



State of media
freedom in
Southern Africa
2012

SO THIS IS DEMOCRACY?

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

SO THIS IS DEMOCRACY?



In the picture, Tanzania police visibly assault journalist Daudi Mwangosi before one of them fired a teargas canister into his stomach, instantly killing the scribe. Mwangosi died while covering clashes between the police and members of Tanzania's largest opposition political party, Chama cha Demokrasia na Maendeleo (Chadema). The incident occurred on 2nd September 2012 in the southern highlands region of Iringa.

The journalist was a correspondent for television station, Channel Ten and also served as the Chairperson of the Iringa Press Club.

(c) MISA 2012

Published by
Media Institute of Southern Africa (MISA)
Private Bag 13386
Windhoek, Namibia
Telephone: +264 61 232 975
Website: <http://www.misa.org>

Editor
Levi Kabwato
levi@misa.org

Assistant Editor
Birbal Boniface Musoba
birbal@misa.org

Research Intern
Linda Okezie

Translator
Delphin Ilunga
karibures@hotmail.com
*Except for Angolan article:

Translator
Rui Correia
correia.rui@gmail.com

Layout & cover design
Clara Mupopiwa & Caroline de Meersseman
cm@iway.na & caromeers@iway.na

Repro and Printing
John Meinert Printing
Windhoek, Namibia

ISBN
99916-62-33-2

© 2013 The Media Institute of Southern Africa.
All rights reserved.
Unauthorised duplication contravenes applicable laws.

*The views expressed by independent contributors are
not necessarily those of MISA*

FROM THE OFFICE OF THE REGIONAL DIRECTOR

Celebrating 20 years of World Press Freedom Day

On this day, May 3, 2013, which marks the 20th anniversary of World Press Freedom Day, MISA pays tribute to all journalists in southern Africa and the rest of the world. We salute you for your unwavering commitment to bringing us news and information that allows us to live informed and meaningful lives.

This day holds special significance for MISA for it was in Windhoek, Namibia, where African journalists adopted the Windhoek Declaration on May 3, 1991, at the Unesco-sponsored seminar entitled "Promoting an Independent and Pluralistic African Press". Two years later, in 1993, the United Nations General Assembly declared May 3 to be World Press Freedom Day to mark the anniversary of the Windhoek Declaration. Annually, on this day, MISA and other media freedom and free expression advocacy organisations work to raise awareness of the importance of media freedom and remind governments of their duty to respect and uphold the right to freedom of expression enshrined under Article 19 of the Universal Declaration of Human Rights and the Windhoek Declaration.

I am making specific reference to the Windhoek Declaration and its significance in the recognition of World Press Freedom Day for this is a most momentous gift from Africa to the world.

'Safe to Speak'

The 2013 global theme for World Press Freedom Day requires that we reflect on the upward trend in the killings of journalists, media workers, and social media producers. The brutal killing of Tanzanian journalist, Daudi Mwangosi, in September 2012, was a very tragic reminder of the threats that exist within the Southern African Development Community (SADC) region and suffered by many journalists on a daily basis. Later in 2012, police shot at a journalist, apparently in a case of mistaken identity. Early 2013, a journalist was found dead in a forest in Tanzania and a senior editor, Absalom Kibanda, was attacked just outside his Dar-es-Salaam home. He subsequently lost his left eye and sustained several injuries.

MISA has been monitoring and reporting on media freedom violations in southern Africa for nearly 20 years. We have stated in previous reports that physical attacks on journalists were in decline and more subtle forms of attack and intimidation were at play. How wrong we were. What a sad day for media freedom in southern Africa.

Media freedom for development and good governance

"A free press is at the absolute core of

equitable development, if you cannot enfranchise poor people, if they do not have a right to expression, if there is no searchlight on corruption and inequitable practices, you cannot build the public consensus needed to bring about change"

- James D. Wolfensohn, former President of the World Bank

2013 also marks the launch of the Pan African Parliament's press freedom campaign under the proposed theme: "Press Freedom for Development and Governance: Need for Reform".

We welcome this important initiative and applaud our legislators for their insight into the link between press freedom and development. Indeed media can have a positive influence on poverty reduction and a country's economic growth.

Media freedom is strongly correlated with overall development processes and positively enables the communication of development information. A free media contributes to the establishment of an environment in which development objectives can be successfully achieved. At the same time, free and independent media can only properly function in an enabling environment, characterised by the manifestation of rights to freedom of expression and access to information.

... Reflecting

This 19th edition of So This Is Democracy? documents numerous media freedom and freedom of expression violations that MISA recorded in southern Africa during the course of 2012. In this report, we attempt to analyse numerous incidents that have impacted on media freedom and the free

expression landscape in the region. We also attempt to shed light on emerging issues that require deeper interrogation.

Enjoy the read!



Zoe Titus
Regional Director
zoe@misa.org

CONTENT

| | |
|----|-------------------------|
| 07 | Notes on classification |
| 10 | Regional overview |

| | |
|----|--|
| 23 | Angola National overview in English National overview in Portuguese Summary of violations recorded in 2012 |
|----|--|

| | |
|----|--|
| 30 | Botswana National overview in English National overview in Portuguese Summary of violations recorded in 2012 |
|----|--|

| | |
|----|---|
| 46 | Lesotho National overview in English National overview in Portuguese Summary of violations recorded in 2012 |
|----|---|

| | |
|----|--|
| 54 | Malawi National overview in English National overview in Portuguese Summary of violations recorded in 2012 |
|----|--|

| | |
|----|--|
| 79 | Mozambique National overview in English National overview in Portuguese Summary of violations recorded in 2012 |
|----|--|

| | |
|----|---|
| 95 | Namibia National overview in English National overview in Portuguese Summary of violations recorded in 2012 |
|----|---|

| | |
|------------|--|
| 108 | South Africa National overview in English National overview in Portuguese Summary of violations recorded in 2012 |
| 123 | Swaziland National overview in English National overview in Portuguese Summary of violations recorded in 2012 |
| 144 | Tanzania National overview in English National overview in Portuguese Summary of violations recorded in 2012 |
| 160 | Zambia National overview in English National overview in Portuguese Summary of violations recorded in 2012 |
| 183 | Zimbabwe National overview in English National overview in Portuguese Summary of violations recorded in 2012 |
| 212 | About Misa |
| 216 | How to report an attack on the media |
| 219 | Appendices Windhoek Declaration 220 Africa Charter on Broadcasting 224 Declaration of Principles on Freedom of Expression in Africa 228 Declaration of Table Mountain 234 African Platform on Access to Information 237 Guidelines on Media Coverage of Elections in the SADC region 249 |

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



Bombed



Censored



Legislated



Detained



Expelled



Killed



Sentenced



Threatened



Victory



Others

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.

Expelled - 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.

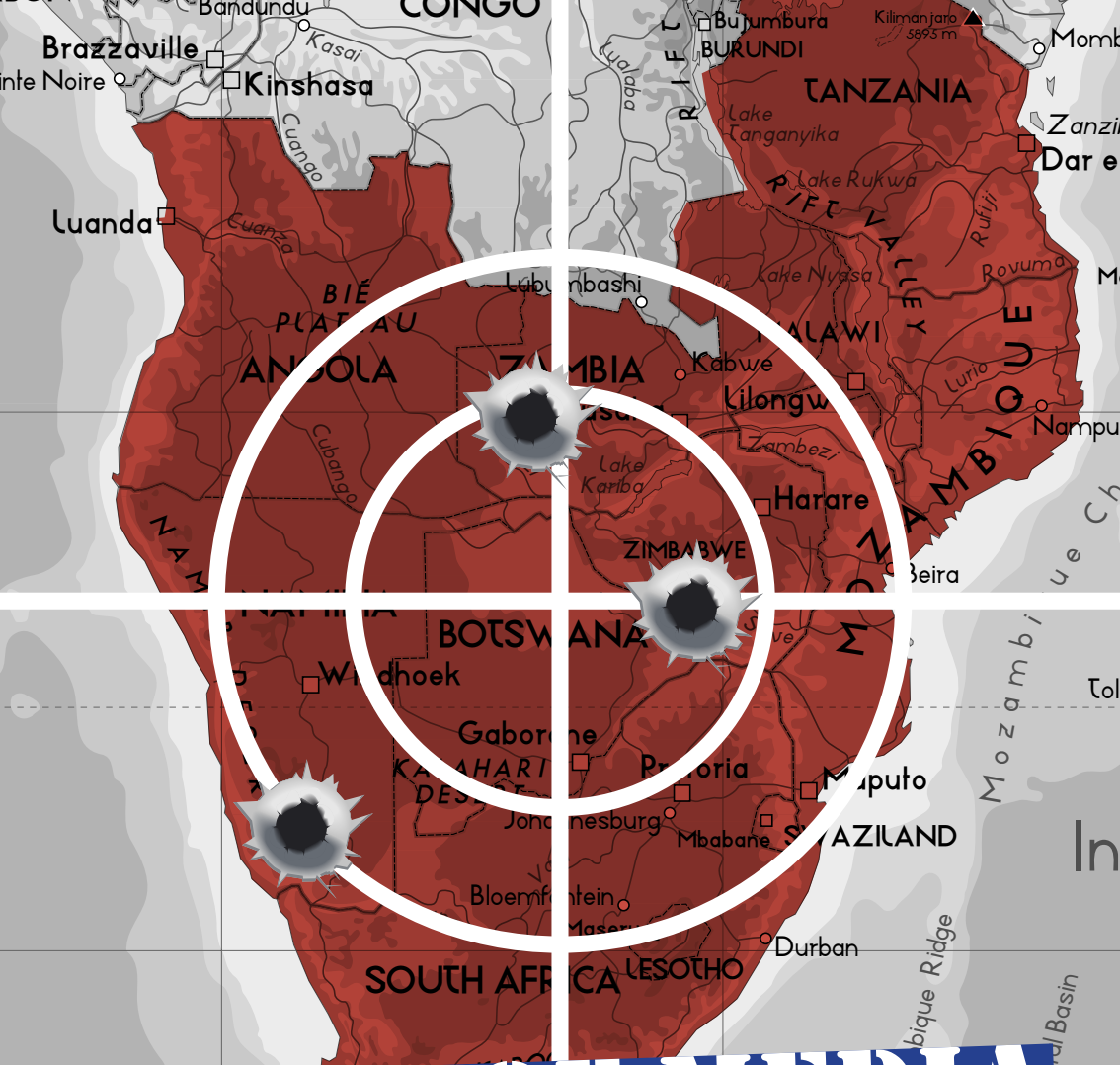
Sentenced - This is when a judgement is handed down against a media worker involving either a prison term or a fine. The statistic given is for the number of media workers involved.

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.



STATE OF MEDIA IN SOUTHERN AFRICA

Regional Overview 2012

by Levi Kabwato (Media Freedom Monitoring & Research)

Karen Mohan (Media Law Policy and Advocacy)

Safety and security first

The brutal killing of Tanzanian journalist, Daudi Mwangosi, in September 2012 was a very tragic reminder of the threats that exist within the SADC region and suffered by many journalists on a daily basis.

The prominent journalist died in the line of duty, on 2 September, while covering clashes between the police and members of Tanzania's largest opposition political party, Chama cha Demokrasia na Maendeleo (Chadema). The incident occurred in the southern highlands region of Iringa. Until his death, Mwangosi was correspondent for television station, Channel Ten and also served as the Chairperson of the Iringa Press Club.

It is understood some members of the police surrounded Mwangosi, attempted to take his equipment away from him and despite his repeated insistence he was a journalist, was pushed to the ground, held down and in very inexplicable fashion, had a teargas canister fired at his stomach, brutally killing him instantly.

Widespread condemnation of the cowardly act followed and although investigations were carried out and one person arrested and charged with Mwangosi's murder, the fact remains that a journalist's life was lost needlessly.

The operating environment in Tanzania has rapidly deteriorated with other disturbing reports of media freedom violations coming through. A popular newspaper, MwanaHalisi, was banned at the end of July, allegedly for publishing seditious material. In August, the government of Tanzania defended its decision to ban the newspaper, insisting the newspaper would remain banned.

Later in 2012, police shot at a journalist, apparently in a case of mistaken identity. Early 2013, a journalist was found dead in a forest and a senior editor, Ab-salom Kibanda, was attacked just outside his Dar-es-Salaam home. He subsequently lost his left eye and sustained several injuries.

We could not have foreseen these developments when we stated – in the 2011 report – that physical attacks on journalists were in decline and more subtle forms of attack and intimidation were at play.

"As the strategies of beating journalists to a pulp," we wrote, "kidnapping or killing them or bombing printing presses lose their appeal, the future of media repression will rely greatly on the threat of legal action against a journalist or media house. And, as long as media law reform agenda is held back, the more repressive governments will use outdated laws and the inherent colonial instruments of repression that come with such, to restrict media freedom and media growth in the region."

Media Law

In the year under review, the media law reform project largely stalled throughout the region. The most significant development, perhaps, was the signing by president Joyce Banda, of the repeal of Section 46 of the Penal Code in Malawi, this has still to be gazetted. The law previously allowed a cabinet minister to ban any publication deemed by that minister not to be in the public interest. Despite this, a raft of laws, most of which are remarkably outmoded, that threaten media freedom and freedom of expression still remain in the

country. And Malawi certainly isn't the exception. We note that whilst the President has moved forward with the repeal of this law, it is yet to be gazetted.

Throughout the rest of SADC, the use of outmoded laws to target journalists and stifle freedom of expression is a major cause of concern. From Tanzania down to Lesotho and South Africa, these laws have been used to ban newspapers, target individual journalists and criminalise free speech. Criminal defamation laws appear to be a popular choice for many governments for the exercise for these purposes.

Media Regulation

In January 2013, South African media fell under the independent co-regulation model, following widespread consultations and in response to growing threats from the ruling African National Congress (ANC) to introduce a statutory media appeals tribunal.

Doing away with self-regulation in South Africa appears to have had less impact within the region than previously expected. However, for a country that seemingly has strong democratic institutions and appears to adhere as closely as possible to the rule of law, these developments in the media may be used as easy justification by many governments to move and seal the fate of press self-regulation in the region. It only remains for the media themselves to prove their capability to self-regulate (self-manage) and to prove that a media that is truly accountable to its audience without needing State intervention is possible.

The self-regulation debate will also continue in 2013 against the backdrop of

the Leveson Inquiry in the United Kingdom. UK media will now fall, effectively, under statutory regulation based on the findings of the inquiry into the phone-hacking scandal and also, on the recommendations of Judge Leveson and other activists. The introduction of statutory regulation in the UK means doing away with three centuries of self-regulation.

Given the UK's participation in various programmes within the region, including areas of democracy, governance, media and freedom, the post-Leveson era is quite significant for the kind of defence and support that is given to media freedom and freedom of expression. Indeed, it needs to be assessed what precedence – good or bad – has been set by the UK.

In the final analysis, however, it is quite obvious that all media – public, State-owned and private – have an urgent need to re-inspire public confidence. The shifts that are occurring within the regulation space would not be happening if a significant number of members of the public stood up to defend media freedoms and freedom of expression.

Hence, regional media have a particular duty to continuously challenge, if not betray, the ever-tempting slide towards elitism marked for them. In short, media, especially those that occupy the sacred space of informing, educating and entertaining the masses, must remain grounded and true to those who faithfully invest time and money to consume their products.

Access to Information

The state of access to information in Southern Africa has been a mixed bag of

positive and negative developments over the past year. At the forefront of what could be considered negative, are developments in South Africa around the 'Protection of State Information' Bill and the misuse of the 'Nation Key Points' Act, where it is argued that the country is progressively slipping in to a pattern that favours securitisation over the right to information. In particular, worries abound around the inclusion in the 'Protection of State Information' bill of harsh penalties directed at those who come in to possession of State Information that has already been leaked. Despite a weak public interest defense that has been introduced to current version of the Bill, this will undoubtedly place severe restrictions on the media, as well as severely penalising whistleblowers.

Much controversy has continued to surround The 'National Key Points' Act of 1980, which allows the head of SAPs to declare any place that is deemed vital to national security as a 'key point'. The use of this apartheid piece of legislation has increased by over 50% in the past 5 years. The Government, however, despite a series of requests from freedom of information campaigners, continues to refuse to release a list of what type of places are currently protected under the current provisions of the law. This allows almost any place to be deemed a 'national key point' on the grounds of national security. In fact the Department of Works has used this provision to frustrate a probe in to 203 million rand upgrade to President's Zuma's home. This severely undermines the public's right to information and is in direct conflict with allowable limitations on the right to information under International law. The Johannesburg Principles,

for example, in Principle 2(a), states that "A restriction sought to be justified on the ground of national security is not legitimate unless its genuine purpose and demonstrable effect is to protect a country's existence or its territorial integrity against the use or threat of force, or its capacity to respond to the use or threat of force, whether from an external source, such as a military threat, or an internal source, such as incitement to violent overthrow of the government."

Despite regressive developments in South Africa, however, there have been some positive developments in the region around access to information. In March, 94.5% of the Zimbabwean population voted for the adoption of a new Constitution. Article 62 of the new Constitution grants the right to access to information to its citizens, as well as placing an obligation on Government to enact access to information legislation. In addition to this, the newly inaugurated president of Malawi stated that access to information legislation would be in place in Malawi within a year. The Government of Namibia, through its Ministry of Information and Communication Technology, also publicly committed itself to enacting access to information legislation in the Country.

There have also been a number of ongoing processes that stalled in 2012, much to the disappointment of access to information advocates on the continent. The Government of Botswana, whilst rejecting a bill on access to information, brought before parliament by opposition member Hon. Dumelang Saleshando, stated that they would enact such legislation at the following February session in 2012, an event that has never taken place. The Gov-

ernment of Zambia, who have promised to bring an access to information bill, which is considered one of the most progressive on the continent, before parliament on no less than six occasions has to date not done so, giving the impression that Government are in fact unwilling to enact such legislation. They have recently pronounced that the bill will be considered in June 2013.

MISA will continue to monitor the state of access to information in Southern Africa in 2013 through research undertaken on the 'Most Open and Secretive Government Institution in Southern Africa' as well as advocating for the adoption of a conducive legal framework both nationally and regionally.

Broadcasting

Tighter controls were directed at broadcast media in 2012 and where some semblance of reform took place, it was actually for the worst. The establishment of the Botswana Communications Regulatory Authority (BOCRA) to oversee broadcasting and communications in Botswana is a case in point. The law that establishes BOCRA makes no provision for either public service broadcasting or public service broadcasting nor community broadcasting and is highly inconsistent with the African Charter on Broadcasting (see appendices). This is a major setback.

Across the rest of the region, serious concerns still exist around the state of broadcasting and as the country overviews contained in this report state, without progressive reforms in broadcasting, media freedom, freedom of expression and access to information remain elusive.

The majority of national broadcasters

in the SADC region remain under government control, and public service broadcasting has not taken root to date. Whilst some countries in the SADC region have legislative provisions in place to secure independent Media, such as South Africa, Zambia and Tanzania, Zambia's law which was already introduced in 2002, has to date not been fairly implemented and ZNBC remains under State control. Tanzania's application of the law has been patchy at best and its communications regulatory authority continues to be appointed by the Government, and whilst South Africa has been the only country to date with evidence of practical application, with broadcasting being regulated by the Independent Broadcasting Authority, its reliance on commercial funding, along with increasing concerns over Government interference with SABC have raised serious concerns over its independence. In other countries such as Zimbabwe, Botswana and Swaziland, there are little attempts at pretence with the broadcaster remaining unabashedly state owned.

It is clear that in most countries it is still the case that the Ministry of information determines who should and shouldn't receive a license, which sends a clear signal that although countries within the Region have indicated a commitment towards democratization, services such as public service broadcasting have been compromised by political interference to the extent that Governments undermined national development, good governance and citizen's rights to access to freedom of expression and access to information.

It is beyond question that broadcasting media are powerful tools for communication but some of the paranoia exhibited by

many governments is unhelpful and the attendant control of state-run broadcasting entities and making them subservient to ruling party interests is a fundamental abuse of power that must always be challenged.

MISA continues to base its advocacy on the African charter on Broadcasting and calls on SADC governments to critically reflect on the recommendations of the charter in order to provide more useful and much-needed broadcasting services in their countries.

Freedom Online

Attempts to restrict freedom of expression in cyberspace have grown quite significantly. In 2012, Malawi and Zambia were the most aggressive countries in this regard, with Malawi arresting an online journalist and Zambia seeking out the domicile of an online news service.

Proposed legislation in Malawi, the E-Transactions and Management Bill (formerly E-Bill) is a sinister law that will give legal backing to 'cyber-inspectors' whose duties and functions are both ambiguous and vague and will also require, for instance, all those running websites with content directed at Malawians to reveal their locations and provide a full address.

While we acknowledge that the Internet phenomenon, powered by rapidly changing technology, is something relatively new to the SADC region. The arrival and access of various Internet applications, thanks to Third Generation (3G) and Fourth Generation (4G) networks has caught many governments by surprise and quite predictably, policy is – as is always the case – lagging far behind.

Hence, reactions such as those by the Malawi government – introducing legislation without wider consultation – and those of the Zambia government – attempting to shut down undesired websites – are not only retrogressive but gives the impression that no national benefit whatsoever can be realised from harnessing the power of the Internet.

Indeed, the description of applications such as Facebook and Twitter as "tools for regime change", as one Zimbabwe minister once remarked to the United Nations Human Rights Council, are not only unfortunate but they project unjustified State paranoia and dangerous insecurities. That Zimbabwe itself has a law – the Interceptions of Communications Act – that can be directed at journalists or bloggers is chilling.

Freedom of expression in Cyberspace is also a matter that will be reviewed against the backdrop of the Leveson Inquiry outcomes, some of which may also affect bloggers.

Added to this, issues of digital security and privacy are also quite new to the region and more aggressive advocacy will be needed to streamline these issues and bring substantive attention to them by journalists, bloggers and the wider public. With new technology, new threats are also emerging via the use of powerful communication tools such as smartphones, phablets and tablets.

Hence, beyond knowing how to put a good story together, journalists will also need to know and understand very technical issues about the devices they use, how their information is transmitted and also, how they can fight off or counter State surveillance and be safe online. This

will not happen overnight but the sooner digital threats to media freedom and freedom of expression are taken up, the better for journalists', bloggers' and the public's safety and security.

Digital Migration

With the exception of countries like Tanzania and Namibia, all of the SADC countries will miss the 2013 deadline for digital migration. Of course, this was the deadline set by SADC governments themselves, in an attempt to beat the International Telecommunications Union (ITU) deadline of 2015. Most governments may not even meet this 2015 global deadline.

The lack of information on digital migration has been frustrating to say the least. Governments have been quite reluctant to translate this key policy issue to tangible action and also as something that is easily understood by the public. As things stand, it would appear as if most people who will be affected by the transition from digital to analogue transmission do not understand what really is going on.

Added to this, facts of the infrastructure, signal distribution and set-top boxes are still being held behind closed doors and the results are not just coming through. Of course, there are significant monetary benefits to be made and the media will have to greatly scrutinise the entire digital migration process.

Conclusion

Most, if not all, of the issues covered in this report will be carried forward to 2013. Key issues will continue to be around the safety and security (both offline and on-

line) of journalists. The killing of Daudi Mwangosi and the brutal attack on Absalom Kibanda in Tanzania remain serious causes for concern and therefore necessitate greater attention to be paid to them.

The policy issues will also continue to be taken up substantively, especially around the repeal of criminal defamation laws and access to information. Of course, this will influence solid legal reforms across the region.

Over the next two years, many southern African countries will be conducting elections. This is an important democratic exercise and the media have a particular role during elections. In September 2012, MISA, together with representatives from electoral management bodies, civil society and media drew up regional guidelines on the media conduct during elections (see appendices).

From 2013, MISA will lead efforts to domesticate the guidelines and also, to ensure that elections are not occasions for media freedom violations as they have been in the past.

PORTUGUESE VERSION

Prioridade à segurança

O assassinato brutal do jornalista da Tanzânia, Daudi Mwangosi, em Setembro de 2012 foi uma das mais trágicas ameaças da região da SADC prevaricadas diariamente contra muitos jornalistas.

O jornalista proeminente morreu no cumprimento do seu dever, a 2 de Setembro, quando cobria os confrontos entre a polícia e membros do maior partido político da oposição da Tanzânia, Chama cha Demokrasia na Maendeleo (Chadema). O incidente ocorreu na região das montanhas do sul de Iringa. Até a sua morte, Mwangosi foi correspondente do canal televisivo, *Channel Tem*. Serviu também como presidente do Clube de Imprensa de Iringa.

Entende-se que alguns agentes da polícia cercaram Mwangosi, tentaram tirar-lhe o seu equipamento e, apesar de sua repetida insistência de que era jornalista, foi empurrado para o chão, pressionado e, numa forma muito inexplicável, uma lata de gás lacrimogêneo foi disparada contra a sua barriga, matando-o brutal e instantaneamente.

Em seguida, houve ampla condenação do acto covarde e, apesar de que fizeram-se investigações e uma pessoa foi detida e processada pelo assassinato de Mwangosi, o facto é que perdeu-se a vida de um jornalista desnecessariamente.

O ambiente operacional na Tanzânia, deteriorou-se rapidamente com outros relatos preocupantes sobre violações da

liberdade de imprensa. Um jornal popular, MwanaHalisi, foi proscrito no final de Julho, supostamente por publicação de material sedicioso. Em Agosto, o governo da Tanzânia defendeu a sua decisão de interditar o jornal, insistindo que o jornal continuaria proscrito.

Mais tarde, em 2012, a polícia disparou contra um jornalista, aparentemente num caso de confusão de identidade. No início de 2013, um jornalista foi encontrado morto numa floresta e um editor sênior, Absalão Kibanda, foi atacado defronte a sua casa em Dar-es-Salaam. Consequentemente, ele perdeu o olho esquerdo e sofreu vários ferimentos.

