO) strategy to own newspapers through shell companies or as silent shareholders, a scandal dubbed 'Mediagate', is a case in point.

In the past, the SADC governments were the major violators of media freedoms. However, more recently our courts – the new tool – have become the leading oppressors of media freedoms and free expression rights.

The year 2005 witnessed five major cases in Lesotho, South Africa, Swaziland and Zimbabwe where judgements were passed – or are still pending – that hold dire consequences for media freedom, diversity and pluralism.

On November 7 2005, the High Court of Lesotho awarded damages of 1.5 million maloti (approximately US\$222 000) against the English-language weekly newspaper *Public Eye*.

Similarly in Swaziland, *The Times of Swaziland* and *The Nation* magazine – both privately owned – bore the brunt of civil litigation cases in 2005. One involved the Deputy Prime Minister who was awarded E750 000 (about US\$115 300) damages in a defamation suit against the newspaper over an article that associated him with a banned political party, the Ngwane National Liberatory Congress. While *The Times* has appealed this ruling, it is estimated that to date it is facing up to a total of E4 million (US\$615 300) in similar civil suits.

The Nation is being sued E5 million (approximately US\$670 000) by a businessman who also serves as Indonesia's consul in Swaziland over an article accusing him of corrupt procurement dealings with government. The case is still pending.

Further south in South Africa, the Johannesburg High Court banned the publication of an article in the *Mail & Guardian* newspaper, which revealed a corruption scandal involving the ruling African National Congress (ANC) party. The corruption scandal, dubbed 'Oilgate', involves millions of rand channelled from the state via an oil company to the ANC to fund the party's 2004 election campaign.

MISA spoke out strongly against the judgement and referred to it as constitutionally questionable because it elevates a primary constitutional right, the right to privacy, above that of another primary constitutional right, that of media freedom.

It is feared that the judgement may open the way for others seeking to prevent newspapers from publishing articles about their questionable or irregular conduct by enabling them obtain legal censorship of the media.

Also in South Africa, a community paper, *The Developer*, is facing a ZAR100 000 (approximately US\$16 818) defamation suit from businessman Eric Chauke.

Media freedom statistics

The total number of alerts issued by MISA in 2005 was 155. This decreased by 8,3 percent from the previous year (169), but as stated earlier this should not be hailed as a victory for media freedom and freedom of expression environments in the region. It is important to note that the nature and impact of the violations rather than the number is a telling statistic.

How then, have things changed in 2005?

Botswana no longer a shining example

The expulsion of Professor Kenneth Good from Botswana in 2005 dominated regional news media for the earlier part of 2005. The Australian academic – who co-authored a paper criticising the Botswana government – was served with a deportation order in February 2005 and lost the battle late in May. In his view, his only crime was to speak out against the ruling elite.

In July 2005, the Court of Appeal Judge President Patrick Tebbutt read the judgment which affirmed the ruling of Botswana's Lobatse High Court of May 31. The High Court had found the declaration of Professor Good as Prohibited Immigrant lawful, thus opening the way for the state to deport him.

Judge Tebutt said that the Court of Appeal found that Botswana President Festus Mogae had not acted irrationally in declaring Professor Good a Prohibited Immigrant. He stated that there was no procedural impropriety in the declaration. The Court of Appeal dismissed arguments advanced by Professor Good's lawyers that sections of Botswana's Immigration Act violate the Constitution.

In August MISA was pressed to express its reservations about Botswana's immigration laws when Zimbabwean journalist Roderick Mukumbira, who worked as the editor of the Maun newspaper the *Ngami Times*, was forced to leave Botswana on August 2 2005.

It is believed that the government was not pleased with Mukumbira's coverage of the state-sanctioned evictions of the San people from the Kalahari ancestral homelands. MISA confirmed that on July 27 2005, the Botswana government sent Mukumbira a letter revoking his work and residence permits, ordering him to leave the country within seven days.

Mukumbira is not the only Zimbabwean journalist to have been expelled recently from Botswana as Charles Chirinda, a correspondent of the State-owned BTV, was also ordered out of the country.

Swaziland constitution - a waiting game

On July 26 2005, Swaziland welcomed its new constitution. While the media may initially celebrate its enforcement, since it enshrines, among others, freedom of expression and freedom of the press, there are concerns as to how the principles will translate into reality. This is particularly so because the new constitution further entrenches the political hegemony with the King exercising executive, legislative and judicial authority.

Although the constitution provides for limited freedom of speech, assembly, and association, as well as limited equality for women, King Mswati may waive these rights at his discretion.

Constitutional experts have already indicated contradictions in the constitution, especially in

relation to the Bill of Rights. They point out that, while it gives fundamental human rights and freedoms, it also takes them away. For example, the constitution recognises freedom of association, but political parties are still outlawed.

Zimbabwe - employing weapons of mass destruction

The government of Zimbabwe has at its disposal weapons of mass destruction against the media in the form of the infamous Access to Information and Protection of Privacy Act (AIPPA) and AIPPA Amendment Act, the Public Order and Security Act (POSA), as well as the Broadcasting Services Act (BSA).

The government further reinforced its anti-media and free expression arsenal with the signing into law of the Criminal (Codification and Reform) Bill on June 2, 2005 which makes it increasingly difficult for the few remaining journalists who survived the implementation of AIPPA and POSA to perform their newsgathering tasks without fear or favour.

Journalists now risk spending 20 years in jail as the new act introduces harsher penalties than those provided for under POSA and AIPPA. A journalist convicted of contravening Section 31 (a) of the act will be sentenced to jail for a period not exceeding 20 years or to a fine of up to Z\$2,5 million or to both such fine and imprisonment.

Section 33 of the Codification Act is similar in all respects to Section 16 of POSA. It deals with “undermining the authority of or insulting the President”. It prohibits the making, publicly and intentionally, of any false statement (including an act or gesture) about or concerning the President or Acting President if the person knows or realises that there is a risk or possibility of endangering feelings of hostility towards or causing hatred, contempt or ridicule of him/her, whether in his/her official or personal capacity.

Similarly, the General Laws Amendment Bill seeks to tighten POSA by increasing the penalties against journalists convicted for publishing statements that insult or undermine the authority of the President.

Ultimate control - ‘Mediagate’

The Zimbabwean government’s overt strategy to silence the independent media in Zimbabwe is well documented and has its public face through a range of repressive media laws. However, the *Zimbabwe Independent* uncovered in September 2005 the government’s clandestine strategy to effect ultimate control over media. It revealed that the Central Intelligence Organisation (CIO) had bought controlling shareholding in three privately owned newspapers namely the *Daily Mirror*, the *Sunday Mirror* and the *Financial Gazette*, using taxpayer funds. This leaves three financial weeklies – *The Financial Gazette*, *Zimbabwe Standard* and *Zimbabwe Independent* – as the only truly privately owned publications following the closure of the *Daily News*, *Daily News on Sunday*, *Tribune* and *The Weekly Times*.

The Zimbabwean government already controls a chain of newspapers under the Zimpapers stable, and enjoys a monopoly of the airwaves. Mission accomplished.

Conclusion: not all bad news

MISA Mozambique announced in November that it had completed a draft bill on freedom of information, ready to be considered by the country’s parliament. The bill will ensure access to the data held by the public administration, or by private bodies that provide public services.

The bill lists a large number of items which all bodies of the public administration must make public – including their internal norms, regulations and instructions, their budgets and reports on budget implementation, all licenses or permits that they issue, the details of all contracts they sign, and the results of any audits.

Last year (2005), MISA noted in its assessment of the previous year (2004) an increasing emphasis on access to information and professionalism among the media fraternity. This trend continued in 2005. However, having monitored developments for another year, it also became increasingly evident that whilst MISA is consistently advocating for the enactment of Access to Information legislation, political will among our governments is lacking.

Whilst the strong media and civil society coalitions for media freedom advocacy and legal reform in Zambia have not been able to further the enactment of the Freedom of Information Bill, the coalition through sheer vigilance has ensured that the matter remains high on the national agenda.

Superficialmente, os activistas da liberdade dos Mídia e de expressão, têm motivo para celebrar, especialmente pelo facto do declínio nas violações contra a liberdade dos Mídia, registados nos 11 países da Comunidade de Desenvolvimento da Africa Austral (SADC), que o MISA monitora. Na verdade, o MISA desde 2003, tem vindo a registar menos violações nestes países, um facto que também foi recentemente registado no relatório dos Repórteres Sem Fronteira de 2005.

Todavia, antes de relaxarem, os activistas dos Mídia devem considerar que os perpetrantes destas violações, contra os Mídia, estão a empregar estratégias menos convencionais para sufocar as vozes discordantes, simplificando assim, o espaço democrático.

Os análises profundos das violações registadas em 2005, revelam que os instrumentos de opressão, estão de facto a mudar. A estratégia da agência central de inteligência do zimbabué (ACI), que apropriam-se dos jornais através de criação de empresas (não declaradas) ou acções silenciosas ou desconhecidas, constitui actualmente o caso em causa, denominado “Mediagate”.

Antes, os governos da SADC eram os principais violadores da liberdade dos Mídia. Mas recentemente, os nossos tribunais – o novo instrumento – tornaram-se os opressores líderes da liberdade dos Mídia e dos direitos da liberdade de expressão.

O ano de 2005, testemunhou cinco casos no Lesoto, África do Sul, Suazilândia e Zimbabué, onde houve julgamentos – ou continuam pendentes – casos estes, que acarretam consequências terríveis para a liberdade, pluralismo e diversidade dos Mídia.

No dia 07 de Novembro de 2005, o tribunal do Lesoto, ordenou o semanário “Public Eye” (redacção inglesa) a compensar em danos 1.5 milhões de maloti (aproximadamente USD222.000).

Num caso similar na Suazilândia, o jornal “*The Times of Swaziland*” e a revista “*The Nation*” – ambas propriedades privadas - tiveram que suportar o embate da litigação civil em 2005 por causa de um dos casos de difamação, que envolvia o vice-primeiro ministro. O jornal publicou um artigo que associava o vice-primeiro ministro com o partido político o Congresso Nacional Libertador Ngwane. O jornal foi ordenado a pagar o vice-primeiro ministro um valor de E750 000 (quase 115 300 dólares) em danos. Embora o jornal “*The Times*” tenha lançado um apelo contra a decisão, até a data actual, estima-se que o jornal ainda enfrenta casos similares avaliado em E4 milhões (USD615 300).

A revista *The Nation*, está sendo intimada legalmente por um comerciante, que também serve como consul da Indonésia na Suazilândia, por causa de um artigo que o acusa de ter feito transações de procurações corruptas com governo. O caso continua pendente.

Mas adiante, na Africa do Sul, o tribunal de Joanesburgo, banuiu a publicação de um artigo no jornal *Mail & Guardian*, que revelava um escândalo de corrupção envolvendo o Congresso Nacional Africano (ANC), partido no poder. O escândalo denominado “Oil gate” envolvia milhões de Rands canalizados a partir dos cofres do estado, através de uma empresa petrolífera, para o fundo do Congresso Nacional Africano com o objectivo de financiar as campanhas eleitorais do ANC em 2004.

O MISA pronunciou-se fortemente contra o julgamento, tendo se referido ao caso, sendo constitucionalmente equívoco, porque elevava o direito constitucional primário, o direito a privacidade, acima de um outro direito constitucional primário, que é a liberdade dos Mídia.

Receia-se que o julgamento, possa abrir o caminho para aqueles que procuram impedir os jornais a publicar artigos sobre condutas irregulares ou equívocas, permitindo-lhes a censurar legalmente os Mídia.

Ainda na África do Sul, um jornal comunitário “*The Developer*” enfrenta uma multa por compensação, avaliada em ZAR100 000 (aproximadamente 16 818 dólares americanos) por caso de difamação, levantado pelo comerciante Eric Chauke contra o jornal.

Estatísticas sobre a Liberdade dos Mídia

O MISA emitiu um total de 155 alertas em 2005. Nota-se uma redução de 14 alertas, com relação os alertas emitidos no ano anterior, que totalizaram 169 alertas. Mas conforme afirmamos antes, isto não deve ser aclamado como vitória para a liberdade dos Mídia e liberdade de expressão na região. É, portanto importante notar a natureza e o impacto das violações, ao em vez do simples número de violações.

Sendo assim, como é então que as coisas mudaram?

O Botswana já não é o espelho exemplar

A expulsão do professor Kenneth Good em 2005, dominou a imprensa regional, no início do ano. O acadêmico Australiano – que coadjuvou num documento que criticava o governo do Botswana – foi servido com uma ordem de deportação em Fevereiro de 2005, tendo perdido a batalha legal em Maio de 2005. No seu ponto de vista, o seu único crime, foi pronunciar-se contra a elite do partido no poder.

Em Junho de 2005, Patrick Tebbutt, o juiz presidente do tribunal de apelo, fez a leitura do veredito, que afirmava a decisão do tribunal de Lobatse no dia 03 de Maio. O tribunal, tinha descoberto documento do professor Good que o declarava emigrante proibido, abrindo assim o caminho para a sua deportação.

O juiz Tibbutt afirmou que o tribunal de apelo apurou que o presidente do Botswana, Festus Mogae não agiu de forma irracional ao declarar o professor Good, emigrante proibido ou ilegal. Tibbutt, declarou que não houve procedimentos impróprios na declaração. O tribunal de apelo, rejeitou os argumentos do advogado do professor Good, sobre as secções do acto da emigração do Botswana que violam a constituição daquele país.

Em Agosto, o MISA foi obrigado a expressar as suas reservas com relação as leis de emigração do Botswana, quando o jornalista Zimbabueano, Roderick Mukumbira, que trabalhou como editor do jornal *Ngami Times* em Maun, Botswana, foi forçado a abandonar o país à 02 de Agosto de 2005.

Acredita-se, que o governo não estava satisfeito com as reportagens de Mukumbira, sobre as evicções ordenadas pelo governo contra o povo san, das terras dos seus antepassados. O MISA, confirmou à 27 de Julho de 2005, que o governo do Botswana tivera endereçado uma missiva à Mukumbira, revogando o seu permite de residência, e ordenando-lhe a abandonar o país dentro de sete dias.

Constituição da Suazilândia - um jogo de espera

No dia 26 de Julho de 2005, a Suazilândia expressou boas vindas a sua nova constituição. Embora a comunicação social tenha celebrado a aplicação da constituição, porque guarda em

relicário, dentre outras, a liberdade de expressão e da imprensa, existem preocupações sobre como é que estes princípios serão traduzidos em realidade. Isto é precisamente assim, porque a nova constituição, mas além entrincheira a hegemonia política, quando o rei exerce autoridades sobre o executivo, câmara legislativa e jurídica.

Mesmo com a constituição a providenciar as liberdades de expressão, assembleia e associação assim como igualdades limitadas para as mulheres, o rei Mswati ainda tem-nas como sua discreção.

Peritos em aspectos constitucionais, indicaram a existência de contradições na constituição, especialmente com relação a carta de direitos. Elas afirmam que enquanto ela outorga liberdades e direitos humanos fundamentais, ela também as retira. Por exemplo, a constituição reconhece a liberdade de associação, mas, os partidos políticos continuam banidos.

Zimbabué - aplicando as armas de destruição maciça.

O governo do Zimbabué tem ao seu dispor armas de destruição maciça, para o seu uso na luta contra a comunicação social em formas de: Acto para o Acesso à Informação, Protecção e Privacidade (AIPPA) o acto de Emenda da (AIPPA), o acto para a Segurança e Ordem Pública (POSA) assim como o acto para os Serviços de Radiodifusão (BSA).

O governo reforçou ainda o seu arsenal anti-Mídia com a passagem em lei criminal (o projecto de codificação e reformas) no dia 2 de Junho de 2005, tornando assim ainda mais difícil, para os restantes jornalistas sobreviver com a aplicação do AIPPA, POSA ao exercitar as suas actividades de recolha de informação sem receio nem favores.

Sob as leis no AIPPA e POSA, os jornalistas agora arriscam passar 20 anos na cadeia. Um jornalista convicto de ter violado a secção 31 (a) do acto, poderá ser condenado a um período de cadeia, não excedendo 20 anos ou a uma multa avaliada em Z\$2,5 milhões ou ambos, multa e prisão.

A secção 33 do acto de codificação é similar em todos os respeitos à secção 16 do acto de POSA. Lida, com “enfraquecimento das autoridades ou abuso contra o presidente”. Proíbe a elaboração de qualquer declaração pública maligna (incluindo actos ou gestos) sobre ou concernente ao presidente, ou presidente em exercício, se a pessoa notar que existe o risco ou a possibilidade de traumatizar sentimentos ou hostilidades, causando assim ódio, desdém, ou ridiculiza-lo quer seja seu oficial ou na sua capacidade pessoal.

Similarmente, o acto para as emendas das leis gerais, procura apertar o POSA, com o aumento nas multas aplicadas contra os jornalistas convictos, por ter publicado declarações, que insultem ou menosprezem a autoridade do presidente.

Controlo definitivo -‘Mediagate’

A estratégia do governo Zimbabueano que visa silenciar a imprensa independente no Zimbabué, está devidamente documentada e tem a sua face pública, através de uma gama de leis repressivas. Todavia, o ‘*Zimbabwe independent*’ descobriu em setembro de 2005, a estratégia clandestina do governo que visava tomar o controlo absoluto da comunicação social. Revelou ainda que a organização central de inteligência (CIO), tivera adquirido acções de controlo em três jornais privados, nomeadamente o *Daily Mirror*, *The Sunday Mirror* e o *Gazette*, fazendo o uso dos fundos de taxa pública. Este prospecto somente deixa três semanários - o *The Financial Gazette*, *Zimbabwe Standard* e o *Zimbabwe Independent* – como os únicos jornais

verdadeiramente privados, depois do encerramento do *Daily News*, *Daily News on Sunday* e o *weekly Times*.

O governo do Zimbabué já controla uma rede de jornais sob a estabuleta de Zimpapers, e desfruta do monopólio das ondas sonoras. Missão cumprida.

Nem todas são má notícias

Moçambique anunciou ter concluído em Novembro, o projecto-lei, da lei de informação, e que estava preparada para a consideração do parlamento da República. O projecto assegurará o acesso aos dados guardados pela administração pública, ou por sectores privados que providenciam serviços públicos.

O projecto-lei alista ainda um grande número de artigos que todos os órgãos da administração pública devem tornar público – incluindo as normas internas, regulamentos e instruções, orçamentos e relatórios sobre a implementação de orçamentos, todas as licenças ou permits emitidos, os detalhes de todos os contratos assinados e o resultado de qualquer auditoria.

Regional Overview

By Chilombo Mwondela Katukula

Gender activist and freelance media consultant
based in Namibia



Gender in 2005

Género em 2005

Panorâmica Regional

Por: Chilombo Mwondela Katukula

Activista do genero e freelance colsultor da midia sedeadado em Windhoek

It is abundantly clear that as far as gender is concerned, the media in southern Africa needs to work harder to fulfil its function as an educational tool. Since 1995, the Global Media Monitoring Project (GMMP) has systematically monitored the representation of women and men in the news at five-year intervals. On a chosen day, countries around the world grade their main broadcast and print media to determine the levels of gender sensitivity in the news.

The news media is seen to reflect the views of citizens across the globe. But if what is being experienced in Africa is anything to go by, it will take another century to inculcate the values of gender equality in Africa, and the global psyche in general.

Little change

As confirmed in the 2005 GMMP survey that was taken on February 16, only 19 per cent of the African continent's news subjects were women, compared to 81 per cent men. This was a marginal improvement on the 17 per cent realised five years ago.

In comparison, the Middle East was worse off with only 15 per cent female news subjects in the 2005 survey. The regions with the highest figures were North America and the Pacific, both at 26 per cent.

These figures all fall far short of the 50-50 representation that women's rights organisations around the world are struggling to achieve. However, that there is a rise at all in the percentages of female news subjects is an achievement.

In 1995 when the GMMP was first introduced as a tool to monitor gender representation, only 17 per cent of women in the world were represented in the news. In 2005 it was 21 per cent, a small figure but significant in that there was a rise at all. The overall goal of the GMMP is to change the ingrained patterns of gender representation in the news.

The Gender and Media Baseline Study (GMBS), undertaken in 2003 by Genderlinks and the Media Institute of Southern Africa (MISA), has been heavily reinforced by the latest findings of the GMMP with regards to Africa.

The GMBS focused on 12 Southern African Development Community (SADC) countries. In one month (September 2003) the study found that 'equality of opportunity' was still far from being translated into 'equality of outcomes' between men and women in the region. This is more so in the newsrooms. After a period of two years, the 2005 GMMP has delivered similar results. The confirmation that there has been only a slight change needs to be noted. Markedly, this change seems to be in the increased number of female reporters rather than female editors who are more empowered to influence the news.

According to the GMBS study: "The media has more often than not been part of the problem rather than the solution." Many believe that on the Beijing Platform for Action, media should have been among the first five areas of concern instead of being listed number 10. Fifteen years after the Beijing World Conference for Women, media houses in the SADC region and the rest of the world are still struggling to balance their newsrooms on gender lines. With the media purporting to be the vanguard of democracy, there is a need to see realistic fruits emerging from the countless workshops held on gender in the media.

The problem of gender representation in the news and newsrooms will not go away if it is ignored. It needs capable editors to demonstrate that development relies on each individual's contribution, including that of women. Ignoring their role in society can only lead to further

depression of African economies as the continent shuts off a sizeable chunk of human capital on the basis of sex. Women make up the majority of the population in southern Africa at around 52 per cent. However, due to HIV-AIDS and the attendant consequences of women's low status, this figure is expected to decline drastically in little over a decade.

Media Practitioners: Gender and Media Baseline Study

	Television Presenters		Television Reporters		Radio Reporters		Print Reporters	
	% of women	% of men	% of women	% of men	% of women	% of men	% of women	% of men
Region	45	55	38	62	34	66	22	78
Angola	52	48	44	56	38	62	29	71
Botswana	35	65	48	52	N/A	N/A	41	59
Lesotho	59	41	53	47	N/A	N/A	18	82
Malawi	42	58	27	73	28	72	8	92
Mauritius	49	51	36	64	38	62	24	76
Mozambique	32	68	35	65	11	89	3	97
Namibia	47	53	56	44	21	79	21	79
South Africa	44	56	30	70	44	56	29	71
Swaziland	56	44	32	68	41	59	15	85
Tanzania	52	48	53	47	40	60	21	79
Zambia	53	47	63	37	33	67	16	84
Zimbabwe	32	68	36	64	49	51	16	84

Newsmakers

To a large extent, the news involves media organisations, journalists and editors who decide what issues should be covered. In Africa, the percentage of female reporters increased from 24 per cent to 28 per cent in 2005. Even in this area, it is observed that the increase is quite modest.

According to the 2005 GMMP Survey Analysis Report: "Although women have made great strides in the media over the last couple of decades, in many countries they still face an uphill struggle to achieve equal status with men. General stereotypes that men are rational and women are emotional, that for men a career is paramount, while for women a career is secondary to family life, also influence the directions into which male and female professionals are channelled within media organisations, and the kinds of stories they cover."

The imbalance is not only among female reporters. There is also a greater imbalance in the sources of stories.

Sources

Mauritian newspaper *L'Express* carried a story focusing on the families of two murder suspects. Five of the six interviewees were women – mothers or sisters of the accused. One photograph showed the brother of one of the suspects. The analysis revealed that the women were depicted in highly stereotypical terms. Words and phrases were used such as "distracted", "shocked", "unable to contain her emotions" and "mystified by what happened".

On the other hand, the only man interviewed was described as a high-ranking police officer who did not approve of what his son was accused of having done. Herein lie the stereotypes of the strong resilient man and the weak emotional woman. The women might also have given their opinion on the crime if it had been put to them, but they were written off as ‘emotional’.

It is common for women to appear in the news in stereotypical situations that differ from those of male newsmakers. Women are least likely to be found in stories about politics, government, economics and business. The survey found that only 14 per cent of news subjects in political stories and 20 per cent in economic stories were women.

Gender of News Subjects in Local, National & International Stories 1995 - 2005

1995		2000		2005		
% of women	% of men	% of women	% of men	% of women	% of men	
22	78	23	77	27	73	
14	86	17	83	19	81	
17	83	15	85	18	82	
17	83	14	86	20	80	
17	83	18	82	21	79	Total

Global Media Monitoring Project, 2005

The invisible sex

In the world reflected by news stories around the globe, women remain largely invisible. On a global scale, the GMMP 2005 survey found that women make the news, not as figures of authority, but as celebrities (42 per cent), royalty (33 per cent) or as ordinary people. Female newsmakers outnumber males only as homemakers and students.

As authorities and experts, women barely feature. They are depicted as eyewitnesses (30 per cent), giving personal views (31 per cent) or as representatives of popular opinion (34 per cent). In contrast, men comprise 83 per cent of experts and 86 per cent of spokespersons. The fact that there were some percentages of gender views expressed in a balanced manner proves that it is not impossible to produce news stories that are gender sensitive.

The analysis report recommended that concerted action is needed in the following areas over the next five years to increase gender awareness in the media: advocacy and lobbying; media policies and accountability; organisational targets and in-house monitoring; sensitisation and training of journalists; media analysis skills; and development of monitoring mechanisms.

“Without strategies for change in these areas, most news will continue to be at best gender blind, at worst gender biased,” notes Margaret Gallagher, author of the GMMP report, *Who Makes the News?*

Évastamente evidente que relativamente ao tema género, os média da África Austral precisam de trabalhar arduamente para desempenharem as suas funções como instrumento educativo.

Desde 1995, o Projecto Internacional de Monitoria dos Médias (GMMP) realizou monitoria da representação do género em notícias de forma sistemática durante cinco anos. Num dia específico, os países do mundo avaliam as suas emissoras de rádio, televisão e a imprensa escrita para determinarem o nível de insensibilidade do género nas notícias.

Como fonte de informação principal, os média noticiosos são considerados como reflectores do ponto de vista dos cidadãos em todo mundo. Contudo, se os acontecimentos em África forem ignorados agora, durará um outro século para incutir os valores de igualdade no género em África e no mundo em geral.

Poucas mudanças

Conforme confirmado pelo levantamento do GMMP realizado no dia 16 Fevereiro 2005, somente 19 por cento dos agentes noticiosos do continente Africano eram mulheres, em comparação com 81 por cento de homens. Contudo, registou-se melhorias relativamente a 17 por cento de representação das mulheres há cinco anos atrás. Desde modo, durante cinco anos, o continente Africano registou um aumento de somente 2 por cento, relativamente aos agentes noticiosos femininos.

O Médio Oriente tem uma representação feminina prior relativamente a África, tendo somente 15 por cento de agentes noticiosos de acordo o levantamento de 2005. As regiões com índices mais elevados são América do Norte e o Pacífico, ambas com 26 por cento cada.

Todas estas cifras se enquadram muito abaixo do alvo de representação de 50 por cento por cada género, que as organizações dos direitos humanos das mulheres estão a tentar atingir. Contudo, registou-se um aumento considerável nas percentagens de agentes noticiosos femininos.

Em 2005, registou-se um aumento para 21 por cento, um cifra baixa, mas significativa. O objectivo geral da GMMP é mudar os moldes habituais de representação do género que acompanhamos nos noticiários.

O Estudo de Género e da Linha de base (GMBS) realizado em 2003, pelo Genderlinks e pelo Instituto dos Médias da África Austral (MISA) foi grandemente reforçado pelas últimas constatações do GMMP conforme a consideração de África.

O GMBS concentrou-se em 12 países da região da SADC. Em Setembro 2003, o estudo constatou que “a igualdade de oportunidade” ainda está longe de ser traduzida em “igualdade de resultados” entre os homens e mulheres na região, sobretudo nos estudos noticiosos. Depois de um período de dois anos, a GMMP 2005 apresentou resultados similares. Deve-se levar em consideração a confirmação que houve uma ligeira mudança. Notavelmente, esta mudança parece estar a manifestar-se no aumento do número de repórteres femininos ao em vez de editores femininos que possam ajudar a influenciar as notícias.

De acordo ao estudo de GMBS, “os média geralmente fizeram mais parte do problema do que da solução.” Muitos acreditam que na Plataforma de Beijing para Acção, os média deveriam fazer parte das cinco áreas prioritárias, ao em vez de serem colocados em décimo lugar. Quinze anos depois da realização da Conferência Internacional de Beijing sobre as Mulheres, os órgãos dos média na região da SADC e do resto do mundo estão a lutar para balancear os seus

estudios noticiosos. Deve-se reconhecer alguns frutos substanciais resultantes de inúmeras palestras realizadas sobre o género nos mídias.

O problema da representação do género em notícias e nos estúdios noticiosos, não desaparecerá ao ignorá-lo. Precisa-se de editores habilitados para demonstrar que o desenvolvimento mundial depende da contribuição de cada indivíduo, incluindo as mulheres. Ignorar o papel das mulheres na sociedade podem somente resultar numa maior depressão das economias Africanas porque o continente estaria a excluir um grande contribuinte do capital humano com base no sexo. As mulheres constituem a maioria da população da África Austral, representando cerca de 52 por centos da totalidade da população. Contudo, devido a epidemia do VIH/SIDA e as consequências relacionadas ao estatuto baixo da mulher, esta cifra poderá baixar drasticamente pouco depois de uma década.

Profissionais de imprensa: Estudos do Género, Linhas de Base dos Mídias

	Apresentadores de televisão		Repórteres de televisão		Repórteres de rádio		Repórteres da imprensa escrita	
	% das mulheres	% dos homens	% das mulheres	% dos homens	% das mulheres	% dos homens	% das mulheres	% dos homens
Região	45	55	38	62	34	66	22	78
Angola	52	48	44	56	38	62	29	71
Botswana	35	65	48	52	N/A	N/A	41	59
Lesoto	59	41	53	47	N/A	N/A	18	82
Malawi	42	58	27	73	28	72	8	92
Ilhas Maurícias	49	51	36	64	38	62	24	76
Moçambique	32	68	35	65	11	89	3	97
Namíbia	47	53	56	44	21	79	21	79
África do Sul	44	56	30	70	44	56	29	71
Suazilândia	56	44	32	68	41	59	15	85
Tanzânia	52	48	53	47	40	60	21	79
Zâmbia	53	47	63	37	33	67	16	84
Zimbabué	32	68	36	64	49	51	16	84

(MISA & Genderlinks, 2003)

Criadores de notícias

Em grande medida, as notícias envolvem as organizações de notícias, jornalistas e editores que tomam decisões sobre que tema merece cobertura.

Em África, a percentagem dos repórteres femininos aumentou de 24 por cento à 28 por cento em 2005. Até mesmo nesta área, nota-se que o aumento é muito modesto. De acordo ao relatório, apesar das mulheres terem alcançado grandes êxitos nos mídias durante as últimas décadas recentes, em muitos países ainda enfrentam batalhas enormes para alcançar igualdade de estatuto com os homens.

O estereótipo generalizado diz que os homens são racionais e as mulheres são emocionais, para o homem a carreira é fundamental, enquanto que para a mulher a carreira é secundária, pois elas colocam a família em primeiro lugar. Este estereótipo também influencia a modalidade de canalização dos profissionais masculinos e femininos dentro das organizações

dos mídias e o tipo de artigos que cobrem,¹ diz o relatório da análise do levantamento de GMMP de 2005.

O desequilíbrio não ocorre somente entre os repórteres femininos, mas existe também um grande desequilíbrio nas fontes dos artigos.

Fontes

O jornal das Ilhas Maurícias, *L¹ Express*, publicou um artigo baseado nas famílias de dois suspeitas de um crime de assassinato.

Os cinco indivíduos entrevistados foram mulheres, mães ou irmãs do acusado. Havia uma fotografia do irmão de uma das suspeitas.

A análise revelou que as mulheres se apresentam em termos altamente estereótipos. Para a sua descrição foram usadas palavras e frases tais como ¹°confusas, em estado de choque, incapazes de conter as suas emoções, perturbadas pelos acontecimentos¹. Por outro lado, um dos homens entrevistados foi apresentado como um agente superior da polícia que não aprovava o que o seu filho fazia. Este foi um exemplo para demonstração do estereótipo mostrando os homens como seres fortes e resistentes, e as mulheres como seres emocionais e fracas. As mulheres poderiam também ter dado a sua opinião sobre o crime, caso tivessem sido solicitadas, mas elas foram simplesmente excluídas por serem ¹°emocionais¹.

É comum a mulher aparecer em notícias em situações de estereótipo que diferem dos homens jornalistas. É menos provável encontrar mulheres em artigos sobre política, governação e economia e negócio. O levantamento constatou que somente 14 por cento dos agentes noticiosos em artigos políticos e 20 por cento em artigos de economia, são mulheres.

Género dos agentes de notícias locais, nacionais e internacionais 1995 - 2005

1995		2000		2005		
% das mulheres	% dos homens	% das mulheres	% dos homens	% das mulheres	% dos homens	
22	78	23	77	27	73	Local Nacional Internacional Estrangeira
14	86	17	83	19	81	
17	83	15	85	18	82	
17	83	14	86	20	80	
17	83	18	82	21	79	Total

Projecto Internacional de Monitoria dos Mídias, 2005

No mundo de notícias, as mulheres continuam vastamente invisíveis.

Na escala mundial, o levantamento da GMMP 2005 constatou que as mulheres aparecem em notícias não como figuras de autoridade, mas sim como indivíduos célebres (42%), leiais (33%) ou como indivíduos comuns. O número de produtores de notícias é maior do que os produtores masculinos somente nas categorias de caseiros e estudantes.

As mulheres raramente aparecem como autoridade ou especialistas jogando um papel fundamental. Elas aparecem jogando um papel de testemunha ocular (30%) ou apresentando a sua opinião pessoal (31%) ou como representante da opinião popular (34%). Em contraste, 83%

dos homens aparecem como especialistas e 86% como porta-vozes.

O facto que houve algumas percentagens do ponto de vista do género expressos de forma balanceada comprova que é possível produzir artigos noticiosos sensíveis ao género.

O relatório de análise recomenda a tomada de acções concertadas nas seguintes áreas durante os próximos cinco anos para aumentar a sensibilidade no género dos mídias; advocacia e lobby, políticas dos mídias e responsabilização, alvos organizacionais e monitoria interna, sensibilização e formação de jornalistas, análise da capacidade dos mídias e desenvolvimento de mecanismos de monitoria.

¹°Sem estratégias para mudança nestas áreas, a maioria das notícias continuarão no melhor das circunstâncias ignorantes ao género ou no pior das circunstâncias pré-conceituadas.” (*Quem faz as notícias?* - Margaret Gallagher).

National Overview

By Mário Paiva

Freelance journalist and media consultant



Angola

Angola

Panorâmica Nacional

Por Mário Paiva

The political and legal context within which the Angolan media operates can be characterised as difficult, considering the following:

- The dichotomy in the transition to democracy after 27 years of civil war, with relative freedoms in the capital, and ignorance and violations of freedoms in rural areas;
- The indefinite postponement of the general elections and all related political and legal measures;
- Human rights violations – such as freedom of expression and demonstration, the right to accommodation, and access to information – and the concomitant absence of adequate response from the authorities;
- The protracted process of media law reform;
- Judicial appointments made politically, without taking into consideration the recommendations of civil society;
- A lack of pluralism, with public media becoming government media, and disturbing signs of political intolerance, particularly in rural areas;
- Insufficient unity and consistency among the political opposition and civil society in search of alternative platforms;
- Social erosion as a result of poverty, corruption, illiteracy and political violence.

Government and the media

Although there were no notable altercations between the media and government in 2005, it is important to underline the constant ambivalence of the executive towards the public media on the one hand and the private media on the other. This attitude is clear in the transformation of the public media into government media. The frequent denunciations of corruption by the private media were usually not clarified by the government, with the authorities maintaining that such allegations were “misinformation” spread by foreigners.

MISA Angola reported a number of incidents against media freedom, including censorship of the state media and journalists being threatened by government officials. Promises made by the authorities to assist the print media with tax exemptions on paper were not fulfilled.

Although the government considered numerous innovative proposals in the new media bill as “important achievements”, the private media and institutions such as MISA Angola and the Catholic Church still regarded these as “insufficient” and not conducive to a free media environment.

Legal situation

The legal framework for the media remained unchanged during 2005, following the late discussion of the media bill, which was not passed by parliament during this year. As a result, journalists continued to operate under fear of prosecution, victimisation and attack.

Media practitioners and civil society raised their concerns about the prospective bill allowing the executive, and in specific situations parliament, to legislate on rights-related matters, freedoms and constitutional guarantees. Concerns were also raised about the concepts of national security and state secrets, as defined in the bill. It was felt that many issues that should be integrated in the media law bill, especially relating to international principles on media freedom and freedom of expression, would be excluded.

Constitution

Freedom of expression and press freedom suffered setbacks in 2005, despite these being guar-

anted in the constitution. The most serious case was the continuous refusal by Angolan authorities to permit Radio Ecclesia to broadcast countrywide.

Police aggression towards journalists remained a reality. In addition, the demolition of homes and the abusive expropriation of land by the authorities also took place in Luanda. These human rights violations were denounced by non-governmental organisations such as SOS Habitat and Mão Livres (Free Hands).

The process of nominating an ombudsman, as provided in the constitution, failed to respect the 'Paris Principles', which state that an ombudsman should be independent from the executive and impartial to all other sectors of civil society. In addition, the nomination process should be consultative.

The Association for Justice, Peace and Democracy (AJPD) echoed the reactions to human rights violations, including the intimidation by government officials of rural citizens who access the private media. The Civic Mpalabanda Association, in the far northern province of Cabinda, also condemned several human rights violations. Low levels of conflict between government forces and separatist groups, as well as social and political unrest, are still experienced in Cabinda.

During the second quarter of 2005, government intelligence officers attempted to purchase the entire run of an edition of the weekly *Agora* which carried an article relating to the performance of their chief, whose practices of infiltration, enticement and threats against the media were publicly known.

Defamation, access to information and self-censorship

The private media continued to face difficulties in accessing information as some sources fear retaliation if they release certain facts.

Obstacles to accessing information remained, especially with regard to official sources of information. Despite the fact that many institutions employ information officers and spokespersons, accessing information remained a struggle for journalists. Cases of corruption allegedly involving state institutions or government officials further eroded government's transparency.

Despite there being major difficulties in accessing information, journalists also fail to make use of the Law of Administrative Acts, which allows them to launch complaints.

Censorship within the state media, mainly on issues considered to be negative by the government such as corruption, is a common occurrence. State media journalists fear retaliation or even dismissal if they report accurately and impartially.

Broadcasting

The broadcasting sector remained controversial, with the government refusing to allow Radio Ecclesia to broadcast countrywide. In addition, various political entities and sectors of civil society criticised what they called the partial coverage of their activities.

In April 2005, MISA Angola established its '13 Weeks' campaign, in line with the regional 'Open the Airwaves' campaign, through a one-hour radio programme aired on Radio Ecclesia. It had a positive impact, with the public calling for true public broadcasting services and the expansion of the Radio Ecclesia signal.

MISA Angola, in collaboration with the Association of Angolan Journalists (SJA), organised a broadcasting seminar where, among others, they demanded regional radio stations.

Media diversity

The emergence in mid-2005 of *Cruzeiro do Sul*, a private weekly circulated mainly in Luanda and Benguela, was considered the year's media highlight. Unita re-launched its monthly newspaper, *Terra Angolana*, while the private weekly newspaper *Actual* ceased to exist.

The government's refusal to grant Radio Ecclesia a license to broadcast countrywide led to the Vatican broadcasting its main services on short wave radio. The Catholic online newspaper also strengthened its presence along with the news services of Nexus, among the existing ones in the public media.

MISA Angola is concerned that the Angolan media lacks skills in Information and Communication Technology.

Media solidarity

In mid-2005, media associations such as SJA, the Association of Economic Journalists of Angola (Ajeco) and the Association of the Sporting Press (Aida) raised their concerns about the prosecution and victimisation of journalists and broadcasting restrictions to the Ministry of Social Communication. The private media echoed its concern about the limiting of Radio Ecclesia's signal, as well as labour-related issues with Radio 2000 journalists in Lubango, Huila province.

Conclusion

The year 2005 confirmed the existence of an active private media in Angola, which is an important factor in the transitional process to democracy. However, this presence is limited to the capital city.

The transformation of public media (both radio and television) into government media and the lack of a true public service broadcaster raise serious doubts of pluralism and independence, especially in the light of the upcoming general elections.

The development of a pluralistic and independent media faces major constraints such as media management difficulties and the inappropriate political and commercial environment. Corruption in the social sphere, as well as within the media, raises ethical problems and brings into question the credibility of the media.

The established practice of intelligence service agents infiltrating the media continues to create a climate of suspicion among journalists and the public at large.

O quadro geral político e legal dos media em Angola em 2005 caracterizou-se, grosso modo pelas seguintes linhas de força:

- a pertinência de uma dicotomia no no processo de transição para democracia, com uma clima geral e relativo de liberdades na capital e maiores atropelos, ignorância ou violação das mesmas no interior do país;
- indefinição e protelamento sucessivo da data de realização das eleições gerais e todas as atinentes medidas políticas e legais;
- persistentes violações dos direitos humanos (liberdade de expressão, manifestação, direito à habitação, acesso a informação) e concomitante ausência de resposta adequada das autoridades;
- o arrastar do processo de reformulação da lei de imprensa; a tomada de posse do provedor de justiça à margem das recomendações da sociedade civil;
- défice de pluralismo com a incidente governamentalização dos media estatais e inquietantes sinais de intolerância política principalmente no interior;
- fracturas persistentes e inconsistência das actors políticos (oposições) e da sociedade civil na busca de plataformas alternativas e protagonismo coerentes;
- continuação dos factores de erosão social como a pobreza generalizada, corrupção, iliteracia, violência policial.

Relações entre o Governo e os media

Embora não se tenham registado grandes momentos de críspação entre os media e o Governo durante o ano de 2005, é preciso sublinhar a constante ambivalência da atitude do Executivo face aos media estatais por um lado e face aos media privados, por outro, traduzida na governamentalização dos primeiros. As frequentes denúncias de casos de corrupção nos media privados não foram esclarecidas na maior parte dos casos, remetendo as autoridades para alegados casos de “desinformação” com intervenção externa. O escritório de representação do MISA em Angola denunciou vários atentados a liberdade de imprensa (censura nos media governamentais, ameaças genéricas a jornalistas por parte de oficiais do governo) durante ano de 2005.

As antigas promessas de apoio à imprensa através da isenção de taxas de importação de papel não foram concretizadas. Enquanto o Governo considerou como “avanços importantes” várias propostas inovadoras contidas no projecto de lei de imprensa, os media privados, e instituições como o SJA, o MISA-Angola e a igreja católica consideraram-nos como insuficientes.

Quadro legal

O quadro legal dos media não se alterou em 2005 devido a discussão tardia do projecto de lei de imprensa que não chegou a ser aprovado pelo parlamento naquele ano.

Por conseguinte continuou a pairar sobre os media o espectro da criminalização da actividade jornalística.

A eventual transferência, contida no projecto de lei de imprensa, para o Executivo e através de disposições específicas, da competência da Assembleia Nacional de legislar em matéria relativas aos direitos, liberdades e garantias dos cidadãos preocupou bastante os media e a sociedade civil durante o ano de 2005, assim como os conceitos de segurança e segredo de estado imanescentes daquele projecto. Ficariam assim muitas questões omissas no projecto-lei remetidas para o denominado pacote complementar.

Constituição

A liberdade de imprensa e a liberdade de expressão embora estejam asseguradas na Constituição sofreram em 2005 graves atentados. O caso mais grave foi a contínua recusa pelas autoridades

angolanas de extensão a todo o território nacional do sinal da rádio Ecclésia. Agressões a cidadãos feitas pelas autoridades policiais, como por exemplo as demolições de habitações ou expropriação abusiva de terrenos, denunciadas pela ONG SOS Habitat, tiveram igualmente lugar. A Associação Mãos Livres também denunciou casos de violações de direitos. A nomeação do Provedor de Justiça, prevista na Constituição, não respeitou inteiramente os chamados Princípios de Paris, relativas a sua independência face ao executivo e imparcialidade em relação a todos os sectores da sociedade civil, do mesmo modo que a consulta para a sua nomeação. A Associação Justiça, Paz e Democracia (Ajdd) fez eco de várias violações de direitos humanos, entre os quais vale realçar a intimidação por parte de agentes governamentais, ainda que geralmente de modo informal, sobre cidadãos que leiam os títulos da imprensa privada no interior do país. Por seu turno, a associação cívica Mpalabanda, da província de Cabinda, fez várias denúncias de violações de direitos humanos ocorridas naquele enclave mais ao norte do país, onde existe um conflito de baixa intensidade entre as forças governamentais e grupos separatistas, assim como uma tensão social e política revelavante. No início do segundo trimestre de 2005, uma edição do semanário privado Agora chegou mesmo a ser quase inteiramente compradana via pública por agentes dos serviços de inteligência do governo por incluir uma matéria sobre o desempenho do seu chefe, cuja práticas de infiltração, aliciamento e intimidação dos media eram publicamente conhecidas.

Difamação

A não aprovação do projecto de lei de imprensa durante o ano de 2005 não provocou alterações nesta matéria.

Em geral os media privados continuaram confrontados com a dificuldade permanente de acesso às fontes de informação ou os receios manifestados por algumas fontes de sofrer represálias quando confrontados com os factos.

Acesso à Informação

Os obstáculos no acesso à informação permanecem uma constante em Angola, sobretudo em matéria de acesso às fontes de informação oficiais. Apesar de muitos organismos oficiais possuírem agora assessores de imprensa e porta-vozes nem por isso mesmo esse facto se traduziu num acesso mais facilitado dos jornalistas às fontes, sobretudo nos polémicos casos de alegada corrupção envolvendo instituições estatais ou figuras do governo, o que fez renovar as críticas de falta de transparência por parte das autoridades. Há uma dificuldade manifesta no acesso à informação, além de uma fraca divulgação dos factos informativos, ainda que seja mister reconhecer o não recurso dos jornalistas a lei dos actos administrativos que possibilita reivindicações naquele sentido.

Outra legislação

Durante este ano não foram aprovadas novas leis com incidência particular nos media, mas a censura nos media governamentais, principalmente com relação às notícias consideradas negativas para o governo – alegados casos de corrupção – são um facto recorrente nos medias estatais. Tendo em consideração o facto de muitos jornalistas dos órgãos estatais recerarem represálias ou mesmo perda de emprego, torna-se difícil reportar com exactidão e imparcialidade os mesmos, cuja existência é sistematicamente negada pelo governo.

Radiodifusão

A área da radiodifusão continuou a ser um terreno polémico. As autoridades angolanas insistiram na não extensão do sinal da rádio Ecclésia. Além disso, várias forças políticas e sectores da sociedade civil criticaram aquilo que chamaram de uma cobertura parcial das suas actividades.

No mês de Abril o escritório de representação do MISA em Luanda desenvolveu uma campanha sucessiva de 13 semanas na rádio Ecclésia no âmbito da campanha regional de Abertura das Ondas, com um programa de uma hora e a presença de diversos convidados da sociedade civil e de todos os espectros políticos. A campanha teve um impacto positivo na opinião pública que reclamou a existência de um verdadeiro serviço público de radiodifusão, a expansão do sinal da rádio Ecclésia.

O escritório do MISA em Angola realizou ainda um outro seminário sobre a radiodifusão em colaboração com o Sindicato dos Jornalistas Angolanos onde se preconizou, entre outras reivindicações a existência de rádio regionais.

Diversidade dos media

O surgimento do Cruzeiro do Sul em meados de 2005 (especificar mês) um semanário privado publicado principalmente em Luanda e em Benguela que se afirma de vocação regional foi o acontecimento mais marcante entre os media em geral. O jornal partidário da UNITA de carácter mensal (Terra Angolana) começou também a sua publicação. Consumou-se o desaparecimento do semanário privado Actual.

A contínua recusa das autoridades angolanas de extensão do sinal da rádio católica Ecclesia para outras províncias invocando argumentos legais conduziu o Vaticano a realizar a retransmissão dos principais serviços daquela rádio através da sua emissora em ondas curtas. O jornal electrónico Apostolado, da igreja católica, também reforçou a sua presença a par do serviço de notícias da Nexus, entre os já existentes na media estatal. Existe um défice claro ao nível de todos os media em matéria das tecnologias de comunicação e informação.

Solidariedade entre os media

Em meados de 2005 as principais associações sócio-profissionais de jornalistas (SJA, Ajeco, Aida) decidiram apresentar uma plataforma conjunta ao ministério da Comunicação Social relativamente ao projecto de Lei de Imprensa onde manifestaram as suas principais preocupações sobretudo em matéria de criminalização, restrições em matéria de radiodifusão.

Por outro lado a imprensa privada fez eco da não extensão do sinal da rádio Ecclésia e das reivindicações laborais dos jornalistas da rádio 2000, do Lubango, província da Huíla. Em todo o caso, a solidariedade entre os media representa um elo fraco da cadeia, pela sua irregularidade.

Conclusões

O ano de 2005 confirmou a existência em Angola de uma imprensa privada activa como um factor importante no processo de transição para a democracia, pese a limitação dos títulos cuja distribuição se reduz praticamente a capital do país.

A governamentalização dos media estatais sobretudo da rádio e da televisão, assim como a inexistência de um verdadeiro serviço público levanta sérias preocupações em matéria de pluralismo e independência, sobretudo quando se encara a realização de eleições gerais dentro de um ou dois anos.

Dificuldades de gestão dos média, um ambiente político e de negócios pouco propício (riscos e custos elevados) ao desenvolvimento de uma Imprensa pluralista e independente. A dimensão do problema da corrupção tanto ao nível social como no seio dos próprios media levanta problemas éticos muito sérios relativamente a credibilidade profissional. A prática antiga de infiltração de agentes dos serviços de inteligência nos media contribui ainda para a criação de um clima de suspeição inusitado entre os jornalistas e o público.

· **ALERT**

Date: October 12, 2005

Persons/Institutions: Media in Angola

Violation: Threatened

On October 12, 2005, the President of Angola's National Assembly accused local independent media of instigating a new civil war in the country.

Roberto de Almeida said independent newspapers and radio stations should be blamed for what he considered as instigation to the return of the war in Angola.

Speaking to the government-controlled National Radio of Angola (NRA), De Almeida accused the media of irresponsibility and having a politic agenda focused on "bringing a new war among the Angolans."

He particularly focused on "Semanario Angolense", the major weekly independent newspaper in the country. De Almeida was referring to an article the paper published on a group of army soldiers who were allegedly unhappy with the treatment they were receiving from the government. De Almeida holds the second highest position in the Angolan government structure and often assumes the role of Head of State.

· **ALERT**

Date: August 24, 2005

Persons/Institutions: Francisco Zua

Violation: Threatened, censored (equipment confiscated)

On August 24 2005, Angolan police threatened and censored a photojournalist with the independent weekly "Angolense", allegedly for reporting in an area without prior authorisation. Photojournalist Francisco Zua was taking photographs in one of the more crowded streets of the capital, Luanda, when a policeman stopped him and said he had no authorisation to report on the area. According to the reporter, the police officer grabbed his camera and removed the memory card before releasing him. The newspaper's editor-in-chief, Suzana Mendes, queried the police station commander about the incident and was instructed to take the camera to the police station to ensure that the memory card belonged to the camera in question. The police seized the equipment, however, and deleted the entire content of the memory card, Mendes told MISA-Angola.

· **ALERT**

Date: August 22, 2005

Persons/Institutions: Zeca Martins

Violation: Censored

Angola's government-controlled National Radio has fired a respected sports analyst after he criticised the country's Football Federation.

On August 22 2005, Zeca Martins, a commentator for Radio Cinco, National Radio's sports channel, received a letter indicating that he was, as of that day, no longer a member of the station staff for "breaking personal confidence." Martins told MISA-Angola that he was fired for allegedly breaking the personal trust of the social communication (information) minister, an allegation that he denies.

· **ALERT UPDATE**

Date: July 20, 2005

Persons/Institutions: Media in Angola

Violation: Censored

Three months after Deputy Minister of Information Miguel de Carvalho urged state-owned "Jornal de Angola" to give less space to the opposition, the country's only daily has significantly increased its coverage of government and ruling party activities, journalists have told MISA-Angola.

“It is clear that we are working in a more difficult environment since [the deputy minister] came here,” a senior reporter said.

“Get a copy of the paper and you will easily notice that we have many more stories on what the government and the ruling party are doing, no matter whether they are of public interest or not”, another reporter said on the condition of anonymity.

De Carvalho has reportedly been calling the “Jornal de Angola” editor every day to ensure that no negative stories on the government are published. He has even made it clear that he does not want any letters from readers complaining about the dire state of roads in the nation’s capital, Luanda, to appear in the newspaper.

• **ALERT**

Date: July 19, 2005

Persons/Institutions: Celso Amaral

Violation: Sentenced

On July 19 2005, journalist Celso Amaral was sentenced to ten years in prison after being found guilty on several charges related to the mismanagement of state funds. Amaral had been accused of misusing approximately US\$42,547 during the time he headed the government-controlled branch of Radio National in the central province of Huila.

A local police commander and several radio employees were called on to testify during the hearings. According to the judge presiding over the case, US\$17,000 went missing under Amaral’s management. One of the charges against Amaral relates to the purchase, allegedly at highly inflated prices, of two vehicles for official use in neighbouring Namibia.

According to reports in the weekly independent newspaper “Semanario Angolense”, Radio National has set up a special attorney team to appeal against Amaral’s sentence.

A source from the radio also said a legal team will now closely follow the case. “That is strange, really strange, that the court dismissed all our justifications that these were unreal charges against Amaral.”

The radio station believes the journalist is being victimised for political reasons, as he would often refuse to follow orders from the local governor. “He has never allowed local institutions to interfere on the radios,” the source said, adding that Amaral was an independent-minded person.

Although National Radio is government-controlled, it has no obligation to act on orders from provincial governors or members of their staff.

• **ALERT**

Date: June 17, 2005

Persons/Institutions: National Radio

Violation: Threatened

On June 17 2005, Ramos da Cruz, governor of Angola’s northern Huila province, accused the provincial National Radio of attempting to create an “unstable environment” in the province by airing a story about a delay in the payment of salaries to public servants.

Local workers of the Bridges National Company have reportedly been working without salary for two years. The radio story was based on interviews with the workers who expressed great anger about the situation.

• **ALERT**

Date: March 28, 2005

Persons/Institutions: Africano Neto, Isaac Neney

Violation: Censored

On March 28 2005, the government-controlled Angolan National Radio suspended a very popular current affairs and analysis program directed by journalists Africano Neto and Isaac Neney.

Neto told MISA-Angola representatives that the decision to suspend the program may have been due to Neney's severe criticism of the government.

Earlier, on March 14, Neney - who is also the former MISA representative in Angola - expressed the opinion to the Catholic Radio Ecclesia that the Angolan government and ruling Movimento Popular de Libertação de Angola (MPLA) officials had enough money to lend the government rather than embark on a campaign to persuade the international community to support a donor conference.

The donor community however says no support will be provided until there is evidence that the Angolan government is adopting serious policies to ensure transparency of public revenue expenditure and good governance.

The five-minute "Analysis with Isaac Neney" has become a very popular programme due to Neney's critical views on sensitive national political and social matters.

"No doubt it became the most popular show on Sundays. Everyone is now asking me what happened to it," Neto said.

In 2004, the radio station ordered that Neney be removed as co-anchor of another popular show "Tendencies and Debates". The show invites prominent figures to its studios on Saturday mornings.

• **ALERT**

Date: April 13, 2005

Persons/Institutions: Media in Angola

Violation: Threatened

Angolan members of parliament (MPs) are considering passing a bill that would bar journalists from reporting on provisional election results.

The Angolan National Assembly is currently reviewing the country's electoral law. This includes the role media should play during elections and post-elections. Opposition party MPs said media should not be allowed to report on results until the Electoral Commission declares the definitive results and indicates whether elections were free and fair.

The opposition MPs said there is a risk that state-controlled media could present false results to the public, favouring the ruling Movimento Popular de Libertação de Angola (MPLA) party and its candidates.

MPLA MPs have argued, however, that there should be no concern if journalists are allowed to report on results before the Electoral Commission announces the winners.

• **ALERT**

Date: January 06, 2005

Persons/Institutions: Aguiar dos Santos

Violation: Threatened

On December 16 2004, Miguel de Carvalho, director of the ANGOP government news agency, threatened to shoot a journalist working for the independent weekly "Agora".

In a recently published article, "Agora" director and journalist Aguiar dos Santos said de Carvalho threatened to shoot him in the leg. The threat was linked to a series of articles the paper had been running on alleged corruption and mismanagement at the news agency.

In early February 2005, President Jose Eduardo dos Santos appointed de Carvalho as information vice-minister, just two months after the incident with dos Santos.

National Overview

By Log Raditlhokwa

Social work lecturer and Midweek Sun columnist



Botswana

Botswana

Panorâmica Nacional

Elaborado por Log Raditlhokwa

Professora de trabalhos sociais e colunista do Midweek Sun

For the quality of democracy in Botswana to be enhanced, effective legal and policy frameworks are necessary to enable the media to perform responsibly and adequately. This can only be achieved when there is an enabling media environment. Some commendable efforts have been made in this regard, with the Information and Technology Bill and the Draft Mass Media Communications Bill.

However, certain negative developments threaten the fundamental and constitutional right to freedom of speech. These include the controversial deportation of Professor Kenneth Good from the University of Botswana and two media workers. A move by government to produce its own newspaper, the *Daily News*, also threatens to hobble the fledgling private media and printing industry. Media workers must unite to confront these challenges.

Media-government relationship

In late 2005, the government disclosed its intention to purchase a printer for the production of its *Daily News*, an English-Setswana newspaper currently printed by *Mmegi*. On the one hand, the competition between the *Daily News* and the private media is unfair as the production and distribution of this government newspaper are funded by the taxpayer, while on the other hand *Daily News* advertising space is relatively cheap and the newspaper is circulated nationally, free of charge. The independent *Mokgosi* newspaper, a short-lived private Setswana broadsheet, was forced to close at the end of 2005, primarily due to the hefty competition inflicted by the *Daily News*.

When the government's decision to produce the *Daily News* was discussed in parliament, some MPs lobbied for more support for the infant private media. However, the government is unlikely to be dissuaded from proceeding with this potentially stifling decision. The attitude among sectors of the ruling Botswana Democratic Party (BDP) that the private media is hostile towards their party and that the BDP should consider producing its own newspaper appears to be linked to this decision. This viewpoint gives the impression that the ruling party is justified in producing the *Daily News* because the private media supports the opposition. Such reasoning is erroneous and malicious, especially since many Batswana may not understand the valuable role of the private media.

Unfortunately, it was noted that statements issued on World Press Freedom Day 2005 by the president of the Botswana Confederation of Commerce, Industry and Manpower, Iqbal Ibrahim, were viewed as being critical of the media for its "negative attitudes", which he felt could deter foreign investment. The Ministry of Communications, Science and Technology (MCST) has buttressed this criticism and urged the media to highlight Botswana's positive developments. MISA Botswana also links to such attitudes the expulsion of University of Botswana's Professor Kenneth Good, who worked in the country for over 15 years, *Ngami Times* journalist Rodrick Mukumbira and Charles Chirinda, a Maun-based commentator for Botswana Television.

Although we acknowledge powers invested in the presidency, the issue of deportation is sensitive and we are concerned that President Festus Mogae has not yet offered reasons for it.

Legislative and policy initiatives

A taskforce, comprising representatives of the Press Council of Botswana, MISA, the Editors' Forum and the government, mandated by the Media Advisory Council (MAC), has produced the principles for the Draft Mass Media Communications Bill. The bill seeks to provide for the registration of newspapers and periodicals; recognise the Press Council, which will act as a

self-regulatory body and monitor the press in an effort to achieve high professional standards; and accredit journalists. As this is a discussion document, the MCST will conduct consultations throughout the country before the bill is presented to cabinet and parliament.

The government has also drafted a policy on Information and Communications Technology (ICT), which is due for parliamentary debate during the February-April 2006 session. The policy seeks to transform Botswana into a globally competitive, knowledge-based society, empowering communities by providing schools, libraries, community centres and other institutions with access to television, radio, and internet services. We feel such an ICT policy must be predicated upon an environment conducive to access to information and this has been stressed in ICT policy discussions.

Defamation

The Press Council's Media Complaints Committee (MCC) adjudicated in two complaints, one lodged by the ruling BDP and the other by Princess Marina Hospital.

In the case of the 'BDP versus *Mmegi* newspaper', the ruling party protested that even though a rape case was pending against its candidate for the Gaborone West North by-elections, Robert Masitara, *Mmegi* published an article against him on its front page entitled 'Vote Moupo'. The BDP maintains this created the impression that Masitara had already been found guilty and that the party's endorsement of his candidature was an act of immoral complicity. In arbitration, the MCC exonerated *Mmegi*, arguing that newspapers have the right to express their opinions. The MCC asserted that international media ethical standards and the Media Code of Ethics do not in any way impede this sacrosanct right.

In the case of 'Princess Marina Hospital versus *Echo*', the latter had published a story entitled 'Knife Horror' and a front-page photograph of a pregnant in-patient who had been admitted to the hospital after her lover allegedly cut open her belly with a knife. The hospital argued that the newspaper surreptitiously interviewed and photographed its client without obtaining authorisation.

Although the MCC felt the reporter should have informed the hospital authorities about her intentions, there was no evidence from the patient to suggest that she had committed ethical misconduct. Furthermore, the hospital could not produce a policy on interviewing or photographing in-patients, which the MCC could use to assess the validity of the hospital's claim. *Echo* was cleared of misconduct.

We are concerned that defamation claims by those in powerful positions are on the rise. The media is faced with costly litigation or settling out of court, which currently appears to be the trend.

Access to information

The Botswana government appears reluctant to pass the Freedom of Information Act, which has been recommended by the country's Vision 2016. Unfortunately, during 2005 the media, political parties and civil society groups had limited input on this matter, although it has been raised extensively during ICT policy discussions as well as during the discussions on the media bill taskforce.

However, the BDP has promised to offer the media more access to information about its activities. The government has also undertaken to appoint media liaison officers to facilitate the flow

of information between government departments and the media. However, we are already learning that these information officers are inhibiting information sharing and seem poorly positioned to deal with issues of a sensitive nature.

Local television productions

Before the introduction of Botswana Television, critics lamented the cultural bombardment of the country by the South African media. After the launch of this homegrown station, sections of society lobbied for television programmes with adequate local content. During 2005, a number of innovative productions were developed, including *Re Bina Mmogo*, *Hot Chilli* and *Thokolosi*. These dramas are expected to bolster Botswana's self-belief, pride and confidence as envisaged in the National Vision Project. However, concerns have been raised about the quality of some local dramas.

Media diversity

While a new tabloid, *Echo*, was established early in 2005, interesting developments unfolded within radio and television as well. The National Broadcasting Board (NBB) is set to issue three new licenses in addition to the two held by Yarona FM and Gabz FM. But this liberalisation of the airwaves has been attacked by existing commercial radio stations on the grounds that the new stations will crowd out the broadcasting sector. Another criticism is that the two commercial radio stations broadcast only around Gaborone, whereas the forthcoming three will be licensed to broadcast nationally.

The NBB is expected in 2006 to award a broadcasting licence to new satellite television station Black Earth Communications (BEC). BEC promises to offer customers lower fees than those charged by the current South African-based monopoly, Multichoice.

Media associations

In February 2005, the Botswana Media Workers' Union (BOMEWU) was formed to protect the industrial, social and intellectual interests of media workers and to help develop the media. It has not yet produced the desired impact, and has yet to elect an executive committee and establish a formal office.

The organisation Journalists against HIV-AIDS in Botswana (JAHABO) was registered in May 2005. JAHABO aims to show that, besides just writing about HIV-AIDS, journalists are committed to addressing the disease in partnership with other stakeholders.

The Botswana Media Women's Association (BOMWA) was formed in July 2003 to confront issues faced by women media workers, and respond to other gender equality concerns. In 2005, however, it faced capacity constraints and failed to hold its annual general meeting to elect an executive committee. Thus, it became inactive before achieving even its basic goals.

Conclusion

Although enormous challenges need to be addressed before the media can become a potent tool for democratic empowerment, development and human rights in Botswana, legislative and policy frameworks do provide an opportunity for turn-around in the media industry. However, media professionals need to embark on a massive capacity building exercise if this media renaissance is to materialise. The leadership required for this transformation must be highly disciplined, committed and visionary.

Para a melhoria da qualidade da democracia no Botswana, há necessidade da criação de estruturas legais e de políticas eficazes que permitam que os mídias funcionem de forma responsável e adequada. Isto poderá somente ser alcançado na presença de um ambiente propício dos mídias. Já foram enviados alguns esforços louváveis a este respeito, com o Projecto de Lei de Informação e Tecnologia e com o Projecto de Lei da Comunicação dos Mídias Massivos.

Contudo, alguns acontecimento negativos ameaçam o direito fundamental e constitucional e os direitos de liberdade de expressão, tais como direitos incluem a deportação controversa do Professor Kenneth Good da Universidade do Botswana e outros dois trabalhadores dos mídias. A tentativa do governo de produzir o seu próprio jornal, o *Daily News*, também ameaça as actividades dos mídias privados e a indústria dos mídias escritos. Os trabalhadores dos mídia devem se unir para juntos enfrentarem estes desafios.

Relações entre os mídias e o governo

No fim de 2005, o governo divulgou a sua intenção de comprar uma editora para publicação do seu *Daily News*, um jornal em Inglês e Setswana actualmente imprimido pela Mmegi. Por um lado, a competição entre o *Daily News* e os mídias privados é injusta porque a produção e distribuição deste jornal do governo é financiada pelos contribuintes fiscais, enquanto que o espaço de publicidade do *Daily News* é relativamente barato e o jornal circula em todo país gratuitamente. O jornal independente Mkgosi, um jornal de propriedade privada que durou pouco tempo, foi obrigado a encerrar no fim de 2005, primariamente devido a competição forte criada pelo *Daily News*.

Durante a sessão da discussão no parlamento sobre a decisão do governo de produzir o *Daily News*, alguns Deputados fizeram lobby para maior apoio para os mídias privados novos. Contudo, é pouco provável que o governo deixe de persuadir e prosseguir com esta decisão potencialmente sufocante. A atitude entre os sectores do Partido Democrático do Botswana (BDP) que os mídias privados são hostis contra o seu partido e que o BDP deve considerar produzir o seu próprio jornal parece estar ligado a esta decisão. Este ponto de vista dá a impressão que o partido no poder tem um bom argumento para na produção do *Daily News* porque os mídias privados apoiam a oposição. Tal pensamento é errado e malicioso, especialmente considerando que muitos cidadãos do Botswana poderão não entender o papel valioso dos mídias privados.

Infelizmente, notou-se que as declarações emitidas por ocasião dia internacional de Liberdade de Imprensa em 2005 pelo Presidente da Confederação do Comercio, Indústria e Mão-de-obra do Botswana, Iqbal Ibrahim, foram considerados como críticos dos mídias devido as suas atitudes negativas, que ele sentiu que poderia deter o investimento estrangeiro. O Ministério das Comunicações, Ciência e Tecnologia (MCST) não apoiou esta crítica e solicitou os mídias para realçarem os desenvolvimentos positivos do Botswana. O MISA Botswana também relaciona tais atitudes com a expulsão do Professor Kenneth Good da Universidade do Botswana, que trabalhou no país durante mais de 15 anos, e os jornalistas do Ngami Times Rodrik Mukumbira e Charles Chirinda, um comentador da Televisão do Botswana sediado em Maun.

Apesar de reconhecermos os poderes investidos na presidência, a questão da deportação é sensível e estamos preocupados que o Presidente Festus Mogae ainda não deu motivos pela expulsão.

Iniciativas legislativas e de políticas

Uma força de trabalho, composto por representante do Concelho de Imprensa do Botswana,

MISA, o Fórum dos Editores e o Governo, mandatada pelo Concelho Consultivo dos Mídias (MAC) produziu os princípios para o Projecto de Lei das Comunicações dos Mídias Massivos. O projecto de lei procura garantir o registo dos jornais e periódicos, reconhecer o concelho de imprensa, que funcionará como um órgão auto regulador e monitora a imprensa na tentativa de alcançar padrões profissionais elevados, e acreditar os jornalistas. Isto é um documento sob discussão, o MCST realizará consultas em todo país antes da apresentação do projecto de lei ao governo e ao parlamento.

O governo também esboçou uma política sobre tecnologia de informação e comunicação (TCI), que será submetido ao debate parlamentar durante as sessões de Fevereiro e Abril 2006. A política procura transformar o Botswana numa sociedade culta e competitiva internacionalmente, capacitando as comunidades, fornecendo escolas, bibliotecas, centros comunitários e outras facilidades com acesso a televisão, rádio, e serviços de Internet. Sentimos que tal política da TCI deve ser dependente de um ambiente conducente de acesso à informação conforme estipulado na política de TCI.

Difamação

A Comissão de Reclamações dos Mídias do Concelho de Imprensa (MCC) adjudicou duas reclamações, uma apresentada pelo partido BDP no poder e a outra pelo Hospital Princesa Marina.

No caso BDP contra o jornal Mmegi, o partido no poder protestou apesar que estava pendente um caso de violação sexual contra o seu candidato para área de Nordeste de Gaborone, Robert Masitara, o Mmegi publicou um artigo contra ele na sua primeira página intitulado “Vote Moupo” O BDP alega que o artigo criou a impressão que Masitara já tinha sido condenado como culpado e que o endorçamento do partido para sua candidatura constituía um caso de cumplicidade moral. Na arbitragem, o MCC absolveu Mmegi, argumentando que o jornal tinha o direito de expressar a sua opinião. O MCC defende que os padrões internacionais de éticas dos mídias e o Código de Éticas dos Mídias não impedem de qualquer modo este direito consagrado.

No caso do Hospital Princesa Marina contra *Echo*, o último tinha publicado um artigo intitulado “a Faça do Horror” com uma fotografia de primeira página de uma paciente grávida internada depois de alegadamente o seu amante a ter cortado a barriga com uma faca. O hospital argumenta que o jornal entrevistou e fotografou clandestinamente o seu cliente sem autorização.

Apesar da MCC ter achado que o repórter deveria ter informado as autoridades hospitalares sobre as suas intenções, não houve qualquer comprovativo por parte do paciente para sugerir que a repórter tinha cometido má conduta ética. Ademais, o hospital não foi capaz de apresentar uma política sobre entrevistas ou tiragem de fotografias aos pacientes, que a MCC podia utilizar para avaliar a validade das reclamações do hospital. O jornal *Echo* foi absolvido do caso de má conduta.

Estamos preocupados que as reclamações de difamação por entidades que ocupam cargos de poder estão a aumentar. Os mídias enfrentam litígios caros ou resolução fora dos tribunais, que actualmente parece ser a tendência.

Acesso à informação

O governo do Botswana aparente estar relutante em aprovar a Lei de Liberdade de Informação, que foi recomendada pela Visão 2016 do país. Infelizmente, durante o ano 2005, os partidos

políticos e os grupos das sociedades civis prestaram uma contribuição limitada sobre este assunto, não obstante ter sido vastamente levantado durante os debates sobre a política de TCI bem como durante os debates sobre a força do projecto de lei das mídias.

Contudo, o BDP prometeu oferecer aos mídias maior acesso à informação sobre as actividades. O governo também se comprometeu nomear agentes de ligação dos mídias para facilitar o fluxo de informação entre os departamentos do governo e os mídias. Contudo, já registamos informações que estes agentes de informação estão a impedir a partilha de informações e aparentam estarem mal posicionados para lidar com as questões de carácter sensível.

Produção de televisão local

Antes da introdução da Televisão do Botswana, os críticos lamentaram os bombardeamentos culturais no país pelos mídias da África do Sul. Depois do lançamento desta estação de produção local, algumas secções da sociedade realizaram lobby para os programas de televisão com conteúdo local adequado. Durante o ano 2005, várias produções inovativas foram desenvolvidas, incluindo a *Re Bina Mmogo*, *Hot Chilli* e *Thokolosi*. Espera-se que estes dramas apoiem o sentido de auto confiança dos cidadãos do Botswana, orgulho e confiança conforme previsto no Projecto de Visão Nacional. Contudo, foram levantadas preocupações sobre a qualidade de alguns dramas locais.

Diversidade dos mídias

Enquanto criou-se um jornal novo, o *Echo* no princípio de 2005, alguns acontecimentos interessantes ocorreram dentro da rádio e da televisão. O Concelho Nacional de Rádio difusão e Televisão (NBB) programa emitir três licenças novas em adição as duas pertencentes a Yarona FM e Gabz FM. Mas esta liberalização das ondas de transmissão foram atacadas por estações de rádio comerciais actuais com base que as novas estações inundarão o sector de radiodifusão e televisão. Uma outra crítica, é que as duas estações de rádio comerciais emitem somente nos arredores de Gaborone, enquanto que as três futuras estações emitirão para todo país.

Espera-se que NBB em 2006 venha emitir uma licença de radiodifusão e televisão para a nova estação de televisão Black Earth Communications (BEC). BEC promete oferecer aos clientes taxas mais baixas do que as cobradas pelos monopólios actuais baseados na África do Sul, tal como a Multichoice.

As associações dos mídias

Em Fevereiro de 2005, o Sindicato dos Trabalhadores dos Mídias do Botswana foi criado para proteger os interesses industriais, sociais e intelectuais dos trabalhadores dos mídias e para ajudar a desenvolver os mídias. Contudo, ainda não produziu o impacto desejado, e ainda tem de eleger um comité executivo e abrir um escritório formal.

Foi registada a organização Jornalistas contra VIH/SIDA no Botswana (JAHABO) em Maio de 2005. A JAHABO tem como objectivo mostrar que para além, de escrever sobre o VIH/SIDA, os jornalistas estão engajados em resolver questões da doença em parceria com outros intervenientes.

A Associação das Mulheres dos Mídias do Botswana (BOMWA) foi criada em Julho de 2003 para confrontar as questões enfrentadas pelas mulheres trabalhadoras dos mídias, e dar respostas a outras questões relacionadas à igualdade de género. Em 2005, contudo, esta organização enfrentou constrangimentos de capacidade e não foi capaz de realizar o seu encontro anual

geral para eleger um comité executivo. Assim, tornou-se inactiva antes de alcançar o seu objectivo básico.

Conclusão

Apesar da necessidade de ultrapassar inúmeros desafios antes que os mídias se tornem num instrumento potente para capacitação democrática, desenvolvimento e direitos humanos no Botswana, as estruturas legislativas e de políticas oferecem uma oportunidade para mudança do quadro na indústria dos mídias. Contudo, os profissionais dos mídias precisam de embarcar num exercício massivo de capacitação se esta renascença dos mídias tiver que se concretizar. A liderança necessária para esta transformação deve ser altamente disciplinada, empenhada e visionária.

· **ALERT**

Date: October 28, 2005

Persons/Institutions: Private media in Botswana

Violation: Victory

Presidential spokesman, Dr. Jeff Ramsay has denied suggestions that government is planning to stop advertising in private newspapers. Speaking to Mmegi newspaper, he said that there is a distinction between government and the Botswana Democratic Party (BDP) therefore, the latter cannot influence the former in making decisions.

He said the matter at hand is different from the 2001 Botswana Guardian/Midweek Sun issue, which was decided by the High Court.

In 2001, government banned advertising in the newspapers because it felt they were attacking President Festus Mogae and his vice Lt Gen Ian Khama. The High Court later declared the advertising ban unconstitutional.

The uncertainty over the looming ban on adverts in the private press follows a lead story two weeks back in which Mmegi endorsed Botswana National Front (BNF) candidate, Otsweletse Moupo for the Gaborone West North Constituency. Moupo won the election and BDP blamed their candidate's loss on the press, particularly Mmegi.

Some BDP bigwigs were quoted as saying that Mmegi would regret the story as they would stop buying and advertising in the paper. But Ramsay's remarks that government and BDP are two different bodies raise more questions than answers.

Editor of Midweek Sun Mpho Dibeela said it would be unfortunate for government to ban advertising in the private press as a way of punishment. He said newspapers are struggling and the ban would make the situation worse. He also cited the 2001 Guardian/Midweek Sun case as an example of government's endless war with the press.

· **ALERT**

Date: October 17, 2005

Persons/Institutions: Onalenna Sekgwa

Violation: Beaten

Photo-journalist from "Monitor" newspaper Onalenna Sekgwa was assaulted recently by a suspect in a bank armed robbery case for 'taking pictures without consent' during an on going case at Village Magistrate court in Gaborone.

"Monitor" dated 17 October, 2005 reports that Elizabeth Surtee slapped Sekgwa heavily on his head when he tried to take a photo of her. Surtee was not impressed when she saw Sekgwa taking pictures and she asked that he should not to so.

When contacted by MISA Botswana, Sekgwa said he was not hurt from the ordeal and that that incident would not deter him from doing his job. Monitor Editor Gideon Nkala said assaulting journalists in line of duty was setting a bad precedent for media fraternity as this threatens the freedom of expression.

· **ALERT**

Date: October 14, 2005

Persons/Institutions: Otsweletse Moupo (Botswana National Front), Citizens of Botswana

Violation: Censored

For a second time on October 14, 2005, Botswana Television cancelled the Matlho-a-Phage programme where Gaborone West North by-elections contestants were scheduled to have their last debate before the elections scheduled for Saturday, October 15, 2005.

The by-election is contested by Otsweletse Moupo of the Botswana National Front (BNF) and Robert Masitara of the Botswana Democratic Party (BDP).

The cancellation of the programme which was supposed to be aired on October 14, 2005,

follows a similar incident the previous week when the business-tycoon-turned-politician, Masitara, would not avail himself for the recording citing “other obligations.”

When reached for comment Masitara’s Campaign Manager Segaetsho Garekwe said that they turned down the offer mainly because of time constraints.

However, the BNF on the other hand has dismissed this as a mere political chicanery on the part of Masitara and double standards on that of the national broadcaster.

• **ALERT**

Date: October 7, 2005

Persons/Institutions: Kate Harriman

Violation: Threatened

Gabz-FM and the host of its “Consumer Watchdog” programme, Kate Harriman, have been threatened with legal action by Shoprite (Retail Holding Botswana).

In a letter dated October 7, 2005, and signed by Shoprite Director A N van Zyl, the retail chain alleged that Harriman was abusing her position to launch an unwarranted and “biased attack on Shoprite and its officials.”

“[W]e strongly suggest that you cease your biased public criticism which is both unfair and unwarranted. Our rights are accordingly reserved to take whatever legal action we consider appropriate against both you and your radio station,” the letter reads in part.

In an interview with MISA Botswana, Harriman said she had looked into an incident in June in which a woman, Joyce Moloi, injured herself when she tripped over builders’ shelves left by construction workers in the store. Harriman explained that on June 8, 2005, Moloi had written a letter to Shoprite management claiming the right to compensation for her injuries. No response was forthcoming and Harriman re-faxed the letter in an attempt to follow up on the matter.

Only in September did the insurance company respond to the radio programme to verify a 210 Pula (approx. US\$38) insurance claim for Moloi.

• **ALERT**

Date: September 2005

Persons/Institutions: Chedza Simon, Lemporwana Kabo (Media in Botswana)

Violation: Censored

Urban Customary Court President Isaac Dikwalo Monametsi has banned journalist covering court sessions with effect from September 2005.

This came to light when “The Voice” reporter Chedza Simon and photographer Lemporwana Kabo were denied coverage of an assault case being heard in the court. Simon told MISA Botswana that the deputy Court President Kgosi Moosi Sebele asked them to seek for permission to record court proceeding from Monametsi who in turn refused to grant them permission and ordered them to leave.

When contacted for comment, Monametsi admitted that he has banned any coverage of proceeding following a story which appeared in a local newspaper in August and misrepresented facts of the case.

However, Assistant Minister of Local Government (the ministry directly involved with tribal administration) Ambrose Masalila said Monametsi’s decision was not right as each case had to be treated on its merit, when it comes to a Court President’s power. He told MISA Botswana that Monametsi could not take a blanket decision over one case he felt was “*misrepresented*”.

• **ALERT**

Date: August 31, 2005

Persons/Institutions: Tshepo Molwane

Violation: Beaten

On August 31 2005, Tshepo Molwane, a sports reporter from a daily Mmegi was assaulted by Thato Siska, a striker at a local football club called Notwane.

Molwane told MISA Botswana that he had gone to a shopping mall with his colleague when Siska spotted him and called out to him. Siska then asked Molwane to tell him who wrote the article that appeared on August 18, 2005, headlined 'Heads to roll at Toronto'. He then commanded Molwane not to write what he termed "***...t" about him cautioning that he would get physical one day. He told Molwane to only write positive stories about him.

Siska extended his hand to Molwane as if to say goodbye and then punched him. He pushed him to the ground and continued hitting him until security guards came to his rescue.

MISA Botswana visited Molwane after he reported the matter to the police and was later treated at the hospital. Molwane who appeared physically shaken by the ordeal sustained bruises on his back and he was limping due to a swollen leg.

On August 18, 2005 Molwane wrote a story in which he indicated that Siska's team would go into the game without him and goalkeeper Kagiso Tshelametsi due to indiscipline on the part of the duo.

• **ALERT**

Date: August 5, 2005

Persons/Institutions: Charles Chirinda

Violation: Expelled

A freelance writer and photojournalist from Maun Charles Chirinda who was ordered to leave the country after his 'extension of permits' were rejected by the Immigration Office in Maun, has been denied entry into Botswana.

Chirinda a Zimbabwean national who was also a commentator for a local entertainment programme on Botswana Television was on August 5, 2005, denied entry by senior immigration officials at Ramakgwebana border post.

Chirinda told MISA Botswana from Zimbabwe that immigration officials told him that they were under orders to deny entry until he had applied to the Chief Immigration Officer in Gaborone for re-entry. Once his re-entry was approved, officials said the immigration office would phone or write back Chirinda while he was still in Zimbabwe.

When contacted for comment, Chief Immigration Officer Roy Sekgororwane told MISA Botswana that he would not discuss Chirinda's case as he (Chirinda) was in the know about him being ordered out of the country. MISA Botswana has sought clarity from the Immigration Office to establish if Chirinda is now a prohibited immigrant by denying him entry into the country to visit his family. It has also called for transparency on reasons for him being denied work permits as such an action was meant to suppress freedom of the media and freedom of expression following Ngami Times Editor Rodrick Mukumbira who was ordered out of the country on July 27, 2005.

In a telephone interview with Chirinda, he said he had applied for a work permit in 2004 when he got a job with a Consultancy company in Maun where he was employed as a photojournalist. His application was rejected twice and that was when he appealed to the Minister of Labour and Home Affairs who too turned down the appeal this year and Chirinda was given seven days to leave the country. Chirinda said he has lived in Botswana for over eight years and has a child with a Botswana woman. He said the separation from his child has immensely affected him emotionally.

• **ALERT**

Date: July 27, 2005

Persons/Institutions: Rodrick Mukumbira

Violation: Expelled

On July 27 2005, the Botswana government deported Zimbabwean journalist and Ngami Times

reporter Rodrick Mukumbira, whose work and residence permits were valid until October 2007; the government again cited national security concerns.

Meanwhile Mukumbira has had his appeal against withdrawal of residence permits turned down after he appealed to the Minister of Labour and Home Affairs. In a letter dated 3 August 2005 and signed by H Keadumetse on behalf of the Chief Immigration Officer, it stated that, "I am directed to inform you that your appeal is unsuccessful. Also that you should leave the country as indicated on the Notification of cancellation of your residence permit served on you," the letter reads in part.

• **ALERT**

Date: June 30, 2005

Persons/Institutions: Vanessa Chikuzunga, GabzFM

Violation: Threatened, censored

Vanessa Chikuzunga, production assistant for the Customer Watchdog programme, broadcast on Monday mornings on GabzFM radio station, was recently threatened in a shop in Gaborone. A security guard and a staff person escorted her to the manager's office demanding that she hand over the notebook she was using to check prices and expiry dates.

Chikuzunga told MISA Botswana she was at the shop to carry out her usual inspection of prices and check-up on cleanliness of stores when a security guard approached her and demanded she see the manager. Chikuzunga said she explained to the manager what she was doing in the shop and wondered why she was thought to pose a threat when she was simply doing her job.

The manager demanded to know why she was writing down prices and told her that she was not welcome in the shop as it had the right of admission. He further threatened to withdraw advertising from GabzFM and sue Chikuzunga.

In an interview with MISA Botswana, the shop manager defended his stance about the right of admission being reserved, saying he would welcome any one checking prices provided they sought permission from management to do so. He further refuted having threatened to sue Chikuzunga or withdraw advertising from the station. The shop manager later said Chikuzunga was asked to report to his office because "she looked suspicious."

• **ALERT**

Date: April 14, 2005

Persons/Institutions: Media in Botswana

Violation(s): Threatening legislation

The Botswana government will retain the stringent apartheid-era National Security Act despite complaints from journalists that it limits media freedom.

Presidential Affairs and Public Administration Minister Phandu Skelemani said that it would be unwise to repeal the law, introduced in 1986 at the height of apartheid South Africa's aggression towards its independent neighbours.

"The Act is seldom invoked, but has been preserved for use when expedient," said Skelemani. MISA Botswana has asked the government for a public explanation of the reasons for retaining the act, which it has described as "draconian".

MISA Botswana said the act was introduced "under duress", when Botswana had been a target for military raids against African National Congress activists - circumstances which no longer apply.

The act stifles journalism, according to MISA Botswana. Among other provisions it forbids any person from publishing official information - however insignificant - without authorisation, and bars media reports on Botswana's military strength and defence expenditure.

Since its enactment it has been used to charge seven people, among them Australian Professor Kenneth Good, a University of Botswana political science lecturer who is currently fighting a

deportation order after being declared a prohibited immigrant. The order followed his presentation of a lecture paper questioning Botswana's democratic record.

"This act is an enemy of press freedom and is affecting access to information," said Maphanyane. "If the government does not want to repeal it, it should at least relax some of its clauses that affect press freedom in the country."

But Skelemani recently told parliament that the global fight against terrorism made the act still relevant, and its retention an imperative.

However, some opposition legislators remained unconvinced. "The act used to be relevant during the apartheid years, but now it seems not to be important, especially when looking at the relatively tranquil political situation in the region," said parliamentarian Akanyang Magama.

• ALERT

Date: March 21, 2005

Persons/Institutions: Media in Botswana

Violation(s): Positive Legislation

On March 21 2005, Botswana's "Daily News" reports that the development of the principles of the Draft Mass Media Bill has been concluded, the minister of communications, science and technology said when asking Parliament for Pula 422.2 million for recurrent spending and P261.4 million for development expenditure.

However, Pelonomi Venson told Parliament last Thursday (March 17, 2005) that she plans some stakeholder meetings across Botswana before she can submit the principles to cabinet for approval.

Minister Venson said the principles would then be submitted to the Attorney General's Chambers for government lawyers to draft the bill.

The present draft document is a product of a task force that included representatives of the Press Council, the Media Institute of Southern Africa (MISA) and the Editors' Forum.

• ALERT (including updates)

Date: February 18, 2005

Persons/Institutions: Professor Kenneth Good

Violation(s): Expelled

On February 18, three officials called at University of Botswana Political Science Professor, Kenneth Good's home and said that President Festus Mogae had declared him a prohibited immigrant and that he had 48 hours in which to leave Botswana.

Good challenged the order in the High Court the following day. No reason for the order has been given - the state's lawyers say it is within the prerogative of the president to declare by presidential decree a foreigner in Botswana to be a prohibited immigrant without giving reasons.

Consequently, it has been presumed that the president was acting in accordance with Section 93 of the Penal Code which states that a person publicly using insulting language in relation to the president or a member of the National Assembly commits a crime.

* **February 28, 2005**, Justice Stanley Sapire rejected an application by the state to overturn a stay of execution of Professor Kenneth Good's deportation order. Good will now remain in the country until the final determination of his case against deportation, which commences on March 7.

* **April 19, 2005** - A three-man bench has been constituted to hear Professor Kenneth Good's deportation case at the Lobatse High Court on May 2 and 3, 2005. One of the attorneys representing Good, Dick Bayford, said the case will be heard by Justices Stanley Sapire, John Mosojane and Stephen Gaongalelwe.

* The case in which Professor, Kenneth Good, is challenging a presidential decree declaring him a Prohibited Immigrant (PI), commenced at the Lobatse High Court on **May 3, 2005**.

* University of Botswana political science professor, Kenneth Good will know whether the High Court will allow him to stay in the country or be kicked out on May 31, 2005.

* **On May 31 2005**, the Lobatse High Court upheld the deportation order against University of Botswana Political Science Professor, Kenneth Good.

National Overview

By Rethabile Pholo

Freelance print and radio journalist



Lesotho

Lesoto

Panorâmica Nacional

Por Rethabile Photo, jornalista colaborador independente que durante muito tempo trabalhou com a Estação da Rádio Nacional como Editor/Repórter Senior. Também trabalhou como Repórter Senior e Editor Adjunto no The Southern Star, um jornal semanário do Lesoto.

“Lesotho media has, since democratic rule, operated under a relatively free constitutional dispensation that extends a general protection of the freedom of expression to all citizens. However, several media-unfriendly laws still exist on the statute books and ought to be repealed – the Sedition Proclamation Act of 1937 and the Internal Security Act of 1984 to mention but a few.” – Thabo Motlamele, *State of the Media in Southern Africa*, 2003

Media policy

The issue of media policy in Lesotho continues to be beset by obstacles. Since the 1990s, the government and independent media houses have been involved in drafting a media policy. This has never been adopted by the government, however, which has since drafted a new Information Communication Technology (ICT) policy, incorporating the policies for both print and electronic media.

MISA Lesotho has expressed misgivings with the view that an ICT policy would fail to address issues central to regulating the media environment. MISA Lesotho is concerned that the ICT policy essentially addresses technological issues, instead of the deployment of that technology and the institutional mechanisms that are necessary to ensure that the principles of freedom to information and freedom of expression are respected.

The Ministry of Communications convened a broad-based stakeholders’ meeting to debate the ICT policy, and it was criticised by civil society and business sector stakeholders. It has since come to the attention of the stakeholders that the government went behind their backs to produce a draft policy bill which is now ready for distribution to stakeholders for consultation. The latter are skeptical about the policy, arguing that government did not adhere to the guidelines and principles they propounded.

Media law and freedom

There is no specific law that regulates the media in Lesotho. Rather, there are various pieces of legislation which impact on the media, as well as principles of common law, introduced with the British colonial rule in Lesotho. A media law audit commissioned by MISA in 2002/3 identified a number of laws that impact on the media in Lesotho. It emphasised the importance of having a clear legal and institutional framework within which the media operates, namely a media-specific law. This would enhance freedom of the press and of expression, as well as raise the levels of professionalism within the media.

As Lesotho has ratified both the International Convention on Civil and Political Rights and the African Charter of Human and Peoples’ Rights, any legislative or regulatory framework in the country has to be in line with these international instruments, as well as media practice in general. Although the constitution guarantees every person fundamental human rights and freedoms, including the right to freedom of expression, the constitution does not make any specific reference to media freedom. It has been suggested that a new clause that specifically mentions freedom of expression as including media freedom should be added to the constitution.

Audits

The Lesotho media currently lacks regular audience audits to determine a newspaper’s readership, for example, in relation to the country’s population. Such audits could also assist the courts in determining the extent of damage suffered by a plaintiff and the compensation due to them for damages to dignity and fame. There is, however, no frame of reference to support this

interpretation in the absence of a media-specific law.

Legal challenges

Lesotho media continues to face threats from various quarters. These have come in the form of defamation cases instituted by private individuals and political figures, the most recent being a civil defamation case against *The Mirror* newspaper by the leader of Marematlou Freedom Party (MFP), Vincent Malebo.

Malebo claims that an article which appeared in *The Mirror* newspaper of May 23 2003, entitled 'Is Malebo rightful owner or the people?', was defamatory to him since it insinuated that the plaintiff had unjustifiably kept property, in the form of two tractors belonging to a community in northern Maseru, and used them for his own personal gain.

Typically, the newspaper lost the case in the High Court and Malebo was awarded sixty thousand Maloti, an amount which the publishing house could not afford to pay. As a result, *The Mirror's* office equipment, including furniture and computers, was attached, and the newspaper now battles to produce an edition each week using hired equipment.

It is important to note that if the courts force media houses to deplete their resources in payments, this is tantamount to gagging the media and defeating the freedom of speech entrenched in the constitution and in Article 19 of the Universal Declaration of Human Rights: "Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers."

Smart dialogue

In a very rare occurrence, the government involved private media in consultations that led to the hosting of the Southern African International Dialogue (SAID) 2005 of the Smart Partnership Movement. The private media saw this as a positive move towards them by the state, although the government Secretary made it clear that they were involved so that maximum coverage could be gained to make SAID a success.

Nevertheless, it gave private media professionals the opportunity to voice their discontent at the way in which they are sidelined by government when it comes to the release of information, with government media being favoured instead.

Training

There is still a critical need for the quality of reporting in Lesotho to be upgraded by further training. This in turn will lead to a greater degree of professionalism in the media sector. While much has been done with regard to the legislative environment, it remains to be seen whether this will lead to a free atmosphere for the media in future.

Desde a governação democrática “os mídias do Lesoto funcionam sob um regime constitucional relativamente livre que se estende à proteção geral da liberdade de expressão para todos cidadãos. Contudo, ainda existem várias leis desvantajosas nos livros estatutários que devem ser substituídas ou revogadas, tais como a Proclamação de Incitação de 1937, a Lei de Segurança Interna de 1984 e várias outras. (Thabo Motlammelle – O Estado dos Mídias na África do Sul, 2003).

No Encontro Anual Geral de 2003 do Instituto dos Mídias da África Austral – A Delegação do Lesoto – constatou-se que a questão da política dos mídias no Lesoto ainda continua mergulhada em dificuldades. Nos anos noventa, o governo e os órgãos dos mídias independentes se engajaram no esboço de uma política para os mídias que, para todos fins e propósitos, fosse aceite por todos.

Este esboço não chegou a ser aprovado pelo governo que, pelo contrário, teria usado como base para criação de uma estrutura mais abrangente dos mídias – de qualquer modo, ficou registado como uma chamada de atenção!! O governo esboçou uma nova política de TCI (Tecnologia de Comunicação e Informação) com objectivo de incorporar a política dos mídias para os mídias escritos e electrónicos. O MISA Lesoto manifestou reservas sobre o ponto de vista que uma política de TCI nunca resolveria as questões centrais do regulamento do ambiente dos mídias.

De acordo o Presidente do MISA – Lesoto no seu discurso lido no Encontro Anual Geral, foi enviada uma carta formal ao consultor que esboçou a política mencionando que a política de TCI fundamentalmente trata de questões de tecnologias, enquanto que o MISA Lesoto estava mais interessado com a aplicação da tecnologia e os mecanismos institucionais, estratégias e políticas necessárias para garantir que os princípios de liberdade de acesso, transmissão de informação e ideais, de liberdade de pensamento e expressão sejam respeitados.

O MISA Lesoto sofreu um grande golpe do governo quando o Ministério das Comunicações convocou um encontro com vários intervenientes abrangentes para debater e abordar a questão. Contudo, a sociedade civil e os intervenientes do sector criticaram esta política. No entanto, chegou ao conhecimento dos intervenientes que o governo produziu um esboço da política sem o conhecimento do MISA Lesoto que agora está pronta para distribuição aos intervenientes para consultas. Os intervenientes estão cépticos sobre a política e argumentam que o governo não aderiu as orientações e princípios protagonizados.

Não existe nenhuma lei específica que regule os mídias no Lesoto. Há vários componentes legislativos que causam um impacto sobre os mídias, tais como os princípios da lei comum introduzidos pela administração colonial Britânica no Lesoto. Foi realizada uma auditoria das leis de imprensa por iniciativa pelo MISA em 2002/2003 que identificou várias leis que causam impacto nos mídias no Lesoto. Ela realçou a importância de ter uma estrutura legal clara e institucional onde os mídias funcionam. Isto teria o benefício adicional do aumento da liberdade de imprensa e liberdade de expressão bem como o profissionalismo dentro dos mídias.

O Lesoto ratificou ambos a Convenção Internacional sobre os Direitos Cívicos e Políticos e a Carta Africana sobre os Direitos Humanos e dos Povos, qualquer estrutura legislativa ou reguladora no país tinha que estar em conformidade com estes instrumentos internacionais bem como a prática dos mídias em geral.

Apesar da Constituição do Lesoto garantir a todo indivíduo os direitos humanos e de liberdade fundamental, dentre os quais o direito de liberdade de expressão, a Constituição não faz qualquer referência específica à liberdade dos mídias. Foi sugerido que a Constituição pode beneficiar

de uma nova cláusula que especificamente preve a liberdade de expressão, incluindo a liberdade dos mídias.

Um dos desafios que os mídias do Lesoto ainda enfrentam é o fornecimento de auditoria de audiências regulares, cujo o objectivo seria determinar os limites de um jornal em termos dos seus leitores, de forma a determinar até que ponto a cobertura da população da apper relativamente a população actual do país. Estas auditorias também podem apoiar os tribunais a determinarem até que ponto os danos sofridos por um queixoso e permite ao juiz conceder uma indemnização justa pelos danos à dignidade e fama.

Também pode se argumentar que de facto um jornal Inglês é lido por poucos milhares de indivíduos, por tanto, qualquer indivíduo que sofra prejuízos na sua dignidade ou fama devido a tal publicação não terá sofrido demasiado, excepto na sua própria imaginação. Mas não existe nenhuma estrutura de referência para apoiar esta interpretação na ausência de um lei dos mídias específica.

Os mídias do Lesoto continuam a ser vítimas das ameaças proveniente de várias frentes, que surgem em forma de casos de difamação instituídos por indivíduos privados e figuras políticas do interior e do exterior do governo; o caso de difamação mais recente ocorreu contra o jornal Mirror liderado pelo Parido da Liberdade Marematlou (MFP).

O Mirror foi informado das intenções dos líderes através da documentação enviada aos escritórios do jornal, exigindo sete centos mil Maloti (1 Loti = 1 ZAR); para pagar pelos custos do processo judicial; bem como um montante alternativo de alívio ao líder do Partido da Liberdade Marematlou.

Malebo reclama que o conteúdo do artigo publicado no jornal Mirror de 23 de Maio de 2003, sob o título: “Quem será o proprietário legítimo; Maleno ou o povo? foi difamatório porque insinua que o queixoso tinha tomado posse da propriedade injustamente, em forma de dois tractores, pertencentes a comunidade no Norte de Maseru em Thuathe, Roma Valley e os usou para o seu benefício próprio.

Como acontece habitualmente, o jornal perdeu o caso no Tribunal da Câmara Alta do Lesoto. O Tribunal decidiu que a empresa emissora deveria pagar à Malebo Sessenta Mil Maloti. A empresa emissora não tinha capacidade de pagar tal montante, e em resultado foi-lhe confiscado o seu equipamento de escritório, por exemplo computadores, etc. O jornal enfrenta várias dificuldades todas semanas para emitir uma publicação, porque tem de fazer uso de equipamento de propriedade privada pelo qual tem de pagar.

Importa referir que se os tribunais solicitam os órgãos dos mídias para esgotar todos seus recursos com pagamentos, isto é o mesmo que sufocar os mídias e derrubar a liberdade de expressao estipulado na Constituição e no Artigo 19 da Declaração Universal dos Direitos Humanos – “Todos tem o direito a liberdade de opiniao e expressao; este direito inclui a liberdade de possuir a sua propria opiniao sem interferencia e para procurar, receber e divulgar informações e ideais atraves de qualquer órgão dos mídias independentemente das fronteiras.”

Apesar de ser um facto raro, o Governo do Lesoto envolveu os mídias privados em consultas que levaram a realização do Diálogo Internacional da África Austral de 2005 da Movimento Parceria Dinâmica. A fraternidade dos mídia considera isto como uma iniciativa positiva do governo em relação aos mídias privados – ademais o secretario do governo esclareceu aos mídias que o governo estava a envolver-lhes para obter a cobertura necessárias para que o Diálogo seja um êxito.

Contudo, os funcionários dos mídias tiveram a oportunidade de expressarem o seu descontentamento pela forma como o governo os tratou relativamente a divulgação da informação – recusando os mídias privados o acesso às informações essenciais enquanto que os órgãos dos mídias estatais beneficiam destas informações e se posicionam em vantagem relativamente aos mídias privados.

Em conclusão, ainda há necessidade urgente para o melhoramento da qualidade da reportagem e maior profissionalismo, para o efeito precisa-se de mais formação. Já foram realizadas muitas actividades relativamente ao ambiente legislativo, mas ainda tende-se constatar se elas irão

• **ALERT**

Date: November 11, 2005.

Persons/Institutions: Media in Lesotho, international media

Violation: Expelled (accreditation)

The hosting of the Southern African International Smart partnership dialogue by Lesotho, November 9 to 13, 2005, has raised media accreditation as one of the major issues to be brought to the fore for scrutiny, as most media practitioners and media houses view this as suppressing the role of the media in the country.

Local and international media practitioners were unable to exercise their duties before prior accreditation by the police department since the beginning of and during preparations for this international forum. The licensing/accreditation of journalists to practice their profession as opposed to licensing publications and broadcast stations remains unacceptable in any democratic dispensation that aspires for the absolute attainment and enjoyment of fundamental rights of freedom of expression as well the public's right to access information.

In that regard, MISA Lesotho maintains that there is no single entity, other than that decided by the media itself, that has the right or jurisdiction to decide who can or cannot practice as a journalist.

Quoted in the daily newsletter of the smart partnership dialogue in Lesotho, '*Lehlaahlela*', the director of information in the ministry of communications, science and technology, Mr. Thabiso Makintane, was adamant about media accreditation: "Only expatriate journalists require security clearance for journalistic practice in the country."

• **ALERT**

Date: November 7, 2005.

Persons/Institutions: Public Eye

Violation: Sentenced

On November 7, 2005, Justice Kellelo Guni passed a judgment in the High Court of Lesotho against the English-language weekly newspaper "Public Eye", the largest publication in Lesotho. The ruling, which awarded the plaintiff Lebohlang Thotanyana 1.5 million maloti (approx. US\$222,000) in damages for alleged defamation, was passed in the absence of legal and management representatives from the "Public Eye".

In its edition of July 15 to 21, 2005 (Volume 9, Number 28), "Public Eye" published an article entitled "Bank and club at each others' throats."

The article reported on a financial audit that the Central Bank of Lesotho had conducted on the accounts of Facilities Management Company, which had been awarded a tender to administer the Central Bank's Lehakoe Cultural and Recreation Centre. According to sources at the recreation centre, the report indicated that the audit had revealed "a tug of war going on between the Central Bank of Lesotho (CBL) and its subsidiary, Lehakoe Cultural and Recreational Centre, which had been growing in intensity."

The audit reportedly exposed improper accounting of the centre's finances by the four-person board of directors. The board comprises Thotanyana, who won a tender to operate the centre, and three South African citizens.

The plaintiff, Thotanyana, claims defamation on the grounds that his company's reputation has been damaged and he has also suffered damage in his personal capacity.

• **ALERT**

Date: October 31, 2005.

Persons/Institutions: Media in Lesotho

Violation: Victory

MISA Lesotho has acted decisively to ensure that public and private media have equal access to public information about the upcoming Commonwealth Speakers' Conference in Lesotho starting on November 2, 2005.

On 31 October, media houses in Maseru - which include the Lesotho Defence Force Public Relations Office, the South African Broadcasting Corporation (SABC), Southern African Press Association (SAPA) and Agence France-Presse (AFP) - were refused information at the National Assembly of the Kingdom of Lesotho about the Commonwealth Speakers' Conference. The reason given by the authorities was that the information would first be transmitted to the government-owned and controlled Radio Lesotho before being transmitted to the independent media.

Following the incident, the MISA-Lesotho approached the National Assembly for clarification and was informed that the public officials involved acted in accordance with a mandate from government authorities. MISA-Lesotho responded that these public officials were merely custodians and not proprietors of public information, adding that the act was a gross violation of media freedom and the right to access information.

The deputy clerk of the National Assembly, Rethabile Maluke, was eventually authorised to transmit the information to the independent media in addition to the state media.

This case illustrates the need for the ongoing MISA-Lesotho campaign for the transformation of state media into public service broadcasters so that a truly free, robust and pluralistic media with diverse views can become a reality in the Kingdom of Lesotho.

• **ALERT**

Date: July 29, 2005.

Persons/Institutions: Catholic Radio

Violation: Threatened

The Stadium Management Board of Setsoto National Stadium in Maseru, sent a letter of complaint to the Catholic Radio (CRFM) Management about a programme that the radio station featured on July 29, 2005.

The letter, which was signed by the Chairperson of the Management Board, Mrs. M. Ntokoane stated that on the morning of Friday July 29, 2005, the radio station broadcast a programme hosted by the Presenter, Jobo Masupha, where the topic for discussion was Setsoto stadium. The guests at the programme were Messrs. Tšiu Monne and Thabo Thakalekoala.

According to the letter, issues that were raised in the said programme were mostly uninformed and defamatory. Among others the Board requested for a tape of that particular programme which it would study in order to conclude whether or not it would take legal action against the station.

• **ALERT**

Date: June 30, 2005.

Persons/Institutions: Masupha Jobo, Sister Clementine Thatho

Violation: Threatened

The presenter of the Catholic Radio (CR) FM phone-in talk show, "Lijo'a Ke Baeti", Masupha Jobo and the radio station manager, Sister Clementine Thatho, received threatening calls about the programme that Jobo was running on June 30, 2005.

The programme focused on the issue of the King's Brother, who is also the Principal Chief of Matsieng Royal Village in Maseru, being appointed as Lesotho's High Commissioner to the United Kingdom. This has been a burning issue in Lesotho as most people could not understand how the Principal Chief could assume a politically oriented position. The programme sought to get the public's views and comment on this issue.

During the programme, anonymous calls came through to the presenter and the station manager, insinuating that CR FM was becoming more of an opposition to government and that the presenter had no business in the studio if he was to run programmes that were anti-government. The station manager stated that this was not the first incident, as members of the National Security Services had also approached her to complain that the presenter was anti-government.

· **ALERT**

Date: May 27, 2005.

Persons/Institutions: Masupha Jobo

Violation: Threatened

On May 27 2005, Masupha Jobo, who also hosts “Tsa Kajeno”, a sports show broadcast on CR FM, was summoned out of the studio to appear before the CR FM management and a delegation of the Lesotho Football Association (LEFA), which was comprised of the LEFA chief executive officer, Kholoang Mokalanyane, and a member of the LEFA executive committee, Thabo Pule. The LEFA delegation complained that Jobo was promoting negative publicity about the national soccer body in his programme.

· **ALERT**

Date: April 16, 2005.

Persons/Institutions: Makoanyane Ramarothole

Violation: Beaten

Makoanyane Ramarothole, a photo journalist with the weekly English newspaper, Public Eye, was severely assaulted by students of the Lesotho Agricultural College and members of their Students’ Representative Council (SRC) during annual beauty pageant of the college, which was held on April 16, 2005. Public Eye newspaper had received an invitation to provide coverage at this annual event and sent Ramarothole to cover the pageant. The photo journalist was duly allowed into the hall where the event was held and when he took out his camera to capture the event in pictures, one student hurled vulgarities at the photo journalist and started beating him with clenched fists, kicking and insulting him further. The Journalist’s pleas that he came to the occasion per invitation from a media house fell on deaf ears as more and more students joined in to assault him even further.

· **ALERT**

Date: April 20, 2005.

Persons/Institutions: Khutliso Sekoati

Violation: Threatened

Khutliso Sekoati, a journalist working for the weekly English newspaper, Public Eye, was harassed by Lesotho’s Chief Magistrate, Mr. Molefi Makara. Sekoati was covering a court case presided over by Magistrate Makara, when before the case began, the Chief Magistrate ordered the reporter to stand up, and asked him what he wanted in his courtroom, as he (Sekoati) was nothing but a liar. The journalist was covering a case against a certain Hanif Tayob, who was arrested at Moshoeshoe I International airport on April 20, 2005, in the unlawful possession of US\$220 950, which was in contravention with the monetary exchange control regulations.

Sekoati indicated that the Magistrate informed him that the article he had written earlier had tarnished his image and was a product of an individual who was yelping for Makara’s demise in the legal profession. The Chief Magistrate, Sekoati asserted, also threatened to sue the tabloid newspaper he worked for in his personal capacity, for allegedly damaging his integrity, and demanded an apology as he considered the article to be in contempt of court.

However, having gone through the trial records, Sekoati resolved that he was going to stand his ground and that the article had been fair and objective. Chief Magistrate Makara recused himself from the case, which was heard on May 9, 2005.

· **ALERT**

Date: March 21, 2005.

Persons/Institutions: Bethuel Thai, Khutliso Sekoati

Violation: Legislation

On March 21 2005, “Public Eye” editor-in-chief Bethuel Thai and journalist Khutliso Sekoati

were summoned to appear before Lesotho's chief magistrate, Molefi Makara, in connection with an article published in the newspaper's 18 to 24 March edition, entitled, "R350,000 [approx. US\$56,600] seized at airport". Thai and Sekoati appeared before Chief Magistrate Makara on March 21 March.

Sekoati said the chief magistrate informed them that the article had "tarnished his image" and was "a product of individuals who were agitating for [his] downfall in the legal profession." The magistrate also threatened to sue the newspaper in his personal capacity for allegedly "damaging his integrity," Sekoati said.

Chief Magistrate Makara has since recused himself from the case against Muhammad Sohail, who was implicated in the airport money seizure. The case will be heard before Magistrate Mojela Mothebe on May 9.

• **ALERT**

Date: February 25, 2005

Persons/Institutions: Francis Khoaripe

Violation: Threatened

On February 25, 2005, the editor of the weekly tabloid "Moeletsi oa Basotho", Francis Khoaripe, was threatened by two officials of the Lesotho Catholic Bishop's Conference (LCBC) for allegedly defaming them in an article published in that day's edition of the paper.

"I will beat you severely if I see you at any one of our forums under the guise of media coverage," Booi Mohapi, the Secretary of the Commission for Social Concern of the LCBC, told Khoaripe.

Mohapi's colleague, Makhojane Mahlakeng, was also present during the exchange. She told Khoaripe, "Had we met you earlier, we would have sorted you out. You have defamed us."

In the February 25 edition of "Moeletsi oa Basotho", Khoaripe reported on a women's prayer session hosted by the LCBC in preparation for the upcoming Lesotho local government elections. In his report, Khoaripe alleged that the gathering had been used by members of the ruling Lesotho Congress for Democracy (LCD) party to lobby women candidates to run in the local government elections.

National Overview
By Levi Zeleza Manda
Media and journalism trainer



Malawi

Malawi

Panorâmica Nacional

Por Levi Zelesa Manda, especialista em formação de mídias e jornalismo, actualmente trabalha com a USAID (Agência dos Estados Unidos para o Desenvolvimento Internacional/COMPASS como Especialista de Sensibilização Pública. Obteve Mestrado em Jornalismo e Estudos dos Mídias na Universidade de Rhodes, África do Sul, Licenciatura de Honras e Licenciatura na Universidade do Malawi, Diploma de Pós Graduação em Educação em Sevres, França e Certificado em Linguística Aplicada na Universidade de Franchcompte, Besancon, França.

For Malawian journalists and the media, 2005 was a year of mixed fortunes. President Bingu wa Mutharika and his successive ministers of Information and Tourism kept telling the nation that the Malawi Broadcasting Corporation (MBC) and Malawi Television (TVM) would open up and accommodate dissenting views. The President even offered to help in the training of journalists. Neither the training nor the opening up of the public broadcasting sector took place.

Further, recommendations made by the review workshop of Malawi's 2004 elections for the government to loosen its grip on public broadcasters went unheeded. As expected, like its predecessors, the Malawi Congress Party (MCP) and the United Democratic Front (UDF), the Democratic Progressive Party (DPP) monopolised public media during the campaign for by-elections in six constituencies. It won all the seats. Ironically, the UDF cried foul and described the by-elections as neither free nor fair, accusing the DPP of abusing public resources, the very tactics international observers and political critics condemned during the controversial 2004 elections which the UDF (alone) considered free and fair.

Media-government relationship

A downward turn was apparent during 2005 in the relationship between the private media and the government. A few events illustrate these deteriorating relations. *Daily Times* journalist Collins Mtika was beaten by Alliance for Democracy (AFORD) supporters while covering a press conference by AFORD's president, Chakufwa Chihana. At the time, AFORD was in a ruling coalition with the UDF.

The same month, President Mutharika rejected reporters from TVM and MBC, choosing his own journalists to accompany him to China. Later, two journalists and the Vice President's press officer were arrested over a story that alleged that the President had left state house because he was being haunted by ghosts.

Zodiak radio was denied permission by parliament to broadcast parliamentary proceedings live. Capital Radio was sued using a 1967 insult law that is inconsistent with the current constitution. Thereafter the government accused three newspapers – the *Chronicle*, the *Nation* and the *Daily Times* – of harbouring mercenary journalists in the employ of former government minister and ex-MP Philip Bwanali.

The First Lady sued the *Nation* despite having refuted the story that said she and her entourage went shopping in expensive shops in Scotland while her husband was pleading for aid. The story was based on the *Daily Record* website (www.dailyrecord.co.uk/tm_objectid). Veteran MBC journalist Moffat Kondowe complained late in the year that he was sent back from reporting parliamentary proceedings on the orders of the Minister of Information who accused him of being a UDF spy. MISA condemned the government action. Deputy Minister of Information and Tourism John Bande went as far as accusing TVM journalists of engaging in sexual acts in the studios instead of concentrating on their work.

There were, of course times, like May 3 World Press Freedom Day, when government praised the media for contributing significantly to the consolidation of democracy in Malawi. But this could be seen as a politically correct statement befitting the occasion. In brief, mistrust characterised the relationship between the private media and the Malawian government, while the opposition continued to doubt the integrity of public media.

Legislative environment

Chapter 4 of the constitution guarantees freedom of expression, freedom of the press/media,

and freedom of association. Section 37 actually obliges public institutions (subject to an act of parliament) to assist the media in obtaining public information.

Other than the constitution, the Communications Act of 1998 is the major media law in the country, and it provides for the existence of the Malawi Communications and Regulatory Authority (MACRA). The Parliamentary and Presidential Elections Act (1993) and the Local Government Elections Act (1996) also provide for freedom of expression and guide media performance during elections.

MACRA's major role is to regulate broadcasting, telecommunications, radio frequency use and postal service provision, but its performance has raised many questions. Legal experts have noted that the Communications Act (1998) has serious flaws that politicians can use to prevent the free flow of information.

Although section 4(3) gives MACRA operational independence and excludes members of parliament, government ministers, and party stalwarts from its board, the Secretary to the President and Secretary for Information are *ex officio* members of MACRA; the President appoints the board and its chair; and the Minister of Information appoints the Director General and approves the appointment of his/her deputy.

This scenario has the potential to compromise MACRA's independence. Its wrangle with, threats against and eventual closure of MIJ radio on May 23 2004 proves that MACRA can easily succumb to political pressure.

Access to information

The fact that Malawi does not have an Access to Information Act to oblige public officers to provide information to the media means public officers may deny the media critical information and deliberately land them in trouble or limit the public's right to be informed. In the absence of such an act, journalists battle to obtain information critical to their work and the nation's right to know what government does.

Furthermore, legal experts have identified some 40 laws on Malawi's statute books that are inconsistent with the constitution and may damage media practice in Malawi. Politicians have been lobbied for more than 10 years to change these laws, to no avail. Considering the amount of groundwork and lobbying MISA Malawi did in 2004/5 on the Access to Information Bill, it was a surprise that such a bill was not even tabled in parliament in 2005; thus proving that parliament has different priorities from those of the media.

Although the absence of an Access to Information Act means no public office is obliged to give information, in 2005 journalists had negligible problems in accessing information as the army, police, prisons, and most government institutions have public and media relations officers who speak on behalf of their organisations and periodically brief journalists.

Unlike 2004, 2005 passed peacefully, with MACRA acting like a peace envoy among broadcasters, and hence, leading to the formation of the Malawi Broadcasters Association (MABA).

Defamation

The existence of defamation and other anti-media laws has long been a threat to media freedom. From 1994 to 2004 over 10 newspapers, radio stations and individual journalists were successfully sued for defamation. The media in 2005 were the subject of libel suits. For ex-

ample, Capital Radio is still fighting a defamation case in court arguing that the laws used contradict the constitution. A senior editor at the *Nation* has threatened to sue the *Sunday Times* for defaming him in its gossip column, the dry cleaner. The former minister, Philip Bwanali, has sued the MBC, TVM and the government; the first lady, Ethel Mutharika, has sued the *Nation* for defamation. The Attorney General, Ralph Kasambara has sued the *Dispatch* and Press Corporation's chief executive, Mathews Chikaonda, has also threatened to sue the same newspaper.

The defamation cases against the media are mostly due to ignorance on the part of the media about defamation. It can be argued that those who sued the media in 2005 were justified because they used the law as it stands now.

Journalists need to unite and fight for the repeal of all the 40 anti-media laws in order to create a more enabling media environment.

Media diversity

At the end of 2005, the following newspapers were in circulation:

<i>Newspaper</i>	<i>Publisher</i>	<i>Circulation</i>	<i>Distribution</i>	<i>Frequency</i>
Daily Times	Blantyre Newspapers Ltd	12 000	National	Daily (Mon-Fri)
Malawi News	Blantyre Newspapers Ltd	28 000	National	Weekly (Saturday)
Sunday Times	Blantyre Newspapers Ltd	16 000 ¹	National	Weekly (Sunday)
Nation	Nation Publications Ltd	16 000 -20 000 ²	National	Daily (Mon-Fri)
Weekend Nation	Nation Publications Ltd	40 000 -45 000	National	Weekly (Saturday)
The Chronicle	Jamieson Promotions	4 000 -6 000 ³	National	Weekly (Tuesday)
The Dispatch	Dispatch Publications Ltd	3 000 ⁴	National	Weekly (Thurs)
Boma Lathu	Information Dept	50 000 ⁵	National	Monthly
Weekly News	Information Dept	2 000	National	Weekly (Monday)

At the end of 2005, the following broadcasting stations were on air:

Radio/TV Station	Owner	Classification	Coverage
MBC 1 & 2 and TVM	Malawi Gvt	Public Service	National
Capital Radio	Capital Radio	Private	National (mainly urban areas)
Power 101 FM	Oscar Thomson	Private	National (mainly urban areas)

Radio/TV Station	Owner	Classification	Coverage
MIJ Radio	MIJ Trustees	Private	National (mainly urban areas)
Radio Maria	*RCC	Church affiliated	National
Radio Alinafe	*RCC	Church affiliated	50-70km radius from Lilongwe
Radio Tigawane	*RCC	Church affiliated	50-70km radius from Mzuzu
Transworld Radio	*RACcc	Church affiliated	National
Calvary Family Radio	*CFC	Church affiliated	20 km from Blantyre
Dzimwe Community Radio	Monkey Community	Community	50-70km radius from Monkey Bay
Nkhota Kota Community Radio	Nkhota Kota Community	Community	50-70km radius from Nkhota Kota
Radio Islam	Islamic Zakaat Fund	Affiliated to Islam	National
Joy Radio	Joy Radio LTD (Former president Bakili Muluzi has majority shares)	Private	150 km from Blantyre
Channel for All Nations	Assemblies of God	Church affiliated	Lilongwe and surrounding areas

* *RCC: Roman Catholic Church*

* *RACcc: Regional African Christian church communities*

* *CFC: Calvary Family Church*

Media associations

Media associations are important in protecting media freedom and freedom of expression. Malawi boasts several media associations. There are active press clubs in Lilongwe (Lilongwe Press Club) and Mzuzu (Nyika Media Club). Ironically the hub of the media industry, Blantyre, does not have a functioning media club. The Journalists' Association of Malawi and the Kabula Club are virtually dead.

Specialist journalism organisations also exist, like the Forum for Environmental Communicators (FECO), whose activities are rather *ad hoc* and usually donor prompted.

In 2003, the Malawi Community Radio Association (MCORA) was formed, with the aim of

networking, information and programme sharing, and fighting for the rights of community broadcasters in Malawi. In 2005 another broadcasters' association was formed at the prompting of MACRA. The Malawi Broadcasters' Association (MABA) comprises mostly private and community radio stations, with an interim secretary being NAMISA, the Malawi Chapter of MISA. It remains to be seen if MABA will be another paper tiger like MCORA.

The National Editors Forum (NEFORM), a local chapter of the Southern African Editors' Forum (SAEF), brings together senior editors, trainers and reporters. The media fraternity is slowly feeling the effects of NEFORM's activities.

Attempts at self-regulation have made little headway because the Media Council of Malawi, founded in 1998, has not been functional for a long time. MISA and NEFORM have pledged to help resuscitate the council so that it can monitor media compliance with journalism ethics.

Conclusion

Political polarisation appears to have affected the media in 2005. President Mutharika and his wife's fury over the media came about essentially because of the fallout between the President and the UDF. Mutharika and the government often accused the media of being sponsored and manipulated by former president Bakili Muluzi in an effort to destabilise the government. Noting the behaviour of some journalists since 1994, government allegations that certain journalists are plants and mercenaries bankrolled by opposition politicians don't seem too far-fetched. Although the Media Council of Malawi may not be functioning now, its code of ethics needs to be followed to avoid a similar picture next year.

(Footnotes)

¹ Source, Jika Nkolokosa, General Manager, Blantyre Newspapers LTD

² Source, Edward Chitsulo, Editor, Nation

³ Source, Boniface Kadazi, Accountant, The Chronicle

⁴ Source, Martines Naminga, Editor, Proprietor, Dispatch Newspapers

⁵ Source, Gilbert Tembo, Editor, Boma Lathu

Para os jornalistas e os mídias do Malawi, o ano 2005, foi um ano de sentimentos mistos. O Presidente e os Ministros da Informação e do Turismo continuaram a dizer a nação que a Corporação de Radiodifusão e Televisão do Malawi (MBC) e a Televisão do Malawi (TVM) deve abrir-se e acomodar as diferenças de opiniões. O presidente até ofereceu ajuda para formação de jornalistas. Contudo, nem a formação nem a abertura da MBC e TVM ocorreram. Ademais, as recomendações feitas durante a palestra de revisão das eleições de 2004 do Malawi para o governo liberar as emissoras públicas prosseguirem de forma despercebida. Como esperado, a semelhança dos seus dois antecessores, o Partido do Congresso do Malawi (MCP), a Frente Democrática Unida (UDF), o Partido Progressivo Democrático (DPP) dominaram e monopolizaram os mídias públicos durante a campanha para as eleições suplementares em seis círculos eleitorais. Este partido ganhou todos assentos. Ironicamente, o Partido Democrático Unido (UDF) reclamou fortemente e considerou as eleições suplementares como não livres e injustas, tendo acusado o DPP de ter abusado os recursos públicos, as mesmas táticas foram condenadas pelos observadores internacionais e críticos políticos durante as eleições controversas de 2004 em que (somente) o UDF considerou como livres e justas.

As relações Mídias e Governo

Em 2005, registou-se uma baixa no relacionamento entre os mídias privados e o governo. Alguns eventos demonstram a fraca relação entre os mídias e o governo durante o ano em consideração. O jornalista Collins Mtika do *Daily Times* foi espancado pelos apoiantes da Aliança para Democracia (AFORD) quando este foi cobrir uma conferência de imprensa presidida pelo Presidente do Partido, Chakufwa Chihana. AFORD fazia parte da coalizão no poder com o então UDF. No mesmo mês, o Presidente Mutharika rejeitou os repórteres da TVM e MBC, tendo escolhido os seus próprios repórteres para acompanhar-lhe na sua viagem à China. Mais tarde, dois jornalistas e o agente de imprensa do vice-presidente foram presos devido a um artigo alegando que o Presidente Mutharika tinha abandonado o palácio presidencial devido a alguns fantasmas que perseguiam-lhe. O Parlamento recusou conceder autorização a Rádio Zodiak para fazer cobertura dos debates parlamentares ao vivo. A Rádio Capital foi processada através da Lei de Insultos de 1967 que está claramente inconsistente com a Constituição actual. De seguida, o governo acusou três jornais, o *Chronicle*, *Nation* e o *Daily Times* de acomodarem jornalistas mercenários empregues pelo anterior Ministro do governo e anterior Deputado, Philip Bwanali. A Primeira-Dama processou o jornal *Nation* apesar de ter contestado o artigo onde dizia que ela e o seu elenco foram fazer compras em lojas caras na Escócia enquanto o seu esposo apela por ajuda. O artigo foi baseado no Registo Diário (www.dailyrecord.co.uk/tm_objectid). No fim do ano, o Jornalista veterano da MBC Moffat Kondowe reclamou por lhe ter sido recusado o acesso para fazer cobertura das sessões parlamentares por orientação do Ministro da Informação que o acusou de espião do UDF. O MISA condenou esta acção do governo. O Vice Ministro da Informação e Turismo John Bande comprovou ser ainda mais sadista ao acusar os jornalistas da TVM de praticarem actos sexuais nos estúdios ao em vez de se concentrarem no trabalho.

Entretanto, houve ocasiões tal como o dia 03 de Maio, Dia Mundial da Liberdade de Imprensa, em que o governo elogiou os mídias pela sua contribuição significativa para consolidação da democracia no Malawi. Contudo, isto pode ser considerado como politicamente correcto porque serviu bem a ocasião. Em resumo, a falta de confiança caracterizou as relações entre os mídias privados e o governo do Malawi enquanto que a oposição continuou a duvidar da integridade dos mídias públicos.

Ambiente legislativo

No Malawi, o Capítulo 4 da Constituição garante a liberdade de expressão, liberdade de

imprensa/mídias e a liberdade de associação, o Artigo 37, de facto exige que as instituições públicas (sujeito a um decreto do parlamento) apoiem os mídias na obtenção de informação pública.

Para além da Constituição, a Lei de Comunicações de 1998, que estipula a existência da Autoridade Reguladora das Comunicações do Malawi (MACRA), é a maior lei de imprensa do Malawi. As Eleições Legislativas e Presidenciais (1993) e a Lei das Eleições das Autoridades Locais (1996) também prevêm a liberdade de expressão e orienta o desempenho dos mídias durante as eleições.

O papel principal da MACRA é de regular a radiodifusão, televisão, telecomunicações, o uso das frequências de rádio e dos serviços postais em todo país. Contudo, o seu desempenho foi fortemente questionado.

Lacunas da Lei de Comunicações de 1998

Muitos especialistas em leis constataram que a Lei de Comunicações (1998) possui várias lacunas que os políticos podem utilizar para impedir a livre circulação da informação. Apesar do artigo 4 (3) conceder a MACRA independência funcional e exclui os Deputados, Ministros do governo e os fiéis do partido do seu concelho (artigo 6 (4)), o secretário do presidente e o secretário para informação são membros ex-offício da MACRA (6(1)), o presidente nomeia o concelho e o seu Presidente (Artigo 7) e o Ministro da Informação nomeia o Director-Geral e aprova a nomeação do seu adjunto (Artigo 9). Este cenário tem a potencialidade de comprometer a independência da MACRA. O seu confronto, ameaças contra e o encerramento eventual do Rádio MIJ, no dia 23 Maio 2004, comprova que a MACRA pode facilmente sucumbir devido a pressão pública.

Acesso à informação

O facto do Malawi não ter uma lei de acesso à informação que exija que os funcionários públicos forneçam informação aos mídias, significa que estes funcionários públicos possam recusar prestar informações fundamentais e colocar em choque ou limitar deliberadamente o direito do público a informação. Na ausência da Lei de Acesso à Informação, os jornalistas enfrentam problemas de acesso à informações fundamentais para garantir a nação o direito de saber o que o seu governo está a fazer.

Ademais, os especialistas em leis identificaram cerca de 40 leis nos livros estatutários do Malawi inconsistentes com a Constituição e prejudiciais à prática dos mídias no Malawi. Os políticos foram pressionados durante mais de dez anos para mudar estas leis, mas nada aconteceu. Tendo em conta o montante do trabalho de base e lobby que o MISA Malawi realizou em 2004/5 sobre o projecto de lei da informação, é surpreendente que tal projecto de lei nem sequer foi apresentado ao parlamento em 2005; comprovando que o parlamento tem várias prioridades em comparação com as prioridades dos mídias.

Não obstante a inexistência de uma lei de acesso à informação, não significa que os gabinetes públicos não são obrigados a conceder informações; em 2005 os jornalistas tiveram problemas negligíveis e terem acesso a informação tal como o exército, polícia, prisões e a maioria das instituições do governo têm agentes de relações públicas e de imprensa que falam em nome das suas organizações e periodicamente prestam informações aos jornalistas.

A diferença de 2004, 2005 que passou de forma pacífica, com o MACRA agindo como um enviado da paz dentre as emissoras (contudo, a criação da Associação de Radiodifusão e Televisão do Malawi-MABA)

Constituição

Não houve qualquer emenda significativa na Constituição que afectasse a liberdade e o desempenho dos mídias.

Difamação

A existência da Lei de Difamação e outras leis anti-mídias constituem desde longa data uma ameaça para a liberdade dos mídias. De 1994 à 2004 mais de dez jornais, estações de rádio e jornalistas individuais foram processados com êxito por difamação. Os mídias em 2005 foram alvos de processos judiciais por difamação. Por exemplo, a Rádio Capital ainda está a enfrentar um caso de difamação no tribunal argumentando que as leis usadas eram inconsistentes com a Constituição. Um editor superior do jornal *Nation* processou ou ameaçou processar o jornal *Sunday Times* por lhe ter difamado nas suas páginas de fofocas, como o limpador a seco. O anterior Ministro Philip Bwanali processou a MBC, TVM e o governo (através do Gabinete do Presidente e do Agente de Relações Públicas do Governo, Mike Kamwendo); a Primeira-Dama Ethel Mutharika processou o jornal *Nation* por difamação. O Procurador-Geral Ralph Kasambara processou o Chefe Executivo da Corporação *Dispatch* e Imprensa Mathews Chikaonda também ameaçou processar o mesmo jornal *Dispatch*.

Os casos de difamação contra os mídias geralmente ocorrem devido a ignorância por parte dos mídias sobre a difamação. Pode-se argumentar os casos de difamação ocorridos em 2005 foram justificáveis, porque se basearam na lei, conforme se apresenta actualmente. Os jornalistas precisam de unir-se e lutar pela revogação das 40 leis anti-mídias. Pelo contrário, o seu trabalho será cada vez mais difícil anos após ano.

Outras legislações

Não houve nenhum caso conclusivo nos tribunais vis-à-vis dos mídias e não houve nenhuma legislação que especificamente trata-se dos mídias em 2005.

Diversidade dos mídias

Como em 2004, houve alguns mídias da imprensa escrita no Malawi. No fim do ano 2005 os seguintes jornais estavam em circulação:

<i>Jornal</i>	<i>Emissoras</i>	<i>Circulação</i>	<i>Distribuição</i>	<i>Frequência</i>
Daily Times	Blantyre Newspaper Ltd	12,000	Nacional	Diária (Seg à Sexta-feira)
Malawi News	Blantyre Newspaper Ltd	28,000	Nacional	Semanal (Sábado)
Sunday Times	Blantyre Newspaper Ltd	16,000 ¹	Nacional	Semanal (Domingo)
Nation	National Publications Ltd	16,000 – 20,000 ²	Nacional	Diária (Seg à Sexta-feira)
Weekend Nation	National Publications Ltd	40,000 – 45,000	Nacional	
The Chrinicle	Promoções Jamieson	4000- 6000 ³	Nacional	

<i>Jornal</i>	<i>Emissoras</i>	<i>Circulação</i>	<i>Distribuição</i>	<i>Frequência</i>
The Dispatch	Dispatch Publications	30004	Nacional	Semanal (Quinta-feira)
Boma Lathu	Dept de Informação	50,0005	Nacional	Mensal
Weekly News	Dept de Informação	2,000	Nacional	Semanal \ (Segunda-feira)

Rádiodifusão e televisão

No fim de 2005, as seguintes estações de radiodifusão e televisão estavam no ar:

<i>Rádio/TV</i>	<i>Proprietário</i>	<i>Classificação</i>	<i>Cobertura</i>
MBC 1&2 TVM	Governo do Malawi	Serviço Público	Nacional
Rádio Capital	Rádio Capital	Privada	Nacional (principalmente as áreas urbanas)
Power 101 FM	Óscar Thomson	Privada	Nacional (principalmente as áreas urbanas)
MIJ Rádio	MIJ Trustees	Privada	Nacional (principalmente as áreas urbanas)
Rádio Maria	* ICR	Afiliada a igreja	Nacional
Rádio Alinafe	* ICR	Afiliada a igreja	Raio de 50-70 km a partir de Lilongwe
Rádio Tigawane	* ICR	Afiliada a igreja	Raio de 50-70 km a partir de Mzuzu
Transworld Rádio	* ICAR	Afiliada a igreja	Nacional
Rádio familiar de Calvary	* IFC	Afiliada a igreja	20 Km a partir de Blantyre
Rádio Comunitário de Dzimwe	Comunidade Monkey	Comunidade	Raio de 50-70 km a partir da Baía de Monkey
Rádio Comunitária Nkhota Kota	Comunidade de Nkhota Kota	Comunidade	Raio de 50-70 km a partir de Nkhota Kota
Rádio Islão	Fundo Zakaat Islão	Afiliada ao Islão	Nacional
Rádio Joy	Rádio Joy Ltd Pertencente ao Anterior Presidente Bakili Muluzi, sócio maioritário)	Privada	150 Km a partir de Blantyre
Canal para todas Nações	Assembleias de Deus	Afiliada a Igreja	Lilongwe e arredores

- * ICR - Igreja Católica Romana
- * ICAR - Igreja Crista Africana Regional
- * IFC - Igreja Familiar de Calvary

Fraternidade dos Mídias

O Malawi orgulha-se por ter várias associações dos mídias. Existem clubes de imprensa em Lilongwe (Clube de Imprensa de Lilongwe) e Mzuzu (Clube dos Mídias de Nyika). Ironicamente, Blantyre, como centro da indústria dos mídias, não possui nenhum clube dos mídias em funcionamento. A Associação dos Jornalistas do Malawi e o Clube de Kabula estão virtualmente estacionários. O Clube de Imprensa de Lilongwe e o Clube dos Mídias de Nyika e estão se dedicando a educação cívica e debates públicos sobre as questões que afectam a nação.

Existem também organizações especializadas em jornalismo tais como o Fórum para Comunicadores Ambientais (FECO), cujas actividades são de certa forma ad hoc e geralmente decididas pelos doadores.

Em 2003, as estações de rádio comunitárias criaram uma associação, a Associação da Rádio Comunitária do Malawi (MCORA) com objectivo de estabelecer interacção, partilha de informação e intercâmbio de programas e o combate pelo bem-estar das emissoras comunitárias do Malawi para falarem com uma única voz. Em 2005, a Autoridade de Comunicações do Malawi (MACRA) criou uma associação de emissoras. A Associação de Emissoras do Malawi (MABA) é composta na sua maioria pelas estações de rádio privadas e comunitárias, com um secretário interino sendo a NAMISA, a delegação do MISA no Malawi. O MABA será uma outra organização estacionária como a MCORA? Somente o ano 2006 dirá.

O Fórum dos Editores Nacionais (NEFORM, um delegação local do Fórum dos Editores da África Austral (FEAA) presidido pelo Rod Jamieson da Chronicle, reúne editores superiores, formadores e repórteis. As suas actividades estão paulatinamente sendo vistas pela fraternidade dos mídias.

As associações dos mídias são importantes para protecção da liberdade dos mídias e da liberdade de expressão. As tentativas de auto regularização não registaram progressos porque o Concelho de Imprensa do Malawi, fundado em 1998, não funciona há muito tempo. O MISA e a NEFORM se comprometeram em ajudar a reactivar o Concelho para que as suas políticas satisfaçam os requisitos de ética do jornalismo.

Conclusão

A divisão política parece ter entrado e afectado os mídias em 2005. A fúria do Presidente Mutharika e da sua esposa contra a imprensa surgiu fundamentalmente devido a divisão entre o Mutharika e o UDF. O Mutharika e o governo geralmente acusaram os mídias de serem patrocinados e manipulados pelo anterior Presidente Bakili Muluzi para desestabilizar o governo. Considerando o comportamento de alguns jornalistas desde 1994, pode-se facilmente concluir que as alegações do Governo que alguns jornalistas são protagonistas e mercenários patrocinados pelos políticos da oposição poderá não ser tão grave. O Concelho dos Mídias do Malawi poderá não estar em funcionamento de momento, mas o seu código de conducta precisa de ser respeitado para evitar uma figura similar no próximo ano.

¹ Fonte, Jika Nkolokosa, *Director Geral, Blantyre Newspapers Ltd*

² Fonte, Edward Chitsulo, *Editor, Nation*

• **ALERT**

Date: December 09, 2005

Persons/Institutions: Malawi Congress Party (MCP)

Violation: Censored

The main opposition party, the Malawi Congress Party (MCP), has threatened to take unspecified action against the state broadcaster, the Malawi Broadcasting Corporation (MBC), for refusing to air a press conference the party held last month.

The party paid approximately US\$341 for recording and airtime but the broadcaster failed to air it.

Party publicist Nicholas Dausi said MBC Director General Owen Maunde told the party that the MBC could not air the conference because recorded tapes had gone missing.

“... MBC has demonstrated high levels of disregard to democratic norms and values where national airwaves are supposed to be open to all parties,” said Dausi.

Although the state broadcaster did return the money, Dausi threatened to take the issue to parliament and make sure that the government appreciated the gravity of the issue.

During the September sitting of Parliament, the MCP and other opposition parties refused to approve funding to MBC and Television Malawi (TVM), alleging that the two broadcasters were biased towards government in their coverage. The opposition parties approved the budgets under pressure from rights groups but warned TVM and MBC to change their behaviour. Information Minister Patricia Kaliati said she would only take action if MCP approached the government on the matter.

• **ALERT**

Date: October 11, 2005

Persons/Institutions: Zodiak Radio station

Violation: Censored

Parliament has rejected an application by the newly launched Zodiak Radio station to cover live proceedings of the House. The national legislature has been sitting since October 11 2005. Zodiak Radio Managing Director Gospel Kazako told MISA Malawi that Parliament did not give any reason for its decision. “I am concerned because I wanted the people in the village to follow what their representatives are discussing,” said Kazako.

Speaker of Parliament Louis Chimango inferred that the decision was based on the station’s recent arrival on the scene. “I do not want to be discourteous. We need to grow together both the media and us. Even in the British set-up, it took time,” Chimango said.

Deputy Clerk of parliament Stanslas Chisanu, whose office issued the letter, said Parliament was not sure about the station’s competence. “Zodiak is new and has not broadcast anything but music. They cannot start with a serious assignment like Parliament.”

Malawi Parliament is covered by the Malawi Broadcasting Corporation and Malawi Television in evening broadcasts. Newspapers also cover the House.

• **ALERT**

Date: September 20, 2005

Persons/Institutions: Capital Radio Malawi

Violation: Legislation

On September 20 2005, Capital Radio Malawi launched a test case which challenges one of the laws impeding media freedom in the country, the Protected Emblems and Names Act of 1967.