Nós não poderíamos ter previsto estes acontecimentos quando dissemos - no relatório de 2011 - que os ataques físicos contra jornalistas estavam a cair em desuso e que formas mais subtis de ataque e intimidação estavam a ser usadas.

"Uma vez que as estratégias de espancar os jornalistas a polpa", escrevemos, "raptos, assassinato ou bombardeamento dos média impressos perdeu o apelo, o futuro da repressão mediática dependerá muito da ameaça de ação judicial contra jornalistas ou empresas mediáticas. E, enquanto não haver a reforma da lei dos órgãos de comunicação, os governos utilizarão leis ultrapassadas e os instrumentos de repressão coloniais inerentes que vêm com isso, para restringir a liberdade e crescimento de imprensa.

Lei Mediática

No ano em análise, o projecto de reforma da lei mediática lei ficou em grande parte estagnado em toda a região. O desenvolvimento mais significativo, talvez, foi a

assinatura pela presidente Joyce Banda, da revogação do Artigo 46 do Código Penal, no Malawi, A lei previamente permitia que um ministro proibir qualquer publicação que não considerasse ser de interesse público. Apesar disso, uma série de leis, a maioria das quais estão obsoletas, ameaçam a liberdade de imprensa e liberdade de expressão no país. E Malawi certamente não é exceção. Notamos que, enquanto a presidente avançou com a revogação desta lei, ainda está para ser publicada.

Nos outros países da SADC, o uso de leis ultrapassadas para atingir os jornalistas e sufocar a liberdade de expressão é uma das principais causas de preocupação. Da Tanzânia até Lesoto e África do Sul, essas leis têm sido usadas para proibir jornais, alvejar jornalistas individuais e criminalizar a liberdade de expressão. As leis de difamação criminal parecem ser uma escolha comum para muitos governos para alcançar esses fins.

Regulação Mediática

Em janeiro de 2013, os órgãos de comunicação social sul-Africanos foram submetidos ao modelo de co-regulação independente, na sequência de consultas amplas e em reação a crescentes ameaças do Congresso Nacional Africano (ANC) de introduzir um tribunal de apelações estatutárias mediático.

Acabar com a auto-regulação na África do Sul parece ter tido um impacto menor na região do que se esperava. No entanto, para um país que aparentemente tem instituições democráticas fortes e parece aderir tanto quanto possível ao Estado de direito, estes desenvolvimentos na imprensa podem ser usados como justificativa fácil por

muitos governos para determinar o destino da auto-regulação da imprensa na região. Resta aos próprios meios de comunicação provar a sua capacidade de auto-regulação (auto-gestão) e provar que uma imprensa verdadeiramente responsável perante o seu público sem intervenção do Estado é possível..

O debate de auto-regulação também continuará em 2013 contra o pano de fundo do Inquérito Leveson no Reino Unido. A imprensa do Reino Unido vai estar agora, efetivamente, sob regulamentação estatutária com base nas conclusões do inquérito sobre o escândalo de *hacking* de telefone e, sobre as recomendações do juiz Leveson e outros ativistas. A introdução de regulamentação legal no Reino Unido representa o fim de três séculos de auto-regulação.

Dada a participação do Reino Unido em vários programas na região, incluindo as áreas da democracia, governação, imprensa e liberdade, a era pós-Leveson é bastante significativa para o tipo de defesa e apoio que é dado a liberdade de imprensa e liberdade de expressão. Na verdade, há que avaliar o que prevalece – bom ou mau – do que foi definido pelo Reino Unido.

Em última análise, no entanto, é bastante óbvio que todos os meios – público, estatal e privado – têm uma necessidade urgente de voltar a inspirar a confiança do público. As mudanças que estão ocorrendo dentro do espaço de regulação não estariam acontecendo se um número significativo de membros do público se levantasse para defender a liberdade de imprensa e liberdade de expressão.

Assim, a imprensa regional tem o especial dever de desafiar continuamente, se não trair, a tendência elitista marcada por

eles. Em suma, a imprensa, especialmente aqueles que ocupam o espaço sagrado de informar, educar e entreter as massas, deve permanecer sãos e verazes para aqueles que fielmente investem tempo e dinheiro para consumir os seus produtos.

Acesso à informação

O estado de acesso à informação na África do Sul tem sido uma mistura de acontecimentos positivos e negativos em relação ao ano passado. Na vanguarda do que poderia ser considerado negativo, estão os desenvolvimentos na África do Sul em torno do o ante projecto de lei da «Protecção da Informação do Estado» e o abuso da Lei dos Pontos-chave da Nação, onde se argumenta que o país está progressivamente rumando para um padrão que favorece a securitização acima do direito à informação. Há, em particular, muitas preocupações em torno da inclusão, no ante-projecto de lei de "Protecção da informação do Estado" de sanções duras com possuidores informações de estado já vazadas. Apesar de uma fraca defesa do interesse público, que foi introduzida a versão atual do projeto de lei, este será, sem dúvida colocar severas restrições aos meios de comunicação, bem como penalizar denunciantes

Muita controvérsia continuou a cercar a Lei dos Pontos-chave da Nação de 1980, que permite que a cabeça dos SAP declarar qualquer lugar que seja considerado vital para a segurança nacional como um "ponto-chave ". O uso desta legislação do apartheid aumentou em mais de 50% nos últimos 5 anos. O Governo, no entanto, apesar de uma série de pedidos de liberdade forma de campanha de informação,

continua a recusar a liberar uma lista de que tipo de lugares são atualmente protegidos sob as actuais disposições da lei. Isso permite que praticamente qualquer lugar para ser considerado um "ponto-chave nacional" por motivos de segurança nacional. Na verdade, o Departamento de Obras tem usado esta disposição para frustrar um inquérito da remodelação da moradia do Presidente Zuma orçada em 203 milhões de rands. Este prejudicam gravemente o direito do público à informação e está em conflito direto com limitações admissíveis no direito a informação nos termos direito internacional. Os Princípios de Joanesburgo, por exemplo, no Princípio 2 (a), afirma que "Uma restrição que se procure justificar com base na segurança nacional não é legítima a menos que o seu objectivo genuíno e efeito demonstrável é proteger a existência de um país ou a sua integridade territorial contra o uso ou ameaça de força, ou a sua capacidade de responder ao uso ou ameaça de força, quer seja a partir de uma fonte externa, como uma ameaça militar, ou uma fonte interna, como o incitamento à derrubada violenta do governo.

Apesar dos desenvolvimentos regressivos na África do Sul, não houve desenvolvimentos positivos na região em torno do acesso à informação. Em março, 94,5% da população do Zimbabué votou a favor da adopção de uma nova Constituição. O artigo 62 da nova Constituição garante o direito de acesso à informação aos seus cidadãos, bem como a obrigação do Governo de aprovar uma legislação de acesso à informação. Além disso, a recém-empossada presidente do Malawi afirmou que o acesso a legislação de acesso à informação seria aprovada dentro de um ano. O Governo da Namíbia, através do Ministério de

Tecnologia da Informação e Comunicação, também comprometeu-se publicamente em promulgar o acesso à legislação da informação no país.

Houve também uma série de processos paralisados em 2012, para a decepção dos defensores da informação no continente. O Governo do Botswana, enquanto rejeitando um projeto de lei sobre acesso à informação, apresentado ao parlamento pelo Ilustre Deputado da oposição Dume-lang Saleshando, afirmaram promulgariam leis na sessão de fevereiro do ano seguinte, 2012, o que nunca aconteceu. O Governo da Zâmbia, que prometeu apresentar uma lei de acesso à informação, que é considerada uma das mais progressistas do continente, ao Parlamento em nada menos do que seis ocasiões, ainda não o fez, dando a impressão de que o Governo não está disposto a promulgar lei. Recentemente declarou que o projeto seria considerado em Junho de 2013.

O MISA continuará a monitorar o estado de acesso à informação na África do Sul em 2013, através de pesquisa sobre a "instituição de governo mais aberto e secreto na África do Sul", bem como defendendo a adoção de um quadro legal conducente tanto a nível nacional e regional.

Transmissão

Controlos mais rígidos foram dirigidos aos meios de transmissão em 2012 e onde alguma aparência de reforma ocorreu, na verdade era para o pior. A criação da Autoridade Reguladora de Comunicações do Botswana (BOCRA) para supervisionar a radiodifusão e as comunicações em Botsuana é um caso relacionado. A lei que estabelece o BOCRA não prevê serviço público

de radiodifusão ou serviço público de radiodifusão nem radiodifusão comunitária e é altamente incompatível com a Carta Africana sobre a Radiodifusão (ver apensos). Este é um grande revés.

Em todo o resto da região, ainda existem sérias preocupações sobre o estado de radiodifusão e como os panoramas nacionais contidos neste relatório de estado, sem reformas progressistas na radiodifusão, liberdade de imprensa, liberdade de expressão e acesso à informação que são ainda ilusórios.

A maioria das emissoras nacionais na região da SADC continua sob controlo do governo, e a radiodifusão pública ainda não se concretizou. Enquanto alguns países da região da SADC têm disposições legislativas para garantir meios de comunicação independentes, como África do Sul, Zâmbia e Tanzânia, Zâmbia, lei que já foi introduzida em 2002, até a data ainda não foi implementada de forma justa e a ZNBC permanece sob o controle do Estado. A Aplicação na Tanzânia da lei tem sido irregular na melhor das hipóteses, e sua autoridade regulamentar das comunicações continua a ser nomeada pelo Governo, e enquanto a África do Sul tem sido o único país até agora com evidência de aplicação prática, a transmissão foi regulamentada pela Autoridade de Radiodifusão Independente, sua dependência de financiamento comercial, juntamente com preocupações crescentes sobre a interferência do Governo com a SABC têm levantado sérias preocupações sobre sua independência. Em outros países como Zimbábue, Botsuana e Suazilândia, há tentativas em pretensão com a emissora restante descaradamente estatal.

É claro que, na maioria dos países, é

ainda o caso de o Ministério da informação determinar quem deve e não deve receber uma licença, que envia um sinal claro de que, embora os países da região têm indicado um compromisso com a democratização, os serviços públicos de radiodifusão têm sido comprometidos pela interferência política na medida em que os governos subvertem o desenvolvimento nacional, a boa governação e os direitos dos cidadãos a Liberdade de Expressão e Acesso à Informação.

É claro que as emissoras são ferramentas poderosas de comunicação, mas alguma paranoia exibida por muitos governos é inútil e a tendência dos governos de controlar entidades estatais de radiodifusão e torna-los subservientes aos interesses do partido no poder é um abuso fundamental de poder que deve sempre ser desafiado.

O MISA continua a basear a sua defesa na Carta Africana sobre a Radiodifusão e exorta os governos da SADC a refletirem criticamente sobre as recomendações da Carta, a fim de fornecer serviços de radiodifusão úteis e necessários nos seus países.

Liberdade Cibernética

Tentativas de restringir a liberdade de expressão no ciberespaço têm crescido de forma bastante significativa. Em 2012, o Malawi e a Zâmbia foram os países mais agressivos neste sentido, com o Malawi a prender um jornalista *on-line* e a Zâmbia a procurar o domicílio de serviços de notícias *on-line*.

A Legislação proposta no Malawi, de Transações e Gestão electrónicas (antigo E-Bill) é uma lei sinistra que dará apoio legal para 'ciber-inspectores, cujas funções são ambíguas e vagas e também vai exigir,

por exemplo, todos os sites com conteúdo dirigido a malawianos para revelar as suas localizações e fornecer um endereço completo.

Embora reconheçamos que o fenómeno da Internet, alimentado pela rápida evolução da tecnologia, é algo relativamente novo para a região da SADC, a chegada e acesso de várias aplicações de Internet, graças a terceira (3G) e quarta gerações (4G) de redes apanhou muitos governos de surpresa e como era bastante previsível, a política está muito atrasada.

Assim, reacções como as do governo do Malawi - a introdução de legislação sem uma consulta mais ampla - e os do governo da Zâmbia - tentar encerrar sites indesejados - não são apenas retrógrado mas dá a impressão de que nenhum benefício nacional concretizado por captar a poder da Internet.

Na verdade, a descrição de aplicações como o Facebook e Twitter como "ferramentas para a mudança de regime", como um ministro do Zimbabwe uma vez comentou com o Conselho de Direitos Humanos das Nações Unidas, não são apenas infelizes, mas projetam paranoia de Estado injustificada e inseguranças perigosas. Que o Zimbabuê em si tem uma lei - a de Intercepção das Comunicações - que podem ser dirigidas a jornalistas ou blogueiros é arrepiante.

A Liberdade de expressão no ciberespaço também é uma questão que será analisada no contexto dos resultados da Consulta Leveson, alguns dos quais podem também afectar os blogueiros.

Somado a isso, as questões de segurança digital e privacidade também são bastante novas para a região e uma promoção mais agressiva será necessária para

agilizar estas questões e chamar a atenção de fundo a eles por jornalistas, blogueiros e público em geral. Com a nova tecnologia, novas ameaças surgem também através do uso de ferramentas de comunicação poderosas, como smartphones, phablets e tablets.

Assim, além de saber compilar uma boa notícia, os jornalistas também terão de conhecer e compreender questões muito técnicas sobre os dispositivos que utilizam, como a informação é transmitida e também, como se pode lutar contra ou vigilância do Estado e segurança on-line. Isso não vai acontecer da noite para o dia, mas quanto mais cedo as ameaças digitais para a liberdade de imprensa e liberdade de expressão são tomadas, melhor será para a segurança dos jornalistas, blogueiros e do público.

Migração Digital

Com a exceção de países como Tanzânia e Namíbia, todos os países da SADC vão perder o prazo de 2013 para a migração digital. Claro, este foi o prazo estabelecido pelos governos da SADC em si, numa tentativa de superar a União Internacional de Telecomunicações (UIT) cujo prazo é 2015. A maioria dos governos não pode mesmo cumprir com este prazo global 2.015.

A falta de informações sobre a migração digital tem sido frustrante para dizer o mínimo. Os governos têm sido bastante relutantes em traduzir esta questão política fundamental em ação concreta e algo que facilmente compreendido pelo público. Na situação presente, parece como se a maioria das pessoas que serão afetadas pela transição da transmissão analógica para a digital, não entende o

que realmente está acontecendo.

Além disso, factos da infra-estrutura, distribuição do sinal e caixas de configuração ainda estão sendo realizadas a portas fechadas e os resultados não são visíveis. É claro, existem importantes benefícios monetários e os meios de comunicação terão que examinar muito todo o processo de migração digital.

Conclusão

A maioria, se não todo, os temas abordados neste relatório será protelada para 2013. As questões-chave continuarão a girar em torno da segurança dos jornalistas (tanto offline como online). A morte de Daudi Mwangosi e o ataque brutal contra Absalão Kibanda na Tanzânia continuam a suscitar sérias preocupações e, portanto, necessitam de uma maior atenção.

As questões políticas também continuarão a ser tomadas substantivamente, especialmente em torno da revogação das leis sobre difamação e acesso à informação. Claro, isso vai influenciar sólidas reformas legais em toda a região.

Nos próximos dois anos, muitos países da África Austral realizarão eleições. Este é um importante exercício democrático e os meios de comunicação têm um papel especial durante as eleições. Em setembro de 2012, o MISA, juntamente com representantes de órgãos de gestão eleitoral, sociedade civil e imprensa elaborou diretrizes regionais sobre a conduta da imprensa durante as eleições (ver anexos).

A partir de 2013, o MISA vai liderar os esforços para adoptar as orientações e, garantir que as eleições não sejam ocasiões para violações da liberdade de imprensa como foram no passado.



National Overview by Reginaldo Silva

Freelance journalist and blogger



Introduction

In 2012, the Angolan political landscape was dominated almost entirely by the preparation and organisation of the country's first general elections under the new constitution, approved in 2010. For the media, the elections were an important test of its credibility, with a performance that was far from deserving of consensus, but in general, with poor grades accorded to the performance of the public media for their bias and lack of impartiality.

Political Landscape

According to the new Constitution – boycotted by UNITA, the largest opposition party – Angola no longer has presidential and legislative elections held separately, these having made way for general elections that at once elect members of the National Assembly (unicameral parliament) and – indirectly – the President of the Republic.

In terms of a political system, the new and controversial Angolan constitutional model in the assessment of its critics was designed exclusively to serve the interests of the continuation and perpetuation in power of President José Eduardo dos

Santos (JES) and the MPLA, which have ruled the country for more than 37 years, i.e. since Angola became independent on 11 November 1975.

The single party list was thus adopted as the main instrument for the vote, each party with its list, with the first two names on each list automatically the candidates for the presidency and vice-presidency of the republic, with the remaining members competing for the 230 seats available in parliament. In terms of the system, it is not necessary to get 50% of the vote, thus making it possible for candidates and the party with the most votes to be declared winners without a runoff election. The MPLA won the elections held in August 2012 with more than 70% of the vote, which corresponds to a qualified majority that allows it to govern the country without any kind of political difficulty.

UNITA, which had a better showing than in the previous election in 2008, challenged the officially declared results across the board, accusing the Government of having promoted and organised an extensive electoral fraud. Even after all the appeals at the level of election disputes were rejected by the competent authorities, especially the Constitutional Court, UNITA announced that it would



appeal to criminal justice, filing charges of criminal accountability. UNITA was of the opinion that the country faced a criminal conspiracy against the rule of law, planned and implemented at the highest level of the Government under the leadership of José Eduardo dos Santos.

Despite all this struggle that continues until the present day, UNITA decided that its more than 30 elected members would take up their seats in parliament, having justified this apparent contradiction by claiming that its new strategy provided for "fighting the dictatorship from within the official institutions."

As for the big political news, the first general elections of 31 August 2012 saw the emergence of a new party formation, the *Convergência Ampla de Salvação de Angola - Coligação Eleitoral (CASA-CE - the Broad Congregation for the Salvation of Angola - Electoral Coalition)*. The CASA-CE, headed by prominent UNITA dissident, Abel Chivukuvuku, by winning 8 seats in Parliament became the third most important political force in the country, with a distinct and more enticing performance from the point of view of those who think that the opposition in Angola was in need of this breath of fresh air.

Media

With the holding of the first general elections of 31 August, the Angolan media in 2012 faced another important test of its credibility, with results that were far from deserving of consensus, taking into account the existence of widely divergent and even contradictory assessments.

According to an assessment by the president of the National Media Council (CNCS), "what stood out, however, from these assessments were the poor grades accorded to the performance of the public media for their bias and lack of impartiality, as captured in all the reports drafted by national and foreign election monitoring bodies." As was the case - and once again - the powerful state media - especially the National Radio (RNA), Public Television (TPA) and the *Jornal de Angola* - openly campaigned in favour of the ruling party, in this way adding one more highly contentious factor in the electoral process.

The year 2012 came and went without the promised legislative package for the media being approved, even after having gone to the trouble of holding public hearings. For its part, the Catholic Church hopes that 2012 was the last

year that the Angolan government continued blocking the expansion of the transmission signal of Angola's catholic broadcaster, which continues to broadcast only to Luanda and surroundings. By way of an ultimatum, this desire was manifested in Luanda by the Archbishop of Lubango, D. Gabriel Bilingue, who currently chairs the destinies of the Episcopal Conference of Angola and São Tomé (CEAST). Speaking at the opening of the 2nd General Assembly of CEAST, D. Bilingual said "I do not know, but I very much hope that this is the last year that our Rádio Ecclésia continues to back-pedal here in Luanda without it being possible to be heard throughout the whole of the national territory. I consider this a continuing violation of the rights of citizenship of our countrymen." It was not the first time that in this struggle the Catholic hierarchy applies pressure directly on the government, but this time the more forceful tone of the demand by the President of CEAST was more noticeable.

Being always very difficult to confirm by independent sources, credible official information in Angola in 2012 continued to obey a political control that typically advises government officials not to open too much the doors to the offices where any statistics is produced, especially when it may be less "sympathetic" to the image of the Government.

The Urban Situation In Luanda

Luanda reflects well the inability of government to find the most appropri-

ate solutions to meet the serious challenges posed by urbanisation, resulting from population flows that every day discharge across its boundaries from the interior of the country.

There is increasingly less effective capacity to absorb this growing and frightening demographic pressure, regardless of how much more public investment that is made in the capital, how many more plans are drafted, how many more law enforcement agents are recruited, how many more campaigns on civic education or to salvage moral values are conducted. At a frantic pace, Luanda is fast catching up with the most problematic cities in the world.

What we will have (and we already have it) is a perfect urban chaos, manifesting particularly in the gigantic traffic jams that every day threaten to paralyse the city and in the growing belts of social misery with all its derivatives and consequences, of which crime is obviously the more threatening and destructive.

PORTUGUESE VERSION

Introdução

Em 2012, o panorama político angolano foi dominado quase que em absoluto pela preparação e organização das primeiras eleições gerais do país ao abrigo da nova Constituição aprovada em 2010. Para a comunicação social, a realização das eleições foi um importante teste à sua credibilidade, com resultados que estiveram muito longe de merecer o consenso, mas em geral uma nota negativa atribuída ao desempenho da comunicação social pública por parcialidade e falta de isenção.

Panorama Político

De acordo com a nova a Constituição – boicotada pela UNITA, o maior partido da oposição – deixou de haver eleições presidenciais e legislativas realizadas separadamente, para em seu lugar surgirem as eleições gerais que, de uma só vez, elegem os membros da Assembleia Nacional (parlamento unicameral) e – indirectamente – o Presidente da República.

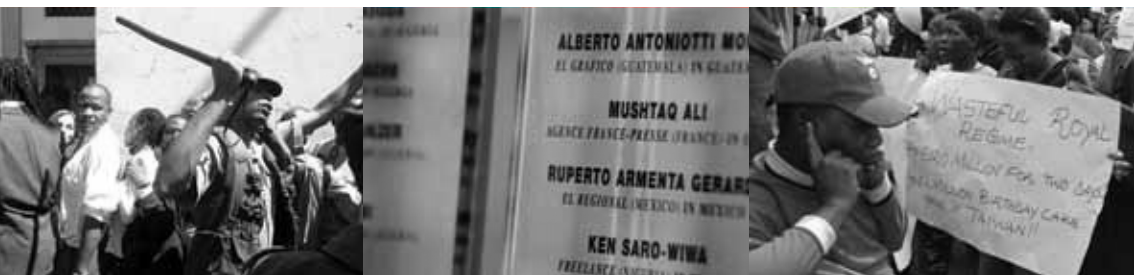
Em matéria de sistema político, o novo e controverso modelo constitucional angolano na avaliação dos seus críticos foi desenhado exclusivamente para servir os interesses da continuação e eternização no poder do Presidente José Eduardo dos Santos (JES) e do MPLA, que governam o país há mais de 37 anos, isto é, desde que Angola se

tornou independente a 11 de Novembro de 1975.

Foi assim adoptado como recurso principal do escrutínio a lista única por partido concorrente, sendo os dois primeiros nomes de cada lista os nomes dos candidatos à presidência e à vice-presidência da república, enquanto os restantes integrantes concorrem aos 230 lugares disponíveis no parlamento. O sistema permite que mesmo com uma percentagem eleitoral abaixo dos 50%, os candidatos e o respectivo partido mais votado sejam proclamados vencedores sem necessidade de uma segunda volta. O MPLA venceu com mais de 70% as eleições realizadas em Agosto de 2012, o que corresponde a uma maioria qualificada que permite governar o país sem qualquer tipo de dificuldade política.

A UNITA que teve uma melhor classificação em relação ao anterior pleito de 2008, contestou em toda a linha os resultados proclamados oficialmente, acusando o Governo de ter promovido e organizado uma ampla fraude eleitoral. Mesmo depois de todos os recursos interpostos ao nível do contencioso eleitoral terem sido indeferidos pelas instâncias competentes, com destaque para o Tribunal Constitucional, a UNITA anunciou que ia recorrer à justiça penal, com o lançamento de processos de responsabilização criminal. A UNITA concluiu que se estava diante de uma conspiração de natureza criminosa contra o Estado de Direito, decidida e executada ao mais alto nível do Governo sob o comando de José Eduardo dos Santos.

Apesar de toda esta contestação que



prossegue até aos dias de hoje, a UNITA decidiu que os seus mais de 30 deputados eleitos tomassem posse no parlamento, tendo justificado este aparente paradoxo com o facto da sua nova estratégia prever um "combate à ditadura dentro das instituições oficiais".

Como grande novidade política, tem-se o facto das primeiras eleições gerais de 31 de Agosto de 2012 terem promovido o surgimento de uma nova formação partidária, a Convergência Ampla de Salvação de Angola – Coligação Eleitoral (CASA-CE). A CASA-CE liderada pelo conhecido dissidente da UNITA, Abel Chivukuvuku, ao conquistar 8 lugares no Parlamento passou a ser a terceira força política mais importante do país, com um desempenho diferente e mais acutilante do ponto de vista de quem acha que a oposição em Angola estava a precisar deste novo alento.

Comunicação Social

A comunicação social angolana enfrentou em 2012, com a realização das primeiras Eleições Gerais de 31 de Agosto, mais um importante teste à sua credibilidade, com resultados que estiveram muito longe de merecer o con-

senso, a ter em conta a existência de avaliações bastante divergentes e mesmo contraditórias.

De acordo com uma avaliação feita pela presidência do Conselho Nacional de Comunicação Social (CNCS), "sobressaiu, contudo, destas avaliações a nota negativa atribuída ao desempenho da média pública por falta de isenção e parcialidade, constante da totalidade dos relatórios de observação eleitoral elaborados por entidades nacionais e estrangeiras". Com efeito e uma vez mais, a poderosa comunicação social estatal – com destaque para a Rádio Nacional (RNA), a Televisão Pública (TPA) e o Jornal de Angola – fizeram campanha aberta a favor do partido no poder, introduzindo deste modo mais um factor de grande conflitualidade no processo eleitoral.

O ano de 2012 transcorreu sem que o prometido pacote legislativo para a comunicação social fosse aprovado, mesmo depois de ter sido realizada a consulta pública.