The Act reads: “*Any person who does any act or utters any words or publishes any writing calculated to or liable to insult, ridicule or to show disrespect to the President, the National Flag, the Armorial Ensigns, the Public Seal, or any protected emblem or protected likeness, shall be liable to a fine of 1,000 pounds (sterling) and to imprisonment for two years.*”

Capital Radio Malawi managing director and editor-in-chief Al Osman said he had instructed

his lawyers to lodge an appeal with the High Court asking it to declare the legislation unconstitutional.

The Act was evoked on September 14 to arrest opposition leader Gwanda Chakuamba after he allegedly insulted President Bingu wa Mutharika at a political rally. Capital Radio broadcast the rally live to millions of Malawians. A day after the broadcast, the Malawi Communications Regulatory Authority (MACRA) visited the station demanding a copy of the recording of the rally.

The legislation has been targeted by MISA Malawi for repeal as it hinders media freedom.

• **ALERT**

Date: September 14, 2005

Persons/Institutions: Gwanda Chakuamba

Violation: Other

On September 14 2005, police evoked the Protected Emblems and Names Act of 1967 to arrest opposition leader Gwanda Chakuamba after he allegedly insulted President Bingu wa Mutharika at a political rally. Capital Radio broadcast the rally live to millions of Malawians. A day after the broadcast, the Malawi Communications Regulatory Authority (MACRA) visited the station demanding a copy of the recording of the rally.

Chakuamba's outburst followed President Mutharika's decision to fire him from Cabinet. Chakuamba was demoted from Minister of Agriculture to Irrigation, effectively dropping on Malawi protocol ladder from MG 3 to MG 5, a reason he cited as one of many behind his frustration. He has since been granted bail by a magistrate's court in Blantyre.

In March the police evoked the Protected Emblems and Names Act against three local journalists following a story that Mutharika was haunted by ghosts in his 300-bedroom palace.

• **ALERT(with updates)**

Date: March 15, 2005

Persons/Institutions: Raphael Tenthani, Mabvuto Banda

Violation: Detained

Two journalists were arrested on March 15, 2005, by police at their homes in the commercial capital of Blantyre, in southern Malawi, after reporting that the president feared ghosts may haunt the presidential palace. They are currently being detained at police headquarters in the capital, Lilongwe.

According to news reports and local sources, the arrest of BBC reporter Raphael Tenthani and Mabvuto Banda of the independent daily The Nation stemmed from reports by the journalists alleging that President Bingu wa Mutharika had moved out of the presidential palace because of fears it was haunted.

Reverend Malani Mtonga, a senior adviser to the president whom the journalists quoted as their source, denied the reports after they appeared, and President Mutharika has claimed that his political enemies planted the allegation in the press, according to local and international news stories.

March 16, 2005: Raphael Tenthani and Mabvuto Banda were released on bail after being held overnight by police in the capital, Lilongwe. Both journalists have been charged with "publishing a false story likely to cause public fear contrary to Section 60 (1) of the penal code".

• **ALERT**

Date: January 29, 2005

Persons/Institutions: Collins Mtika

Violation: Beaten

On January 29 2005, "Daily Times" reporter Collins Mtika was beaten up by supporters of the Alliance for Democracy (AFORD), a party that is a member of the ruling coalition.

Mtika told MISA-Malawi that he was attacked when he went to cover a press conference at

AFORD leader Chakufwa Chihana's house, in the northern city of Mzuzu. At the press conference, Chihana challenged a decision by certain executive members to dismiss him from the party on allegations of poor governance and fraud.

Mtika alleged that Chihana's nephew Jeremiah Chihana ordered the beating, accusing the journalist of "reporting ill about [his] leader."

• **ALERT**

Date: January 09, 2005

Persons/Institutions: Jolly Ntaba, Harry Chuma, Moffat Kondowe

Violation: Censored

President Bingu wa Mutharika has refused to allow two reporters and a camera operator nominated by Television Malawi (TVM) and the Malawi Broadcasting Corporation (MBC) to accompany him on a state visit to the Republic of China (Taiwan).

Mutharika, who left Malawi on January 9, 2005, allegedly turned down the names of TVM reporter Jolly Ntaba, camera operator Harry Chuma and MBC chief reporter Moffat Kondowe. While MBC failed to replace Kondowe, TVM sent producer Waliko Makhala and camera operator Bwanali Makote at the president's request. Makhala and Makote previously accompanied Mutharika as "personal guests" when he attended a landmine conference in Kenya in November 2004.

MISA-Malawi (also known as Namisa) condemned the state interference in the media outlets' editorial independence, describing it as "undemocratic." The organisation urged Information Minister Ken Lipenga to advise the president on the impact of such interference.

National Overview

By Ericino de Salema

Journalist and communications consultant



Mozambique

Moçambique

Panorâmica Nacional

Preparado por Ericino de Salema, Jornalista e Consultor de Comunicações

During 2005, the mass media continued to contribute to the country's growing democracy, promoting pluralism of ideas and encouraging citizens to exercise their rights.

In February that year, the country's first truly democratic constitution came into force, as new President Armando Guebuzo took office. As before, the new constitution continues to defend freedom of expression, although the shadow of the 1991 Press Law still hangs over the media. This law, though granting journalists wide-ranging freedoms, rights and protection, allows for press freedom to be limited with regard to respect for the constitution, human dignity, and the imperatives of foreign policy and national defence.

Of particular concern to media practitioners was the passing of a decree by government in December 2004 that increased fines for press-related crimes by 1100 per cent. Apart from the fines now being much heavier than before, concerns were raised by the judicial sector about this decree altering the ordinary law.

Guebuzo's openness and Chissano's about-turn

In his first week in office, President Guebuzo invited the country's editors to his official residence. This was seen as a positive sign of openness towards the media by Joaquim Chissano's successor. During 2005, Guebuzo also began including independent media journalists on his trips abroad – something that was unheard of during Chissano's 18 years in power. This contributed to a more expressive media, and provided readers, listeners and viewers with more diversified information.

In the same year, to mark Radio Mozambique's 30th anniversary, Chissano gave a speech on air, which was seen as an attack on the press. The former president, seen to be a public supporter of press freedom during his presidency, surprised the nation by voicing "concern" with the proliferation of mass media, especially those distributed by fax or e-mail. He stated that the owners of such media were involved in futile survival strategies.

Many journalists retaliated, saying that Chissano's speech demonstrated "relief" by someone who was forced by circumstances to live with an openness he did not truly favour. Editor of the *Zambeze* weekly newspaper Lourenco Jossias said that Chissano had shown that he did not know the critical role that the media played in a democracy. Jossias also noted that, apart from adding to pluralism, these so-called "survival newspapers" contributed to the state by paying taxes and lowering the high rates of unemployment.

Aggressive incidents

Despite constitutionally guaranteed freedom of expression in Mozambique, two serious cases of aggression towards journalists took place in 2005, raising concern among those in the media.

In one incident, editor of the SOICO media group Jeremias Langa was attacked at gunpoint on January 27 while travelling home from work. Langa recalls hearing his attackers say that he "speaks too much" and that he should be careful so that nothing happens to him, as it did to slain investigative journalist Carlos Cardoso. Langa survived, losing only his car in the attack.

The other incident occurred in Sofala province and involved journalist Antonio Chimundo and photographic reporter Jorge Ataide, both from *Diario de Mocambique*. Two Rapid Reaction Force (FIR) agents arrested them, alleging that the journalists had committed a crime by photographing them without authorisation. They were released, although Ataide's digital camera was confiscated and the images he had taken erased.

Apart from these serious cases, there were also smaller incidents of antagonism towards the media. In February, threats were made by the mayor of Pemba that he was going to launch legal proceedings against the local *Horizonte* newspaper for having published an article about an imminent strike by the city council's employees over demands for better working conditions.

In an effort to raise awareness about the importance of a truly free press and the need to operate in a threat-free environment, MISA Mozambique met with the General Commander of the Police, Miguel dos Santos, in January. One of the issues raised with him was that of the abnormal events surrounding the return to the country of Anibal António dos Santos ('Anibalzinho') from Canada, where he was arrested by Interpol.

In Maputo in January, Anibal António dos Santos was sentenced to 29 years and 11 months in prison for assassinating journalist Carlos Cardoso in November 2000. Prior to this, the press had been harassed for trying to cover his return, which was cloaked in secrecy.

New media, 'forced holidays' and 'pirate operations'

During 2005, there was an increase in the number of mass media operations, especially in the area of radio broadcasting. Seven community radio stations were inaugurated across the country. Two local radio stations were launched in Gaza province, namely Mabalane Community Radio, in the district with the same name, and Radio Verde (Green Radio) in the Chókwè district.

Meanwhile, in the northern province of Cabo Delgado the Catholic Church-owned Radio Sem Fronteiras (Radio without Frontiers) was inaugurated. In Niassa, another northern province, the non-government organisation Ibis inaugurated three community radio stations in Muembe, Maúá and Ngaúma. In the central Tete province, the SIRT Radio was inaugurated.

Four newspapers, distributed by fax and e-mail, were launched in 2005. *TribunaFax* and *Folha de Mocimboa* were launched in Maputo, while *Punge* graced Beira and *Diário da Zambezia* was released in Quelimane.

Three newspapers also closed down in the same year: the weekly newspapers *Demos* and *Embondeiro*, and the daily *Imparcial*, which was owned by high-ranking officials of the main opposition party, Renamo, and which was distributed by fax and e-mail.

Demos, founded in 1994, announced "collective holidays" in mid-2005 for one month. To date, these "holidays" had still not been concluded and there was no public indication that the newspaper would be published again.

Embondeiro ceased to publish in December after just 14 months of existence. The newspaper's management stated that this was just a temporary stoppage due to paper problems, and that the weekly publication would be back on the streets in a week or two. This failed to materialise, although there are indications that the paper will be relaunched with a new shareholder.

In 2005, the press announced the existence of a pirate television channel, which was broadcasting pornographic films from Maputo. The authorities restored order shortly after this was made public. Soon after this incident, two new television stations appeared in the capital, namely STV and TV Maná.

The desired access to sources

In 2005, MISA Mozambique submitted to parliament the Draft Law on the Access to Informa-

tion after heated, national debates involving journalists, politicians, members of civil society and other citizens committed to the country's development.

The draft aims to ensure that the right to information is constitutionally enshrined and will contribute to the strengthening of democracy, improve governance and increase public participation; create the necessary mechanisms or procedures for effectively exercising the right to information; promote transparency, accountability and effective governance of all public authorities and private entities; and educate citizens about their rights.

While these clauses are implicitly in the current Press Law, they will be more clearly laid out in the envisaged Access to Information Law. One of the articles of the draft law states, for example, that the response to a request must not exceed 10 days counted from the date of its reception, or 20 days in the case of the request being transferred to another entity.

Ending without concluding

While freedom of the press and expression continued in 2005, it was not a smooth ride for all media players. The mass media continued defending the voiceless, while providing room for debate on issues of public interest. With more commitment to ethics and responsibility, as stated by German sociologist Max Weber, we shall all win as a democratic country!

Em 2005, os mídias massivos continuaram a prestar a sua contribuição ao fortalecimento e edificação democrática em Moçambique, o local onde se pode gozar de um espaço privilegiado para realçar uma das atitudes mais nobres que se pode encarar num clima de pluralismo de ideais: praticando a cidadania.

Esta realidade enfrentou obstáculos, apesar do facto que a imprensa de modo geral ser livre, houve incidentes que causaram um cenário de liberdade, testemunhados desde a entrada em vigor da Lei Número 18/91, de 10 Agosto, há cerca de 14/15 anos atrás, vulgarmente conhecida como a Lei de Imprensa.

Alguns dias depois da elaboração de uma análise anual, concretamente nos meados de Dezembro de 2004, o público e a democracia em geral podiam ver um sinal amarelo para a imprensa e porque o governo aprovou um decreto que aumentava a 1100 por cento as multas praticadas relativamente aos crimes de imprensa.

Para além das multas serem 10 vezes mais caras do que anteriormente, surgiram algumas preocupações pelo sector judicial, questionando a habilidade do decreto para alterar as leis ordinárias – conforme foi o caso – contradizendo desta forma a tradição na técnica legislativa. Existem aqueles que, na maioria dos casos, pensam que ter poderes decisivo é o mesmo que *os objectivos justificam os meios, e não o contrário*.

No fim do mesmo ano (2004), a Assembleia da República (AR) aprovou a primeira Constituição verdadeiramente democrática da República (CR) desde a sua aprovação pelos Deputados eleitos através do escrutínio directo, secreto e universal, ao contrário do que estava a acontecer relativamente as Constituições anteriores. Decidiu-se que as novas leis fundamentais entrariam em vigor no dia 03 Fevereiro 2005, isto é, no dia seguinte a data de tomada de posse do novo Presidente da República Armando Guebuza, eleito nas eleições gerais de 02 Dezembro 2004. A nova lei fundamental continua a defender a existência da liberdade de imprensa e de expressão, que de modo geral é boa.

Sinais de abertura ao oposto do desabafo de Chissano

Na sua primeira semana como novo Chefe de Estado de Moçambique, Armando Guebuza convidou os editores dos órgãos dos mídias massivos principais para um pequeno-almoço na sua residência oficial. Certamente, o convite foi considerado como uma abertura relativamente ao mandato do sucessor de Joaquim Chissano, que liderou os país durante 18 anos.

Como prova desta abertura, durante o ano de 2005, Guebuza deu início a algo vastamente fora do comum relativamente ao seu antecessor – a inclusão de jornalistas dos mídias independentes nas suas viagens para o estrangeiro. Esta iniciativa beneficiou os mídias nacionais mais expressivos e, conforme ficou claro, os seus leitores, ouvintes e telespectadores da televisão que começaram a beneficiar de uma informação diversificada ao contrário do que acontecia anteriormente.

No mesmo ano, o anterior Chefe de Estado Joaquim Chissano, uma figura bem conhecida no país e não só, como amigo próximo da imprensa, proferiu um discurso durante as obras linguísticas e de radiodifusão organizada pelo Rádio Moçambique por ocasião do seu 30 aniversário que foi traduzido em um ataque à imprensa sem precedentes.

De facto, Chissano manifestou publicamente a sua “preocupação” relativamente a proliferação dos mídias massivos, tendo especialmente feito referência aos mídias distribuídos via fax e e-mail. Ele chegou até a dizer que, no seu ponto de vista, os proprietários destes mídias estavam

a praticar uma estratégia de sobrevivência em vão.

As reacções não tardaram – muitos jornalistas criticaram o discurso de Chissano, dizendo que o discurso foi um desabafo por ter sido obrigado pelas circunstâncias a viver num ambiente de abertura, mas que a final Chissano não favorecia, ao contrário do que tentou manifestar nas suas declarações oficiais.

O jornalista Lourenço Jossias, editor do jornal semanário ZAMBEZE, disse que o anterior Presidente da República tinha acabado de comprovar não ter conhecimento do papel verdadeiro jogado pelo mídias massivos numa sociedade democrática.

Ele disse também que para além do pluralismo de ideias que os tais jornais de sobrevivência criam, estes jornais também ajudam indivíduos tais como o anterior Chefe de Estado pagando taxas ao Estado. Em adição, eles ajudam a baixar os níveis elevados de desemprego.

Sobre as agressões

Em 2005, houve alguns casos de agressão contra os profissionais dos mídias. Estes incidentes constituem sem dúvida uma preocupação para a totalidade do ambiente livre que se pretende alcançar, contudo não constitui um exagero notar que tais casos não colocaram em perigo os aspectos positivos testemunhados no período sob análise.

Os serviços de monitoria do MIZA Moçambique reportaram dois casos de grande preocupação, nomeadamente o assalto a mão armada contra o jornalista Jeremias Langa, editores do Grupo dos Mídias chamado SOICO (STV, Sfm, O País e a Revista Fama).

Consta que o Jeremias Langa foi violentamente atacado no dia 27 de Janeiro daquele ano enquanto deslocava-se do serviço à casa. Os assaltantes disseram-lhe que ele “falava demasiado” e que “ele deveria tomar cuidado para que nada lhe aconteça, conforme foi o caso de Carlos Cardoso.” Em consequência desta assalto, este jornalista Moçambicano perdeu a sua viatura privada!

Um outro incidente considerado como extremamente grave ocorreu na província de Sofala, que envolveu dois profissionais do Diário de Moçambique, nomeadamente o jornalista António Chimundo e um repórter fotógrafo Jorde Ataíde. Ambos foram presos enquanto estavam em serviço por dois agentes das Forças de Intervenção Rápida (FIR), que alegaram que os jornalistas tinham acabado de cometer um crime por ter fotografado-lhes sem autorização.

Durante o incidente em questão, o Chimundo (por coincidência é o Agente de Informação do MISA na província de Sofala) e Ataíde perdeu a sua máquina fotográfica digital confiscada pelos agentes e ao mesmo tempo as fotografias guardados na disquete foram apagadas.

Para além dos dois casos registados acima, houve outros incidentes menores. Por exemplo, em Fevereiro do mesmo ano, o Perfeito da Cidade de Pemba, sedado na cidade capital de Cabo Delgado, ameaçou tomar medidas legais contra o jornal “Horizonte”, editado naquela parcela do país, por ter publicado um artigo sobre uma greve que estava prestes a ter início organizada pelos trabalhadores daquela instituição, que há muito tempo exigiam melhores condições de trabalho.

Na tentativa de aumentar a sensibilização sobre a necessidade da existência de uma imprensa verdadeiramente livre e funcional num clima sem ameaças, a Direcção Executiva do MISA

Moçambique realizou no mesmo ano (concretamente no dia 26 de Janeiro) um encontro de trabalho com o Comandante Geral da Polícia, Miguel dos Santos. Uma das questões abordadas neste encontro estava relacionada com os eventos irregulares sobre o regresso de Aníbal António dos Santos (Anibalzinho) ao país vindo do Canada, onde tinha sido preso pela Polícia Internacional.

No dia 20 de Janeiro, ele foi sentenciado a 29 anos e 11 meses de prisão pelo Tribunal Judicial de Maputo após o comprovativo no seu julgamento ele tinha sido culpado do assassinato do jornalista Carlos Cardoso, no dia 22 de Novembro de 2000. Ele regressou à Moçambique num ambiente estranho de sigilo. Contudo, apesar de não ter obtido esta informação pelos canais oficiais, a imprensa foi perturbada a partir do Aeroporto Internacional de Maputo onde tentou fazer a cobertura do seu regresso à Moçambique.

Os novos midias: “férias obrigatórias” e “operações piratas”

O ano de 2005 testemunhou também o surgimento de mais órgãos dos midias massivos, na sua maioria trabalhavam na área de rádio difusão. Na totalidade, sete estações de rádio comunitárias foram inauguradas nos 12 meses em várias partes do país.

Duas estações de rádio locais começaram a funcionar na província de Gaza, nomeadamente a Rádio Comunitária Mabalane, no distrito com o mesmo nome e a Rádio Verde no distrito de Chókwe.

Entretanto, foi inaugurada na província nortenha de Cabo Delgado, a Rádio Sem Fronteiras que pertence a Igreja Católica.

Em Niassa, uma outra província da região Norte de Moçambique, a organização não governamental (NGO) Íbis inaugurou três estações de rádio comunitárias com igual número de distritos, nomeadamente a Rádio Comunitária de Mueembe (no distrito de Mueembe), a Rádio Comunitária de Maua (no distrito de Maua) e o distrito do Ngaúma). Foi inaugurada na província de Tete, na região central do país, a Rádio SIRT.

Importa referir que o surgimento de quatro jornais em 2005, dois na cidade de Maputo e os demais nas cidades de Beira e Quelimane. Foram lançados nas províncias de Sofala e Zambézia respectivamente, os diários Tribunal Fax e Folha de Moçambique distribuídos via fax e correio electrónico, enquanto que na cidade de Beira, o jornal Pungue (também distribuídos via fax e e-mail) foram consolidado e os Diário da Zambézia foi divulgado da mesma forma.

Para além do surgimento dos midias massivos supra mencionados, três jornais encerram as suas portas no mesmo ano, dois jornais semanais e um diário que foi distribuído por fax e correio electrónico, nomeadamente os jornais semanários Demos e o Embondeiro (que, por coincidência, eram publicados nas Quartas-feiras) e o Imparcial, uma publicação pertencente aos agentes superiores da Renamo, o maior partido da oposição em Moçambique.

O jornal semanal Demos, fundado em 1994, anunciou que encerraria para férias colectivas no meio daquele ano durante um mês. Contudo, tais férias colectivas ainda não terminaram até ao momento e não existe nenhum indicativo, pelo menos público, que o jornal reabrirá. Antes do encerramento, o jornal Demos já não era publicado regularmente.

O Embondeiro deixou de publicar na primeira semana de Dezembro, depois de 14 meses de existência. Os gerentes deste semanário afirmaram na altura que a paragem ocorreu devido a problemas de papel e que a publicação do jornal reiniciaria nas Terças-feiras dentro de uma

semana ou duas. Contudo, tal tornou-se numa promessa vazia. Existem indicativos que desde o início de Janeiro de 2006 do relançamento deste jornal, a sociedade de propriedade do qual deve admitir um novo parceiro o mais tardar até fim de Fevereiro.

Naquele ano, a imprensa anunciou a existência de um canal de televisão pirata, que emitia a partir da cidade de Maputo, capital do país, exibindo filmes pornográficos com a apatia das autoridades concernentes. Actuando como macho da Minerva, conhecido pelo seu início ao cair da noite, as autoridades concernentes foram rápidos a restaurar a ordem tão logo o facto foi anunciado. Logo depois deste episódio, dois novos canais de televisão apareceram na capital, nomeadamente STV e a TV Maná.

O acesso desejado as fontes

No ano sob análise, o MISA Moçambique submeteu o Projecto de Lei sobre o Acesso a Informação depois de um debate forte a nível nacional sobre as questões que afectam os jornalistas, políticos, membros da sociedade civil e, resumindo, todos cidadãos empenhados no desenvolvimento do país.

O documento que questiono, que foi entregue a uma comissão especializada do Parlamento no dia 30 Novembro 2005, tem como objectivo principal i) garantir o exercício do direito a informação constitucionalmente estipulado e que contribuirá para o reforço da democracia, melhoria da governação, aumento da participação publica, etc., ii) criar os mecanismos adequados ou procedimentos para o exercício eficaz do direito a informação de forma a garantir o acesso aos dados ou restrições em posse da autoridade publica ou órgãos privados e iii) promoção da transparência, responsabilização e governação eficaz de todas autoridades publicas e entidades privadas, através da inclusão, mas limitado aos poderes e a educação de todos cidadãos para saber dos seus direitos nos termos da lei que se pretende introduzir.

Estas cláusulas estão implicitamente previstas na Lei de Imprensa, mas com uma Lei sobre os Direito a Informação tudo permanecera claro. Um dos artigos do projecto de lei em questão faz referencia, por exemplo, que a resposta a um pedido não deve exceder 10 dias a contar da data da sua recepção ou 20 dias, em caso de transferência do pedido para uma outra entidade, nos termos devidamente previstos por lei a ser introduzida.

Termino sem conclusão

O ano 2005 foi um ano de sobressaltos para a imprensa (jornais, rádios e televisão) porque este ano produziu em termos da construção social da realidade, uma salada de informação. A liberdade de imprensa e de expressão continuaram como um facto em 2005.

Os órgão dos medias massivos, em jeito próprio, em defesa daqueles que não tenham expressão, enquanto que, forneciam espaço para vários debates em questões de interesse, a partir do qual sublinhamos os debates sobre a importância da mudança ou permanência dos símbolos nacionais. Considerando que a liberdade de imprensa e de expressão é um processo sem fim, acreditamos que com mais éticas e responsabilização, conforme mencionado por Max Weber, venceremos todos como uma sociedade democrática!

• **ALERT**

Date: November 2005

Persons/Institutions: Media and citizens of Mozambique

Violation: Legislation (positive)

MISA Mozambique announced in November that it had completed a draft bill on freedom of information, ready to be considered by the country's parliament, the Assembly of the Republic. MISA Mozambique had spent three years drafting and redrafting this document which, according to Salomao Moyana, chairperson of the MISA-Mozambique Governing Council, will establish the necessary procedures so that the right of the public to information, enshrined in the Mozambican constitution, becomes a reality.

Moyana said the bill will ensure access to the data held by the public administration, or by private bodies that provide public services.

The bill lists a large number of items which all bodies of the public administration must make public - including their internal norms, regulation and instructions, their budgets and reports on budget implementation, all licenses or permits that they issue, the details of all contracts they sign, and the results of any audits.

If the bill becomes law, citizens will be able to consult all official documents free of charge, and take copies of them.

Requests for such access may only be refused if the matter concerned affects national security, if it seriously damages the fight against crime or the administration of justice, if it reveals government policy prematurely, thereby compromising its success, if publication would seriously damage the legitimate commercial interests of third parties, or if it would violate the private life of others.

The bill contains public interest clauses that could override claims of national security or commercial secrecy – for example where public health, violation of human rights or environmental risks are involved.

Requests for information must receive a response within ten days at the most. Any refusal to grant access must be explained, and may be appealed against to higher bodies, and eventually to the Administrative Tribunal.

• **ALERT**

Date: November 22, 2005

Persons/Institutions: Diário de Notícias

Violation: Threatened

On November 22 2005, Mozambique's Supreme Court warned that it "reserves the right to use appropriate legal mechanisms" against one of Maputo's daily newssheets which it accuses of fabricating a story concerning the court against former Education Minister Alcido Nguenha.

The newssheet in question, "Diário de Notícias, published on November 3, under the byline of its reporter Laurindos Macuacua, a story that the case against Nguenha, accused of diverting Ministry of Education scholarships to members of his own family, was now before the Supreme Court.

A letter from the general secretary of the Supreme Court, Jose Maria de Sousa, described the article as "a vile and deceitful invention" and sustains the right to use legal actions because the newspaper has repeatedly published false stories that attack the good name and reputation of the Supreme Court.

• **ALERT(update)**

Date: November 12, 2005

Persons/Institutions: Carlos Cardoso

Violation: Killed

The retrial of the man convicted of leading the death squad that murdered Mozambique's top investigative journalist, Carlos Cardoso, has been set to begin on December 1. Anibal dos

Santos Junior (Anibalzinho) had been tried in absentia, because he has been illicitly released from the “top security” prison. Anibalzinho was detained by the South African police on January 30, 2003, and repatriated to Mozambique the following day, just hours after the verdict. He appealed, and in December 2004 the Supreme Court ruled that all accused persons tried in absentia and sentenced to jail terms of two years or more have the right to a retrial. By the time of the ruling, he had been allowed to escape from the “top security” prison for a second time; he was repatriated last year from Canada.

At the original trial, held from November 2002 to January 2003, Anibalzinho and five others were found guilty of the assassination and sentenced to lengthy prison terms. Two members of the death squad, the lookout, Manuel Fernandes, and the man who pulled the trigger, Carlitos Rachid, made full confessions. They described how Anibalzinho had recruited them, and had driven the car, a stolen Citi-Golf, used in the murder. Cardoso was killed on 22 November 2000.

• **ALERT**

Date: October 19, 2005

Persons/Institutions: Alvarito de Carvalho

Violation: Threatened

On October 19 2005, journalist Alvarito de Carvalho was questioned by an audience at the Maputo Attorney’s offices on the process Nr 756/PGC 2005, where he stands accused by the Supreme Court.

The Supreme Court is accusing de Carvalho of misrepresenting it in a newspaper article which alleged that it was knowingly delaying the investigation into the cause of a tragic railway accident that occurred in Tenga, in the district of Moamba, in the southern Maputo province in the early hours of May 25, 2002.

More than 200 persons, who were traveling in the train from Ressano Garcia to Maputo, died in the accident.

The Supreme Court felt offended by the article in question allegedly because de Carvalho wrote that “the justice system is trying implicitly to pass to the public the idea that the Tenga accident was no more than a natural disaster”.

The article in question reads that “the shelving” (referring to the suspicion that the Supreme Court had shelved the sentence) is aimed at preventing the sentencing of the Mozambique Railways and Ports company (CFM) and, as a consequence, delaying the payment of compensation to the relatives of the victims of the accident.

• **ALERT**

Date: July 07, 2005

Persons/Institutions: Antonio Chimundo, Jorge Ataid

Violation: Detained, censored

On July 07 2005, journalist Antonio Chimundo and photographic reporter Jorge Ataide, both from Diario de Mocambique, were arrested in Sofala province by two Rapid Reaction Force (FIR) agents for allegedly photographing them without authorization.

Whilst the journalists were eventually released, the agents confiscated their digital camera and erased the images they had taken.

• **ALERT**

Date: June 28, 2005

Persons/Institutions: Luis Muianga, Raul Senda

Violation: Beaten

On June 28 2005, Zambeze weekly newspaper photojournalist Luis Muianga was brutally beaten by a group of municipal police while working in downtown Maputo.

Muianga and colleague Raul Senda were working on a story about an impending taxi fare

increase caused by this month's 40 percent oil price increase.

Muianga told MISA-Mozambique that he and his colleague were doing their jobs when they noticed skirmishes nearby and decided to take some photographs. They realised that municipal police officers were chasing street vendors and seizing their products.

"When I was taking pictures I was approached by a man in civilian clothes who asked me who I was. I told him, 'a reporter' and he asked [me] to identify myself and I complied immediately. Off he went and came back with a group [of] seven policemen and they started to hit me."

Muianga and his colleague were hit repeatedly and were eventually thrown into the police van and taken to the station where he was questioned.

"After the questioning they acknowledged their mistake and released me and my colleague," Muianga said, adding that Senda's cellphone was momentarily seized by the police.

Municipal Police Commander Alberto Muchanga has since publicly apologised for the incident. He promised that those responsible for the act would not go unpunished, and added that violence should not be used by the police.

• ALERT

Date: March 28, 2005

Persons/Institutions: Media in Mozambique

Violation: Censored

On March 28 2005, the Maputo City Court's eighth section, in an unprecedented move, decided to bar the media from covering a libel case involving one of six men sentenced to long prison terms in January 2003 for the murder of Mozambique's foremost investigative journalist, Carlos Cardoso.

The case is of great public interest since it pits Attorney General Joaquim Madeira against Momad Assife Abdul Satar (also known as "Nini"). Madeira has alleged that Satar libelled him in open letters published in the weekly "Demos".

On March 28, journalists were told that the judge presiding over the case had decided that the trial would be held "behind closed doors", and said "it is secret." The ban not only affected journalists, but also the public at large. Only those who were directly involved in the trial were allowed into the courtroom.

None of the court officials approached by journalists could explain the legal basis for the secrecy of the trial. In principle, trials are public matters in Mozambique. Judges can close courts to the public in sensitive cases, such as those involving rape, in order to protect the victim.

In 2002, MISA lauded Judge Augusto Raul Paulino, who made judicial history in Mozambique and internationally by allowing full media coverage of the Cardoso case court proceedings. It was the first time in Mozambican history that the media was allowed to bring cameras and recording equipment into the court, a freedom that surprised even the media itself.

• ALERTupdate

Date: February 22, 2005

Persons/Institutions: Horizonte

Violation: Threatened

The mayor of Pemba has threatened that he was going to launch legal proceedings against the local Horizonte newspaper for having published an article about an imminent strike by the city council's employees over demands for better working conditions.

• ALERT

Date: January 27, 2005

Persons/Institutions: Jeremias Langa

Violation: Beaten, threatened

On January 27 2005, editor of the Soico group and television journalist, Jeremias Langa, was

attacked at gunpoint by two unidentified men in their 30's in the Maputo suburb of Malhangalene. The attackers threatened Langa with their pistols and got into his car with him. One of his attackers took the wheel, while the other kept his gun pointed at Langa in the back seat. Langa recalls hearing his attackers say that he "speaks too much" and that he should be careful so that nothing happens to him, as it did to slain investigative journalist Carlos Cardoso. Langa survived, losing only his car in the attack.

• **ALERTupdate**

Date: January 24, 2005

Persons/Institutions: Carlos Cardoso

Violation: Killed

A fugitive in the murder of investigative reporter Carlos Cardoso has been returned to Mozambique, where he faces a new trial in the November 2000 slaying. The Committee to Protect Journalists today called for the prompt prosecution and secure detention of Anibal Antonio dos Santos Junior, who has escaped from custody twice.

Dos Santos, better known as Anibalzinho, was deported from Canada, where his petition for refugee status was turned down in December 2004. He arrived in Mozambique on Saturday, and was being held at police headquarters in the capital, Maputo, according to the state-run AIM news agency and local sources.

Anibalzinho escaped from a high-security prison in Maputo in May 2004 but was captured later that month at Toronto's Pearson International Airport. While his refugee petition was pending, Mozambican authorities requested Anibalzhino's extradition from Canada. The two countries have no extradition treaty, slowing the process of returning the suspect.

National Overview

By Willie Olivier

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Namibia

Namíbia

Panorâmica Nacional

Por Willie Olivier

Professor do Departamento de Tecnologia dos Mídias da Politécnica da Namíbia

The year 2005 was historic as it marked the end of the 15-year rule by President Sam Nujoma and heralded a new administration under his successor, Hifikepunye Pohamba. The events leading up to the handover of power and the performance of President Pohamba's administration formed the substance of much of the political coverage.

Media attention focused, among others, on whether the Pohamba administration would be one of continuity or change, and the rift within the ruling party, after sacked Trade and Industry Minister Hidipo Hamutenya, who challenged Pohamba for the presidency, and his supporters were sidelined by Nujoma.

Pohamba's declaration of "zero tolerance" for corruption in his inaugural speech, raised the question as to whether he knew of the extent to which corruption had set in during the Nujoma administration. As it was, much of the media coverage in 2005 focused on two major corruption cases, which were exposed by the media.

Media attacks on the increase

The independent media came under fire from parliamentarians and extra-parliamentary groups several times during the course of the year. The attacks were disconcerting as they demonstrated a lack of understanding of the role of the media in a democracy, 15 years after independence. Criticism of "white" owners bent on destabilising the government was a recurrent theme in many of these attacks, while concerns were also raised about the media's watchdog role and the parliamentary privilege enjoyed by the media.

The first swipe at the media came in February when the government lashed out at what it called "unethical, irresponsible and callous" journalistic practices. The accusation came after the Afrikaans daily *Republikein* published a reader's letter critical of Nujoma. The letter was discussed at cabinet level, demonstrating the extent of intolerance to any criticism of the founding president.

The Swapo Party Youth League (SPYL) saw this as an opportunity to continue waging a war of words against the independent media. SPYL Secretary Paulus Kapia accused *The Namibian*, *Republikein* and the weekly *Windhoek Observer* of being "enemies of peace and security in Namibia". Kapia charged in his vitriolic attack that the three papers either lacked ethics or were "deliberately fulfilling the agenda given to you by imperialists".

Using his position as Swapo Party president, Nujoma lambasted the *Republikein* and the *Windhoek Observer* in late November when they published stories which differed from his version of who was responsible for the deaths of several hundred People's Liberation Army of Namibia (PLAN) fighters in the first nine days of 1989. His often-repeated threat to "deal with" his adversaries came after the debate around the debacle was reopened, following the discovery of several mass graves in northern Namibia a few months earlier.

Riding on the back of Nujoma's attack on the three newspapers, SPYL Secretary for Information Elijah Ngurare charged in early December that press freedom abuse in Namibia had reached intolerable levels. He also called on the government to enact laws to restrain those abusing the freedom of the press.

Despite the fact that Article 21 (1) (a) of the Namibian constitution explicitly guarantees media freedom, the media also came under fire from MPs in both houses of parliament.

Minister without Portfolio Ngarituke Tjiriange raised the question of whether it was appropriate for journalists to "monitor" MPs in the National Assembly in October. Swapo backbencher Loide Kasingo supported him, saying she felt "spied" upon by journalists.

A few days later, National Assembly Deputy Speaker Doreen Sioka made the unprecedented suggestion that the parliamentary privilege of the media should be curtailed. Sioka said the media should be prohibited from reporting the names of MPs, who are implicated in alleged corrupt activities by an opposition MP.

The independent media also came under attack from several members of the National Council. Newspapers were accused of, among others, being misleading, abusing their rights and serving as agencies of other countries. A call was made for the imposition of restrictions on the media, especially the print media.

New minister

Former Women Affairs and Child Welfare Minister Netumbo Nandi-Ndaitwah replaced Nangolo Mbumba as Minister of Information and Broadcasting in President Pohamba's first cabinet. In her first meeting with media representatives, she expressed the view that "accountability is not high on the media agenda" and that she would like to see a change in this regard. Nandi-Ndaitwah gave the assurance that she is a firm believer in the constitutional provisions of freedom of information and freedom of the press, but her repeated emphasis on greater professionalism and accountability raised fears that legislation could be introduced if the media failed to establish a media council and agree to abide by a code of ethics.

Divided we stand ...

Much to her credit, Nandi-Ndaitwah actively supported and encouraged closer co-operation between her ministry and the state-owned media, and MISA Namibia. As a result, representatives of the ministry, the state-owned media and MISA Namibia jointly planned the commemoration of the 2005 World Press Freedom Day. The extent to which relations had warmed was illustrated by the fact that Prime Minister Nahas Angula was the keynote speaker at MISA Regional's Annual Press Freedom Award ceremony.

Unfortunately, independent media houses which have shunned MISA Namibia in the past, notably the *Republikein* and the *Windhoek Observer*, continued to do so. And the impasse seems likely to continue.

Media ethics under the spotlight

Media ethics suffered a blow when a weekly 'knock-and-drop' newspaper, *Plus*, published an anti-Semitic advertisement following the death of Nazi-hunter Simon Weisenthal. Editor Hans Feddersen's apology and explanation that he accepted the advertisement for financial reasons found favour with few.

The publication in the *Windhoek Observer* of distasteful photographs of the headless corpse of a murdered woman also raised a debate around media ethics in the country. Editor Hannes Smith responded to a media release issued by MISA Namibia with an unwarranted and highly personalised attack on the local chapter's chairperson, Robin Tyson. The *Windhoek Observer* published several more gruesome photographs shortly thereafter in an apparent show of defiance.

African Media Barometer

A test run of the African Media Barometer, a joint project of the Friedrich Ebert Stiftung's Southern African Media Project and MISA, was held in Namibia in May 2005.

Namibia scored an overall rating of 2.7 out of a maximum of five for the 42 indicators measured in the four sectors: freedom of expression; media diversity, independence and sustainability; broadcasting regulation and independence of the national broadcaster; and professional standards. Not surprisingly, the lowest score was in the broadcasting regulation and independence sector where scores of less than two were awarded for six of the 12 indicators. The freedom of expression sector received the highest average score of 3.2.

Other countries which participated in the initial phase were Kenya, which scored 2.7, Swaziland (2) and Botswana and Zambia (both 2).

Digging deeper

Good investigative journalism by *Insight* magazine resulted in the uncovering of two multi-million investment scams, which resulted in the disappearance of N\$30 million and N\$100 million in public money. The highly questionable deals in the Avid and Great Triangle investments dominated media coverage for several months. The role in the Avid investment of Paulus Kapia, former Swapo Party Youth League Secretary and newly promoted Deputy Minister of Works, Transport and Communication, led to him being doubly fired.

Insight, a monthly current affairs magazine, continued to publish good investigative stories and has gained a solid reputation for its hard-hitting coverage of politics, business and the economy.

Stagnation

The media landscape in Namibia remained stagnant since the launch in 2004 of two new print titles, *Insight* and *Space*, a monthly leisure and lifestyle magazine.

There was also no increase in the number of radio stations as a result of the non-availability of frequencies. Although this has been the situation for the past few years, the Namibia Communications Commission has been unable to resolve the issue.

Heading for a fall

The need to transform the state broadcaster, the Namibian Broadcasting Corporation (NBC), into a public service broadcaster was highlighted by several incidents. Hamstrung by a new board of party faithfuls without any experience in the media field, the NBC continued its downward slide in terms of programming quality. Staff morale remained low and several senior employees left the broadcaster. NBC Director General Gerry Munyama went on record in April saying the NBC was in such dire financial straits that it could no longer carry out its mandate effectively. Despite this sorry state of affairs, MPs praised the NBC for its good work at an induction meeting for parliamentarians!

The very same Munyama was suspended and charged with fraud and forgery seven months later. The NBC chief allegedly diverted N\$346 000 in corporation funds for his personal use. A senior NBC employee was suspended shortly afterwards for awarding a tender of N\$1 million contrary to procedures.

Unresolved business

The long-awaited Communications Bill, initiated in 2003, was still pending at the end of 2005.

As a result, a licence for a second cellular provider could not be issued, while Telecom continued to enjoy its monopoly over telecommunication services in Namibia.

In the absence of competition, communication tariffs remained high, despite new and cheaper technologies such as Voice over Internet Protocol (VOIP). Telecom, furthermore, threatened legal action against companies providing telecommunication services, such as VOIP, which enjoy protection under archaic legislation.

Hopes that the government ban on advertisements in *The Namibian* might be lifted were dashed and at year-end the ban was still in place. Despite the ban imposed in December 2002 and a 2001 ban on the purchase of the newspaper with state money, *The Namibian's* circulation figures continued to increase.

O ano 2005 foi histórico porque marcou o fim da governação de 15 anos do Presidente Sam Nujoma, e a tomada de posse de uma nova administração sob a liderança do seu sucessor o Presidente Hifikepunye Pohamba. Os eventos que levaram a mudança do poder e o desempenho da administração do Presidente Pohamba constituíram o centro das atenções da cobertura política. A atenção dos média concentrou-se, dentre outros, na administração de Pohamba, caso seria de continuidade, de mudança ou de divisão dentro do partido no poder, em sequência da demissão do então Ministro do Comércio e Indústria Hidipo Hamutenya, que concorreu com o Pohamba na conquista da presidência, e cujos os seus apoiantes foram afastados por Nujoma.

A declaração do novo chefe de estado sobre a não tolerância contra a corrupção no seu discurso inaugural, levantou a questão se ele estava publicamente a admitir que sabia até que ponto a corrupção tinha fomentado durante a administração de Nujoma, por conseguinte, grande parte da cobertura dos média em 2005, concentrou-se em dois casos grande de corrupção expostos aos média.

Aumento dos ataques contra os média

Os média independentes foram criticados pelos Deputados e grupos extra parlamentares várias vezes durante o ano. Os ataques foram desconcertados porque mostraram falta de entendimento do papel dos média numa sociedade democrática, 15 anos depois da independência. As críticas dos proprietários brancos continuaram a desestabilizar o governo e foi um tema repetitivo em muitos destes ataques. Estas questões variaram a partir do papel dos média como i° organizações fiscais;±, o privilégio parlamentar que os média gozam, as cartas dos leitores e columnas editoriais.

O primeiro ataque contra os média ocorreu em Fevereiro, quando o governo reagiu contra a chamada prática jornalística i° anti-ética, irresponsável e insensível;±. As acusações ocorreram em sequência da publicação pelo diário em Afrikaans, i° Republikein;± da carta de um leitor que criticava o Presidente Sam Nujoma. Esta não mereceu somente uma resposta ministerial, a carta foi discutida a nível do governo e demonstrou o nível de intolerância de qualquer crítica contra o Presidente Sam Nujoma.

A Liga Juvenil do Partido Swapo (LJPS) aproveitou esta oportunidade para continuar a desencadear uma guerra de palavras contra os média independentes. O Secretário da LJPS, Paulus Kapia, acusou o diário *The Namibian*, o diário Republikein e o semanário *Windhoek Observer* de serem inimigos da paz e segurança na Namíbia. Kapia, no seu ataque caustico criticou que os três jornais ou careciam de ética ou deliberadamente a obedecer orientações dos imperialistas.

Na qualidade de Presidente da Swapo, Sam Nujoma criticou fortemente os jornais Republikein e o *Windhoek Observer* no fim de Novembro, por terem publicado artigos que diferem da sua versão, sobre quem foi o responsável pela morte de várias centenas de combatentes da PLAN (Exército de Libertação da Namíbia) nos primeiros 09 dias de 1989. Sam Nujoma, proferiu as suas ameaças habitualmente repetidas i° lidar com os adversários;± depois da reactivação do debate sobre a descoberta de várias sepulturas comuns no Norte da Namíbia poucos meses antes.

Em resposta ao ataque destes jornais contra Nujoma, o Secretário para Informação Elijah Ngurare, afirmou no princípio de Dezembro que os abusos de liberdade de imprensa na Namíbia, atingiram níveis intoleráveis. Ele também apelou ao governo para aprovar leis que penalizem aqueles que abusam da liberdade de imprensa.

Apesar do facto que o Artigo 21 (1) (a) da Constituição Namibiana explicitamente garantir a

liberdade dos mídias, os mídias continuam sendo alvos dos ataques perpetrados por deputados de ambas câmaras do parlamento.

Em Outubro, o Ministro sem pasta Ngarituke Tjiriange, levantou a questão, se era normal os jornalistas fazer monitoria dos Deputados da Assembleia Nacional. A Deputada da SWAPO Loide Kasingo apoiou-lhe, dizendo que se sentia vigiada pelos jornalistas.

Poucos dias depois, a Presidente da Assembleia Nacional Adjunta Doreen Sioka, submeteu uma sugestão sem precedentes que o privilégio parlamentar dos mídias seja reduzido. Sioka, disse que os mídias devem ser proibidos de divulgar os nomes dos deputados que estiverem implicados em alegadas actividades corruptas levantadas por deputados da oposição.

Os mídias independentes também foram atacados por vários Deputados do Conselho Nacional. Os jornais foram acusados de desencaminhadores, de abusarem os seus direitos e de servirem de agências de países estrangeiros. Apelou-se pela imposição das restrições dos mídias, especialmente a imprensa escrita.

A nova ministra

A ex-Ministra das Mulheres e Bem-estar da Criança, Netumbo Nandi Ndaitwah, substituiu o Ministro Nangola Mbumba como Ministra da Informação, Radiodifusão e Televisão no governo inaugural do Presidente Pohamba. No seu primeiro encontro com os representantes dos mídias, a ministra expressou o sentimento de que a responsabilização não constitui prioridade dos mídias e que gostaria de ver mudanças neste respeito. A Ministra, assegurou os participantes que ela acreditava grandemente na disposição constitucional de liberdade de informação e liberdade de imprensa. Mas, a sua reiteração para maior profissionalismo e responsabilização, criou o receio de que esta medida pode ser introduzida como legislação, caso os mídias não consigam criar um conselho dos mídias e que obedeçam a um código de ética.

Divididos progredimos

Em benefício próprio, a Ministra Nandi-Ndaitwah apoiou e encorajou uma cooperação mais estreita entre o seu Ministério, os mídias privados e o MISA Namíbia. Em resultado, representantes do Ministério, dos mídias estatais e do MISA Namíbia, planearam conjuntamente as actividades comemorativas do Dia Internacional da Liberdade de Imprensa na Namíbia. O alto nível do reforço das relações foi demonstrado pela participação do Primeiro-ministro, Nahas Angula, como orador principal na cerimónia de atribuição de Prémios dos Mídias, organizado pelo MISA Namíbia.

Infelizmente, os órgãos dos mídias independentes que se afastaram do MISA Namíbia no passado, sobretudo o *Republikeine* e o *Windhoek Observer*, continuam a fazê-lo e tudo indica que este impasse continuará.

Éticas dos mídias em perspectiva

A ética dos mídias sofreu um golpe quando um jornal semanário *Knock and drop Plus*, publicou um artigo anti-semitico em sequência da morte de Nazi-hunter Simon Weisenthal. As desculpas e motivo apresentado pelo editor Hans Feddersen, dizendo que aceitou publicar o artigo por dinheiro, foi aceite por alguns indivíduos.

A publicação de fotografias ofensivas do corpo de uma mulher decapitada publicadas no jornal *Windhoek Observer* também continuou e causou debates sobre a ética dos mídias no país. O

Editor Hannes Smith respondeu a um comunicado de imprensa emitido pelo MISA Namíbia, com um ataque injustificado e altamente personalizado, contra Robin Tyson, presidente do MISA Namíbia, cujo nome foi divulgado. O *Windhoek Observer* publicou várias outras fotografias ainda mais cruéis logo de seguida numa tentativa de rebeldia.

O Barómetro dos Mídias de África

Uma análise feita ao Barómetro dos Mídias Africanos, um projecto conjunto da Fundação Friedrich Ebert Stiftung do Projecto dos Mídias da África Austral e o MISA, foi realizado na Namíbia em Maio de 2005. A Namíbia alcançou um total de 2.7 pontos (satisfazendo muitos aspectos dos indicadores) nos 42 indicadores medidos nos quatro temas: Liberdade de Expressão; diversidade dos mídias; independência e sustentabilidade: regulamento de radiodifusão e televisão e independência da emissora nacional e padrões profissionais. Não é surpresa que, o ponto mais baixo foi em regulamento de radiodifusão e televisão e a independência do sector onde os países alcançaram somente menos de 2 foram concedidos para seis dos 12 indicadores com uma média de 2. O sector de liberdade de expressão recebeu a média mais elevada de 3.2 Os outros países que participaram na fase inicial (e os pontos gerais respectivos) foram: Kenya (2.7), Botswana e Zâmbia (2.0) e Suazilândia (2).

Aprofundamento das investigações jornalísticas

O bom jornalismo investigativo resultou na descoberta de um investimento de dois milhões que resultou no desaparecimento de N\$ 30 milhões e N\$ 100 milhões de fundos públicos respectivamente. Os grandes negócios da AVID e o grande triângulo de investimentos dominou a cobertura dos média durante vários meses. O papel do antigo secretário geral da Liga da Juventude da SWAPO, recentemente promovido a vice-ministro do Trabalho, transportes e comunicação Paulus Kapia, nos investimentos da AVID o levou a sua exoneração. *Insight*, uma revista mensal, continuou a publicar artigos investigativos tendo ganhado uma reputação sólida pela sua cobertura sobre matérias políticas, económicas e comerciais.

Estagnação

A panorâmica dos mídias na Namíbia permaneceu estagnante, depois do mercado ter testemunhado o lançamento de duas revistas novas, *Insight* e *Space*, uma revista mensal de divertimento e a outra sobre o estilo de vida em 2004.

Não se registou aumento no número de estações de rádio em sequência da falta de frequências. Embora esta tenha sido a situação, durante os últimos anos, a Comissão de Comunicação da Namíbia, não foi capaz de resolver esta questão.

A beira da falência

A necessidade de transformar a emissora estatal, a Corporação de Radiodifusão e Televisão da Namíbia, em uma emissora pública foi realçada por vários incidentes. Composta por um Conselho Directivo de fiéis do partido, sem experiência em matéria dos mídias, a NBC continuou com a sua decadência em termos de qualidade na sua programação. A moral dos funcionários continuou baixa, forçando vários funcionários seniores abandonaram a corporação. O Director Geral da NBC, Gerry Munyama, disse publicamente em Abril, que a NBC estava a enfrentar dificuldades financeiras graves, ao ponto que já não tinha capacidade para desempenhar o seu mandato de forma eficaz. Apesar deste estado de situação, os deputados elogiaram a NBC, pelo seu bom trabalho durante uma visita a NBC!

Munyama, foi suspenso e acusado de fraude e falsificação, sete meses mais tarde. Um outro funcionário sénior da NBC, foi suspenso logo depois, por ter concedido uma tenda de N\$ 1 milhão sem obedecer as regras de procedimentos.

Assuntos pendentes

O tão esperado projecto de comunicações, iniciado em 2003, continuou pendente no fim de 2005. Em sequência, uma licença para um segundo fornecedor de serviços de telefones móveis não podia ser emitida, enquanto que a Telecom continua a gozar do seu monopólio nos serviços de telecomunicação na Namíbia. Na ausência de competição, as tarifas de comunicação permaneceram elevadas, apesar da tecnologias mais baratas e recente tais como Voz sob o Protocolo da Internet (VOIP). A Telecom, também ameaçou tomar acções judiciais contra as empresas que fornecem serviços de telecomunicação, tais como a VOIP, que goza protecção sob uma legislação arcaica.

Existe a esperança que o governo venha a cancelar o banimento dos serviços de publicidade contra o diário *The Namibian* no fim do ano. Apesar da proibição imposta em Dezembro de 2002 e a proibição de 2001 sobre a compra de jornais com dinheiros dos estados, a circulação do jornal *The Namibian* continuou a aumentar.

· ALERT

Date: December 01, 2005

Persons/Institutions: Swapo Party Youth League (SPYL)

Violation: Threatened

The Swapo Party Youth League (SPYL) has called on the Namibian government to enact laws to rein in journalists who, the SPYL alleges, are abusing the freedom of the press.

SPYL Secretary for Information Elijah Ngurare said on December 1, 2005 that the abuse of the freedom of the press in Namibia had reached intolerable and unacceptable levels.

In particular reference to reporting by a national Afrikaans-language daily, “Die Republikein”, and the weekly “Windhoek Observer” on events surrounding the discovery of war graves in northern Namibia, Ngurare said that such journalism was near to “threatening national security and interest”.

“Our Swapo Government is hereby called upon to urgently and expeditiously institute a credible regulatory framework to regulate the activities of all these cancerous, racist and parasitic media operators in our country, which regulation after all is a standard practice worldwide, particularly after [the] September 11 [terrorist attacks],” said Ngurare.

He maintained that the media were “regurgitating things that don’t exist” and had a “new notion of democracy”.

Ngurare opined that the media were engaged in a covert campaign to unseat Nujoma as party president.

Ngurare said it was the government’s duty to pass laws to restrain the operations of the media. He maintained that around the world such legislation was in place and that the media in “civilized nations” did not report in the way that Namibian journalists did.

National Overview

By Paula Fray

Media trainer, independent consultant and former editor of The Saturday Star



South Africa

África do Sul

Panorâmica Nacional

Por: Paula Fray

Trinadora jornalística, Consultora independente, e antiga editora do Saturday Star

The roles of the judiciary and the media as pillars of a constitutional democracy were highlighted in 2005 as issues of media freedom played out in courtrooms and statutory bodies across the country. And, increasingly, both institutions have begun appealing to the public to embrace them – noting that freedom of the media and independence of the judiciary were guaranteed by the constitution.

In January, MISA South Africa registered its concern about “growing intolerance” to criticism and alternative opinion exhibited by the ruling African National Congress (ANC). In its electronic newsletter, *ANC Today*, the party accused the South African media of propagating falsehoods about the President, the ANC and the government. This intolerance has previously been noted with the labelling as “elites” – those individuals who criticise government.

MISA SA views such derision of diversity of opinion as contrary to the core values of democracy, particularly freedom of expression and freedom of the media, enshrined in South Africa’s constitution.

Across the country’s borders Zimbabwean authorities refused accreditation to South Africa-based radio stations 702 and 567 CapeTalk to cover the March general elections in that country. There were no official reasons given but Zimbabwean officials previously described the broadcasters as “hostile”.

Intolerance reared its head again in May when South African Broadcasting Corporation (SABC) reporters were barred from reporting on the Lebogakomo government’s budget vote in the Limpopo provincial legislature. Two weeks earlier, Premier Sello Moloto’s political adviser Jack Mokobi is reported to have stormed into the SABC offices in Polokwane to complain about the “harsh” manner in which politicians were interviewed. He also demanded that Thobela FM’s Willie Mosoma be removed from his post as current affairs presenter. Mokobi allegedly accused Mosoma of being biased against politicians from the ruling ANC party. The SABC subsequently met with provincial officials. It then informed MISA SA that its reporters would cover a wide range of stories in the province within the accepted journalistic principles and the public broadcaster’s editorial code.

The *Mail & Guardian*’s investigation into the ‘Oilgate’ corruption scandal has been described as one of the year’s journalistic highlights. The weekly newspaper’s scoop revealed how Imvume Management received R11 million of taxpayers’ money from state oil company PetroSA and donated it to the ANC just before the 2004 national election. This investigation led to judicial sparring between the newspaper, the private company and a few government agencies. At stake was the company’s right to privacy versus the right to media freedom. In May, following sustained coverage by the *Mail & Guardian*, a Johannesburg High Court judge banned further publication details involving Imvume and the ‘Oilgate’ scandal.

MISA SA and the Media Monitoring Project (MMP) expressed their deep concern that this judgment was likely to open the way for others seeking to prevent newspapers from publishing articles about their questionable or irregular conduct. This kind of legal censorship of the media is viewed by MISA SA as a pre-cursor to full curtailment of freedom of expression.

In July 2005, public protector Lawrence Mushwana released a report that exonerated government and the parastatals involved. As far as government was concerned the case was closed. Commenting on the matter, government communications head Joel Netshitenzhe said, as it related to government, the issue had now been put to rest. However, *Mail & Guardian* editor Ferial Haffajee is not deterred and has instituted court proceeding to have the report overturned. Haffajee said: “Mushwana tried to bury important allegations unearthed by the *M&G*

and he smeared us in the process. A newspaper is built on little more other than its credibility and reputation – Mushwana willfully sought to damage ours.”

The Independent Communications Authority of South Africa (ICASA), responsible for the regulation of broadcasting and telecommunications services, received a new chairperson. Paris Mashile, who replaced Mandla Langa, will serve until June 30 2010. Seven councilors were also appointed by South African President Thabo Mbeki, for terms between two and five years.

In September a businessman and a local DJ, who objected to articles written about them in the *Sunday World*, held the newspaper’s staffers in KwaZulu-Natal hostage for more than two hours. The pair demanded detailed apologies for the stories written, although they later apologised themselves to the journalists involved.

The SABC began the year with the high-profile resignation of its Chief Executive Officer, Peter Matlare. Its news division was dogged by concerns regarding editorial independence and a spate of high-level resignations – including head of radio news Pippa Green and the re-assignment of head of television news, Jimi Matthews. By the time new group CEO Dali Mpofu took the reins on August 1, morale at the broadcaster was said to be at an all-time low.

Mpofu noted the need to transform the SABC into a genuine public broadcaster in line with its public service mandate. But he had hardly settled into his new office when he faced his first controversy – the non-airing of footage of newly appointed Deputy President Phumzile Mlambo-Ngcuka being booed by supporters of her predecessor, Jacob Zuma, at a Women’s Day rally at Utrecht in KwaZulu-Natal.

Mpofu initiated an internal review of the incident. At first the broadcaster said the freelance camera operator had arrived late, but televised evidence showed he was there. A two-person commission absolved the broadcaster of bias or censorship, as the footage was never sent for consideration to be aired. However, questions about its independence are still unanswered and the corporation will have to work hard to ensure that its viewers regard it as accountable to the public it serves.

In October, the South African National Editors’ Forum (SANEF) launched its ‘Media freedom is your freedom’ campaign. Aimed at showing that media freedom and democracy were two sides of the same coin, the campaign includes a programme to ensure that Section 205 of the Criminal Procedure Act, which can compel journalists to reveal their sources in court or face a jail-term, is amended. SANEF is in negotiations with government to formulate a ‘just excuses’ clause to insert into the law to ensure that journalists are free to do their work without the burden of Section 205 hanging over them.

In October, President Thabo Mbeki opened the first African Editors’ Forum (TAEF) conference in Kempton Park where over 100 editors from the continent met under the banner ‘Reporting Africa for Africans and the world’. *City Press* editor Mathatha Tsedu was appointed the first TAEF chairperson.

The trial of Jacob Zuma for rape once again highlighted the tension between politics and the media. Zuma was allowed to make a secret court appearance with a specially convened court hearing early on the morning of December 6. The media were prevented from entering the court. In response, SANEF, Primedia Broadcasting and *The Star* newspaper sent an official letter to National Police Commissioner Jackie Selebi asking if he supported the action of the police who barred the media. The letter noted that the unlawful and unconstitutional conduct of the police and VIP protection services occurred in full view of Johannesburg Area Police

Commissioner Oswald Reddy. It sought reassurance that the media would not be barred when High Court proceedings began in 2006.

South Africa continues to enjoy a free press. But 2005 has shown that, even then, the media must remain vigilant and constantly fight for and protect its freedoms.

O papel da magistratura e dos Mídia como pilar da democracia constitucional, foram realçados em 2005, sendo assuntos da liberdade dos mídia executado nos tribunais e órgãos estatutários à nível do país. E, de uma forma crescente, ambas instituições começaram a apelar ao público para abraçar-los – notando que a liberdade dos Mídia e a independência da magistratura estavam garantidas na constituição.

Em Janeiro, o MISA da África do Sul, apresentou a sua preocupação pela “intolerância” ao criticismo e opiniões alternativas, exibida pelo Congresso Nacional Africano (ANC). No seu boletim electrónico, *ANC Today*, o partido no poder, acusa a imprensa Sul Africana de propagar falsidades sobre o presidente, o ANC e o governo. Essa intolerância já tinha sido notada antes, tendo sido chamada “elite” – aqueles indivíduos que criticam o governo.

O MISA-Africa do Sul vê essa irrisão de diversidade de opiniões contrariamente aos valores primários da democracia, particularmente a liberdade de expressão e dos Mídia, garantidas na constituição Sul Africana.

Ao longo da fronteira, as autoridades Zimbabueanas recusaram a passar a acreditação a estação da rádio 702 e a rádio 567 da Cidade do Cabo, sedeadas na Africa do Sul para cobrir as eleições gerais de Março. Não houve razões para a recusa, as autoridades Zimbabueanas simplesmente descreveram as rádios de serem “hóstis”.

Voltou a registar-se intolerância mas uma vez em Maio, quando os repórteres da rádio Sul Africana (SABC), foram barrados de reportar sobre o voto do orçamento do governo para Lebowakgomo, legislado da província de Limpopo. Duas semanas antes, Jack Mokobi, o conselheiro do presidente do conselho, Sello Moloto, invadiu furiosamente os escritórios da rádio em Polokwane, onde se queixou sobre a maneira “dura” aplicada pelos jornalistas nas entrevistas com os políticos. Mokobi, exigiu a demissão de Willie Mosoma, da rádio FM Thobola, onde exerce a função de apresentador. Mokobi, alegadamente acusou Mosoma de tomar partes à favor de uns, contra os políticos do partido no poder. Subsequentemente, a SABC reuniu-se com os oficiais provinciais. Informou ainda o MISA Africa do Sul, que os seus repórteres deverão fazer cobertura de uma agama de material na província, dentro dos princípios jornalísticos aceites e do código público editorial da radiodifusão.

A investigação do jornal *Mail & Guardian* sobre o escândalo corrupto denominado “Oilgate” foi descrito como um dos principais casos do ano desvendado por jornalistas. O semanário Scoop revelou como é que Imvume Management recebeu 11 milhões, do fundo público a partir da empresa petrolífera estatal PetroSA e doou-o ao ANC, pouco antes das eleições gerais de 2004. Esta investigação levou a justiça a um pugilismo entre o jornal, a empresa privada e algumas agências do governo. Em causa estava o direito a privacidade da empresa contra o direito a liberdade dos Mídia. Em maio, depois de várias coberturas feitas pelo o *Mail & Guardian*, um juiz do tribunal de Joanesburgo, banii qualquer cobertura do caso Imvume ou “oilgate”.

O MISA-Africa do Sul e o Projecto de monitoramento dos Mídia (PMM) expressaram profunda preocupação pelo julgamento passado, porque o mesmo abriria portas para aqueles que procuram impedir os jornais a publicar artigos sobre as suas condutas irregulares e equívocas. Este tipo de censura legal da comunicação social é vista pelo MISA como um pre-cursor para mutilação da liberdade de expressão.

Em julho de 2005, o protector público Lawrence Mushwana, divulgou um relatório que ilibava de culpa o governo e empresas estatais envolvidas. Mas para o governo, tudo estava encerrado. Comentando sobre o caso, Joel Netshitenzhe, o chefe do departamento das comunicações do

governo, disse que para o governo o caso estava encerrado. Todavia, Ferial Haffajee, o editor do jornal *Mail & Guardian* não abandonou o caso tendo mesmo instituído procedimentos judiciais para a reabertura do caso. Haffajee disse: “Mushwana tentou enterrar alegações importantes descobertas pelo o jornal *Mail & Guardian* e tentou contornar-nos do processo. Um jornal é edificado num pouco mais do que a sua credibilidade e reputação – Mushwana, voluntariamente procurou danificar a nossa reputação.”

A Comissão independente das Autoridades para as Comunicações da África do Sul (ICASA), responsável pelo regulamento dos serviços das telecomunicações e radiodifusão, recebeu o seu novo presidente. Paris Mashile, que substituiu Mandla Langa, servirá esta comissão até 30 de Junho de 2010. Foram ainda nomeados sete conselheiros novos pelo presidente Thabo Mbeki, para exercerem mandatos de 2 à 5 anos.

Em setembro, um comerciante e um DJ local em Kwazulu Natal, que rejeitaram um artigo publicado pelo *Sunday World*, submeteram sob cativo durante mais de duas horas, os vendedores. O par, exigiu pedido de desculpas em detalhe pelo artigo publicado. Mas tarde desculparam-se aos jornalistas envolvidos no artigo.

A SABC começou o ano com a resignação de chefes sénior, nomeadamente, Peter Matlare, director executivo. Questionava-se a independência editorial da secção de notícias, que também esteve mergulhada em casos de resignação de oficiais sénior – que inclui Pippa Green o chefe dos serviços da Rádio, e a re-nomeação de Jimmi Matthews, chefe dos serviços noticiosos da televisão.

Nesta altura, Dali Mpofu, tivera tomado o reinado como director executivo no dia 01 de Agosto, momentos em que circulavam especulações de que a morale nunca esteve tão baixa como naquela altura.

Mpofu, notou a necessidade da transformação da SABC em emissor público genuíno, com base no mandato dos serviços públicos. Mpofu, nem sequer tinha acabado de se acomodar no seu gabinete, quando surgiu o primeiro caso controverso – não emitir as imagens de Phumzile Mlambo-Ngcuka, nova vice-presidente, sendo “desprezada” pelos apoiantes do destituído vice-presidente Jacob Zuma, num rali alusivo ao dia das mulheres em Utrecht, Kwazulu Natal.

Mpofu ordenou uma revisão interna sobre o incidente. Inicialmente, o emissor afirmou que tivera chegado tarde; mas a evidência das imagens mostraram que estiveram lá na altura. A comissão composta por duas pessoas, absolveu o emissor da censura e de tomar parte, porque a imagem nunca tivera sido enviada para consideração. Todavia, as perguntas com relação a sua independência continuaram sem resposta. A Corporação terá que trabalhar arduamente para assegurar que os seus telespectadores a considerem de estar a servir devidamente o público.

Em outubro, o Fórum Nacional dos Editores Sul Africanos (SANEF), lançou a campanha designada “A liberdade dos Mídia é sua liberdade”. A campanha tinha como objectivo mostrar que a liberdade dos Mídia e a democracia eram a mesma coroa da moeda. Incluiu também, um programa que assegurava que a secção 205 do acto de procedimento criminal, que compeliu os jornalistas a revelar as suas fontes no tribunal, caso contrário seriam condenados a cadeia foi emendado. A SANEF continua em negociações com o governo com o objectivo de formular uma cláusula “desculpa justa” que deverá ser inserida na lei para assegurar que os jornalistas sejam livres do artigo 205.

Em outubro, o presidente Thabo Mbeki, fez a abertura da primeira conferência do Fórum Africano dos Editores (TAEF) em Kempton park, onde estiveram mais de 100 editores a nível do continente Africano. O tema da conferência foi “Reportar sobre a África para os Africanos

e o mundo.” Mathatha Tsedu, editor da publicação *City Press*, foi nomeado o primeiro presidente do Fórum Africano de Editores.

O caso de violação que envolve o ex-vice presidente Sul Africano Jacob Zuma, levantou tensão entre os políticos e a comunicação social. Zuma, foi permitido a comparecer secretamente no tribunal, na manhã de 06 de Dezembro. A imprensa foi impedida de entrar no tribunal. Em resposta, a SANEF, *Primedia broadcasting* e o jornal *The Star*, enviaram uma missiva oficial ao Sr Jackie Selebi, o comissário nacional da policia, questionando se o mesmo apoia a acção da policia, que barrou a entrada dos jornalistas no tribunal. Mas adiante, a missiva notou que a conduta ilegal e incostitucional da policia e dos agentes para os serviços de protecção para os VIPs, ocorreu na presença do comissário da policia de Joanesburgo, Senhor Oswald Reddy. A policia procurou asseguramento para que a imprensa seja barrada aquando do início dos procedimetos no tribunal em 2006.

A Africa do Sul, continua a desfrutar um clima de imprensa livre. Mas o ano de 2005 mostrou que mesmo assim, a comunicação social deve permanecer vigilante e constantemente combater pela protecção dos seus direitos.

· **ALERT**

Date: May 27, 2005

Persons/Institutions: Mail and Guardian

Violation: Censored

The Johannesburg High Court has banned the publication of an article revealing a corruption scandal involving the ruling ANC party. South Africa's 'Oilgate' scandal involves millions of rand channelled from the state via an oil company to the ANC to fund the party's 2004 election campaign.

The High Court has ordered South Africa's leading independent newspaper, the 'Mail and Guardian', to recall its entire print run of 45,000 to prevent the distribution of an article giving further details of the 'Oilgate' scandal. On May 27 the newspaper hit the streets with the word "Gagged" in large red letters across its front page. The 'Oilgate' revelations on page two had been blacked out.

The 'Mail and Guardian' last week had printed an article - the first in a series - alleging that the South African oil company Imvume Management was used to channel rand 15 million (euros 1.8 million) from the state to the ruling African National Congress (ANC) to assist it in running its election campaign in April 2004.

On May 26 2005, Imvume Management approached the Johannesburg High Court to prevent the publication of the follow-up article from going ahead, and the application was granted that evening. One of the reasons given by the Court for the gagging order was that the newspaper refused to reveal its confidential sources of information for the story, which Imvume claimed were obtained illegally. According to arguments made by the 'Mail and Guardian', the sources were verified through a second source.

· **ALERT**

Date: May 03, 2005

Persons/Institutions: Media in South Africa

Violation: Threatened

The South African government is showing increasing signs of intolerance towards any form of free expression following the announcement made by Minerals and Energy Minister Phumzile Mlambo-Ngcuka that the government may consider enacting legislation that would make it a criminal offence to "spread allegations or false rumours amounting to the incitement of panic". The proposed legislation will be aimed at the media and "any organisation acting irresponsibly".