Por seu lado, a Igreja Católica espera que 2012 tenha sido o último ano em que o Governo angolano mantém o seu bloqueio à expansão do sinal da Emissora Católica de Angola, que continua a transmitir só para Luanda e arredores.



Em jeito de ultimato, este desejo foi manifestado em Luanda pelo Arcebispo do Lubango, D. Gabriel Bilingue, que preside actualmente os destinos da Conferência Episcopal de Angola e São Tomé (CEAST). D. Bilingue falava na abertura da 2ª Assembleia-geral da CEAST. "Não sei, mas espero bem que seja este o último ano em que a nossa Rádio Ecléscia se encontra a patinar aqui em Luanda sem que possa ser ouvida em toda a extensão do território nacional. Considero isto uma contínua violação dos direitos de cidadania dos nossos compatriotas". Não foi a primeira vez que nesta batalha, a hierarquia católica pressiona directamente o Executivo, mas desta vez saltou à vista o tom mais enérgico colocado nesta exigência pelo Presidente da CEAST.

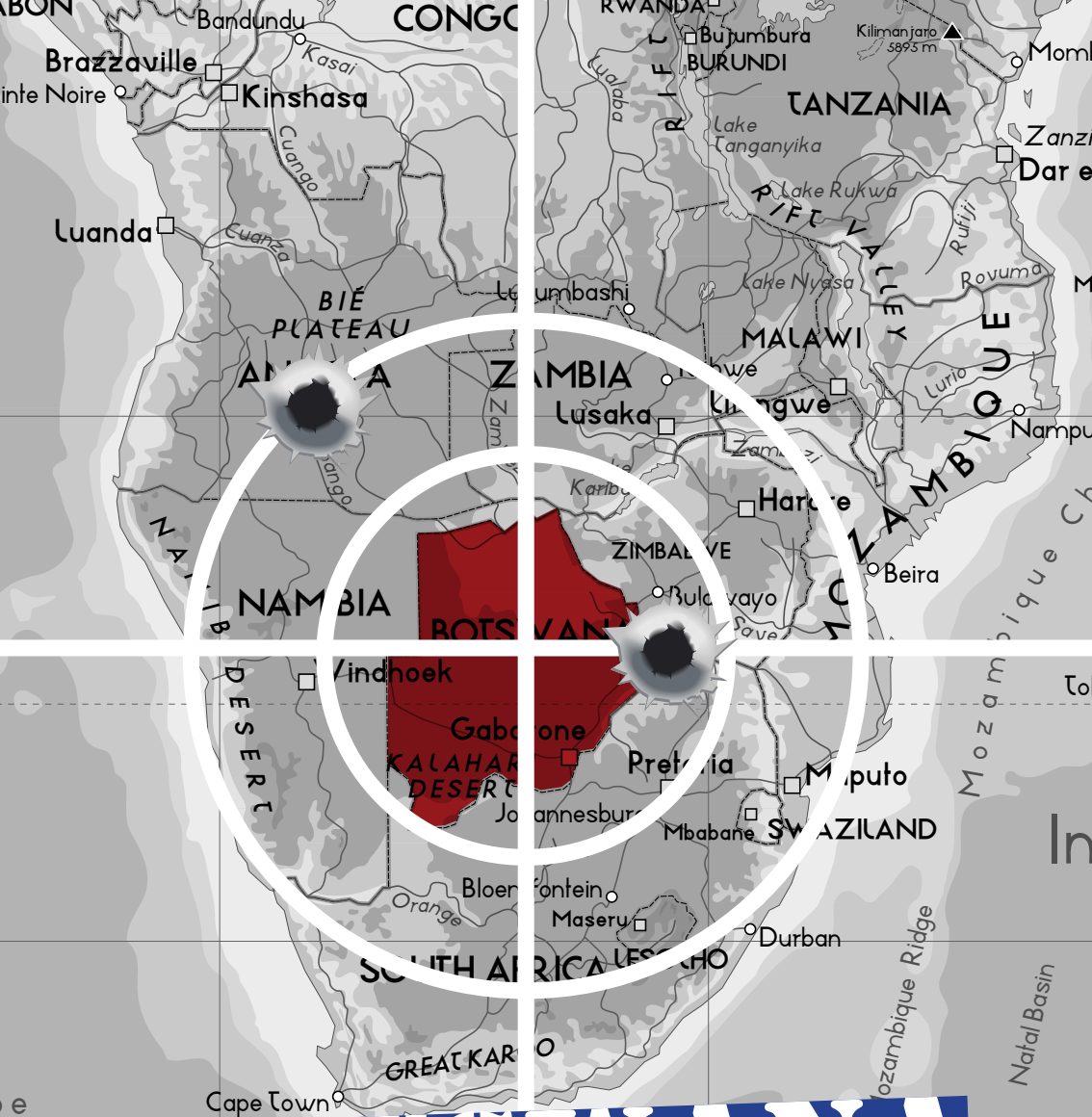
Sendo sempre muito difícil de confirmar por fontes independentes credíveis, a informação oficial em Angola continuou em 2012 a obedecer a uma gestão política que normalmente aconselha os governantes a não abrirem muito as portas dos gabinetes onde é produzida alguma estatística, sobretudo quando ela pode ser menos "simpática" para a imagem do Executivo.

A Situação urbana em Luanda

Luanda espelha bem a incapacidade dos poderes públicos de encontrarem as soluções mais adequadas para enfrentarem os graves desafios criados pela urbanização, fruto de fluxos populacionais que desaguardam todos os dias nas suas fronteiras, provenientes do interior do país.

Há cada vez menos capacidade de absorção efectiva desta crescente e assustadora pressão demográfica, por mais investimento público que se faça na capital, por mais planos que se elaborem, por mais forças da ordem que se recrutem, por mais campanhas de educação cívica ou de resgate dos valores morais que se façam. A um ritmo frenético, Luanda está a aproximar-se rapidamente das cidades mais problemáticas do planeta.

O que teremos (e já começamos a ter) é um perfeito caos urbano, visível, particularmente, nos gigantescos engarrafamentos que ameaçam todos os dias paralisar a cidade e no alargamento da cintura de miséria social com todos os seus derivados e consequências, onde a criminalidade é, obviamente, a mais ameaçadora e destruidora.



BOTSWANA



National Overview
by MISA-Botswana



Introduction

Though acclaimed internationally as a democratic template that should be followed by other African countries, Botswana's democracy is in many ways flawed and has serious underlying defects especially when considering the unsupportive and restrictive legal frameworks concerning the media. A list of some such barriers are:

- The Absence of Freedom of Information (FOI) law
- The coming into place of the Botswana Communications Regulatory Authority Act (BOCRA)
- Media Practitioner's Act
- Criminal Defamation vs. Civil Defamation

From the media's point of view, 2012 was a trying and eventful one. As the year begun, media people and media advocacy groups were all hopeful about the possibility of witnessing the passing of Botswana's first Freedom of Information Act. That was not to be.

As it turned out, such expectations were quashed by the ruling government's burning desire not to be outdone by the opposition. The events unfolded as follows.

In 2010, an opposition Member of Parliament, Dumelang Saleshando, proposed a private member's Bill on Freedom of Information and joined efforts with MISA-Botswana to form a taskforce on the issue. Involved in the taskforce were civil society activists, university experts, gender activists and lawyers. The taskforce's mandate was to assist Saleshando to craft a document

on FOI that was able to stand the test of time and abide by current developments in FOI laws around the world.

The goal was to come up with a law that was progressive.

With the help of development partners and MISA's wide exposure to such efforts, the Task Force was able to craft a draft that was eventually brought to Parliament in 2011. In early 2012, MISA Botswana, on behalf of FOI taskforce, embarked on a campaign to inform the public through Local Authorities, Traditional leaders and Civil Society groups. Meetings were held across the country to get the public to appreciate not just the Bill and its contents, but also more crucially, why as a democracy Botswana needed such a law.

With the second reading on schedule, there started clear attempts by government, especially the Minister of Presidential Affairs and Public Administration, Mokgweetsi Masisi, and Presidential Spokesperson, Dr. Jeff Ramsay, to delay and even discredit the Bill. As it turned out, the two officials spearheaded what became a frustrating exercise to effectively kill the Bill before it could become a law.

They masterminded a campaign that eventually convinced the ruling party in parliament that what the country needed first, was a Data Protection law before the Freedom of Information Law. In their misinformation and disinformation campaign, they even misled some MPs who seemed not to have read the contents of the draft Bill for themselves.

A key character of the duo's scare-



mongering campaign was to allege that the private member's draft, as brought before Parliament by Saleshando, did not have proper provisions guaranteeing privacy. They further alleged that the draft Bill did not make exemptions, as was the case internationally.

On behalf of the taskforce, MISA-Botswana issued several media statements putting the record straight, and, more specifically, trying to draw the public attention to the falsehoods of the agenda as led by Masisi and Dr. Ramsay.

In an effort to show flexibility and possibly save the Bill, MISA-Botswana made attempts to engage the minister and his official. Attempts were also made to call the office of president to come up with new suggestions on how best to make the draft acceptable to him. But, it was clear that a decision had been made to kill the Bill. Everything else that passed for negotiations was made in bad faith.

The taskforce was of the view that the government position was flawed in many ways as it seemed to suggest that a Data Protection Law could be used to protect state secrets and curb information leaks. Such an application, in fact,

was inconsistent with International practice. Put differently, while the FOIA gives the public the right to see official information held by public authorities, the Data Protection Act allows a member of the public to see the personal information that is held about them by such organisations, and they even effect corrections to their personal data.

However, the taskforce at the same noted that the two laws complemented each other. The point of the matter in all these, apparently, turned out to be that Government was wasting time on issues that were not pertinent to the draft, as they wanted it killed since they believed that only they could come up with such a draft FOI bill.

Meanwhile, MISA-Botswana continued to mobilise the public and educate them on the importance of FOI Act. Many of the consulted, who ranged from media, members of parliament, local authorities and councillors, chiefs to the public at large, all appreciated the Bill and supported it, seeing that it could also become a tool that they could use as well in their work.

Perhaps somewhat inevitably, parliament rejected the draft Bill with a promise that government would bring their version of the Bill in the next par-



liamentary session. In November 2012, the minister promised MISA-Botswana that by **February 2013**, he would be in a position to share his draft with the National Assembly. As an important stakeholder, MISA-Botswana eagerly awaits the government draft.

Botswana Communications Regulatory Authority Act (BOCRA)

In another different but related development, the government of Botswana killed the Broadcasting Act of 1998 and came up with the Botswana Communications Regulatory Authority Act (BOCRA). BOCRA was subtly and stealthily sneaked into the Government Gazette in late 2011. In a broader sense, the Bill sought to de-regularise State broadcast media and repeal the provision for a three-tier system of broadcasting i.e. private, community and public service broadcasting.

Foreseeing the shortcomings and pitfalls in the new Act, MISA-Botswana expressed its concerns and released numerous statements regarding the matter. However, the government of Botswana paid no attention. MISA-Botswana's concerns were that while the

country had been hailed and praised to have come up with an excellent Broadcasting Act in 1998, it was frustrating and backward for government to have somersaulted on agreed principles that underpinned the Broadcasting Act of 1998 and come up with the current provisions in BOCRA which effectively reversed the progressive gains as highlighted by the 1998 Act.

Though MISA-Botswana had no problem with the merging of the Botswana Telecommunications Authority and the National Broadcasting Board into one body, it took exception to the exclusion of a three-tier system of broadcasting which in our view, is an over-arching arrangement the world over.

MISA-Botswana is aware that issues of telecommunications will generally imply a greater role played by the minister, but was unhappy with the appointment of the Board and the Chief Executive Officer of the Authority by the minister. The Chapter was also not happy with the fact that state broadcasters would not be regulated. In short, MISA-Botswana is not happy with having two sets of rules, one for State broadcasters and the other for the private ones.

Additionally, MISA Botswana did not welcome clause 53 which read, "The Authority may during any emergency, require any service provider to give priority to the transmission of the messages of government or any person and to intercept messages transmitted under such circumstances."

The Bill does not define the term "emergency" and by leaving it open-ended it also opens it to possible systemic abuse by those in authority at any given time. MISA-Botswana was not alone on this position. The civil society movement in the form of Law Society of Botswana, Botswana Council of Non-Governmental Organisations, BOSETU, Centre for Human Rights and the Press Council of Botswana issued a joint statement supporting MISA-Botswana's sentiments.

Traditional leaders in the House of Chiefs, now *Ntlo ya Dikgosi*, were also overly confused and kept asking the minister why the rush, why government was hastily repealing the three-tier system of broadcasting, let alone leave out "State Broadcasters" and not even work on transforming it into public service media. The thinking behind government motives remains a mystery to members of the public.

In November 2012, MISA-Botswana came across an advertorial in the local media inviting applications from interested individuals and institutions to be considered for membership in the BOCRA Committee. As MISA-Botswana, we immediately made it clear that we would not be participating in such committees.

It has become a commonplace in the current government that affairs of government and media always turn out to be ugly, beginning from the removal of the Department of Information and Broadcasting Services from the relevant ministry to the State ministry up to the current standoff on MISA's Report on government secrecy and openness. In government circles the media is constantly portrayed as demanding to be treated differently from other sectors.

When one looks at how the culture of media bashing has now become institutionalised in Botswana, it is not at all surprising that since he came into office in April 2008, president Ian Khama has not addressed a single media briefing.

The Media Practitioners' Act

The Media Practitioners' Act is also a threat in waiting. While it was been signed into a law in 2009, and it seemingly appears to be dormant, the media operates in an un-free, self-censoring environment because, however one looks at it, the fact of the matter is that it has now become a law.

At a Media Sustainability Index workshop in July 2012, in Gaborone, journalists were concerned that the intention of the law was to silence and punish journalists by denying them accreditation. One of the journalists noted that he feared that some government agencies may not play fair and would apply laws and regulations selectively.

"One of these agencies is against

the idea of **Dikgang Publishing's** dominance in the media industry and as I see it this is just as one way of government's efforts to marginalise private media," he quipped.

A senior journalist, **Douglas Tsiako**, highlighted various instances where government had attempted to tamper with free flow of information and freedom of expression. Tsiako added that sometimes in the past when they were covering ruling party rallies, the minister had ordered journalists not to mention figures when reporting their story. By Tsiako's account, this is an attack on freedom of expression and media freedom.

Complaints against the media

In 2012, the Press Council of Botswana received at least 7 political complaints against the media, and 2 civil complaints. All the 7 political complaints were actually submitted by the opposition Party, Botswana National Front (BNF), 5 against *Weekend Post* and 2 against *The Botswana Gazette*. The BNF accused the two media houses of unbalanced and false reports. Of the 2 civil complaints, the Centre for Human Rights (Ditshwanelo) filed one against *Echo* newspaper. *The Voice* Newspaper also received a complaint from an aggrieved family.

Government media and self-censorship

Still in 2012, government media

continued to censor itself, continuing the trend previously highlighted in 2011. Most news items and stories of public interest are muted in the much influential government television, radios and the widely circulated *Daily News*. When the private media carried such stories it ends up facing all sorts of accusations from government officials.

Government journalists are perhaps toothless as a result of the Public Service Act, which prevents any government employee from relaying information without the knowledge of authorities. Unfortunately, this law also applies to government journalists, who by the way the government has gone on record to remind them that they are civil servants not journalists.

While private media tend to allow for multiple viewpoints in their editorial policies, the state media on the other hand are clearly biased towards ruling party cadres. For example, the government media rarely covered a case of one John Kalafatis who was killed by suspected security agents.

But when the president suddenly offered Kalafatis killers a conditional pardon, it was a buzzword for the state media without even offering background on how Kalafatis was killed or how the pardoned convicts came to receive State President's attention.

Harassment of journalists

MISA-Botswana issued an alert following *Mmegi* photographer's, Kabo Mpaetona, attack by armed robbery suspects who were appearing before

the Village Magistrate Court in Gaborone. Sadly, cases like Mpaetona's are common but remain unreported. Even sadder is that sometimes the presence of police officers at the courts doesn't always mean journalists are safe, as in most instances the police prefer to watch photographers being beaten than offer them sanctuary.

On another note, the Chapter has lamented the huge sums of money which the media are expected to pay towards defamation suits. In early 2012, the High Court ruled and ordered former *Yarona FM* Sports Presenter, Chilliboy Rakgare, and the station to pay Phillip Makgalemele P250, 000 (approximately US\$30, 500) in damages for defamation.

In the previous years, notably 2010, the *Sunday Standard* newspaper was asked to pay the P400, 000 (approximately US\$49, 000) in damages to the then minister of Minerals, Charles Tibone, but ended up paying P250, 000 (approximately US\$30, 500) after appeal. Seemingly, it appears, sadly, that this is the precedence that has been set.

Development of print and broadcast media

The year 2012 went down with all the players in the newspaper industry being active. Although many editors and managers talked gravely about business not doing well, MISA-Botswana did not record any major newspaper collapses.

The industry still boasts of the Dikgang Group (*Mmegi*, *Monitor*, *The Botswana Guardian* and *Midweek Sun*), Tsodilo Services Group (*Sunday Stand-*

tions). As a result, it suddenly becomes an awkwardly complex issue when an editor finds himself or herself in such a situation. MISA-Botswana has been, therefore, requested to look into the issue for future reference.

As John Keane (2011) put it: "Mediaocracy has been gaining ground for sometime in virtually all democracies. *ard and The Telegraph*), News Company Botswana (*The Botswana Gazette* and *Lapologa* magazine), *The Echo*, *The Voice*, and the *Weekend Post*. One newcomer was registered in the form of a broadsheet (*The Patriot on Sunday*). This has taken the number of private newspapers to 11, with the state owning its flagship, *Daily News*.

The broadcast media still has no additions, with the Botswana government dominating the airwaves with 2 radio stations, (*Radio Botswana* and *RB2*), and one television, the *BTV*. Other players include, *Yarona FM*, *Gabz FM*, and *Duma FM*.

Conclusion

At its 2012 Annual General Meeting, MISA-Botswana learnt that in most of the media houses, editors are notoriously crippled to make apt decisions in newsrooms because of ownership. Media houses could have professional staff but at the end of the day, if the source of finance of the media house is threatened in some way by certain reports, it unfortunately becomes an ugly business.

The fact is that politicians own some of our newspapers and radio sta-

In Cameron's Britain, Obama's United States, just as in Gillard's Australia and Berlusconi's Italy, undercover skills of media management and heavily manipulated, aggressively sensationalist and fast-changing publicity cycles in politics have become routine". Media-cracy, Keane says, is "the tangled webs of back-channel contacts and hidden power relations connecting senior politicians and top journalists..."

PORTUGUESE VERSION

Então, isso é democracia? Artigo de Botswana

Embora, aclamada internacionalmente como um modelo de democracia a ser seguido por outros países africanos, a democracia de Botswana apresenta muitas falhas e grandes defeitos subjacentes, especialmente quando se consideram os quadros legais obstructivos e restrictivos respeitantes aos meios de comunicação. Eis uma lista de algumas:

- A falta de uma lei de Liberdade de Informação
- A implementação da Lei da Autoridade Reguladora das Comunicações de Botswana
- Lei dos Jornalistas
- Difamação Penal vs Difamação Civil

Do ponto de vista dos órgãos de comunicação, 2012 foi um ano significativo. No princípio do ano, o pessoal da comunicação social e o seu grupo de advogados estavam esperançosos sobre a possibilidade de testemunhar a passagem da lei da primeira Liberdade de informação de Botswana. Isso não era para ser.

Como se viu tais expectativas foram suprimidas pelo desejo ardente do governo no poder para não ser ultrapassada pela oposição. Abaixo, mostra como os acontecimentos se desenrolaram.

Em 2010, um membro da oposição



do Parlamento Dumelang Saleshando apresentou uma proposta de lei sobre membro privado de Liberdade de Informação e juntou esforços com o MISA-Botswana para formar uma task-force para o assunto. Estavam envolvidos neste núcleo activistas da sociedade civil, especialistas universitários, activistas de género e advogados. O mandato do grupo foi de auxiliar Saleshando para elaborar um documento sobre a Liberdade de Informação que foi capaz de resistir ao teste do tempo e aderir aos desenvolvimentos actuais na liberdade de informação em todo o mundo.

O objectivo era criar uma lei progressiva.

Com a ajuda de parceiros de desenvolvimento e ampla exposição do MISA sobre tais esforços, a task-force foi capaz de criar um projecto-lei que acabou por ser levado ao Parlamento em 2011. No início de 2012 MISA Botswana, em nome do núcleo de Liberdade de Informação, embarcou em uma campanha para informar o público através das autoridades locais, líderes tradicionais e grupos da sociedade civil. As reuniões foram realizadas em todo o país para dar ao público a apreciar não só a proposta de e o seu conteúdo, mas também mais crucialmente, porquê uma Bot-

swana democrática necessitaria tal lei.

Com a segunda leitura no horário, lá começou tentativas claras por parte do governo, especialmente o ministro de Assuntos Presidenciais e Administração Pública, Mokgweetsi Masisi, e porta-voz presidencial, Dr. Jeff Ramsay, para retardar e até mesmo desacreditar a proposta. Como se pode constatar os dois funcionários encabeçado o que se tornou um exercício frustrante para efectivamente anular a proposta antes de se tornar uma lei.

Eles planejaram habilmente uma campanha que, eventualmente, convenceu o partido no poder em parlamento que o que o país precisa em primeiro lugar, era uma lei de protecção de dados antes da Lei de Liberdade de Informação. Na sua desinformação a sua campanha e propaganda enganado alguns deputados que pareciam não ter lido o conteúdo do projecto de lei para si mesmos.

Um personagem chave da campanha alarmismo da dupla era alegar que o projecto membro privado tal como foi apresentado pelo Parlamento Saleshando não têm provisões adequadas que garantam a privacidade. Alegaram ainda que o projecto de lei não fez isenções como foi o caso internacionalmente.



Em nome do grupo de trabalho, o MISA-Botswana emitiu várias declarações de mídia colocando o projecto recto, e, mais especificamente, tentando chamar a atenção do público para as falsidades da agenda como liderado por Masisi e Dr. Ramsay.

Em um esforço para mostrar flexibilidade e, possivelmente, salvar o projecto de lei, o MISA-Botswana fez tentativas de envolver o ministro e seu oficial. Também foram feitas tentativas para fazer com que o gabinete presidencial apresenta-se novas sugestões para a melhorar a forma de fazer o projecto aceitável para si.

Mas, foi clara a decisão foi tomada para desfazer o projecto de lei. Tudo que passou para as negociações foram feitas de má fé.

O grupo de trabalho foi de opinião que a posição do governo foi falho em muitos aspectos, como parecia sugerir que a Lei de Protecção de Dados pode ser usado para proteger segredos de Estado e conter vazamentos de informação. Tal aplicação, de facto, era incompatível com a prática internacional. Em outras palavras, enquanto o FOIA dá ao público o direito de ver as informações oficiais em poder das autoridades públicas, a Lei de Protecção de

Dados permite a um membro do público para ver a informação pessoal que é realizada sobre eles por essas organizações, e até mesmo efectuar correcções seus dados pessoais.

No entanto, o grupo de trabalho, ao mesmo tempo observou que as duas leis complementam-se. O ponto em questão de tudo isso, aparentemente, acabou por ser que o Governo estava perdendo tempo com questões que não eram pertinentes para o projecto como eles queriam morto, uma vez que acreditavam que só podem apresentar tal projecto de lei de Liberdade de Informação.

Enquanto isso, o MISA-Botswana continuou a mobilizar a opinião pública e educá-los sobre a importância da Lei de Liberdade de Informação. Muitos dos consultados, que varia entre os mídias, membros do parlamento, autoridades locais e senadores, chefes para o público em geral, todos apreciavam a Fundação do projecto e apoiavam, vendo que ele também pode se tornar uma ferramenta que eles poderiam usar, bem como em seus trabalhos.

Talvez um pouco, inevitavelmente, o parlamento rejeitou o projecto de lei com a promessa de que o governo iria trazer o seu próprio na próxima sessão parlamentar. Em Novembro de 2012,

o ministro prometeu MISA-Botswana, que em Fevereiro de 2013, ele estaria em posição de partilhar o seu projecto com a Assembleia Nacional. Como parte interessada, o MISA-Botswana aguarda ansiosamente o projecto do governo.

Autoridade Reguladora das Comunicações de Botswana (Lei BOCRA)

Num outro desenvolvimento diferente, mas relacionado o governo de Botswana aniquilou a lei de transmissão de 1998 e veio com a Autoridade Reguladora das comunicações de Botswana (BOCRA). BOCRA foi subtil e furtivamente inserido no Diário do Governo no final de 2011. Num sentido mais amplo, o projecto de lei tentou de regularizar meios de transmissão do Estado e revogar a disposição para um sistema de três níveis de radiodifusão ou seja privada, comunidade e serviço público de radiodifusão.

Prevendo as deficiências e dificuldades no novo acto, o MISA-Botswana manifestou a sua preocupação e lançou inúmeras declarações sobre o assunto. O governo de Botswana não prestou atenção. Preocupações MISA-Botswana eram de que, enquanto o país foi saudado e elogiado ter vindo com uma Lei de Radiodifusão excelente em 1998, foi frustrante e retardar o governo a ter transgredido os princípios acordados que sustentaram a lei de transmissão de 1998 e chegar as disposições em vigor em BOCRA que efectivamente revertidos os ganhos progressivos conforme destacado pela Lei 1998.

Embora MISA-Botswana não tinha problema com a fusão das Autoridades de Telecomunicações de Botswana e o conselho de Nacional de transmissão em um corpo, ele tomou a excepção para a exclusão de um sistema de três níveis de radiodifusão que, no nosso ponto de vista, é um acordo mais abrangente a nível mundial.

MISA-Botswana está ciente de que as questões de telecomunicações geralmente implicará um grande papel desempenhado pelo ministro, mas estava descontente com a nomeação do Conselho de Administração e Director executivo das Autoridades do ministro. O capítulo também não estava feliz com o fato de que as emissoras estatais não serão regulamentadas. Em suma MISA-Botswana não esta feliz em ter dois conjuntos de regras, uma para as emissoras do Estado e outra para os privados.