The government's statements were made in response to a warning about of excessively high levels of radiation at Pelindaba nuclear facility outside Tshwane, made by the Non-Governmental Organisation Earthlife Africa. The government's threats follow allegations by the government that Earthlife was spreading panic through making false statements about the existence of an illegal dumping site; President Thabo Mbeki also termed these statements 'reckless', 'without foundation' and 'totally impermissible'.

· **ALERT**

Date: May 02, 2005

Persons/Institutions: South African Broadcasting Corporation (SABC) television journalists and a camera crew, Willie Mosoma

Violation: Censored

In the first week of May, provincial government officials barred South African Broadcasting Corporation (SABC) television journalists and a camera crew from entering the Limpopo provincial legislature to report on the Lebogakgomo government's budget vote. They were allegedly thrown out after refusing to leave their cameras at the door.

Two weeks earlier, Premier Sello Moloto's political adviser Jack Mokobi reportedly stormed into the SABC offices in Polokwane to complain about the "harsh" manner in which politi-

cians were interviewed and to demand that Thobela FM's Willie Mosoma be removed from his post as current affairs presenter. Mokobi allegedly accused Mosoma of being biased against politicians from the ruling African National Congress (ANC).

Representatives from the SABC's Limpopo regional office have since met with the premier of Limpopo, and the meeting was seen as a positive step in improving relations. Speaking to MISA-South Africa, the SABC said it promised to monitor relations and gave assurances that its reporters would cover a wide range of stories in the province in accordance with accepted journalistic principles and the SABC editorial code. The Limpopo provincial government could not be reached for comment.

• **ALERT**

Date: January 12, 2005

Persons/Institutions: The Developer community newspaper

Violation: Legislation

A local community newspaper, "The Developer", is facing a ZAR100 000 (approx. US\$16,818) defamation suit from businessman Eric Chauke. Through his lawyers, Mdlalose Attorneys, Chauke is claiming "compensation for injury to his dignity, reputation and good name".

In its December 2004 issue, "The Developer", a monthly publication based in Soweto, Johannesburg, published a report alleging that Chauke was arrested and appeared in court on allegations of stealing chickens. The report, whose source is an expelled member of a business association chaired by Chauke, details other allegations against the businessman, including the handpicking of the association's executive members, lack of consultation in the pegging of membership fees and lack of transparency in the management of a newly-constructed vending shop in Kliptown.

National Overview

By Vusi Sibisi

Freelance journalist for the Times of Swaziland and former

Editor-in-Chief of the Swazi Observer



Swaziland

Suazilândia

Panorâmica Nacional

Elaborado por Vusi Sibisi

Jornalista Freelancer do Times da Suazilândia e anterior Editor Chefe do Swazi Observer

There was very little change on the media front in Swaziland during 2005. During the second half of the year, however, a hard-won national constitution enshrining a Bill of Rights was finally passed by parliament and assented to by King Mswati III, sub-Saharan Africa's last absolute monarch.

But even as the nation was celebrating the completion of a constitutional reform process that took almost a decade, there was uncertainty as to whether the constitution would come into force immediately or at a later date. This was because the King, upon assenting to the document on July 26 2005, mentioned that it would only become operational in six months' time. The intervening six months, he said, were to create an enabling environment as well as to finalise the logistics of implementation.

Will government respect the constitution?

Determining the constitution's commencement was a litmus test for government to be seen to have restored the rule of law in the wake of a crisis it created when it refused to respect and abide by two rulings of the Court of Appeal in 2002.

In one of these rulings, the Appeal Court ruled that the Non-Bailable Offences Order was invalid, and ordered government to grant bail to suspects charged under this law. In the second ruling, the Appeal Court ruled in favour of families evicted in 2000 for political reasons, to return to their homes in rural Macetjeni and KaMkhweli. In protest of government's refusal to respect these court orders, the judges of the Appeal Court resigned.

Although government, under a new Prime Minister, publicly pronounced the restoration of the rule of law in 2003, the judgements of the Court of Appeal remained in abeyance, which created much public scepticism as to whether government would even respect the constitution.

Media and new constitution

For the media, the date of the constitution coming into force was important because it enshrined among others, freedom of expression and freedom of the press. The constitution also annulled 32 media-unfriendly laws that were contrary to fundamental human rights and freedoms as articulated in the Bill of Rights. But how far this will be translated into reality remains to be tested. This is particularly so because the new constitution further entrenches the political hegemony with the King exercising executive, legislative and judicial authority.

Constitutional experts have already indicated contradictions in the constitution, especially as it relates to the Bill of Rights. They point out that, while it gives fundamental human rights and freedoms, it also takes them away. For example, the constitution recognises freedom of association, but political parties are still outlawed. This was evident when government refused to register the Ngwane National Liberatory Congress, one of the country's oldest political parties but outlawed by the 1973 King's Proclamation, which criminalised all rights and freedoms.

Dawn of constitutional era

After much public debate and uncertainty, the constitution finally became operational on February 8 2006. However, it is envisaged that it will take up to a year for its impact to be felt since certain organs, such as the Commission on Human Rights and Public Service, will take that long to be established. This could mean things will remain the same as during the pre-constitutional era, and journalists will have to tread carefully over the minefield of media-unfriendly laws and a government hostile to open democratic principles.

Parliamentary onslaught

In February 2006 parliament charged the privately owned *Times of Swaziland* newspaper with contempt over an analytical article questioning the legislature's interference with the management of the state-controlled national radio station - a direct affront to freedom of expression. This episode was followed by the Minister of Information and Public Service tabling in parliament a pro-free media information and media policy.

This policy liberalises and removes government monopoly of the airwaves; establishes an independent broadcasting authority to regulate the airwaves; transforms the state-controlled broadcast media into public broadcasters; and invests in the media industry, ensuring more professionalism.

But given that the real power remains with the King, coupled with the legislature's disposition to appeasing its political master and in the wake of the lawmakers' interference with the administration of national radio, there are numerous reasons to be pessimistic over parliament's reaction to the media policy. Ironically at the forefront of many of these assaults on the media are MPs who were previously employed on national radio.

Passage of media policy

It is significant that the media policy is a product of comprehensive consultation and input from all the stakeholders, from the state to the private media and individual journalists and their organisations, MISA Swaziland and the Swaziland National Association of Journalists (SNAJ) as well as some organs of the United Nations. This was a milestone achievement for the media, as the media policy issue has been on the table for more than a decade without any meaningful progress being made.

Another achievement for the media in 2005 was the adoption of the Media Complaints Council (MCC). This was after protracted disagreement among media players on a self-regulatory mechanism. The launch of the MCC is expected in 2006.

Divided journalists vulnerable

The Swaziland National Association of Journalists (SNAJ) was revived in 2005. To what extent it will unite journalists is a matter of conjecture. Experience has shown that it is only during times of crises that Swazi journalists momentarily join forces under the banner of SNAJ. Thus, throughout its 25 years of existence, the association has proven largely ineffective.

The key to building a cohesive professional organisation lies in SNAJ's ability to give value to its membership by introducing innovative programmes to engage its members. Thus far SNAJ remains a symbolic organisation that has done little or nothing to promote and enhance professionalism among its members. One way of achieving this would be to host regular short courses on specific topics driven by practicing journalists themselves, as well as exposing them to long-term academic training through collaborative efforts with similar organisations, donor agencies and tertiary institutions. Not only would this improve professionalism but also build strong and long-lasting affinity between journalists and SNAJ.

Government threatens to 'monitor' the media

Notably there were no newcomers to the Swazi media in 2005. There were, however, lurking

threats to existing media in the form of government and civil litigation. While on the surface government projects itself as friendly to critical and crusading media, politicians continue with an undeclared and covert policy of assimilating journalists through threats; recruiting them as ministerial private secretaries; or offering them perks. These ploys seem to be working to the extent that they have sown distrust within the profession, polarised the media and divided journalists.

But while government has been tolerant of critical media in 2005, there were tell-tale signs towards the end of the year that it was losing patience with what it termed sensationalist and false reporting. The Prime Minister warned that should this trend continue, government would be forced to monitor the media closely. The target of this veiled threat of censorship was clearly the privately owned *Times of Swaziland* newspaper since government holds sway over the other dailies, the state-controlled *Observer*, as well as national radio and television stations.

Civil litigation a threat to press freedom

The increase in civil litigation threatened the media in 2005. The *Times of Swaziland* and *The Nation* magazine, both privately owned, bore the brunt of such cases. One involved the Deputy Prime Minister who was awarded E750 000 (about US\$115 300) damages in a defamation suit against the newspaper over an article that associated him with a banned political party, the Ngwane National Liberatory Congress. While *The Times* has appealed this ruling, it is estimated that to date it is facing up to a total of E4 million (US\$615 300) in similar civil suits.

The Nation is being sued E5 million (US\$670 000) by a businessman who also serves as Indonesia's consul in Swaziland over an article accusing him of corrupt procurement dealings with government. The case is still pending.

The increase in civil litigation against the media is due largely to what has been termed the 'juniorisation' of newsrooms. This is a result of the failure of media institutions to retain well-educated and experienced journalists because of uncompetitive remuneration and poor working conditions. This has led to junior journalists being fast-tracked to senior editorial positions. The situation is further exacerbated by the dearth of talented and professional journalists in Swaziland.

Houve muito poucas mudanças relativamente aos mídias da Suazilândia durante 2005. Contudo, durante o segundo semestre do ano, foi finalmente aprovada uma constituição nacional ganha com muito sacrifício que contempla a Declaração de Direitos pelo parlamento e foi aprovada pelo Rei Mswati III, a última monarquia absoluta da África sub-Sahariana.

Contudo, no decurso das comemorações nacionais da conclusão de um processo de reforma constitucional que durou quase uma década, houve incertezas se a constituição entraria em vigor imediatamente ou numa data posterior. Isto porque o Rei, depois da aprovação do documento de 26 Julho 2005, disse que somente entraria em vigor depois de seis meses. Segundo o Rei Mswati III, este período de seis meses servirá para criar um ambiente propício bem como para concluir os acertos logísticos da implementação.

Será que o governo respeitará a constituição?

A determinação do início da constituição foi um teste de transparência para o governo considerado de ter restaurado o estado de direito perante a crise que criou quando este recusou respeitar e cumprir com duas ordens do Tribunal de Recuso em 2002.

Na primeira ordem, o Tribunal de Recursos ordenou que e as Infracções Sem Opções de Caução era inválida e ordenou o governo a conceder caução aos suspeitos acusados nos termos desta lei. Na segunda ordem, o Tribunal de Recursos decidiu a favor das famílias expulsas em 2000 por motivos políticos, para regressarem as suas residências nas áreas rurais de Macetjeni e KaMkhweli. Em protesto da recusa do governo de respeitar estas ordens do tribunal, os juízes do Tribunal de Recursos demitiram-se.

Apesar do governo, sob a liderança de um novo Primeiro-ministro pronunciou publicamente a restauração do estado de direito em 2003, os julgamentos do Tribunal de Recurso permaneceram estacionárias, o que criou muito cepticismo público se o governo respeitaria a constituição.

Os Mídias e a nova constituição

Para os mídias, a data de entrada em vigor da constituição era importante porque inclui dentre outras, a lei de liberdade de expressão e a liberdade de imprensa. A Constituição também anulou 32 leis desfavoráveis aos mídias que eram contrárias aos direitos humanos fundamentais e a liberdade conforme articulado na Declaração de Direitos. Mas como isto será traduzido na realidade ainda tem de ser avaliado. Isto acontece em particular porque a nova constituição também contempla a hegemonia política com o Rei a exercer a autoridade executiva, legislativa e judicial.

Os peritos constitucionais já indicaram contradições na constituição, especialmente com relação a Declaração de Direitos. Eles indicam que, enquanto contempla os direitos humanos fundamentais e de liberdade, também os retira. Por exemplo, a constituição reconhece a liberdade de associação, mas os partidos políticos são considerados como ilegais. Isto ficou comprovado quando o governo recusou registar o Congresso Nacional Libertador de Ngwane, um dos partidos políticos mais antigos dos pais, mas considerado como ilegal pela Proclamação do Rei de 1973, que criminalizou todos direitos e liberdades.

O início de uma era constitucional

Depois de vários debates públicos e incertezas, a constituição finalmente entrou em vigor a 8 Fevereiro 2006. Contudo, espera-se que levará quase um ano para sentir-se o impacto. Certos órgãos, tais como a Comissão sobre os Direitos Humanos e Função Pública levarão o mesmo

tempo para serem criados. Isto poderá significar que as coisas permanecerão na mesma tal como aconteceu durante a era pre-constitucional entretanto os jornalistas terão de caminhar com atenção ao longo deste período de leis desfavoráveis aos mídias e perante um governo hostil relativamente aos princípios democráticos.

Ataque Parlamentar

Em Fevereiro 2006, o Parlamento acusou o jornal de propriedade privada *Times of Suazilândia* de desrespeito ao tribunal devido a um artigo analítico questionando a interferência do legislativo na gestão do estação da rádio nacional controlada pelo estado – uma afronta directa a liberdade de expressão. Este acontecimento foi acompanhado pelo Ministro da Informação e Função Pública apresentou no parlamento uma informação a favor da liberdade dos mídias e das suas políticas.

Esta política liberaliza e retira o monopólio do governo das ondas de transmissão; estabelece uma autoridade de rádio difusão independente para regular as ondas de transmissão; transforma os mídias de rádio difusão e televisão controlados pelo estado em emissoras públicas; e investe na indústria dos mídias, garantindo maior profissionalismo.

Mas considerando que só o Rei tem o poder real, apoiado pelas disposições do legislativas para satisfazer o seu padrão político e perante as interferências dos deputados com a administração da rádio nacional, existem inúmeras razões para sermos pessimistas com as reacção do parlamento relativamente a política do mídias. Ironicamente, na frente de muitos destes assaltos contra os mídias estão os Deputados que anteriormente foram empregues pela rádio nacional.

Aprovação de uma política dos mídias

Importa referir que a política dos mídias é um produto de consultas abrangentes e contribuições de todos intervenientes, do estado para os mídias privados e jornalistas individuais e as suas organizações, o MISA Suazilândia e a Associação Nacional de Jornalistas da Suazilândia (ANJS) bem como alguns órgãos das Nações Unidas. Isto foi um marco do êxito para os mídias, porque a questão da política dos mídias está na mesa durante mais de uma década sem registar qualquer progresso significativo.

Um outro êxito para os mídias em 2005 foi a aprovação do Concelho de Reclamações dos Mídias (MCC). Isto ocorreu em sequência do desentendimento prolongado dentre os interveniente dos mídias sobre um mecanismo auto-regulador. O lançamento da MCC está previsto para 2006.

Jornalistas divididos, sao jornalistas vulneráveis

A Associação Nacional de Jornalistas da Suazilândia (ANJS) foi revista em 2005. Até que ponto unirá os jornalistas é uma questão de conjuntura. A experiência já demonstrou que somente em tempo de crise, os jornalistas da Suazilândia reúnem sinergias provisoriamente sob a sigla da Associação Nacional de Jornalistas da Suazilândia. Assim, durante a sua existência de 25 anos, a associação comprovou ser vastamente ineficaz.

A chave para edificação de uma organização profissional coesiva depende da habilidade do (ANJS) de conceder valor aos seus estado de membro através da introdução de programas inovativos para engajarem os seus membros. Ate ao momento, a ANJS é somente uma organização simbólica que fez muito pouco ou nada para promover e aumentar o profissionalismo dentre os seus membros. Um das formas para se alcançar este objectivo seria

através da realização de cursos de curta duração regularmente sobre alguns temas específicos conduzidos pelos próprios jornalistas no activo, bem como expondo – lhes a formação académica de longa duração através de esforços colectivos com organizações similares, agências doadoras e instituições de ensino superior. Isto não só melhoraria o profissionalismo, mas também criaria afinidades fortes e duradouras entre os jornalistas e a ANJS.

Governo ameaça fazer “monitoria” aos mídias

Importa referir que não houve recém-chegados nos mídias da Suazí em 2005. Contudo, houve ameaças eminentes aos mídias actuais em jeito de litígios com o governo e outros litígios civis. Enquanto que o governo apresenta-se como uma entidade simpática às críticas e aos mídias opositores, os políticos continuam com uma política não declarada e secreta de intimidação dos jornalistas através de ameaças; recrutando-lhes como secretários privados dos ministérios; ou oferecendo-lhes subsídios. Estes simulacros parecem estar a funcionar ao ponto que criaram desconfiança dentro da profissão, polarizaram os mídias e dividiram os jornalistas.

Mas enquanto o governo pratica tolerância com os mídias críticas em 2005, houve sinais de *tell-tale* no fim do ano que o governo estava a perder a paciência com aquilo que chamou de sensacionalista e reportagem falso. O Primeiro-ministro advertiu caso esta tendência continue, o governo seria obrigado a fazer monitoria rigorosa aos mídias. O alvo desta ameaça veiled de censura era evidentemente os mídias de propriedade privada, tal como o *Times of Suazilândia* porque o governo mantém *sway* relativamente a outros diários, o *Observer*, de propriedade estatal bem como a rádio nacional e os estações de televisão.

Litigio civil uma ameaça a liberdade de imprensa

O aumento dos litígios civis ameaça os mídias em 2005. O *Times of Suazilândia* e a revista *Nation*, ambas de propriedade privada servem de exemplo de tais casos. Um incidente envolveu o Vice Primeiro Ministro que recebeu como recompensa E750 000 (cerca de US\$115 300) como indemnização por danos devido a um caso de difamação contra o jornal devido a um artigo que lhe associava com um partido político proibido, o Congresso Nacional Libertador de Ngwane. Enquanto que o *The Times* apelou contra esta decisão, estima-se que até ao momento o jornal enfrenta um julgamento de E4 milhões (US\$615 300) por casos civis similares.

The Nation está a enfrentar um processo judicial levantado contra si no valor de E5 milhões (US\$670 000) por um empresário que também é cônsul da Indonésia na Suazilândia devido a um artigo acusando-lhe de realizar negócios corruptos de aquisição de bens para o governo. Este caso ainda está pendente.

O aumento dos litígios civis contra os mídias é vastamente devido ao que é chamado de ‘juniorização’ dos estudos noticiosos. Isto é consequência da incapacidade das instituições dos mídias em reterem jornalistas bem formados e experientes por causa da remuneração não competitiva e das condições de trabalho que oferecem. Isto faz com que os jornalistas juniores sejam promovidos rapidamente para cargos superiores tais como editores. A situação é ainda agravada pela morte de jornalistas com experiência e profissionalismo da Suazilândia.

• **ALERT**

Date: December 03, 2005

Persons/Institutions: Menzi Dlamini, Lwazi Dlamini, Justice Johnson

Violation: Beaten, censored

On December 3 2005, two journalists were assaulted in their line of duty and another threatened with violence by angry soccer spectators during a skirmish at an abandoned football match at Mhlume stadium, in the east of Swaziland, where two top Premier League clubs, Mbabane Highlanders and RSSC (Royal Swaziland Sugar Corporation) F.C were playing. The three journalists, two from the Times of Swaziland newspaper and the other from Channel Swazi, a private TV station, were attacked whilst covering the violent episode. The fans, believed to be those of Highlanders, not only assaulted two of the journalists, but went on to confiscate video tapes from the TV journalist which they believed contained evidence of the violence. Though the case was later reported to the police, the tapes have still not been recovered. Sports Editor Lwazi Dlamini, was threatened and warned not to publish the skirmish. Their TV counterpart, Justice Johnson, was attacked about 100km away from the stadium.

• **ALERT**

Date: November 04, 2005

Persons/Institutions: Nation Magazine

Violation: Legislation

The Nation Magazine, Swaziland's independent news magazine, is being sued for E5 million (approximately US\$829 000) by an Indonesian businessman, Kareem Ashraff, who is based in Swaziland. The lawsuit follows an article published in the November edition of the Nation which criticized Ashraf on his alleged corrupt dealings with the government. Ashraf's company, Union Supplies, is an official supplier of uniform to Swaziland's armed forces, particularly the Umbutfo Swaziland Defence Force (USDF). The Nation based its article on a recently published report by the Auditor General which accused a number of local companies, including that of Ashraf, of corruption resulting in government losing millions of Emalangenis through inflated invoices and other underhand and corrupt methods.

• **ALERT**

Date: November 03, 2005

Persons/Institutions: Media in Swaziland

Violation: Legislation (positive)

In what can be considered victory for the media in Swaziland, the government has approved an Information and Media Policy which seeks to provide an enabling media environment in the country which has more than 30 repressive media laws. On 3 November the Minister for Information, Themba Msibi, announced the approval of the Policy to media stakeholders during a meeting at his office. The approval of the Policy means Swaziland has moved a step towards improving the media environment in Swaziland including the repeal of the 32 repressive media laws currently existing in the country's statutes. Amongst other things the Policy seeks to free the airwaves, transform the two existing national broadcasters (radio and TV) into public broadcasters, establish an independent broadcasting regulator and media self-regulation and provide for a diverse media. All these issues are what MISA has been advocating for.

• **ALERT**

Date: October 26, 2005

Persons/Institutions: Mkhulisi Magongo

Violation: Threatened

On October 26 2005, "Times of Swaziland" photojournalist Mkhulisi Magongo was threatened with violence and prevented from carrying out his duties by a member of parliament (MP) who was appearing in court on fraud charges.

· **ALERT**

Date: October 16, 2005

Persons/Institutions: Douglas Dlamini

Violation: Beaten

On October 16 2005, “Times of Swaziland” sports journalist Douglas Dlamini was assaulted by a soccer player for publishing a court report in which the player was charged with drinking and driving.

· **ALERT**

Date: September 17, 2005

Persons/Institutions: Alec Lushaba, Wilton Mamba

Violation: Threatened

Alec Lushaba, a senior journalist with the “Swazi Observer” newspaper, has been the victim of continued threats and intimidation as a result of his ongoing investigation and series of articles about a top lawyer Lindifa Mamba’s involvement in a corruption scandal.

Mamba also summoned Lushaba and “Weekend Observer” editor Wilton Mamba to his office on September 16, where he subjected them to verbal abuse. When the two journalists tried to explain the importance of his comment, Mamba went into a fit of rage and threw them out of his office, but not before he threatened to deal with Lushaba personally.

· **ALERT**

Date: September 16, 2005

Persons/Institutions: Media in Swaziland

Violation: Threatened

On September 16 2005, Prime Minister Absalom Themba Dlamini accused the media of sensationalism and false reporting, sounding a warning that the government would be forced to “monitor” the press if it did not desist from such practices.

· **ALERT**

Date: August 19, 2005

Persons/Institutions: Times of Swaziland Sunday

Violation: Censored

On August 19 2005, the “Times of Swaziland Sunday” was interdicted from publishing a story which was found to be defamatory by the High Court. The newspaper has appealed the ruling. Myzo Magagula, chief executive officer of the state-owned “Swazi Observer” newspaper, had brought the application in her personal capacity. She argued in court that the story, which was yet to be published by the “Times of Swaziland Sunday”, was defamatory.

· **ALERT**

Date: July 29, 2005

Persons/Institutions: Times of Swaziland

Violation: Sentenced

On July 29 2005, Deputy Prime Minister Albert Shabangu won a staggering E750 000 (approx. US\$116,000) in damages in a defamation suit against the “Times of Swaziland” newspaper, following a High Court ruling. The judgment is historical in terms of a settlement amount awarded in Swaziland.

The alleged defamatory article was written by the late “Times Sunday” editor Vusi Ginindza four years ago. The deputy prime minister was alleged defamed and his reputation tarnished when the article inferred that he was a card-carrying member of the Ngwane National Liberator Congress (NNLC), a proscribed party in Swaziland as political parties were banned by a 1973 decree.

The incident has had a chilling effect on press freedom in Swaziland. Among others, media

owners have expressed the opinion that the political position of the deputy prime minister might have had a bearing on the outcome of the trial.

· **ALERT**

Date: July 28, 2005

Persons/Institutions: Media in Swaziland

Violation: Threatened

Swaziland's Minister of Public Service and Information Themba Msibi has issued a statement, saying that the Swazi government was considering reviving its Media Council Bill of 1997 if the media failed to put in place a self-regulatory body within the coming two weeks. Swazi media are in the process of establishing such a body.

Minister Msibi made the statement during a meeting of journalists in Sidvokodvo outside the town of Manzini. The independent Swazi press still is weak and subjected to censorship, but editors are hoping that the establishment of a self-regulatory body could improve the situation somewhat by limiting government interference.

· **ALERT**

Date: June 14, 2005

Persons/Institutions: Citizens of Swaziland

Violation: Other

The parliament of Swaziland, controlled by King Mswati III, has approved of a constitution that retains total powers with the King. The Swazi opposition was not consulted in the process of defining the Kingdom's first constitution since 1978 and reject the document. The constitution upholds the ban on political parties.

King Mswati's father banned all parties and annulled the constitution in 1978 as there were popular demands for democratisation. For almost thirty years, the small Kingdom has been ruled totally according to the will of its kings, who have made international headlines for their wasting of public funds. Meanwhile, a growing number of opposition voices have called for a new, democratic constitution.

· **ALERT**

Date: April 7, 2005

Persons/Institutions: Media in Swaziland

Violation: Threatened

On April 7 2005, Swazi Prime Minister Absalom Themba Dlamini stressed the importance of "positive" media coverage relating to the activities of King Mswati III. This call follows increasing tension within royal spheres over the belief that the media has an agenda to dethrone the king.

The meeting with editors and owners from most Swazi media houses was ostensibly an opportunity for the media and Premier's Office to share ideas on issues for balanced and fair media reporting.

National Overview

By Vusi Sibisi

Freelance journalist for the Times of Swaziland and former

Editor-in-Chief of the Swazi Observer



Tanzania

Tanzânia

Panorâmica Nacional

By Vusi Sibisi

Freelance journalist for the Times of Swaziland and former Editor-in-Chief of the Swazi Observer

To understand the current state of the Tanzanian media it is important to know the context in which the mass media has been operating since independence in 1961 and single-party rule to the multiparty politics of today.

Tanzania is still suffering from the hangover of state control of the media, practiced from 1965 until 1992 when the country adopted multiparty rule. Under the multiparty system there has been a dramatic increase in the number of privately owned newspapers competing with government media. The number of daily newspapers has increased to 13, comprising seven Kiswahili tabloids and six English publications, two of which are tabloids and four broadsheets. In 2003, there were only four Kiswahili daily tabloids and three English dailies. In addition, there are now five English and 20 Kiswahili weekly newspapers.

This upsurge occurred in the run up to the 2005 general elections with the arrival of many newspapers concentrating on sensational political news. Critics are of the view that this media explosion has not corresponded with the development of professional journalism, as hundreds of formerly unemployed youths have entered the profession without formal training.

The enormous growth of media outlets has also affected the broadcast media. Currently there are 35 radio stations and 17 television stations registered with the Tanzania Communications Regulatory Authority (TCRA). By comparison, there was only one Tanzanian television station in 1995, while 12 were registered in 2001. In 1993 there were only two radio stations, with seven being registered in 2001. It is worth noting that most of the television and radio stations broadcast programming of an entertaining or religious nature.

There is consensus that the liberalisation of the media has not gone hand-in-hand with establishing institutional, legal and extra-legal regulatory mechanisms to guarantee press freedom. The process of reforming these mechanisms has begun, but it is yet to be completed.

Factors shaping the media

As noted earlier, political pluralism has provided an impetus for the boom in privately run mass media, but this does not mean that the state is not tightly controlling the independent media. Since the government has absolute power to register and de-register print and electronic media, the state can also determine the operation of the media.

In October 2003 the government approved a policy on information and broadcasting, but this policy still contradicts the existing draconian media laws. Although the government has promised to enact a single media law, the Freedom of Information Act, which will repeal and amend outdated laws, the political commitment is lacking as no timeframe has been set for the implementation of the aforementioned policy. The new government raised media practitioner's hopes by establishing the Ministry of Sports, Information and Broadcasting, but more work is needed to implement the policy on information and broadcasting.

Socially and culturally, Tanzania's media sector is dominated by foreign media monopolies through television and the internet. In this way, alien socio-cultural values impact upon African culture and traditions. An indicator of this dominance is that foreign programming constitutes almost 80 per cent of the daily television broadcasts.

In terms of the economic environment, the private sector lacks sufficient resources and this provides the state with a loophole to subjugate private media to the extent of undermining professional and editorial independency. In this way, the private media often becomes a government mouthpiece, thus restraining freedom of information.

The weak economic base of media owners has also led to alliances between the state, private media owners and business tycoons at the expense of press freedom. In order to survive, advertising needs and political interests have overwhelmed media owners.

The media has been hard-hit by taxation and high import duties on printing materials. The government has yet to respond to the frequent demands put forward by printers and publishers to reduce taxes.

It must also be noted that due to the economic constraints, and communication and transport snags, the media is largely urban-based, denying over 80 per cent of the population, based in rural areas, access to the free and immediate flow of information. The majority of the population relies on the sole state-owned radio station, Radio Tanzania Dar-es-Salaam (RTD). Newspaper circulation figures are also low, compared to other African countries, as a result of these factors coupled with a dwindling literacy level in most rural areas.

Frameworks for media regulation

Institutional frameworks for regulating the media have not proved conducive as demonstrated by the inability of the government to allocate more funds to improve the profession of journalism. The fact that functions and policies of different government institutions overlap is also a problem. For instance, while the Minister of Education and Culture is not directly responsible for regulating the information and broadcasting sector, in October 2005 the minister issued a directive to ban a civil society organisation, HakiElimu, from undertaking and publishing any further research about the Tanzanian education system. In this instance, it was not clear which law to ban freedom of expression was applied.

There are also problems with the legal and policy frameworks for regulating the media, due to the state's failure to repeal and amend draconian laws in the national statutes. The executive arm of the state still uses its excessive powers vested in several of these laws to suppress press freedom either covertly or openly through summoning publishers or journalists. It should be noted that if the information and broadcast policy is translated into a single law, Tanzania would have the most conducive regulatory mechanism for the media sector in sub-Saharan Africa.

At an institutional level, there are several centres of government authority, which can infringe upon media freedom. Some of these are the powers of district commissioners, regional commissioners and the minister responsible for information to ban journalists from executing their duties.

Media researchers have compiled 15 pieces of legislation, which contradict the existing policy, hence affecting press freedom. They include the National Security Act of 1970, the Newspapers Act of 1996, the Tanzania Communications Regulatory Authority Act, the Tanzania Broadcasting Services ACT of 1993, amended in 2003, and the Films and Stage Plays Act No. 4, 1976.

Other pieces are the Regional Administration Act of 1997, which empowers ward executive officers, district commissioners and regional commissioners to detain a person, including journalists, and the Penal Code of 1975, which has led to the jailing of journalists. Contempt of the Court, under section 114 (d) of the Penal Code, the Prisons Ordinance, the Police Ordinance and the law on Tanzania People's Defence Forces (TPDF) all ban journalists from covering activities of these institutions and their staff without official permission.

Other repressive laws include the excessive constitutional powers of the President, which among

other things, can censor the flow of public information; the Ethics Commission Act for political leaders; and the Zanzibar media laws.

Due to the repressive nature of these laws journalists have been mistreated, humiliated, beaten and jailed without the proper dispensation of justice. The cases in point are the beating of two journalists by prison warders on September 10 2005 and the banning of Zanzibari journalist Jabir Idrisa on June 9 2005.

The Newspapers Act, which stipulates on defamation and libel without setting clear parameters to the court to institute fines and amounts of compensation, is also affecting media freedom because the highest level of compensation has now jumped up to 10 billion Shillings (about US\$10 million).

State of the media in Zanzibar

While the Tanzanian media in general operates within a repressive legal regime, Zanzibar, which is part of the United Republic of Tanzania, is the worst affected. The Zanzibari government, which has the power to legislate laws independent of the union, has yet to respond to calls by media stakeholders to institute new legal and regulatory frameworks for the media. In Zanzibar, all media laws, including the law on the powers of presidential decrees, are yet to be repealed or amended. Unlike on the mainland, the arbitrary arrest of journalists in Zanzibar is a common occurrence.

The government media in Zanzibar is tightly controlled by the state through presidential decrees and draconian laws, which give the minister responsible for information the power to deregister a newspaper without question.

Unlike on the mainland, where there is a very competitive media market, state media dominates in Zanzibar. On the archipelago, there is just one private FM radio station, Zenj FM, which is owned by the Minister for Information, Sports and Culture of the union government, Mohamed Seif Khatibu.

The state-owned media include Television Zanzibar, Sauti ya Tanzania Zanzibar and the *Zanzibar Leo* newspaper. Since *Dira* was banned in 2004, the private print media has been non-existent.

Conclusion

Despite the boom in media outlets, press freedom is still in danger because of the failure to translate the information and broadcasting policy into a single media law. Action is needed to put in place the necessary regulatory mechanisms for the Tanzanian media. The incomplete process of media law reform must be concluded within a specific timeframe. In Zanzibar, the media law reform process must begin with stakeholders discussing the framework for a new media policy

Antes de tomar conhecimento do estado actual dos mídias na Tanzânia, é importante saber o percurso que o média massiva percorreu a partir do período mono partidário até ao estado actual de política multipartidária.

De facto, a Tanzânia ainda sofre dos efeitos colaterais do controlo do estado sob os mídias praticado entre 1965 e 1992, altura em que o país adoptou uma governação multipartidária.

Durante o sistema político multipartidário, houve um aumento enorme de estabelecimentos dos mídias privados em competição com os mídias estatais.

O número de jornais diários aumentou para 11, mais uma dúzia de publicações semanárias e quinzenais.

Um exemplo claro do surgimento dos jornais ocorreu durante as vésperas das eleições gerais de 2005, altura em que surgiram muitos jornais concentrados em notícias políticas sensacionais.

Contudo, muitas pessoas são de opinião que o surgimento dos mídias massivos não correspondeu com o desenvolvimento do jornalismo profissional, porque centenas de jovens desempregados aderiram a esta profissão sem habilitações formais.

O crescimento enorme do número dos estabelecimentos dos mídias também afectou os mídias de rádio e televisão. Estima-se que a Autoridade Reguladora de Comunicações da Tanzânia (ARCT) registou mais de 40 estações de TV e Rádio recentemente. Contudo, é importante tomar nota que a maioria dos mídias electrónicos privados registados são estações de rádio FM e canais de TV vocacionados em divertimento e programas religiosos.

Existe também um consenso geral que a liberalização do sector dos mídias não progrediu em paralelo com a introdução de um mecanismo institucional, legal e extra legal para garantir a liberdade de imprensa. O processo de mudança de mecanismos reguladores já teve início, mas ainda não concluiu.

Ambiente político, social e económico que estrutura os mídias.

Conforme observado anteriormente o pluralismo político incentivou o crescimento enorme dos mídias massivos privados, mas isto não significa que o estado não controla de forma rigorosa a imprensa privada. Considerando que o governo possui o poder absoluto para registar ou cancelar o registo dos mídias escrito e electrónico, o estado tem uma grande oportunidade de determinar o funcionamento dos mídias. Em Outubro de 2003, o governo aprovou a política de Informação e Rádio difusão e Televisão, mas esta política ainda contradiz as leis de imprensa cruéis actuais.

Apesar do governo ter prometido aprovar uma lei de imprensa singular, depende da Liberdade da Lei de Informação revogar e emendar as leis cruéis, falta o compromisso político porque não foi estipulado nenhum espaço de tempo para implementação da política de informação, radiodifusão e televisão.

O novo governo tentou dar esperança aos profissionais e proprietários dos mídias através da criação do Ministério dos Desportos, Informação e Radiodifusão e Televisão, mas apela-se por mais trabalhos para implementar a política.

Na frente social e cultural, o sector de imprensa da Tanzânia está sendo afectado pelo domínio da cobertura dos mídias internacionais gerido por monopólios estrangeiros. Existe um protesto contra a penetração de valores sócio culturais estrangeiros.

Os valores culturais africanos há muito apreciados estão sendo arruinados por valores estrangeiros que estão a penetrar através dos mídias de rádio difusão e televisão, especialmente através dos canais de televisão e da Internet. O acesso à pornografia através da Internet e canais de Televisão é uma prática diária. Um indicador do domínio da rádiodifusão estrangeira orientada é a grelha de programas da televisão, que constitui quase 80 por cento dos programas diários.

Relativamente ao ambiente económico para o funcionamento dos mídias, o sector privado é fraco e enfrenta falta de recursos, o que criou lacunas e resultou na submissão dos mídias privados ao estado até ao ponto de colocar em perigo a independência profissional e editorial. As vezes as pessoas se perguntam porquê que até a imprensa privada se tornou num porta-voz para restrição da liberdade de informação.

A base económica fraca dos proprietários dos mídias também levou a criação de alianças dentre o estado, os proprietários dos mídias privados e alguns empresários gigantes as custas da liberdade de imprensa. Para garantir a sobrevivência dos seus negócios nos mídias, os proprietários dos mídias foram submergidos pela procura da publicidade e pelo interesse político.

O sistema de taxas também foi desfavorável aos mídias conforme demonstrado por inúmeras propinas e taxas de importação elevadas sob os materiais de impressão. O governo ainda tem que dar resposta as solicitações constantes das empresas gráficas e editoras para redução destes custos.

Importa referir que devido ao constrangimento económico, tal como a falta de comunicação e transporte, quase todos órgãos dos mídias estão sedeados nas áreas urbanas, negando o grosso da população rural (mais de 80 por cento) da população da Tanzânia o acesso ao fluxo livre de informação na altura certa. Na sua maioria contam somente com a estação de rádio Tanzânia Dar-es-Salaam, pertencente ao governo.

A circulação de jornais é de baixo nível em comparação com outros estados africanos, devido aos factores acima expostos agravada pelo baixo nível de alfabetização na maior parte das áreas rurais.

Estrutura Institucional, Legal e Política para o Regulamento dos mídias

A estrutura institucional para o regulamento dos mídias não é conducente conforme demonstrado pela incapacidade do governo de atribuir mais financiamentos para melhoria do jornalismo. Existe também o problema de sobreposição de funções e políticas entre as instituições do governo. Por exemplo, enquanto que o Ministro da Educação e Cultura não é directamente responsável pelo regulamento do Sector de Informação e Radiodifusão e Televisão, em Outubro de 2005, o Ministro emitiu uma orientação para proibir a Haki Elimu, uma organização da sociedade civil de realizar e publicar qualquer outra pesquisa ou publicar qualquer artigo sobre o sistema de educação da Tanzânia, sem qualquer esclarecimento sobre que lei o Ministro aplicou para proibição da liberdade de expressão.

Relativamente a estrutura legal e política para o regulamento dos mídias, continua a ser problemático, devido a não revogação e emenda das leis cruéis nos estatutos nacionais.

O braço executivo do estado continua a utilizar os seus poderes excessivos estipulados em várias leis cruéis para suprimir a liberdade de imprensa e de forma discreta ou aberta envia intimações à emissoras ou jornais.

É de realçar que se a política de Informação e Radiodifusão for traduzida em uma única lei, a

Tanzânia terá o mecanismo regulador mais conducente na material a nível da Africa Sub Sahariana.

A nível constitucional, a Tanzânia possui vários centros de poderes e autoridade, incluindo os Comissários Distritais e Regionais e o Ministro de tutela que podem prejudicar a liberdade dos mídias e impedir os jornalistas de executarem as suas funções.

Os pesquisadores da imprensa compilaram 15 pedaços de legislação que contradizem a política actual, afectando desde modo a liberdade de imprensa. Tais como a Lei de Segurança Nacional de 1970, a Lei dos Jornais de 1996, a Lei da Autoridade Reguladora das Comunicações da Tanzânia, a Lei dos Serviços de Radiodifusão e Televisão da Tanzânia de 1993, conforme emendado em 2003 e a Lei de Exibição de Filmes e Peças Nr. 4, 1976.

O outro componente é a Lei de Administração Regional de 1997, que capacita os agentes executivos, os comandantes dos distritos e os comandantes regionais para deterem indivíduos, incluindo jornalistas e um Código Penal detestável de 1975, que causou o aprisionamento de alguns jornalistas.

Os demais componentes incluem: A Contumácia do Tribunal, sob o artigo 114 (d) do Código Penal, o Regulamento das Prisões, o Regulamento da Polícia e a lei sobre as forças de defesa do povo da Tanzânia (TPDF) que proíbe os jornalistas de cobrirem as actividades destas instituições e os seus funcionários sem permissão.

As demais leis repressivas incluem os poderes constitucionais excessivos do Presidente, que dentre outras questões, podem censurar o fluxo da informação pública, tais como a Lei da Comissão de Ética para os líderes políticos e a lei dos mídias em Zanzibar.

Dada a natureza repressiva destas leis, os jornalistas as vezes são mal tratados, humilhados, espancados e presos sem o cumprimento do procedimento adequado de justiça.

Alguns casos pontuais incluem o espancamento de dois jornalistas por agentes do Ministério das Prisões no dia 10 Setembro 2005 e a proibição do funcionamento do jornalista Jabir Idrisa em Zanzibar a partir de 09 Junho 2005.

A Lei dos Jornais, dentre outras questões, prevê a difamação e calúnia, sem estabelecer parâmetros claros ao tribunal para instituir multas e montantes de indemnização, também afecta a liberdade dos mídias porque o montante actual mais elevado de indemnização subiu para 10 bn/ –, equivalente a US\$10 milhões

Conclusão

Geralmente, observou-se que apesar do aumento enorme do número de estabelecimentos dos mídias, a liberdade de imprensa ainda continua em perigo devido a falta da transformação da política de informação, radiodifusão e televisão em uma única legislação. Esta decisão é necessária para implementação dos mecanismos reguladores conducentes para o sector da imprensa da Tanzânia. O processo incompleto da reforma das leis dos mídias deve ser concluído com a criação de um calendário de implementação entre os intervenientes.

· **ALERT**

Date: December 03, 2005

Persons/Institutions: Tanzania Daima, Amani,

Violation: Censored

The government of the United Republic of Tanzania has suspended the opposition-aligned Kiswahili newspaper “Tanzania Daima” for three days for publishing a picture deemed offensive to President Benjamin Mkapa.

The government claims the photograph and its caption were misleading and intended to belittle, defame and create public disaffection against the president and his government.

A government statement released by the Prime Minister’s Office on 2 December 2005 said the penalty was imposed under section 25 (1) of the Newspaper Act No. 3 of 1976. It said the penalty would serve as a lesson to other media institutions.

In addition, the weekly entertainment newspaper, “Amani”, has been suspended for 28 days on the grounds of ethical violations. The suspensions of both publications came into effect on December 3, 2005.

Tanzania’s Newspapers Act, 1976 regulates the operation of newspapers in the country. The Act has a number of cumbersome and restrictive provisions that seriously impinge upon media freedom. In fact, the Act retains most of the oppressive aspects of the Newspapers Ordinance legislated during the colonial days to subjugate the colonised people. The Act gives the Minister of Information wide discretionary powers to ban or close down newspapers. The minister may prohibit publication of any newspaper “in the public interest” or “in the interest of peace and good order”.

Furthermore, the Newspapers Act also provides for the offence of sedition. The Act defines an act, speech or publication as seditious if it aims to bring lawful authority into hatred or contempt, or excites disaffection against the same, or promotes feelings of ill-will and hostility between different categories of the population. Anyone printing or publishing a newspaper which contravenes these provisions is liable to a fine or a prison sentence of up to three years, or both.

· **ALERT (including updates)**

Date: September 10, 2005

Persons/Institutions: Mpoki Bukuku, Christopher Kidanka, innocent civilians

Violation: Beaten

On September 10 2005, Mpoki Bukuku, chief photographer for the “Sunday Citizen” newspaper, and Christopher Kidanka, information officer for the Legal and Human Rights Centre (LHC), were brutally beaten by a group of prison guards in Ukonga, in the Tanzanian capital Dar es Salaam. The prison guards also brutalised innocent civilians and severely injured some of them.

Bukuku and other journalists were at the scene to cover the eviction of ten families from houses formerly owned by Air Tanzania Corporation (ATC) near Ukonga Remand Prison. The families have occupied the houses for over 20 years and are currently involved in a legal battle with the Prisons Department over ownership of the homes. According to media reports, the case was brought to court on September 6 and adjourned to a later date. Journalists and photographers were ordered not to cover the event, but defied the order.

* **September 12, 2005:** Home Affairs Minister Omar Ramadhan Mapuri declares the warders’ conduct “lawful”.

* **September 13, 2005:** Dar es salaam Regional Commissioner Yusuf Makamba has labelled the incident illegal and a serious violation of human rights. He announced that he had ordered the immediate arrest of all those involved and would likely institute charges against them.

* **September 16, 2005:** The Tanzania police force has formed a six-person committee to inves-

tigate the beating of a Bukuku, Kidanka and civilians by Ukonga prison guards in Dar es salaam on September 10, 2005.

*** September 20, 2005:** Home Affairs Minister Omar Ramadhani Mapuri has offered a public apology and retracted a September 16, 2005, statement in which he declared lawful the conduct of prison warders and prisoners accused of violating the human rights of a journalist and civilians.

The minister, while retracting his earlier statement, argued that it had been misinterpreted by the media as approval of the conduct of prison wardens and prisoners who had severely beaten and injured a number of civilians and a journalist during the 10 September eviction of former tenants of the Air Tanzania Corporation (ATC).

· **ALERT**

Date: September 08, 2005

Persons/Institutions: HakiElimu

Violation: Other

Tanzania's Ministry of Education and Culture has banned a non-governmental organisation (NGO), HakiElimu, from undertaking and publishing studies regarding Tanzania's education system. The ban became effective on September 8, 2005.

According to a circular dated September 8, and sent to all government departments, HakiElimu's executive director has been accused of "disparaging the image of our education system and the teaching profession of our country through his media promotion of self-created caricatures masquerading as teachers and pupils and has repeatedly failed to conform with directives given to him by the Ministry of Education and Culture both in writing and verbally."

· **ALERT**

Date: June 10, 2005

Persons/Institutions: Jabir Idrissa

Violation: Censored

Authorities on the semi-autonomous Tanzanian island of Zanzibar have banned political columnist Jabir Idrissa from writing, saying he was working without permission. Idrissa believes he was banned for criticizing the Zanzibar government.

The Zanzibar-based Idrissa is a well-known political columnist for the weekly, Swahili language newspaper Rai. The newspaper is based on the Tanzanian mainland, but sells on Zanzibar. Idrissa said he had been writing the column for about a year and that it had criticized the Zanzibar government for human rights abuses and bad governance.

In a statement on June 09, 2005, Zanzibar's information ministry said that Idrissa had been working illegally as a journalist on Zanzibar and that he was being barred from practicing journalism until he complied with the island's regulations. Director of Information Ali Mwinyikai said that a 1988 Zanzibar law obliged all journalists working on the island to obtain press accreditation from his ministry, but that Idrissa had not done so. This accreditation must be renewed annually, he said.

· **ALERT**

Date: May 14, 2005

Persons/Institutions: Tanzania Daima newspaper, Tanzam Printers and Stationers

Violation: Legislation

The executive director of St. Mary's Schools, Reverend Gertrude Lwakatare, has demanded an apology, retraction and compensation of one billion Tanzania shillings (approx. US\$884,000) from M/s. Free Media Limited, publishers of the newspaper "Tanzania Daima", and Tanzam

Printers and Stationers for publishing an alleged defamatory story about her.

According to a demand notice dated May 14, 2005, sent to the parties via Henry Mkumbi and Company Advocates, the newspaper published the alleged defamatory story in its May 13 edition (issue 163) under the headline, “Rev. Lwakatare in Trouble”.

National Overview

By Elizabeth Mweene-Chanda

Broadcast lecturer in the Department of
Mass Communication, University of Zambia



Zambia

Zâmbia

Panorâmica Nacional

Por Elizabeth Mweene-Chanda. A Sra. Chanda é professora de radiodifusão no Departamento de Comunicação Massiva. Actualmente está a fazer o mestrado em directo na mesma universidade.

There were a number of violations on freedom of information in Zambia in 2005. On June 15 2005 in Lusaka, ruling Movement for Multi-Party supporters attempted to disrupt sales of *The Post*, a privately owned newspaper, attacking the newspapers' vendors both at the printing plant in the industrial area and outside the *Times of Zambia* offices in the city centre.

The cadres, armed with machetes, ambushed the vendors between 05h00 and 06h00 and grabbed about 2 500 copies of that day's edition of *The Post*, which was headlined 'Levy u-turns on Bulaya's nolle'. This was in reference to a dramatic decision by the state to re-institute criminal proceedings against former Ministry of Health permanent secretary Dr Kawisha Bulaya who was alleged to have made the government lose billions of Kwacha through the purchase of Bulgarian anti-retroviral drugs, which were of questionable quality.

On September 15 2005, editor of the *Monitor* newspaper Whitney Mulobela received a letter from the Ministry of Defence requesting a meeting with him over an article published in the August 12 – 15 edition of the bi-weekly tabloid entitled 'Mwanawasa places security wings on higher alert'. The article quoted an unnamed Zambia Air Force officer saying security wings had been alerted following the release from jail of an opposition party president, Micheal Sata.

Police intimidation

On April 7 2005 police in Zambia's Nakondes district beat up Zambia Information Service reporter Jonathan Mukuka, forcing him to flee into neighbouring Tanzania for a week. This followed a story in which Mukuka reported in the *Daily Mail* that the Nakonde District Commissioner had advised residents of the town not to take the law into their own hands by beating to death people accused of practicing witchcraft. This was after Nakonde residents complained about police releasing murder suspects from police custody without charging them. The residents accused the police of corruption.

On June 22 2005 police in Lusaka questioned Anthony Mukwita, a Radio Phoenix 'Let the People Talk' programme host, over a fax from an anonymous caller, which he had read on the June 10 2005 edition of the programme. The fax accused government of condoning corruption and warned that the country might slip into anarchy as a result.

The issue under discussion was that of the *nolle prosequi* (a legal Latin term meaning 'unwilling to pursue') entered by the state on May 17 2005 in favour of former permanent secretary of health Dr Kawisha Bulaya, who was being prosecuted for alleged abuse of office involving 3 billion Kwacha (US\$640 000). These funds were meant to purchase anti-retroviral drugs for the government from a Bulgarian company which he allegedly had interests in. The *nolle prosequi* resulted in Bulaya's discharge from court, a move that brought about sharp criticism for the media.

On December 20 four journalists – Radio Phoenix reporter Kangwa Mulenga, *The Post* senior reporter Brighton Phiri, Radio Q-FM reporter Mutuna Chanda and *Times of Zambia* Chief Photographer Eddie Mwanaleza – were beaten and later charged with conduct likely to cause a breach of peace. The journalists were arrested after attempting to catch a glimpse of 68 people who were being held at a Lusaka police station for trying to demonstrate against the government's position on the time-frame for the adoption of the republican constitution.

Defamation

There was one major defamation case this year. This involved *The Post*'s editor-in-chief Fred Mmembe who was arrested and charged with defaming the President on November 9 2005. Mmembe was alleged to have published an article in the November 7 2005 edition of *The Post*

“with intention to bring the reputation of his Excellency Levy Patrick Mwanawasa State Counsel into hatred, ridicule and contempt”, with words stating that Levy exhibited foolishness, stupidity and lack of humility.

The words were published in an editorial in which Mbembe criticised the President for not heeding former president Kenneth Kaunda’s advice that he should iron out differences over the adoption of the proposed new constitution with his critics.

It is currently an offence under section 69 of the Penal Code for anyone with the intention of bringing the Head of State into hatred, ridicule, or contempt to publish any defamatory matter insulting of the President. The courts have for years upheld the constitutionality of section 69 on the grounds that the President is said to enjoy a special status and it is therefore legitimate and justifiable to protect his status. However, such a provision can be said to have a stifling effect on freedom of expression, especially since the said section has no provision for taking into account the context or background on which such material is published or said. The trial is currently ongoing. This is the fourth legal suit in which Mbembe has fallen victim to the said section over the years.

Freedom of information

This year the media continued to fight for legislative changes intended to enhance freedom of information in the country. During World Freedom Day celebrations on May 3 2005, the media called on government to enact the Freedom of Information Bill immediately.

Earlier on January 20 then Minister of Information and Broadcasting Services Mutale Nalumango stated during a radio programme on the Zambia National Broadcasting Corporation services that government was not in a hurry to enact the Freedom of Information Bill.

On December 16 2005, the new Minister of Information and Broadcasting Services, Vernon Mwaanga, stated that the government was still researching information laws of several other countries to come up with laws that will reconcile state security.

Government’s arguments of the need for consultations on the basis of national security appear to be a scapegoat for its failure to enact the information bill. Sections 22 to 27 of the act lay down the procedures to be followed when acquiring information from public authorities. Sections 11, 12, 13 and 14 provide criteria for when a public authority is exempt from giving information and what type of information. Section 9 prohibits and penalises disclosure of information without any written consent from the commission. Therefore, arguments of breach of national security are not well founded as any such breach can be dealt with by the courts of law.

State denies constitutional guarantees of access to information

In a related development government opposed a proposal by the current Constitutional Review Commission that the new constitution should contain a clause guaranteeing access to information. Minister of Justice George Kunda stated in a letter to the Secretary of the Constitution Review Commission in October 2005 that the government was opposed to Clause 72 in the draft constitution, which provides for access to freedom of information because it would compromise state security.

Broadcasting boards still pending

The media is still at loggerheads with the government over broadcasting board members. This

is because Minister of Information and Broadcasting (MIBS) Mutale Nalumango announced on January 16 2005 that government was appealing against the Lusaka High Court ruling. This ruling compelled her to submit to Parliament the names of board members recommended to sit on both the Independent Broadcasting Authority (IBA) and Zambia National Broadcasting Corporation (ZNBC) boards. These were the names as recommended by the two *ad hoc* committees appointed under the ZNBC (Amendment) and IBA Acts.

On December 23 2004 Lusaka High Court Judge Gregory Phiri ordered the Minister to submit the recommended names to Parliament for ratification and ruled that her decision to veto the names of board members was bad law, irrational and null and void. In passing the said judgment the judge applied the Mischief Rule of Interpretation which states that when interpreting statutes one should try and find in the words or phrases the mischief that Parliament intended to get rid of when passing a particular statute. In this instance the mischief was clearly to minimise government control in the operations of the media.

Therefore, in applying this rule in passing judgment Judge Phiri observed that the two pieces of legislation represented a clear and deliberate effort at reform of the law and circumstances that previously existed, and that the two laws were clearly and deliberately aimed at detaching government from direct day-to-day control of both the public as well as private media organisations in the country.

In a new development, Information and Broadcasting Services Minister Vernon Mwaanga announced on January 6 2006 that the government is seeking advice from the Attorney General over ratification of names of the two boards

Conclusion

The essence of press freedom in any country is to ensure that government is accountable to the public and to afford the citizenry greater understanding and participation in the developmental affairs of country. This will only be achieved in Zambia when necessary legislative measures are fully operational.

Registaram-se violações contra a liberdade de informação no ano de 2005. No dia 15 de Junho de 2005, simpatizantes do partido no poder, o Movimento para o Multipartidarismo, em Lusaka tentaram impedir a venda do jornal privado, atacando os vendedores, tanto na Impressora sedeada na area industrial, como fora dos escritórios do Times of Zambia no centro da cidade.

Os caixilhos armados com catanas, cercaram os vendedores dentre 05h00 e 06h00 e confiscaram aproximadamente 2500 cópias da edição do jornal The Post do dia 15 de Junho de 2005, que tinha como manchete “Levy dá meia volta no caso de Bulaya.” Isto foi em referência a decisão dramática tomada pelo governo com vista a re-instituir acusações criminais contra o antigo Kawisha Bulaya, ex-secretário permanente do Ministério da Saúde, que alegadamente esbanjou dos cofres do estado, 3 biliões kwachas (USD640 mil) através da compra de comprimidos anti-retrovirais da Bulgaria. A qualidade destes comprimidos é questionável.

No dia 15 de Setembro de 2005, Whitney Mulobela, editor do jornal do Monitor, recebeu uma carta do Ministério da Defesa solicitando uma reunião sobre um artigo entitulado “Mwanawassa poe as asas da segurança em estado de alta alerta” publicado nas edições de 12 à 15 de Agosto no tabloide seminário.

O artigo foi escrito por Chikwanda Mwansa, reporter staff. Mwansa citou uma fonte anonima da força aeria Zambiana, dizendo que a força aeria estava em estado de alerta, depois da soltura do líder da oposição Michael Sata.

Comunicação Social sofre intimidações da policia

A policia realizou campanhas intimidativas contra a comunicação social neste ano. À 07 de Abril de 2005, a policia espancou o reporter Jonathan Mukuka dos serviços de informação da zambia, no districto de Nakondes. Mukuka viu-se forçado a refugiar-se por uma semana na vizinha república da Tanzania.

O incidente segue-se do artigo escrito por Mukuka, no jornal Daily Mail, onde se refere que o comissário do districto de Nakonde, tivera aconselhado os residentes da cidade a não tomar a justiça nas suas próprias mãos, espancando fatalmente as pessoas acusadas de praticar feitiçaria. Isto, ocorreu depois dos residentes de Nakonde terem levantados queixas contra a policia, por soltarem suspeitos de homicídio, sem serem julgados. Os residentes, acusaram a policia de ser corruptos.

No dia 22 de Junho de 2005, a policia questionou em Lusaka, Anthony Mukwita, o hospedeiro do programa popular da radio phoenix, por ter lido na edição do dia 10 de Junho de 2005, um fax de um ouvinte anónimo que acusava o governo de ser cúmplice dos actos de corrupção e advertindo que como resultado o país pode mergulhar-se em anarquia.

O caso sob discussão era o de [nolle prosequi] levantado pelo estado à 17 de Maio de 2005, a favor do Dr Kawisha Bulaya, ex-sercetário permanente, que estava sendo processado legalmente por alegado abuso de poder envolvendo 3 biliões de kwacha (USD640.000). Estes fundos destinavam-se para a aquisição de comprimidos anti-retrovirais a partir de uma empresa da Bulgaria. O caso nolle prosequi, resultado na libertação de Bulaya pelo tribunal, uma moção que gerou criticismo no seio dos média.

No dia 20 de Dezembro, quatro jornalistas nomeadamente o reporter Kangwa Mulenga da radio phoenix, o reporter senior Brighton Phiri do jornal The Post, Mutuna Chanda da radio Q-FM e o reporter Eddie Mwanaleza, o chefe fotografo do jornal Times of Zambia, foram

espancados, tendo sido acusados mais tarde de conduta [indigna] crime que se equipara com desestabilização da paz.

Os jornalistas foram presos quando procuravam obter o relance de 68 pessoas detidas numa cela policial em Lusaka, por terem tentado realizar uma demonstração contra a posição do governo sobre o tempo necessário para a adopção da constituição republicana.

Difamação

Registou-se um caso de difamação durante o ano, que envolveu Fred Mmembe, o editor em chefe do jornal The Post. Mmembe foi preso e acusado de ter difamado o presidente no dia 09 de Novembro de 2005.

Alegava-se Mmembe ter publicado na edição de 07 de Novembro de 2005 do jornal The Post, um artigo com a intenção de ridiculizar e menosprezar a reputação do conselho do estado de S. Excia Levy Patrick Mwanawasa “palavras que expressam que Levy exibiu tolice, estupidez e falta de humildade.”

As palavras foram publicadas num editorial, no qual Mmembe criticava o presidente por não ter abraçado o conselho do ex-presidente Kenneth Kaunda, que sugeria a resolução das diferenças com os seus opositos na adopção da proposta constituição.

É actualmente, ofensa sob a secção 69 do código penal, qualquer pessoa que com a intenção de mergulhar o presidente em clima de ódio, ou ridiculizá-lo ou procure publicar artigos difamatórios que insultem o presidente. Os tribunais continuam a observar a constitucionalidade da secção 69 sob o pretexto de que o presidente deve gozar um estatuto especial, portanto, é legítimo e justificável proteger o seu estatuto. Todavia, pode se dizer que tal estatuto tem efeitos sufocantes para a liberdade de expressão, porque esta secção não acarreta consigo uma provisão que tome em consideração, o contexto ou os antecedentes no qual o material é publicado ou dito.

O julgamento continua em curso. Este é o quarto caso legal em que Fred Mmembe, cai victima da secção 69.

Clausula sobre a liberdade de informação

Neste ano, a comunicação social continuou a batalhar para mudanças legislativas que realcem a liberdade de informação no país. Durante a celebração do dia mundial da liberdade de expressão, comemorado anualmente à 3 de Maio, a comunicação social apelou ao governo a promulgar de forma imediata o projecto-lei da liberdade de expressão.

Antes, à 20 de Janeiro, Mutale Nalumango, ministro da informação e radiodifusão declarou num programa da radio nacional da Zambia que o governo não tinha pressa de promulgar o projecto-lei da liberdade de informação.

No dia 16 de Dezembro de 2005, Vernon Mwaanga o novo ministro da informação e radiodifusão declarou que o governo estava ainda em consultas e a estudar as leis de informação de varios países para poder compilar leis que possam reconciliar a segurança do estado.

O argumento do governo sobre a necessidade de consultas na base da segurança do estado, aparenta ser um subterfúgio às suas falhas em criar a lei de informação.

As secções 22 até 27 do acto, estebelecem os procedimentos a ser cumpridos, quando se obter informações das autoridades públicas. Secções 11, 12, 13 e 14 providenciam o critério quando é que a autoridade pública está isenta de fornecer informações e que tipo de informação. A secção 9 proíbe e penaliza a revelação de informação sem consentimento por escrito da comissão.

Por isso, argumentos sobre infracção contra a segurança nacional, não estão devidamente fundados, uma vez que qualquer uma destas infracções podem chegar aos tribunais de justiça.

Governo rejeita garantias constitucionais do acesso à informação.

Num outro desenvolvimento relacionado, o governo opôs-se contra a proposta feita pela actual comissão constitucional de revisão que propunha que a nova constituição contenha uma clausula que garante o acesso à informação.

George Kunda, ministro da justiça, declarou numa missiva dirigida ao secretario da comissão constitucional de revisão, datada aos 31 de outubro de 2005, que o governo opunha-se à clausula 72 do esboço da constituição, que prevê pela liberdade de informação, porque a mesma comprometia a segurança do estado.

Conselho da radiodifusão ainda pendente.

Quanto a radiodifusão, a comunicação social continua em desacordo com o governo sobre a composição dos membros do conselho. Isto porque, o ministro da informação e radiodifusão Mutale Nalumango, anunciou no dia 16 de Janeiro de 2005, que o governo apelava contra a decisão do tribunal de Luasaka, que a compelia a submeter na assembleia nacional os nomes dos membros recomendados a se sentar no conselho das autoridades independente da radiodifusão (IBA) e no conselho para a radiodifusão nacional da Zambia (ZNBC). Estes eram os nomes conforme a recomendação da comissão ad hoc de nomeação, constituída sob a emenda da ZNBC e sob o acto do IBA.

No dia 23 de Dezembro de 2004, Gregory Phiri, juiz do tribunal de Lusaka, ordenou o ministro a submeter no parlamento os nomes recomendados pela comissão de nomeação para a sua ratificação. O Juiz Phiri, disse ainda que o uso do veto pelo ministro constituia má-lei, irracional e desprovida de toda e qualquer validade.

Ao passar este julgamento, o juiz aplicou a regra rebelde de interpretação que reside no princípio de que quando se interpreta estatutos, deve-se tentar procurar encontrar nas palavras ou frases cujas, o parlamento pretendia livrar-se, ao passar um estatuto particular. Nessa instancia o prejuizo era claramente para minimizar o controlo do governo nas operações da comunicação social.

Portanto, ao aplicar esta regra, o juiz Phiri ao passar o julgamento observou que os dois pedaços de legislação, representavam um esforço claro e deliberado na reforma da lei e circunstancias que existiam previamente e que as duas leis estavam claramente e deliberadamente apontadas a separar o governo do controlo diário, tanto da imprensa pública e privada no país.

Num desenvolvimento recente, o ministro para os serviços de radiodifusão, Vernon Mwangi, anunciou no dia 06 de Janeiro de 2006 de que o governo estava a procura de conselhos a partir do procurador geral no que toca a ratificação dos nomes para os dois conselhos.

Conclusão

A essência da liberdade de expressão em qualquer país, é assegurar que o governo preste as

suas contas ao público e que outorgue aos cidadãos um maior entendimento e participação nos assuntos de desenvolvimento do país. Isto, só será alcançado na Zâmbia, quando as medidas legislativas necessárias estiverem totalmente operacionais.

• **ALERT**

Date: December 19, 2005

Persons/Institutions: Shadreck Banda

Violation: Detained, threatened (questioned)

On December 19 2005, Weekly Angel newspaper editor Shadreck Banda was taken to the offices of the Drug Enforcement Commission (DEC) in Lusaka for questioning in connection with a story published in the 19 – 25 December 2005 edition of the newspaper.

The article concerned, which quoted a letter written by a DEC official to the Minister of Home Affairs Banda, gave an elaborate explanation of various money laundering investigations DEC was engaged in. Banda was interviewed for about three hours in the presence of both his lawyer and MISA Zambia Chairperson Kellys Kaunda. The DEC officials wanted to know the source of the story. Banda has been threatened with legal action for allegedly divulging details of an on-going investigation, which is an offence under the DEC Act. Banda was asked to return to the DEC offices on 20 December 2005 for further questioning.

• **ALERT (including updates)**

Date: November 09, 2005

Persons/Institutions: Fred M'membe

Violation: Detained, legislation (charged)

On November 8 2005, several plain clothes and armed uniformed police officers went to the offices of The Post newspaper in Lusaka demanding that the editor in chief, Fred M'membe, accompanies them to Kabwata Police station for questioning.

Post Newspaper Managing Editor Amos Malupenga told MISA Zambia that the police arrived at the newspaper's offices around 14h00 hours and said they wanted to interview M'membe in connection with articles which appeared in the November 7 edition of the newspaper. However, M'membe refused to accompany the police officers saying he would only do so the following day. Police had initially wanted M'membe to go with them to the police station without ever serving him with a 'call out' but M'membe refused to go.

* **November 09 2005:** Fred M'membe was arrested and detained in a police station in Zambia's capital Lusaka. He was held in custody for about six hours and released just before 17h00 after Inspector General of Police Ephraim Mateyo personally went to the Kabwata police station and ordered that he be given police bond. He is alleged to have published, in the November 7, 2005, edition of "The Post" newspaper, words stating that "[Zambian President Levy Patrick Mwanawasa] exhibited foolishness, stupidity and lack of humility" and with the intention of bringing [Mwanawasa's] reputation "into hatred, ridicule and contempt".

The words were published in an editorial criticising President Mwanawasa for not heeding former president Kenneth Kaunda's advice that he should iron out differences with his critics over the mode of adoption of the proposed new constitution.

* **November 10, 2005:** Fred M'membe pleaded "not guilty" before a Lusaka magistrate to a charge of "defamation of the president," an offence under section 69 of the Penal Code. M'membe, 46, appeared calm in the accused's dock as the magistrate read out the charge.

* **December 5, 2005:** The Lusaka Magistrate's court adjourned to December 28, 2005, the case concerning Fred M'membe, managing editor of Zambia's privately owned independent "The Post" newspaper, to allow M'membe, who is studying law at the University of Zambia, to complete his examinations. M'membe is charged with defamation of the President, an offence under section 69 of the Zambian Constitution.

• **ALERT**

Date: October 31, 2005

Persons/Institutions: Media in Zambia

Violation: Legislation (access to information)

The Zambian government has rejected a proposal that the new constitution being drafted by

the Constitution Review Commission (CRC) should contain a clause guaranteeing access to information.

The government has further opposed proposals in the draft constitution which aimed to extend provisions for media freedom.

In an October 31, 2005, letter to the Secretary of the Constitution Review Commission, Justice Minister George Kunda said the government was opposed to Clause 72 in the draft constitution, which provides for access to information, because it would compromise state security.

“Clause 72 is unacceptable because it can be subject to abuse and is likely to lead to a situation where the security of the State may be compromised,” Kunda said.

The government also rejected provisions in the draft constitution which would have provided for freedom of all electronic and print media from interference and protected journalists from disclosing their sources, except in court.

As well, while accepting a provision that provides for independence of the state-owned media, the government said this would be better dealt with under the Independent Broadcasting Authority (IBA) Act and Zambia National Broadcasting Corporation (ZNBC) Amendment Act.

However, in a controversial move, the government has called for the establishment of a Statutory Press Complaints Authority “to which members of the public can complain in case of irresponsible and injurious publications by journalists. Such a statutory body will balance the interests of the media with those of the public and individuals,” Minister Kunda said.

The CRC will reconvene to consider all the reactions to the draft constitution and produce its final constitution draft which is expected to be ready by the end of December.

• **ALERT**

Date: October 4, 2005

Persons/Institutions: Wamunyima Walubita

Violation: Detained, censored, beaten

On October 4 2005, Q-FM radio reporter Wamunyima Walubita was forced to erase material from his tape recorder which documented his mistreatment by police in order to secure his release from detention.

Walubita told MISA Zambia on October 6 that he was picked up by police while covering a riot by students from Evelyn Hone College, who were protesting against declining education standards at the institution. Walubita was taken to the Lusaka Central Police station and about to be charged. While this was happening, Walubita was recording the events on his recorder. When one of the officers realised that the tape was rolling, he demanded that the material be erased, but Walubita refused to comply. He was allegedly slapped and kicked as a result. A docket was then opened against him with the charge of “causing malicious damage to property” - the same charge slapped on the rioting students.

• **ALERT**

Date: September 15, 2005

Persons/Institutions: Whitney Mulobela

Violation: Threatened

On September 15 2005, the editor of “Monitor” newspaper, Whitney Mulobela, received a letter from the Ministry of Defence requesting a meeting with him over an article published in the 12 to 15 August edition of the bi-weekly tabloid.

The article, entitled “Mwanawasa places security wings on higher alert”, by Chikwanda Mwansa, quoted an unnamed Zambia Air Force (ZAF) officer saying security wings had been placed on heightened alert following the release of an opposition party president, Michael Sata, from jail. Sata is facing charges of espionage and sedition. The letter, which was dated September 6 and signed by Joel Chitafu, permanent secretary in the ministry, said, “It has been found necessary that a meeting be held with yourselves to discuss matters pertaining to the publication.” Chitafu said he wanted the meeting to take place “at the earliest possible convenience.”

• **ALERT**

Date: July 25, 2005

Persons/Institutions: George Chella, Nomusa Michelo, Stephen Bwalya

Violation: Threatened

On July 25 2005, reporters George Chella, Nomusa Michelo and Stephen Bwalya, of the privately-owned daily newspaper, "The Post", were questioned for more than five hours over statements made by opposition leader Michael Sata that appeared in the paper's July 21 edition. Sata had spoken out demanding humane treatment while in detention over a charge of sedition. Heavily armed police officers stormed the paper's premises the day before but were unable to arrest the journalists that day. They were subsequently summoned to report to the police station on July 25.

• **ALERT**

Date: June 29, 2005

Persons/Institutions: Post Newspaper editor, Fred M'membe

Violation: Threatened (questioned)

On June 29 2005 police in Lusaka recorded a "warn and caution" statement from Post newspaper Editor-in-Chief, Fred M'membe, over a series of editorials criticising government's handling of a corruption case involving former Ministry of Health Permanent Secretary, Kashiwa Bulaya. Government, through the Director of Public Prosecutions, Chalwe Mchenga, had withdrawn a case against Bulaya, who is alleged to have corruptly benefited from the purchase of anti-retroviral drugs from a Bulgarian firm.

M'membe's lawyer, Patrick Matibini, told MISA Zambia that M'membe was being investigated for possible "Defamation of the President" arising from the strongly worded editorials. M'membe reported to police headquarters at 09h00 hours in the company of Matibini and left about two hours later. He was not formally charged.

• **ALERT**

Date: June 21, 2005

Persons/Institutions: Ngande Mwanajiti, Bishop Paul Mususu

Violation: Threatened (questioned)

On June 21 2005, police in Lusaka questioned Inter-African Network for Human Rights and Development (AFRONET) Executive Director, Ngande Mwanajiti, and in a separate incident, Bishop Paul Mususu, Executive Director of the Evangelical Fellowship of Zambia (EFZ), over the fax from "Annoyed Zambians," that radio Phoenix "Let the People Talk" and "Face the Media Presenter Anthony Mukwita read on the June 10 2005 broadcast of "Let the People Talk," referring to a failed coup of 1997.

Both Mwanajiti and Bishop Mususu featured as guests on the programme.

Mwanajiti told MISA Zambia shortly after his 15 minutes interview on June 21, 2005, that Chief Inspector Silungwe of Lusaka Central police asked him to confirm whether Mukwita read the fax on the programme. He told MISA Zambia that he refused to give a statement to the police in the absence of his lawyer. And Bishop Mususu confirmed that he had been summoned to Lusaka central police on June 16 and 17 and was interviewed by three officers. Mususu told MISA Zambia that Lusaka Division Criminal investigations Officer, Chief Inspector Silungwe and detectives Yuyi and Sitali questioned him and wanted to know whether there was a fax sent to the programme and if Mukwita actually read it.

• **ALERT**

Date: June 15, 2005

Persons/Institutions: Post Newspaper and vendors

Violation: Censored

On June 15 2005, ruling Movement for Multiparty Democracy (MMD) supporters attempted

to disrupt sales of the privately owned The Post newspaper in Lusaka by attacking the newspaper's vendors, both at the printing plant in the industrial area and outside the Times of Zambia offices in the city centre, where vendors gather to collect most newspaper titles sold in the city.

Post newspapers Executive Editor, Amos Malupenga, told MISA Zambia that some MMD cadres armed with machetes ambushed the vendors between 05h00 and 06h00 hours, and grabbed about 2500 copies of the 15 June 2005 edition of The Post newspaper headlined "Levy U-turns on Bulaya's nolle," in reference to a dramatic decision by the State to re-institute criminal proceedings against former permanent secretary in the Ministry of Health, Kashiwa Bulaya, who is alleged to have made the government lose about K3 billion (US\$640 000) through the purchase of anti-retroviral drugs of questionable quality from Bulgaria.

• **ALERT**

Date: June 14, 2005

Persons/Institutions: Post Newspaper

Violation: Threatened

On June 14 2005 ruling Movement for Multiparty Democracy (MMD) women cadres were shown on Zambia National Broadcasting Television's main bulletin at 19h00 calling for the banning of The Post for its attacks on President Levy Mwanawasa.

Until this sudden turn of events, The Post had been running a campaign for almost a month calling for the prosecution of Bulaya and accusing President Levy Mwanawasa, Justice Minister George Kunda and Director of Public Prosecutions Chalwe Mchenga, of shielding the former permanent secretary because he had allegedly testified in favour of Mwanawasa when his presidency was challenged in the Supreme Court by some opposition parties.

On June 14, 2005, the government bowed to pressure from The Post, opposition parties, civil society groups and the public calling for the prosecution of Bulaya. Justice Minister Kunda said the *nolle prosequi* would be withdrawn and Bulaya would be tried.

• **ALERT (including updates)**

Date: June 14, 2005

Persons/Institutions: Anthony Mukwita

Violation: Threatened (questioned)

On June 14 2005, Lusaka police questioned Anthony Mukwita, a Radio Phoenix "Let the People Talk" programme host, over a fax anonymously sent, which he had read on air during the June 10 broadcast of the programme.

The fax accused the government of condoning corruption and warned that the country might slip into anarchy as a result.

The Chief Investigations Officer for Lusaka Division and two detectives followed Mukwita to the MISA Zambia offices from where he operates and questioned him in connection with the fax, signed only "Annoyed Zambians".

Mukwita was interviewed in the presence of MISA Zambia's chairperson, Kellys Kaunda. Another interview was set for 16 June 2005 but the police failed to show up.

* **June 16, 2005:** Radio Phoenix terminates Mukwita's contract citing his decision to read the controversial fax on the "Let the People Talk" programme, among other reasons.

* **June 17, 2005:** Lusaka division police commanding officer, Chendela Musonda, accuse Mukwita of avoiding questioning by police in connection with his June 10 broadcast of "Let the People Talk" programme on Radio Phoenix, which has unsettled authorities.

* **June 22, 2005:** Police have recorded a warn and caution statement from Mukwita. Mukwita's lawyer Sakwiba Sikota confirmed the development saying Mukwita was being investigated under Section 57 sub-sections (a) and (b) of the Penal Code and Chapter 87 of the laws of Zambia. Sikota said Mukwita is liable to a sentence of seven years imprisonment or a fine of 6 000 penalty fees or both, if found guilty

· **ALERT**

Date: April 07, 2005

Persons/Institutions: Jonathan Mukuka

Violation: Beaten

On April 7 2005, police in Zambia's Nakonde district beat Zambia Information Service reporter Jonathan Mukuka, forcing him to flee into neighbouring Tanzania for one week.

Armed police stormed Mukuka's house at around 8:30 p.m. (local time) on April 7, following a report that appeared in the "Zambia Daily Mail" and aired on the Zambia National Broadcasting Corporation radio news in which the journalist addressed Nakonde residents' complaints about police releasing murder suspects from custody without charge. The residents accused the local police of corruption.

Mukuka, who sounded very upset, related his ordeal to MISA-Zambia. "They stormed my house at 20h30, started beating me up, accusing me of 'putting their lives on the chopping board.' In the heat of the beating, I managed to hit one of them. This paved the way for me to run away from them. I hid in the next village. The following morning I fled into Tanzania," he explained.

· **ALERT**

Date: February 23, 2005

Persons/Institutions: Webster Chatila

Violation: Other

Twenty-three year-old Zambian student, Webster Chatila, is facing prosecution for staging a lone demonstration against the 2005 national budget, at a rally addressed by President Levy Mwanawasa, on February 23, 2005.

Chatila, was arrested in Mazabuka, about 120 kilometres from Lusaka, and charged with "Conduct likely to incite people to riot," for displaying three home-made placards, saying: "2005 budget, will the poor go to school?" "2005 budget is dangerous to our lives – Magande (finance minister) must go," and "The people of Mazabuka expect you to do more than you have to offer in your 2005 budget."

The following day, police reversed an earlier decision to release Chatila upon admitting the charge. He was kept in detention for another day, before being thrown into prison on February, 25, pending a court appearance. On February 28 Chatila appeared before a magistrate, and denied the charge of "Conduct likely to incite people to riot". He was granted bail, which he applied for himself, because he did not have a lawyer.

Meanwhile, MISA Zambia has decided to hire a lawyer to represent Chatila after considering his request for legal assistance.

· **ALERT (including updates)**

Date: January 16, 2005

Persons/Institutions: Media in Zambia

Violation: Legislation

On January 16 2005, Minister of Information and Broadcasting Services (MIBS) Mutale Nalumango announced that Government will appeal against the Lusaka High Court ruling compelling her to submit to Parliament the names of board members recommended to sit on both the Independent Broadcasting Authority (IBA) and Zambia National Broadcasting Corporation (ZNBC) Boards as recommended by the two Ad-Hoc appointments committees appointed under the ZNBC (Amendment) and IBA Acts.

Nalumango told the state owned Zambia National Broadcasting Corporation (ZNBC) news that Government was not satisfied with the outcome of the High Court ruling and had decided to appeal against it. Nalumango said something was lacking in the judicial interpretation by the High Court and Government wanted to exhaust all possible avenues in the matter.

*** December 23, 2004:** Lusaka High Court Judge Gregory Phiri ordered the Minister to submit the recommended names to parliament for ratification and ruled that her decision to veto the names of board members was bad at law, irrational, null and void and of no effect. Judge Phiri also ruled that the Minister be prohibited from vetting the names as recommended by the two duly constitute Ad-Hoc appointments committees because she did not have the power to do so under the two legislation.

*** June 2004:** MISA Zambia, Press Association of Zambia (PAZA), Zambia Union of Journalists (ZUJ), Zambia Media Women's Association (ZAMWA), Society of Senior Zambian Journalists (SSZJ) and the Post newspaper's Press Freedom Committee jointly sought judicial interpretation over the appointments process by suing the Minister and the Attorney General.

Both the ZNBC (Amendment) Act and IBA Act became law in December 2002 but could not be implemented fully because the Minister declined to submit the names of recommended people to sit on the two boards to Parliament for ratification.

The IBA Act seeks to establish an independent body to control and regulate broadcasting in Zambia while the ZNBC (Amendment) Act intends to transform ZNBC from a state broadcaster to a public service broadcaster.

*** February 11, 2005:** The Lusaka High Court adjourned hearing in the case in which the State has applied to the High Court to stay the judgement made by Lusaka High Court Judge Gregory Phiri on the appointment of nominated board members of both the Independent Broadcasting Authority (IBA) and Zambia National Broadcasting Corporation (ZNBC) will be heard before Judge Gregory Phiri to February 24 2005.

This follows an application by the Chief State Advocate Dominick Sichinga to adjourn because there had been no sufficient notice to re-schedule the hearing from February 16 to February 11 2005. The State is dissatisfied with Justice Phiri's decision and filed a notice of appeal against the decision to the Supreme Court on January 27, 2005.

National Overview
By MISA-Zimbabwe



Zimbabwe

Zimbabwe

Panorâmica Nacional
Por MISA-Zimbabwe

As 2005 drew to a close, the government of Zimbabwe demonstrated increasing paranoia, intolerance and disdain for opposing views by seizing the passport of publisher Trevor Ncube, arresting Voice of the People Communications Trust (VOP) staff and confiscating equipment from the same organisation.

Immigration officials in Bulawayo seized Ncube's passport on December 8 2005 upon his arrival from South Africa. No reasons were advanced for the unlawful action other than that Ncube was on a list of citizens whose passports were to be withdrawn. Ncube is the chairman of Zimind, publishers of the *Zimbabwe Independent* and *Zimbabwe Standard* weeklies. He is also the publisher of the South African weekly *Mail & Guardian*. His passport was released after the Attorney General's Office conceded that the seizure was unlawful.

Barely a week later the authorities descended on the Harare offices of the VOP Radio station. They arrested three staff members and confiscated equipment, computers and administration files. The journalists were released without being charged after four nights at Harare Central Police station.

Significantly, these actions against human freedoms and rights came to the fore in a year during which the country held its sixth parliamentary elections. Zimbabwe has been experiencing severe economic and political problems since 1998. The March elections, however, did not bring much-desired renewal as the ruling Zanu-PF failed to arrest the country's economic decline.

The launch of Operation Murambatsvina ('Restore Order') in May 2005 dented hopes of a government that is determined to correct its human rights record. Tens of thousands of people were made homeless after the government destroyed their shacks and businesses, effectively killing the country's burgeoning informal sector.

Undaunted by a subsequent United Nations report slamming the country's human rights deficit, the Zanu-PF-dominated parliament passed the controversial Constitutional Amendment No 17 Bill in August 2005. This bill reintroduced the Senate and seeks to restrict the travel of individuals deemed to be acting against the economic interests of the country.

Among other contentious clauses, the bill strips the right to the courts by aggrieved parties in cases where their land has been acquired by the state. The only appeal allowed is for compensation for the improvements on land. This violates Zimbabwe's international obligations, particularly Article 7 (1) of the African Charter on Human and Peoples' Rights which includes "the right to appeal to competent authority organs against acts violating his fundamental rights".

While the government blames its economic misfortunes on recurrent droughts and international sanctions, it is these wanton human rights violations, which have earned the country its pariah status. Zimbabwe was ranked the least competitive of the 117 economies studied by the World Economic Forum.

As has become commonplace, the police descended on demonstrators agitating for a new constitution and arrested the leaders of the National Constitutional Assembly. Protests against the high cost of living were extinguished in a similar fashion, resulting in the arrest of leaders of the umbrella Zimbabwe Congress of Trade Unions.

Media environment

Zimbabwe is far from conforming with its constitutional, regional and international obliga-

tions as mandated under the various charters and conventions it has signed, ratified and acceded to in order to foster an environment that respects freedom of expression as a fundamental human right¹.

This intransigence is amply demonstrated through the enactment and amendments to legislations that have a direct bearing on the exercise of the right to freedom of expression. Despite wide criticism against its restrictive media laws in the wake of the closure of four independent publications, harsh legislation designed to protect the executive from any form of criticism continues to find its way into the country's statutes.

Private and government-owned media, however, cannot escape blame for failing to put issues pertaining to human rights on the national agenda, especially in relation to social, economic, political and cultural rights.

While cases pertaining to the harassment, arrest, vilification and assault of journalists working for the private media have declined compared to the period leading to the 2000 and 2002 parliamentary and presidential elections, respectively, the clamped legislative media environment is still far from ideal. The decline in cases of media freedom violations is largely due to the absence of the critically informative *Daily News* and other newspapers such as *The Tribune*².

The enactment of the Criminal Law (Codification and Reform) Act and the tabling of the General Laws Amendment Act, which seek to tighten sections of the Public Order and Security Act (POSA), speak volumes of a government still recovering from the scare of the tightly contested 2000 elections.

The repressive Broadcasting Services Act (BSA), Access to Information and Protection of Privacy Act (AIPPA) and the Public Order and Security Act (POSA) were put in place after the ruling Zanu-PF's near defeat in the 2000 parliamentary elections. This triggered an unprecedented wave of violence against private media journalists and opposition supporters ahead of the 2002 presidential elections.

These developments were not restricted to the print media alone. Scores of experienced journalists and broadcasters were retrenched at the then Zimbabwe Broadcasting Corporation, now Zimbabwe Broadcasting Holdings (ZBH), and replaced by juniors handpicked by then Minister of Information and Publicity Professor Jonathan Moyo. The retrenched media workers are still to receive their retrenchment packages some three years after they were made redundant³. This has led to most of them living from hand to mouth, while others have relocated to South Africa, the United Kingdom and United States.

As a result, the country's sole public broadcaster is manned by inexperienced personnel, as evidenced by the poor quality of news and programme content. Those still in ZBH's employ sometimes have to contend with late salaries, while security of tenure is also never guaranteed for those working in the private or government-controlled media, as arrests of journalists or closure of independent publications is always a risk.

Journalists working for the independent press have been variously referred to as agents of imperialism; sell-outs; enemies of the state; and lapdogs of the former colonial master, Britain, bent on derailing the land reform programme. These verbal attacks have provided the context to the government's intolerance of freedom of expression.

As recently as November 3 2005, the government-run *Herald* published a vitriolic article on

veteran broadcasters John Matinde and Brenda Moyo, journalists Sandra Nyaira, Tichaona Sibanda and Blessing Zulu. These exiled media practitioners were referred to as “clowns and sell-outs” determined to advance the agenda of Western imperialist propaganda.

A meeting organised by MISA Zimbabwe under its Community Radio Initiatives in Dete, Matabeleland North was aborted after Zanu-PF councillor Thembinkosi Sibanda said the organisers did not have police clearance in terms of the Public Order and Security Act (POSA). The meeting, attended by about 1 000 people, had been scheduled for October 7 2005 to brief residents on the Community Radio Initiatives and the concept of community radio stations.

This extreme intolerance has resulted in at least 90 Zimbabwean journalists, including several of the nation’s prominent media professionals, being exiled in South Africa, Namibia, the United Kingdom and the United States of America. Unemployment, political violence and human rights abuses have fuelled a steady stream of emigration from Zimbabwe since the late 1990s resulting in an estimated four million Zimbabweans now living in the Diaspora⁴.

Criminal Law (Codification and Reform) Act

With the signing into law of the Criminal (Codification and Reform) Bill on June 2 2005, it will be increasingly difficult for the few remaining journalists to perform their newsgathering tasks without fear or favour. Journalists now risk spending 20 years in jail as the new act introduces harsher penalties than those provided for under POSA and AIPPA. A journalist convicted of contravening Section 31 (a) of the act will be sentenced to jail for a period not exceeding 20 years or to a fine of up to Z\$2,5 million or to both such fine and imprisonment.

Under Section 15 of POSA, which is similar to Section 31 of the Codification Act, one is liable to a five-year jail term or alternatively a fine of Z\$100 000 or both imprisonment and fine. Section 31 (a) of the act, which is virtually a regurgitation of Section 15 of POSA, makes it an offence for anyone inside or outside Zimbabwe to publish or communicate to any other person a statement which is wholly or materially false with the intention or realising that there is real risk or possibility of any of the following:

- i. Inciting or promoting public disorder or public violence or endangering public safety.
- ii. Adversely affecting the defence or economic interests of Zimbabwe.
- iii. Undermining the public confidence in a law enforcement agency, the Prison Service or the Defence Forces of Zimbabwe
- iv. Interfering with, disrupting or interrupting any essential service.

An offence will still have been committed even if the publication or communication does not result in any of the envisaged scenarios.

Section 31 (b) of the act is an extraction from Section 80 of AIPPA, which deals with issues linked to the publication or communication of falsehoods. Under AIPPA, once convicted, one is liable to two years’ imprisonment or a Z\$400 000 fine. In terms of the Codification Act, once convicted under Section 31 (b), one is now liable to a 20-year jail term or Z\$2,5 million fine⁵.

Section 33 of the Codification Act is similar in all respects to Section 16 of POSA. It deals with “undermining the authority of or insulting the President”. It prohibits the making, publicly and intentionally, of any false statement (including an act or gesture) about or concerning the President or Acting President if the person knows or realises that there is a risk or possibility of endangering feelings of hostility towards or causing hatred, contempt or ridicule of him/her, whether in his/her official or personal capacity.

Article 19 of the International Convention on Civil and Political Rights (ICCPR) states that any restrictions on the right to freedom of expression must be reasonable, necessary and justifiable in a democracy. Such restrictions should be proportionate and the harm to freedom of expression should not outweigh the benefits of the restrictions. However, in Zimbabwe it is also an offence to make an abusive, indecent, obscene or false statement about the President. For such an offence, POSA imposes a fine of Z\$20 000 or a one-year jail term or to both such fine and imprisonment. The Codification Act raises the fine to Z\$200 000 while the prison term remains the same.

General Laws Amendment Bill

Zanu-PF's explicit intentions to narrow the democratic space were brought to the fore only in September 2005 following the tabling of the General Laws Amendment Bill.

This bill yet again seeks to tighten POSA by increasing the penalties against journalists convicted for publishing statements that insult or undermine the authority of the President. The bill, which seeks to amend several other acts, including 22 sections of POSA, has since been referred to the Parliamentary Legal Committee.

The proposed amendments seek to increase the fine imposed under Section 16 of POSA from Z\$20 000 to Z\$2 million. The penalty fees for those convicted under Section 15 will now be Z\$10 million or five years or both such fine and imprisonment. Unauthorised public gatherings for the purposes of rioting or causing disorder will attract a fine of Z\$10 million.

Secret service media ownership scandal

The ubiquity of this onslaught against basic freedoms gets increasingly murky in the wake of reports that the country's secret service, the Central Intelligence Organisation, has acquired a controlling stake in the 'privately owned' Zimbabwe Mirror Newspapers Group, publishers of the *Daily Mirror* and *Sunday Mirror*. This leaves the three financial weeklies – *The Financial Gazette*, *Zimbabwe Standard* and *Zimbabwe Independent* – as the only truly privately owned publications following the closure of the *Daily News*, *Daily News on Sunday*, *Tribune* and *The Weekly Times*.

Accreditation

Section 79 of AIPPA states that the Media and Information Commission (MIC) may accredit journalists and issue them with press cards, annually. The MIC, which is answerable to the responsible minister and the executive, determines whether or not one is qualified to practice as a journalist, and there are no fixed criteria related to such qualifications. Section 79 contradicts Section 20 of the constitution in that it restricts the right to freedom of expression to those who the minister decides to accredit. In other words, the MIC, not media houses, decides who can work as a journalist in Zimbabwe.

The resignation of veteran journalist Jonathan Maphenduka from the MIC on August 18 2005 sheds light on the biased nature of the commission's decisions. Maphenduka resigned over what he described as the MIC's ill-advised decisions to close down four newspapers.

In addition to the restrictive legislative environment, journalists have to contend with poor working conditions, low salaries and an inferior skills base due to inadequate investment in training resources and Information Communication Technologies (ICTs). This has affected morale and the quality of stories with most journalists preferring to sell their investigative

pieces to foreign media houses, or receiving “consultancy or settlement fees” to protect corrupt businesspeople from negative publicity. The Zimbabwe Union of Journalists (ZUJ), however, is working towards setting up a National Employment Council to examine the working conditions of journalists and standardise salaries and perks.

MISA Zimbabwe, ZUJ, the Independent Journalists Association of Zimbabwe (IJAZ), the Media Monitoring Project of Zimbabwe and the National Editors Forum are pushing for the endorsement of a national code of ethics, which will pave the way for the establishment of a voluntary self-regulatory media council. Submissions have already been made to the Minister of Information and Publicity and the Parliamentary Portfolio Committee on Transport and Communications in an effort to press for the repeal or amendment of AIPPA, BSA and POSA.

Continued lobbying with parliament has led to the legislative body producing reports on the broadcasting environment focussing on the untenable position of the ZBH's monopoly of the airwaves. The recent acknowledgements by ministers that the BSA is not conducive to private investment in the broadcasting sector and should be reviewed gives credence to MISA Zimbabwe's 'Free the Airwaves' campaigns.

However, the enactment of additional repressive anti-media freedom laws can only be indicative of worse times ahead for media freedom and freedom of expression in Zimbabwe. That, coupled with the state-controlled ZBH monopoly of the airwaves, adds to a skewed and fast-shrinking media landscape.

Broadcasting environment

Since the enactment of BSA in 2001, no private players have been licensed to operate independent radio and television stations despite government's commitment to the Windhoek Declaration, the African Charter on Broadcasting and the Banjul Declaration on the Principles of Freedom of Expression.

Given the restrictive nature of the BSA concerning funding (foreign funding is banned), ownership and highly prohibitive licensing fees, the government's commitment to freeing the airwaves is hypocritical. Far from complying with the SADC Guidelines and Principles, which call for equal participation of all citizens and allow all political parties access to the public broadcaster, ZBH continues to act as the propaganda mouthpiece of the ruling Zanu-PF. ZBH has also failed to produce a long-awaited editorial charter to ensure that it performs its mandate as a public broadcaster.

Thus, many Zimbabweans now tune into foreign-based stations manned by Zimbabweans, such as SW Radio Africa in London, Voice of the People Radio and Voice of America. Several websites have come on stream, namely NewZimbabwe.Com, ZimOnline and ZimNews, to fill the void created by the closure of privately owned publications.

It is hoped that acknowledgments by Deputy Minister of Information and Publicity Bright Matonga in September 2005 that the BSA is a “stumbling block” to the entry of private players in the broadcasting sector will go beyond mere rhetoric.

Telecommunications

In a public notice on December 2 2005 the Postal and Telecommunications Regulatory Authority (Potraz) withdrew the licence of TeleAccess to provide fixed telephone services. Potraz said it had cancelled the licence, given on January 3, because the company had failed to roll out

its network as stipulated in its licence. The roll-out was expected to commence in May 2003, but TeleAccess said it had failed to proceed accordingly due to the acute shortages of foreign currency. It also argued that fixed telephone wireless services were not a viable business proposition. The company then requested a revised licence that embraces internet services and data provision in line with International Telecommunications Union's standards for it to operate as a sound business venture⁶.

Regrettably, Zimbabwe has not made any meaningful strides towards ensuring that its citizens gain greater access to ICTs and the developmental benefits that would accrue from such technology, as outlined in the Millennium Development Goals.

MISA Zimbabwe recommends that the Ministry of Information and Publicity and the Ministry of Science and Technology review the situation regarding access to information in Zimbabwe based on legislations such as AIPPA, which pose serious impediments for ordinary citizens to access information from government departments.

This will entail an urgent review of the Postal and Telecommunications Act, the Broadcasting Services Act and the Zimbabwe Broadcasting Act, otherwise the internet will remain one of the most expensive, if not most under-utilised and least developed, means of communication in Zimbabwe.

(Footnotes)

1. *Zimbabwe has so far signed, ratified or acceded to among others, the Windhoek Declaration of 1991, African Charter on Human and People's Rights, Declaration of Principles on Freedom of Expression in Africa and the International Covenant on Civil and Political Rights.*
2. - *The Daily News and The Daily News on Sunday were closed by the Media and Information Commission (MIC) on September 11 2003.*
- *The Tribune on June 10 2004 and*
- *The Weekly Times on February 25 2005.*
3. *For more information on these cases contact the Zimbabwe Union of Journalists (ZUJ) on 00 263 (0) 11 807 800 or 00 263 (0) 91 859 485.*
4. *Source: <http://www.misa.org>- Zimbabwe's Exiled Press*
5. *By December 2005, US\$1 was worth Z\$75 000.*
6. *TeleAccess has since filed a notice of appeal to the Minister of Transport and Communications challenging the cancellation of the licence in terms of Section 96 of the Postal and Telecommunications Act Chapter 12:05.*

Quando o ano de 2005 chegava ao fim, o governo do Zimbabué, apesar do aumento do seu estatuto de paria, causado pelos atropelos dos direitos humanos, demonstrou a sua paranóia, intolerância, desdenho total e ódio contra os pontos de vista opostos, ao confiscar o passaporte do editor Zimbabueano Trevor Ncube, ao prender os funcionários da Voice of the People Communications (VOP) e ao confiscar os equipamentos da mesma organização.

Os agentes da imigração em Bulawayo, confiscaram o passaporte de Ncube à 8 Dezembro de 2005, aquando da sua chegada da África do Sul, onde também é editor do semanário *Mail e Guardian*.

Não lhe foi apresentado qualquer outro motivo por esta acção ilegal, excepto que Ncube que também é o Presidente da Zimind, editores dos semanários Zimbabué Independente e Zimbabué Standard, estava na lista de cidadãos do Zimbabué cujos passaportes deveriam ser confiscados.

Sob a Lei de Emenda Constitucional draconiana acto (No 17), o governo tem poderes de confiscar passaportes de cidadãos que aperigam “os interesses nacionais” durante as suas viagens no estrangeiro.

O passaporte de Ncube foi posteriormente devolvido depois do Gabinete do Procurador-geral ter avaliado que o confisco do passaporte ter sido ilegal, em sequência de uma aplicação urgente ao Tribunal da Câmara Alta, através da qual o editor argumentou que esta acção constitui uma violação os seus direitos básicos de liberdade.

Para além deste embaraço, que mereceu críticas e condenação a nível internacional, sensivelmente uma semana depois, o governo atacou os escritórios da estação de Rádio VOP.

A polícia atacou os escritórios da VOP em Harare à 15 Dezembro e prendeu três funcionários da VOP nomeadamente, Nyasha Boshia, Maria Nyanyiwa e Kundai Mugwanda tendo ainda confiscado os equipamentos como computadores e ficheiros de administração.

Os três jornalistas ficaram detidos durante quatro noites na Prisão Central de Harare, tendo sido soltos posteriormente sem qualquer acusação formal.

Durante o ataque que subsequentemente levou ao aprisionamento do director do VOP, John Masuku, a polícia isolou as instalações do escritório, revistou o edifício com detectores de metais, certamente a procura de transmissores de radiodifusão.

Os escritórios da VOP foram bombardeados no dia 29 Agosto 2002, durante o qual propriedades avaliadas em milhões foi destruída. Estas medidas são as mais antítese para um governo que pretende consolidar a democracia e edificar um estado competente, que promove o acesso à informação, oportunidades socio-económica e políticas.

Importa referir o facto de que estas acções descaradas contra a liberdade humana e direitos básicos, surgiram no ano em que o Zimbabué realizou as suas eleições legislativas.

Um ano de eleições gera muito entusiasmo e expectativas em termos socio-económicos e político para qualquer país, porque concede oportunidades para mudanças e renovação da liderança e políticas macroeconómicas, que estruturam e definem o futuro de uma dada nação.

O Zimbabué, está a enfrentar uma crise económica e política desde 1998, caracterizada por elevada-inflação e um rendimento cada vez mais baixo. O Zimbabué realizou a sua sexta eleição legislativa em Março 2005.

Todavia, as eleições de Março de 2005, não produziram as mudanças e expectativas antecipadas, porque durante o período pós-eleição, o partido no poder Zanu PF, não foi capaz de implementar as políticas e ideais significativas para estancar a baixa económica do país.

No mês de Dezembro de 2005, em média uma família Zimbabueana gastava \$13 (US\$163) milhões de dólares por mês no consumo básico, contra o valor mínimo de cerca de \$1,5 milhões no ano anterior. Um funcionário público (professor ou enfermeira) ganha cerca de \$3 milhões (US\$38) por mês.

A falta constante de moeda estrangeira fez com que os motoristas e as indústrias passassem meses sem receber uma gota de combustível, necessário para o funcionamento das indústrias e do comércio. O nível de desemprego permaneceu alto, isto é acima de 80 por cento.

A liderança aparenta estar perdida e sem ideias em como ressuscitar a economia baseada na agricultura, devido a invasão e ocupação violenta das propriedades comerciais desde 2000. A inflação, que baixou de 600 por cento para 200 em 2004, estava actualmente a 502 por cento em Dezembro de 2005, com a expectativa de aumento em 2006.

O lançamento da operação controversa Murambatsina ou Operação de Restauração da Ordem em Maio 2005, eliminou qualquer esperança de um governo que esteja determinado a corrigir o seu registo sobre os direitos humanos. Dezenas de milhares de cidadãos ficaram desamparados, depois do governo ter destruído os seus abrigos e instalações de negócios eliminando de forma efectiva o sector informal no país. Esta operação resultou na produção de um relatório crítico pelas Nações Unidas.

A Enviada Especial das Nações Unidas, Anna Kajumulo Tibaijuka, no seu relatório crítico, disse que a operação foi realizada “de forma indiscriminada e sem fundamento, sem consideração do sofrimento humano e de forma repetida, desrespeitando as várias disposições das estruturas nacionais e internacionais”.

destemido pelo relatório das Nações Unidas, criticando o défice dos direitos humanos do país e longe da introdução das práticas democráticas, o parlamento dominado pelo partido Zanu-PF prosseguiu com a aprovação da Emenda Constitucional controversa, Projecto de Lei No 17.

Aprovada no dia 30 Agosto de 2005, a proposta do Senado procura limitar as viagens de indivíduos considerados de agir contra os interesses económicos do país, ou a realizarem campanhas para sanções nos estrangeiros.

Dentre outras cláusulas contenciosas, a Lei de Emenda Constitucional, retira o direito dos tribunais pelas partes lesadas, nos casos em que as suas terras tenha sido adquiridas pelo Estado. O único recurso permitido é o para a diminuição do desenvolvimento da terra. Isto viola as obrigações internacionais do Zimbabué, particularmente o Artigo 7 (1) da Carta Africana sobre os Direitos Humanos e dos Povos que diz: “*Todo indivíduo terá o direito de ser ouvido*”.

Estes direitos incluem “o direito do recurso a um órgão de autoridade competente contra actos de violação dos seus direitos fundamentais, conforme recomendado e garantido pelas convenções, leis, regulamentos e costumes em vigor”.

Enquanto o governo culpa a sua situação económica às constantes seca e nas sanções internacionais, estas violações arbitrárias de liberdade e direitos básicos, dão ao país o estatuto de paria. O Fórum Económico Mundial na sua avaliação publicada, sobre o estado de competitividade no Zimbabué posicionou o país, como sendo menos competitivos dentre as

117 economias analisadas.

Conforme tornou-se comum, a polícia atacou uma manifestação que promovia uma nova constituição e prendeu o líder da Assembleia Constitucional Nacional.

Os protestos contra o elevado nível de vida foram extinguidos de igual modo, tendo resultado no aprisionamento dos líderes do Congresso do Sindicato do Comércio do Zimbabué.

O projecto do Senado é vastamente considerado como uma tentativa de tranquilizar os membros insatisfeitos com o partido no poder, Zanu PF. Os analistas políticos dizem que o projecto do Senado conduz ao estado de paranóia cada vez maior e obsessão com a retenção de poderes com objectivo de conter as divisões e diferença de opinião dentro do partido no poder Zanu PF e tentar evitar confrontos para chegada a presidência em sequência da antecipação da retirada do Presidente Mugabe em 2008.

Como se podia esperar, os Zimbabueanos expressaram o seu descontentamento com esta situação actual e ignoraram os apelos, para participarem em massa nas eleições dos senadores que estavam previstas para 26 Novembro 2005.

Os mídias estatais e os observadores independentes, registaram uma fraca participação dos eleitorados em todo país. O líder da oposição MDC Morgan Tsvangirai, apelou por um boicote das eleições, alegando que as eleições serviriam somente para aumentar o poder de Mugabe, diminuir os empregos e os subsídios da economia já abalada. A nova câmara não tem poderes de veto sobre a legislação aprovada pelo partido no poder – dominado pela Câmara Baixa.

A comparência dos eleitores mais baixa, desde a independência em 1980 foi registada durante as eleições do senado com uma percentagem inferior a 30 por cento, implicando claramente a falta de interesse dos Zimbabueanos, devido a situação actual do país. Este protesto foi vastamente atribuído a relevância questionável do Senado, o fraco interesse na integridade do voto e nas dificuldades económicas actuais, dentre outras.

O Estado dos Mídias

O Zimbabué ainda está longe de conformar-se com as suas obrigações constitucionais, regionais e internacionais conforme mandatado por várias cartas e convenções das quais é signatário, tendo ratificado e aderido de forma a promover e garantir um ambiente de respeito a liberdade de expressão como um direito fundamental¹.

Esta intransigência, que continua a causar um impacto negativo sobre a liberdade dos mídias, esta amplamente manifestado através da aprovação e emendas as legislações que possuem um impacto directo sobre o exercício do direito de liberdade de expressão.

Em sequência de com umas várias críticas e variadas contra as suas leis dos mídias restritas em sequência do encerramento de quatro publicações independentes, legislações duras designadas para proteger o executivo de qualquer forma de critica continua a encontrar saídas dentro dos estatutos do país.

Os mídias querem sejam privados ou estatais, contudo, não podem estar isentos da culpa, do fracasso por não colocarem as questões pertinentes dos direitos humanos na agenda nacional, especialmente relativamente aos direitos sociais, económicos, políticos e culturais. Por exemplo, os mídias continuam a prestar uma consideração especial as necessidades imperativas para respeitar e realçar os direitos das mulheres em várias declarações dos mídias.

Esta omissão por parte dos mídias é quase evidente quando vista contra o cenário actual da Declaração sobre o Género e Desenvolvimento assinada pelos Estados Membros da SADC, incluindo o Zimbabué no dia 8 Setembro 1997.

Apesar do número crescente de mulheres a entrarem as fileiras políticas e a prestarem a sua contribuição em negócios e a aderirem as profissões dominadas pelos homens, a cobertura das mulheres ou género ainda é considerada a partir de uma perspectiva masculina.

A Declaração explicitamente compromete-se a erradicar todas as formas de desigualdades no género na região. É triste que, os mídias, que constituem um instrumento fundamental na facilitação deste processo, parece não estar a prestar uma atenção especial sobre a necessidade de reflectir, os esforços enormes que as mulheres desempenharam no estreitamento das disparidades do género entre as mulheres e os homens e, certamente os desafios que as nossas sociedades ainda enfrentam para a promoção da mulher. Existe portanto, a necessidade para a criação de políticas dos mídias e género comensurado, de forma a conceder significado ao efeito da Declaração sobre o Género e Desenvolvimento e no sistema de quota da SADC, de 30 por cento de representação nos parlamentos da região.

Enquanto que os casos pertinentes de molestamento, aprisionamento, difamação e assaltos contra os jornalistas que trabalham para os mídias privados baixaram, em comparação ao período que conduziu às eleições legislativas e presidenciais de 2000 e 2002, respectivamente, o ambiente legislativo dos mídias ainda está longe do ideal. Os limites nos casos de violações da liberdade dos mídias é grandemente devido a ausência do *Daily News* criticamente informativo e outros jornais tais como o *The Tribune*².

A aprovação da Lei Criminal (Codificação e Reforma) e a proposta da Lei de Emendas Gerais que procura reforçar os artigos da Lei de Ordem pública e Segurança (POSA), refere-se a questões de um governo que ainda está a recuperar das eleições fortemente contestadas que decorreram no princípio de 2000.

Isto leva-nos ao cenário da aprovação da Lei dos Serviços de Radiodifusão e Televisão (BSA) em 2001, Lei de Acesso à Informação e Protecção de Privacidade (AIPPA) no dia 15 Março 2002 e a Lei da Ordem Pública e da Segurança (POSA) no dia 10 Janeiro do mesmo ano.

Estas leis foram introduzidas quando o partido Zanu PF, partido no poder, escapou uma derrota nas eleições legislativas de 2000, levou o governo a reforçar o seu regime repressivo para abafar a diferença de opiniões, controlo do acesso à informação e do processo eleitoral.

Durante o período de recuperação do medo vivido durante o período das eleições legislativas de 2000, o governo agiu no sentido de reforçar o controlo dos mídias. Isto causou uma onda de violências sem precedentes contra os jornalistas, que trabalham para os mídias privados e simpatizantes da oposição antes das eleições presidenciais de 2002.

Durante o período sob consideração houve um forte aumento de ataques contra os mídias independentes. As instalações do *Daily News* foram bombardeadas no dia 22 Abril de 2000 seguida das instalações da imprensa escrita, no dia 28 de Janeiro de 2001.

Vários correspondentes e jornalistas estrangeiros foram deportados ou proibidos de entrarem no Zimbabué. As milícias a favor do partido no poder, Zanu PF, confiscaram inúmeras cópias dos jornais independentes; jornais e leitores dos mídias independentes foram atacados, assaltados e detidos, enquanto que os jornais privados foram impedidos de circular nos chamados baluarte do Zanu PF.

Estes desenvolvimentos não estiveram limitados somente à Imprensa escrita. Inúmeros jornalistas e emissores, foram desvinculados da então Corporação de Radiodifusão do Zimbabué, actualmente Holdings de Radiodifusão do Zimbabué (ZBH) e, substituídos por jornalistas juniores seleccionados pelo então Ministro da Informação e Publicidade, Professor Jonathan Moyo.

Os jornalistas e emissores desvinculados e os demais trabalhadores ainda não receberam os seus subsídios de desvinculação, três anos depois da desvinculação³. Isto faz com que o grosso destes trabalhadores desvinculados, tenha que basicamente sobreviver sem qualquer rendimento.

Alguns deles mudaram-se para África o Sul, Reino Unidos e Estados Unidos.

Este facto causou que a única emissora pública do país fosse gerida por funcionários com inexperiência comprovada, pela fraca qualidade das notícias e grelha de programação. Relativamente aquelas que ainda trabalham no ZBH, eles têm de fazer jogos de cintura para substituírem com os salários atrasados.

Somente este facto, descreve as dificuldades e o sofrimento de trabalho para os mídias privados controlados pelo governo do Zimbabué. Não existe garantias de segurança do mandato, de repente pode ser preso ou perder o emprego, porque os jornais independentes estão sempre sob o risco de encerramento.

Os jornalistas que trabalham para a imprensa independente foram várias vezes chamados de agentes do imperialismo, traidores, inimigos do Estados e cães fraldeiros da Inglaterra, antigo colonizador, prontos para descarriarem o programa de reformas de terra. Estes ataques verbais, demonstram o contexto dos níveis de intolerância a liberdade dos mídias e de expressão por parte do governo.

Muito recentemente à 03 Novembro de 2005, o jornal Herald, pertencente ao governo publicou um artigo cheio de causticidade e linguagem contra o jornalista veterano John Matinde e Brenda Moyo, as jornalistas Sandra Nyaira, Tichaona Sibanda e Blessing Zulu. Estes profissionais dos mídias exilados, foram chamados de “palhaços e traidores” determinados a promoverem a agenda da propaganda dos imperialistas no ocidentes.

Por exemplo, o encontro organizado pelo MISA-Zimbabué sob a Iniciativa da Rádio Comunitária em Dete Norte de Matabeleland, foi cancelado porque o conselheiro do Zanu PF, Thembinkosi Sibanda, alegou que os organizadores não obtiveram autorização da polícia, em conformidade com a Lei de Ordem pública e de Segurança (POSA). O encontro público foi assistido por cerca de 1000 pessoas, estava marcado para 7 Outubro de 2005 no salão de Dete, para informar os residentes sobre as Iniciativas da Rádio Comunitária e o conceito de estações de rádio comunitárias.

Nesta base de intolerância que pelo menos 90 jornalistas do Zimbabué, incluindo vários jornalistas proeminentes da nação asilaram na África do Sul, Namíbia, Reino Unido e nos Estados Unidos.

O desemprego, a violência política e abusos dos direitos humanos agravaram o índice de emigração dos jornalistas do Zimbabué desde 1990, constituindo cerca de quatro milhões de Zimbabueanos actualmente a viverem na diáspora, de acordo com um estudo divulgado em 2005, pela Organização Internacional dos Assuntos Migratórios⁴.

A Imprensa escrita

Leis Criminais (Codificação e Reformas)

Com a aprovação da proposta de lei criminal (Codificação e Reforma) no dia 02 Junho 2005, será cada vez mais difícil para alguns jornalistas que ainda estão a funcionar e a desempenhar as suas tarefas de recolha de notícias sem medo ou favoritismo.

Os jornalistas Zimbabueanos actualmente arriscam passarem 20 anos na prisão em sequência da aprovação do projecto de lei porque a nova lei introduz muitas mais severas do que aquelas estipuladas em conformidade com a POSA e AIPPA. Um jornalista que for condenado de violação do Artigo 31 (a) da Lei será preso por um período não superior a 20 anos ou uma multa de até Z\$2,5 milhões ou ambos multa e aprisionamento.

Em conformidade com o Artigo 15 da POSA, que é similar ao Artigo 31 da Lei de Codificação, um indivíduo está sujeito a uma sentença de cinco anos de prisão ou a \$100 000 ou ambos aprisionamento e multa. O Artigo 31 (a) da Lei é quase uma repetição do Artigo 15 da POSA, estipula como infracção que qualquer indivíduo dentro ou fora do Zimbabué publique ou comunique a qualquer outra pessoa uma declaração que seja completa ou materialmente falsa com a intenção de ou tendo conhecimento que do risco verdadeiro ou possibilidade de qualquer uma das seguintes:

- (i) Incitação ou promoção da desordem pública ou violência pública ou pondo em perigo a segurança pública
- (ii) De forma adversa afectar a defesa ou interesse económico do Zimbabué
- (iii) Colocar em perigo a confiança pública numa agência de aplicação da lei, os Serviços Prisionais ou as Forças de Segurança do Zimbabué.
- (iv) Interferir com, perturbar ou interromper qualquer serviço fundamental.

Qualquer infracção cometida mesmo que a publicação ou comunicação não resulta de qualquer de qualquer um dos cenários previstos.

O Artigo 31 (b) da Lei é um extracto do Artigo 80 da AIPPA, que trata das questões ligadas, a publicação ou comunicação de falsidade.

Em conformidade com o AIPPA, depois de julgado, o indivíduo está sujeito a dois anos de prisão ou a uma multa de Z\$400 000. Nos termos da Lei de Codificação, quando condenado sob o Artigo 31 (b), o indivíduo agora estaria sujeito a aprisionamento de 20 anos ou a multa de Z\$2,5 milhões⁵.

O Artigo 33 da Lei de Codificação é similar a todos respeito ao Artigo 16 da POSA. Ela trata do “colocação em perigo da autoridade ou insultos ao Presidente”.

Esta lei proíbe a criação, publicação intencional, de qualquer declaração falsa (incluindo um acto ou gesto) relativamente ao Presidente ou Presidente em exercício caso o indivíduo saiba ou tome conhecimento da existência do risco ou possibilidade de colocar em perigo sentimentos de hostilidade ou de causar ódio, contumácia ou ridicularizar-lhe, quer na sua capacidade oficial ou pessoal.

O Artigo 19 da Convenção Internacional sobre os Direitos Cívicos e Políticos (ICCPR), diz que qualquer restrição sobre o direito a liberdade de expressão deve ser razoável, necessária e justificável numa democracia.

Tais restrições devem ser proporcionais e prejudiciais a liberdade de expressão não deve ultrapassar os benefícios das restrições. No Zimbabué, contudo, é uma infracção fazer declarações insultuosas, indecentes, obscenas ou falsas sobre o Presidente, quer na sua

capacidade oficial ou pessoal.

A POSA impõe uma multa de Z\$ 20 000 ou aprisionamento durante um ano ou ambos multa e aprisionamento. A Lei de Codificação aumentou a multa para Z\$200 000 enquanto que o período de aprisionamento permanente na mesma.

Ironicamente confusa como pode parecer, as intenções explícitas do governo de estreitar o espaço democrático foram apresentadas abertamente somente em Setembro 2005 seguida da proposta do Projecto de Lei de Emendas das Leis.

Projecto de lei para emenda geral das leis

Não obstante a aprovação da Lei de Codificação, o projecto de lei procura reforçar o POSA aumentando as propinas de multas contra os jornalistas condenados por publicação de declarações que coloquem em perigo a autoridade ou insultos ao Presidente.

O Projecto de Lei, procura emendar varias outras Leis, incluindo a emenda de 22 artigos da POSA, foi encaminhado a Comissão Jurídica do Parlamento.

A emenda proposta procura aumentar a multa imposta a luz do Artigo 16 da POSA (mencionado anteriormente), de \$20 000 à \$2 milhões. As propinas de multas para aqueles julgados a luz do Artigo 15 passarão a ser de Z\$10 milhões ou cinco anos ou ambos multa e aprisionamento. Encontros públicos não autorizados para fins de revoltas ou para causar desordem atrairão uma multa de Z\$10 milhões.

Escândalo de Propriedade do Mídias do Serviço Secreto

The ubiquity of this onslaught contra esta liberdade basica torna-se murkier perante os relatorios dos services secretos daquele país, a Organização Central de Inteligencia (CIO) adquiriu um poder de controlo no jornal de “propriedade privada do” Zimbabwe Mirror Newspapers Group, editores do Daily Mirror e Sunday Mirror.

Isto deixa os três semanários financeiros, The Financial Gazette, Zimbabwe Standard e Zimbabwe Independent como as únicas publicações privadas não afectadas seguida do encerramento do *Daily News*, *Daily News* no Domingo, Tribune e *The Weekly Times*.

O Encerramento do Tribune em Junho 2004 e *The Weekly Times* no dia 25 Fevereiro 2005, pela Comissão dos Mídias e Informação (MIC) liderada pelo seu Presidente executivo abertamente partidário Dr. Tafataona Mahoso, tratou de um outro golpe grave sobre as demais fontes de informação alternativas.

Acreditação - o caso do jornalista Kelvin Jakachira

O Artigo 79 da AIPPA, diz que a Comissão de Mídias e de Informação (MIC) pode acreditar os jornalistas e emitir cartões de imprensa para aquelas entidades por si acreditadas. A acediação é necessária anualmente.

A Comissão determina que alguém esta habilitado para praticar como jornalista ou não. Por outras palavras, não existe nenhum critério sobre a natureza das habilitações como sendo a discrição da Comissão, responsável ao Ministro e ao Executivo.

Os jornalistas que quiserem ser acreditados devem submeter vários documentos, referências,

e-Mail e endereços residenciais à MIC dentre vários outros requisitos desagradáveis.

O Artigo 79 contradiz o Artigo 20 da Constituição que limita o exercício do direito da liberdade de expressão somente para aqueles que o ministro responsável decide acreditar ou registrar. Por outras palavras, o MIC decide quem deve trabalhar como jornalista no Zimbabué e nos mídias.

Este preconceito do MIC surgiu em sequência absolvição de Kelvin Jakachira,⁶ um jornalista da *Daily News* das acusações de praticar jornalismo sem acreditação.

No seu comprovativo, o Mahoso disse que tinha rejeitado um grupo de aplicações submetidas pelo jornalista da ANZ antes do registo da empresa editora ter sido registada com o MIC conforme estipulado pelo AIPPA.

Mahoso foi um non-committal se não mesmo evasivo caso ele tinha acusado a recepção da aplicação de Jakachira, ou considerado como uma aplicação individual conforme estipulado nos termos da lei em questão.

O Magistrado, contudo, decidiu que Jakachira submeteu a sua aplicação atempadamente e satisfaz os requisitos da aplicação conforme estipulado sob AIPPA.

O magistrado de julgamentos disse que o estado por intermédio de Mahoso, tinha submetido comprovativos inseguros se ele tinha recebido a aplicação de Jakachira aplicação e se a avaliação que ele tinha feito e comunicando-lhe como um requerente individual nos termos da lei.

Ainda mais explicito a partir do comprovativo apresentado no tribunal, foi o facto que o MIC, que deve gozar de uma certa autonomia, nem sequer tem a sua própria caixa postal privada, mas depende do Gabinete do Presidente para os serviços de entrega de seu correio.

O Estado ainda tem de decidir sobre o destino de mais de oito jornalistas do *Daily News* que estavam a enfrentar acusações similares dificultando que eles procurassem empregos junto das casas dos mídias registadas porque tem de ser acreditados junto da MIC.

Os oito deveriam aparecer no tribunal no dia 12 Outubro 2005. A alternativa seria para que eles funcionassem como freelancer, mas isto acarreta os seus riscos porque eles ainda precisarão de apresentar os cartões de acreditação para terem acesso a certas áreas para obterem informações ou entrevistarem funcionários públicos.

A demissão do jornalista veterano Jonathan Maphenduka a partir da Comissão no dia 18 Agosto 2005 conceder mais esclarecimentos sobre a natureza preconceituosa da decisão do MIC. Maphenduka demitiu-se daquilo que chamou de decisões más aconselhadas da Comissão para encerrar quatro jornais⁷.

“Deve ser óbvio que as decisões da Comissão relativamente aqueles jornais nesta altura mais oportuna is shorn of discrição e por tanto ainda mal aconselhada e contra produtiva,” disse ele na sua carta de demissão.

A chance destes jornais registarem um regresso é remota dada a natureza partidária do MIC comprovada pelos motivos inconsistentes que esta adiantou para os encerrar em primeiro lugar e subsequentemente a recusa em registá-los.

O MIC, com o apoio do Executivo, fará de tudo ao seu alcance para deter o regresso dos requerimento proibidas/suspensas/encerradas, muito menos permitindo que os intervenientes

considerados como críticos do governo, para entrarem a arena.

As revelações das declarações submetidas diante do Tribunal da Câmara Alta no caso em que o ANZ esta a contestar a decisão do MIC de recusar a a casa dos mídias uma licença para funcionamento, concede credibilidade as declarações do MISA Zimbabué que o MIC é um órgão partidário que não serve os interesses de um ambiente dos mídias livre. As declarações revelam que a Comissão em Junho 2005 concordou em conceder uma licença a ANZ, mas foi esforçada a inverter a decisão devido a pressão política.

Maphenduka alega na sua declaração, que a decisão foi tomada no encontro de 16 Junho 2005 com base que não havia nenhuma base jurídica para negar ANZ a concessão de uma licença de funcionamento. Segundo o Maphenduka, as actas daquele encontro não foram distribuídas aos Comissários devido o atraso do anúncio da decisão para conceder uma licença a ANZ e o subsequente anúncio que a ANZ não receberia licença.

Estes desenvolvimentos, que justificam e suportam as declarações que o é MIC abertamente partidário e que um Concelho do Mídias Auto Regulador e Independente deve substituírem órgão controlado pelo governo.

O ambiente legislativo restritivo não obstante, as fracas relações de trabalho desde os salários baixos, baixa capacidade devido ao investimento inadequado em formação e recurso e Tecnologias de Informação Comunicação, aumenta o encargo dos jornalistas Zimbabueanos.

Isto afectou a moral e a qualidade dos artigos e a maioria dos jornalistas preferem vender os seus artigos investigativo dos casos dos mídias estrangeiros ou receber “uma propina de consultoria ou propina fixa” para protegerem certas entidades empresariais corruptas da publicidade negativa.

O Sindicato dos Jornalistas do Zimbabué esta, contudo, a trabalhar para criação de um Concelho Nacional de Emprego que ira concentrar-se especificamente sobre as condições de trabalho dos jornalistas com vista a pelo menos padronizar os salários e subsídios.

O MISA-Zimbabué está a trabalhar com o ZUJ, Associação Independente dos Jornalistas do Zimbabué (IJAZ), Projecto de Monitoria dos Mídias do Zimbabué e do Fórum dos Editores Nacionais está a promover para o endorçamento de um código nacional de éticas, que criará as condições para o estabelecimento de um conselho dos mídias auto regulador e voluntário como uma estrutura paralela ao MIC nomeada pelo governo.

As submissões já foram efectuadas ao Ministro da Informação e Publicidade e a Comissão de Tutela do Parlamento sobre Transporte e Comunicações⁸.

O MISA Zimbabué também realizou lobbied através da submissão de posição papers e continuara a pressionar o parlamento para reconsiderar uma legislação restrita tais como AIPPA, BSA e POSA com objectivo de emenda-las ou revogadas para criar um ambiente propício para a liberdade dos mídias e liberdade de expressão.

Contudo, as actividades desenvolvidas pelo MISA-Zimbabué na Comissão Africana sobre os Direitos Humanos e dos Povos (ACHPR) na Gambia esta a produzir frutos. O MISA-Zimbabué esta a trabalhar com o IJAZ e o Zimbabué Layers para os Direitos Humanos estão a desafiar a AIPPA, que o Tribunal Supremo declarou como lei constitucional em 2003.

A continuidade das actividades de lobby com o parlamento fez com que o parlamento produzisse

relatórios adversos sobre o ambiente de radiodifusão no Zimbabué com realce particular sobre a posição do monopólio entrenched da ZBH das ondas de transmissão.

Os reconhecimentos actuais pelos ministros do governo que o BSA não é conducente para o investimento privado no sector de radiodifusão e televisão e deve ser revisto para permitir a entrada de intervenientes privados e conceder credibilidade as campanhas do MISA-Zimbabué para liberalização das ondas de transmissão.

Contudo, com a aprovação das repressivas adicionais de leis anti-mídias liberdade, o espaço democrático do Zimbabué esta destinado para maior contracção considerando que as medidas a serem implementadas podem somente servir de um indicativo de temporadas piores pela frente para a liberdade de imprensa e liberdade de expressão.

Em adição ao Zimbabué Broadcasting Holdings (ZBH) controlada pelo estado, o monopólio das ondas de transmissão, acrescenta a panorâmica dos mídias inclinado e com panorâmica rápidas de encolhimento.

Ambiente de Radiodifusão e Televisão

Desde a aprovação da BSA em 2001, nenhum interveniente privado foi licenciado para operar estações de rádios e televisão independentes apesar do empenho do governo a Declaração de Windhoek, a Carta Africana sobre Radiodifusão e a Declaração de Banjul sobre os Princípios de Liberdade de Expressão.

A recusa da Autoridade de Radiodifusão e Televisão do Zimbabué (BAZ) para conceder uma licença comercial a Corporação de Radiodifusão Africana de Munhumutapa (MABC) questiona a sinceridade do governo na abertura das ondas de transmissão aos intervenientes privados.

Em Agosto/Setembro 2005, a BAZ decidiu que o MABC falhou em não manifestar que possui o poder financeiro para lançar o projecto.

Investir no sector de radiodifusão e televisão exige injeções de capital estrangeiro enorme e conhecimento técnicos.

A Carta Africana prevê a independência editorial, pluralidade e diversidade no sector de radiodifusão e televisão, dentre outros princípios e disposições.

A Carta enfatiza que os governos devem envidar esforços para promover um ambiente económico que facilite o desenvolvimento de produção independente e diversidade na radiodifusão e televisão.

Contudo, a BSA, dentre outras restrições proíbem o financiamento estrangeiro e investimentos no sector de radiodifusão e televisão de capital intensivo.

Dada a natureza restritiva da BSA relativamente ao financiamento, propinas das licenças e propriedade, o empenho do governo para libertação das ondas de transmissão e convites para o requerimento de licenças, torna-se um a red herring.

Para impor tais restrições não obstante a licença altamente proibitiva e propinas de frequência algumas das quais são pagas em moeda estrangeira, smacks de hipocrisia com relação ao empenho do governo para abertura das ondas de transmissão.

Longe do cumprimento das Orientações e Princípios da SADC, que apela pela participação

igual de todos cidadãos da SADC bem como para permitir que todos partidos políticos tenham acesso as emissoras públicas, o ZBH continua a agir como o porta-voz da propaganda do partido Zanu PF no poder as custas de outros pontos de vistas contrários. O ZBH também não foi capaz de produzir a tão esperada carta editorial⁹ como parte dos esforços para desempenhar o seu mandato como emissora pública. A carta prosseguiria ao ponto de educar o público sobre o que se espera de uma emissora pública a medida que esta funcina como um instrumento de monitoria para verificar se o ZBH esta servindo o seu mandato público.

Assim os Zimbabueanos actualmente sintonizam as estações externas geridas por Zimbabueanos na Diáspora tais como SW Rádio África, que apresenta a partir de Londres, Voice of the People Rádio (VOP) e Voz da América. Varias outras edições na Internet aderiram-se ao nomeadamente o NewZimbabué.Com, ZimOnline e ZimNews, para preencher o vazio criado pelo encerramento das publicações privadas encerradas.

Espera que o reconhecimento pelo Vice Ministro da Informação e Publicidade e a BSA constitui um bloqueamento¹⁰ para a entrada dos intervenientes privados no sector de radiodifusão e televisão, passara de uma mera retórica.

Enquanto que o governo, argumenta que desde o principio uma da restrições ao numero de estações de radiodifusão que pode ser licenciado é a de frequências limitadas, com o advento de telecomunicações satélite, fibra óptica dentre outras, o mundo encontra-se numa situação em que o numero de canais através do qual os canais em que as estações de emissões podem chegar as suas audiências.

Ao em vez de simplesmente olharmos para os mídias de radiodifusão no sentido politico estreito, o governo do Zimbabué deve muito fortemente considerar os benefícios económicos enormes de um ambiente dos mídias avançado independentemente do quão critico poderá estar actualmente ou qualquer governo futuro.

O dillydallying do governo sobre a abertura das ondas de transmissão resultou que muitos Zimbabueanos gastassem milhões de divisas para interligarem os estabelecimentos dos mídias estrangeiros¹¹.

A indústria de radiodifusão do Zimbabué tem a oportunidade de beneficiar da revolução da TCI e contribuir para o reforço da democracia no Zimbabué.

As preocupações do Vice Ministro Matonga sobre a natureza restritiva da BSA deve, no entanto, traduzir-se em passos concretos para a criação de um ambiente legislativo conducente para a entrada de intervenientes privados.

Isto inclui revisitar os artigos contenciosos da BSA com vista a emendar ou revogar -lhes para garantir que as Leis estejam em conformidade com a visão da Carta Africana e para permitir o livre acesso de novos intervenientes na arena da radiodifusão. Deve-se criar uma Autoridade Reguladora das Emissoras Independentes e das Telecomunicações através de um Decreto do Parlamento.

Telecomunicações

Num aviso público no dia 2 Dezembro 2005, A Autoridade Reguladora das Telecomunicações e Postais (POTRAZ) retirou a licença da TeleAccess¹² para fornecer serviços de telefone fixo. A POTRAZ alega que tinha cancelado a licença porque a empresa não expandiu a sua rede conforme estipulado na sua licença.

O desenrolar do projecto deveria ter início em Maio 2003, mas o TeleAccess disse que não

tinha sido capaz de prosseguir com êxito devido a falta severa de dívidas. Ela argumentou também que os serviços de telefone sem fio fixos não constituíam um negócio viável.

A empresa solicitou uma licença revisada que incluiu os serviços de Internet e fornecimento de dados em conformidade com os padrões dos Sindicato Internacionais das Telecomunicações que funciona como um empreendimento de negócio sadio¹³.

Lamentavelmente, o Zimbabué não envidou qualquer esforço significativo para garantir que os cidadãos ganhem um maior acesso a TCI de forma que estes ganhem maior acesso à informação, e os benefícios de desenvolvimento sustentável resultantes de tais tecnologias sendo um aspecto diário das suas vidas.

É da incumbência do governo do Zimbabué rever e reformar as leis que regem as telecomunicações do governo no território nacional, com a intenção de criar uma autoridade reguladora singular para radiodifusão e telecomunicações.

Para garantir a utilização máxima das Tecnologias de Comunicação e Informação e promover os objectivos de desenvolvimento sustentável conforme descrito no Objectivos de Desenvolvimento do Milénio (MDGs), o governo deve rever a sua posição relativamente aos assuntos relacionados a liberdade de expressão e a liberdade de informação. Isto é argumentado relativamente aos papéis articulados que todos governos devem comprometer-se em promover o uso de TCI para o desenvolvimento.

Esta medida não pode ser realizada isoladamente da revisão de leis que actualmente suportam a indústria de telecomunicações do Zimbabué, nomeadamente as Leis de Telecomunicações e Postais (PTA), as Leis BSA, ZBH e a Lei de Radiodifusão e Televisão do Zimbabué.

O MISA Zimbabué, no entanto, recomenda que o Ministério da Informação e Publicidade em conjunção com o Ministério das Ciências e Tecnologia revejem a situação relativamente ao acesso à informação do Zimbabué com base nas legislações tais como AIPPA que impõe impedimentos graves aos cidadãos comuns ao acesso a informação a partir dos departamentos do governo.

Também pode-se argumentar que no contexto do Plano de Acção da Cimeira Mundial sobre a Sociedade de Informação (WSIS), apela-se pela ligação de todos departamentos do governo, ministérios e estabelecimentos de ensino à Internet de forma a facilitar o fluxo livre de acesso a informação. A política TCI não pode no entanto, ser separada do ambiente legislativo mais abrangente em que os mídias e os cidadãos têm acesso à informação.

Isto está mencionado no Artigo C3 da Plano de Acção de WSIS, nas seguintes palavras:

“A TCI permite que os indivíduos em qualquer parte do mundo, tenham acesso a informação e conhecimento quase instantaneamente. Os indivíduos, as organizações e as comunidades devem beneficiar deste acesso ao conhecimento e a informação”.

Isto implicará uma revisão urgente da Lei Postal e de Telecomunicações, a Lei de Serviços de Radiodifusão e a Lei de Radiodifusão do Zimbabué, pelo contrário a Internet continuará sendo um dos meios de comunicação mais caros, se não mesmo sub-utilizados e menos desenvolvido no Zimbabué.

Estatística das Violações dos Mídias de 2005

Conforme mencionado anteriormente, os casos de violações dos mídias baixaram durante o

ano sob revisão não porque o governo ganhou maturidade, mas sim devido a ausência das publicações altamente críticas ANZ.

Enquanto os casos poderão ter baixado, as tendencias de violências foram similares as do ano anterior, 2004, conforme testemunhado pelo encerramento da MIC em Fevereiro de 2005 do *The Weekly Times* in a sequel to ao encerramento do Tribune em Junho 2004, quase um ano depois das publicações da ANZ terem enfrentado um destino similar.

(Footnotes)

¹ *O Zimbabwe até ao moment o assinou, ratificou e aderiu dentre outras, a Declaração de Windhoek de 1991, a Carta Africa na sobre os Direitos Humanos e dos Povos, Declaração dos Princípios de Liberdade de Expressão em África e da Convenção Internacional sobre os Direitos Civis e Políticos*

O Daily News e o The Daily News no Domingos foi encerrados pela Comissão de Informação dos Mídias (MIC) no dia 11 Setembro 2003.

A Tribune no dia 10 Junho 2004 e

The Weekly Times no dia 25 Fevereiro 2005.

³ *Para mais informações sobre estes casos contacte a União dos Jornalistas do Zimbabwe (ZUJ) no tel. 00 263 (0) 11 807 800 ou 00 263 (0) 91 859 485.*

⁴ *Fonte: <http://www.misa.org-Zimbabwe's Exiled Press>*

⁵ *Até Dezembro 2005 75 000 dólar do Zimbabwe valiam 1 dólar Norte Americano.*

⁶ *Kelvin Jakachira foi absorvido pelo Tribunal Magistrado em Harare a 31 Agosto 2005.*

⁷ *Nos termos do Artigo 40 (2) da AIPPA, o Concelho do MIC consistirá de não menos do que cinco membros e não mais do que sete, pelos menos três dos quais deverão ser nomeados por uma associação de jornalistas*

⁸⁸ *No dia 20 Setembro 2005, ZUJ, MISA-Zimbabwe e o Projecto de Monitoria dos Mídias do Zimbabwe a presentaram as suas submissões a Comissão Parlamentar de Tutela sobre Transport e e Comunicação como parte dos esforços para pressionar pela revogação emenda da AIPPA, BSA e POSA.*

⁹ *A carta editorial ira incluir a missão e visão do ZBH como uma emissora pública bem como leio de monitoria para verificar se o ZBH esta a cumprir com o seu mandato.*

¹⁰ *O Herald de 2 Setembro 2005 informou que o Vice Ministro da Informação e Publicidade Bright Matonga, criticou a Lei dos Serviços de Radiodifusão (BSA) como "um bloqueio" para o investimento privado no sector de radiodifusão e televisão devido a licença inibitiva e propinas de frequência*

¹¹ *O Zimbabwe tem acesso o satélite Multichoice e de propriedade Sul Africana para sintonizar os canais de televisão*

¹² *TeleAccess recebeu a sua licença a 3 Janeiro 2003*

¹³ *A TeleAccess submeteu um aviso de recuso junto do Ministro dos Transportes e Comunicações desafiando o cancelamento da licença nos termos do Artigo 96 da Lei de Postal e de Telecomunicações*

ALERT

Date: December 15, 2005

Persons/Institutions: Nyasha Boshu, Maria Nyanyiswa and Kundai Mugwanda.

Violation: Detained, censored

On December 15 2005, three Voice of the People Workers, Nyasha Boshu, Maria Nyanyiswa and Kundai Mugwanda, were arrested and detained at Harare Central Police Station after police raided their offices in Harare. The police confiscated equipment, computers and administration files.

ALERT (including update)

Date: December 08, 2005

Persons/Institutions: Trevor Ncube

Violation: Expelled

Zimbabwean immigration officials seized Zimbabwe Independent and Standard newspapers chairman Trevor Ncube's passport upon his arrival in the country from South Africa where he is also the publisher of the Mail and Guardian newspaper.

Ncube said he had been approached by a person who identified himself as being from the President's Office. The man escorted Ncube to the immigration department at Harare International Airport. The publisher's passport was confiscated on 8 December 2005.

Ncube is said to be one of the people on a list of 64 persons whose passports must be impounded.

The controversial Constitutional Amendment (No 17) Amendment Act empowers the government to seize the passports of citizens suspected of "national interests" during their travels abroad.

December 12, 2005: Ncube filed an urgent application for a High Court order compelling the **government** to return his seized passport arguing that the decision infringes on his basic freedoms and rights.

December 14, 2005: The government released Ncube's seized passport after the Attorney-General's Office indicated that it would not be filing an opposing affidavit against his urgent application for its immediate release.

ALERT (including updates)

Date: December 01, 2005

Persons/Institutions: Associated Newspapers of Zimbabwe (ANZ), publishers of The Daily News and Daily News on Sunday

Violation: Censored

On December 1 2005, the Central Intelligence Organisation had allegedly reversed a decision by the government-controlled Media and Information Commission (MIC) to register Associated Newspapers of Zimbabwe (ANZ).

According to papers filed with the High Court, Jonathan Maphenduka, a former MIC board member, the regulatory body had on June 16, 2005, agreed to register ANZ.

ANZ is challenging the MIC's decision to deny it an operating licence to publish its titles.

July 18, 2005: The MIC refused to register ANZ because it had contravened Sections 66, 72, 76, and 79 of AIPPA. The sections in question deal with the registration of a mass media service provider, operating without a licence and accreditation of journalists.