Além disso, o MISA Botswana não acolheu cláusula 53, que diz: "A Autoridade pode, durante qualquer emergência, necessitar de qualquer prestador de serviços para dar prioridade à transmissão das mensagens de governo ou de qualquer pessoa e, para interceptar mensagens transmitidas sob tais circunstâncias."

O projecto de lei não define a "emergência" e, deixando-a em aberto também abre para o abuso sistémico possível por aqueles com autoridade a qualquer momento.

MISA-Botswana não estava sozinho nesta posição. O movimento da sociedade civil, na forma de Sociedade de Direito de Botswana, Conselho de

Organizações Não-Governamentais de Botswana, BOSETU, Centro de Direitos Humanos e do Conselho de Imprensa de Botswana emitiram uma declaração conjunta apoiando sentimentos da MISA-Botswana.

Os líderes tradicionais na Câmara dos Chefes, agora Ntlo ya Dikgosi também estavam muito confusos e ficava perguntando o ministro porque a pressa, porque o governo estava apressadamente a revogar o sistema de três níveis de radiodifusão, e muito menos deixar de fora “Emissoras de Estado” e até mesmo trabalhar em transformando-a em medias de serviço público. O pensamento por trás dos motivos do governo continua a ser um mistério para os membros do público.

Em novembro de 2012, o MISA-Botswana deparou-se com um anúncio nas aplicações das mídias locais convidando indivíduos e instituições interessadas, que devem ser considerados para a sociedade no Comité BOCRA. Como MISA-Botswana, imediatamente deixou claro que não estaria participando de comissões.

Tornou-se um lugar-comum no governo actual que os assuntos de governo e os mídias sempre tornaram a ser feios no início, desde a remoção do Departamento de Serviços de Informação e Radiodifusão do ministério relevante para o ministério do Estado até o impasse actual sobre o Relatório MISA sobre sigilo do governo e abertura. Em círculos governamentais a mídia está constantemente retratados como exigindo ser tratado de forma diferente de outros sectores.

Quando se olha para a forma como a cultura da mídia atacando agora se tornou institucionalizada em Botswana, não é surpreendente desde que entrou em funções em Abril de 2008, o presidente Ian Khama não abordou uma colectiva de imprensa único.

Lei dos profissionais da comunicação social “

Lei dos profissionais da comunicação social é também uma ameaça à espera. Embora tenha sido assinado em lei em 2009, e aparentemente parece estar dormente, a mídia opera em opressão, ambiente de auto-censura, porque entretanto se olha para ela, o facto da matéria é que ele tornou-se agora uma lei.

Em uma oficina Índice de Sustentabilidade a Mídia em Julho de 2012, em Gaborone, os jornalistas estavam preocupados que a intenção da lei era de silenciar e punir jornalistas, negando-lhes acreditação. Um dos jornalistas observou que ele temia que algumas agências governamentais podem não justos e iria aplicar as leis e regulamentos de forma selectiva.

“Uma dessas agências esta contra a ideia de dominação Dikgang Publishing na indústria da mídia e como eu vejo isso é apenas como uma forma de esforços do governo para marginalizar a mídia privada”, ele brincou.

Um jornalista veterano, Douglas Tsiako destacou vários casos em que o governo havia tentado mexer com o fluxo livre de informação e liberdade de expressão. Tsiako acrescentou que,

por vezes, no passado, quando eles estavam cobrindo os comícios do partido no poder, o ministro ordenou jornalistas para não falar de números ao relatar sua história. Por conta do Tsiako este é um ataque à liberdade de expressão e liberdade de imprensa.

As queixas contra os meios de comunicação

Em 2012, o Conselho de Imprensa de Botswana recebeu pelo menos sete (7) contras os órgãos de comunicação e duas queixas civis. Todas as sete queixas políticas foram realmente apresentadas pela oposição do partido Frente Nacional de Botswana (FNB), 5 contra Pós fim-de-semana e 2 contra o Gazette de Botswana. A FNB acusou as duas casas dos meios de relatórios desequilibradas e falso. Das duas queixas civis uma foi arquivada pelo Centro de Direitos Humanos (Ditshwanelo) contra jornal Echo. O Jornal *the Voice* também recebeu uma denúncia de uma família ofendida.

Órgão de comunicação do governo e auto-censura

Ainda em 2012, os órgãos de comunicação do governo continuou a censurar-se, continuando a tendência destacado anteriormente, em 2011. A maioria dos itens de notícias e histórias de interesse público são silenciados na televisão do governo mais influente, rádios e a notícia circulou amplamente no noticiário diário.

Quando os meios de comunicação

privados publicaram tais histórias, acaba enfrentando todos os tipos de acusações de funcionários do governo.

Jornalistas do governo são, talvez, sem dentes, como resultado da Lei de Serviço Público, que impedem qualquer funcionário do governo de veicular a informação, sem o conhecimento das autoridades. Infelizmente, esta lei aplica-se também aos jornalistas do governo, que pela forma como o governo tem ido no registo de lembrá-los de que eles são funcionários públicos e não jornalistas.

Enquanto meios de comunicação privados tendem a permitir vários pontos de vista em suas políticas editoriais, os meios de comunicação estatais, por outro lado são claramente inclinado para quadros do partido no poder. Por exemplo, um caso de um John Kalafatis que foi morto por agentes de segurança foi raramente coberto pelos órgãos de comunicação do governo.

Mas quando o presidente de repente ofereceu os assassinos de Kalafatis um perdão condicional, foi uma palavra de moda para os meios de comunicação estatais, mesmo sem oferecer fundo sobre como Kalafatis foi morto ou como os condenados perdoados passou a receber atenção do presidente.

Perseguição de jornalistas

MISA Botswana emitiu um alerta seguinte Mmegi fotógrafo, ataque Kabo Mpaetona por suspeitos de assalto à mão armada que estavam aparecendo perante o Magistrado Tribunal da Vila, em Gaborone. Infelizmente, casos como Mpaetona são comuns, mas não são

comunicados. Ainda mais triste, é que às vezes a presença de policiais nos tribunais não significa sempre que os jornalistas são seguros, como na maioria dos casos, a polícia prefere assistir fotógrafos ser batido do que oferecê-los santuário.

Em outra nota, o Capítulo lamentou as enormes somas de dinheiro que os meios de comunicação são esperados para pagar para processos de difamação. No início de 2012, o Tribunal Supremo decidiu e ordenou ex Yarona FM Apresentador desportivo Chilliboy Rakgare e a estação de pagar a Phillip Makgalemele 250, 000 pula (cerca de \$ 30500 EUA) em danos por difamação.

Nos anos anteriores, nomeadamente de 2010, o jornal *Sunday standard* foram convidados a pagar 400, 000 pula (cerca de \$ 49.000 EUA) por danos ao então ministro de Minerais, Charles Tibone, mas acabou pagando 250, 000 pula (cerca de \$ 30,500 EUA), após recurso. Aparentemente, parece, infelizmente, que esta é a prioridade que foi definida.

Desenvolvimento de órgãos de comunicação de imprensa e televisiva

O ano de 2012 foi para baixo com todos os participantes da indústria jornalística, activas. Embora muitos editores e gestores conversaram seriamente sobre o negócio não vai bem, o MISA-Botswana não registou nenhum colapso dos principais jornais.

A indústria ainda se orgulha do Grupo Dikgang (Mmegi, Monitor, The

Guardian e Sun Midweek Botswana), Tsodilo Services Group (*Sunday Standard* e *The Telegraph*), Empresa Noticiosa de Botswana (A Gazeta Botswana e a revista Lapologa), *the Echo*, *the Voice*, e *the Weekender Post*. Um recém-chegado foi registado na forma de um transmissor (The patriot on sunday). Isto tem levado o número de jornais privados a 11, com o Estado a possuir as suas Notícias principais, Diário.

Os meios de transmissão ainda não têm acréscimos, com o governo de Botswana dominando as ondas sonoras com duas (2) estações de rádio (*Rádio Botswana* e *RB2*), e uma televisão, a *BTV*. Outros participantes incluem, *Yarona FM*, *Gabz FM*, e *FM Duma*.

Conclusão

Na sua Assembleia Geral Ordinária 2012, o MISA-Botswana constatou que na maioria dos órgãos de comunicação, os editores são notoriamente avariado a tomar decisões aptas nas redacções devido à propriedade. Casas de rádio podem ter equipamentos profissionais, mas no final do dia, se a fonte de financiamento da emissora está ameaçada de alguma forma por determinados relatórios, que infelizmente se torna um negócio feio.

O facto é que alguns dos nossos jornais e estações de rádio são de propriedade de políticos. Como resultado, de repente se torna um problema complexo sem jeito quando um editor se encontra em tal situação. MISA-Botswana, portanto, pediu para analisar a questão



da futura referência.

Como John Keane (2011) colocá-lo “; Mediocracia vem ganhando terreno há algum tempo, praticamente em todas as democracias. Na Grã-Bretanha dos Camarões, Estados Unidos de Obama, assim como na Austrália de Gillard e na Itália de Berlusconi, descobre habilidades de gerência dos órgãos de comunicação e altamente manipulado pela forma agressiva de sensacionalistas e os ciclos de rápida mudança de publicidade em política se tornou rotina “. Mediocracia, Keane diz, é “as teias emaranhadas de volta canais de contactos e relações de poder ocultos que ligam altos cargos políticos e jornalistas do topo...”

Alert

Date: April 12, 2012

Person/ institution: Media

Violation/ issues: Legislation

The Freedom of Information Bill went through its second reading in Parliament and the proposed law was postponed to be revised as in its current form reportedly lacks merit and dismally fails to achieve what ideally such legislation ought to achieve. The National Director of MISA-Botswana, Pheny Butale indicated that they are not against the Bill postponement, but strongly believe that reasons given for the postponement are not strong enough and hope it's not a move to kill the bill.

Communiqué

Date: May 3, 2012

Person/ Institution: Media

Violation/ issue: Other

MISA Botswana in partnership with Limkokwing University Media Faculty and University of Botswana Media Studies Department led the general public and media in 2012's commemoration of the world press freedom Day held from the 3rd to the 5th of May 2012. The 3-day started on the 3rd of May with an evening panel discussion. The



panelists were Dr Jeff Ramsay, of Botswana Government Communications, Dr Letshwiti Tutwane of the University of Botswana, Mpho Pusoetsile of Limkokwing University and Mpho Dibeela of the Botswana Guardian Newspapers and Editors Forum discussed the topic "Media freedom has the power to transform Societies".

his neck. Mpaetona managed to get his head out of the strap and ran down the stairs. The accused, Joseph Gaie threw the camera down hard on the ground floor where it broke into pieces.

Alert

Date: September 24, 2012

Person/ institution: Kabo Mpaetona, Mmegi Newspaper

Violation/ issue: Beaten

On Monday the 17th of September 2012, around 1000 in the morning Mmegi Newspaper photographer Kabo Mpaetona was attacked by armed robbery suspects who were appearing before the Village Magistrate Court in Gaborone. Mpaetona and a colleague were on duty covering the case of the suspected armed robbers Joseph Gaie and Alfred Efedile when trouble started. The suspects allegedly started the onslaught on the journos by hurling insults at the media men for taking pictures of them before one of the suspects grabbed Mpaetona's camera and pulled him towards them by the camera strap around



LESOTHO



National Overview
by MISA-Lesotho

Introduction

Talk of a media policy in Lesotho reached fever-pitch ahead of the 2012 general elections and for a short time after the poll. Ever since, the country seems to have moved farther away from adopting the proposed media policy.

The Receipt and Access to Information Bill has been gathering dust in parliament shelves since 2000; the Lesotho Communications Act (2012) is being implemented partially and there are still 14 pieces of legislation that threaten media freedom, pluralism and diversity.

And, despite having held its first ever democratic elections in 1993 and witnessing the growth of private print and broadcast media, the mountain kingdom of Lesotho still has no express guarantees for media freedom and freedom of expression.

As it has been noted in previous editions of this report, media in Lesotho operate in a very hostile legal environment. Therefore, this current country report looks into importance of adoption of the draft media policy, passage of Receipt and Access to Information Bill of 2000 and speedy implementation of the Lesotho Communications Act (2012). It also argues that the lack of political will in Lesotho is what stands in the way of media reform in Lesotho.

Why adopt the draft media policy?

The current draft media policy, developed in October 2010, is a hybrid of two draft policies (the first drafted in

1997 and the second in 2000) that fairly represents both the government and citizens aspirations with regard to the development of media in Lesotho. The draft media policy has the following three main important areas that are agreed to by concerned parties:

- Review of current laws that are not favorable to media development
- Development of code of conduct and obligations for the media practitioners
- Establishment of co-regulatory and Self regulatory mechanisms for electronic and print media respectively.

Legal reforms

Despite Lesotho being a signatory to ICCPR and ACHPR, the following 13 pieces of legislation remain functional and are not favorable to media freedom and freedom of expression.

1. Obscene Publication proclamation No. 9 of 1912
2. Sedition Proclamation No 44 of 1938
3. Printing and Publications Act, 1967
4. Official Secrets Act, 1967
5. High Court Act, 1978
6. Criminal Procedure and Evidence Act, 1981
7. Internal Security Act (General) Act, 1984
8. Emergency Powers Order 1988
9. National Assembly Elections Order 1992
10. Constitution of Lesotho 1993 (Article 14 (2))
11. The Parliamentary Powers and Privileges Act, 1994

12. Police Service Act 1998
13. Financial Institutions Act, 1999

Not making it into the list of laws above is the Lesotho Communication Act of 2000, as it was repealed and then replaced by the Lesotho Communications Act of 2012. This law among other important issues, advocates for establishment of Broadcasting Dispute Resolution Panel whose main functions would be;

- Prepare a broadcasting code of content
- Review and seek to resolve all disputes regarding broadcast content
- Refer all unresolved disputes to the Authority [Lesotho Communications Authority], with recommendations.

The establishment of the panel is paramount given the fact that radio stations in Lesotho have proven to be powerful in agenda setting and influencing people's decisions and perceptions. Radio stations in Lesotho are mostly run under severely low professional skill and poor management. Programmes moderation and content are very poor, thereby risking violation of most the laws listed above. In the absence of the envisaged panel, the only disputes resolution mechanism that is currently operational are the courts of law, whose costs may not be affordable to most radio stations – and indeed other media houses – in Lesotho.

In this regard the Lesotho Chapter of the Media Institute of Southern Africa (MISA-Lesotho) has embarked on an intensive policy advocacy project whose main objective is to influence the pas-

sage of Receipt and Access to Information Bill, 2000 and the adoption of the long-standing draft media policy.

Media Freedom

There were relatively low reports of media freedom violations in the year under review. However, the threat of legal sanction that continuously hangs over journalists is psychologically menacing. Most of the recorded violations occurred towards and during the National Assembly Elections in May, 2012.

While low reports in media freedom violations may viewed as encouraging, MISA-Lesotho is worried by the number of journalists who are choosing to keep quiet about the violations they suffer, especially journalists from State-owned media. This fear will, without doubt, make it difficult for the Chapter to offer practical support to journalists who come under fire.

Conclusion

Despite an unfriendly legal environment, media in Lesotho still make commendable efforts in executing their duties. The risks for doing this, however, are very high as any one of the laws cited above can be used to clamp down on journalists or media houses that may be seen to have stepped out of line. This situation, inevitably, makes advocacy for an access to information law a key priority in advancing development and sustaining democracy in Lesotho.

PORTUGUESE VERSION

Introdução

As negociações de uma política mediática receberam muita atenção antes das eleições gerais de 2012 e por um curto período de tempo após a votação. Desde então, o país parece ter-se afastado da adopção da proposta de uma política mediática.

O ante-projecto da Lei de Aquisição e Acesso à Informação está engavetado desde 2000, a Lei Lesotiana das comunicações (2012) está sendo parcialmente implementada e há ainda 14 dispostos que ameaçam a liberdade de imprensa, pluralismo e diversidade.

E, apesar de ter realizado as suas primeiras eleições democráticas em 1993, e estar passando por uma fase de crescimento dos média impressos e de transmissão, o majestoso reino de Lesoto ainda não tem garantias explícitas para a liberdade de imprensa e liberdade de expressão.

Como já foi observado em edições anteriores do presente relatório, no Lesoto os órgãos de informação operam num ambiente jurídico muito hostil. Portanto, a presente edição aborda a importância da aprovação do projeto de política mediática, a aprovação do ante-projecto da Lei de Aquisição e Acesso à Informação de 2000 e a rápida implementação da Lei Lesotiana das comunicações (2012). A mesma argumenta que a falta

de vontade política no Lesoto está dificultando a reforma mediática no Lesoto.

Por que aprovar a proposta de política mediática?

A actual proposta de política mediática, elaborada em Outubro de 2010, é um híbrido de duas propostas de política (o primeiro proposto em 1997 e o segundo em 2000) que representa muito bem as aspirações dos cidadãos e do governo e no que diz respeito ao desenvolvimento dos meios de comunicação no Lesoto. A proposta de política mediática tem três áreas principais acordadas pelas partes interessadas:

- Revisão das leis actuais que não são favoráveis ao desenvolvimento mediático
- Elaboração do código de conduta e obrigações para os profissionais mediáticos
- Criação de mecanismos de co- e auto-regulamentação para os média impressos e eletrônicos, respectivamente.

Reformas Legais

Apesar de Lesoto ser signatário de PIDCP e ACHPR, os seguintes 13 dispostos legais continuam em vigor e não são favoráveis à liberdade de imprensa e liberdade de expressão.

1. Proclamação de Publicações Obscenas No. 9 de 1912
2. Proclamação da Sedição n.º 44 de 1938
3. Lei de Impressão e Publicações de 1967



4. Lei dos Segredos Oficiais de 1967
5. Lei do Tribunal Supremo de 1978
6. Lei do Processo Penal e Evidência, 1981
7. Lei (Geral) da Segurança Interna de 1984
8. Dispostos de Estado Emergência 1988
9. Dispostos de Eleições da Assembleia Nacional de 1992
10. Constituição de Lesoto de 1993 (artigo 14 (2))
11. Lei dos Poderes e Privilégios Parlamentares, 1994
12. Lei dos Serviços Policiais de 1998
13. Lei das Instituições Financeiras de 1999
- 14.

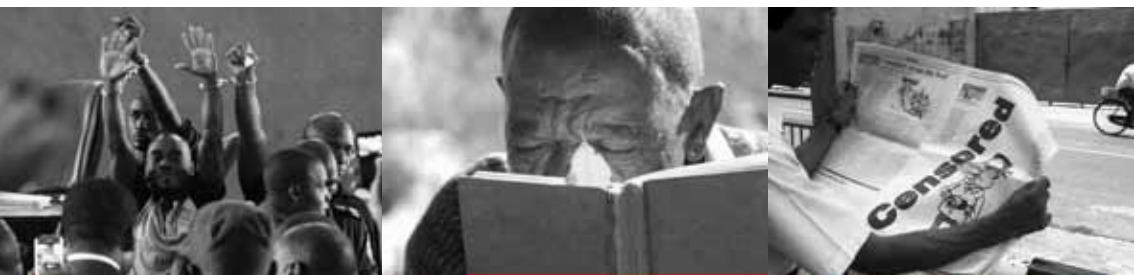
A Lei Lesotiana das Comunicações de 2000 não consta da lista de leis acima, que foi revogada e depois substituída pela Lei das Comunicações Lesoto de 2012. Essa lei, entre outras questões importantes, defende a criação de um Concelho de Resolução de Disputas do Sector da Transmissão cujas principais funções seriam:

- Elaborar um código de conteúdos
- Rever e procurar resolver todas as disputas sobre conteúdos difundidos
- Dirigir todas as disputas não resolvi-

das à Autoridade [Autoridade das Comunicações de Lesoto], com recomendações.

A criação do conselho é de importantíssima, dado o facto de que as estações de rádio em Lesoto provaram ser poderosas na definição da agenda e em influenciar as decisões e percepções das pessoas. As estações de rádio em Lesoto são dirigidas com qualificação profissional muito baixa e má gestão. A moderação de programas e conteúdos é muito inadequada, arriscando, assim, a violação da maioria das leis acima referidas. Na ausência do conselho previsto, o único mecanismo de resolução de disputas que está actualmente operacional são os tribunais, cujos custos podem não ser acessíveis à maioria das estações de rádio - e, portanto, aos outros órgãos de comunicação social - em Lesoto.

Neste contexto, o Capítulo do Instituto de Comunicação Social da África Austral para o Lesoto (MISA-Lesoto) iniciou um intenso projeto de defesa de políticas, cujo principal objetivo é influenciar a aprovação da Lei da Aquisição e Acesso à Informação de 2000 e a adopção de proposta de política mediática que está pendente há muito está engavetada.



Liberdade de Imprensa

Houve relativamente baixos relatos de violações da liberdade midiática no ano em análise. No entanto, a ameaça de sanção legal que paira constantemente sobre os jornalistas é psicologicamente esmagadora. A maioria das infracções registadas ocorreu na véspera e durante as eleições Legislativas em Maio de 2012.

Embora o baixo índice de relatórios de violações da liberdade de imprensa pode ser vista como encorajador, o MISA-Lesoto está preocupado com o número de jornalistas que optam por manter o silêncio sobre as violações de que são vítimas, especialmente jornalistas de meios de comunicação estatais. Este medo irá, sem dúvida, dificultar a prestação de apoio prático para os jornalistas que tenham problemas.

Conclusão

Apesar de um ambiente jurídico hostil, Os órgãos de informação do Lesoto fazem esforços louváveis na execução de suas funções. No entanto, os riscos de fazê-lo, são muito elevados uma vez que qualquer uma das leis supracitadas pode ser usada para reprimir jornalistas ou agências de notícias achados insub-

ordinados. Esta situação torna, inevitavelmente, a defesa de uma lei de acesso à informação numa prioridade fundamental na promoção do desenvolvimento e sustentação da democracia no Lesoto.

Alert**Date: April 10, 2012****Person/ institution: Lesotho National Broadcasting Service****Violation/ issue: Expelled**

A crew from the Lesotho National Broadcasting Service (LNBS) was, on Monday 9 April 2012, barred from covering the opposition party All Basotho Convention's (ABC) rally in Qacha's Nek, nearly 150km from the capital, Maseru. LNBS senior television producer 'Mapitso Ts'iu told the Lesotho Chapter of the Media Institute of Southern Africa (MISA-Lesotho) that the crew was setting up their equipment in readiness to cover the rally when – in her own words – “the ABC leader told our crew to leave the rally because we are allegedly selectively about which of the ABC rallies we cover.”

However, MISA-Lesotho is also concerned about the manner in which the ABC conducted itself during the Qacha's Nek rally. Media freedom is one of the cornerstones of the same democracy that political parties like the ABC preach about in their manifestos.

Communiqué**Date: June 4, 2012****Person/ Institution: Commonwealth Observer Group****Violation/ issue: Other**

Former Malawi president and leader of the Commonwealth Observer Group in the just-ended Lesotho Parliamentary elections, Dr. Bakili Muluzi has commended the Lesotho Chapter of the Media Institute of Southern Africa (MISA-Lesotho) for the positive role it played

during the elections. Addressing journalists and observers in Maseru on Tuesday 29 May, 2012, Muluzi praised MISA-Lesotho for working hard in ensuring that that responsible reporting of the election governed the media conduct. We commend the role played by the Media Institute of Southern Africa, Lesotho Chapter for organizing training workshops for journalists on how to responsibly cover the elections, he said.

Alert**Date: July 20, 2012****Person/ institution: Public media****Violation/ issue: Censored****Minister threatens opposition blackout**

On July 19 2012 Lesotho's Minister of Public Works, Keketso Rantšo who is also Secretary General of the ruling Lesotho Congress for Democracy (LCD), has threatened to ban public media from covering the opposition Lesotho Democratic Congress (DC), according to a report in the Lesotho Times newspaper. Rantšo is reported to have announced in a press conference in Maseru that “the government had made a decision to bar public media from providing coverage to the DC unless former Prime Minister Palkalitha Mosisili refrains from delivering speeches that incite violence.” The Media Institution of Southern Africa (MISA) Lesotho Chapter is concerned that Minister Rantšo's immediate response to the issue is to threaten the media, as opposed to challenging the source, Mr. Mosisili, directly on this important matter. Too often the media is used as a scapegoat to settle political scores.