ALERT (including updates)

Date: November 29 2005

Persons/Institutions: TeleAccess

Violation: Censored

On November 29 2005, the Postal and Telecommunications Authority of Zimbabwe (POTRAZ),

cancelled TeleAccess' licence to provide fixed public telecommunications services in terms of Section 43 of the Postal and Telecommunications Act. POTRAZ said the licence had been cancelled after TeleAccess failed to provide the service by May 1, 2003, in terms of the licensing conditions.

December 07, 2005: In a public notice, TeleAccess said it is appealing against the cancellation of its licence. TeleAccess said it is appealing to the Minister of Transport and Communications in terms of Section 96 of the Postal and Telecommunications Act Chapter 12:05 against the Postal and Telecommunications Regulatory Authority's decision to cancel the licence.

ALERT

Date: November 08, 2005

Persons/Institutions: Lovemore Matombo, Wellington Chibebe, Last Taribuka

Violation: Detained

On November 8 2005, Zimbabwe Congress of Trade Unions (ZCTU) leaders, Lovemore Matombo (President), Wellington Chibebe (Secretary-General) and Last Taribuka, a photographer with the ZCTU's newsletter, The Worker, were arrested together with 100 other demonstrators following demonstrations in Harare against the ever-rising cost of living.

Taribuka was arrested while covering the demonstrations.

ALERT (including updates)

Date: October 07, 2005

Persons/Institutions: Independent/private media in Zimbabwe

Violation: Threatened

On October 7 2005, Dr Ibbo Mandaza, suspended founding chief executive and editor-in-chief of the Zimbabwe Mirror Newspapers Group, confirmed that the Central Intelligence Organisation (CIO) had infiltrated the media house by wresting a majority shareholding through a company known Unique World Investments.

November 22, 2005: An independent labour tribunal is set up to probe Mandaza's ouster from the Zimbabwe Mirror Newspapers Group (ZMNG) fails to proceed with the hearings after parties to the dispute failed to agree on the need for independent arbitration.

November 1, 2005: Retired Chief Justice Anthony Gubbay is selected to chair an independent labour panel to determine the suspension of Mandaza.

October 11, 2005: High Court Judge Justice Bharat Patel suggests that a retired judge should hear the case in which Mandaza is contesting his ouster from the Zimbabwe Mirror Newspapers Group.

September 16, 2005: Mandaza denies media reports that his newspaper group is controlled by Zimbabwe's secret service.

August 16, 2005: Mandaza denies, in an interview with the SABC, any shareholding by the CIO in the ZMNG. The Zimbabwe Independent had published a story alleging the CIO controlled the newspaper company.

ALERT

Date: October 7, 2005

Persons/Institutions: Media Institute of Southern Africa (MISA)-Zimbabwe

Violation: Censored

On October 7 2005, Thembinkosi Sibanda, a Zimbabwe African National Union Patriotic Front (Zanu PF) councilor in Dete, Matabeleland North Province, barred a meeting organised by MISA-Zimbabwe under its Community Radio Initiatives, saying the police had not cleared the meeting.

ALERT

Date: September 06, 2005

Persons/Institutions: Media and people of Zimbabwe

Violation: Legislation

On September 5 2005, the General Laws Amendment Bill was tabled before parliament. The Bill seeks to amend several other Acts including 2 sections of the Public Order and Security Act (POSA) by increasing the penalty fees against journalists convicted of publishing statements that undermine the authority of the President.

The present fine of Z\$100 000 will be increased to Z\$10 million or five years imprisonment or both such fine and imprisonment.

The penalty fee under Section 16 which deals with undermining the authority of the President will be increased from \$20 000 to Z\$2,2 million or one-year imprisonment or both such fine and imprisonment.

ALERT

Date: September 16, 2005

Persons/Institutions: Munhumutapa African Broadcasting Corporation (MABC)

Violation: Censored

On September 16 2005, the Broadcasting Authority of Zimbabwe (BAZ) denied the Munhumutapa African Broadcasting Corporation (MABC) a licence to operate a commercial television station. The BAZ ruled that MABC had failed to demonstrate that it had the financial muscle to operate such a venture.

The MABC is appealing the BAZ's decision.

ALERT (including update)

Date: August 18, 2005

Persons/Institutions: Bornwell Chakaodza, Valentine Maponga

Violation: Victory (charges dropped)

On August 18 2005, the State dropped charges against former editor Bornwell Chakaodza and reporter Valentine Maponga of Zimbabwe's privately-owned weekly Standard newspaper. The two were arrested and charged with "publishing false statements prejudicial to the State" under Section 15 of the draconian Public Order and Security Act (POSA).

Chakaodza and Maponga were arrested on May 19, 2004, following the publication of a story on May 16, 2004, which claimed that the family of the slain Trojan Nickel Mine boss, Leonard Chimimba had blamed some unnamed government officials for his death.

ALERT

Date: August 05, 2005

Persons/Institutions: Hosea Chipanga

Violation: Beaten

On August 5 2005, prominent Zimbabwean musician Hosea Chipanga, was accused and grilled by members of the Central Intelligence Organization (CIO) for allegedly singing that President Mugabe would only vacate office upon his death.

ALERT (including update)

Date: August 04, 2005

Persons/Institutions: Kelvin Jakachira

Violation: Detained

On August 4 2005, former Daily News journalist Kelvin Jakachira was arrested on charges of practicing without accreditation in terms of Section 83 (1) Chapter 10:27 of the Access to Information and Protection of Privacy Act (AIPPA). His trial was postponed to August 11 at the request of his lawyer.

August 11 2005: Jakachira appeared briefly in court where his defence lawyer applied for his acquittal on charges of practicing journalism without accreditation.

August 17, 2005: Magistrate dismisses application for his acquittal.

August 31, 2005: Harare magistrate Prisca Chigumba acquits Jakachira saying he had complied with the application procedures and the State's evidence was vague and confused.

ALERT (including updates)

Date: August 12, 2005

Persons/Institutions: Willie Mponda

Violation: Sentenced

On August 12 2005, Editor of The Sun newspaper, Willie Mponda, was convicted of publishing a false statement prejudicial to the State in terms of Section 15 (1) (c) of the Public Order and Security Act (POSA). This follows the publication of a story on June 10, 2005, which claimed that a Gweru woman had committed suicide after her two telephone shops were destroyed under the controversial clean-up campaign code named, Operation Restore Order. He was fined Z\$100 000. The offence carries a five-year prison term, or alternatively both such fine and imprisonment.

August 3, 2005: Mponda pleads not guilty to publishing falsehoods in terms of Section 15 (1) (c) of POSA. The trial was adjourned to August 11, 2005, after charges were read to Mponda. June 16, 2005: Mponda is charged with contravening Section 15 (1) (c) Chapter 11:17 of the Public Order and Security Act (POSA).

This followed publication of a story in The Sun on 10 June 2005 that a Gweru woman had committed suicide after her two telephone shops were destroyed under the controversial clean-up campaign code named, Operation Restore Order.

ALERT

Date: July 13, 2005

Persons/Institutions: African Tribune Newspapers (ATN), publishers of The Tribune weekly newspaper

Violation: Censored

On July 13 2005, the Media and Information Commission (MIC) denied African Tribune Newspapers (ATN), publishers of The Tribune weekly newspaper, an operating licence saying the media house had failed to meet the requirements for re-registration in terms of AIPPA by failing to prove that it had the requisite capital to resume publication.

ALERT

Date: June 17, 2005

Persons/Institutions: Hosea Chipanga

Violation: Threatened

On June 17 2005, DSTV subscribers in Bulawayo were questioned by the police as to the source of the foreign currency they use to pay their monthly subscriptions.

The police said they were justified to investigate cases where they suspect crimes were being committed.

ALERT

Date: June 13, 2005

Persons/Institutions: Media and People of Zimbabwe

Violation: Legislation

On June 2 2005, President Robert Mugabe signed the Criminal Law (Codification and Reform) Bill into law after it was passed into law by parliament towards the end of 2004.

Zimbabwean journalists now risk spending 20 years in jail if convicted for publication or

communication of falsehoods, which may incite public disorder or public violence.

ALERT

Date: June 13, 2005

Persons/Institutions: Margaret Chinowaita, Taka Muparutsa, Conway Tutani, Darlington Majonga, Fanwell Jongwe, Pedzisayi Ruhanya, McDonald Dzirutwe and Cornelia Mabasa.

Violation: Legislation

Former Daily News journalists, Margaret Chinowaita, Taka Muparutsa, Conway Tutani, Darlington Majonga, Fanwell Jongwe, Pedzisayi Ruhanya, McDonald Dzirutwe and Cornelia Mabasa, were served with summonses to appear in court for practicing journalism without accreditation in terms of the Access to Information and Protection of Privacy Act.

The journalists were expected to appear in court on 12 October.

ALERT

Date: June 2, 2005

Persons/Institutions: SW Radio Africa

Violation: Censored

On June 2 2005, SW Radio Africa station which broadcasts from London was forced to beam its last short-wave broadcast due to repeated jamming of its transmission signal by the Zimbabwean government. The station that is manned by Zimbabwean exiled in the UK is now broadcasting on medium wave which does not cover the whole of Zimbabwe.

ALERT

Date: May 18, 2005

Persons/Institutions: Frank Chikowore

Violation: Beaten, detained

On May 18 2005, freelance journalist Frank Chikowore was assaulted and subsequently arrested by the police while covering a blitz on street vendors and suspected criminals in Harare's central business district. Chikowore was released on May 19, 2005, without charges after spending a night in police cells at Harare Central Police Station

ALERT

Date: May 18, 2005

Persons/Institutions: National Constitutional Assembly (NCA)

Violation: Other

On May 18 2005, the National Constitutional Assembly (NCA), a pressure group agitating for constitutional reforms, was barred from launching its album dedicated to agitations for a democratic constitution in term of the Censorship and Entertainment Control Act.

The album, Singing for a New Constitution, had been widely distributed despite the police ban.

ALERT

Date: May 10, 2005

Persons/Institutions: Radio Dialogue

Violation: Censored

On May 10 2005, Radio Dialogue was denied a licence to operate a free to air commercial radio by the Broadcasting Authority of Zimbabwe (BAZ). The BAZ ruled that in its application, Radio Dialogue had described itself as a community radio station but had proceed to apply for a free to air commercial radio licence in Bulawayo.

ALERT (including update)**Date: May 02, 2005****Persons/Institutions: Richard Musazulwa (deceased)****Violation: Victory (charges dropped)**

On May 2 2005, Gweru Magistrate Auxilia Chimburu acquitted now deceased correspondent of the weekly private-owned Standard newspaper, Richard Musazulwa, on charges of contravening Section 80 (1) (b) of AIPPA which deals with abuse of journalistic privilege.

This followed the publication of a story on August 29, 2004, in which Musazulwa alleged that hungry Zanu PF youths had attempted to gatecrash a luncheon hosted by the Air Force of Zimbabwe at Thornhill Airbase in Gweru. The magistrate ruled that the state had failed to prove its case.

ALERT**Date: April 20, 2005****Persons/Institutions: Davison Maruziva, Savious Kwinika****Violation: Legislation**

On April 20 2005, Davison Maruziva, Savious Kwinika, editor and reporter with the Standard weekly newspaper, were charged with abusing journalistic privilege in terms of Section 80 (c) (1) of AIPPA.

This followed publication of a story on April 10, 2005, alleging that some ballot papers had gone missing during the March 2005 parliamentary elections.

Police said they would proceed by way of summons after recording their warned and cautioned statements.

ALERT**Date: April 08, 2005****Persons/Institutions: Ray Choto, Mark Chavunduka****Violation: Victory**

Journalist Ray Choto and the estate of the late Mark Chavunduka, have been paid a total of more than 20 million Zimbabwean dollars (approx.US\$3,225 at the official rate) in damages and interest claims for the torture and unlawful arrest they suffered following the publication of an alleged abortive coup plot in 1999.

The damages were awarded posthumously to Chavunduka, who was editor of the privately-owned weekly "The Standard" newspaper, together with Choto, who was his senior reporter at the time. Choto is now based in Washington, USA.

The pair was paid more than \$20 million in damages and interest for the torture and unlawful arrest they suffered following publication of a story in December 1998 alleging an abortive coup plot by Zimbabwe National Army soldiers.

Military personnel tortured the journalists following publication of the story.

ALERT**Date: April 03, 2005****Persons/Institutions: Professor Welshman Ncube****Violation: Other**

On March 10 2005, Opposition Movement for Democratic Change (MDC) secretary-general Professor Welshman Ncube accuses the Zimbabwe Broadcasting Holdings of sabotaging its election campaign programmes. ZBH executive director said the issue should have been directed to Transmedia, which is responsible for transmission.

ALERT (including update)**Date: March 31, 2005**

Persons/Institutions: Toby Harnden, Julian Simmonds

Violation: Detained

On March 31 2005, two British journalists working for the Sunday Telegraph, Toby Harnden and photographer Julian Simmonds, were arrested outside Harare for covering the elections without accreditation, an offence punishable by two years imprisonment, a fine or both imprisonment and a fine.

April 14, 2005: Norton magistrate Never Diza acquitted the two on charges of contravening AIPPA after the pair argued that they were in the country as tourists and not for purposes of covering the March 2005 parliamentary elections.

ALERT

Date: March 10, 2005

Persons/Institutions: Pius Wakatama

Violation: Victory

On March 10 2005, the State withdrew charges against Pius Wakatama, former columnist of the now closed Daily News newspaper. Wakatama was accused of publishing falsehoods under the Access to Information and Protection of Privacy Act.

The charge related to a column of April 29, 2002, in which Wakatama commented on the alleged incompetence of the Registrar General's office concerning the vote counting.

ALERT

Date: February 25, 2005

Persons/Institutions: The Weekly Times

Violation: Censored

On February 25 2005, the Media and Information Commission (MIC) closed the privately owned Weekly Times publication barely a month after its launch, citing "misrepresentation and non-disclosure of material facts by the owners.

ALERT

Date: February 18, 2005

Persons/Institutions: Wilf Mbanga

Violation: Threatened

On February 18 2005, editor and publisher of the London-based The Zimbabwean and founding Chief Executive Officer of Associated Newspapers of Zimbabwe (ANZ), Wilf Mbanga, was criticized by the Media and Information Commission (MIC) chairperson Dr Tafataona Mahoso for producing a donor-funded newspaper which, in his opinion, intends to undermine the existence of national and sovereign publications.

ALERT

Date: February 17, 2005

Persons/Institutions: Herald reporters

Violation: Threatened

On February 17 2005, an unnamed policewoman threatened to beat up a news crew from the government-controlled national daily, The Herald. The reporters were covering a traffic accident in which 14 people were killed.

The policewoman had been incensed by an earlier story in which the police was accused of responding late to public calls that a man was lying dead at a shopping complex in Harare.

ALERT

Date: February 14, 2005

Persons/Institutions: Jan Raath, Angus Shaw, Brian Latham, Harare-based foreign

correspondents

Violation: Bombed (raided)

On February 14 2005, police raided the offices of Harare-based foreign correspondents Jan Raath, Angus Shaw and Brian Latham, accusing them of spying and working without accreditation. The three were reported to have skipped the country following the raids. However, Raath and Shaw are still in Zimbabwe from where they continue to file their stories.

ALERT

Date: January 18, 2005

Persons/Institutions: Frank Chikowore

Violation: Detained

On January 18 2005, freelance journalist Frank Chikowore was arrested while covering a demonstration by the Women of Zimbabwe Arise (WOZA), a militant women's pressure group. Chikowore was released without charges after being detained at Harare Central Police Station.

ALERT

Date: January 10, 2005

Persons/Institutions: Vincent Kahiya, Dumisani Muleya, Iden Wetherell and Itai Dzamara

Violation: Victory

On January 10 2005, Zimbabwe Independent journalists Vincent Kahiya, Dumisani Muleya, Iden Wetherell and Itai Dzamara were removed from remand after the State failed to set their trial date. The four journalists had been on remand for almost a year on charges of criminally defaming President Robert Mugabe, following the paper's publication of a story headlined: 'Mugabe Grabs Plane For Far East Holiday'.

ALERT

Date: January 07, 2005

Persons/Institutions: Frank Chikowore

Violation: Legislation

On January 7 2005, President Robert Mugabe signed the Access to Information and Protection of Privacy (AIPPA) Amendment Bill into law.

Under the Amendment Act is now an offence for unaccredited or suspended journalists to practice without accreditation. Journalists caught on the wrong side of the law now risk a two-year jail term.

ALERT

Date: January 05, 2005

Persons/Institutions: Weekly Times

Violation: Threatened

On January 5 2005, the Media and Information Commission (MIC) threatened to close the Weekly Times for allegedly misleading the Commission on the thrust of its editorial policy.



African Media Barometer

Gauging civil society perceptions on the state of
media freedom & freedom of expression

Introduction

The African Media Barometer is the first in-depth and comprehensive description and measurement system for national media environments on the African continent. It is motivated by a number of reasons:

- On 1 February 2005, several media organisations, among them the Media Institute of Southern Africa (MISA) and the International Press Institute (IPI), have expressed their concern over NEPAD's ongoing African Peer Review Mechanism (APRM) to UN Secretary General Kofi Annan, saying: "The African Union has devised the African Peer Review Mechanism (APRM) on good governance, underscoring that the APRM is designed to foster democracy in Africa. Yet, the APRM's good governance criteria have a serious defect in that they omit a key requirement for good governance: the fostering of free and independent news media." Furthermore, the Review Mechanism was developed and is carried out by government agencies with no or not sufficient involvement of civil society organisations and those who are affected by government policies. The African Media Barometer is meant to overcome these defects in regard to the media.
- Media in Africa are the topic of numerous national or regional studies mainly written by scholars for national or regional consumption. There is no mechanism to achieve results that give an overview over the state of the media that would enable readers to compare developments in various countries.
- International freedom of the press surveys such as the one annually produced by the New York-based Freedom House collect data from correspondents overseas, international visitors, findings from human rights and press freedom organisations and a variety of news media. The criteria are set and the data evaluated at headquarters.

The Friedrich Ebert Stiftung's Southern African Media Project and MISA took the initiative to start the African Media Barometer in April 2005, a self assessment exercise done by concerned and informed citizens in each particular country according to a number of general, homegrown criteria. The benchmarks used have to a large extent been lifted from the African Commission for Human and Peoples' Rights (ACHPR) "Declaration of Principles on Freedom of Expression in Africa", adopted in 2002, and attached to this report as appendix 1. (It was largely inspired by the groundbreaking Windhoek Declaration on Promoting an Independent and Pluralistic African Press [1991] and the African Charter on Broadcasting [2001].) The ACHPR is the authoritative organ of the African Union mandated to interpret the African Charter on Human and Peoples' Rights which is binding for all member states.

42 indicators (see appendix 316, page) have been developed divided into four sectors:

1. Freedom of expression, including freedom of the media, are effectively protected and promoted.
2. The media landscape is characterised by diversity, independence and sustainability.
3. Broadcasting regulation is transparent and independent, the state broadcaster is transformed into a truly public broadcaster.
4. The media practice high level of professional standards.

At the core of the exercise is a panel of ten women and men in each state examined, comprising of personalities with high standing in their respective countries. Half of the panelists have a media background (e.g. journalists, activists, owners, editors), the other half come from civil

society and academia (e.g. human rights, law, religious groups, women's interests). They take part in their personal capacity, not as formal representatives of their respective organisations. Government officials and office bearers of political parties are excluded from participation.

The panels discuss intensively each of the 42 indicators. All of them are formulated as an ideal goal, for example: "The right to freedom of expression is practiced and citizens, including journalists, are asserting their rights without fear". The experts exchange legal opinion and practical experience in regard to this benchmark and contemplate to which level their country has achieved this aim. A rapporteur takes detailed notes and compiles the results into a comprehensive report – two days of debate usually produce information and assessments worth weeks of field work by a researcher.

One aspect of the exercise that helps to concentrate minds and keep discussions is the scoring. After extensive, qualitative debate panelists are asked to allocate (quantitative) scores to each of the indicator – in a secret ballot – that measure the degree of achievement:

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

These scores can then be used both as a measurement of development in a given country over time (it is planned to repeat the exercise every two years), as well as to make comparisons between various countries.

This report documents the result of a test run in six countries (Angola, Botswana, Mozambique, Namibia, Swaziland and Zambia). First versions of some of the indicators turned out to be either not clear enough or too complex, and these were changed accordingly without causing damage to the comparability of the results.

The results of the scoring show that panelists generally took a realistic view – neither attempting to be patriotic and give undue praise nor being overly critical or cynical. Botswana and Zambia ended up with an equal overall score of 2.2 (countries minimally meet aspects of the indicators), mainly due to the lack of any attempt to reform the broadcasting sector (where both countries scored exactly the same low: 1.7). Namibia and Kenya both scored 2.7 overall, meaning that these countries "meet many aspects" of the indicators, with high marks for freedom of expression in general for Namibia (3.2) and professional standards for Kenya (3.2).

These results now make for powerful lobbying tools. As all panelists have clout in their sphere of influence they can draw on them in helping to shape opinions inside and outside the political arena. The dismal score for Botswana, for example, came as a surprise to the panel, who spoke of their country as a "democracy without democrats", where there is "a lot of fear among citizens, partly due to intimidating threats made by state operatives like the police, security officers and the army".

The report is now being used to make people take an honest look and open their eyes on the real state of affairs. In Zambia, panelists resolved to work urgently towards the repeal of still existing pieces of colonial legislation, such as sedition laws, that impinge on freedom of expression. And in Namibia there was consensus that a defunct Media Council as a self regulatory mechanism for the media should be urgently revived.



Angola 2005

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

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

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

ANALYSIS:

The Constitutional Law guarantees freedom of opinion and of the press in articles 35 and 32 as basic civil rights, while at the same time it is silent or incomplete on many of these aspects. A Press Law regulates press freedom as being “characterised by freedom of expression and of thought through the written press, radio and television”. Currently, the National Assembly is considering a draft Press Law that is expected to be approved soon¹. During a consultation phase, independent institutions for the protection of journalists, such as the Trade Union of Angolan Journalists (SJA), the Union of Angolan Journalists (UJA) and other civil society groups participated in the debate. The draft law promises to contain a number of improvements in regard to better protection of the press and greater openness. But it seems clear that certain aspects of media freedom protection in the Constitutional Law and the Press Law require a number of improvements to ensure the completeness of such protection.

SCORES:

Individual scores: 4, 3, 3, 4, 3, 4, 3, 4
Average score: 3.5

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

ANALYSIS:

In general, the assertion of freedoms – whether of expression or of the press – is not perceptible at a level that could be considered satisfactory, even though today there is much more openness than at the time of the war. Citizens still have to put up with limits that result from laws such as those on state security, state secrets and others that limit these very freedoms, whether of ordinary citizens or of journalists. There are issues that even though they are public cannot be touched or spoken about, lest they infringe on the areas above. These restrictions on press freedom and freedom of speech are more accentuated in places further away from the main urban centres. Furthermore, state officials persecute citizens and journalists when they publish or express themselves in articles or other material in which the state or the officials are deemed to have been offended. Time and time again, journalists see themselves embroiled in legal battles over conflicting rights of the press or freedom of speech and alleged attempts against the security of the state or state secrets.

SCORES:

Individual scores: 1, 2, 2, 2, 2, 2, 2, 2
Average score: 1.9

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

ANALYSIS:

There are laws that interfere with freedom of speech and the responsibilities of the media, such as the Law on National Security and the Law on State Secrets, which establish a degree of limitation to the practice of the right of free expression. Examples of such restrictions:

- the prohibition of simulcasts of international broadcasters transmitting programmes of public interest and the case of the ban on repeater broadcasts between Lubango's *Radio 2000* (commercial station) and *Voice of America*.
- Angola did not participate in a project common to all countries with Portuguese as the official language, which would have introduced simulcasts of the Portuguese *RTP-África* on *Televisão Pública de Angola*. All other Portuguese-speaking countries joined the project.
- The Broadcasting Law in Angola prohibits the use of shortwave to any station that is not governmental. *Emissora Católica de Angola* (Radio Ecclésia), for example, was barred from broadcasting beyond the capital Luanda. The same Broadcasting Law prescribes the power of transmitters of non-governmental operators ensuring that no private operator can broadcast with a stronger signal than the public/state radio channels.

SCORES:

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

Average score: 1.5

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

ANALYSIS:

Unrestricted entry into and the practice of journalism are guaranteed, provided all necessary requirements are met by the institution contracting the journalist. Legally, there is no requirement as far as entry is concerned. In practice, a code of ethics prescribes some restrictions that establish a set of behavioural codes considered appropriate to the practice of the profession.

SCORES:

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

Average score: 2.5

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

ANALYSIS:

The protection of confidential sources of information is guaranteed by law: "Journalists are not obliged to disclose their information sources and their non-disclosure cannot be subjected to any direct or indirect sanction" (Article 6 [4] current Press Law). The law gives the same right to secrecy to the editors of press houses if they happen to know who the sources are.

SCORES:

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

Average score: 2.6

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

ANALYSIS:

The Access to Public Documents Act guarantees the right to public information. In practice, however, this right is openly violated, with the staff of public/state institutions and of some private institutions refusing to make available to the public and to journalists basic documents of public interest considered to be crucial for public information. The difficulty with the implementation of this law lies in the fact that there is a lack of knowledge not only on the side of journalists, but also at the public/state institutions themselves, which do not put in place structures capable of effecting proper disclosure procedures. There are institutions that do not account to anyone nor do they publicly present results of their government activities as required by the law.

SCORES:

Individual scores: 1, 3, 2, 1, 2, 2, 1
Average score: 1.8

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

ANALYSIS:

An increasing number of civil society groups are getting involved in the promotion of press freedom, for example by issuing solidarity declarations or organising events that call for more freedom of the press in the country. *Radio Ecclesia*, e.g., has enjoyed much solidarity in actions to pressure the government to allow the expansion of its services to the rest of the country.

A number of activities involve journalists and members of NGOs in events that promote press freedom. There are plans to create a network to integrate journalists and civil society in order to work for the promotion of press freedom.

Opportunities for study outside the country organised by embassies in Angola and by international organisations are another measure to promote press freedom and freedom of speech. This has contributed to enhancing the performance of journalists, but above all it leads to a greater awareness of their rights and therefore to a stronger fight in defence of the profession.

SCORES:

Individual scores: 2, 4, 3, 2, 2, 4, 3, 2
Average score: 2.8

Overall score for sector 1:

2.4

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:

In the broadcasting sector, Angola does not enjoy a wide range of sources of information. Public/state radio still maintains a monopoly over shortwave and is the only station covering more than 90% of the territory in 12 of the many existing languages. The provinces in the interior, in particular, are badly served, with the exception of three that have commercial radio stations – *Rádio Comercial de Cabinda* in Cabinda, *Rádio Morena* in Benguela and *Rádio 2000* in Lubango, all transmitting from the provincial capitals. There is, however, progress: citizens in the capital, Luanda, have access to *Rádio Independente*, a commercial station (*Luanda Antena Comercial*) of a relatively open nature, in addition to the four stations belonging to the national broadcaster – *Rádio 5*, *Rádio Luanda*, *Rádio Escola* and *Rádio FM Stério*. Recently, the state broadcasting media started to set up transmitters in regions in the interior of the country. Richer people have access to international channels via satellite, at an exorbitant costs – even for citizens of average income. For the vast majority, radio is the medium of easiest access to information.

Private newspapers are sold mostly in Luanda, with prices that are not very affordable to the majority of people. All newspapers are bi-weeklies: *Angolense*, *Semanário Angolense*, *Agora*, *Folha 8*, *A Capital*, *Independente* and *Cruzeiro do Sul*, which is regional, distributed mostly in the south-central region of the country.

Access to internet is limited to only a small minority, mostly concentrated in the main urban centres. The cost of access to this medium is still fairly high given the financial means of the majority of the population.

Generally, the biggest restriction to access to information is of a financial nature, as Angola is still a country where 68% of the population live below the poverty level, surviving on little more than 2 dollars per day.

SCORES:

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

Average score: 1.6

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

ANALYSIS:

There is no prohibition of access to any media as such. However there is an obvious distrust on the part of the authorities in regard to the expansion of independent media institutions, such as private radio stations and newspapers. *Rádio Ecclésia* is at this moment forbidden from expanding beyond Luanda, where it transmits on FM. There have been reports of retaliation on

the part of agents of the state against people in the interior of the country for making use of independent newspapers. Otherwise people with financial means can have access to many television channels from around the world through satellite (DSTV) without any restriction.

SCORES:

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

Average score: 3.1

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

ANALYSIS:

Angola has had only 3 years of peace and therefore its networks of main roads remains destroyed and some even mined, which makes circulation difficult, especially to rural areas. Owners of independent media are trying hard to reach the whole country. But both private and state newspapers can get to many places only at a high cost, making it basically impossible for many people to buy the papers. Moreover, the state newspaper reaches readers far from the capital with considerable delay.

SCORES:

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

Average score: 1.0

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

ANALYSIS:

There is legislation on broadcasting, including the Broadcasting Activities Act (number 9 of 92). This act does not provide for the setting up of community radio stations as such, but contains a reference to 'local radio stations', which could be interpreted to mean community radio stations. The act is to be revised soon.

SCORES:

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

Average score: 1.4

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

ANALYSIS:

Community radio stations do not exist in Angola. The various projects for the setting up of such stations – be it by private entities or non-governmental organisations – continue to wait for authorisation by government bodies in charge of the broadcasting sector in the country (the Ministry of Communications).

SCORES:

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

Average score: 1.0

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

There is constant interference especially in public/state media institutions, where the ruling party has some influence and exerts this with a degree of regularity. Notwithstanding their avowed purpose to be a public and impartial service, state media often end up not being able to meet the principle of editorial independence. Media workers gathered in round table discussions were of the opinion that the state media do not deliver a public service, but rather strive to give coverage to and publicise issues in which the ruling class is interested, to the detriment of a true service in the interest of the public. Therefore, the editorial independence of the state media seems doubtful.

SCORES:

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

Average score: 1.3

2.7 Local or regional independent news agencies gather and distribute information for all media.**ANALYSIS:**

There is only one news agency – state or public, *Angop*, which is available online on its site www.angolapress-angop.ao. This news agency offers reasonable national and international coverage and serves as a source of information for most of the media outlets in the country. However there is the possibility of accessing news, regional or international, via the internet.

SCORES:

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

Average score: 2.3

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

There are no major incentives to promote the diversity of the media or to enable the creation of more media outlets. Even though the Press Law and other legislation guarantee the freedom to set up media outlets, in practice there is a government concern that media outlets could flood the market. At present, there are still backlogged applications awaiting approval (some going back 7 years) for the establishment of radio stations, still without the green light from the governmental bodies in charge. The Broadcasting Act in force confers on the State the sole right to broadcast over shortwave. For the same reason, no community radio project has been

given the go-ahead to operate. *Rádío Ecclesia* faces the same problem and is still unable to broadcast to the whole country on shortwave.

SCORES:

Individual scores: 1, 1, 1, 1, 1, 1, 1, 1
Average score: 1.0

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

ANALYSIS:

The political environment that could promote diversity of the media still leaves much to be desired. In the recent past, many journalists faced police sanctions and had to answer in court for publishing certain materials. Although the situation tends to change in a positive direction, the environment for the free exercise of journalism remains flawed since laws such as the State Secrets Act and the Act on National Security are not clear on what can and cannot be published. This state of affairs prevails despite regional and international conventions designed to gradually reduce the monopoly of the state media and calling for more freedom of the press.

SCORES:

Individual scores: 1, 1, 1, 1, 1, 1, 1, 1
Average score: 1.0

2.10 Private media outlets operate as efficient and professional businesses.

ANALYSIS:

Although the private media survive with difficulty, they strive to be increasingly more efficient. But the weak financial standing of the private media weakens the efficiency of its operations in general and its professional standards in particular. Private newspapers carry a substantial proportion of opinion, which turns them into vehicles for the circulation of opinions of journalists who work there. In addition, the bad financial situation can open the way to corruption, even if only on a small scale.

SCORES:

Individual scores: 3, 3, 1, 1, 1, 3, 2, 2
Average score: 2.0

2.11. State print media are not subsidised with taxpayers’ money.

ANALYSIS:

The state media enjoys its own allocations in the overall state budget, from public funds and the taxes that citizens pay to the state.

SCORES:

Individual scores: 2, 2, 1, 1, 1, 1, 1, 1
Average score: 1.3

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

ANALYSIS:

The Broadcasting Act, which also covers advertising, states that advertising by state institutions must be distributed in an equitable form among the various media outlets, which as a matter of course does not happen. In reality, the state controls the institutional advertising spending and distributes it among the media that it sees as convenient. State institutions direct their advertisements to the state media - to the detriment of private media.

SCORES:

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

Average score: 1.6

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

ANALYSIS:

The advertising market in Angola is still very small and therefore insufficient to sustain the diversity of existing media. This situation has to do with the complete collapse of the industrial and manufacturing sectors during the war. Three years after the end of the war, things are changing substantially, with visible indications of economic growth. For the time being, the advertising market does not offer much support in terms of revenue for the media.

SCORES:

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

Average score: 1.4

Overall score for sector 2: 1.5

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:

There is no independent body to regulate broadcasting, even though there are international and regional instruments calling for such (African Charter on Broadcasting – Windhoek Declaration). The Communications Ministry and the National Council for the Media are in charge of broadcasting regulation, both being strictly governmental bodies and therefore subject to political and other forms of interference.

The establishment of an Independent High Authority for the Media is under discussion. Such a body could fulfil the role of an independent and impartial regulator for the media in the country.

However, the Angolan legal framework on regulation does not provide for such an authority, which leaves some doubt as to whether this agency will be created. The Trade Union of Journalists and other independent organisations have submitted a proposal outlining the responsibilities and competencies of such an agency. The proposal was the result of a representative consensus of Angolan media workers, who now await a final decision on whether the agency will be created or not.

SCORES:

Individual scores: 1, 1, 1, 1, 1, 1, 1, 1
Average score: 1.0

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

ANALYSIS:

There is no independent and impartial authority.

SCORES:

Individual scores: 1, 1, 1, 1, 1, 1, 1, 1
Average score: 1.0

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

ANALYSIS:

There is no independent and impartial authority.

SCORES:

Individual scores: 1, 1, 1, 1, 1, 1, 1, 1
Average score: 1.0

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

ANALYSIS:

The Communications Ministry is in charge of licensing. The process has not been transparent and follows criteria that are not very clear.

SCORES:

Individual scores: 1, 1, 1, 1, 1, 1, 1, 1
Average score: 1.0

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

ANALYSIS:

In all public/state media institutions the election of members of the boards follows nominations from within the ruling party. There is no transparency in this process, with the consequence that the appointees are not very concerned with the actual service that they are expected to deliver to the public.

First and foremost, there is an overwhelming preoccupation with pleasing those who nominate them. As an example, the previous director of the National Radio of Angola, who is now Minister of Communications, occupied the post while at the same time being part of the Central Committee of the ruling party. The same goes for the director of the state newspaper and the news agency.

SCORES:

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

Average score: 1.1

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:

The main criterion for the selection of persons to serve on administrative bodies of state media is their closeness to the ruling party and their ability to guarantee the defence of the interests of those in power.

SCORES:

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

Average score: 1.1

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

ANALYSIS:

Although the Act on Broadcasting Activities is clear in demanding independence in matters of programming [article 8 (2)], this provision is not respected even at the most basic level. Very strong political influence dictates all manner of activities and the broadcaster's operational line, editorial or otherwise.

SCORES:

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

Average score: 2.3

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

ANALYSIS:

The official or public broadcaster has its own allocations in the overall state budget. These allocations include salaries and other expenses. Because of its close ties to and support by the State, it has at its disposal a range of resources granted by the State. Although the exact figures of its budget are not known, it can be said that it is free from outside budgetary interference other than that of the state, which can influence its internal workings.

SCORES:

Individual scores: 4, 4, 1, 2, 2, 1, 1, 1
Average score: 2.0

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

ANALYSIS:

Technically, the public/state broadcaster of Angola (radio) covers more than 90% of the country. However, there are areas where the signal is weak and at times non-existent. The broadcaster transmits on shortwave, medium wave and FM in some of the provincial capitals, having improved its signal in recent times with the installation of regional repeaters. This is an ongoing project.

SCORES:

Individual scores: 3, 3, 3, 4, 4, 2, 4, 2
Average score: 3.1

3.10 The public broadcaster offers diverse programming for all interests.

ANALYSIS:

There is an effort to increasingly offer more diversified programming, taking into account the very diverse interests in the whole country. The new programme schedules already include programmes that are more open, such as debates reflecting the views of various political groups and not only a single view. A larger degree of openness is noticeable in the capital, while in areas of the interior, programming reflects a more conservative trend, aimed at protecting the interests of the elites in power.

SCORES:

Individual scores: 1, 4, 2, 3, 3, 2, 1, 1
Average score: 2.1

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

ANALYSIS:

There is an effort in this direction and the inclusion of more open programmes and of diversified opinion is increasingly noticeable. However, as a result of partisan influence, there per-

sists a trend among some journalists at these institutions to give – as was their habit – different treatment to news related to the political agendas of the various political parties.

SCORES:

Individual scores: 1, 3, 2, 2, 2, 1, 1, 1
Average score: 1.6

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

ANALYSIS:

Same as above.

SCORES:

Individual scores: 2, 3, 2, 2, 2, 1, 1, 1
Average score: 1.8

Overall score for sector 3:

1.6

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

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

ANALYSIS:

There is an approved code of ethics and professional conduct in place. It was discussed by media organisations, including the Union of Angolan Journalists. But there is no independent self-regulating authority accepted by media workers to fulfil the task of implementing the code with the necessary impartiality. Angolan media workers have defined the competencies and responsibilities of such an agency that could come into being in future.

SCORES:

Individual scores: 2, 2, 1, 2, 1, 2, 1, 1
Average score: 1.5

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

ANALYSIS:

In general, there is little evidence that news articles are independent and sufficiently accurate. In the various opinion pieces, especially in private newspapers, news tend to be sensationalised, which is the opposite of the strictness and independence that one would expect of news articles.

There is, however, a clear effort to raise the standards of journalism to this level. A small group of senior journalists are getting closer to these standards.

SCORES:

Individual scores: 3, 3, 2, 2, 3, 3, 3, 2
Average score: 2.6

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

ANALYSIS:

There is a shortage of means to enable the complete coverage of the country, given its large size. For this reason, many aspects of the life of communities far removed from the centres are not covered in the press. Given the many cultures of the peoples who inhabit Angola, it is not possible to cover everything. However, there is an increasing effort of the media to expand coverage to the most remote areas now that peace makes this possible. As for investigative journalism, the same problem of lack of means and resources to sustain the high costs of information gathering applies. In addition, many journalists lack the required skills to go into investigative journalism.

SCORES:

Individual scores: 3, 3, 2, 2, 3, 3, 3, 2
Average score: 2.6

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

ANALYSIS:

Many young women are beginning to enter the journalistic profession. In the newsrooms they share with the men the various professional jobs. However, there are still clear disadvantages for women, resulting from cultural biases that at times inhibit the participation of woman on an equal footing. Because of a lack of adequate conditions, household chores fetter women and deny them the possibility of, for example, covering events in areas away from home for extended periods.

There are some women who occupy management posts in some areas of journalism, even though there is only one media house with a woman at the helm (*Radio LAC*).

SCORES:

Individual scores: 3, 3, 2, 3, 2, 3, 3, 2
Average score: 2.6

4.5 Gender mainstreaming is reflected in the editorial content.

ANALYSIS:

Editorial policies do not contain clear references to promoting gender balance. However, the existence of legislation that provides for non-discrimination on the basis of gender has in some situations functioned as a form of protection in the sense of guaranteeing equal treatment in

relation to rights and opportunities for women and men in the media.

SCORES:

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

Average score: **2.0**

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

ANALYSIS:

A tendency to self-censorship still persists among some journalists, who deliberately omit facts, resulting from a party-political legacy. This trend is only slowly giving way to the greater openness that Angolan society is enjoying today with the advent of multi-party democracy.

SCORES:

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

Average score: **1.0**

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

ANALYSIS:

To some degree, owners interfere with editorial independence, typified in the way the news material is treated – be it in newspapers or at radio stations.

SCORES:

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

Average score: **1.4**

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

ANALYSIS:

There is a table of salaries for public servants and public media workers, but there is also an obvious policy – especially in the state media – of favouring staff members connected to the ruling elite by providing them with goods beyond the financial possibilities of media workers, and there are cases where remuneration is made outside of these standards. In the public/state media, salaries range from 100 US\$ to about 4,000 US\$. In the private media, salaries are relatively low, ranging from 50 US\$ to about 2,000 US\$. At *Rádio Ecclésia*, one of the few broadcasters totally independent of the state, salaries range from 50 US\$ to about 1,000 US\$.

Recently, the Angolan Journalists' Trade Union negotiated with the management of the various media outlets a collective agreement that defines salary levels for the various categories of journalists. In accordance with this table, salaries range from 200 US\$ to 1.200 US\$. These figures have been overtaken by salary increases in the state media and therefore the table is now under review.

Generally, the majority of journalists cannot afford the bare necessities, making them vulnerable to corruption. As for working conditions, these are rudimentary, with inadequate technical equipment. There are cases of shortages of work materials and in many radio stations the

equipment is obsolete.

SCORES:

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

Average score: 1.9

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

ANALYSIS:

There are a number of governmental and non-governmental organisations offering training for journalists, both professional and academic, some of them for free. Still common are the programmes offered by the embassies of richer countries for refresher/ finishing courses in their countries.

SCORES:

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

Average score: 2.8

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

ANALYSIS:

There is a growing trade union culture which translates into collective participation in the solution of common problems. Today, besides the (professional) Union of Angolan Journalists, there is a second trade union for journalists and another association for the protection of journalists.

SCORES:

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

Average score: 3.3

Overall score for sector 4:

2.2

The panel meeting took place at Roça das Mangueiras, Mussulo Island, Luanda, 8 to 9 November 2005.

The Panel:

Mr Cornélio Bento, journalist; Mr Reis Luís, land activist; Mr Mário Maiato, journalist and trade unionist; Anacleta Pereira, media activist; Mr Moisés Sachipande, journalist; Lúcia Silveira, human rights activist; Stella Silveira, journalist; Ms Fátima Veiga, women rights activist

The Rapporteur:

Mr. Cornélio Bento. Report translated by Mr. Rui Correia

The Facilitator:

Anacleta Pereira



Botswana 2005

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

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:

Section 12 (1) of the Botswana Constitution states that “except with his consent, no person shall be hindered in the enjoyment of his freedom of expression, freedom to hold opinions without interference, freedom to receive ideas and information without interference, freedom to communicate ideas and information without interference and freedom from interference with his correspondence.”

It is therefore assumed that freedom of the media is also guaranteed by the constitution, in line with a High Court judgment that acknowledges that the freedom of expression clause in the constitution includes freedom of the media and that this is similar to Article 10 of the European Union Convention on Human Rights.

But there are certain exceptions. The rights and freedoms are restricted, for example, in relation to national security, to protect the rights of other people, to protect the freedom of civil servants to perform their duties and where public order is threatened. There was no consensus whether the provision in the constitution guaranteeing freedom of expression is sufficient given all these exemptions. The majority was of the view that the exemptions are so broad that they do not pass the three part test which says that any restrictions on freedom of expression shall be provided for by law, serve a legitimate interest and be necessary in a democratic society.

There was consensus that the constitution may have guarantees for freedom of expression but that the reality on the ground is different. This is the reason why some freedom of expression activists have called for the explicit guarantee of the freedom of the media in the constitution.

There is a plethora of legislation which makes it difficult for the Botswana media to operate. These include the Directorate on Corruption and Economic Crime Act, which bars the director from giving information on any person who is being investigated.

Other such restrictive laws are the Public Service Act and the National Security Act, which make accessing information by journalists very difficult, the Official Secrets Act and the Cinematography Act. MISA has been pressing for the latter to be scrapped but the government does not seem to be interested in doing so.

Besides the fact that all these pieces of legislation could lead to the media in Botswana practising self-censorship for fear of being on the wrong side of the law, it was also felt that the situation is made worse by the many far-reaching powers given the Botswana’s President under the Constitution. These powers are more or less unlimited and extend to many aspects of Botswana’s public life.

SCORES:

Individual scores: 2, 3, 2, 4, 4, 2, 3, 2, 2, 2
Average score: 2.6

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

ANALYSIS:

There was general agreement that there is a lot of fear among citizens, which is partly due to intimidating threats made by state operatives like the police, security officers and the army.

Examples of these various threats include an incident when a group of clergymen had stated publicly that they were opposed to automatic presidential succession, and a series of letters, allegedly initiated by state functionaries, appeared in the media scandalizing them.

There were other cases cited where police either physically harassed some sections of civil society or ignored instances where such harassment took place. For example, it was said that in the past the police have ignored and even cheered when photographers were physically attacked while taking pictures of court witnesses and accused persons in the course of their professional duties. In other instances, journalists have been physically abused, sometimes in the presence of the police. Where cases were reported, police appeared to be unable to do anything.

Another example given was that of an NGO, Women's Coalition, that had its phones allegedly bugged by security police.

There is general confusion in Botswana between 'government' and 'public', with the two often taken to be one and the same thing: public interest equals government interest and vice versa – hence who is against government is against the public.

In the private sphere, advertisers pose a threat to the media by sometimes threatening to withdraw advertising should the media not tow their line or report negatively on them.

Cultural taboos were identified as another form of intimidation and gender-related hazards have been found to be prevalent in the country.

But it was also noted that despite these threats, the Botswana media still continue to publish what they want.

SCORES:

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

Average score: 1.9

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

ANALYSIS:

It was noted that there is a lot of arrogance within the Botswana civil service and that although the freedom to receive information is constitutionally guaranteed, there is no freedom to seek information. This is not helped by the fact that the President seems to have unlimited powers under the country's constitution. His actions are such that he appears to be above the law.

Therefore, freedom of expression may be guaranteed in the Constitution but specific legislation takes away that freedom from the media. For example, in terms of the Public Service Act, public officers are prohibited from releasing public information - though, admittedly, leaks do happen.

SCORES:

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

Average score: 1.3

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

ANALYSIS:

It is generally easy for anyone to enter the profession and practice as a journalist in the country.

SCORES:

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

Average score: 5.0

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

ANALYSIS:

This is not the case in Botswana.

SCORES:

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

Average score: 1.1

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

ANALYSIS:

Although according to the Vision 2016 document Botswana should have a Freedom of Information Act (FIOA) in place by 2016, government has publicly stated that the country is not yet ready for this type of legislation and that, therefore, nothing is being done towards promulgating such legislation. It was noted that civil society should probably start cultivating and pushing for a culture of openness in the civil service so that by the time the FIOA gets considered by government, the situation on the ground would already be conducive for such legislation to be applied easily.

A younger democracy, the one in South Africa, seems to have overtaken the older Botswana version of democracy since it promulgated a Freedom of Information Act in 1998.

SCORES:

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

Average score: 1.0

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

ANALYSIS:

Participants were disappointed that Ditshwanelo Botswana Centre for Human Rights did not want to participate in the Panel and some felt that this was an indication of how civil society has left MISA Botswana solely responsible for fighting for freedom of expression and the freedom of the media in the country.

It was pointed out that civil society previously lobbied together on issues with notable success - although this was not done consistently. For example, Emang Basadi spearheaded the lobby against the Citizenship Act and MISA led the one against the Mass Media Bill, which led to its blockage.

Even then, it was agreed that Botswana's civil society organizations should do more to mobilize and lobby together for various causes or better coordinate their efforts.

There was a strong feeling that civil society organizations in the country have become more of 'government NGOs' since most of them are now funded by the Botswana government. This is a new phenomenon, which started in earnest in 1994 and after the country was declared a middle-income country and NGO- funders left the country in large numbers.

It was concluded that public funding should not be synonymous with government funding and that civil society is entitled to public funding like everyone else and has every right to expect it from the government.

SCORES:

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

Average score: 2.4

Overall score for sector 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 market appears to be saturated with news publications but there are issues of accessibility – in the form of better distribution, the (English) language used in most newspapers and affordability - that are presenting a challenge. The country has a high literacy rate (84%) but a sparsely distributed population.

There is only one Tswana paper on the market. The reason given was that even Tswana speakers have difficulties reading their own language, because they have been brought up in English. For example, if questionnaires are offered in both languages, people generally choose the English version.

Most publications are centered in urban areas or places with high population concentrations. Most newspaper houses either distribute their newspapers themselves or use other means such as subscriptions, use of courier services and various forms of public transport. The situation could improve since a company from the *Mmegi* stable – BONESA - has recently been established as a distribution agency.

South African newspapers appear to enjoy better distribution than the local papers, probably because it is cheaper for the South Africans with their established networks and large population to penetrate the market than it is for small publications.

In addition, there are instances where South African owned trading outlets refuse to sell local newspapers - either because this is a management decision or because the shop management has been instructed to stock certain newspapers and are not aware of the existence of local papers that they could also sell.

It was further noted that, generally, investigative journalism appears to be lacking and that news content in most newspapers is largely the same. One of the panelists argued that where there is a major issue of national or regional importance, this tends to happen even among leading publications in the world and that it is not only true of Botswana.

Panelists stated that, given the scattered distribution and the small size of the population, it would take a long time for specialized publications to evolve in Botswana and that the tendency to have general newspapers will stay with us for a long time.

Newspapers in Botswana are generally affordable as they are cheaper than a loaf of bread, an internationally accepted form of measuring the affordability of newspapers.

SCORES:

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

Average score: 2.2

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

ANALYSIS:

Access to media sources is not restricted. In any case, it would be difficult to stop any published material from entering Botswana.

SCORES:

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

Average score: 4.5

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

ANALYSIS:

Given the fact, mentioned above, that Botswana's small population is thinly spread over a vast area, this is a serious challenge for the local media, particularly with regard to rural communities. Even the government is finding it difficult to distribute its publications to every corner of the country.

SCORES:

Individual scores: 2, 4, 4, 3, 4, 3, 2, 3, 3, 1
Average score: 2.9

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

A Broadcasting Act has been in place since 1998 which provides for public, private and community broadcasting services. But the development of commercial and community radio stations remains bogged down in bureaucratic haggling and red-tape.

In regard to community broadcasting, a number of groups are interested in starting such services but there are concerns in government circles about what these could be used for. As panelists noted, there is generally no respect for or commitment to freedom of expression among the people and government which is due also to historical and cultural reasons. Government fears that the international NGO Survival International could use community radios to promote their messages. This NGO is campaigning against the removal of San people from their original home. Any critic of the government like Survival International is perceived to be a threat to the diamond company Debswana and the government.

Government is not willing to give up control over Botswana Television and Radio Botswana.

SCORES:

Individual scores: 2, 2, 2, 2, 1, 2, 2, 2, 2, 1
Average score: 1.8

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

This is not the case. As stated above, the Botswana government is highly skeptical of community radio because of its perceived potential for abuse or propaganda.

SCORES:

Individual scores: 1, 1, 1, 1, 1, 1, 1, 1, 1, 1
Average score: 1.0

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

Government journalists are seen more as government officials and not as journalists per se. There is little independence and a lot of interference. The government media is under the direct

control of the minister responsible for the media — the Minister of Communications, Science and Technology.

SCORES:

Individual scores: 1, 1, 2, 2, 1, 1, 1, 1, 1
Average score: 1.2

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

ANALYSIS:

The government-owned *Botswana Press Agency* (BOPA) was supposed to gather and distribute information to all media but has failed as it continues to compete with private newspapers.

There is a new independent agency which offers news to all publications. It is called *Silas News Agency* and is owned by Stan Mulenga.

SCORES:

Individual scores: 2, 1, 1, 1, 1, 2, 3, 2, 1, 2
Average score: 1.6

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

ANALYSIS:

There is no regulation or competition board at present. The government intends to come up with a competition policy but debate over this issue is not transparent enough. The draft is considered confidential at the moment but expected to be widely distributed eventually. It deals with competition generally rather than being sector-specific.

SCORES:

Individual scores: 1, 1, 2, 1, 1, 2, 1, 1, 1, 1
Average score: 1.2

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

ANALYSIS:

Government competes with the private sector for advertising in print and broadcasting media and does not think the views of its political opponents are important. No incentives are being given to private media and media are even taxed. More promotion might occur in the ICT sector, where government has taken a lot of interest. P15 million was provided to bail out the construction industry but the media has never been considered for government assistance of any type.

SCORES:

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

Average score: 1.2

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

In a small market any inefficiency will be punished with closure or failure of the business. The media industry has small profit margins, partly due to cost-recovery measures being implemented by government. The state media charge sub-standard rates and have national coverage, both of which give them an advantage over the smaller media houses. This results in distortion in the market and unfair competition from state outlets under the guise of 'cost recovery'. The state uses the public purse to run its media whereas the private media have to rely on their own meagre resources. This raises questions about the democratic nature of Botswana society and the development of diversity of public opinion.

There are strategies in place to cultivate professionalism and to ensure the sustainability of private media. This is done through MISA and SAMDEF. The latter was established to help in sustaining the private media.

All media houses are trying hard to diversify sources of revenue instead of depending on advertising only.

SCORES:

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

Average score: 3.2

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

The government-owned *Daily News* is subsidized directly by government.

SCORES:

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

Average score: 1.0

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

In May 2001 the Botswana government issued a circular to all ministries, departments, parastatal organisations and private companies in which government is a shareholder, ordering them to stop advertising in *The Botswana Guardian* and the *Midweek Sun*. The reason given was the "persistent negative and often hostile reportage on government and its institutions". This decision was declared unconstitutional by the Botswana High Court later in the same year.

At present, government departments use mainly the government-owned *Daily News* for their advertising, with a lot of business going there, including tenders, advertorials and all other types of traditional advertising. This has been taken up with government and now the private press is getting a small share as well because some people in government seem to be ignoring the instruction.

Government media even solicit advertising from the private sector and advertising agencies. They charge either lower or nominal rates only, thus encouraging more advertisers to go to government and not to private media.

A study by panelist Dr T. Balule on public sector advertising in the private media showed that there is need for safeguards against government manipulation of the private media. He also found that most advertising is being placed in government media and not in the private sector. Government should make the process more transparent. There is no market research to guide advertisers on which market to target.

SCORES:

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

Average score: 1.3

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

ANALYSIS:

Titles which have long been on the market and have developed a brand for themselves manage to survive more easily than new entries into the field. There are varied estimates on the overall ad spend, with one going up to P400 million. Internet, radio and others have not yet explored the advertising market thoroughly enough.

The advertising market is large enough despite government's destabilization tactics and new titles are coming up all the time.

SCORES:

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

Average score: 3.0

Overall score for sector 2: 2.0

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:

According to the Broadcasting Act, 1998 the National Broadcasting Board (NBB) is appointed by the minister in charge of broadcasting. The board comprises an officer from the Office of the President, an officer from the Ministry of Commerce and Industry, an officer from the Department of Cultural and Social Welfare, a representative of the Botswana Telecommunications Authority (BTA), and seven persons appointed from a list of 10 candidates nominated by a Nominating Committee. This Committee consists of a member of the Law Society, the Vice-Chancellor of the University and a representative of the Office of the President. The Board is funded by the ministry and the BTA serves as the Secretariat to the Board.

Especially the role of the BTA as Secretariat was questioned, given that it creates the possibility of the BTA dominating the Board in its decision-making. The Board would need to have its own independent staff to do its work without direct interference from the BTA.

In some respects the BTA may presently be acting outside the law. After all, it was set up mainly to control and manage the spectrum, not to give technical advice to the NBB.

It was also noted that there are plans to merge BTA and NBB to set up a combined body to deal with all aspects of broadcasting and ICT. The present minister is not as keen on such a merger as was her predecessor, so it might not take place as quickly as previously thought.

Overall, there does not appear to be any or enough government commitment to the work of the NBB. For its part, the NBB does not appear to be pro-active in implementing broadcasting policy.

SCORES:

Individual scores: 2, 2, 1, 2, 1, 1, 1, 2, 1, 2
Average score: 1.5

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

ANALYSIS:

As outlined under 3.1 appointments are made by the minister. When the present board was appointed all names submitted by civil society were ignored. The Nominating Committee is biased towards government, with two of its three members being a representative of the president's office and the Vice Chancellor of the university who is himself a government appointee.

An example for an alternative way of doing things is the Press Council of Botswana, where a Selection Committee invited people to apply and these were interviewed with the public and media present.

Interviews for NBB candidates took place behind closed doors. The names of potential members were not published and so the whole process was not open and transparent.

SCORES:

Individual scores: 2, 2, 2, 2, 2, 2, 2, 2, 2, 2
Average score: 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:

Regulations for licensing broadcasters were passed in October 2004 but the broadcasting policy is yet to be approved by government. The NBB has not yet had the opportunity to regulate in the public interest and ensuring fairness and a diversity of views because of the absence of a broadcasting policy to guide it.

The NBB would be free to implement its regulations regardless and issue licences for commercial and community radio stations. So far, it has only granted a licence for Radio Botswana 1. One of the licence conditions is that Radio Botswana 1 should have an independent board. However, the station was not given any time frame within which to transform into a public broadcaster, and the duration of the licence is ten years.

SCORES:

Individual scores: 1, 3, 1, 1, 1, 2, 1, 1, 1, 1
Average score: 1.3

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

ANALYSIS:

The policy was developed in an open and transparent manner. The public had a chance to submit proposals and comments and there was an extensive public consultation process. However, the policy has not been adopted by government and it can thus not yet serve as a basis for the decisions of the NBB.

SCORES:

Individual scores: 1, 1, 1, 1, 1, 1, 1, 1, 1, 1
Average score: 1.0

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

ANALYSIS:

The Broadcasting Act defines the “public broadcasting service” as “any statutory body which is funded either wholly or partly through State revenues”. *Radio Botswana* and *Botswana Television* are directly controlled and managed by the Minister of Communications, Science and Technology.

SCORES:

Individual scores: 1, 1, 1, 1, 1, 1, 1, 1, 1, 1
Average score: 1.0

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

ANALYSIS:

This requirement does not even begin to apply because there is no independent board controlling the public broadcaster in the first place.

SCORES:

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

Average score: 1.0

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

ANALYSIS:

There is no law on public broadcasting in Botswana and thus no guarantee of editorial independence of any sort.

SCORES:

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

Average score: 1.0

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

ANALYSIS:

There is no such protection against arbitrary interference. The broadcaster is funded by the government, which can cut or increase funding at its discretion.

SCORES:

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

Average score: 1.0

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

ANALYSIS:

85 percent of the population has access to radio. For television the figures are 60 percent via terrestrial signals and 100 percent via satellite.

SCORES:

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

Average score: 3.1

3.10 The public broadcaster offers diverse programming for all interests as well as balanced and fair information reflecting the full spectrum of diverse views and opinions.

ANALYSIS:

Given the direct control by government it is not possible for *Radio Botswana* and *Botswana Television* to offer fair and balanced information and truly diverse programming. There is no language diversity as minority languages are not catered for. *BTV* has made some effort in this regard. On the other hand, overall programming on radio seems more diverse than that on television.

SCORES:

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

Average score: 2.6

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

ANALYSIS:

BTV has started to commission more local content. However, the quality standards set are so unreasonably high that the actual share of local content shown is still low. *Radio Botswana* promotes folk music and folk musicians.

SCORES:

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

Average score: 2.7

Overall score for sector 3: 1.7

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

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

ANALYSIS:

The Press Council started its work in November 2004, using a Code of Ethics. There have been only a couple of cases so far, among them a complaint from a Member of Parliament over an infidelity case which is presently on appeal.

Adjudication must be done within 28 days from the day the case is brought to the Press Council. On the part of the media there is still a lack of willingness to publish the Council's judgments

Generally, however, the Press Council is functional and the Code of Ethics was circulated in media houses and discussed with journalists to ensure that they follow the Code. Unfortunately, the Council is presently under-resourced and therefore not able to do its work as efficiently as it should and to communicate more on its judgments and other activities. It should embark on a campaign to make the public aware of its existence by regularly publishing information on how to report to it. It is also necessary for all media houses to indicate in their imprints that they are members of the Press Council and bound by its Code of Ethics.

Overall, the Council is on the right track and most major media players are members.

SCORES:

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

Average score: 3.6

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 such as the recent devaluation of the pula, for example.

Furthermore, there is no diversity of experts writing in the papers and it seems that always the same political analysts get a chance. One of the reasons cited was that a lot of people do not dare to come forward and express their opinion in writing. Another underlying cause is the decline of quality teaching and research at the university which does not produce top experts any more - the "UB is a bakery producing a lot of loaves".

SCORES:

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

Average score: 2.9

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

ANALYSIS:

In view of increasing commercialisation, the media do not want to antagonize their advertisers and thus practice self-censorship. There is tension between the editorial and advertising teams, as the former always seek to cover only newsworthy events and not those directly linked to commercial interests and designed to make potential advertisers appear in a good light.

The local media were also accused of being too cowardly and not talking about certain issues because they fear people in positions of power and influence. (A number of examples show that the press has indeed been brave – and braver - in the past.) Not many people are prepared to come forward and comment when something is written about them, leading to a situation where stories are not balanced and as accurate as they could be.

Investigative reporting has also suffered because most experienced journalists tend to be promoted and stop writing. Therefore, there is a need to train new journalists in investigative reporting all the time. Many others leave the profession for greener pastures, especially in public relations.

SCORES:

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

Average score: 3.0

4.4 Journalists and editors do not practice self-censorship.

ANALYSIS:

As far as possible editors try not to censor themselves. But they do face some cultural constraints, such as respect for elders. Sometimes self-censorship is practiced when editors do not cover a story on prominent people who are misbehaving and abusing their office. Editors have to live with an “unbelieving society” that thinks newspapers are quite prepared to make up their stories. However, the situation has not become so serious as to have reached a “stage of unhealthiness”.

SCORES:

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

Average score: 2.5

4.5 Owners of private media do not interfere with editorial independence.

ANALYSIS:

Journalists are generally free to write what they want and only editors check their stories to make sure they are accurate and balanced. Unlike in Britain, for example, newspapers in Botswana are non-aligned economically, politically or otherwise and editors are encouraged to be independent and non-partisan. This is included in their mission statements and holds true for most print media – with the exception of government media. The daily *Mmegi*, for example, has an editorial charter which ensures the independence of the editor and clarifies the relationship between the editor, the board of directors and the rest of the Botswana society in as far as his or her professional work is concerned.

At one radio station there have been incidents of running battles between journalists and the chairman of the board of directors, with journalists left unprotected by their station manager. Nevertheless, they stood up to the chairman whenever this happened, until they were fired from the station.

SCORES:

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

Average score: 3.0

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

ANALYSIS:

As a general rule, salaries for journalists in Botswana are based on comparable industry salary levels. Journalists are expected to declare gifts and the nature of such gifts to determine whether or not they should be allowed to keep them. There are clear divisions between the editorial and the marketing departments in most media houses in the country.

SCORES:

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

Average score: 3.4

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

ANALYSIS:

Short-term training is available and MISA informs media houses regularly on such opportunities. Many students were trained in media all over the world on government scholarships and locally at the University of Botswana. In addition there have also been many short courses offered by several institutions in the region. At the moment, there are even too many journalism graduates in the country and not enough full-time jobs available for them.

There are also efforts to take on interns, but there is not enough capacity to give all of those interested a chance.

SCORES:

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

Average score: 4.0

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

ANALYSIS:

There are various media organisations in the country such as the Botswana MISA chapter, the Botswana Press Club, the Botswana Media Women's Association and the Botswana Journalists Association, with the latter apparently not being functional at present.

SCORES:

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

Average score: 3.6

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

ANALYSIS:

Women are in top decision-making positions in some media such as the *Voice* or the *Gazette*. There have been more women journalists joining the profession in the recent past. However, many women journalists find journalism to be too confrontational in nature and are wary of going out and facing up to controversial cultural or political issues, in particular because most opinion makers and decision-makers are men. Many prefer desk jobs and others leave for public relations jobs. There are much fewer female than male applicants for journalistic jobs.

Most companies and media houses in Botswana are equal opportunity employers, with merit being the more important criterion for hiring rather than gender considerations per se.

According to a study commissioned by MISA, only two media houses have gender policies in place (*Voice* and government media). Those that have no official policy claim to have unwritten gender practices and policies.

SCORES:

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

Average score: 2.9

4.10. Gender mainstreaming is reflected in the editorial content.

ANALYSIS:

Various studies on the Botswana media such as a 2002 Gender Links study have shown that the editorial content of most media outlets is generally unbalanced, with 84 % of all sources being male and only 16 % female.

One of the reasons discussed was the fact that many women in high positions are not forthcoming and will rather delegate a requested interview to a male colleague. Therefore journalists should deliberately seek out women and get their voice heard. One (female) panelist, however, asked why the media should be more altruistic than other players in society. The answer was that media are the eyes, ears, conscience and voice of society. As such they have the power to transform society and therefore a special responsibility.

Another reason identified for the imbalance was that news coverage is too often merely event driven rather than issue driven, and that gender topics could be better addressed in issue driven stories.

SCORES:

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

Average score: 1.5

Overall score for sector 4:

3.0

The panel meeting took place at the Cumberland Hotel, Lobatse, 17 to 19 August 2005.

The Panel:

Dr. Tachilisa Balule, Law Lecturer; Rev. Rupert Hambira, Church Minister; Ms. Beata Kasale, Publisher; Mr. Modise Maphanyane, Media Activist; Ms Felicitus Mashungwa, Journalist; Dr. Pinckie Mekgwe, Lecturer – Literature; Ms Nkamo Mokongwa, Lawyer; Mr. Solomon Monyame, Producer; Dr. Masego Ayo Mpotokwane Lecturer - Environmental Science; Ms Clara Olsen, Editor

The Rapporteurs:

Mr. Methaetsile Leepile and Mr. Sechele Sechele

The Facilitator:

Mr. Hendrik Bussiek



Mozambique 2005

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

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

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

ANALYSIS:

While freedom of expression is enshrined in the constitution, there is a lack of complementary legal tools that can in practice guarantee freedom of expression. During the 2004 electoral campaign, for example, some citizens in Angoche, in the northern province of Nampula, expressed an opinion deemed to be unfavourable to then President Joaquim Chissano, and were subsequently detained.

The prosecutor insisted they had defamed the Head of State. Journalists are also systematically denied access to information, which by extension means that newspapers or broadcasters are not able to tell the full story.

The gap between theory and practise can further be exemplified by cases of interference by district administrators into the affairs of community radios. A community radio professional was fired by an administrator in a district in the central province of Zambézia. The journalist's 'fault' was to have reported that government vehicles were being used for personal purposes. He was removed from his position and demoted to a menial position.

Community radio stations are more open to abuse of power and thus curtailing of freedom of expression because most of their staff are not mainstream journalists and inevitably the authorities have more overt leverage in districts than in towns. Community broadcasters are usually teachers paid by the state.

Another example is the municipality of Nacala, where a community radio was set up when Frelimo was in power. The station was launched without a licence from Gabinfo (the state body that issues licences for new media outlets).

However, it was left to operate as long as it was not considered to be broadcasting information contrary to the interests of the ruling party. When Renamo won the following municipal elections, wresting power away from Frelimo, the station was then seen to be pro-Renamo and subsequently ordered to close because it did not have a licence.

Another example are incidents of editors-in-chief of provincial bureaux of Radio Mozambique who were transferred during elections to give way to professionals from the capital Maputo to come and run the stations. This was not because the provincial editors-in-chief were unable to discharge their duties, but was rather motivated by the objective of controlling the flow of information.

The message is quite clear: the country is still not prepared to countenance different points of view.

SCORES:

Individual scores: 2, 2, 3, 2, 3, 3, 2, 2, 4
Average score: 2.6

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

ANALYSIS:

Citizens' right to freedom of expression - enshrined in both the Constitution and the Press Law – is from time to time practised. For example, there have been protests recently against skyrocketing fuel prices: citizens expressed their freedom of expression without fear of reprisals.

But these are exceptions. The rule is repression of freedom of expression. One of the reasons for this state of affairs might be the decades of one-party rule in the country before the Peace Accord in 1992: some officials have yet to break out of the one-party mould as they still consider opposing views as antagonistic.

By and large, most people do not know that the right to freedom of expression is a constitutionally enshrined right.

SCORES:

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

Average score: 3.0

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

ANALYSIS:

There is no overt restriction of freedom of expression. The Press Law guarantees a certain degree of freedom except in relation to national security. In that regard it is necessary to come up with a clear and unambiguous definition of a state secret. Foreign affairs also seems to be a no-go area for journalists.

There is a gap between the intention of the Press Law and reality. For example, although in other businesses foreign investors are allowed to own - in some cases - more than 50 percent of shares in companies, this is not the case in the media industry. The Press Law limits foreign participation in a media outlet to a 20 percent stake – this is seen as discouraging direct foreign private investment in the sector.

Another form of restriction is that of special treatment of the media in cases of breaching the law. While offences perpetrated by citizens fall under the common Penal Code, offences by the media seem to be governed by their own code and are considered urgent by the courts: cases based on allegations of slander or libel are usually rushed through the courts.

SCORES:

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

Average score: 3.3

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

ANALYSIS:

There is no restriction to the entry into and practice of the journalistic profession.

SCORES:

Individual scores: 5, 5, 5, 5, 5, 5, 5, 5
Average score: 5.0

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

ANALYSIS:

Article 30 of the Press Law gives journalists the right to keep their sources confidential without fear of reprisals. Despite this provision, judges and attorneys all too often challenge journalists to reveal their sources of information.

In some instances, the request to reveal sources arises out of ignorance. On some occasions journalists had to provide the text of the law to judges to make them give up their crusade of forcing media professionals to disclose a source's name.