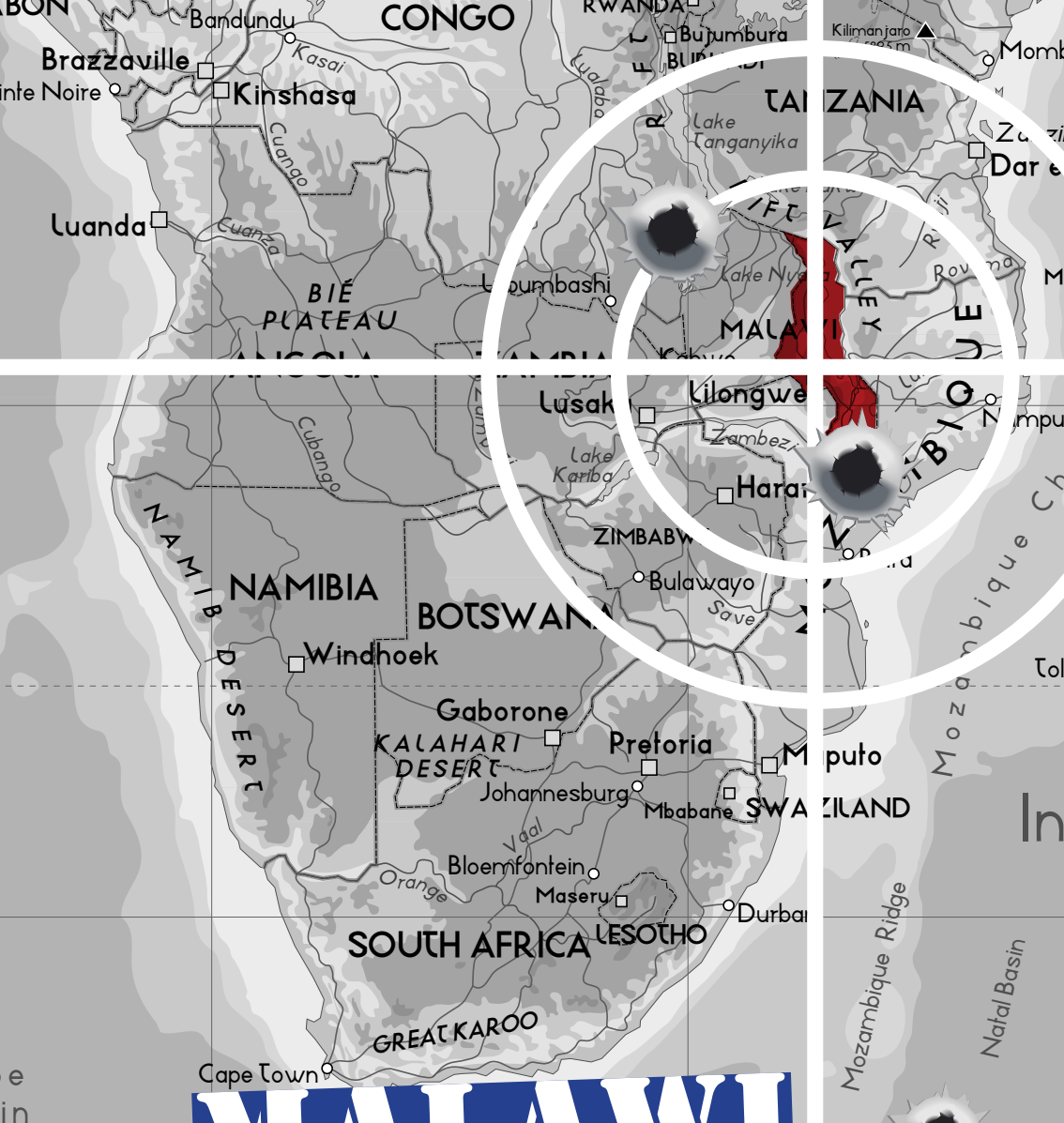
Communiqué

Date: August 12, 2012

Person/ institution: Media

Violation/ issue: Legislation

Media stakeholders met on August 9–10 in Lesotho to review the Lesotho draft Media Policy for the presentation in cabinet within the first 100 days of the new Lesotho coalition government led by Prime Minister Tom Thabane. Prime Minister Thabane and his deputy in the coalition, Mothejoa Metsing promised MISA Lesotho at a Press Club just before elections that the media policy would have been passed within the first 100 days of their taking of oath of office after the May 26 elections.



National Overview
by MISA-Malawi

Introduction

To a large extent, 2012 will go down the annals of media history as a year Malawi experienced change without transformation. Two presidents, namely Bingu wa Mutharika and Joyce Banda, greatly influenced the national media landscape with their distinct media management strategies. During the reign of Mutharika in the first quarter of 2012, free speech and media freedom were significantly limited. Malawi recorded the worst ever press freedom rankings as she dropped from position 79 in 2010/11 to 146 in 2012.

The Mutharika administration adopted anti-media legislation and clamped down on any critical and dissenting voices through threats, assaults and arrests. When President Joyce Banda assumed office in April 2012, she reversed the repressive law enacted by her predecessor and promised to improve the legal, policy and operating environment for the media. Among the most significant changes she introduced were the removal of the 16.5% Value Added Tax (VAT) on newspapers; repeal of Section 46 of the Penal Code, which empowered the Minister of Information to ban publications deemed unsuitable for the public; instruction to the Malawi Communications Regulatory Authority (MACRA) to issue additional broadcasting licenses; and directive to the Malawi Broadcasting Corporation (MBC) to open up programming to all political parties. She also promised to change the way press conferences were being conducted, enact an Access to Information (ATI) law, respect media

freedom and freedom of expression, and repeal laws that criminalize free speech.

Notwithstanding these changes and promises, the media landscape in 2012 clearly demonstrated that the more things change, the more they remain the same. The year ended with the arrest of an online journalist, Justice Mponda, for allegedly publishing 'false news' and insulting President Banda; and circulation of a proposed law (initially titled E-Bill and later renamed E-Transactions and Management Bill), which most media practitioners contend is aimed at stifling free expression online. Overall, the fundamental structures that protect those in power from public scrutiny remain securely in place, and attempts to enact legislation on Access to Information and transform MBC from a State to public service broadcaster have stagnated at the level of rhetoric.

Media/Civil Society-government relationship

The relationship between the media and government was at its worst during the first quarter of 2012, with the Mutharika administration clearly taking a hard stand against human rights activists, members of the opposition political parties and independent media, which were perceived critical of Mutharika's ruling Democratic Progressive Party (DPP). A cat and mouse relationship best describes this period as fear and intimidation were the order of the day. Applying an old piece of legislation, the Protected Flag, Emblems and Names Act, State House Press Office issued a State-



ment in March 2012 warning journalists and human rights defenders against discrediting or insulting the president. Part of the Statement read:

"The laws of Malawi provide for the total respect and protection of the Head of State. Section 3 (2) of the Protected Flag, Emblems and Names clearly states that; Any person who does any act or utters any words or publishes any writing calculated to or liable to insult or to show disrespect to or with respect to or with reference to the President...shall be liable to a fine of 1000 Pounds and to imprisonment for two (2) years. His Excellency Ngwazi Professor Bingu wa Mutharika is therefore protected by that law...Some social networks carry articles and comments that openly insult and ridicule His Excellency the State President. The State House monitors carefully such networks that are hostile and probably careless in demeaning the State President...The State House wishes therefore to make it blatantly clear that it will not stand by and condone this impudence."

Obviously, anything against the DPP and the president qualified as material that could 'discredit' the President. Such statements spread fear, intimidate critics of government, and clearly aim at suppressing dissent. Although a few val-

iant citizens continued to speak out, the majority, including some sections of the media, preferred to censor themselves and suffer in silence.

The rise to power by Joyce Banda was received with excitement and hope that Malawi would once again respect human rights and the rule of law. But whilst Mutharika openly threatened and castigated those who criticized him, President Banda employed a different tactic to silence critical voices.

She opted to recruit several prominent and outspoken civil society activists including media practitioners who, to a large extent, had kept the Mutharika administration under check. Some commentators believe that Mutharika's behaviour and autocratic leadership style helped create a 'strong civil society', while President Banda has weakened this fundamental section of every vibrant democracy by co-opting strong civil society leaders into senior government positions.

Although the appointment of veteran media personalities into senior government positions was received with optimism within the media fraternity, certain actions have turned that sanguinity into cynicism. In September 2012, State House Press Secretary, Steven Nhlane, warned newspaper column-



ist Deborah Chipofya against 'insulting' President Banda by citing the Protected Flag, Emblems and Names Act. Nhlane, who retracted his comments and apologized to Chipofya following condemnation from the fraternity, had warned Chipofya that she risked arrest for 'insulting' the president in her column "This World Around Me" published in *The Sunday Times* dated September 23, 2012. Chipofya had attempted to analyze the different meanings of the abbreviation for President Banda's Party - People's Party (PP), by suggesting that PP could easily mean 'President Palibe' [There is no President] as the country seemed to have no leadership and direction.

When columnists in Malawi's newspapers, especially the weekend papers, provide critical analysis and interpretation of current affairs, they are often blacklisted by those in power. It is not surprising, therefore, that most columnists become the subject for discussion on political podiums and are the target of intolerant administrations. Most columnists were marked by the Bingu government and the trend continued in the Banda administration.

By the second and third quarter of 2012, reports were rife that most senior media managers were under pressure

from above to 'tone down', as some of their columnists appeared to have some hidden agenda against the Banda administration. One critical column "Cut the Chaff," which focuses on economic issues, vanished sometime in September amidst rumours that President Banda was not happy with the stand taken by the writer, renowned business journalist, Ephraim Munthali, on the economic reforms and policies her administration had initiated. MISA-Malawi investigations showed that Munthali decided to 'withdraw' his column after he was advised to 'tone' down. He is now writing again.

One of the major areas of concern to the media during the Bingu administration was the nature and conduct of presidential press conferences, which were usually party rallies rather than a platform for engagement between the media and the president. Although President Banda lived to her promise and changed the venue of such conferences from the open grounds at the airport to State House, the conferences remain unfriendly, hostile and intimidating to journalists. The conferences are still patronized by party activists who jeer and level insults at reporters who ask 'critical' questions and perceived critical of the

president. This situation is aggravated when the president appears to take a stand on a particular issue or media organisation.

For example, when President Banda was returning from Equatorial Guinea, she refused to respond to a question from a reporter from Blantyre Newspapers Limited (BNL) – Simeon Maganga, accusing the newspaper of publishing ‘false news’. The newspaper had published a story that the President’s salary had not been reduced three months after announcing that it will be cut by 30% as part of government’s austerity measures.

Constitutional Rights and Legislative Environment

The Malawi Constitution is considered as one of the best in Africa with a Bill of Rights and separate provisions on Freedom of Expression (Section 35) and Media Freedom (Section 36) as well as the right to Access Information under Section 37. However, a number of colonial and post-colonial laws still exist in the statutes despite being inconsistent with the Constitution. Some of these laws include the Official Secrets Act (1913), the Printed Publications Act (1947) and the Censorship and Control of Entertainments Act (1968) as well as the Protected Flags, Emblems and Names Act, which both the Mutharika and Banda Press Offices have quoted to silence critics. The Protected Flags, Emblems and Names Act still quotes a fine in Pound Sterling (£1000, about MK580,000) and not Malawi Kwacha, an issue that supports the argument that this law is ar-

chaic and proves the exigency with which legal reforms must take place in Malawi, forty nine years after independence.

Some of these laws appear harmless but they are a serious threat to media freedom and freedom of expression and have formed the basis of the arrests for a number of journalists and artists during both the Mutharika and Banda administrations. A playwright, Thupeko Chisiza, was arrested on stage early in 2012 based on the Censorship and Control of Entertainments Act for allegedly satirizing the Head of State in one of his plays. He pleaded guilty and fined MK5000 (US\$30 at the time).

A Journalist Clement Chinoko was also arrested in May 2012 for publishing an article on same sex marriage which the authorities claimed was false. Chinoko languished in custody beyond the 48-hour constitutional requirement for one to be charged prompting MISA-Malawi to call upon the authorities to charge the journalist or release him.

And, Justice Mponda was arrested in October 2012 for allegedly insulting President Joyce Banda and publishing ‘false news’. He was transferred 340 kilometres from his base in Blantyre to the capital, Lilongwe, a move his lawyer described as ‘an attempt to instil fear’ in his client. Mponda was later acquitted for lack of evidence. It is on this basis that whilst commending the Joyce Banda administration for repealing Section 46 of the Penal Code, MISA Malawi and most Civil Society organizations also requested a critical look at the other laws that negate the constitutional guarantee

to free speech and media freedom. MISA Malawi submitted a list of repressive laws that require redress to relevant authorities including Parliament and State House soon after President Banda had asked Parliament to repeal laws that limit freedom of expression in Malawi, but no action has been taken and the very same laws continue to be cited and used to instil fear and trepidation amongst critics.

Access to Information (ATI)

Malawi does not have an enabling legislation on ATI and people find it extremely difficult to access information. Section 37 of the Malawi Constitution clearly provides for the right of access to information but this provision in itself is not sufficient to ensure easy access as several factors, including an unresponsive/willing public sector and illiteracy, combine to limit the citizenry from enjoying this right.

To address this problem, MISA-Malawi has been pushing and lobbying for legislation on ATI since 2003 to compel those in authority to provide information. President Banda added impetus to this process when she committed her administration to ensuring that Malawi has legislation on ATI during a meeting she had with MISA and senior media officials at Sanjika Palace in Blantyre in June 2012. Her commitment is, however, yet to bear fruits as the process is still dragging casting doubt on whether her assurance was mere rhetoric or government bureaucracy is trying to sabotage her good intentions.

Attempts to regulate Online content

In a move most media practitioners and some members of the public consider retrogressive for media freedom and freedom of expression, the Joyce Banda administration in October 2012 circulated a Bill, initially labelled E-Bill and later entitled E-Transactions and Management Bill, to regulate and control online communications in the country.

While the proposed law legitimately aims to provide a legal framework for the development of an information society by regulating electronic transactions for social and economic development, it oversteps the remit of regulating communications development by proposing to regulate communication. Media practitioners contend that the Bill is a veiled attempt to gag online voices through clauses that demand that editors of online public communication services reveal their names, domicile, telephone and registration numbers. Media practitioners also fault the proposal to introduce government-appointed "cyber inspectors" who will have the power to, among other duties, "monitor and inspect any website or activity on an information system in the public domain and report any unlawful activity to the [Regulatory] Authority." Media practitioners believe that this would make them easy targets on a platform that has offered consolation and space in otherwise hostile environments. With hindsight the potential for online censorship is real, especially coming at a time when the nation as a whole was trying to forget Mutharika's autocratic leadership.

State of Broadcasting

The broadcasting sector received a boost in July 2012 when MACRA issued 15 new broadcasting licenses to private and community radio and television stations almost two years after the applications were submitted. This was a timely move considering the fact that before the Joyce Banda administration, broadcast license applications were seen as a threat to government and most licenses were awarded to religious and/or community stations, which were seen as less of a threat to established political order.

Television licences were awarded to Times Television, a subsidiary of the Times Group; Zodiak Broadcasting Station; Chancellor College Community; Adventist; Timveni; Good News and Beta TV. Some of the applicants awarded radio broadcasting licenses included Central African Presbyterian Synods of Blantyre, Nkhoma and Livingstonia; Chancellor College Community; Matindi; Mwandama and Bua FM. The new licenses brought the total number of broadcasters in the country to over 50. The new licenses brought the total of newly-licensed broadcasters to 23, after MACRA had released 8 names of successful applicants in November 2011.

In 2012, as has always been the case, the State controlled broadcasters, MBC Radio and Television continued to be criticized of being biased in favour of government. MBC offers more local and diverse non-political content than any other radio station in the country, including programs on agriculture, education, women and girls, health in general

and HIV and AIDS specifically, but leaves a lot to be desired on the political front.

President Joyce Banda, however, brought optimism to most people that the state media would open up. She assured the nation that MBC would open up to all sectors of society and true to her word, opposition figures started featuring on MBC but by end of 2012, staff alerted MISA-Malawi that MBC management had received instructions from 'above' not to completely 'open the floodgates'. However, MISA-Malawi believes that there is still room for MBC to improve and has secured funding to capitalize on the good gesture demonstrated by President Banda and lobby for effective transformation of MBC from state to public service broadcaster. Transformation of MBC largely depends on political will and the citizens of Malawi hope President Banda will walk the talk and go down the history lane as the only Malawian President to have released government's grip on MBC.

State of Print Media

Print media remains predominantly urban based and the luxury of a few affluent Malawians although attempts have been made to cater for the rural masses. This situation has been aggravated by the worsening economic environment, a situation which has rendered President Banda's removal of VAT on newspapers irrelevant as very few Malawians consider buying a newspaper a necessity. The current cover price of a daily newspaper is MK230 (now US\$0.58) up from MK200 (which was about US\$1.22) in

November 2011 and a weekend paper is MK270 (currently US\$0.68) from MK240 (about US\$1.46 in November 2011). This means that in United States Dollars, the prices have in real terms dropped but not in the local currency, an indication that publishers are actually operating at a loss in US Dollars as they have to meet daily increase in imports on newsprint.

That said, newspapers have risen from slumber to once again embark on their rightful watchdog role. The sector was very instrumental in exposing the injustices of the Mutharika administration but relaxed when Joyce Banda assumed office. During the third and last quarter of 2012, however, the sector rediscovered its role to check government operations and managed to expose overspending at State House and unlawful dismissals of Mutharika cronies which has cost tax payers millions of Kwacha. In all fairness, despite its urban-centric approach, the print media remains a platform for critical debate and has been very instrumental in keeping the executive under check.

One key trend apparent in the print media during the period under review is a move towards specialization and market segmentation. This trend started around 2005 with the launch of specialized supplements in existing outlets, especially the weekend papers. A follow up example was the launch of FeMail in Malawi News in 2006. In April 2012, Blantyre Newspapers Limited introduced a business newspaper, The Business Times, to enhance business to business communication as well as provide a platform for the private sector to discuss

issues affecting the industry. This trend is likely to continue but there is need for other players to enter the market to offer competition to what Chikunkhuzeni (So This Democracy? 2011) describes as 'an oligopoly dominated titles by Nation Publications Limited and Blantyre Newspapers Limited', to genuinely offer Malawians a wider array of outlets to access. Attempts to introduce new publications have always been there but seem to flounder after a few editions. A new comer, The Standard newspaper, with its motto: 'The truth is always fair,' appeared on the market in August 2012 but disappeared from the newsstands after 2-3 editions.

All in all, print media have put up a gallant fight to weather the economic storm and have forced those in power to account. The sector has not tried to match its cover price with the runaway dollar and continues to keep a watchful eye on wayward policies and officials. The Banda administration's removal of VAT on newspapers was by far a commendable development and ought to be applauded but the rise in cost of living and the floatation of the Kwacha keep pushing both buyers and publishers into economic decline. Even though the cover price of a newspaper has gone up in Malawi Kwacha, the continued devaluation of the kwacha has actually made this increase a fallacy when looked at in dollars. Pegging the cover prize of a newspaper in US\$ will effectively kill the industry as a cover prize would currently be fetching no less than MK584 (approximately US\$1.50) based on the cover price of a daily newspaper as at November 2011.



The print media market is already small due to low literacy levels as well as limited disposable incomes among most Malawians, who remain predominantly rural and remote. The current economic situation is in no doubt impeding growth in the sector which as noted in the 2011 edition of 'So This is Democracy?' is already 'shrinking as existing customers are switching to online media as a source of 'free' news and information. Many mainstream print media organisations run an online version of the print publication, but such outlays do not offer much return on investment.'

Conclusion

Without a doubt, 2012 has ushered Malawi into global history as the second country on the continent to have a female Head of State, who initiated changes and reforms attracting international praise and admiration. President Banda repealed the repressive amendment to Section 46 of the Penal Code, flexed her muscles at MACRA for more players to enter the broadcasting market, removed VAT on newspapers and promised to open up MBC, enact an ATI law and respect media freedom and freedom of expression as well as further

repeal laws that criminalize free speech, all commendable and indispensable in a democracy.

These initiatives and their implementation, however, largely depend on the goodwill of president Banda and have not been supported by fundamental structural changes on the ground. The fundamental structures that protect those in power, through selective application of laws to suppress free speech, remain securely in place. The most notorious being the Protected Flag, Names and Emblems Act, which was used by the colonialists, Dr Kamuzu Banda, Dr Bakili Muluzi, and most recently Bingu wa Mutharika and Joyce Banda. Such laws continue to be used despite being inconsistent with the country's democratic order. In addition, MBC continues to be a propaganda tool for the ruling party and nothing can stop MACRA from once again 'sitting' on license applications if such an initiative is not supported by a revisit of the Communications Act.

If the experiences and developments in the media in 2012 are adequate to go by, there is merit in concluding that the more things change, the more they stay the same. Superficial change without structural transformation explains why Malawi still witnessed threats and arrests



of journalists based on archaic laws, attempts to 'gag' online voices, strategic weakening of critical voices by recruiting them into senior government positions and direct calls to media managers to 'tone' down on criticism of public affairs management. Promises to repeal colonial laws and enact the ATI legislation have proved to be mere rhetoric. This, to a large extent, is a mere change in strategy by those in power with an aim of achieving the same objectives as their predecessors.

The task for the future, based on lessons offered by 2012, is to develop strong institutions to ensure effective checks and balances rather than relying on the quality and behaviour of those in authority. This will require strong and sustained advocacy and networking to push for law reform, including repeal of archaic laws frequently abused by those in power; review of the Communications Act (1998); enactment of the ATI legislation; transformation of the MBC from State to public service broadcaster; and strengthening of media institutions – both advocacy and self-regulatory bodies, to monitor wayward journalists online and traditional media, as one way of effectively warding off attempts to statutory regulate the sector, a move already obvious with the drafting of the E-Bill.

PORTUGUESE VERSION

Introdução

Em grande extensão o ano 2012 baixou o valor de história de media sendo um ano em que MALAWI enfrentou mudança sem transformação. Os dois Presidentes nominalmente Bingu MUTHARIKA e Joyce BANDA, influenciaram grandemente a situação de media a nível nacional, junto as suas diferentes maneiras de supervisionar a media. Durante os treze primeiros meses do governo de Mutharika em 2012, a liberdade de expressão e de media estava significativamente limitada.

Malawi passou o pior período da liberdade de prensa perdendo a sua posição 79 em 2010/11 para a posição 146 em 2012.

A administração de Mutharika adotou uma legislação anti media e condenou quaisquer críticas e outras falas por ameaças, os assaltos e arrestações.

Quando o Presidente Joyce BANDA assumiu o escritório em Abril 2012, ela revisou a Lei que foi emitida por seu predecessor e prometeu melhorar o legal,

metodos e o funcionamento de media.

Junto a todas mudanças significativas que ela trouxe, incluiu remoção de 16% de taxa sobre o preço de jornais de acordo com a seção 46 que trate de código penal que foi reforçado pelo Ministério de Informação para proibir as publicações que não tem valor para o public; instruiu o Organ de Malawi que cuida de Regulamento de comunicação para emitir licenças adicionais a todos EMISSORES e também diretrizes para RADIO NACIONAL DE MALAWI a fim de facilitar o programa para todos partidos politicos. Também Ela prometeu mudar o modo como as entrevistas eram dirigidas, permitindo acesso a Lei de Informação, respeitando a liberdade de media e a liberdade de expressão, também remover as leis discriminatórias de liberdade de expressão.

Valeu a penas essas mudanças e promesas, a situação de media em 2012 demonstrou que quando houver muitas coisas para mudar, mais coisas mantem se as mesmas.

O ano terminou com uma arresação de um jornalista que trabalhava por conta de Online JUSTICE MPONDA por ser allegado publicando uma falsa noticia e insultando o Presidente Banda; e fazendo a circulação de um projeto da lei (Inicialmente intitulado E-Bill e depois renomeado E- Transaction and Management bill), o qual todos que trabalham na area de media pensem que poderia permitir a liberdade de expressão Online.

Acima de todo, as estruturas fundamentais que protégem os que estão no poder permanecem seguros em suas posições e dificilmente percebidos para o

publico, e assim as tentativas de emitir uma lei para ter acesso a informação e de transformer O Radio Nacional de Malawi tornar se um emissor publico permanece a um nivel retorico.

A relação entre a Media e o governo estava muito mal durante os primeiros treze meses em 2012, em especial com a administração de Mutharika que teve uma posição rígida contra os ativistas dos direitos humanos, os membros de partidos politicos de oposição e a media independente que pareciam muito criticos com o partido progressivo para democracia de Mutharika.

Descreve se como sendo um periodo de gato e rato de modo que o medo e a intimidação eram o slogan do dia.

Aplicando uma antiga peça de lei, a Potegida Bandela, os Emblemas e Nomes, O escritorio de Pressa do palacio emitiu uma declaração em Março 2012 informando os jornalistas e os defensores dos direitos humanos de tomar cuidado contra descreditação e insulto a pessao do Presidente Mutharika, como se pode ler uma parte de declaração.

A Lei de Malawi providencia um total respeito e proteção do Chefe do Estado. A seccão 3(2) da Potegida Bandela e Nomes estipula claramente que: *"Qualquer pessoa que faz quqlquer ato ou profer qualquer palavra ou publica qualquer documento ou tende insultar ou faltar respeito a ou com respeito a ou com referencia a Pessoa do Presidente ...merece uma multa de 1000 Pounds e dois anos de prisão."* A Sua excelencia Ngwazi O Professor Bingu MUTHARIKA é deste fato protegido pela essa Lei... Umas Redes sociais publicam e comentam ab-

ertamente insultos e ridiculizam a Sua Excelencia o Chefe do Estado. O Palacio do estado controle essas Rede Sociais que estão hosties e provavelmente sem cuidado em faltar o respeito a pessoa do chefe do Estado. O Palacio do estado deseja, porem, esclarecer que isso nao podesse continuar e que condena esse tipo de impudencia.

Obviamente, qualquer coisa contra o DPP e o Presidente basta para servir como prova de desacreditar o Presidente. Essas declarações trouxeram medo, criticas de intimidação do governo, e como resultado de mandar calar o povo. Embora pouco vallantes cidadãos continuem a falar alta, a maioria, incluindo umas secções de media preferem calar se e sofrer em silêncio.

A vinda no poder de Banda foi recebida com grande alegria e esperança de que Malawi poderia mas uma vez respeitar os direitos humanos e governar em Leis. Infelizmente, se o Presidente Mutharika ameaçava abertamente e castigava aqueles que o criticavam; O presidente e Banda utiliza outro metodo diferente para silenciar aqueles com uma voz critica.

Ela adotou recrutar muitos prominentes e famosos ativistas da sociedade civil incluindo uns profissionais de Media, em extensão aqueles que controlavam a administração de Mutharika. Uns comentatorios acreditam que a conduta de Mutharika e o seu governo do stilo autocratico ajudou criar uma sociedade civil forte, portanto Banda enfraqueceu essa secção fundamental de uma democracia vibrante permitindo que os líderes de sociedade civil tornam se respon-

sáveis dos gabinetes governamentais.

Ainda assim, a nomeação de certas veteranas personalidades na area de media foi recebido com muito optimismo dentro da familia de media, certas acções tornaram essa relação de sangue em relação cinistica.