SCORES:

Individual scores: 2, 3, 5, 2, 1, 3, 4, 1, 4
Average score: 2.8

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

ANALYSIS:

Public information is neither easily accessible nor is such access guaranteed by law. A case in point is a piece of legislation obliging all civil servants aspiring to a public position to declare their assets. However, the same legislation prohibits disclosure of declared assets to both journalists and the public. Recently, a minister disclosed his assets in a weekly newspaper, but when President Armando Guebuza was asked to declare his a week later, he said the time was not right for public officials to declare their assets.

SCORES:

Individual scores: 1, 1, 1, 1, 1, 1, 1, 1, 1
Average score: 1.0

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

ANALYSIS:

Civil society's influence is weak compounded by political infiltration of leading civil society groups. It is frequent for the chairpersons of leading civil society organisations to be associated with the ruling party, which generates a conflict of interests when lobbying work is necessary. Furthermore, the number of civil society organisations doing advocacy work as a continuous activity is decreasing.

SCORES:

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

Average score: 1.9

Overall score for sector 1:**2.8****Sector 2: The media landscape is characterised by diversity, independence and sustainability.****2.1 A wide range of sources of information (print, broadcasting, Internet) is available and affordable to citizens.****ANALYSIS:**

There is a plethora of publications: newspapers, radio stations and television channels. However, newspapers are not easily affordable. The two dailies cost 12,000 MZM (US\$0.48) per copy. The weeklies cost the equivalent of a loaf of South African bread or a beer. There are 12 newsheets distributed by fax but these are unaffordable for the general public – an annual subscription can cost up to US\$450.

Circulation is low for a population of about 18 million, of whom 45 percent are literate: State-owned Notícias has an official circulation of 12,000, other newspapers cannot afford to increase their average circulation of 5,000.

Most of these publications are concentrated in urban areas and there is hardly any local publication in the rural areas.

Radio Mozambique claims to reach every nook and cranny of the country, but since the majority of the population is impoverished they find it hard to afford batteries for radios let alone electricity, which means that accessibility is further limited. Commercial radio stations, being based in urban areas, are too far from most people to have much of an impact in terms of a wider audience.

SCORES:

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

Average score: 2.2

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

Overall, citizens' access to media is not limited, but there are subtle ways to control such access. For example, a publisher offers free copies of his weekly to prisons. The officer in charge of the jail reads the paper first before passing it on to inmates. Whenever there is something he does not like, the paper is not distributed.

SCORES:

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

Average score: 4.3

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

There's hardly any effort being made. If any at all, it is not systematic.

SCORES:

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

Average score: 1.1

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

There is no broadcasting legislation.

Rádio Moçambique (RM) hampers and stifles any development of would-be commercial radios by artificially dropping advertising rates. In addition, all state ads are broadcast exclusively by the national radio. This is one of the main reasons why commercial radio stations are not developing. Despite ongoing talks between *RM* and commercial radio stations, *RM* seems comfortable and happy with the current status quo.

Perhaps the main problem is that there is no strong and united interest group representing the owners of commercial radio stations who want to see something specific in a law legislating broadcasting. Furthermore, it does not seem clear who the regulatory entity is - whether the Press Office (Gabinfo) or Mozambique's National Institute of Communications (INCM). Gabinfo processes the applications and INCM allocates frequencies, but the latter can refuse to do so or simply delay the process. There is no link between the two institutions.

However, there is a feeling that the regulatory vacuum could be a blessing in disguise for freedom of speech.

SCORES:

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

Average score: 1.0

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

There are three types of community radio stations: (i) those sponsored by UNESCO; (ii) those

sponsored by IBIS (Danish NGO); and (iii) those financed by the government through the Instituto da Comunicação Social (ICS).

In the case of ICS stations, district administrators chair the radio management committee, which means they have the power to interfere and that ICS community radios are increasingly becoming a third tier of state media. There appears to be a coordinated strategy to transform them into a government media political tool.

The IBIS-backed stations, broadcasting mostly in some of the country’s northern districts, suffered pressure to take some of their programmes off air during the election campaign in 2004 because of content that was deemed to be “unsuitable” for the moment.

UNESCO supports the bulk of community radio stations under its media project. At the height of the election campaign, some stations tried to be more independent and report on what happened in their communities, but they were threatened with cuts to funding. The UNESCO media project is nearing its end, and there is general pessimism that most of the community radio stations covered by the project will founder, as they are not sustainable.

Finally, support for community radios depends mostly on the authorities. The Catholic Radio used to receive support but as soon as they started addressing certain issues considered “delicate” they suffered the consequences: they had initially received approval to import equipment with tax exemption, but this was later reversed.

SCORES:

Individual scores: 1, 3, 1, 1, 2, 1, 2, 2, 2
Average score: 1.7

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

ANALYSIS:

There is no protection of editorial independence. The state-owned newspaper *Notícias* hardly gives space to voices speaking out against the establishment. *Notícias* has adopted the opportunist habit of writing editorials on the opposition whenever it blunders.

Although it claims otherwise, *Notícias* is a state-owned paper, and this could explain its behaviour. Its shareholder structure is as follows: the Central Bank holds 42% of *Notícias* shares; 42% is held by the Ministry of Information, which no longer exists (in its place the government created Gabinfo), and the remaining shares are held by the State insurance company, EMOSE. The paper’s director is appointed by the Central Bank, and the chairperson of the board is the current Central Bank deputy-governor.

SCORES:

Individual scores: 1, 1, 1, 1, 1, 2, 1, 1, 3
Average score: 1.3

2.7 Local or regional independent news agencies gather and distribute information for all media.

ANALYSIS:

There is no independent news agency. The country's only news agency, *AIM*, only distributes its material to selected media, namely *Notícias*, *RM* and the privately-owned *Diário de Moçambique*.

For international news, the Portuguese news agency, *LUSA*, is used. Although it has an agreement with *AIM* to distribute its information to other media, it prefers to deal directly with *RM*, *Notícias* and *Diário de Moçambique*. Other newspapers are not very interested in paying for the service because the news that sells papers is mostly local news and not international information.

English-language news agencies such as *IRIN*, *IPS* are not used because of the language barrier.

SCORES:

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

Average score: 1.0

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

ANALYSIS:

There is no regulation preventing diversity, but there is certainly no policy to promote it.

There is also no policy that prevents media institutions from diversifying into other types of media. For example, the *SOICO* group owns a newspaper, a radio station and a television channel. This contrasts with South Africa, where a clause on cross-ownership is part of the regulations on competition. The clause aims at preventing a media institution that is dominant in one area or sector from becoming a strong player in another area/ sector.

SCORES:

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

Average score: 1.0

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

ANALYSIS:

Government promotes only "public" media. For example, the heads of such institutions can benefit from tax exemption which is not extended to the independent players. Furthermore, publicly-owned institutions can get tax exemption for equipment, which is again not enjoyed by the independent media.

SCORES:

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

Average score: 1.4

2.10 Private media outlets operate as efficient and professional businesses.

ANALYSIS:

Many independent media institutions live on donations. Lately some media institutions folded because there were no new donations, and they were not making a profit. But there are those that are well managed and survive by selling advertising space.

SCORES:

Individual scores: 5, 4, 4, 1, 3, 4, 3, 4, 1

Average score: 3.2

2.11. State print media are not subsidised with taxpayers' money.

ANALYSIS:

State media must stay afloat, while at the same time on a short leash – whatever it takes, but without visibly weighing on public coffers. Firstly, by trying on its own (seek funding for the running of their institutions); then by virtue of a combination of reduced operational costs (tax exemptions) and a guaranteed captive/ biased market by stifling alternative voices to the state broadcaster. If all else fails, the security net triggers into action. If they are owned by the state-owned bank, state-owned insurance company and the information ministry – it stands to reason that shareholders will ensure that these “companies” are financially operative.

There is no question that they **are** being thus subsidised – at least indirectly.

SCORES:

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

Average score: 1.0

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

ANALYSIS:

There is some subtlety applied in this regard but not enough to camouflage the fact that government does use its power over the placement of advertisements as a means to exert control over the media. Recently, the weekly *Savana* published two background stories on the chairman of the board of a publicly-owned company. The paper received a letter from the company, cancelling a contract for the placement of advertisements which it had already signed. This is unfortunately a rather frequent occurrence. Whenever a paper publishes articles that seem to rattle the establishment, commercial sanctions are applied.

Most advertisements end up in state-run *Notícias* and *Domingo*. Sometimes *Notícias* does not even have enough space to publish the advertisements.

It is not clear whether there is an official recommendation for publicly-owned institutions to boycott a particular newspaper when it writes unfavourable reports. But certainly the president's office seems to be interested in knowing what the media is saying. Former President Chissano

was subscriber number six of the independent news-sheet *Mediafax*, published by Mediacoop. During his mandate, Chissano subscribed to 13 newspapers. The current president subscribes to 24.

SCORES:

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

Average score: 1.3

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

ANALYSIS:

The advertising market is still far too small to sustain a vibrant and diverse industry.

SCORES:

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

Average score: 1.7

Overall score for sector 2:

1.7

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:

There is no body, independent or otherwise, that regulates or tries to organise the broadcasting sector. Even the boards of the publicly-owned broadcasting media do not reflect the diversity of civil society. All appointments are made by government except for one which is the prerogative of the professionals.

SCORES:

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

Average score: 1.0

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

ANALYSIS:

There is no regulatory body.

SCORES:

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

Average score: 1.0

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

There is no regulatory body.

SCORES:

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

Average score: 1.0

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

There is no regulatory body. However, a glance at the workings of the INCM to see whether allocation of frequencies is done independently, transparently and inclusively shows that there is reason to believe that this is done subjectively. Furthermore, there is some confusion because Gabinfo handles the paperwork and which it may agree to grant a licence the INCM may still refuse alleging that the airwaves are saturated. This is happening at the present moment.

SCORES:

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

Average score: 1.2

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 public/state broadcaster is not accountable to the public. There is no consultative body and neither is there a legal provision for its existence. Government has great power over the public broadcaster.

SCORES:

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

Average score: 1.0

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

ANALYSIS:

There are no such provisions or exclusions.

SCORES:

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

Average score: 1.0

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

ANALYSIS:

Editorial independence is guaranteed by law but never practised. Editorial independence is enshrined in Article 11 of the Press Law, but reality is different. It is alleged that the chairman of the board of *RM* is sometimes pressured to take certain positions, but that he refuses to do so based on the article. However, pressure is exercised at other levels. *RM*'s bureau chief in Sofala was suspended for broadcasting an interview with the Beira Archbishop, D. Jaime, who is a vocal supporter of Renamo.

In another incident, a *RM* director banned the rap song, "*O País da Marrabenta*", which is critical of corruption. Only when the print media started writing about the ban did the management of the radio order its reversal. This shows that some heads of departments will act when they perceive a danger to their own position.

SCORES:

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

Average score: 1.9

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

ANALYSIS:

There is no independent allocation of funds to the public/state broadcaster. Government encourages the chairmen of public media boards to seek funding for the running of their institutions. They survive mainly on advertisements. Most of the time *RM* does not know how much it will have the following year because even though it submits its own budget, this will usually suffer cuts of all kinds.

SCORES:

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

Average score: 1.2

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

ANALYSIS:

Although RM is accessible in all provincial capitals, it certainly does not reach every nook and cranny of the country. *TVM* covers not yet all ten provincial capitals. With the help of private partnerships in setting up repeaters the station now also reaches some district capitals.

SCORES:

Individual scores: 2, 2, 3, 2, 3, 2, 1, 2, 1
Average score: 2.0

3.10 The public broadcaster offers diverse programming for all interests.

ANALYSIS:

There are some efforts to make programming as diverse as possible. Every now and then, however, an interested party will approach the broadcaster to transmit its programme against payment. In this way, public service information is often sacrificed to make way for content that brings in some revenue. This has resulted in bona fide public service information creators having to pay to have content broadcast – for example, public health or gender issues.

SCORES:

Individual scores: 3, 1, 2, 2, 3, 3, 3, 2, 2
Average score: 2.3

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

ANALYSIS:

Certain issues are just not debated or are simply swept under the carpet. Furthermore, news is ranked according to hierarchy, always starting with the president, ministers and so on.

SCORES:

Individual scores: 2, 1, 2, 1, 2, 2, 2, 1, 2
Average score: 1.7

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

ANALYSIS:

TVM is offering as much local content as economically achievable but the quality and creativity of the programmes are far from satisfactory.

SCORES:

Individual scores: 3, 2, 2, 2, 2, 3, 2, 3, 2
Average score: 2.3

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

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

ANALYSIS:

There is no self-regulatory body. There were two attempts to establish such a voluntary organisation with little success. The Conselho Superior da Comunicação Social (CSCS) [Mass Media High Council, a state body charged by the constitution to ensure the independence of information institutions (read ‘media’), press freedom, the right to information, as well as the rights of reply and right to airtime, among others] follows internationally accepted standards, but there is no specific code.

SCORES:

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

Average score: 2.3

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

ANALYSIS:

Not always. Sometimes the information in the stories looks incomplete. Some basic principles of journalism are simply not followed. It must be pointed out that this can not be generalised. Sometimes it has to do with the journalist not having enough knowledge of the subject matter or because the journalist tends to believe in the source unquestioningly and ends up producing stories with incorrect information. Most reporters are young and they try to gain immediate recognition by publishing sensational stories.

The shortcomings are worrying. Media professionals believe that there should be a self-regulatory body that would discipline the sector. Meanwhile, there is an increase in the number of court cases against journalists, and this will continue until journalists learn to respect the basic principles of the profession. But it is also a matter of editors making better decisions on whom to employ.

SCORES:

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

Average score: 2.0

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

ANALYSIS:

There are some efforts under way to cover the full spectrum but these are far from being satisfactory. Some areas are being left totally unreported while others are not covered properly and stories are not of good quality.

SCORES:

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

Average score: 2.4

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

ANALYSIS:

Some newsrooms do promote equal participation of both sexes. But there are few female journalists because they are difficult to recruit. One of the reasons why women turn their backs on journalism is the perceived libertarianism associated with the profession.

Most women journalists work as presenters at television and radio stations. But gradually there are more women joining the ranks of news journalism. The director of productions in *Televisão de Moçambique* is a woman and one of the deputy-editors at *Notícias* is a woman.

SCORES:

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

Average score: 2.2

4.5. Gender mainstreaming is reflected in the editorial content.

ANALYSIS:

Gender mainstreaming is not reflected in the content. It is difficult to hear or see women's voices in the mass media. Furthermore, stereotypes are likely to affect editorial content. Unless the woman is a high profile person, very few get quoted by the media, which does not bode well for diversity. Mostly, women are quoted when the topic is a social issue. Rarely is the connection made that economics is interlinked to gender and human development.

SCORES:

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

Average score: 2.0

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

ANALYSIS:

Self-censorship is practised although journalists and editors may say otherwise, citing their own editorial policies. There are various factors contributing to self-censorship, both political and economic. Self-censorship is rampant in the public/state media.

SCORES:

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

Average score: 1.6

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

ANALYSIS:

Historically, the owners are journalists who have become businessmen. This is quite evident when editorial content clashes with economic interests. Invariably, the owner will decide to quash a story to survive. Furthermore, the situation becomes fuzzy when - as an example - the owner is also a media consultant for the country's telecommunications company and largest retail shop.

In the public sector, government may use subtlety to interfere, like dropping hints about – among other things - not renewing the appointment of the chairman of the board.

SCORES:

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

Average score: 1.9

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

ANALYSIS:

Salary levels vary. Independent papers have difficulties paying competitive salaries. The minimum wage at the weekly *O País* is 1.14 million meticaís (US\$46), and the *Zambeze* pays as much as 5 million meticaís. Some newspapers provide benefits to keep journalists interested. In contrast, new-comers to the paper *Notícias* earn around 8 million meticaís. The publicly-owned *Televisão de Moçambique* (TVM) tops the list. The minimum wage is said to be 10 million meticaís. However, *Notícias* and *TVM* are exceptions rather than the norm.

The low wages increase the risk of journalists being exposed to corruption. Some journalists receive money from ministers to look after their public image. Some journalists provide consultancy services to ministries and companies. There are rules against taking “presents” but they are not always adhered to.

SCORES:

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

Average score: 1.7

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

ANALYSIS:

Training is offered through a plethora of courses, but there are doubts as to whether they meet the expectations of the beneficiaries. The main problem is the quality of courses, and the way they are designed.

Courses are offered at a pre-university level by the Journalism School and at degree level by the Eduardo Mondlane University (UEM) and the Instituto Superior Politécnico e Universitário

(ISPU). Training is also offered by institutions such as NSJ, MISA, SARDC, but most of these courses are designed by the donors and most of the times their content does not arise out of the needs of the media.

SCORES:

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

Average score: 2.3

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

ANALYSIS:

There is a journalists’ union. However, it has been moribund for over five years. Recently, the organisation held elections and there is now a new management team. It is still too early to see whether the team will be independent and creative. The criticism mostly levelled against the previous management was that it was too cosy with the ruling party.

Not every journalist can be a member of the union. This is because of a clause that says that owners can not be members. It is a paradox that most owners are journalists. Consequently, those whose voices are likely to be more vocal and critical are marginalised from decision-making in the union.

SCORES:

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

Average score: 2.1

Overall score for sector 4: 2.1

The panel meeting took place at the Pestana Lodge, Inhaca, 1 to 2 October 2005.

The Panel:

Mr Abdul Carimo, religious leader; Mr Fernando Lima, journalist; Ms Alice Mabota, human rights lawyer; Mr Helder Maluana, community development manager; Mr Sergio Mamudo, radio journalist; Mr Salomao Moyana, media activist, journalist and newspaper director; Mr Alberto Tomas, democracy activist; Mr Albineiro Tsiro, photo journalist; Mr Bayano Valu, journalist; Ms Lucilia Xerinda, women's activist.

The Rapporteur:

Mr. Bayano Valy, translated by Mr. Rui Correia

The Facilitator:

Mr. Rui Correia



Namibia 2005

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

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:

It was found that freedom of expression and freedom of the media are guaranteed in the constitution but not sufficiently protected by other pieces of legislation.

Article 21 of the Constitution states: “All persons shall have the right to freedom of speech and expression, which shall include freedom of the press and other media”.

Article 22 of the Constitution states: “Whenever or wherever in terms of this Constitution the limitation of any fundamental rights or freedoms contemplated by this Chapter is authorised, any law providing for such limitation shall:

(a) be of general application, shall not negate the essential content thereof, and shall not be aimed at a particular individual;

(b) specify the ascertainable extent of such limitation and identify the Article or Articles hereof on which authority to enact such limitation is claimed to rest.”

Apart from this article and article 144 of the constitution that acknowledges international conventions (such as the Universal Declaration of Human Rights with its article 19 guaranteeing freedom of opinion and expression) there is no other proactive legislation that protects and provides an environment for freedom of expression and freedom of media.

The principle that the constitution takes precedence over legislation has been successfully tested in court, for example in the Hustler sex shop case. When the shop was opened in mid 1990's, and police immediately confiscated all the material and closed the shop down. The owners went to court and the court found that even though there was legislation on the statute book at the time (the immorality act) upon on the police was acting, this was overridden by the constitutionally guaranteed right to freedom of expression. The police had to return the items, the shop had to be allowed to operate - and is still operating today.

SCORES:

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

Average score: 3.4

1.2 The right to freedom of expression is enforced and citizens, including journalists, are not prejudiced when using this right.

ANALYSIS:

The general notion was that people are free to express themselves but that citizens do not necessarily know about this right. And – apart from the Hustler case – it has not really been put to the test so far.

In Namibia, people are freely expressing themselves. Every now and then there are threatening voices and noises, for example from the former president, but these do not really curtail freedom of expression. Callers to radio chat shows are not scared to voice their opinions, they give their names and speak openly.

The *Namibian Broadcasting Corporation* started a radio chat show in 1992, a few years after the end of a military dictatorship in the country where one could not say the word “SWAPO” without fear of going to prison, certainly not on the radio or in letters to the editor. The then host of the show “was scared that nobody would call and at the beginning nobody did, but over the years things have changed and I think we are now quite free to express ourselves.”

The concern, however, remains that people must know their right to express themselves freely – if they do not they can not practice it. The panel also noted a growing tendency to silence on sensitive issues, intolerance towards criticism, and an increase in hate speech, especially from the side of government officials.

SCORES:

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

Average score: 3.3

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

ANALYSIS:

There are some laws that restrict freedom of expression in Namibia, but the question remains whether they are excessive. These are mainly acts in place since the pre-independence era and a study should be conducted on how many of these laws might restrict freedom of expression or freedom of the media.

Such pieces of legislation include the official secrets act and the defence law which limits the publication of information in regard to military installations, etc. A criminal libel act is also on the statute books but there are no reported cases in Namibia. A point of concern is that the constitution provides for all legislation to remain in place until expressly changed. Still existing restrictive laws may not be evoked, but they remain as a possible threat and thus “create indirect fear.”

SCORES:

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

Average score: 3.3

1.4 Entry into and practice of the journalistic profession is unrestricted.

ANALYSIS:

Generally, entry into the profession and practice of journalism is unrestricted.

SCORES:

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

Average score: 4.9

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

ANALYSIS:

There are laws in place such as the Magistrate Court Act that could compel journalists to appear in court as witnesses by way of subpoenas. They could then be forced to give information or reveal sources of information. Refusing to do so would mean contempt of court.

SCORES:

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

Average score: 2.1

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

ANALYSIS:

There is no Access to Information Act. People have access to certain public information like court documents but there is no law forcing the government or companies to divulge information of public interest. Government officials often make it difficult for journalists to get information in the public interest.

Permanent Secretaries in the various ministries, the only persons assigned to give information to the media, do not regard this as their duty but rather as a favour they can either grant or withhold.

They key to understanding this state of affairs is again the pre-independence history of Namibia. At the time restrictions on access to information were not only imposed by the South African government but also within the liberation movement which needed to maintain certain levels of confidentiality. Such old habits seem to die hard. Namibia has a “background of obsessive secrecy”.

SCORES:

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

Average score: 2.4

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

ANALYSIS:

Lobby groups such as the Namibia chapter of the Media Institute of Southern Africa and the National Society for Human Rights are making active efforts to advance the cause of media freedom but civil society in general seems to be rather passive in this regard.

Members of the public do speak out in radio talk shows. These are a very effective means of expression with people enquiring about and asking for reasons for certain decisions by the authorities. The quality and incisiveness of questions by listeners nowadays has improved greatly compared to when the chat shows first started.

However, when media freedom has been eroded, e.g. when programmes like *Press Review* and the *Prime Minister’s Question Hour* on *NBC* were stopped and chat shows taken off air in the Oshiwambo and Lozi services, there was no public outcry or a protest from civil society. “The

thing is that a public outcry must be organised, and it wasn't. This is an indicator that civil society and media groups are not that active." When government departments were banned from buying the *Namibian* and government stopped placing any advertisements in the paper, there was no public reaction at all.

SCORES:

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

Average score: 2.8

Overall score for sector 1:

3.2

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

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

ANALYSIS:

There are four national daily newspapers (two in English, one in Afrikaans and one in German), three weekly newspapers, approximately four magazines. According to the latest NAMPS (Namibian All Media Product Survey), done in 2000 or 2001 and commissioned by the NBC, there are approximately ten readers per copy of the *Namibian* and approximately seven to eight for the other newspapers. Presently the *Namibian* says it prints and circulates 24 500 copies from Monday to Thursday and 34 000 copies on Fridays.

There are nine commercial or community radio stations. The national broadcaster *NBC* has nine local language services in addition to the (English language) national radio and TV.

In urban areas there is a relatively wide choice of media, but in rural areas the access to media is severely limited, both in terms of availability and affordability.

In effect this means that in some areas Namibians have just the *NBC* as their only source of information and no access to the print or the Internet at all. Language is another factor that limits access to print media published in other than local languages.

A third factor is the cost of dailies at a price between two and three Namibian dollars which is not affordable to most people. Even the *NBC*, a free to air medium, comes at a cost in rural areas where people have to buy batteries and travel to the nearest farm stall to buy them. This can easily add up to 50 Namibian dollars a month.

Internet is extremely expensive, as is the subscription service DSTV at a rate of N\$ 400 per month.

SCORES:

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

Average score: 3.4

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

ANALYSIS:

Access either to domestic or international media sources is not restricted. The ban on government departments buying the *Namibian* was not really regarded as a restriction because individual civil servants are still free to purchase the paper. Ironically, the sales figures of the *Namibian* went up after the ban, because while in the past one copy was bought for the entire ministry, now employees have to buy their own copies.

SCORES:

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

Average score: **4.6**

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

ANALYSIS:

Generally, it is still very difficult to get newspapers in rural areas such as Kamanjab or Kavango. In some parts (e.g. in Opuwo), circulation has improved as publications like the *Namibian*, the monthly *Big Issue* and *New Era* have made efforts to expand their circulation to different parts of the country and thus increase their sales figures.

SCORES:

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

Average score: **4.0**

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

ANALYSIS:

Legislation which established the Namibian Communications Commission (NCC) theoretically allows for the granting of licences to new broadcasting operators. In practice the NCC argues that there are no frequencies available any more, in particular in Windhoek. Although the commercial and community sectors have grown in the past ten years, there are some question marks over the way the NCC is operating. *Katutura Community Radio*, for example, originally had a good frequency, which was taken away by the NCC only to be given to a commercial radio station, *Energy*.

The existing legislation regarding the NCC and its powers does not cover the public broadcaster and is very vague about community broadcasting. Commercial and community radio stations are not compelled to broadcast local news, with the result that they mostly play attractive music but do not provide Namibians with information about their country.

SCORES:

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

Average score: **2.9**

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

ANALYSIS:

The NCC act stipulates that community radios should enjoy special support but this has never been put into practice except for the fact that NCC licence fees for community broadcasters are considerably lower than those for commercial broadcasters. There is no publicly funded agency or fund dedicated to support community broadcasting such as the Media Diversity Development Agency (MDDA) in South Africa.

When government once tried to come to the rescue of a struggling community radio station in Eenhana the effort backfired. Everybody at the station then wanted to become civil servants instead of community broadcasters, and this caused even more trouble.

The Namibian Community Radio Network (NCRN) is the only organisation that provides support, training and networking for community radio stations. It was initiated by MISA Namibia.

SCORES:

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

Average score: 2.3

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

ANALYSIS:

There is interference in the editorial independence of the state funded *New Era* and *Namibian Press Agency (NAMPA)*, given the fact that both their boards are appointed solely by the minister of information and broadcasting.

This and other factors lead to self-censorship by journalists in state print media with the result that *New Era* “is propagating the issues of the government.”

SCORES:

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

Average score: 1.8

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

ANALYSIS:

The *Namibian Press Agency (NAMPA)* is state funded and controlled and not independent. There are no fully operational independent news agencies in Namibia. The Polytechnic of Namibia has launched a student news service by the name of *Echoes News Service*, but this has yet to become a fully operational, registered business entity.

SCORES:

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

Average score: 1.9

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

ANALYSIS:

Some limitations set by the communications act and the competition laws have not really been put to the test. However, the legislation is not specific as is the case in South Africa where the act limits the number of radio or TV stations one individual or company is allowed to own.

There have been a lot of developments in competition law up to a certain stage and then it was just abandoned. The reason: the strength of some of the present monopolies. SWAPO-owned Kalahari Holdings, for example, is a majority share-holder of *Multichoice* and *Radio Energy*.

Monopolies are not yet a problem in Namibia but could become one in the future.

SCORES:

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

Average score: 2.3

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

ANALYSIS:

Government does not actively promote a conducive environment for a diverse media but does not put any impediments in the way either. If an individual or a company has the money to start a radio station or a newspaper, there is no government interference.

The fact that all but one commercial radio stations in Namibia are run by middle-aged white men leads to the question why those who were previously disadvantaged should not enjoy special promotion by introducing a system of black economic empowerment.

SCORES:

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

Average score: 1.8

2.10 Private media outlets operate as efficient and professional businesses.

ANALYSIS:

The fact that the existing private media outlets have all been on the market for a considerable period of time indicates that they operate as efficient and professional businesses.

SCORES:

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

Average score: 4.3

2.11 State print media are not subsidised with taxpayers money.

ANALYSIS:

Although New Era is increasing its income from advertisements, it still receives the bulk of its funds from the public purse.

SCORES:

Individual scores: 3, 1, 2, 2, 1, 1, 5, 1
Average score: 2.0

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

ANALYSIS:

The government's ban on state advertising in the *Namibian* has been in place since 2001 after cabinet complained that the paper was too critical of government. The *Windhoek Observer* does not attract any government advertisements either, but this is not based on a formal decision.

SCORES:

Individual scores: 1, 2, 2, 1, 1, 1, 5, 1
Average score: 1.8

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

ANALYSIS:

The Namibian magazine market has seen many products come and go. This is mainly due to the fact that South African retail companies with big advertising budgets generally shy away from Namibian publications and prefer to advertise in South African magazines like *You*, *Drum*, etc. that are also circulated in Namibia.

SCORES:

Individual scores: 2, 3, 3, 4, 1, 2, 2, 2
Average score: 2.4

Overall score for sector 2:

2.7

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

3.1 Broadcasting is regulated by an independent body adequately protected against interference particularly of a political and economic nature.

ANALYSIS:

In theory, the Namibian Communications Commission (NCC) is independent, but its board is appointed by the Minister of Information and Broadcasting.

The example of *Katutura Community Radio* which had to give up its frequency in favour of *Radio Energy* (see indicator 2.4) shows that there is room for economic interference: “If you’ve got money as commercial station, we give you what you want, if you are a community station you must make do with what we give you.”

The NCC does not regulate the *Namibian Broadcasting Corporation*.

SCORES:

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

Average score: 1.8

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

ANALYSIS:

The appointments procedure is not open and does not involve civil society. The board members of the Namibian Communications Commission are appointed by the Minister of Information and Broadcasting.

SCORES:

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

Average score: 1.1

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

ANALYSIS:

There is no question that there is a diversity of views, with stations like *KCR*, Catholic radio stations, radio stations for young people and for old people. What is unclear, though, is, but it is not sure whether this is because of any proactive involvement on the part of the NCC or whether it just happened that way. The NCC does not seem to promote diversity because it does not stipulate that radio stations play different types of music, for instance. The last available frequency in Windhoek was recently given to Radio France International.

SCORES:

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

Average score: 2.0

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

ANALYSIS:

The NCC has a policy that requires it to take into account the public interest and public opinion, but there have never been any public meetings to actively involve the public in any way.

SCORES:

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

Average score: 1.3

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

ANALYSIS:

The NBC Act of 1991 is based on the old South African legislation and places the public broadcaster under the supervision of a board appointed by the minister of information and broadcasting. The first board of the *NBC* after independence was appointed in a more independent manner, but somewhere along the way this changed. Civil society has been passive about this change in policy and allowed it to happen, therefore it has to take part of the blame.

SCORES:

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

Average score: 1.0

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

ANALYSIS:

The board of *NBC* does not include any members with commercial interests. It is not known whether there are any office bearers with the state or political parties on the board but the mere fact that the minister appoints the board members is an indicator that the board is not free from political influence.

It was suggested that civil society should get more involved in the appointment of the *NBC* board. When the term of the current board is about to end, civil society should start lobbying and come up with some names, “the people’s board.” “It is like people don’t know that the public broadcaster should not be state controlled. Civil society should compile and submit a list of names for the next *NBC* board. Maybe it is rejected, maybe not, but our views will have been made known, we will have made a statement.”

SCORES:

Individual score: 2, 2, 3, 2, 2, 2, 1, 1

Average score: 1.9

3.7 The editorial independence of the public broadcaster is guaranteed by law and practiced.

ANALYSIS:

The NBC Act does not make any reference to an editorial policy. There are many examples for interference in the editorial independence of the *NBC*, for example the demotion of a controller of news and current affairs. “This interference has sent a very clear message to others in the organisation lower than her on what happens if you cross the line even a little.”

There seems to be a difference in the amount of control exercised over the newsroom and the language services with the latter being editorially independent, allowing people to come on air and say whatever they want without any pressure from outside on the host of these programmes.

There seems to be a general tendency in TV and radio news to give priority coverage to the activities of the president and ministers and those of civil society organisations only if there is any time left. The editorial policy is that the president should always come first, ministers come second and so on further down the line. “I would like to see Women’s Action for Development being first on the news one night.” Instead, the chairperson of the *NBC* board regularly appears on the TV talk show *Talk of the Nation* as a “community activist”.

SCORES:

Individual scores: 1, 1, 1, 2, 2, 3, 1, 1
Average score: 1.5

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

ANALYSIS:

Approximately 8% of *NBC*’s revenue comes from license fees, 10% from advertising and the rest from the state. Despite the fact that *NBC* gets over 80 million Namibian dollars every year from government, the corporation is always facing financial difficulties.

This may be due to the fact that the *NBC* is not run efficiently and that bad management decisions have been made: “They spent 4 million dollars to build a main entrance to the facilities at the *NBC* premises.”

A reason for the poor advertising income could be that the white business community does not want to support something they see as government propaganda and anti-white sentiments. Besides that there is a perception of corruption in *NBC*.

Audience figures likely to attract advertisers may be lower than expected for a national broadcaster, judging by the fact that even poor people subscribe to DSTV: “This is an indication of what people think about the public broadcaster.”

SCORES:

Individual scores: 3, 2, 2, 2, 4, 4, 1, 3
Average score: 2.8

3.9 The public broadcaster is accessible in the entire country.

ANALYSIS:

According to the *NBC*, in late 2004 its radio services reached 99% of the country, and TV 42%. *NBC* has thus made considerable efforts to increase its reach to the entire population with a lot of its budget being spent on increasing the power of transmitters and building new ones. In

addition, *NBC* is trying to make all radio services available to all. A few years ago, listeners in Katima could only pick up the Lozi Service, now they have more choice. Four years ago Lozi, Setswana or Rukwangali services could not be received in Windhoek.

SCORES:

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

Average score: 3.9

3.10 The public broadcaster offers diverse programming for all interests as well as balanced and fair information reflecting the full spectrum of diverse views and opinions.

ANALYSIS:

The *NBC* does make an effort to offer diverse programming, catering for women, for people with disabilities in terms of sign language interpreters, and trying to incorporate different interests. But because the quality of programming is mediocre the programmes do not really serve everybody's interests. "The issue of mediocrity is important. The programmes may be diverse but if they are so boring that nobody watches or listens to them, what's the point?"

There is not much room for different perspectives and reluctance to involve people in discussions for example. Some individual journalists make the effort to get diverse views for their stories and programmes but sometimes their decisions are overturned by editors.

SCORES:

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

Average score: 2.4

3.11 The public broadcaster offers as much local content as economically achievable.

ANALYSIS:

NBC dedicates approximately 50 to 60% of its prime time in television to local content, including news which altogether make up about 2 hours per day in the different languages.

Again, the quality of these programmes is questionable. "You can have as much local content as you wish but if it is all as dull as dishwater - what I call the talking heads - who is going to watch it?" Creativity is rare and technical quality poor.

On radio, in all languages services 80 to 90% of the music played is foreign. Presenters argue that this is what the people request, but "as a public broadcaster, you should be setting the agenda and playing more local music than what people request, in order to create a demand, so to speak."

There seem to be differences between the various language services. Last year the Herero service, for example, took to the road and broadcast from the different areas where the Hereros live. This has not been done by any other station.

SCORES:

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

Average score: 2.8

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

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

ANALYSIS:

In the mid-nineties of the last century there were some efforts to establish a media council but this became dormant very soon. In 2002 MISA Namibia gave it another try: it developed a new code of conduct and created the position of a media ombudsman. The code of conduct, however, was not accepted and followed by the entire media fraternity and it is not being enforced by a self-regulatory body. The office of the media ombudsman is defunct and has in fact never been active. Media owners and editors did not buy into the process from the beginning and claimed there was not sufficient consultation. The fact that MISA Namibia was pushing the process was seen by some as the problem. Differences of opinion came up not just between government and private media but also between the *Namibian* and the *Republikein*, two private newspapers, over their opposing roles before independence – “which means it is not possible for them to be part of a same process or initiative”. Now MISA Namibia seems to have lost the momentum.

Although there is an urgent need for the media to regulate themselves - both to prevent government stepping in to enforce a state controlled regulatory body and to provide a channel for readers, listeners and viewers to lodge complaints - the media themselves do not see this as a priority. “It is either politics or empire building or bad blood, but the main issue is that they don’t see the need for it at all.”

There was consensus that reviving the self-regulatory body should be a priority.

SCORES:

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

Average score: 2.3

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

ANALYSIS:

Although many panel members cited negative experiences with the media, there was agreement that in general the media do try to be accurate and fair.

Journalists do try to get the facts, but sometimes they are not able to. Newspapers compete with each other and journalists have to meet deadlines. Sometimes newsmakers who refuse to comment or do not return calls have to be blamed for the lack of balance. Another issue is the level of skills of journalists, which also impedes on their work. In addition, many newsrooms are understaffed and journalists often have too many stories to finish in one day.

SCORES:

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

Average score: 3.0

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

People with money and living in Windhoek can get the full spectrum of news but the larger the distance from the centre, the less choice people have. There is also a lack of investigative reporting and certain issues are not followed through. One reason might be that media houses are not prepared to invest in their journalists and one and the same person has to cover different sections like business, arts, etc.

The Namibian media display a certain degree of what was termed cultural ethnocentrism, because the owners belong to the white culture: "Stories that should have made the headline are somewhere on page four or five, but if something happens to a white person it is on the front page". "When our own kings are inaugurated it is not covered but Prince Charles is covered extensively."

SCORES:

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

Average score: 3.1

4.4 Journalists and editors do not practice self-censorship.**ANALYSIS:**

Journalists do practice self-censorship mostly in state controlled media but also in private media.

One of the reasons could be that journalists do not have the skills to do a proper investigation. There is also a lack of mentorship and guidance in newsrooms.

SCORES:

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

Average score: 2.5

4.5 Owners do not interfere with editorial independence.**ANALYSIS:**

The *Namibian* is owned by a trust, as is the monthly *Big Issue*. At the *Namibian* the trustees do not have much say in the production or content of the newspaper.

The *Republikein* was started by the Republican Party before it joined the Democratic Turnhalle Alliance. Later the daily became part of Democratic Media Holdings (also the owner of *Allgemeine Zeitung*) which, until four or five years ago, was still very close to DTA structures.

At that time DMH was approaching bankruptcy and a manager with a professional administrative background was hired to rescue the company. Although DMH is still owned by a group of DTA members, the *Republikein* is now de-party-politicised to a certain extent and has become a much more professional newspaper.

In the case of the state controlled *New Era*, ministers regard themselves as owners and therefore call the editors regularly.

SCORES:

Individual scores: 2, 5, 3, 3, 3, 2, 1, 3

Average score: 3.0

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

ANALYSIS:

Generally, Namibian journalists working in private media are earning good salaries compared to many neighbouring countries, with senior journalists getting about N\$ 12 000 a month.

Junior journalists and those working in state controlled media, however, receive much less. Journalists on the payroll of the Ministry of Information and Broadcasting earn between N\$ 4000 and N\$ 4500, with *NBC* staff receiving generous fringe benefits in addition

Freelance journalists sometimes get exploited. The honorarium for reading the news at the *NBC*, for instance, is N\$ 100 to 150 before tax deduction.

Despite this mixed picture and apart from a few exceptions, “brown envelope journalism” as it is practiced in other countries where journalists get paid for covering – or not covering – a story is unknown in Namibia.

SCORES:

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

Average score: 3.6

4.7 Training facilities provide programmes for journalists to upgrade their skills or acquire new skills.

ANALYSIS:

The University of Namibia offers a four year full-time journalism course. At the Polytechnic of Namibia journalists can study towards a diploma part-time while working.

NBC used to have the best funded training programme in the region after independence. *Deutsche Welle* and *BBC* provided courses at *NBC* on a regular basis. Journalists were sent overseas to get qualifications. But most of these programmes failed because the best trained people then tended to move swiftly to other employment outside the corporation. Now the training department has been closed. As a result young broadcasters, among them graduates from UNAM and the Polytechnic, entering the *NBC* have no guide, mentorship or in-house training and thus no chance to develop in the profession other than through on the job experience.

Several organisations are offering opportunities for journalists to upgrade their skills but there is no systematic approach, resulting in the phenomenon of “workshop journalists who go to ten workshops a year”.

Young black professionals – 15 years after independence – still come up against a glass ceiling, not being allowed to move up to management levels in media houses. They are getting trained, but often leave the media for public relations careers because their aspirations are frustrated.

SCORES:

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

Average score: 2.8

4.8 Journalists and other media practitioners are organised in professional unions.

ANALYSIS:

Some journalists are members of MISA Namibia and/or the Editors’ Forum and/or the very informal Windhoek Press Club, where they get together on a recreational level. There is a noticeable divide in membership. The Editors’ Forum has members from the *NBC* and *Allgemeine Zeitung* but not from the *Namibian* while MISA Namibia has members from the *Namibian* and the *New Era* but not from the *NBC*.

There is no trade union for journalists.

SCORES:

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

Average score: 2.9

4.9 Gender mainstreaming is promoted, in terms of equal participation of both sexes in the production process.

ANALYSIS:

Some newsrooms, like those of *NBC* and *New Era*, have almost equal numbers of male and female journalists. Others such as *Allgemeine Zeitung*, *Republikein* and *Windhoek Observer* are still very male dominated, as are all commercial radio stations whose staff is mainly white male.

There seems to be no policy promoting gender mainstreaming in place at media houses ensuring equal participation at all levels.

SCORES:

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

Average score: 3.0

4.10 Gender mainstreaming is reflected in the editorial content.

ANALYSIS:

There was some discussion about what exactly gender mainstreaming entails and the emphasis was put on the representation of women’s voices as opposed to their male counterparts.

According to the Gender and Media Baseline Study, in Namibia 19% of sources were women. The Media Monitoring Project Namibia (which monitored the media for eight months as opposed to one month in the case of GMBS), found that only 14 % of sources were women.

Most of the newsmakers are men and it is much easier to practise “conference journalism”: a journalist goes to a news conference where the minister speaks about water problems, for example, and the story is done. Sending a journalist to Okakarara to assess the actual situation on the ground, to actually talk to the women and men, takes time and money. The lack of investigative and thorough journalism was seen as the main reason for the fact that so few women are reported as sources.

SCORES:

Individual scores: 1, 2, 1, 2, 3, 2, 2, 2
Average score: 1.9

Overall score for sector 4: 2.8

The panel meeting took place at the GocheGanas Lodge, 13 to 15 May 2005.

The Panel:
Ms. Rachel Cloete, Civil Society Activist; Mr. Clement Daniels, Lawyer; Mr. Paul Helmuth, Civil Society Activist; Mr. Phil ya Nangolo, Human Rights Activist; Ms. Catherine Sasman, Journalist; Mr. Andre Strauss, Social Worker, Cultural Activist; Ms. Zoe Titus, Journalist; Mr. Robin Tyson, Lecturer University of Namibia

The Rapporteur:
Ms. Pauliina Shilongo

The Facilitator:
Mr. Hendrik Bussiek



Swaziland 2005

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

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:

Swaziland is currently governed without a constitution. A Westminster style constitution with a bill of rights that was introduced at independence in 1968 was suspended by King Sobuza II's Proclamation to the Nation in 1973, which also banned political activities and declared a state of emergency. The new constitution signed into law by King Mswati III on 26 July 2005 will only come into effect in January 2006. Freedom of expression is enshrined under section 24 of the new basic law but "very broad" limitations allow for restrictions.

Current legislation neither guarantees nor protects freedom of expression. A recent audit of restrictive media laws (done by MISA-Swaziland) identified 32 pieces of legislation that restrict / inhibit media freedom and freedom of expression. Among these, the 1973 Proclamation seriously inhibits freedom of expression, and therefore freedom of the media. This law bans the media from publishing material whose content is of a political nature or appears to be furthering the cause of banned political parties.

The Official Secrets Act has a restrictive effect on freedom of speech and expression in regard to matters of a political nature in that the media will not have access to information in the hands of the government. The Proscribed Publications Act of 1968, enacted directly to restrict the content of media publications, empowers the Minister of Information to declare by notice in the government gazette that any publication or series of publications "prejudicial or potentially prejudicial to the interests of defence, public safety, public morality or public health" be banned. The Sedition and Subversive Activities Act, 1968 criminalizes the publication or the making of oral statements that:

- ■ bring into hatred and contempt, or to execute disaffection against the person of His Majesty the King, his heirs, or successors in title;
- ■ incite His Majesty's subjects, or inhabitants of Swaziland to attempt to procure otherwise than by lawful means, any matter in Swaziland as by law established;
- ■ raise discontent or disaffection amongst His Majesty's subjects and inhabitants of Swaziland;
- ■ promote feelings of ill-will and hostility between different classes of the population of Swaziland.

Customary law also inhibits freedom of expression. For instance, male journalists are culturally not permitted to interview the King's wives. On the other hand, women cannot speak in public gatherings without obeying certain culturally prescribed forms of behaviour such as kneeling and wearing of head-scarves.

SCORES:

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

Average score: **1.5**

1.2 The right to freedom of expression is enforced and citizens, including journalists, are not prejudiced when using this right.

ANALYSIS:

Swaziland is run on a dual system of governance: a one-party adaptation of Western-style parliamentary structures on the one hand, and a powerful traditional system of governance on the other. Conflict between the two systems is unavoidable and impacts heavily on freedom of expression. While the media may seem to be operating freely, journalists practice self-censorship due to a pervasive atmosphere of intimidation, state unpredictability and constant fear. Such fear is induced through intimidation and veiled threats, in the name of the King or by certain cultural values. For example, the culture of 'respect' for elders influences journalists not to question those in authority (or elders) and thus limits the way in which the media communicates certain information that may be perceived as offensive to the authorities. It is also not uncommon for foreign media owners to be threatened with withdrawal of their residence permits or licenses whenever their media houses are perceived to be too critical in their reporting. Such threats do not always come from official sources.

The authorities, both in government and in traditional structures, also use many other forms of pressure to further limit media freedom. Though such pressure is not exerted on a story-by-story basis, editors have in the past been harassed and summoned by traditional authorities, sometimes to the royal residence, for tongue-lashings and warnings following publication of stories deemed too critical by the authorities ("The King is not happy, you know.").

Information is heavily censored in the state media, particularly broadcast. When a caller to a radio talk show touches on a sensitive issue, he or she is immediately taken off air. Some sectors of society such as trade unions and political formations are officially barred from appearing on state radio - the Swaziland Broadcasting and Information Services (SBIS).

For ordinary citizens, the King's Proclamation to the Nation of 1973 seriously inhibits freedom of expression. In terms of the Proclamation opposition political parties remain banned and all forms of political expression such as protest rallies or meetings remain prohibited. Offenders risk being arrested and thrown into jail. The Public Order Act of 1963 also prohibits gatherings and processions of a political nature without the prior authorization of a police officer in charge of the district in which the meeting or procession is to take place. Offenders risk being arrested and put into jail.

Generally, freedom of expression is not seen as a right but as a privilege that can be taken away.

SCORES:

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

Average score: **1.6**

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

ANALYSIS:

There are as many as 32 different restrictive pieces of legislation that severely curtail freedom

of expression and media practice (see 1.1). Some of these laws have been in existence since 1935. The Proscribed Publications Act of 1968 empowers the Minister for Information to ban any publication or series of publications deemed to be prejudicial or potentially prejudicial to the interests of defence, public safety, public morality or public health. The Official Secrets Act of 1963 has a restrictive effect on freedom of speech and expression as regards matters of a political nature in that the media will not have easy access to information in the hands of the government. The Books and Newspapers Act, 1963 provides for the payment of a 15 000 Emalangeni [E equals the South African rand] bond to the Registrar of Books and Newspapers as a pre-requisite for the operation of a print media house. Aspiring media owners, particularly local Swazi media practitioners, wishing to establish their own media businesses find this amount prohibitive.

SCORES:

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

Average score: **1.3**

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

ANALYSIS:

There are no legal restrictions for those wishing to enter or practice the journalistic profession. An attempt by government to introduce compulsory registration through a statutory Media Council by way of an imposed Media Council Bill in 1997 was thrown out by Parliament.

SCORES:

Individual scores: 5, 5, 5, 5, 3, 5, 5, 5, 5, 5

Average score: **4.7**

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

ANALYSIS:

Swaziland has no law that protects confidential sources of information (or whistleblowers). This undermines mutual confidence between journalists and their sources and thus freedom of expression because sources are reluctant to disclose information for fear of being named. In a recent litigation case a journalist was forced by a court of law to disclose the source of a story cited in a defamation case. In the absence of a law protecting confidential sources, such protection remains an ethical rather than a legal issue.

SCORES:

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

Average score: **1.0**

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

ANALYSIS:

There is no freedom of information legislation in Swaziland. Where information is requested from public institutions including government departments there are stringent screening conditions and bureaucratic barriers to be overcome. Due to the lack of clear procedures for obtaining information of public interest and the reluctance of public officials to release information, the media has resorted to the use of ‘whistle blowers’ and other covert means to obtain information.

The Official Secrets Act, 1963 prohibits access to government secrets. Access to such information is not seen as a right but as a privilege. Unorthodox means of information gathering put journalists in danger of violating the law – an impediment to investigative journalism. Under the Statistics Act certain figures may not be published if publication of such is against public safety, public morality and public health. The Public Health Act also prohibits the publication of certain information on health or health statistics. The budgets of the army and the King’s office are not known to the public.

SCORES:

Individual scores: 1, 1, 4, 1, 1, 1, 1, 1, 1, 1

Average score: **1.3**

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

ANALYSIS:

Civil society has so far played only a minimal role in the advancement of freedom of expression. This has mainly two reasons: Civil society groups have either experienced “burning their fingers” in their relations with the media and/or they do not clearly understand or appreciate the role of the media. As a result the tendency has been to shy away from media issues. As civil society sees it, the media is too preoccupied with its own agenda, to the exclusion of civil society and the public in general. Media lobby groups do not reach out to civil society and, therefore, there is a need to develop a civil society-media partnership to advance and strengthen the cause of media freedom. The panel workshop for the media barometer was the first formal meeting between civil society and media.

There are numerous media organisations representing the media and advancing the cause of media freedom in Swaziland. These are MISA-Swaziland, SNAJ (Swaziland National Association of Journalists), Editors Forum, SMEWA (Swaziland Media Women’s Association), SMEPAWU (Swaziland Media Publishers and Allied Workers Union) and SMEGWA (Swaziland Media and Gender Watch).

SCORES:

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

Average score: **2.1**

Overall score for sector 1:

1.9

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

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

ANALYSIS:

A wide range of information sources is available: print, broadcast, and the internet. Radio is by far the most widespread medium in Swaziland. The SBIS (state broadcaster) signal reaches all parts of Swaziland and covers about 99 per cent of the country. SBIS broadcasts on two channels: English and SiSwati. This enables Swazis, including rural audiences, access to information in the country's two main languages. Almost every Swazi household, both urban and rural, owns a radio set. Community radio is not yet available.

Television, though largely an urban medium, reaches about 70 per cent of the country. Swaziland has two television stations: Swazi TV (state owned) and Channel Swazi (private).

Radio and TV stations of the South African Broadcasting Corporation (SABC) spill over into the country and complement the overall offer to the citizens.

The country's two daily newspapers, *The Times of Swaziland* (private) and the *Swazi Observer* (owned by the King through a royal conglomerate) also put out weekend editions. The *Times* has a daily print run of 22 000 copies (with an estimated 110.00 readers) and the *Observer* about 15 000 (88.000 readers). For a small country like Swaziland with a population of 1 million, the combined daily newspaper circulation of 37 000 copies (and nearly 200.000 readers) is seen as reasonable. At E2 per copy, newspapers are still affordable even for rural communities (a loaf of bread costs E3.50). The *Times* also prints a vernacular paper, *Tikhatsi TeMaswati*, which is published daily with a circulation of 2 000 copies at E1 per copy. People prefer to read English, however, as English is the medium of instruction in schools.

There are also two monthly magazines: *The Nation* and *Youth Connexion*. Both magazines have a combined circulation of 3 500. But at about E10 per copy, they are unaffordable for the great majority, particularly rural communities who are characterised by high levels of poverty.

Internet is available but still limited to urban centres. It is non-existent in rural communities. At E10 an hour, internet browsing is expensive and beyond the reach of most people.

SCORES:

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

Average score: **2.9**

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

ANALYSIS:

Citizens' access to international media is not restricted by the state, although in some instances

in the past state police have confiscated or collected copies of international newspapers deemed to be carrying sensitive stories. For instance, on 7 September 2003 the state bought all copies on sale in Swaziland of the South African *Sunday Times* newspaper which carried a story about one of the King's wives and her alleged illicit sexual relationship with a South African man. Foreign newspapers, particularly South African and UK papers, circulate freely in the country. Their penetration, however, is limited to urban centres mainly due to economic and cost factors.

State radio broadcasts live BBC news bulletins on a daily basis without any restrictions. Swazi TV, the state TV broadcaster, also relays the CNN news daily without restrictions. The relatively rich urban dwellers can access international television channels via subscription to television providers such as M-Net and DSTV.

SCORES:

Individual scores: 4, 3, 5, 4, 4, 4, 3, 4, 4, 1

Average score: **4.0**

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

ANALYSIS:

Although the newspapers are a predominantly urban medium, the two dailies – the *Times* and *Observer* – do make an effort to deliver reasonable amounts of copies, relative to demand, to rural areas as well. To reach the rural communities both papers use similar modes of transport such as public buses and bakery vehicles. Both use their own company vehicles to deliver copies to all urban centres and accessible semi-urban and rural communities. Both newspapers make constant efforts to increase their rural circulation through promotional activities such as road-shows and competitions, although circulation is still largely restricted to the urban corridor between Mbabane (the capital) and Manzini (the airport).

SCORES:

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

Average score: **2.6**

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

ANALYSIS:

The broadcasting environment is not conducive to providing a level playing field for all players. Government continues to maintain and cling to a virtual monopoly on broadcasting. There is no clear and transparent process for the licensing and regulation of the broadcasting media. The colonial era Posts and Telecommunications Act (60 of 1962) does not include a clearly specified licensing procedure. The act makes it cumbersome if not impossible for community and commercial radio stations to be granted licenses. In terms of the act, applicants have to go through a complicated process involving no less than five ministries before they are granted licenses. The state radio station has to give final approval to such applications but sees com-

munity and commercial broadcasting as competition. A religious radio station, *Voice of the Church* (VOC), was granted a license under unclear circumstances.

Likewise, the Swaziland Television Authority Act, 1983 entrenches the monopoly of the state over the television industry. It is not clear how the only private TV station, *Channel Swazi*, obtained its license.

However, an all-inclusive ICT (Information, Communications and Technology) policy to regulate the broadcasting industry was recently finalised by stakeholders and is awaiting government approval. The proposed policy will allow for public, commercial and community broadcasters.

SCORES:

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

Average score: 1.1

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

ANALYSIS:

Due to the prevailing environment where the airwaves are controlled by the state, there are still no community radio stations in operation. There have been a number of applications for community radio licenses brought before the Minister for Public Service and Information, but from recent reports it would appear that these applications never get finalised and are left to be handled casually by officials at the state radio station. MISA is currently engaged in a major campaign for the freeing of the airwaves to enable the launch of community radio stations. Already, communities such as Lubombo are ready to go on air as soon as the airwaves are freed and a license is granted.

SCORES:

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

Average score: 1.1

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

ANALYSIS:

Although the *Swazi Observer* is owned by the King (through a royal conglomerate), the newspaper is free to criticise the government - but there has been an uneasy tolerance of the paper's criticism of government corruption. The Prime Minister seems to think that the paper is part of government but the *Observer* seems to stand firm. However, its editorial policy restricts it from criticising the King and the Queen Mother. The newspaper knows its limits and obliges. (The private *Times* also writes only positive stories about the monarchy – "they are in the same boat as the *Observer*".)

SCORES:

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

Average score 1.9

2.7 Local and regional independent news agencies gather and distribute information for all media.

ANALYSIS:

Swaziland currently has neither local nor regional news agencies operating in the country, most probably due to economic and cost factors.

SCORES:

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

Average score: **1.0**

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

ANALYSIS:

Currently, there is no legislation in place to ensure media diversity. However, the proposed ICT Policy (recently finalised by stakeholders and awaiting government approval) touches on matters of media diversity.

SCORES:

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

Average score: **1.3**

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

ANALYSIS:

Existing legislation suggests that the government does not seek to promote an environment which allows for a diverse media. In fact, most of the current media laws inhibit the development of a diverse media. For instance, The Swaziland Television Authority Act, 1983 entrenches the state's monopoly over the television industry. The STVA Authority controls all television and broadcasting stations in Swaziland. It further controls the industry relating to sale and distribution of television receivers and associated equipment. The Authority regulates and controls the duration of broadcasting time and has the power to issue and withdraw licenses on such terms and conditions as the STVA Board may deem fit.

The Books and Newspapers Act, 1963 makes it difficult for aspiring media owners, particularly Swazi entrepreneurs, to establish new newspapers. The bond amount to be deposited with the Registrar of Books and Newspapers as a pre-requisite for the operation of a print media house was only recently increased from E1 000 to the present E15 000. The media considered this prohibitive increase to be an effort by the government to frustrate media entrepreneurs, particularly local Swazi media practitioners, from venturing into the media business. The need for a cash bond is viewed as unjustified when insurance policies for professional indemnity are available to cater for alleged media misconduct.

The Swaziland Broadcasting Regulations (promulgated under the Swaziland Posts and Tele-

communications Act no 11/1983 as amended by No. 6/1988) provide for government control and allocation of broadcasting licenses. The licensing process itself is not free, transparent or fair.

SCORES:

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

Average score: **1.0**

2.10 Private media outlets operate as efficient and professional businesses.

ANALYSIS:

The *Times of Swaziland*, the only private and oldest newspaper, has been in existence since 1899 and continues to survive and make a profit, which indicates that it is professionally run. The *Observer* newspaper has until recently been receiving annual subvention from the royal institution, *Tibiyo TakaNgwane*, which runs the newspaper on behalf of the King. New publications such as the *Youth Connexion* magazine struggle to survive while the *Nation* magazine has put in place management controls to ensure efficiency and professionalism. Profitability of the *Nation* magazine is modest and there is room for improvement. In all publications journalistic professionalism is compromised by the demands of advertisers. It is alleged that editors and journalists have to stick to what the advertisers want. For instance, an advertisement which brings in revenue for the newspaper will usually get preference to a story.

SCORES:

Individual scores: 5, 2, 2, 2, 3, 2, 3, 3, 3, 1

Average score: **2.6**

2.11 State print media are not subsidised with tax payers' money.

ANALYSIS:

There is no state print media and therefore no government subsidy. The weekly *Swaziland Today*, published by government, is seen as a legitimate public relations bulletin.

SCORES:

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

Average score: **4.8**

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

ANALYSIS:

In May 1997, following stories viewed as critical towards the Prime Minister and the monarchy, government withdrew adverts from the privately-owned *Times of Swaziland* at the insistence of the then Prime Minister Sibusiso Dlamini. The ban lasted for several months and almost forced the closure of the publication as government's advertising accounted for about

20 percent of the newspaper's revenue at the time. The move was viewed as government's attempt to use the power of its advertising budget to influence the newspaper's content. Since then this tactic has not been used again but the experience still hangs over the media as a constant threat.

SCORES:

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

Average score: **2.9**

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

ANALYSIS:

There is consensus that with the declining economy in Swaziland resulting in the closure of many companies, the advertising market is increasingly getting smaller and unable to maintain a diversity of media outlets. Most advertising goes to the *Times* and the *Observer* which compete for their slices of the cake. The two magazines struggle to survive. Swazi TV gets most of its advertising from South Africa while Channel Swazi has major problems. In view of the shrinking market, smaller or emerging publications have little chance to access the overall advertising spend.

SCORES:

Individual scores: 1, 1, 1, 1, 1, 1, 1, 1, 1, 1.

Average score: **1.0**

Overall score for sector:

2.2

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

3.1 Broadcasting is regulated by an independent body adequately protected against interference, particularly of a political and economic nature.

ANALYSIS:

There is no clear and transparent process for the licensing and regulation of the broadcasting media in Swaziland. A colonial era Posts and Telecommunications Act (60 of 1962 as amended by No. 6 of 1988) is meant to provide for the control of radio activities in Swaziland and also sets out a mechanism for the granting of broadcasting licenses to applicants. The act under which the Swaziland Broadcasting Regulations are promulgated does not set out an elaborate licensing procedure. This act places regulatory powers in the hands of the Board of the Swaziland Posts and Telecommunications Corporation. The Board has the sole authority to issue licenses.

The Board may at any time revoke or suspend any license where it appears that such revocation or suspension is expedient and in the public interest. The Act does not set out a right or procedure for an aggrieved party to appeal against such decisions. All of this makes the creation of a diversity of electronic media under the existing licensing framework most unlikely. Government's monopoly and the bottleneck licensing procedure ensure that the state remains the sole controller of all electronic means of communication.

The Swaziland Television Authority (STVA) Act, 1983 entrenches the monopoly of the State over the television industry. The STVA Authority controls all television and broadcasting stations in Swaziland. It further controls the industry relating to the sale and distribution of television receivers and associated equipment. The Authority also regulates and controls the duration of broadcasting time and has the power to issue and withdraw licenses on such terms and conditions as the STVA Board may deem fit. With regard to the content of television transmissions, the Board has the power to censor the content of any programme and other transmission to ensure that they conform with 'acceptable moral standards'.

The Christian radio station Transworld Radio approached the King in 1974 with the request to be licensed as an operator that does not serve the local market but Africa as a whole. The King agreed and registered Transworld Radio as a mission by way of a Royal Command. In 2003, Transworld Radio (through a 'gentlemen's agreement' between the station and the Director of SBIS) gained access to the local frequencies FM 96 and FM 101 in an obvious attempt to block the spill-over from South Africa's Radio Zulu and Radio siSwati.

SCORES:

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

Average score: **1.2**

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

ANALYSIS:

There is no independent body regulating the broadcasting industry. The Minister for Tourism and Communications appoints the SPTC Board which is supposed to be the broadcasting regulatory authority in terms of the Posts and Telecommunications Act incorporating the Swaziland Broadcasting Regulations. The Minister for Public Service and Information appoints the Swaziland Television Authority (STVA) Board which regulates the television industry. The appointment of both boards is not transparent and there is no involvement of members of the public.

SCORES:

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

Average score: **1.1**

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

ANALYSIS:

There is neither an independent regulatory body nor a policy aiming to ensure these principles in the overall broadcasting landscape in Swaziland yet.

SCORES:

Individual scores: 1, 1, 1, 1, 1, 1, 1, 1, 1, 1.

Average score: **1.0****3.4 The body's decisions on licensing in particular are informed by a broadcasting policy developed in a transparent and inclusive manner.****ANALYSIS:**

There is no independent body regulating broadcasting in place and thus no broadcasting policy developed in a transparent and inclusive (or any other) manner. A draft ICT Policy seeking to free the broadcasting industry from government control was recently finalised by all stakeholders and is currently awaiting government approval before being implemented.

SCORES:

Individual scores: 1, 1, 1, 1, 1, 1, 1, 1, 1, 1.

Average score: **1.0****3.5 The public broadcaster is accountable to the public through a board representative of society at large and selected in an independent, open and transparent manner.****ANALYSIS:**

The Swaziland Television Authority is labeled a public broadcaster but this is compromised by the fact that the Minister of Public Service and Information appoints the STVA Board. In fact STVA is a parastatal and the board is accountable to the minister and not to the public. Initially there was an attempt to appoint members from a broad spectrum of relevant professional skills. This attempt, however, fizzled out like it did in other parastatals in the country. The Swaziland Broadcasting and Information Services (SBIS), the national radio, is a state broadcaster and controlled directly by government. As a government department, it does not have a board.

SCORES:

Individual scores: 2, 5, 1, 1, 1, 1, 1, 1, 1, 1.

Average score: **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:**

Because the Minister for Information has the sole authority to appoint the STVA Board, the seven board members are *de facto* state representatives, although there seems to be an attempt to avoid too many conflicts of interest.

SCORES:

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

Average score: **2.2**

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

ANALYSIS:

The editorial independence of STVA is not guaranteed. The board has the power to censor the content of any programme and other transmissions to ensure that they conform with 'acceptable moral standards'. In the past, politicians have censored the news and ordered certain programmes viewed as critical of the government off air. The same goes for SBIS which is a government department.

SCORES:

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

Average score: **1.1**

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

ANALYSIS:

STVA revenue comes from advertising, television license fees and government subsidies. At E10 million a year, government subsidies make up a big chunk of the station's budget which is thus not protected from arbitrary interference by the state. There is need to improve the collection of license fees so as to cut or reduce reliance on government subsidies. Currently, the STVA uses the door-to-door system of collecting license fees. Because the ad revenue (mainly from South African companies) goes directly to the state treasury, the ratio between the three sources of income is unknown.

The national radio, as a government department, is funded exclusively by the state.

SCORES:

Individual scores: 1, 1, 3, 2, 4, 1, 1, 1, 5

Average score: **2.1**

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

ANALYSIS:

The state radio, SBIS, with its two channels: English and SiSwati, reaches all parts of the country (about 99 per cent) while Swazi TV covers about 70 per cent of the country.

SCORES:

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

Average score: **3.8**

3.10 The public broadcaster offers diverse programming for all interests.

ANALYSIS:

SBIS programming is generally diverse. Whilst the opposition and trade unions are banned from appearing on the airwaves, NGOs and government departments such as police are given free time almost on a daily basis. News is packaged around the King and government ministers. When the King is engaged in a public function, the news and current affairs slots tend to be heavily skewed towards him. Live talk shows are allowed only when they deal with what the government perceives as ‘soft’ or ‘safe’ topics. Programmes considered to be too critical of the status quo have in the past been taken off air.

Swazi TV programming is dominated by foreign content. There is hardly any locally produced material except for news. On certain days, the monarchy, particularly the King and Queen Mother, tend to dominate air time. Moves are under way to improve the station’s programming.

SCORES:

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

Average score: **2.3**

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

ANALYSIS:

Both SBIS and Swazi TV hardly offer balanced and fair information reflecting the full spectrum of diverse views and opinions. On both stations, royalty and government ministers tend to dominate air time. Whilst Swazi TV occasionally features trade unions and other progressives in their news bulletins, SBIS is a no-go area for the opposition including trade unions. In radio, a current affairs programme aired from 18.15 from time to time attempts to probe issues.

SCORES:

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

Average score: **1.6**

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

ANALYSIS:

SBIS offers a great deal of local content in its programming on both the SiSwati and the English channel, including radio dramas. Its news contains a lot of local content and other programmes are produced by NGOs and government departments. However, the same cannot be said of Swazi TV. Owing to lack of funds to produce local content, Swazi TV has very few programmes with local content. There are moves by the station to improve programming.

SCORES:

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

Average score: **2.4**

Overall score for sector 3:

1.8

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

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

ANALYSIS:

The Swaziland National Association of Journalists (SNAJ) in 2002 developed and approved a code of ethics to ensure professional standards are maintained by all journalists practicing in the country. The code was recently updated to include clauses on the coverage of HIV/AIDS and gender issues. However, in the absence of an enforcement instrument to ensure the code of ethics is adhered to, SNAJ currently relies on willing editors in newsrooms to sensitise journalists about the code. SNAJ has also embarked on an awareness campaign to educate its members about the code. This is an ongoing challenge because of high staff turnover. Due to low pay and poor working conditions, more and more journalists are leaving the profession for greener pastures. The result is a dangerous juniorisation in the newsrooms.

In the absence of an umbrella body to enforce the code of ethics, each newsroom has developed its own professional standards. For instance, the *Times of Swaziland* has created an internal ombudsman to address concerns of readers and sanction offending journalists. The *Observer* has its own internal structures to address concerns raised by readers. When the *Observer* loses a court case, the editor is made to pay a portion of the awarded damages from his own pocket.

Owners are reluctant to endorse the common SNAJ code because they regard professional standards as “our own turf”. Their main criterion for editorial decisions is said to be the question “Are we going to be sued?” There is hardly any introduction to ethical standards for newcomers in the profession, the motto rather being “give them a pad and a pen”, and tell them to “go and find a story”. There is no mentoring in the newsrooms. Journalists, for their part, tend to see a code as a straightjacket and not as a means to help them improve their performance.

Members of the public are not yet aware of the existence of the SNAJ code.

Efforts are under way to put in place a Media Complaints Commission (MCC). The process is currently in its final stages. As soon as all stakeholders agree on the structure, the MCC is expected to begin operations.

SCORES:

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

Average score: 1.3

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

ANALYSIS:

The general perception is that ownership structures and stakeholder considerations influence the degree of accuracy and fairness exercised. Different media have their own ‘sacred cows’

never to be reported on negatively. For instance, the *Observer's* policy is to always portray a positive image of the King and Queen Mother. The two are never to be criticised by the newspaper. The same goes for SBIS and Swazi TV.

However, with the exception of such cases, the media aspire to be accurate and fair. Evidence of that is the fact that about 70 per cent of stories published or broadcast each day are said to meet this benchmark.

SCORES:

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

Average score: **2.6**

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

ANALYSIS:

In general media coverage is broad and diverse. The focus, however, tends to be predominantly urban. The rural areas remain marginalized, particularly by the print media. Another challenge regards in-depth and analytical stories. Restrictive media laws, a pervasive climate of fear and the political atmosphere in general have combined to create an environment that effectively inhibits investigative journalism. There are very few instances when investigative stories are published.

SCORES:

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

Average score: **3.4**

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

ANALYSIS:

Progress is slow in regard to gender mainstreaming and the promotion of equal participation of both sexes in the production process. More men than women work in Swaziland media today. There are also very few women in responsible positions in all media outlets. The *Times*, following the example of the South African *Star*, is taking steps towards focusing on women as their main target audience. As a result the positions of Business Editor and Entertainment Editor are held by women. At the *Observer*, the Chief Executive Officer is a woman.

Progress is slowed down by cultural norms which look down upon women. Men in all sectors of society feel threatened by the rise of women into higher positions. There is a common perception that women are “in charge of households” and have no time for a job. Another problem hindering women is the cultural norm that women cannot be at work at night, the busiest hours in every news room. “We must admit that we have a problem here.”

There are also reports of sexual harassment in the media. Men in higher positions are alleged to seek sexual favours for professional promotion, and women, in turn, are alleged to offer such favours for advantages.

SCORES:

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

Average score: **2.1****4.5 Gender mainstreaming is reflected in the editorial content.****ANALYSIS:**

The gender bias in the media is reflected in the editorial content. Women sources are generally absent. In fact, according to a recent gender and media baseline study for Swaziland published by Gender Links in collaboration with MISA-Swaziland, women constituted only 17 per cent of news sources in the Swazi media, one per cent less than the global average of 18 per cent. Swazi TV had the highest proportion of women's voices (35 per cent), more than double the figure of Swazi radio (15 per cent). The Swazi *Observer* had the lowest proportion of female sources (12 per cent).

Apparently, reporters prefer to quote 'informed' sources, who are usually seen as being men, and ignore women, most of whom are regarded as not being sufficiently knowledgeable or enlightened. This state of affairs is aggravated by the fact that most media are biased towards political stories and most political sources are – or are perceived to be – male. Failure by editors to provide leadership to journalists may explain the latter's inability to generate content that reflects the dynamics of the gender question and the reality on the ground. However, the weekend papers have dedicated certain pages to women issues.

In general, women are still being stereotyped as being suffering; there are hardly any stories on women succeeding in their lives.

SCORES:

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

Average score: **1.7****4.6 Journalists and editors do not practice self-censorship.****ANALYSIS:**

Although the independently owned press and lately even state owned media have been openly critical of the government in relation to corruption, the media has practiced self-censorship when it comes to issues concerning the monarchy. But self-censorship is also reflected in the tone and text of stories that do not concern the monarchy. Structural and ownership realities dictate the operating parameters. For instance, both journalists and editors of the *Observer* are aware of what is expected of them when it comes to matters that pertain to the King and the Queen Mother. They are aware of the consequences of deviation and exercise 'due care', a euphemism for self-censorship. The same goes for Swazi TV and SBIS. Though independent, the *Times* also has its own limits when it comes to issues of the monarchy. They cannot be too critical without inviting trouble from the traditional authorities.

Advertisers also tend to exert pressure on journalists and editors to exercise self-censorship by using the power of money (threatening to withdraw their adverts) whenever their companies are subjected to critical reporting by the media. Swazis are also a homogeneous people. Almost each and every Swazi will be related to the next in one way or the other. Such homogeneity often makes journalists practice self-censorship when it comes to stories that pertain to people they know or are related to. Swaziland being a small society it is hardly possible to act inde-

pendently from the government system because this system impacts, directly or indirectly, on the future of every citizen.

SCORES:

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

Average score: **1.4**

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

ANALYSIS:

Ownership structures determine the nature and degree of interference with editorial independence in the different media. In general it is not possible to promote views contrary to those of their owners. At the *Times of Swaziland* the owners have an overall say on what goes into the paper. Likewise in the *Observer*, the owners constantly check to ensure editors adhere to company policy. In the *Nation* magazine, the editor is also a shareholder and this places him in a unique position to dictate editorial policy, content and coverage preferences. Owners claim that it is impossible for them not to interfere because “it is not the editor who has to pay for libel”. Editors, on the other hand, complain that owners “have no faith” in them.

SCORES:

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

Average score: **1.6**

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

ANALYSIS:

Salaries are low (“pathetic”) and working conditions generally poor resulting in more and more journalists leaving the profession for better paid jobs elsewhere. Most journalists do not see a future in journalism. Average monthly salaries are E1 000 for junior reporters and E2 500 for senior reporters. The poverty of journalists exposes them to offers of various forms of gratification by sources in return for favourable coverage and promotion of private agendas, creating a “generally corrupt relationship”. There have been reports that some journalists glorify certain sources in return for financial kick-backs (“scratch my back and I’ll scratch yours”). However, some accusations of corruption cannot be substantiated. There is need for all media to improve the salary scales and working conditions in order for the journalism profession to retain its best.

SCORES:

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

Average score: **1.4**

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

ANALYSIS:

Journalism training is available at the University of Swaziland which offers a three-year di-

ploma course. The university will soon upgrade this course to a degree level. MISA-Swaziland has influenced the university curriculum by making an input to ensure that the training is tailored to the needs of the country. The Institute for the Advancement of Journalism (IAJ), based in Johannesburg, has come up with a training programme to be carried out in the country for those practicing journalists who do not have a formal qualification.

SCORES:

Individual scores: 3, 4, 2, 1, 1, 3, 2, 1, 1, 1
Average score: **1.9**

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

ANALYSIS:

The majority of Swazi journalists and other media practitioners are organised in professionals associations such as SNAJ, MISA-Swaziland, Swaziland Media Publishers and Allied Workers Union (SMEPAW), Swaziland Media Women's Association (SMEWA) and the Swaziland Media and Gender Watch (SMEGWA). SNAJ has a membership of 150 out of 200 journalists. MISA-Swaziland has a membership of 60 individuals and 14 institutions.

SCORES:

Individual scores: 4, 3, 3, 5, 2, 3, 2, 2, 2, 4
Average score: **3.0**

Overall score for sector 4:

2.0

The panel meeting took place at the Orion Hotel, Pigg's Peak, 2 to 4 September 2005.

The Panel:

Ms Lomcebo Dlamini, lawyer and women's rights activist; Mr Phephisa Khoza, journalist; Ms Lindiwe Khumalo-Matse, lawyer; Mr Thandi Khumalo, academic; Mr Alec Lushaba, journalist; Mr Comfort Mabuza, media activist; Mr Myzo Magagula, publisher; ??? Lunga Masuku, publisher; Dr Joshua Mzizi, academic and human rights activist; ??? Mbuso Simelane, publisher and economist.

The Rapporteur:

Mr Michael Motsa

The Facilitator:

Mr Hendrik Bussiek



Zambia 2005

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

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

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

ANALYSIS:

Freedom of expression is enshrined and broadly protected in the Republican Constitution under Article 20 (1). Article 20 (2) guarantees freedom of the press. It states: "...no law shall make any provision that derogates from freedom of the press." However, the guarantee of media freedom in the constitution is conditional. Article 20 (3) states that laws restricting freedom of expression may be passed if they are – among others - "reasonably required in the interests of defense, public safety, public order, public morality or public health". It is up to the powers-that-be to define these broad interests at any given time. Laws restricting freedom of the media are also permitted if they are "required for the purpose of protection, rights and freedoms of other persons ...". Thus, the right to protect the reputation of an individual overrides freedom of the media.

SCORES:

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

Average score: 2

1.2 The right to freedom of expression is enforced and citizens, including journalists, are not prejudiced when using this right.

ANALYSIS:

Enforcement of the right to freedom of expression presupposes an enlightened citizenry with the inclination to demand and exercise it, and a certain level of sophistication and financial means if it is to be realised through litigation. Citizens can only fully enjoy this right if they have access to information. In Zambia the majority of people have no such access which would enable them to fully exercise their right to freedom of expression.

Tolerance of freedom of expression by the state depends on who is exercising it. The state will tolerate critical statements from people without influence but react in a heavy-handed manner if those making the criticism happen to command power and influence in society. For example, *Radio Phoenix* was shut down after airing a programme where callers questioned the capability of the ruling party's then presidential candidate Levy Mwanawasa, now the republican president.

Prejudice is evident in the case of the public media where top managers, who are state appointees eager to protect their jobs, often "doctor" or stifle stories critical of government, in contrast with their juniors who genuinely desire to work professionally.

The community media appear to be making healthy progress in this regard, attracting audiences away from mainstream media. But they, too, are becoming objects of intimidation and harassment by the government. A case in point was the government's threat to withdraw the licence of *Radio Icengelo* when it featured opposition politician Michael Sata, a harsh critic of the ruling party and the government.

SCORES:

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

Average score: 2.3

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

Freedom of expression and media practice are severely inhibited by restrictive laws, some of which have been in existence since 1911. The Penal Code, Cap 87 of the Laws of Zambia, is one piece of legislation with various provisions imposing restraints on media practice. In force since 1930, it empowers the President to ban publications deemed to be against the public interest (Section 53), criminalises publication of “false news with intent to cause fear and alarm to the public” (Section 67).

The Penal Code and its law on sedition and related practices proscribe public debate on issues and publication of information deemed likely to arouse popular disaffection against the state. Section 177 (1) of the Penal Code criminalises obscenity (imprisonment up to five years) without defining what constitutes obscene matter. Section 4 of the State Security Act makes it an offence (punishable with up to 25 years imprisonment) to retain or communicate to other persons any information obtained as a result of one’s present or former employment with government. Sections 57 (1) and 60 (1) of the Penal Code prohibit sedition (jail term of seven years) and exactly define “seditious intention” among others as “intention ... to excite disaffection against the government” or “to raise discontent or disaffection among the people of Zambia”.

Section 69 of the Penal Code deals with defamation of the president and provides that “any person who, with intent to bring the President into hatred, ridicule or contempt, publishes any defamatory or insulting matter ... is guilty of an offence and is liable on conviction to imprisonment for up to three years”, without the option of a fine.

Parliament enjoys special ‘protection’ under Section 19 of the National Assembly Act. To “show disrespect in speech or manner towards the Speaker” or to “commit any other act of intentional disrespect with reference to the proceedings of the Assembly” is an offence liable to a fine or to imprisonment with or without hard labour for a period not exceeding three months. The broadcasting law and the Communications Act permit the termination of a broadcast deemed inimical to state security.

These restrictive laws are increasingly – and successfully – being challenged in the courts.

SCORES:

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

Average score: 1.3

1.4 Entry into and practice of the journalistic profession is unrestricted.**ANALYSIS:**

There are no restrictions to entry into and practice of the journalistic profession. An attempt to introduce compulsory registration through a statutory Media Council by way of a Media Council Bill in 1997 was thrown out by the High Court of Zambia.

SCORES:

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

Average score: **4.6**

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

There is no law in Zambia to protect confidential sources of information (or whistleblowers). The absence of such a law undermines mutual confidence between journalists and their sources and thus freedom of expression as it inhibits sources from disclosing information for fear of being named.

The Prohibition and Prevention of Money Laundering Act of 2001 imposes an obligation on anyone reasonably expected to know that someone is involved in money laundering to report such person to the authorities. This obligation extends to a journalist who acquires such knowledge in the course of story sourcing and, in effect, undermines the principle of source confidentiality.

The media fraternity has made a submission to the Constitution Review Commission for the legal protection of sources.

SCORES:

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

Average score: **1.2**

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

Zambia has not yet enacted a freedom of information law. What is still in effect is the State Security Act which prohibits disclosure of government-held information. As a result government operations are, for the most part, shrouded in secrecy. Access to government-held information is not seen as a right but as a privilege.

Government's policy is still based on the principle of need-to-know. Unorthodox means of information gathering put journalists in danger of violating the law: an impediment to investigative journalism. A Freedom of Information Bill was tabled in parliament but later withdrawn by government in December 2001 citing the events of 9/11 as a reason and promising further consultations.

A campaign is under way by the media fraternity and civil society to force the government to re-introduce the bill for enactment by parliament.

SCORES:

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

Average score: **1**

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

ANALYSIS:

Civil society efforts have played a major role in the achievements made so far in advancing the cause of media freedom. The government's tabling of the Independent Broadcasting Authority (IBA) and the Zambia National Broadcasting Corporation (Amendment) Acts was largely instigated by civil society. The government was prompted to introduce the two bills to avoid being upstaged by civil society who had planned to table them before parliament through private members' motions. In these – and previous – attempts to reform media legislation the government has always been a reluctant actor at best, and was more of a hindrance than a driving force.

The civil society-media partnership, however, is not completely harmonious. In the media's view, civil society seeks partnership as a way of promoting its own pointed and often partisan agendas. On its part, civil society resents what it perceives as the media's selfish quest for special privileges which would, in effect, make it a class above others. As civil society sees it, the media agenda has been compressed to emphasise only media interests to the exclusion of those of civil society and the public in general.

Media lobby groups have not done sufficient work in launching sustained campaigns. There has been talk about media reform since 1992. Now the media fraternity is too preoccupied with the implementation of the two broadcasting acts and unwilling or unable to test other waters such as the necessary repeal of oppressive security and other laws.

Clearly, there is need for focused co-ordination, collaboration and closer linkages between civil society and the media on issues of common concern.

SCORES:

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

Average score: **3.9**

Overall score for sector 1:

2.3

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

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

ANALYSIS:

There is a wide range of information sources available: print, broadcast, and the internet. But there is a problem with distribution and affordability. Major strides have been made in the area

of broadcasting which has seen the mushrooming of radio stations in recent years. Radio is by far the most widespread medium in the country. The state broadcaster's radio signal reaches all parts of Zambia. All but one of the country's nine provinces each have one or two commercial or community radio stations. But most community radio stations have been set up in the rural districts. The donor-sponsored Media Trust Fund commits up to 60% of its funds to rural community radio stations and plans to open at least two new such stations every year. Presently, 15 radio stations are licensed and a further 39 are "testing". Community radio broadcasts in both English and local languages, affording rural audiences access to information in their mother tongues.

All the commercial radio stations operating thus far are urban-based. Television is also largely an urban medium, although the state-owned *ZNBC-TV* signal is available in all provincial centers. The internet is readily available and relatively affordable in the urban areas at a cost of 100 kwacha per minute in Internet cafés (in rural areas 6000 kwacha per minute). There are three daily and a variety of weekly and fortnightly newspapers in Zambia. But their combined total circulation is less than 100,000.

This diversity of media does not, however, mean universal access to information. For example, at the cost of K3,000 (\$0.65) per copy, newspapers are far beyond the reach of the great majority in a country where 80% of the population live on less than one United States dollar a day. In an environment characterised by high levels of poverty and illiteracy, accessing information is still difficult even in view of the availability of radio on a wide scale. (*ZNBC* claims that radio reaches 5 million people – the overall population is 10 million.) Access to radio programmes for rural women, however, is widely restricted as it is generally the man in the family who decides on the choice of programmes.

SCORES:

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

Average score: 2.6

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

ANALYSIS:

Citizens' access to international media is not restricted by the state, although some radio stations have been prohibited from relaying programmes by international broadcasters because of limitations in the terms and conditions governing their licenses. The restriction of television to urban areas is purely due to economic and cost factors and not government policy. The relatively rich can access international television channels via subscription television providers, such as *M-Net* and *DSTV*.

SCORES:

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

Average score: 3.6

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

ANALYSIS:

Although the newspapers are a predominantly urban medium, the three dailies make efforts to deliver a limited amount of copies to rural areas as well. The privately-owned *Post* uses its own courier service to deliver copies daily to all provincial centers and accessible districts. The state-run *Daily Mail* and the *Times of Zambia* use public service buses to distribute theirs to provincial centers and rural towns.

SCORES:

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

Average score: **2.8**

2.4 Broadcasting legislation has been passed and is implemented providing for a conducive environment for public and commercial broadcasting.

ANALYSIS:

The relevant laws, the Zambia National Broadcasting Corporation (Amendment) Act and the Independent Broadcasting Authority Act, were passed by parliament in 2002 and are in force. It would seem, therefore, that there is a conducive environment for public and commercial broadcasting. However, enforcement or administration of the laws has been partial only, causing a legal limbo in this field.

In the case of the ZNBC (Amendment) Act, the television license fee clause has been effected, permitting the state broadcaster to collect fees from viewers. This was obviously in the interest of the state which seeks to cut down on its budgetary subsidies to ZNBC. The more important parts of both new acts – the transfer of controlling powers from the state to independent boards – have not been implemented. Appointment committees – consisting mainly of civil society representatives – have duly appointed the members of the boards, but the Minister of Information and Broadcasting Services refuses to pass on the names to parliament for ratification. The case is currently in the courts. Until the case is resolved, the Independent Broadcasting Authority (IBA) cannot be established and the ZNBC is still controlled by a government appointed board.

SCORES:

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

Average score: **2.1**

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

ANALYSIS:

The growing number of new stations is evidence of the support and attention given to community broadcasting in Zambia. Radio Mazabuka is an example of a community station born out of collaboration between UNESCO and the Zambian government. The Media Trust Fund actively supports the establishment of new stations and provides support for programming content. It is planning to assist in the start of 5 new community radio stations over the next 4 years.

SCORES:

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

Average score: **4**

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

ANALYSIS:

There is a discrepancy between the ownership structure and the directing authority. Whereas the ownership of the *Zambia Daily Mail* and the *Times of Zambia* is vested in the Minister of Finance on behalf of the government, the boards of the two organisations are appointed by and answerable to the Minister of Information and Broadcasting Services, and the ministry's permanent secretary sits on both boards. This exerts undue government influence and facilitates the ruling party's interference with the editorial independence of the two institutions.

SCORES:

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

Average score: 1

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

ANALYSIS:

The *Zambia News Agency* (ZANA) is wholly owned and funded by government; it is not independent. *Palesa*, the only privately-owned and independent agency is a specialised operation producing mainly features for a select few media organisations.

SCORES:

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

Average score: 1.3

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

ANALYSIS:

In theory, the Fair Practices Act which is enforced by the Zambia Competition Commission provides for adequate competition and proscribes monopoly when it disadvantages existing competitors. However, the Competition Commission lacks the capacity to deal with the issue of media diversity as effectively as the Independent Broadcasting Authority Act does for broadcasting. The current law does not provide any guidelines on ownership structures and promotion of media diversity.

SCORES:

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

Average score: 2.1

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

ANALYSIS:

One view is that government has the political will making for an environment which allows for a diverse media landscape. This is substantiated by government's recent reduction in duty on computers and the fact that it places no obstacles to private investment in the media industry. Further, the government, through the Ministry of Communications, has provided office space and technical expertise to the RANET (Radio & Internet) programme which the government, local and international NGOs use to procure and distribute communication equipment to up-coming community radio stations and local communities. The government has provided RANET with premises at the Meteorological Department in Lusaka. The fact that there are no legal obstacles to establishing print media was cited as another sign of good will, while some said that the unhindered use of fundamental rights was a matter of course and not promotion of a diverse media landscape.

The counter view is that there is no true political will on the part of government. For example, it has rejected past media representations to reduce the duty on newsprint and other consumables for the print media sector as well as import duties for broadcasting equipment.. The government's wavering stance on the IBA and ZNBC Boards is further proof of this lack of political will. This explains why, although the advent of political pluralism opened the potential for media plurality and diversity, the process has stalled. Attempts at media reforms have repeatedly fizzled out, or been slowed down by government.

SCORES:

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

Average score: 1.5

2.10 Private media outlets operate as efficient and professional businesses.

ANALYSIS:

Most of the newspapers which emerged in the 1990s with the return to multi-party politics had a very short lifespan and have since collapsed. Only the *Post* has succeeded where most have fallen. The fact that commercial radio stations such as *Phoenix* have survived indicates that they have been managed professionally.

SCORES:

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

Average score: 2

2.11 State print media are not subsidised with tax payers' money.

ANALYSIS:

There is no direct government subvention to the state print media. Neither the *Zambia Daily Mail* nor the *Times of Zambia* receive a subsidy from government. The government may, however, occasionally source donor funding for, or help in the settlement of financial disputes involving the two institutions, as it did in 2001 when it intervened to restrain the Zambia Revenue Authority from collecting the full tax due from the *Zambia Daily Mail*, the *Times of Zambia*, and ZNBC, which might have disrupted operations at the three institutions.

SCORES:

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

Average score: 2.5

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

As recently as 2002, the Secretary to the Cabinet issued a directive as to which media outlets could receive government advertising money. Those viewed as anti-government could not. Today, the *Post* newspaper, in spite of its history of acrimonious relations with the state, enjoys more advertising support from the government than the state media because it is now seen as a partner in the anti-corruption fight. Clearly, the government places advertisements according to its political agenda and, therefore, uses the power of its advertising budget to influence media content. However, this is not as overt and pronounced as was the case under the Kaunda regime.

SCORES:

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

Average score: 2

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

There is consensus that even with the economic constraints plaguing the country, the advertising market seems to be large enough to support the existing number of media houses. Evidence of that is the amount of advertising in the three dailies. The agencies clearly go for maximum impact and place their ads in the *Post*, *Times* and *Mail*. Smaller or emerging publications thus have little chance of profiting from the overall ad spend.

SCORES:

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

Average score: 2.5

Overall score for sector 2:**2.3**

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

3.1 Broadcasting is regulated by an independent body adequately protected against interference, particularly of a political and economic nature.

ANALYSIS:

Despite the fact that the law provides for an independent regulatory body, the Independent Broadcasting Authority (IBA), the regulator is not in place yet because the Ministry of Information and Broadcasting refuses to pass on the names of board members selected by the Appointment Committee to parliament for ratification. The dispute is currently before the courts.

SCORES:

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

Average score: 1

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

ANALYSIS:

The Appointment Committee appointed members of the board of the Independent Broadcasting Authority in an open and transparent manner, involving civil society. However, there is a dispute regarding the role, if any, of the Minister of Information and Broadcasting Services in the process. The case is still in the courts.

SCORES:

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

Average score: 4.1

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

ANALYSIS:

Because of the legal limbo the body envisaged by the legislation is not functional yet.

SCORES:

Individual scores: 1, 1, 1, 1, 1, 1, 1, 1 Average score: 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:

Because the body is not in place yet, a broadcasting policy has not been developed.

SCORES:

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

Average score: 1

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

ANALYSIS:

The *Zambia National Broadcasting Corporation* (ZNBC) is still being run by a board appointed by the Minister of Information and Broadcasting and whose tenure was effectively nullified by the Statutory Instrument which introduced the ZNBC (Amendment) Act. The current board is illegal since it was appointed by the minister and not the IBA as stipulated by the new law. The term of office of the present board expires in August 2005. If the dispute is not resolved by then, ZNBC will be in deep trouble.

SCORES:

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

Average score: 1

3.6 Persons who have vested interests of a political or commercial nature are excluded from possible membership of 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:

There are some state and ruling party office holders sitting on the current board of the ZNBC, namely, the permanent secretary in the Ministry of Information and Broadcasting Services (MIBS) and a ward chairman of the ruling Movement for Multi-party Democracy (MMD) who is also an aspiring candidate for the post of party vice-president. This is contrary to the provisions of the new law, which excludes such persons from membership of the board.

SCORES:

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

Average score: 1.1

3.7 The editorial independence of the public broadcaster is guaranteed by law and practiced.

ANALYSIS:

The new law guarantees the editorial independence of ZNBC. However, this independence is not being practiced because the law has not yet been implemented pending resolution of the legal dispute currently in the courts.

SCORES:

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

Average score: **1.1**

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

ZNBC revenues come from television license fees, advertising, and government subvention. The license fees are collected through the Zambia Electricity Supply Corporation (*ZESCO*) customer billing system and the Residents' Development Committees in townships. Television license fees have contributed substantially to the recent improvement in *ZNBC*'s financial position. Government support becomes more pronounced in the run-up to general elections when the government and the ruling party put their propaganda and campaign machinery in motion.

SCORES:

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

Average score: **1.1**

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

ZNBC radio broadcasts reach all parts of the country while television is accessible only along the urban line of rail and at the provincial administrative centres.

SCORES:

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

Average score: **3**

3.10 The public broadcaster is independent from commercial pressure and political influence.**ANALYSIS:**

Because of *ZNBC*'s dominant position in terms of audience figures and geographic reach, both *ZNBC* Radio and *ZNBC-TV* enjoy considerable advertising and programme sponsorship support. They can, therefore, be said to be free from commercial pressure. The ruling party, however, exercises decisive political influence over *ZNBC*.

SCORES:

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

Average score: **1.3**

3.11 The public broadcaster offers diverse programming for all interests as well as balanced and fair information reflecting the full spectrum of diverse views and opinions.

ANALYSIS:

Although ZNBC programming is generally diverse, coverage of news and current affairs is heavily skewed toward government and the ruling party, with the president dominating air time. Whereas opposition political parties are made to pay for air time, the government is given free time for its “Government Forum” programme, in addition to the preponderant coverage it already enjoys. News is packaged around prominent personalities (especially government politicians according to rank) rather than the events and issues involved. Coverage of civil society functions depends on whether the first lady or a government minister officiates as the guest of honour. Live talk shows are allowed only when they deal with what the government perceives as “soft” or “safe” topics. Otherwise, panelists are warned to steer clear of certain “sensitive” issues, and, on phone-in discussion programmes, telephone lines have occasionally been known to suddenly develop “technical faults”, thus blacking out voices who might have “negative” contributions to make. There is no fair or balanced coverage, especially at election time.

SCORES:

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

Average score: **1**

3.12 The public broadcaster offers as much local content as economically achievable.

ANALYSIS:

ZNBC offers a great deal of local content in its programming, both on radio and television. Its news contains a lot of local content, perhaps due to its dependence on stories generated by ZANA and the *Zambia Information Services*, both of which are government units. ZNBC-TV has recently allocated time to vernacular broadcasts in addition to the news in local languages which has been running for a long time now. *Radio One* is wholly dedicated to programmes in seven local languages. *Radio Two* is an English service channel which also runs a few programmes in two local languages. *Radio Four* is a predominantly music channel which, along with *Radios One* and *Two*, has done a lot to promote and popularise Zambian music.

SCORES:

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

Average score: **3.1**

Overall score for sector 3:

1.7

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

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

ANALYSIS:

There exists a Code of Ethics, formulated and enforced by the Media Council of Zambia (MECOZ) established as a self-regulatory body by the media fraternity in July, 2003. The membership of MECOZ is both individual and institutional. With the exception of the *Post* newspaper, all major media institutions now subscribe to MECOZ, having accepted the Code and its principles. MECOZ has engaged in on-going discussions with the *Post* in an effort to persuade the latter to join.

As a self-regulatory body, MECOZ's major strength lies in the fact that it is a "court of honour" rather than a court of law. It is, however, too early to gauge its performance in enforcing adherence to the Code as its existence, ideals and procedures are still largely unknown to its stakeholders and the public in general. Some panelists from the media had learnt about the Council through television and newspapers only, not through direct communication. The Council's chief executive has not yet been recruited. MECOZ needs wide publicity to promote itself and the ideal of self-regulation for which it was created. In this regard, other institutional members could emulate the *National Mirror* newspaper which publishes alerts to people with complaints against the paper's editorial content to address them to MECOZ. Despite the Council's slow start, there have been a number of rulings, among them one against the *Sunday Mail*.

SCORES:

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

Average score: **3.3**

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

ANALYSIS:

The general perception is that ownership structures and stakeholder considerations influence the degree of accuracy and fairness exercised. Different media have their own "sacred cows" never to be reported on negatively. The state media, especially, seem to have structural problems that impinge on their editorial independence and to be on a special mission. Their *raison d'être* seems to be to serve the agenda of the executive branch of government and the ruling party, and this has implications for accuracy and fairness. They may occasionally fabricate a story, distort the facts, or completely ignore a major event, giving rise to the perception that they are manipulated. In a nutshell, the state print media was described as 80 % accurate but as grossly unfair.

Generally speaking, the distortions and inaccuracies (in both private and state dailies) are sometimes reflective of activities behind the scenes by forces wishing to manipulate public opinion. In pursuit of accuracy, some reporters now use tape recorders to document statements by unreliable sources.

SCORES:

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

Average score: 2.5

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

Media coverage tends to be predominantly political, elitist, and personality-centered. Issue-based stories rarely get lead-story treatment. This is especially true of the front pages and news bulletins of the mainstream media. Grassroots activities, women and elders get hardly any coverage. The community media's performance is better in this respect. They go out of their way to cover business, economic, cultural and other issues of relevance to their respective local communities.

Restrictive media laws, harsh economic realities and the political climate have combined forces to create an environment that effectively inhibits investigative reporting and keeps it off the agenda of the media in Zambia.

SCORES:

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

Average score: 2.5

4.4 Journalists and editors do not practice self-censorship.**ANALYSIS:**

Self-censorship remains an unwritten rule even if it is not expressly stated in the media's editorial policies. Journalists and editors deny it, but self-censorship is reflected in the tone and text of stories, especially sensitive ones. Structural and ownership realities dictate the operating parameters. Both journalists and editors are aware of what is expected of them, wary of the consequences of deviation and exercise "due care", a euphemism for self-censorship.

SCORES:

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

Average score: 1.4

4.5 Owners do not interfere with editorial independence.**ANALYSIS:**

Ownership structures determine the nature and degree of interference with the editorial independence of different media. It is not possible for the various media to promote views contrary to those of their owners. Both the government and private owners meddle in the editorial decisions and coverage preferences of their respective media. The ownership and administrative structure at the *Post* newspaper where the majority shareholder is also the Managing

Director and Editor-in-Chief, places him in a uniquely powerful position to dictate editorial policy, content and coverage preferences.

SCORES:

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

Average score: **1.4**

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

ANALYSIS:

Salaries are very low and working conditions generally poor. Average monthly salaries after tax are around K800,000 (US \$170) for junior reporters and K1,000,000 (US \$213) for senior reporters. The salary of a senior reporter barely covers the cost of the food basket estimated at K1,200,000 (US \$255) for a family of six. Any additional income is, therefore, readily welcome.

The poverty of journalists exposes them to offers of various forms of gratification by sources in return for favourable coverage and promotion of private agendas. It is not unusual for reporters to shun “poor” sources and lackluster events and flock to well-to-do newsmakers and lavish events where they can expect some of their “needs” to be met. This is particularly evident concerning coverage of candidates at election time.

SCORES:

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

Average score: **1.3**

4.7 Training facilities provide programmes for journalists to upgrade their skills or acquire new skills.

ANALYSIS:

Journalism training is tenable at three major institutions, namely, the Evelyn Hone College (EHC), Zambia Institute of Mass Communication (ZAMCOM) Trust, and the Department of Mass Communication at the University of Zambia, as well as a number of less-known private institutions. EHC has a one-year certificate course and a three-year diploma course. The Department of Mass Communication offers a four-year professional Bachelor of Mass Communication (BMC) degree. In addition, it has two masters programmes: the Master of Mass Communication (MMC) and the Master of Communication for Development (MCD), which take two years and a year and a half, respectively. In-service training for practicing journalists is obtainable at the ZAMCOM Trust which has recently added a diploma programme to its course offerings.

Taken together with numerous *ad hoc* seminars and workshops, these institutions provide facilities and opportunities for journalists to upgrade their skills and acquire new ones. The *Post* has recently started in-house training for its staff.

SCORES:

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

Average score: **2.6**

4.8 Journalists and other media practitioners are organised in professional unions and associations.

ANALYSIS:

The majority of Zambian journalists and other media practitioners, with the exception of those working for the *Post*, are organised into professional associations, such as MISA-Zambia, The Press Association of Zambia (PAZA), and the Zambia Media Women's Association (ZAMWA). They are also members of either the Zambia Union of Journalists (ZUJ) or the Commonwealth Press Union (CPU) Zambia chapter.

SCORES:

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

Average score: **4.5**

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

ANALYSIS:

Positive steps have been taken and significant advances have been made with regard to gender mainstreaming and the promotion of equal participation of both sexes in the production process. No statistics are available. But there appear to be more women than men working in the Zambian media today. The ZNBC-TV Controller is a woman, and women make up the great majority of newscasters and writers in the ZNBC newsroom. At the *Zambia Daily Mail*, the Editor-in-Chief is a woman, in addition to the four who now sit on the 9-member editorial board, compared to 1999 when there were only three women in top positions.

SCORES:

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

Average score: **3**

4.10 Gender mainstreaming is reflected in the editorial content of the media.

ANALYSIS:

Although women now occupy top positions and more women have been brought into newsrooms, their effect on content appears cosmetic. Coverage does not reflect the wider issues of concern to women. It tends to concentrate on high-profile females, such as ministers and civil society activists. Women sources are generally absent from media content. Apparently, reporters prefer to quote "knowledgeable" sources, who are usually seen as being men, and ignore women, most of whom are regarded as not being sufficiently knowledgeable or enlightened. This state of affairs is aggravated by the fact that most media are biased towards political stories and most political sources are perceived to be male.

Failure by editors to provide leadership to journalists may explain the latter's inability to generate content that reflects the dynamics of the gender question and the reality on the ground. But progress is slowly taking place, as can be seen at the *Zambia Daily Mail*, which devotes two pages to gender and female news each week. In addition, the paper has a dedicated gender

editor who is not only the advisor on gender issues but is also the editorial monitor and gate-keeper of gender-related stories.

SCORES:

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

Average rate **2.4**

Overall score for sector 4:

2.5

The panel meeting took place at the Protea Safari Lodge, Lusaka, 5 to 7 May 2005.

The Panel:

Dr. Fackson Banda, Media Consultant; Mr. Amos Chanda, Journalist; Ms Elizabeth Chanda, Mass Communication Lecturer; Ms Margaret Chimanse, Journalist; Mr. Kellys Kaunda, Journalist; Mr. Kenny Makungo, Mass Communication Lecturer; Ms Susane Matale, Theologian/Gender expert; Mr. Patrick Matibini, Lawyer; Ms Emelda Libanga Musonda, Journalist; Mr. Ngande Mwanajiti, Lecturer/Researcher

The Rapporteur:

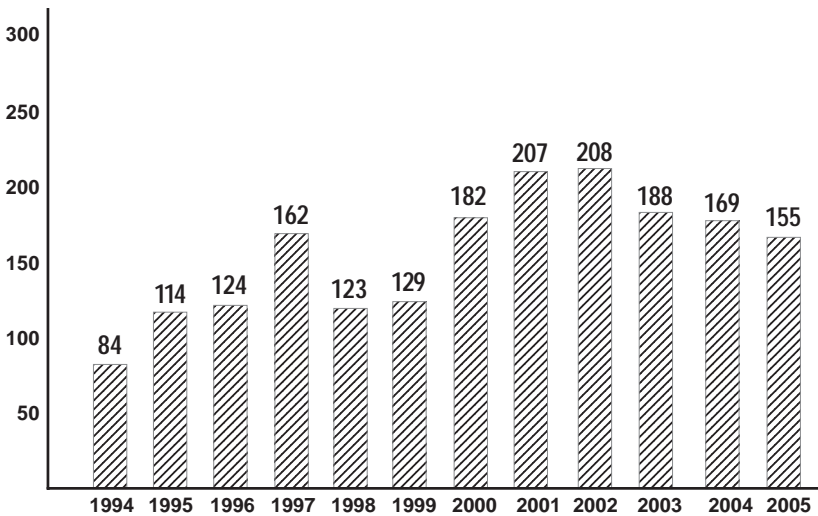
Mr. Leonard Kantumoya

The Facilitator:

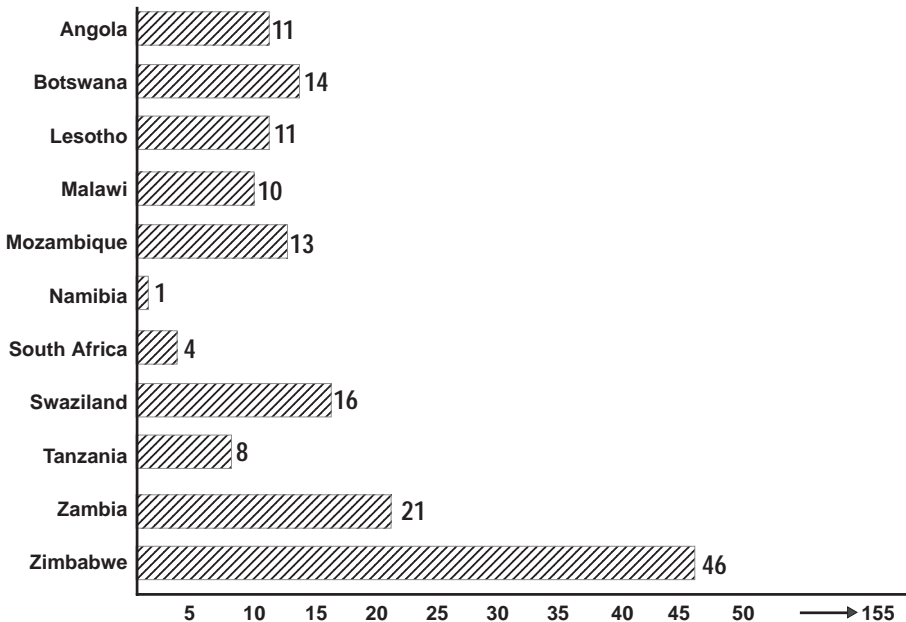
Mr. Hendrik Bussiek

Monitoring Statistics

Total alerts issued: 2005



Total alerts issued by country/violation: 2005



Breakdown by country / violation

	Beaten	Bombed	Censored	Detained	Expelled	Killed	Legislated	Others	Sentenced	Threatened	Victory	Total by country
Angola	0	0	5	0	0	0	0	0	1	5	0	11
Botswana	2	0	4	0	3	0	2	0	0	2	1	14
Lesotho	1	0	0	0	1	0	1	0	1	6	1	11
Malawi	1	0	5	2	0	0	1	1	0	0	0	10
Mozambique	3	0	3	2	0	0	1	0	0	4	0	13
Namibia	0	0	0	0	0	0	0	0	0	1	0	1
South Africa	0	0	2	0	0	0	1	0	0	1	0	4
Swaziland	4	0	2	0	0	0	2	1	1	6	0	16
Tanzania	2	0	3	0	0	0	2	1	0	0	0	8
Zambia	2	0	2	3	0	0	3	1	0	10	0	21
Zimbabwe	1	4	10	7	1	0	5	3	1	5	9	46
Total by violation	16	4	36	14	5	0	18	7	4	40	11	155

AFRICA MEDIA BAROMETER - ANGOLA

SECTOR 1:

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



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

SECTOR 3:

Broadcasting regulation is transparent and independent; the state broadcaster is transformed into a truly public service broadcaster



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

SECTOR 2:

The media landscape is characterised by diversity, independence and sustainability



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

SECTOR 4:

The media practise high levels of professional standards



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

AFRICA MEDIA BAROMETER - BOTSWANA

SECTOR 1:

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



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

SECTOR 2:

The media landscape is characterised by diversity, independence and sustainability



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

SECTOR 3:

Broadcasting regulation is transparent and independent; the state broadcaster is transformed into a truly public service broadcaster



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

SECTOR 4:

The media practise high levels of professional standards



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

AFRICA MEDIA BAROMETER - MOZAMBIQUE

SECTOR 1:

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

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



SECTOR 2:

The media landscape is characterised by diversity, independence and sustainability

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



SECTOR 3:

Broadcasting regulation is transparent and independent; the state broadcaster is transformed into a truly public service broadcaster

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



SECTOR 4:

The media practise high levels of professional standards

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



AFRICA MEDIA BAROMETER - NAMIBIA

SECTOR 1:

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



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

SECTOR 3:

Broadcasting regulation is transparent and independent; the state broadcaster is transformed into a truly public service broadcaster



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

SECTOR 2:

The media landscape is characterised by diversity, independence and sustainability



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

SECTOR 4:

The media practise high levels of professional standards



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

AFRICA MEDIA BAROMETER - SWAZILAND

SECTOR 1:

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



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

SECTOR 3:

Broadcasting regulation is transparent and independent; the state broadcaster is transformed into a truly public service broadcaster



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

SECTOR 2:

The media landscape is characterised by diversity, independence and sustainability



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

SECTOR 4:

The media practise high levels of professional standards



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

AFRICA MEDIA BAROMETER - ZAMBIA

SECTOR 1:

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



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

SECTOR 2:

The media landscape is characterised by diversity, independence and sustainability



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

SECTOR 3:

Broadcasting regulation is transparent and independent; the state broadcaster is transformed into a truly public service broadcaster



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

SECTOR 4:

The media practise high levels of professional standards



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

MISA's Annual Press Freedom Award

The Media Institute of Southern Africa (MISA) presents an annual Press Freedom Award with a cash prize of US\$1 000 to honour excellence in journalism.

Excellence in journalism may be described as the upholding of the ethics of the profession at all costs, and the relentless pursuit of the truth. The award is also in recognition of the work of an individual or institution contributing significantly 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, producers, radio, video, film, Internet, or media associations and institutions. Eligible individuals or institutions should be based in the southern African region (SADC region).

NOMINATIONS: NOMINATIONS FOR THE 2006 AWARD ARE NOW OPEN. All nominations should be accompanied by a motivation not exceeding 1 500 words 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, to:

Postal: Private Bag 13386
Windhoek
Namibia
Fax: +264-61-248016
E-mail: director@misa.org
Deadline: June 30, 2006

For further information, please contact the Regional Director at +264-61-232975

The 2005 winner of the MISA Press Freedom Award



Raymond Louw

The Media Institute of Southern Africa (MISA) awarded the 2005 MISA Press Freedom Award to South-Africa-based editor and media freedom activist, Raymond Louw, in recognition of his tireless campaigning for an enabling environment for media freedom and freedom of expression in our region.

Raymond Louw was honoured at MISA's annual meeting in Windhoek in September 2005 where colleagues paid tribute to his lifelong career in media development and activism.

Louw is currently the Deputy Chairperson of MISA-South Africa and holds numerous positions in the media. He is the Editor and Publisher of *Southern Africa Report*, a weekly current affairs briefing. He further acts as the Africa consultant for the World Press Freedom Committee, is a council member of the South African National Editors' Forum and the Freedom of Expression Institute.

Louw is a general consultant on media, politics and governmental affairs. He is actively campaigning, on behalf of several organisations, for the recognition of a free media in the New Economic Partnership for African Development (Nepad) African Peer Review Mechanism (APRM). He has made several interventions on behalf of endangered journalists and was successful in securing the release of at least two journalists, Pius Njawe (Cameroon, 1998) and Ali Lamrabet (Morocco, 2004) who were detained under 'insult' laws.

Louw continues to make substantial contribution to media freedom in SADC and Africa.

Previous winners of the MISA Press Freedom Award

■ 1993 - Onesimo Makani Kabweza

The late Onesimo Makani Kabweza, as editor of *Moto* in Zimbabwe, was one of the first Zimbabwean journalists to break the "culture of silence" which followed the country's independence in 1980. Onesimo dared to take a critical stand against the new Zimbabwean government under Robert Mugabe at a time when others were too scared to criticise or speak out against any government wrongdoing. He was very enthusiastic about the need for southern African media workers to unify and thus shared the dreams and aspirations of MISA. At the time of his death in 1993, Onesimo was on his way back from a trip to Harare on MISA business.

■ 1994 - Basildon Peta

By the time the young Basildon Peta was awarded MISA's Press Freedom Award, he had already come up against the full might of the Zimbabwean police. The senior reporter at the Daily Gazette, Basildon was incarcerated in 1994 for a week, enduring long sessions of interrogation by the police, who failed to break his determination to stand by the truth. Basildon was also not cowed into silence and he went on to expose further incidents of corruption and abuse of power in government.

■ 1995 - Fred M'membe

Fred M'membe, probably one of the most persecuted journalists in his country and the rest of the region, is a qualified accountant who, along with colleagues John Mukela, Masautso Phiri and Mike Hall, founded The Post newspaper in Zambia in 1991. Since its founding as a weekly paper and its swift progress to a daily paper, The Post under the helm of Fred, tirelessly kept a watch on the government, exposing numerous incidents of corruption, illegal activities, bad governance, human rights abuses and lack of respect for the rule of law. In the process, and despite enormous efforts on the part of the government to harass The Post and Fred in particular, Fred has distinguished himself as a consistent and fearless journalist, committed to the ideals of media freedom.

■ 1996 - Allister Sparks

Allister Haddon Sparks has played a phenomenal role in the media in South Africa. Starting out as a reporter on the Queenstown Daily Representative in 1951, Allister rose to become a sub-editor under the renowned Donald Woods at the East London Daily Dispatch, the editor of the Sunday Express, and then the editor of the great Rand Daily Mail. It was during his tenure at the Rand Daily Mail in the late 1970's that Allister distinguished himself as a journalist of great valour and strength, willing to stick his neck out for a story even though it might have reached into the deep echelons of government. In 1992, a decade after being dismissed from the Rand Daily Mail, Allister was instrumental in setting up the Institute for the Advancement of Journalism (IAJ), based in Johannesburg, South Africa. At the time of receiving the MISA Press Freedom Award, Allister was serving on the Board of the South African

■ 1997 - Gwen Lister

Gwen Lister, as editor of The Namibian, almost single-handedly kept up the mantle of press freedom in Namibia, both before and after independence. Starting out as a journalist at the Windhoek Advertiser in 1975, she eventually went on to establish The Namibian, which hit the streets for the first time in August 1985. From the outset, The Namibian was the only newspaper in Namibia that was brave enough to expose ongoing atrocities and human rights abuses being committed by the South African occupation forces. Gwen's determination to uncover and report the truth never wavered, despite concerted attempts to harass and intimidate her and the rest of The Namibian staff. Gwen's commitment to a free press remained steadfast after Namibia's independence in 1990, and her paper continued to adopt a watchdog role, this time over the new government of the South West African People's Organisation (Swapo).

■ 1998 - African Eye News Service (AENS)

African Eye News Service was the first media institution to be honoured with the MISA award. Based in the first South African province of Mpumalanga, AENS had established itself as one of the sub-region's truly investigative news services. In its three years of existence, AENS, under the editorship of Justin Arenstein, had either halted or uncovered a series of corrupt practices in the public sector - some of which had led to public commissions of inquiry, or resignations of the affected officials. Its bold and extremely courageous reporting earned it several enemies in both the public and private sectors of the South African community. The agency attracted numerous multimillion rand defamation suits, and to date it had won every

case. Its team of journalists, especially Mr. Arenstein, had also been the targets of physical and verbal harassment, including death threats and threats of assault, while also being personally maligned. Despite this harassment and hostility, the AENS team carried on its mission with excellence, exhibiting mature and professional journalism with depth and carefully verified detail.

■ 1999 - Bright Chola Mwape

The late Bright Chola Mwape was still a young man when he tragically died as a result of injuries sustained in a car accident in August 1999. In 1994 Bright was Managing Editor of *The Post*, Zambia's leading and only independent daily newspaper. An article in 1996, in which he criticised a Zambian politician for attacking a Supreme Court judge who had earlier struck an important victory for the Right to Protest and Freedom of Assembly, saw him being condemned to indefinite imprisonment. Along with his editor-in-chief Fred M'membe and fellow columnist, Lucy Shichone, Bright went into hiding to avoid being hauled off to prison. Later on Bright and Fred handed themselves over to the police in an act of defiance and bravery that challenged the Zambian Parliament to take their unjust decree to its logical conclusion. They were freed after 24 days. In 1997, Bright joined MISA's regional secretariat to head the Media Information Unit. His disdain for the hypocrisy of the SADC governments was evident on the occasion of May 3 1999 in a dynamic speech he delivered in Windhoek, Namibia. In his speech, Bright angrily dismissed a proposed Media Award the SADC governments were considering, questioning their moral right to confer such an award amid their obvious reluctance to refrain from or condemn government infringements on the rights of the media.

■ 2000 - Geoffrey Nyarota

Geoffrey Nyarota, as editor-in-chief of *The Daily News* in Zimbabwe has displayed skill and vision in keeping afloat the spirit and voice of independent media in a country where independent media exist in a minefield of treacherous laws and intolerant authorities. Geoff has come a long way since his days as a reporter at the *Zimbabwe Herald* newspaper. In the process he has also ploughed a lonely furrow which is unavoidable for people like him who fail to seek shelter in the ever convenient shade of complacency, silence or political cover-ups.

As editor of the *Chronicle*, he exposed corruption in high places in what was to become known as the "Willowgate scandal". The resilience of Geoff came of age in a sense, with the launching of *The Daily News* in March 1999. It was a magnanimous dream that had as its roots – service to the Zimbabwean citizenry. The newspaper has grown from strength to strength almost solely due to Geoff's skill in assembling a team of some of Zimbabwe's most skilled and professional newspaper practitioners in every field. The trail that *The Daily News* blazes has come at a price – the paper's journalists have been harassed and attacked; in some parts of the country people can only read the paper in secret for fear of reprisals. The application of the Access to Information and Protection of Privacy Acts in Zimbabwe has led to the closure of *The Daily News* and its sister paper, *The Daily News on Sunday*.

■ 2001 - Carlos Alberto Cardoso

The late Carlos Alberto Cardoso, editor of *Metical*, was murdered on 22 November 2000. A fearless campaigner for freedom and a lifelong socialist who committed his life to the African revolution and the struggle against imperialism, Cardoso was gunned down in what appears to have been a planned and professional assassination. Carlos' exceptional talents as a writer ensured a rapid rise in the world of journalism. He worked first on the weekly magazine *Tempo*, then briefly on *Radio Mozambique*, before he was appointed chief news editor of the *Mozambique News Agency (AIM)* in 1980. In 1990, Cardoso was among a group of journalists campaigning for the inclusion of a specific commitment to press freedom in the new constitution. The clauses on the media in the 1990 constitution, and the follow-up press law of 1991, are among the most liberal in Africa.

In 1992, Cardoso and a dozen others founded a journalists' cooperative, Mediacoop, launching Mediafax. A dispute in Mediacoop in 1997 led to Cardoso leaving the cooperative to set up Metical. Cardoso campaigned tirelessly against what he regarded as the disastrous recipes for the economy imposed by the World Bank and the IMF, championing the fight of the cashew processing industry and later of the sugar industry, against liberalisation measures. Among the scandals Cardoso had been investigating in the last months of his life, one stands out above all others. This was the largest banking fraud in the country's history. In 1996, a well-organised criminal network stole the equivalent of \$14 million out of Mozambique's largest bank, BCM. Although the names of the main suspects were known there was no prosecution and no trial.

■ 2002 - No award was presented in 2002. MISA celebrated its 10th anniversary in Maputo, Mozambique

■ 2003 - Dr. Augusto Raul Paulino

Through the award MISA recognizes the incalculable contribution made by Judge Paulino to the judicial process in Mozambique, as well as access to information and freedom of expression in the region. Judge Paulino presided over the celebrated trial and conviction of six men accused of murdering Carlos Cardoso, one of Mozambique's top investigative journalists. The trial was hailed widely as both a triumph of the openness of the court proceedings and an indictment of the corruption among the country's rich and powerful. By allowing the electronic media to cover the case live Judge Paulino gave the public an opportunity to form its own opinion and that has been a major step and a positive example for the whole continent to emulate. Although many Mozambicans may not be satisfied by the outcome, they have witnessed that the judicial system can work.

■ 2004 - Methaetsile Leepile

In March 2002 under Methaetsile Leepile's guidance, the first ever vernacular Setswana broadsheet newspaper, Mokgosi, was born in Botswana. The weekly broadsheet has a circulation of 10 000 copies.

Leepile believes that there are compelling reasons to protect indigenous languages from extinction because when a language dies, a people's knowledge dies with it. Editorially Mokgosi newspaper also tackles social, political and economic issues from a developmental agenda, ensuring that a previously large sector of the Botswana population is able to access credible information on issues that affect their livelihood. Mr Leepile is however no stranger to MISA. He was amongst the group of media practitioners who met in Chobe 1989 to discuss the future of the media in our region. These discussions finally led to the formation of MISA through the Windhoek Declaration. He became the first director of MISA in 1994 and left its head office in Windhoek in 1999 to take up the management of the Southern Africa Media Development Fund (Samdef). He left Samdef in 2003 to enter the private sector.

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 research@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 access 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 in alert around legislation, we make sure to explain precisely which parts of the law affect the media and how.
5. Policies and statements by elected government officials - these are monitored and reported in so far as they have a direct bearing on the workings and operations of the media. Verbal threats or attacks on the media are crucial to report, as well as statements advancing new policies or clarifying, government policies with respect to the media.

About MISA

MISA's Mission, Vision and Values

The **mission** of MISA is to play a leading role in creating an environment of media freedom that promotes independence, pluralism and diversity of views and opinions, sustainability and competency. In dealing with these elements, MISA will ensure that gender-specific needs form an integral part of all activities. MISA aims to create an environment in which civil society is empowered to claim information and access to it as unalienable rights and in which - the resultant freer information flow strengthens democracy by enabling more informed citizen participation.

MISA will work:

- To create and maintain a media environment in which there is transparency, accountability, independence, pluralism and diversity;
- To improve the skills base and professionalism among media workers;
- To promote and facilitate more effective use of and access to the media by all sectors of society;
- To develop and maintain an environment conducive to relevant and effective advocacy campaigns on media freedom issues and media violations on an international, regional, national and local basis;
- To deliver timely, comprehensive and accurate information on media freedom issues and violations; and
- To exercise its functions in an efficient, cost effective and transparent manner, with full participation of all stakeholders.

MISA's **vision** is of a Southern African region in which the media enjoys freedom of expression, independence from political, economic and commercial interests, pluralism of views and opinions. Our vision is of a region where members of society, individually or collectively are free to express themselves through any media of their choice without hindrance of any kind. Access to information must be unhindered

This environment will be characterised by:

- A media that is free, independent, diverse and pluralistic.
- Access to the media and information by all sectors of society.
- Media workers who are competent, critical, accountable, sensitive to gender issues and aware of their responsibility to society.
- Legislation, regulations and policy environments that support media independence, diversity and pluralism.
- Citizens in the SADC region are empowered to claim information as a basic right.

The mission and vision of MISA are based on **values** that seek to:

- Advance the aims and objectives of the Windhoek Declaration of 1991 and the African Charter on Broadcasting of 2001;
- Promote a self reliant, non-partisan and independent media that informs, empowers, educates and entertains;
- Nurture media freedom in an ethical, competent and professional media environment;
- Strengthen and support the development of a vibrant and participatory media sector;
- Lobby for access to information in order to enhance transparency and citizen participation in government, judiciary and legislative issues; and

- Promote democracy, human rights and the advancement of equality, human dignity, freedom and non-discrimination.
- Advocate and advance gender equality to redress imbalances in the media and society.

MISA History and legal status

MISA was established in 1992 as a non-governmental organisation (NGO) and registered as a Trust in Windhoek, Namibia following the adoption of the 1991 Windhoek Declaration on Promoting an Independent and Pluralistic African Press. MISA seeks to contribute to the implementation of this declaration in the SADC region. MISA operations are conducted by its Regional Secretariat based in Windhoek, Namibia which is guided by the Regional Governing Council made up of the Regional Council Chairperson and the chairpersons of the national chapters. The MISA Trust Funds Board, which is autonomous, has oversight over the financial and objectives of the organisation.

MISA currently has national chapters in 10 SADC countries – Botswana, Lesotho, Malawi, Mozambique, Namibia, South Africa, Swaziland, Tanzania, Zambia and Zimbabwe, while it has a representative to run its operations in Angola. Each national chapter is serviced by a national secretariat under the guidance of the National Governing Council. Membership in MISA is open to individual media practitioners, media houses and associations who join MISA at national level.

MISA's main achievements are in the areas of media freedom monitoring and the issuing of action alerts highlighting violations of this right in the southern African region. It has campaigned for an enabling environment for media to operate freely as part of a democratic system.

During the last 14 years, MISA has provided skills training opportunities for many media workers in the region.

Over 600 journalists and media practitioners and managers have received training in computer aided and internet research, editorial and circulation management, financial and strategic management, project, marketing and business management, community radio management, thematic reporting skills training (financial, economic, elections and gender). During this period over 80 journalists and media practitioners and managers took part in the MISA exchange programme, allowing them the opportunity to learn new skills or improve on existing ones outside their place of employment and mostly in another southern African country.

MISA has sponsored over 24 journalists and media managers to attend Highway Africa, the premier ICT annual event hosted by Rhodes University for the last 5 years.

In line with the 1991 Windhoek Declaration, MISA established the Southern Africa Media Development Fund (SAMDEF) which provides media businesses with loan and venture capital and the Southern Africa Institute of Media Entrepreneurial Development (SAIMED) which offers media management training and development services.

MISA Activities and programmes

From April 2002, MISA work has been centred on five programme areas as identified by its members and elaborated in its Strategic Partnership Programme April 1, 2002 to March 31, 2005. These are:

1. Freedom of Expression and Right to Information Campaign: which seeks to campaign for citizens to embrace their right to be informed through unhindered access to information. Laws and policies that militate against these rights will be challenged and grassroots campaigns on the concept of information as a basic right and need will be done. The basis of this programme area is founded on the principle that informed citizens will make the best decisions for their wellbeing and in so doing empower themselves. This will ensure that they can hold their governors accountable and in so doing lead to the reduction of poverty and disease.

2. Media Freedom Monitoring programme which seeks to continue the work MISA is renowned for: monitoring and reporting media freedom violations in the region. Through this programme, reports of incidents of media freedom violations, mostly by state authorities are made and campaigns against such violations intensified. MISA is a member of the International Freedom of Expression network (IFEX) since 1994 and has published an annual year book on the state of media freedom in the region (So this is Democracy?) every year from 1994.

3. The Campaign for Broadcasting Diversity programme seeks to continue the work on broadcasting policy MISA started in 1995 which laid the foundation for the role of broadcasting in the region to enable this major source of news and opinions to operate effectively. The three tier system of public, commercial and community broadcasting, if operated in the correct manner, can provide services that assist in the development and maintenance of democracy. These have since been adopted as a part of the African Charter on Broadcasting adopted by media practitioners and media freedom activists who gathered in Windhoek under the auspices of UNESCO and MISA in May 2001 to commemorate the 10th Anniversary of the Windhoek Declaration of 1991. The African Commission on Human and Peoples' Rights adopted similar principles in their Declaration on Freedom of Expression in Africa in October 2002.

4. Media Support Activities which form the basis of the fourth programme area seeks to enhance Media Accountability and Professionalism, Community Broadcasting and The MISA News Exchange. The first programme area of media accountability and professionalism seeks to assist the media in ensuring that media products are professionally provided and the media is accountable to the general citizenry and consumers of media products. It is the aim of this programme area to ensure that code of ethics and a self-regulatory system are established for each of the eleven countries in which MISA operates. The Community Broadcasting programme is an initiative to assist in the establishment of community broadcasting stations in the region. The News Exchange which started in 1994, will continue and be extended to include a Portuguese language exchange and a 'rip and read' service for broadcasting stations most of which do not have resources to gather news.

5. Over the years, MISA has assisted media practitioners and houses with legal fees to enable them to engage lawyers for their defence in courts of law, mostly brought against them by the State. The majority of cases concern criminal defamation, which is still quite prevalent in the region. The **Legal Support** programme area is the subject of assistance MISA plans to continue to give to media houses and practitioners who may find themselves under such situations. The major element of this programme area is the plan to establish a Legal Defence Fund in each of the countries where MISA operates.

Two strategies will assist MISA in reaching its objectives outlined in its five programme areas. These are respectively the strategies for Communication, Dissemination and Publications and the Implementation and Monitoring. The first strategy recognises that an effective communication and information dissemination system is essential to an advocacy organisation. Further-

more, 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 for 2002 to 2005. 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
- Africa Charter on Broadcasting
- Africa Media Barometer Score Sheets / Indicators
- Declaration of Principles on Freedom of Expression in Africa

The Windhoek Declaration

Declarations on Promoting Independent and Pluralistic Media - 3 May 1991 Endorsed by the General Conference at its twenty-sixth session - 1991

We the participants in the United Nations/ United Nations Educational, Scientific and Cultural Organization Seminar on Promoting an Independent and Pluralistic African Press, held in Windhoek, Namibia, from 29 April to 3 May 1991,

Recalling the Universal Declaration of Human Rights,

Recalling General Assembly resolution 59(I) of 14 December 1946 stating that freedom of information is a fundamental human right, and General Assembly resolution 45/76 A of 11 December 1990 on information in the service of humanity,

Recalling resolution 25C/104 of the General Conference of UNESCO of 1989 in which the main focus is the promotion of “the free flow of ideas by word and image at international as well as national levels”,

Noting with appreciation the statements made by the United Nations Under-Secretary-General for Public Information and the Assistant Director-General for Communication, Information and Informatics of UNESCO at the opening of the Seminar,

Expressing our sincere appreciation to the United Nations and UNESCO for organizing the Seminar,

Expressing also our sincere appreciation to all the intergovernmental, governmental and non-governmental bodies and organizations, in particular the United Nations Development Programme (UNDP), which contributed to the United Nations/UNESCO effort to organize the Seminar,

Expressing our gratitude to the Government and people of the Republic of Namibia for their kind hospitality which facilitated the success of the Seminar,

Declare that:

1. Consistent with article 19 of the Universal Declaration of Human Rights, the establishment, maintenance and fostering of an independent, pluralistic and free press is essential to the development and maintenance of democracy in a nation, and for economic development.
2. By an independent press, we mean a press independent from governmental, political or economic control or from control of materials and infrastructure essential for the production and dissemination of newspapers, magazines and periodicals.
3. By a pluralistic press, we mean the end of monopolies of any kind and the existence of the greatest possible number of newspapers, magazines and periodicals reflecting the widest possible range of opinion within the community.
4. The welcome changes that an increasing number of African States are now undergoing towards multi-party democracies provide the climate in which an independent and pluralistic press can emerge.

5. The world-wide trend towards democracy and freedom of information and expression is a fundamental contribution to the fulfilment of human aspirations.
6. In Africa today, despite the positive developments in some countries, in many countries journalists, editors and publishers are victims of repression-they are murdered, arrested, detained and censored, and are restricted by economic and political pressures such as restrictions on newsprint, licensing systems which restrict the opportunity to publish, visa restrictions which prevent the free movement of journalists, restrictions on the exchange of news and information, and limitations on the circulation of newspapers within countries and across national borders. In some countries, one-party States control the totality of information.
7. Today, at least 17 journalists, editors or publishers are in African prisons, and 48 African journalists were killed in the exercise of their profession between 1969 and 1990.
8. The General Assembly of the United Nations should include in the agenda of its next session an item on the declaration of censorship as a grave violation of human rights falling within the purview of the Commission on Human Rights.
9. African States should be encouraged to provide constitutional guarantees of freedom of the press and freedom of association.
10. To encourage and consolidate the positive changes taking place in Africa, and to counter the negative ones, the international community-specifically, international organizations (governmental as well as non-governmental), development agencies and professional associations-should as a matter of priority direct funding support towards the development and establishment of non-governmental newspapers, magazines and periodicals that reflect the society as a whole and the different points of view within the communities they serve.
11. All funding should aim to encourage pluralism as well as independence. As a consequence, the public media should be funded only where authorities guarantee a constitutional and effective freedom of information and expression and the independence of the press.
12. To assist in the preservation of the freedoms enumerated above, the establishment of truly independent, representative associations, syndicates or trade unions of journalists, and associations of editors and publishers, is a matter of priority in all the countries of Africa where such bodies do not now exist.
13. The national media and labour relations laws of African countries should be drafted in such a way as to ensure that such representative associations can exist and fulfil their important tasks in defence of press freedom.
14. As a sign of good faith, African Governments that have jailed journalists for their professional activities should free them immediately. Journalists who have had to leave their countries should be free to return to resume their professional activities.
15. Cooperation between publishers within Africa, and between publishers of the North and South (for example through the principle of twinning), should be encouraged and supported.

16. As a matter of urgency, the United Nations and UNESCO, and particularly the International Programme for the Development of Communication (IPDC), should initiate detailed research, in cooperation with governmental (especially UNDP) and non-governmental donor agencies, relevant non-governmental organizations and professional associations, into the following specific areas:
 - (i) identification of economic barriers to the establishment of news media outlets, including restrictive import duties, tariffs and quotas for such things as newsprint, printing equipment, and typesetting and word processing machinery, and taxes on the sale of newspapers, as a prelude to their removal;
 - (ii) training of journalists and managers and the availability of professional training institutions and courses;
 - (iii) legal barriers to the recognition and effective operation of trade unions or associations of journalists, editors and publishers;
 - (iv) a register of available funding from development and other agencies, the conditions attaching to the release of such funds, and the methods of applying for them;
 - (v) the state of press freedom, country by country, in Africa.
17. In view of the importance of radio and television in the field of news and information, the United Nations and UNESCO are invited to recommend to the General Assembly and the General Conference the convening of a similar seminar of journalists and managers of radio and television services in Africa, to explore the possibility of applying similar concepts of independence and pluralism to those media.
18. The international community should contribute to the achievement and implementation of the initiatives and projects set out in the annex to this Declaration.
19. This Declaration should be presented by the Secretary-General of the United Nations to the United Nations General Assembly, and by the Director-General of UNESCO to the General Conference of UNESCO.

African Charter on Broadcasting

There have been significant gains in media freedom in Africa since the adoption of the Windhoek Declaration on Promoting an Independent and Pluralistic African Press in 1991. However, the declaration focused primarily on the promotion of the print media and was silent on issues such as broadcasting liberalisation and the globalisation of the communications industry. These issues have far reaching social and economic implications for media freedom and threaten to jeopardize the production of media that reflects Africa's rich cultural diversity.

A representative group of African media practitioners sought to address these concerns at a UNESCO conference called to celebrate the 10th anniversary of the original Windhoek Declaration. The result was the African Charter on Broadcasting, which serves as a modern blueprint for policies and laws determining the future of broadcasting and information technology in Africa.

We the Participants of Windhoek+10 Declare that:

Acknowledging the enduring relevance and importance of the Windhoek Declaration to the protection and promotion of freedom of expression and of the media;

Noting that freedom of expression includes the right to communicate and access to means of communication;

Mindful of the fact that the Windhoek Declaration focuses on the print media and recalling Paragraph 17 of the Windhoek Declaration, which recommended that a similar seminar be convened to address the need for independence and pluralism in radio and television broadcasting;

Acknowledging the enduring relevance and importance of the Windhoek Declaration to the protection and promotion of freedom of expression and of the media;

Noting that freedom of expression includes the right to communicate and access to means of communication;

Mindful of the fact that the Windhoek Declaration focuses on the print media and recalling Paragraph 17 of the Windhoek Declaration, which recommended that a similar seminar be convened to address the need for independence and pluralism in radio and television broadcasting;

Recognising that the political, economic and technological environment in which the Windhoek Declaration was adopted has changed significantly and that there is a need to complement and expand upon the original Declaration;

Aware of the existence of serious barriers to free, independent and pluralistic broadcasting and to the right to communicate through broadcasting in Africa;

Cognisant of the fact that for the vast majority of the peoples of Africa, the broadcast media remains the main source of public communication and information;

Recalling the fact that the frequency spectrum is a public resource which must be managed in the public interest.

Part One

GENERAL REGULATORY ISSUES

- 1 The legal framework for broadcasting should include a clear statement of the principles underpinning broadcast regulation, including promoting respect for freedom of expression, diversity, and the free flow of information and ideas, as well as a three-tier system for broadcasting: public service, commercial and community.
- 2 All formal powers in the areas of broadcast and telecommunications regulation should be exercised by public authorities which are protected against interference, particularly of a political or economic nature, by, among other things, an appointments process for members which is open, transparent, involves the participation of civil society, and is not controlled by any particular political party.
- 3 Decision-making processes about the overall allocation of the frequency spectrum should be open and participatory, and ensure that a fair proportion of the spectrum is allocated to broadcasting uses.
- 4 The frequencies allocated to broadcasting should be shared equitably among the three tiers of broadcasting.
- 5 Licensing processes for the allocation of specific frequencies to individual broadcasters should be fair and transparent, and based on clear criteria which include promoting media diversity in ownership and content.
- 6 Broadcasters should be required to promote and develop local content, which should be defined to include African content, including through the introduction of minimum quotas.
- 7 States should promote an economic environment that facilitates the development of independent production and diversity in broadcasting.
- 8 The development of appropriate technology for the reception of broadcasting signals should be promoted.

Part Two

PUBLIC SERVICE BROADCASTING

- 1 All State and government controlled broadcasters should be transformed into public service broadcasters, that are accountable to all strata of the people as represented by an independent board, and that serve the overall public interest, avoiding one-sided reporting and programming in regard to religion, political belief, culture, race and gender.
- 2 Public service broadcasters should, like broadcasting and telecommunications regulators, be governed by bodies which are protected against interference.
- 3 The public service mandate of public service broadcasters should be clearly defined.
- 4 The editorial independence of public service broad casters 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 broad casters should be made accessible to all broad casters under reasonable and non-discriminatory terms.

PART Three

COMMUNITY BROADCASTING

- 1 Community broadcasting is broadcasting which is for, by and about the community, whose ownership and management is representative of the community, which pursues a social

development agenda, and which is non-profit.

- 2 There should be a clear recognition, including by the international community, of the difference between decentralised public broadcasting and community broadcasting.
- 3 The right of community broadcasters to have access to the Internet, for the benefit of their respective communities, should be promoted.

PART Four

TELECOMMUNICATIONS AND CONVERGENCE

- 1 The right to communicate includes access to telephones, email, Internet and other telecommunications systems, including through the promotion of community-controlled information communication technology centres.
- 2 Telecommunications law and policy should promote the goal of universal service and access, including through access clauses in privatisation and liberalisation processes, and proactive measures by the State.
- 3 The international community and African governments should mobilise resources for funding research to keep abreast of the rapidly changing media and technology landscape in Africa.
- 4 African governments should promote the development of online media and African content, including through the formulation of non-restrictive policies on new information and communications technologies.
- 5 Training of media practitioners in electronic communication, research and publishing skills needs to be supported and expanded, in order to promote access to, and dissemination of, global information.

PART Five

IMPLEMENTATION

- 1 UNESCO should distribute the African Charter on Broadcasting as broadly as possible, including to stakeholders and the general public, both in Africa and worldwide.
- 2 Media organizations and civil society in Africa are encouraged to use the Charter as a lobbying tool and as their starting point in the development of national and regional broadcasting policies. To this end media organisations and civil society are encouraged to initiate public awareness campaigns, to form coalitions on broadcasting reform, to formulate broad casting policies, to develop specific models for regulatory bodies and public service broadcasting, and to lobby relevant official actors.
- 3 All debates about broad casting 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

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

Sector 4 The media practice high levels of professional standards

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

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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' Rights should make every effort to give practical effect to these principles.

Notes

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