Em Setembro 2012 o Seretario de Informação/Pressa do palacio, Steven Nhlane, avisou o Jornal columnist Deborah Chiofya contra insultos na pessoa do Presidente Banda citando a Protegida Bandela, Emblemas e Nomes

Nhlane retrivou os seus comentarios e pedir desculpas a Chipofya depois de ser condenado pela a familia de area de media. Ele tinha avisado Cipofya de ter insultado o Presidente no seu Jornal Columnist "This World around Me" publicado no " Sunday Times na data de 23 de Setembro de 2012. Chipofya tinha tentado a analisar os diferentes significativos de abreviação do partido do Presidente Banda :People' s Party sugerindo que o PP poderia significar President Palibe [nao há Presidente] visto que o pais parece não ter o lider e a direcção.

Quando Columnist no jornais de Malawi, especialmente nas edições de fim de semanas que tentem providenciar uma analise critica ou uma interpretação dos assuntos correntes, esses ultimos ficam marcados na lista escura da parte dos que estão no poder. Não é a surprender, porem, muitos dos columnist ficam assuntos de debate durante congressos politicos e tornam se base para uma administração intolerante. Muito culmnists foram marcados pelo o governo de Bingu e serve de continuação durante a administração de Banda.

No fim dos 2/4 e 3/4 de ano 2012, os relatórios eram muito negativos que a maioria dos gerentes de Mídia estavam na pressão a partir de cima para baixo, de modo que alguns columnists mostraram ter um assunto escondido contra a administração de Banda. Um crítico columnista "Cut the chaff" que focaliza se em assuntos econômicos, tinha parado de funcionar um tempo em Setembro dizendo que o Presidente Banda não estava contente com a posição que o narrador tomou, um empresário jornalista Ephraim Munthali sobre assuntos de reformas econômicas e métodos tinha iniciado a sua administração. As investigações de MISA Malawi mostram que Munthali tinha decidido deixar o seu Columnist depois de ter sido avisado de se humilhar. Assim hoje em dia ele está escrevendo mais.

Uma das maiores áreas preocupante para a Mídia durante a administração de Bingu era a natureza e a conduta presidencial durante as entrevistas, mostrarem ser mas comício do partido do que uma plataforma de engajamento entre a mídia e o Presidente. Embora o Presidente Banda viveu conforme as suas promessas e também mudava cada vez o local de encontro a partir de uma área aberta até no aeroporto junto ao palácio, as entrevistas não eram amigáveis, eram hostis e sempre uma intimidação dos jornalistas. As entrevistas estão sendo patrocinadas por ativistas do partido que desparatem e insultem os jornalistas que tentem de colocar perguntas pertinentes e que parecem críticos para o Presidente. Essa situação ainda fica pior quando o Presidente quer tomar uma posição a

respeito de um assunto particular ou de uma organização de mídia..

Por exemplo, quando o Presidente Banda teve de regresso de Guiné Equatorial, Ela recusou responder a uma pergunta de um jornalista de Blantyre Newspapers Limited – Simeon Maganga, acusando o jornal que publica falsas notícias. Esse jornal tinha publicado a história de que o salário do Presidente nunca foi reduzido treze meses depois que tinha anunciado a redução de 30%, isso é para superar a austeridade das medidas do governo.

Direitos Constitucionais e Ambiente Legislativo

A constituição de Malawi é considerada como a melhor a nível de África com uma Lei de Direitos e separativas provisões sobre a liberdade de expressão. { secção 35} e liberdade de mídia {secção 36} e também o direito a acesso a informação sobre a secção {37}. Portanto umas leis coloniais e posto coloniais ainda existem dentro dos estatutos embora que não são consistente com a constituição. Uma dessas leis incluem Acto Secretos Oficiais (1913), Publicações Imprimidas (1947) e Censuração control do entretenimento (1968) e também a Protegida Bandeira, Emblemas e Nomes os quais ambos a administrações de Mutharika e de Banda citavam para silenciar os críticos.

A Protegida Bandeira, Emblemas e Nomes ainda estão multados em Pound sterling (1000) cerca de (MKW 580.000) e não estão em Kwacha moeda de Malawi, este é um assunto que apoia o ar-

gumento que esta Lei é arcaica e mostra a exigência de que as reformas legais tem de ser tomadas em Malawi 40 anos depois de Independência.

Um das estas Lei parecem inofensivas mas constituem uma ameaça a liberdade de expressão e liberdade de Media e servem como base de arresação para muitos jornalistas e artistas durante a administração ambos de Mutharika e de Banda. Um artista , Thupeko Chisiza, foi arrestado em plena scena no principio de 2012 baseando se em Censuração e control de entretenimento por ser allegado sendo insultando o chefe do estado.

Ele foi encontrado culpado e multado por MK 5000 (US 30 naquela epoca)

O jornalista Mponda foi arrestado em Outubro 2012 for ser allegado sendo insultando Presidente Joyce Banda e publicando noticias falsas. Ele foi transferido 340 kilometros fora de sua base em Blantyre para a capital Lilongwe. Esse tipo de dislocação que o seu advogado chamou de uma tentativa de instigação a medo em seu cliente.

Mponda depois foi perdoado por falta de evidencias suficientes. E a base destas coisas que durante a administração de Banda Joyce por sempre apoiando se nas secções 46 do codigo penal, a MISA Malawi e muitas outras organizações da sociedade civil pediram uma olhada nas outras leis que apoiam a garantia constitucional de liberdade de expressão e a liberdade de media. Misa Malawi submeteu a lista das leis repressivas que mereciam redirigir as autoridades relevantes incluindo parliament e Palacio logo que o Presidente Banda tinha pedido que o parlamento rejeitasse as leis que limitem

a liberdade de expressão e a liberdade de media em Malawi, mas nenhuma acção foi tomada e as mesmas leis continuam a ser citadas e usadas para instigar medo e trepidação entre os criticos.

Acesso a informacao

Em Malawi não há nenhuma lei que ajude ter acesso a informação e o povo encontre dificuldades de ter acesso a informação.

Secção 37 de constituição de Malawi providencia claramente o direito de ter acesso a informação, mas essa provisão por si não é suficiente para abilitar a facilidade de acessar visto que tem de levar em conta muitos fatores incluindo a falta de resposta/vontade do sector publico e iliteracia combinada a limitação dos cidadãos de gozar deste direito.

Para resolver esse problema, MISA Malawi esta puxando e pulando a respeito de lei sobre acesso a informação deste 2003 comparecendo perante as autoridades para providenciar informação. O presidente Banda ajudou neste caso para o bom exito quando ela recomendou a sua administração para acertar se de que Malawi tenha uma lei sobre acesso a informação durante o encontro que ela teve com MISA e os lideres oficiais de media em Palacio Sanjika em Blantyre em june 2012.

O seu empenho é portanto, ainda produzir frutos visto que o processo ainda esta sendo lento e duvidoso se a sua promessa era um mero retorico ou talvez é a burocracia do governo que quer sobotar as suas boas intensões.



Tentativas para regular o conteúdo online

Movimentando se, a maioria dos profissionais de media e ums membros do publico considerem o metodo retrogressivo para a liberdade de media e e liberdade de expressão, A administração de Joyce Banda em Outubro 2012 meteu em circulação uma moção, inicialmente labelada E Bill e depois intitulada E Transactions e management de moção com objectivo de regular e controlar comunicações online dentro do pais.

Em quanto que o proposito dessa lei legitimamente avisava providenciar uma eschima de trabalho legal para o desenvolvimento de uma sociedade de informação em regular transações electronicas por desenvolvimento social e economico. Este proposito perdeu o seu sentindo em vez de regular o desenvolvimento comunicativa, comecou a regular a comunicação. Nesse respeito os profissionais de media entenderam que a moção constitue uma tentativa de apanhar jornalistas online por utilizar artigos que requer que os editores online, serviços de comunicações publico revelem os seus Nomes, Domicilios, numeros de telephones e os numeros de seus registros. Os profissionais de media

intenderem tambem que o governo vai querer empregar os inspectores de cyber, a quem sera imposto o poder, para alem de outras responsabilidades, de monitor e inspecionar qualquer website ou atividade empenhada por um sistema de informação publica e relatar qualquer atividade que for ilegal aos autoridades de regulamento. Os profissionais de media acreditam que esse faria com que ficassem os mais focados numa plataforma que oferece consolação e espaco em um ambiente hostil. Com uma visão potencial de censurar online é uma realidade, especificamente num momento em que a nação esta tentando se esquecer de liderança autocratica de Mutharika

Estado de radio/emissora

O sector de Radio recebeu um impulso em Julho 2012 quando MACRA imitiu 15 novas licenças para os particulars/Pri-vados e radio da comunidade e estações de televisao quais dois anos depois de fazer os pedidos. Este foi um bom movimento visto que antes de administração de Joyce Banda, a licence de uma emissora parecia uma ameaça ao governo e a maiorias das licenças eram concedidas as igresias ou radio da comunidade por que esses eram pouco visto como ameaça



para uma ordem política estabilizada.

As licenças de televisões eram concedidas a Times Television, a subsidiária de Times Group, Zodiak Broadcasting Station, Chancellor College Community, Adventist, Timvem, Good News and Beta TV, outros que foram concedidos as licenças são Central African Presbyterian. Synods of Blantyre, Nkhoma and Livingstonia, Chancellor college, community Matindi, Mwandma and Bua FM. As Novas licenças concedidas levaram o numero das emissoras a 50, os mas recentes atingiram o numero de 23 e depois MACRA publicou a lista de 8 nomes de outras novas emissoras em Novembro 2012.

Em 2012, como sempre tem tido, o estado controlou todos Radios, o Radio MBC and televisão continuo a ser criticado por ser sempre falando em favor do governo. MBC oferece muitos programas locais e outros não politicas mas do que outro radio em pais incluindo os programas em agricultura, educação, mulheres e jovens, saude em geral e HIV/AIDS especificamente, mas deixa de lado muito importantes assuntos politicas.

Portanto, O Presidente Joyce Banda, trouxe optimismo no muito povo que o estado de media vai ser aberto. Ela garantia a nação que MBC ira de abrir todos sectors de sociedade e isso se-

ria verdade a sua palavra, assim os das figuras de oposição começaram a ter esperança para com MBC mas no final de 2012, o staff de MISA Malawi alertou que o management de MBC recebeu a ordem de cima que não deve abrir completamente as portas. Portanto a MISA Malawi acredita que ainda há rumo para MBC melhorar e assegurar os fundos para capitalizar o bom gesto demonstrado por Presidente Banda e pulando para uma transformação efetiva de MBC partindo de serviço public do estado , Transformando o MBC largamente dependendo da vontade politica e dos cidadãos de Malawi. Esperamos que a vontade do Presidente Banda faz avançar as conversas e indo fundo da historia dizendo que Banda era o Presidente Malawiano que libertou o gripe do governo no MBC.

Estado de media imprensa

A media imprensa ficou predominantemente baseada em locais urbanizados e luxosos para os poucos malawianos que tentarem estabelecer se em locias rurais.

A situação ainda piorou com a deterioração economica, Situação esse que obrigou a Presidente Banda de remover a taxa (VAT) sobre o preço do jornal sendo

pouco malawianos que comprem considerando - o como uma necessidade.

O atual preço de um jornal diário é MK 230 (agora US0,50) subindo até MK 200 (era no valor de US1,20) em Novembro 2011 e o jornal de fim de semana é MK 270 (atualmente US0,68) subindo para MK 240 (cerca de US1,46) em Novembro). Isto indica que em moeda Americana o preço do jornal tinha baixado mas não é o caso em moeda local, mostrando que os editores de jornais estão a perder muito dinheiro em Dollar Americano para conseguir enfrentar o custo diário de importação e a impressão de jornais.

Tudo sendo dito, os preços de jornais iam subindo até que embarcar-se para empenhar o seu papel regulatório.

O sector era muito instrumental expondo as injusticas de administração Mutharika mas relaxando-se quando Joyce Banda assumiu o escritorio. Durante 2/4 e 3/4 de 2012, porem o sector retomou a seu papel controlando as operações do governo e conseguiu a expor as muitas dispensas do palacio e as despedidas ilegais dos colaboradores de Mutharika, uma operação que custou muito para os millioes de pessoas que pagam taxa em Kwacha. Em toda justica, a pesar de sua concentração urbana, a media continua sendo uma plataforma para debate criticos e constituiu-se um instrumento afim de controlar o executivo.

Durante o corrente periodo, o aparente elemento chave é o avanço em termo de especialização e a segmentação do Mercado.

Essa atividade comecou em 2005

com o lançamento dos suplimentos especializados existente todas as saidas em especial os dos jornais de fim de semanas.

A seguir era um exemplo de lançamento de FeMail em Malawi News em 2006. Em Abril 2012, o Jornal Blantryre limited introduziu um outro jornal de negocio, The Business Times com objetivo de fortalecer negocio com a comunicação de negocio e tambem estabelecer uma plataforma para os do sector privado discutindo assunto afeitando a industria. Essa atividade merece continuidade mas precisa -se de outros atores entrendo no Mercado e oferendo uma competição a que e chikunkhuzeni (esse é Democracia?) descrevendo como um oligopoly, titulo dominante do Nation Publication Limited e Blantryre Newspapers Limited oferencendo genuinamente para todos os malawianos a possibilidade de ter acesso em todas saidas.

As tentativas de introduzir outras publicações esta sempre lá mas disparece logo depois de umas edições. O novo a chegar, The standard Newspapers, com o slogan "The truth is always fair", apareceu no Mercado so em Agosto mas desapareceu depois de 2 a 3 edições.

Em sumo, a media imprensa travou uma luta para normalizar a economia deteriorada e forçando os que estão no poder para prestar as contas.

Esse sector não tinha tentado a estabelecer um paralelo entre os seus preços e o funcionamento em Dollar. E continua guardando uma olhada em todos metodos progressivos e para os oficiais..A remoção de pagamento de taxa sobre os preços de jornais na administração

de Banda, era um desinvestimento economico muito recomendavel e tambem merece um salvo de palmas mas fez subir o custo da vida e a perda do equilibrio de moeda local Kwacha continua puxando ambos os compradores e os editores numa deterioração economica.

Embora o preço do jornal subiu em Kwacha Malawi, a continua devaluación em Kwacha aumentou a falencia quando compare-se em Dollar.

Comparando o preço do jornal em US Dollar vai destruir a industria visto que o preço corrente esta quais atingindo MK584 (aproximativamente US 1,50) beseando-se num preço de jornal diario em Novembro 2011.

O Mercado de media imprensa é pequeno por causa de nivel baixo de literacia e tambem a limitada meio de vida de maioria dos malawianos que continuam levando uma vida predominantemente rural e pobre.

A atual situação economica está sem duvida impedindo o crescimento neste sector como pode se ver em edição de 2011 do jornal : so this is democracy? (esta é a democracia?) tendo tornando - se pequeno visto que os existentes clientes estão a passar por media online como sendo uma fonte de liberdade de noticias e de informação. Muito ainda deixam de trabalhar nas organizações de media empresa e fojem para versão online mas esta mudança não traz lucro.

Conclusao

Sem duvida, 2012 escortou Malawi em uma historia global como sendo o Segundo pais do continente de ter uma

Senhora como sendo Chefe do Estado, ela que iniciou as mudanças e reformas que atraem applause e admiração internacional. O Presidente Banda rejeitou todos os amendamentos repressivos da secção 46 do codigo penal, flexou-se os seus musculos para com a MACRA afim que muitos atores entrem na industria de Radio/emissor, removeu o pagamento de taxa/VAT sobre os preços de jornal e prometeu abrir o MBC para fazer passar a lei de ATI e respeita a liberdade de media e de expressão e tambem rejeitou leis que discrimanem a liberdade de expressão, tudo que é comendavel e indispensavel numa democracia.

Essas iniciativas é a sua implimentação, porem, depende grandemente de boa votande do Presidente Banda e não houve apoio de uma estrutura fundamental para mudança no terreno.

Essa estrututa fundamental que protégé aqueles em poder beseando-se numas leis selectivas para opressar a liberdade de expressão, mantendo - se seguros em suas posições.

A mais famosa é o Artigo da Protegida Bandela, Nomes e Emblemas que os colonialistas faziam uso, o Dr. Kamuzu Banda, Dr. Bakili Mukili, e muito recentemente Bingu Wa Mutharika and Joyce Banda. Essas leis continuam sendo usando para alem de não ser consistente de acordo com a ordem democratica do pais.

Se as experiencias e os desinvestimentos na area de media em 2012 foram adequatos por ser usado, merece concluir que quando há mais coisas para mudar, mais coisas ficam as mesmas.

Mudanças superficiais sem a estrutura de transformação explique por que Malawi ainda continue enfrentar ameaças, arrestações dos jornalistas baseando – se em leis arcaicas, tentando os Gag online , enfraquecimento das vozes críticas em empregar- os em posições governamentais e o fato de chamar os gerentes de mídia para parar de criticar sobre como os assuntos públicos estão sendo gerenciados.

Promessas de rejeitar leis coloniais e fazer passar a moção de lei de ATI mostrou – se ser um mero retórico. Esse por extensão é uma mera mudança em estratégia a proveito de aqueles em poder com objetivos de alcançar os mesmos objetivos que os seus predecessores.

A tarefa num futuro basea – se nas lições que o ano 2012 ofereceu, e desinvolvemento instituições fortes acertar – se dos controles e balanços efetivos do que acostando – se sobre a qualidade e o comportamento das autoridades.. Assim preciso de uma forte equipa dos porta vozes e uma rede com objetivo de puxar as reformas de leis, incluindo rejeitar as leis arcaicas frequentemente abusadas por aqueles em poder, revisar o Artigo de Comunicação (1998), fazer passar a lei de ATI, transformar o MBC do serviço de Rádio do Estado para o serviço de Rádio do público e fortalecer as instituições de mídia ambos corpos de porta voz e de auto regulamento, para monitorar o avanço da profissão dos jornalistas online e a mídia tradicional, sendo o meio para abolição das tentativas dos estatutos de regulamentos do setor, que e desde já no projeto do E- Bill.

Alert

Date: January 23, 2012

Person/ institution: Capital Radio

Violation/ issue: Censored, threatened

The Malawi Communications Regulatory Authority (MACRA) on Monday 16 January 2012 summoned a privately owned radio station for disciplinary hearing for allegedly broadcasting a programme critical of president Bingu wa Mutharika's administration. The private broadcaster, Capital Radio, is owned by veteran journalist Al Osman and well known for its critical and outspoken programme, Straight Talk, anchored by Brian Banda. Banda is widely known for his frank and critical questions.

Alert

Date: January 30, 2011

Person/ institution: Malawi

Violation/ issue: Other

A latest Worldwide Press Freedom ranking for 2011-2012 has listed Malawi as one of the worst countries in the world in promoting press freedom. The study, done by Paris-based group Reporters Without Borders, show that Malawi has plunged 67 places from 79 in 2010 to 146 in 2011/12. The rankings, released on January 27, show that Malawi now ranks 146 out of 225 countries analyzed. Malawi's fall has been described as the worst for any country and attributed to 'totalitarian' tendencies of President Bingu Wa Mutharika, threats against and arrests of journalists during 20 July 2011 anti-government demonstrations which left 18 people dead and scores of others including journalists injured.

February 9, 2012: The Malawi government has disputed a report released recently on press freedom by a France based Reporters Without Borders (RWB), arguing that Malawi's poor showing on the Press Freedom Index was based on inappropriate criteria. Responding to the report, government through the Principal Secretary in the Ministry of Information and Civic Education James Kalilangwe described the study's criteria as wrong. "The criteria included violence, censorship and imprisonment of journalists yet Malawi has never caused, nor advocated for violence against journalists...neither does government engage in censorship of the media...no journalist has been imprisoned on any political grounds," Kalilangwe argued.

Communiqué

Date: February 6, 2012

Person/ institution: Media

Violation/ issue: Other

A recent report released by civil society organisation, Civic and Political Space Platform (CPSP), shows that the media in Malawi continue to grow despite facing very tough conditions. The 34-page-report, titled Status of Governance Report in Malawi has dedicated a chapter on media and governance in Malawi. The report covers research conducted in the period 2009-2010 and is silent on 2011, a year in which most private media and independent journalists came under fire in Malawi.

Alert

Date: February 9, 2012

Person/ institution: Government of Malawi

Violation/ issue: legislation

Plans by Malawi government to review some draconian laws recently passed in Parliament have hit a snag due to lack of funds for the process. Government in November 2011 referred to the Law Commission several archaic laws for further review. These laws included Section 46 of the Penal Code which empowers a minister to ban publications deemed unsuitable for public good; Section 35 of the Police Act and the Local Courts Act. February 13, 2012: The Ministry of Justice has warned that repressive laws which were referred to the Malawi Law Commission for review can still be applied until such a time when they have been repealed. Confirming the news to The Nation newspaper, the ministry's spokesperson Apoche Itimu said the laws remain active despite having been referred to the Commission for further review. "These laws were gazetted, making them active...So far there is no provision that makes them inactive. Until they are repealed, that's the only time when they will be inactive".

Alert

Date: February 16, 2012

Person/ institution: Malawi Broadcasting Cooperation

Violation/ issue: Expelled

Two journalists from state-owned Malawi Broadcasting Cooperation (MBC) were on 14 February barred from covering a



press conference organized by civil society organizations (CSOs) in Malawi. The press conference was designed to express concern on the arrest of prominent human rights lawyer. Ralph Kasambara.

Reports say the journalists were ordered to leave the press conference venue before proceedings could begin. The Malawi Chapter of the Media Institute of Southern Africa (MISA-Malawi) confirmed the incident, stating that the CSOs had barred the journalist because of the apparent bias, by MBC, towards the Malawi government.

Alert

Date: March 3, 2012

Person/ institution: The Sunday Times, the Eye Witness,

Violation/ issue: Threatened, assaulted

Malawi Minister of Information, Patricia Kaliati has lashed at The Sunday Times over a cabinet assessment report done and published by the newspaper in its 26 February 2012 issue. Launched in 2004, the newspaper is the first-ever Sunday newspaper in Malawi and its annual cabinet assessment reports are widely anticipated by many people. Kaliati, who scored a low 2 out of 10 herself, trashed the report and went further to describe The Sunday Times

as an “unsuccessful” newspaper. A score of “2” on the newspaper’s score-sheet means “give it up”.

March 6, 2012: Malawi’s Information and Civic Education minister, Patricia Kaliati, has verbally assaulted freelance journalist, Gregory Gondwe, following an article published by online news site, Biz Community and which Gondwe himself shared with Malawian journalists on a dedicated and exclusive e-mail discussion forum moderated by the Media Institute of Southern Africa’s Malawi Chapter (MISA-Malawi).

March 8, 2012: A journalist working for a private newspaper, The Eye Witness, claims he has been fired for allegedly expressing his views about his employers on a Media Institute of Southern Africa Malawi Chapter (MISA-Malawi) moderated e-mail forum and designed exclusively for Malawian journalists. The journalist, Watipaso Mzungu, believes that there is a mole amongst his colleagues on the e-mail forum. The allegation has added weight to alleged reports of espionage within the media fraternity in Malawi.



Communiqué

Date: March 8, 2012

Person/ institution: Women

Violation/ issue: Other

On the occasion of International Women's Day, the Media Institute of Southern Africa salutes and appreciates the efforts all women, especially the journalists, media professionals and media scholars who continue to make immense contributions to the growth and development of journalism and media in the region. We also applaud the courage exhibited by many female journalists who, in their earnest pursuit to expose injustices within the societies they work in, have been harassed, unlawfully arrested and tortured but continue to seek the truth and present it to the public for the betterment of those very same societies.

Alert

Date: March 6, 2012

Person/ institution: Malawian journalists

Violation/ issue: Threatened

State House has warned Malawian journalists, editors and human rights defenders that they risk facing unspecified action if they continue 'twisting information' and in the process discrediting president Bingu wa Mutharika. In

a statement issued on Friday, March 9 2012, State House claimed it was aware that some journalists, editors and human rights activists were deliberately distorting statements and actions by president Mutharika with the intention of misinforming the nation thereby stirring unnecessary panic among Malawians and bringing anarchy in the country.

Alert

Date: March 12, 2012

Person/ institution: MISA-Malawi

Violation/ issue: Threatened

Chairperson of the Media Institute of Southern Africa (MISA) Malawi Chapter, Anthony Kasunda is receiving threats from yet-unknown people over the chapter's stance on the Malawi government's repeated attacks on the media. Kasunda has been receiving threats since Sunday, barely two days after the chapter's reaction to the statement issued by State House, which warned media and civil society organizations against negative reporting and 'insulting' the Head of State, president Bingu Wa Mutharika.

Alert**Date: March 12, 2012****Person/ institution: Media****Violation/ issue: Censored**

The Malawi Chapter of the Media Institute of Southern Africa (MISA) is disturbed with repeated threats from the ruling Democratic Progressive Party (DPP) top brass on media outlets deemed to be critical of President Bingu wa Mutharika's government policies. Barely two days after State House issued a statement warning the media and civil society organizations against 'insulting' the country's leadership, DPP Director of Youth, Frank Mwenefumbo, has called on all government departments and the civil service to stop buying, reading and advertising in newspapers critical of the DPP led government.

Communiqué**Date: March 19, 2012****Person/ institution: Media****Violation/ issue: Other**

The media fraternity in Malawi has called on State President Bingu Wa Mutharika to see to it that constitutional provisions on media freedom and freedom of expression are being respected. The call was made at an all inclusive two-day stakeholders conference at the Limbe Catholic Cathedral in the commercial city of Blantyre, Southern Malawi from 14th - 15th March, 2012. The conference was organized by the Public Affairs Committee (PAC) with participants from the media fraternity, political parties, Civil Society Organisations, academia and the business community, among others.

Communiqué**Date: April 11, 2012****Person/ institution: Information Ministry****Violation/ issue: Other**

Malawi's new president, Joyce Banda, has started her career as Southern Africa's first female president on a high note, replacing Information and Civic Education Minister Patricia Kaliati with Democratic Progressive Party (DPP) rebel Member of Parliament Moses Kunkuyu. Banda has also replaced the head of the state-controlled Malawi Broadcasting Corporation (MBC) Bright Malopa with Benson Tembo, who served as Television Malawi's (TVM) first Director-General in 1997. Banda was sworn in on Saturday, 7 April 2012 as Head of State following the sudden death of president Bingu wa Mutharika.

Alert**Date: May 28, 2012****Person/ institution: Clement Chinoko, Blantyre Newspapers Limited (BNL)****Violation/ issues: Detained**

A journalist with one of Malawi's major publishing houses, Blantyre Newspapers Limited (BNL), is languishing in police custody for writing a story on an alleged engagement ceremony involving two women. Reports indicate that the journalist, Clement Chinoko, was arrested on the evening of Saturday 26 May 2012 for penning a story that appeared in The Sunday Times of May 20, 2012. The story stated that two women from Malawi's southern city of Blantyre had engaged.

June 1, 2012: State House has said

President Joyce Banda regrets that Blantyre Newspapers Limited (BNL) journalist Clement Chinoko was not charged and taken to court after his arrest within the 48 hour Constitutional requirement. Speaking through State House Press Secretary Steven Nhlane, the President said it was her hope that in future prosecuting officers and suspects lawyers would ensure that people's rights are not violated.

Communiqué

Date: June 11, 2012

Person/ institution: Media fraternity

Violation/ issue: Other

The media fraternity in the country has welcomed the removal of Value Added Tax (VAT) on newspapers, describing it as good news in the interest of the people's right to information. VAT on newspapers was introduced during late president Bingu Wa Mutharika's regime as one way of generating funds in the 2011/12 infamous Zero-Deficit Budget (ZDB), a blue print which attracted mixed reactions among the country's citizens, government authorities and the donor community.

Communiqué

Date: July 26, 2012

Person/ institution: Malawi

Communications Regulatory

Authority

Violation/ issue: Other

The Malawi Communications Regulatory Authority (MACRA) has awarded fifteen broadcasting licences for both radio and television to prospective broadcasters

who had applied for the licenses two years ago. This brings the total of newly-licensed broadcasters to twenty-three, after MACRA initially released eight names (4 Radio and 4 Television) of successful applicants in November 2011. The announcement of names of successful broadcasters comes barely one week after the Malawi Chapter of the Media Institute of Southern Africa (MISA-Malawi) wrote MACRA expressing concern on the delays in granting broadcasting licenses.

Alert

Date: October 4, 2012

Person/ institution: Malawian government

Violation/ issue: Legislation

In a move that may be seen by a number of media practitioners and some members of the public as having a negative impact on media freedom and freedom of expression, the government of Malawi, led by President Joyce Banda, has introduced a Bill (attached) that seeks to regulate and control online communications in Malawi.

"The main objective of the Malawian Government is to have the Republic of Malawi benefit from a true technological leap which may fasten its economic growth by enabling the development of new economic activities thanks to the implementation of a secure legal framework regulating the use of [information Communication Technologies - ICTs]" reads the introductory note to the Bill, which has been labelled the E-Bill.

Alert

Date: October 15, 2012

Person/ institution: Detained

Violation/ issue: Justice Mponda

Police in Blantyre, southern Malawi, have arrested online journalist, Justice Mponda but are not shedding further light on the arrest. Mponda was arrested in the early hours of Monday, 15 October 2012. He is a correspondent for an online publication, Malawi Voice. Computers and other equipment believed to belong to the publication have also been seized. Contacted for details of the arrest by the Malawi Chapter of the Media Institute of Southern Africa (MISA-Malawi), Southern Region Police publicist, Nicholas Gondwa, asked for more time to get information on the matter. When MISA-Malawi also contacted Limbe Police Station, where Mponda was being held, officers there referred the matter back to Gondwa.

October 16, 2012: The Lilongwe Magistrate Court has granted bail to online journalist, Justice Mponda, who was arrested on Monday, October 15, 2012, for allegedly insulting President Joyce Banda and Publishing False Information.

within southern Africa in Lilongwe, Malawi.

Over the past four (4) years, MISA, through its Regional Secretariat and in partnership with Save the Children Sweden has rolled out a regional project titled 'Reporting Child Rights and Children in the Media' whose main aim is to build the capacity of selected southern Africa media to report positively and informatively on children and child rights, insisting especially that such stories adhere to ethical guidelines and principles.

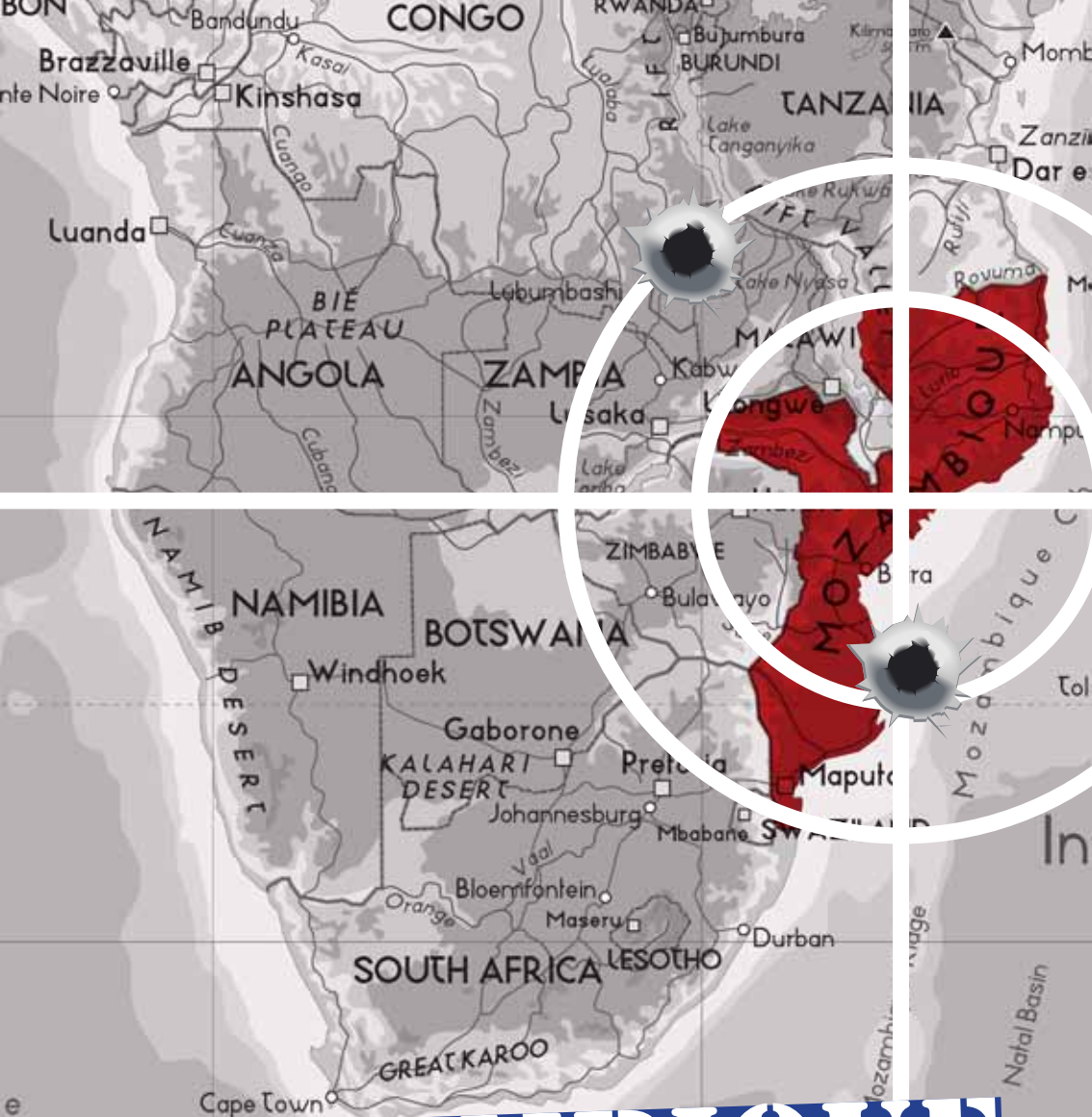
Communique

Date: December 20, 2012

Person/ institution: MISA

Violation/issue: Other

The Media Institute of Southern Africa (MISA) will on Saturday, 22 December 2012 award three journalists for their role in promoting ethical reporting of children in the media. The awards ceremony will take place for the first time



MOZAMBIQUE



National Overview
by Egidio Vaz Raposo
Researcher and Consultant



What was the general state of the media in Mozambique in 2012?

Over the past couple of years, Mozambique has experienced an environment that has allowed journalists and the media to freely inform the public. Since the murder of Carlos Cardoso in 2000, there has been no record of a journalist that has been murdered or killed.

Nevertheless, political and economic powers have sophisticated their tactics in order to crack down dissonant voices. These include economic blackmail, threat and bribes.

On the other hand, although there are few cases of journalists' imprisonment, the press law does not embrace all media subsectors and concentrates mainly on the press.

Access to information continues to be a challenge for citizens and the media itself. Advocacy entities, including the media, have been pushing for the approval of the proposal Bill that has lay dormant in parliament for almost five years. On the other hand, the press law is maladjusted to the current reality and the overall legal landscape is blackmailing.

The beginning of the debate on Con-

stitutional revision possesses new opportunities for legal harmonisation and clarification of some laws that have been until today denied to citizens. The struggle of advocacy organisations converges on the need for the Constitution to grant itself free and unconditional access to information to every Mozambican.

Moreover, the discussion of the criminal code opens space for the suppression of anti-media legislation such as press crimes, which still includes defamation as a crime.

Despite this seemingly good picture, in the country's northern region, people's freedoms significantly diminish. The situation is worse in rural areas where the local officials have very little knowledge about press freedom-relates aspects. This makes them the principal offenders of the press law as they systematically violate the people's Constitutional rights to free opinion and expression.

For example, in 2012, local officials closed down two community radio stations, Furancungo in Tete Province and Macequeesse in Manica Province, whilst community radio activists were threatened in different ways.

Furthermore, on July 20th in the city of Beira, Falume Chabane, the former editor of the online news journal O Au-



tarca (The Mayor), was sentenced to a 16-month suspended prison term and ordered to pay damages of 150,000 Meticals (US\$4884) in criminal libel case. Chabane published a series of columns in the spring of 2011 that criticized the Beira International Primary School for not granting access to Aisling Binda, a fourth-grader who is in a wheelchair, alleging that the school had not built a handicapped access ramp in compliance with a 2008 Mozambican children's rights law. The school later expelled the student, citing academic performance and other reasons. The parents have said the expulsion was in retaliation for their complaint about the school's lack of handicapped access. The lawyer for the primary school, António Jorge Ucocho, filed a complaint accusing Chabane, who is also a reporter for TVM, of defaming both the school and himself and for "abusing freedom of the press." The journalist's stories had included daily updates on the number of days that Binda had missed school.

Mozambique does not have a law on access to information, which poses additional problems in accessing official information by not only journalists but also citizens themselves. State institutions are generally regarded as the least

transparent and least credible. Should the law access to information be debated and approved in 2013, its implementation and regulation has the potential to mitigate this negative aspect.

The new forms of censorship

Although the 1991 *Press Law* liberalised ownership of the media, it forbade the publication of defamatory reports about the presidency or any other foreign head of state visiting Mozambique, even if such reports were true. In recent years, the government has often invoked this provision of the law to crack down on journalists (infoasaid 2012).

However, the government does not openly censor media outlets, but it often uses other more subtle ways to limit criticism. The four strategies the government uses to do this include:

- a) The withdrawing of public sector advertising from publications whose message it does not agree with. Because media business essentially depends on advertising, with the state being the largest customer, locking in advertising is the primary means used by the government to "discipline" apparently irreverent media.
- b) "Rewarding" publications that sup-

port the official line with abundant advertising. The two paradigmatic examples of these are that of *Verdade* Newspaper that is distributed free of charge to citizens but hardly receives advertising revenue from the government, and *Noticias*, which monopolises government advertising.

- c) Frequently inviting journalists to accompany senior government officials on trips to the interior and on overseas missions.
- d) Paying journalists' travel costs, accommodation and food during these trips. This also includes providing them with a per diem that is sometimes more than their meagre monthly salary (infoasaid, 2012). Because of this, very few reporters who benefit from such largesse publish critically report on their benefactors.

On the other hand, aid agencies also frequently pay journalists to cover their activities, a move that likewise tends to guarantee favourable coverage. Moreover, prominent businessmen have been known to bribe reporters in order to ensure that they appear in a good light.

Publications that publish unfavourable reports about powerful people may face court charges of defamation or worse.

Media freedom becomes more tenuous the further north you go from Maputo and the deeper you go into rural areas. Away from the big cities, local officials frequently threaten and intimidate reporters.

Legislative Panorama, freedom of expression, press freedom and right to information in Mozambique

According to the Constitution, Mozambique is a rule of law governed democracy, where Freedom of Expression and Freedom of Press are constitutionally granted in Article 48, section 1 that says "All citizens are entitled to freedom of expression, press freedom and the right to information." These rights are operationalised through Law 18/91, the Press Law, which establishes the appropriate implementing mechanisms.

Mozambique has also adopted several regional and international instruments on freedom of expression and press freedom, namely:

- The Universal Declaration of Human Rights;
- The African Charter of Human and Peoples Rights;
- The Declaration on Principles of Freedom of Expression in Africa (that led to the birth of the so-called Windhoek Declaration);
- The SADC Protocol on Education, Culture and Sports.

The legal instruments mentioned above are domesticated by the Constitution of the Republic of Mozambique (CRM) through ordinary laws.

The legal scenario suggests that there are formally minimal legislative commandments that are conducive to freedom of expression, pluralism and diversity of media. The Constitution of Mozambique provides for freedom of expression as an essential foundation of

the legal system and democratic country.

According to Article 48, paragraph 1, all citizens have the right to freedom of expression, freedom of press and right to information. Censorship is prohibited by the Constitution (Article 48, paragraph 2), and press freedom includes freedom of expression, access to information and the right for journalists to protect the source of information and freedom for creation of newsletters, publications and other means for dissemination of information (Article 48, paragraph 3).

However, despite this optimistic scenario, media professionals and civil society have called for legal reforms in the media sector and pushing for a more pragmatic legal landscape on Press Freedom, Freedom of Expression and Right to Information because the prevailing legal gaps pose serious challenges towards full enjoyment of these freedoms.

In general, the current media scenario is characterised by:

- a. A press law in force for 20 years whose revision is so far stagnant;
- b. Apparent indecision about whether to introduce or not the Journalists Professional Practicing License (which is probably dependent on the Revision of the Press Law);
- c. Inexistence of a broadcasting law that is actually being drafted by the Information office of Mozambique (GABINFO) whose content is still unknown;
- d. The challenge of technological migration from analogue to digital (until 2015) that is inclusive and guarantees ordinary people access to information;
- e. The absence of a law on access to in-

formation, whose draft was already submitted to the Parliament in 2005;

- f. The persistence of vices of unconstitutionality by legislative omission, i.e., the existence of constitutional rights that are not yet enjoyed because of lack of specific legislation or regulation; and,
- g. The existence of laws that restrict freedom of expression and the press (so-called anti-media laws).

The Process of Revision of Press Law

The revision of the Press Law was launched in 2006. The process is being led by the GABINFO, with the involvement of the National Union of Journalists (SNJ) the Association of Mozambican Editors (EDITMOZ), the Media Institute of Southern Africa Mozambique Chapter (MISA-Mozambique) and the Association of Media Companies (Associação de Empresas Jornalísticas - AEJ). It was foreseen that the revision would have come to an end in 2007 but since then no further action had been taken.

On the Journalists professional practicing license

One of the topics of greatest interest and controversy is related to the introduction of the professional practicing license. The proposal suggests that a professional practicing license should be a prerequisite for a journalist to work as such. The Government, following a proposal from media professional organiza-

BOX: Relevant Legislation that impacts on freedom of expression, Press and Access to Information in general

| Law | Purpose of the Law |
|--|---|
| Law n ° 18/91 of August 10, 1991 Press Law | Lays down the principles governing the activities of the media and rights and duties of its employees. Regulates the registration of the print media and licensing regime for broadcasting. |
| Law n ° 19/91 of August 18, 1991 Law of Crimes against State Security | Includes provisions under which the crimes of defamation, libel and slander committed against the President, the President of the Assembly of the Republic, members of the Government, the Supreme Court judges and members of the Constitutional Council, as well as against MPs, magistrates, presidents and general secretaries of political parties (...) |
| Decree n ° 22/92 of December 31, 1992 | Operationalises the end of the state monopoly on broadcasting business by establishing the legal and technical conditions for access of the spectrum by other sectors. |
| Decree No. 9/93 of June 22, 1993 | Establishes criteria for participation of private and commercial sectors in the broadcasting sector |
| Decree n ° 18/94 of June 16, 1994 | Creates Radio Mozambique as a provider of public the service broadcasting. |
| Decree n ° 19/94 of June 16, 1994 | Creates Television of Mozambique as a provider of the television public service. |
| Presidential Decree No. 4/95 from 16 from Outubro 1995 | Creates the Office of Information (GABINFO), successor entity of the Ministry of Information, working as technical advisory unit subordinated to the Prime Minister. |
| Decree n ° 65/2004 of December 31, 2004 | Adopts the Advertising Code. |
| Law No. 12/79 December 1979 shape 12 | Establishes the legal regime of the State Secret. |

tions, would issue this license.

Absence of a Broadcasting Law

One of the biggest legal vacuums in the media sector in Mozambique is in the broadcasting sub-sector. The Press Law currently in force focuses almost exclu-

sively on the press. So, there is no specific regulation for radio, television and other media such as community radio or new media.

Radio

Radio is the widest reaching and most influential source of news and in-

formation in Mozambique. Rural audiences depend heavily on the 10 regional stations of state-run *Radio Mocambique* and the country's network of around 80 community radio stations.

However, *Radio Mocambique* is still some way from being an independent public service broadcaster. Its news agenda closely follows that of the government agenda. News bulletins typically lead with the president's activities. The radio often interviews Ministers about issues concerning their portfolios. Opposition politicians and other critics of the government are rarely heard on air.

The absence of a law to regulate access of opposition politicians to public radio means that the ruling party benefits more from Radio Mocambique than opposition politicians. On the other hand, the legal vacuum suggests the urgency to pass the Broadcasting Act that would help in restoring justice the way public radio and TV are accessed by the all.

Internet penetration is small. As of June 30, 2012, there were 1,011,185 Internet. This equals to 4.3% of the population, per Internet World Statistics. As of December 31, 2012, there were almost 362 560 Facebook users, giving it an almost 1.5% penetration rate. Despite this limitation, social networks have become alternative spaces for the exchange of information and discussion of issues about the country. Fortunately, no one has been arrested or detained as a result of their public pronouncements (<http://www.internetworldstats.com/africa.htm#mz>).

Worrying signals

In August 2012, the Mozambican government announced that the country already had a strategy for digital migration, the implementation of which is under the Ministry of Transport and Communications, and directly managed by the National Communications Institute. An implementation commission was also created, consisting of experts representing different institutions and interests.

In general, it's worth mentioning that the whole migration process had been largely delayed and serious problems are expected with regards to meeting the internationally set deadlines.

The strategy itself lacks a clear vision on the political commitment of the government and with regards to the whole process. Furthermore, the strategy remains uncertain and hesitant on crucial issues such as the financing of the migration, both with regards to the transmission systems as well as the reception by consumers, including on regulatory perspective. It also lacks a robust strategy for public information and education about the process. As a result, three years from the deadline, Mozambique can be regarded as lagging far from meeting the deadlines and likely to be affected by the switch off.

Encouraging Signals

Even though there are almost fifty "pro media associations and organisations" in Mozambique, none of them are dedicated to training journalists, except journalist's schools. On the other hand, there are nascent media associations



interested in boosting media professionalism, interested in deepening skills in specific fields of research. REJOPAM – parliamentary reporter's network and association of judiciary reporters – and IK-WELI – investigative journalism institute – are an example of how specialisation is becoming an issue of greater concern among the class.

This is an encouraging signal from the media as it nurtures expectations of a vibrant and effective media community that will challenge the next of level of barriers. Legal reform is urgent for the media and citizens to benefit from it. Access to information law, press law, penal code, the revision of the constitution of Mozambique and broadcasting law are crucial for a freer media landscape. Having these laws approved will need concerted efforts from all media civil society in order to secure accurate and appropriate reforms.

On the Macequesse community radio

In early afternoon of 12 October 2012, the Mayor of Manica town, Mr. Moguem Candieiro, ordered the closure of Macequesse Community Radio using the Municipal Police Force. The

Macequesse Community Radio is owned by the Macequeesse Manica Community Association (ACOMAM) and is member of the National Forum of Community Radio (FORCOM).

After having turned down the broadcaster, the Municipal Police remained on the scene in order to prevent from local broadcasters and radio technicians to turn it on again.

A brigade from FORCOM was shipped from Maputo to Macequesse to check on the situation and confirmed that the radio premises and the broadcaster remained inaccessible as they also confirmed the presence of the police force.

In fact, the conflict between Candeeiro and the radio Macequeesse ran back in 2005 when the community radio professionals begun reporting on peoples' complaints on his governance. A weekly one-hour long radio program aired people's concerns and criticism on his non-transparent governance, especially with regard to tender awarding.

On the other hand a newly elected non-corrupt governing body of the association has been in place for almost six months. This meant that Mr. Candeeiro had lost ground and influence over the radio and no could longer dictate or



ensor its contents. Therefore, criticism over his governance mounted until October 12, 2012 a group of policemen and municipal police force forced the closure of the radio on the grounds that it had internal problems to solve. In fact the defeated corrupt management group to which Mr. Candeeiro was linked, tried to derail the newly established managing board.

Following vigorous intervention by FORCOM, MISA-Mozambique and other civil society organizations, the radio was again reopened on Monday, October 15, 2012.

Some of the causes may be at the root of this unfortunate event:

1. Political grievances between the radio and Candeeiro have always seemed to influence and interfere in editorial policy of the radio.
2. Candeeiro's personal interest in controlling the radio and so, turning it into his sounding box
3. Lack of knowledge on the media legislation from politicians.

Who regulates Broadcasting and Telecommunications in Mozambique? Is it the National Communications Institute?

The National Communications Institute of Mozambique (Instituto Nacional

das Comunicações de Moçambique) (INCM) is the governmental body that regulates the telecommunications sector. After their broadcasting licenses have been approved by the GABINFO, the INCM issues licences to telecommunications companies. It also assigns frequencies to radio stations and television channels.

PORTUGUESE VERSION

Qual era o estado geral dos meios de comunicação em Moçambique em 2012.

Moçambique tem vindo a registar um ambiente formal apropriado que permite aos jornalistas e meios de comunicação informar livremente. Desde o assassinato de Carlos Cardoso, em 2000, não há registo algum de jornalista que tenha sido assassinado ou morto.

No entanto, os poderes políticos e económicos foram sofisticando suas táticas a fim de reprimir vozes dissonantes. Estas incluem chantagem económica, ameaça e suborno.

Por outro lado, embora haja poucos casos de jornalistas que foram presos, a lei de imprensa não abrange todos os sub-setores da comunicação social e concentra-se principalmente na média impressa.

O acesso à informação continua a ser um desafio para os cidadãos e para os órgãos de comunicação social. As entidades de defesa, incluindo os meios de comunicação, vêm pressionando para a aprovação da proposta de lei que está adormecida no parlamento há quase cinco anos. Por outro lado, a lei de imprensa não é consentânea com a realidade actual nem com as questões jurídicas gerais no que respeita à chantagem.

O início do debate sobre a revisão constitucional representa novas oportunidades para a harmonização jurídica e

clarificação de algumas leis que até hoje não são usufruídas pelos cidadãos. A luta das organizações de defesa vai de encontro à necessidade de a Constituição conceder acesso livre e incondicional a informações para todos os moçambicanos.

Além disso, a discussão do código penal abre espaço para a abolição das legislações anti-média tais como crimes de imprensa, que ainda consideram a difamação com um crime.

Apesar deste quadro aparentemente bom, nota-se que, indo para o norte do país a liberdade das pessoas diminui. A situação é pior nas zonas rurais, onde as autoridades locais têm pouquíssimo conhecimento sobre aspectos tangentes à liberdade de imprensa. Eles são os principais infractores da lei de imprensa e violam sistematicamente o direito à opinião e expressão – direito este que está consagrado na constituição.

Por exemplo, só em 2012, duas rádios comunitárias foram fechadas pelas autoridades locais (Furuncungo na Província de Tete e Macequecesse na Província de Manica) e activistas de rádios comunitárias foram ameaçados de várias maneiras.

Na cidade de Beira, Falume Chabane teve uma pena suspensa de 16 meses de prisão no dia 20 de Julho e uma indemnização de 150 mil meticais pelo crime de difamação. Chabane, ex-editor do jornal on-line de notícias O autarca, publicou uma série de colunas na primavera de 2011, nas quais criticou a Escola Primária Internacional de Beira por não ter aceite AislingBinda, um aluno da quarta classe que anda com uma cadeira

de rodas; lamentou que a escola não tinha construído uma rampa para deficientes físicos em conformidade com a Lei dos Direitos das Crianças Moçambicanas de 2008. A escola mais tarde expulsou o aluno, alegadamente por causa do desempenho académico e outros motivos. Os pais disseram que a expulsão foi em retaliação à sua queixa de que os deficientes não conseguem ter acesso à escola. O advogado da escola primária, António Jorge Ucocho, apresentou uma denúncia acusando Chabane, que também é um repórter de TVM, de difamação tanto da escola como de si próprio e por "abuso da liberdade de imprensa.". O relato do jornalista incluía actualizações diárias sobre o número de dias durante os quais Binda estava ausente da escola.

Moçambique não tem lei de acesso à informação, o que dificulta o acesso à informação oficial não só aos jornalistas, mas também aos próprios cidadãos. As instituições do Estado são geralmente consideradas as menos transparentes e as menos credíveis. A aprovação da lei de acesso à informação e a sua regulamentação têm o potencial de reduzir esse aspecto negativo, se for debatida e aprovada ainda em 2013.

As novas formas de censura

Embora a Lei de Imprensa de 1991 tenha liberalizado o direito de propriedade dos meios de comunicação social, a mesma proibiu a publicação de relatórios difamatórios sobre o presidente ou qualquer outro chefe de Estado estrangeiro em visita a Moçambique, mesmo quando tais relatórios estivessem

revestidos de verdade. Nos últimos anos, o governo tem muitas vezes invocado este disposto legal para reprimir jornalistas (INFOsaid, 2012).

O governo não censura abertamente os órgãos de comunicação social, mas muitas vezes utiliza outras formas mais subtis para limitar a crítica.

Há quase quatro estratégias que o governo usa para fazer isso:

- a) Uma delas é remover a publicidade do sector público de publicações que tenham mensagem com que não concorda. Uma vez que o negócio dos órgãos de comunicação social depende essencialmente da publicidade e o Estado é o maior cliente, a publicidade é o principal meio utilizado pelo governo para "disciplinar" os órgãos de comunicação social aparentemente irreverentes.
- b) Por outro lado, o governo muitas vezes "recompensa" publicações que suportam a linha oficial com publicidade abundante. Um dos dois exemplos paradigmáticos pode ser o jornal @ Verdade, que é distribuído gratuitamente aos cidadãos. Ao contrário do jornal Notícias que monopoliza os anúncios do governo, o jornal @ Verdade dificilmente recebe publicidade do governo.
- c) Os jornalistas são frequentemente convidados a acompanhar altos funcionários do governo em digressões nacionais e em missões no exterior.
- d) O governo custeia as viagens, alojamento e alimentação dos jornalistas e concede-lhes uma diária que às vezes é mais do que seu salário mensal (INFOasAid, 2012). Em vista

disso, poucos repórteres que se beneficiam de tal generosidade publicam relatórios críticos sobre os seus benfeitores.

Por outro lado, as agências de ajuda frequentemente pagam jornalistas para que façam cobertura das suas atividades, um movimento que também tende a garantir uma cobertura favorável. Empresários proeminentes, por sua vez, pagam suborno a repórteres, a fim de assegurar uma boa imagem.

As publicações que difundem relatórios desfavoráveis sobre pessoas poderosas podem enfrentar ações judiciais por difamação ou pior.

Quanto mais distante ao norte de Maputo e quanto mais remotas as zonas rurais, mais tênue é a liberdade de imprensa. Longe das grandes cidades, as autoridades locais ameaçam e intimidam jornalistas com muita frequência.

Panorama Legislativo, a liberdade de expressão, liberdade de imprensa e direito à informação em Moçambique

Segundo a Constituição, Moçambique é um Estado de direito e democrático onde a liberdade de expressão e a liberdade de imprensa estão consagradas no artigo 48 da secção 1 da constituição, que diz: "Todos os cidadãos têm direito à liberdade de expressão, liberdade de imprensa e direito à informação". "Esses direitos são operacionalizados pela Lei 18/91, a Lei de Imprensa, que estabelece os mecanismos de implementação adequados.

Moçambique também adoptou vários instrumentos regionais e internacionais sobre a liberdade de expressão e liberdade de imprensa, nomeadamente:

- A Declaração Universal dos Direitos Humanos;
- A Carta Africana dos Direitos Humanos e dos Povos;
- A Declaração dos Princípios da Liberdade de Expressão em África (que levou à criação da Comissão da Declaração de Windhoek);
- O Protocolo da SADC sobre Educação, Cultura e Desportos.

Os instrumentos jurídicos mencionados acima são adoptados pela Constituição da República de Moçambique (CRM) por meio de leis ordinárias.

O cenário jurídico sugere que existem formalmente poucos dispositivos legais favoráveis à liberdade de expressão, ao pluralismo e à diversidade dos órgãos de comunicação social. A Constituição de Moçambique prevê a liberdade de expressão como um fundamento do sistema jurídico e da democracia. De acordo com o artigo 48o, parágrafo 1, todos os cidadãos têm o direito à liberdade de expressão, liberdade de imprensa e direito à informação. A censura é proibida pela Constituição (artigo 48, parágrafo 2), e a liberdade de imprensa inclui a liberdade de expressão, acesso à informação e direito dos jornalistas de proteger a fonte de informação e, liberdade para a criação de boletins informativos, publicações e outros meios de difusão de informação (artigo 48, parágrafo 3).

No entanto, apesar desse cenário op-

timista, os profissionais da comunicação social e da sociedade civil solicitam reformas legais no sector da comunicação social e fazem esforços no sentido de ter-se um panorama jurídico mais pragmático sobre Liberdade de Imprensa, Liberdade de Expressão e Direito à Informação, porque as actuais lacunas legais representam sérios desafios para o pleno gozo destas liberdades.

De modo geral, o cenário actual da comunicação social é caracterizado por:

- a) Uma lei de imprensa em vigor há 20 anos, cuja revisão há muito encontra-se estagnada;
- b) A aparente indecisão sobre a possibilidade de se introduzir ou não a carteira Profissional de jornalista (que provavelmente depende da revisão da Lei de Imprensa);
- c) A inexistência de uma lei de difusão que está sendo elaborada pelo GABINFO e cujo conteúdo é ainda desconhecido;
- d) O desafio da migração tecnológica do analógico para o digital (até 2015), que garante inclusive o acesso à informação por pessoas comuns
- e) A ausência de uma lei de acesso à informação, cujo projecto já foi apresentado ao Parlamento em 2005;
- f) A persistência de vícios de inconstitucionalidade por omissão legislativa, i.e., a existência de direitos constitucionais que ainda não são usufruídos por falta de legislação ou regulamento específico;
- g) A existência de leis que restringem a liberdade de expressão e de imprensa (as chamadas leis anti-média).

O processo de revisão da Lei da Imprensa

A revisão da Lei de Imprensa começou em 2006. O processo está sendo liderado pelo Gabinete de Informação de Moçambique (GABINFO), com a participação do Sindicato Nacional de Jornalistas (SNJ), do EDITMOZ (Fórum dos Editores de Moçambique), do Instituto de Comunicação Social da África Austral (MISA-Moçambique) e da Associação de Empresas Jornalísticas (AEJ). Previu-se que a revisão teria chegado ao fim em 2007, mas, desde então, não tomou-se nenhuma acção.

Carteira Profissional de Jornalistas

Um dos temas de maior interesse e controvérsia tem a ver com a introdução da carteira profissional. A proposta sugere que uma carteira profissional deve ser um pré-requisito para que alguém trabalhe como jornalista. Esta carteira deverá ser emitida pelo Governo com base em propostas de organizações de comunicação social.

Ausência de uma Lei de Radiodifusão

Uma das maiores lacunas legais no sector da comunicação social em Moçambique está no sub-sector da difusão. A Lei de Imprensa vigente concentra-se quase exclusivamente na imprensa. Portanto, não há regulamentação específica para a rádio, televisão e outros meios de comunicação social como a rá-

CAIXA: Legislação relevante com impacto sobre a liberdade de expressão, imprensa e acesso à informação em geral.

| Lei | Finalidade da Lei |
|---|--|
| Lei n ° 18/91 de 10 de Agosto de 1991 Lei de Imprensa | Estabelece os princípios que regem as actividades dos órgãos de comunicação social bem como os direitos e deveres dos seus funcionários. Regula o registo dos Média impressos e o regime de credenciando para a difusão de informação. |
| Lei n ° 19/91 de 18 de Agosto de 1991 Lei de Crimes contra a Segurança de Estado | Inclui disposições que criminalizam a difamação, calúnia, injúria cometidas contra o Presidente da República, o Presidente da Assembleia da República, membros do Governo, juizes do Tribunal Supremo e membros do Conselho Constitucional, bem como deputados, magistrados, presidentes e secretários gerais dos partidos políticos (...) |
| Decreto n ° 22/92 de 31 de Dezembro de 1992 | Operacionaliza o fim do monopólio estatal sobre os órgãos de comunicação social, estabelecendo condições técnico-legais para o acesso ao espectro por parte de outros sectores. |
| Decreto n ° 9/93 de 22 de Junho de 1993 | Estabelece critérios para a participação dos sectores privado e comercial na difusão da informação. |
| Decreto n ° 18/94 de 16 de Junho de 1994 | Cria a Rádio Moçambique como um fornecedor de serviço público de radiofusão. |
| Decreto n ° 19/94 de 16 de Junho de 1994 | Cria a Televisão de Moçambique como um fornecedor público serviços televisivos. |
| Decreto Presidencial No. 4/95 de 16 de Outubro de 1995 | Cria o Gabinete de Informação (GABINFO), entidade sucessora do Ministério da Informação que actua como unidade de assessoria técnica sob tutela do Primeiro-Ministro. |
| Decreto n ° 65/2004 de 31 Dezembro de 2004 | Aprova o Código publicitário. |
| Lei N o 12/79 de Dezembro de 1979 shape12 | Estabelece o regime jurídico do Segredo de Estado. |

dio comunitária ou novos média.

Rádio

A rádio é a fonte de notícias e infor-

mações de maior alcance e mais influente em Moçambique. Os ouvintes rurais dependem fortemente das 10 bandas regionais da Rádio estatal Moçambique e da rede nacional de cerca de 80 ban-

das de rádios comunitárias. No entanto, a Rádio Moçambique não difunde as notícias de modo independente. As suas notícias seguem de perto a agenda do governo. Os boletins de notícias abordam muito as actividades do presidente. O rádio muitas vezes entrevista ministros sobre políticos e suas pastas. Os políticos da oposição e outros críticos do governo, raramente são ouvidos.

A ausência de uma lei para regular o acesso de políticos da oposição à rádio pública dá a entender que o partido no poder beneficia-se mais da Rádio Moçambique do que os políticos da oposição. Por outro lado, o vazio jurídico urge a aprovação da Lei da Radiodifusão que restauraria a justiça no acesso público à rádio e TV de modos a estarem ao serviço de todos.

A penetração da internet é ínfima. Há actualmente 1.011.185 usuários da internet, segundo as estatísticas de 30 de Junho de 2012. Isto equivale a 4,3% da população, por IWS. Há quase 362 560 usuários do Facebook segundo dados disponíveis a 31 de Dezembro de 2012; quase 1,5% de penetração. A despeito desta limitação, as redes sociais tornaram-se espaços alternativos para a troca de informações e discussão de temas sobre o país. Felizmente, ninguém foi preso ou detido como resultado de seus pronunciamentos públicos (<http://www.internetworldstats.com/africa.htm#mz>)

Sinais preocupantes

O governo moçambicano anunciou em Agosto de 2012 que o país já tinha uma estratégia para a migração dig-

ital, cuja implementação está a cargo do Ministério dos Transportes e Comunicações, e que seria gerido directamente pelo Instituto Nacional de Comunicações. Criou-se também uma comissão de implementação, composta por peritos que representam instituições e interesses diversos.

De modo geral, importa ressaltar que o processo de migração está, em grande parte, atrasado e espera-se problemas graves em relação ao cumprimento dos prazos estabelecidos internacionalmente.

A estratégia em si carece de uma visão clara sobre o compromisso político do governo. E quanto ao processo todo, a estratégia em si continua incerta e hesitante sobre questões cruciais como o financiamento da migração, tanto no respeitante aos sistemas de transmissão, bem como à recepção por parte dos consumidores, incluindo a perspectiva de regulamentação. Carece também de uma estratégia robusta de informação e educação sobre o processo. Faltando apenas três anos para o fim do prazo, conclui-se que Moçambique está longe de cumprir os prazos e susceptível a ser afectada pelo esgotar do tempo.

Sinais encorajadores

Há em Moçambique quase 50 "associações e organizações pro-média". Nenhuma delas dedica-se à formação de jornalistas, salvo os colégios de jornalista. Por outro lado, existem associações de órgãos de comunicação social emergentes que demonstram interesse em melhorar o profissionalismo e habili-

dades de investigação no seio dos órgãos de comunicação social. A REJOPAM – Rede Repórter Parlamentares, a Associação dos Jornalistas Judiciários e o Centro de Jornalismo Investigativo IKWELI – são um exemplo de como a especialização está se tornando numa questão de grande preocupação no seio da classe.

Isso pode ser um sinal encorajador para a comunicação social, uma vez que nutre expectativas de uma comunidade de média vibrante e eficaz a ponto de desafiar o próximo nível de barreiras. A reforma legal é urgente para que os órgãos de comunicação social e os cidadãos se beneficiem dela. O direito de acesso à informação, a lei de imprensa, o código penal, a revisão da constituição de Moçambique e a lei de difusão de informação são cruciais para um cenário de comunicação social mais livre. Para que sejam aprovadas, será necessário reunir esforços de todos os órgãos de comunicação social e da sociedade civil a fim de garantir reformas acuradas e adequadas.

Alert

Date: November 23, 2012

Person/ institution: Furancungo

Plateau Community Radio

Violation/ issue: Censored

Community Radio Station shut down illegally

Reports from Mozambique's capital city, Maputo, say the administrator of Macanga district – in the western province of Tete – has illegally shut down a local community radio station, Furancungo Plateau Community Radio, on allegations of mismanagement. The incident occurred on Monday, 19 November 2012.

The administrator, identified by the independent newsheet, Mediafax, only as Faite, is said to have personally gone to the station together with four of his staff and ordered that it goes off air because of alleged mismanagement by the community association that owns the station.

Vasco Captone, Furancungo Plateau Community Radio Coordinator, has denied the allegations, and insists that the station is “functioning well and has an operational management committee.”



NAMIBIA



National Overview
by MISA-Namibia



Introduction

The period under review exhibited both growth and decline for Namibian media. It is unfortunate that the decline was most prominent in areas that are pivotal for a robust, independent and pluralistic media environment to exist.

Since independence in 1990, Namibia consistently ranked as one of the best performing countries in terms of enjoying the basic conditions that allow for the media to practice its craft without much interference from external forces.

We prided ourselves as the birth country of the Windhoek Declaration, a historic statement of free press principles developed and adopted by African newspaper journalists on 03 May 1991. The declaration highlights free press as essential to democracy and as a fundamental human right. But all the comfort, freedom and international acclaim resulted in us forgetting that what we have is precious, and that it needs to be cherished, vigorously protected and strengthened. We instead gradually neglected our commitment to quality and ethical journalism.

We did not set the agenda, nor seriously lobbied for the repeal of laws that restrict freedom of expression. We failed to create an understanding on

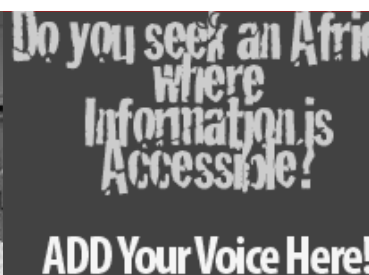
how important we are for the building of a vibrant, inclusive and progressive democracy. And neither did we call for the enactment of laws that would advance transparency and, as a consequence, critical analysis of the social, economic and political dynamics that shape our society.

Media ownership and Agenda setting

After Minister of Information and Communication Technology, Joel Kaa-panda, presented his annual budget in the National Assembly in March 2012, it was clear that central government was determined to be more involved in setting the editorial agenda for state-owned media.

The New Era newspaper and *Namibian Broadcasting Corporation* were heavily criticized for not sufficiently covering government's programmes and policies. This was despite the ruling Swapo Party and its executive office bearers continuing to enjoy extensive coverage on news and current affairs programmes.

It was also questioned whether there is a need for *New Era* when it is more critical of government than commercial



media. For the 2012/2013 financial year state-owned media cost the taxpayer N\$134 million.

And then there is the ever beleaguered and technically bankrupt NamZim Papers, a joint venture between *New Era* and *Zimpapers* of Zimbabwe, which published weekly regional newspaper *The Southern Times*.

MISA Namibia does not support government enforcing its agenda on media, whether state-owned or not; and we reiterate our call for the *NBC* to be transformed into a public broadcaster. It is only when media are free from external interference and pressure, whether governmental or commercial, that we can truly live up to our mandate to be objective and balanced.

As in 2011, the media landscape continued to undergo a transformation in relation to ownership. *The Democratic Media Trust of Namibia* sold Desert Trade Investments, a company which held 50% shares in Democratic Media Holdings (DMH), to Stimulus Investments.

South African media conglomerate, Media24, maintained its 50% shareholding in DMH.

DMH currently publishes the Afrikaans daily *Die Republikein*, German daily *Allgemeine Zeitung*, and English

daily *Namibian Sun*. It also owns Newsprint Namibia, which prints all Namibian newspapers and commercial publications.

The editorial slant of DMH media outlets does not appear to have been affected by Stimulus' entry as a major media stakeholder, but there have been changes at senior editorial staff level. Most notably, the appointment of Toivo Endjebela, who became the first black editor within the DMH group.

Community media, in particular community radio, continues to face serious challenges, with the lack of good governance as one of the main contributing factors. There is a great need for community ownership, participation and control, while the lack financial sustainability remains an obstacle towards institutional sustainability.

There seems to be a lack of understanding, or indifference, among Namibian stakeholders about the importance of community media in the furtherance of democracy, poverty reduction and literacy. But, with the support of Deutsche Welle (DW.DE), Unesco and Fesmedia, there are a number of capacity building initiatives, which should positively contribute to the sector.

Reform or Deform?

In 2012, civil society and the media reasserted itself with regards to the need for an access to information law in Namibia. At a groundbreaking conference held in August, all sectors of society gathered to discuss access to information as fundamental to freedom of expression, and how the lack of it negatively influences them. Organised by MISA, in partnership with the ACTION Namibia Coalition, which consists of MISA Namibia, Insight Namibia Magazine and the Institute for Public Policy Research (IPPR), the two-day conference was preceded by a training workshop for senior journalists in access to information.

A concerted multi-sectoral campaign on access to information was launched at the conference, and 2013 should raise awareness on access to information as a basic human right, and not only as a media freedom related issue. Government has, despite several calls for the enactment of such legislation, procrastinated drafting one.

The Law Reform and Development Commission (LRDC) however committed itself to act, and a legal drafters' workshop should set the ball rolling in 2013. We however need to ensure that we do not end up with a Protection of Information Bill, as was the case in South Africa.

Namibia's migration from analogue to digital in line with the Roadmap for Digital Broadcasting in SADC, seems to be an easier process for the NBC than commercial One Africa Television, and this is mainly cost related. As a state-funded institution, the NBC has funding

and resources available to migrate, but the same cannot be said for One Africa. The NBC also seems to set the migration's tone, although it should be lead by the multi-sectoral National Digitalization Forum, established by the Ministry of Information and Communication Technology. This raises questions regarding conflict of interest, is it conducive for the NBC to be both a player and a referee in this process? It is argued that Telecom Namibia is best placed to be a leader in this process.

Initially, all indications were that government will fund the migration, but this seems to no longer be the case.

At the time of going to press, there was no budget for the migration, and stakeholders had no indication how much it will cost them.

The SADC deadline for migration is December 2013, while the International Telecommunication Union's (ITU) deadline is June 2015.

Freedom and Responsibility

The admirable freedom we have to do our work seems to have to contributed to us forgetting the fundamentals of journalism and the important role we have as the Fourth Estate.

MISA Namibia is concerned by the deterioration in quality and ethical journalism, this can be attributed to media houses being more concerned with profit margins than content, and the lack of trained journalists, which leads to the juniorisation of newsrooms.

Despite the provision of media studies at the two main tertiary institutions,

it has not translated in the improvement of journalistic standards. This could be because graduates do not necessarily enter the newsroom, but pursue more financially gratifying careers, such as public relations.

At a recent strategic planning MISA recommitted itself to the capacity building of journalists through training and other interventions. We are confident that this will result in the improvement of journalism, and the realisation that advocacy journalism is required for us to experience more rapid socio-economic change.

With regard to legal actions, a highlight was journalist John Grobler winning his defamation case against ruling party Swapo, after defamatory statements were made about him on the party's website. He was called "a Koevoet soldier (ekakunya) who, along with his fellow brutal apartheid henchmen committed untold atrocities to the Namibian people." and, "Simply put, his hands are soaked in the blood of the Namibian people." Free Press Namibia and *The Namibian* newspaper also enjoyed victory in the courts, when former Walvis Bay Municipality Chief Executive Officer Augustinus Katiti's defamation claim against the paper was dismissed with costs in the High Court.

They however were served with another legal suit in October by Presidential pilot Alois Nyandoro, who claims that an article published in 2010 was defamatory. The case is ongoing.

In November, *Informanté* newspaper was ordered to compensate Deputy Commissioner General of Correc-

tional Services Tuhafeni Hangula, with N\$50,000. Judge Dave Smuts ruled that the newspaper was unsuccessful in a proving, on a balance of probabilities, the truth of the allegations against Hangula.

We are fortunate to have a judicial system that continues to adhere to the rule of law, and the principles that guide them in ensuring that justice prevails.

In conclusion, we have just more than a year before watershed elections in 2014. The media's role in informing, educating, and critically analysing political leadership and their performance will be more pronounced during this period.

It is our hope, and intention, that Namibian media will play a constructive and influential role during this time, and that we will not suffer conflict, victimization and isolation as a result of this. Ultimately, we would like the public to vote for democracy, progress and freedom from poverty and all other social ills. MISA Namibia will be at the forefront of our journey towards a stronger democracy.

PORTUGUESE VERSION

Introdução

O período em revisão apresenta avanços e retrocessos na comunicação social da Namíbia. Infelizmente, houve um revés notável em áreas-chave para a existência de um ambiente mediático robusto, independente e pluralístico.

Desde a sua independência em 1990, a Namíbia foi sempre um dos países com melhor desempenho em termos de condições básicas que permitem os órgãos de informação exercer a sua função sem muita interferência de forças externas.

O facto de a declaração de Windhoek ter sido lavrada na Namíbia orgulha-nos bastante, uma vez que é uma declaração histórica de princípios de imprensa criada e aprovada pelos jornalistas dos jornais de África no dia 3 de Maio de 1991. A declaração ressalta que a imprensa é essencial á democracia e que é um direito humano fundamental. No entanto, todo o conforto, a liberdade e aclamação internacional fizeram-nos olvidar a preciosidade do que temos, bem como a necessidade de prezarmos, protegermos vigorosamente e de fortalecê-lo. Ao invés disso, passamos, aos poucos, a negligenciar o nosso empenho ao jornalismo ético e de qualidade.

Não criámos a agenda, nem fizemos lobby de grande vergadura para a revogação de leis que restringiam a liberdade de expressão. Não conseguimos entender a nossa importância na edificação

de uma democracia vibrante, inclusiva e progressiva. Nem exigimos a legislação de estatutos que melhorariam a transparência e, consequentemente, análise crítica da dinâmica social, económica, e política que moldam a nossa sociedade.

Propriedade dos órgãos de informação

Após a apresentação do orçamento anual do Ministro da Tecnologia e Comunicação, Joel Kaapanda, à Assembleia Nacional em Março de 2012, ficou claro que o governo central estava determinado a ter mais envolvimento na definição da agenda editorial dos órgãos de comunicação estatais.

O jornal *New Era* (Nova Era) e a *Namibian Broadcasting Corporation* (Canal de Transmissão da Namíbia) foram alvos de fortes críticas por não fazerem cobertura suficiente dos programas e políticas do governo embora o partido no poder (SWAPO) e o seu executivo terem cobertura extensa em programas de notícias e assuntos da actualidade.

Questionou-se também a necessidade de haver o *New Era*, uma vez que mais crítico sobre o governo do que os órgãos de informação comerciais. Os órgãos de comunicação estatais custaram, ao contribuinte, N\$134 milhões no ano financeiro de 2012/2013.

Há ainda os jornais Namibianos-Zimbabueanos que estão em situação difícil e, tecnicamente em falência – um empreendimento conjunto entre a *New Era* e *Zimpapers* do Zimbabwe, que publicava o semanário regional *The Southern Times*.

O MISA-Namíbia não alinha com a imposição da agenda do governo sobre os órgãos de informação independentemente de serem estatais ou não; e reiteramos O NOSSO apelo de que a NBC seja transformada em órgão de informação público. Amenos que os órgãos de informação estejam livres de interferência e influência externas, governamentais ou comerciais, não estaremos à altura do nosso mandato de manter a objectividade e o equilíbrio.

Tal como em 2011, o cenário mediático continuou a ser transformado no tangente à propriedade. A Democratic Media Trust of Namibia procedeu a venda a venda da Desert Trade Investments, uma empresa que tinha 50% das acções da Democratic Media Holdings (DMH), à Stimulus Investments.

O Conglomerado mediático sul-africano, Media24, manteve os seus 50% de acções na DMH.

Actualmente, a DMH publica o diário em Afrikaans *Die Republikein*, o diário alemão *Allgemeine Zeitung*, e o diário inglês *Namibian Sun*. É também proprietário da Newsprint Namibia, que imprime todos os jornais e publicações comerciais namibianas.

A perspectiva editorial dos órgãos de informação da DMH não aparenta ter sido afectada pela entrada da Stimulus como grande accionista dos órgãos de informação. Não obstante, houve mudanças ao nível da direcção, mais notável das quais foi a nomeação de Toivo Endjebela, que tornou-se o primeiro editor negro no grupo DMH.

Os órgãos de informação comunitários, sobretudo a rádio comunitária

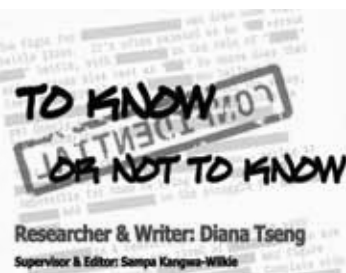
continua a enfrentar grandes desafios, e falta de boa administração é uma das principais causas. Precisa-se muito de propriedade, participação e controlo por parte da comunidade, embora a falta de sustentabilidade financeira represente um obstáculo para a sustentabilidade institucional.

Parece haver falta de compreensão, ou indiferença entre os intervenientes namibianos sobre a importância dos órgãos de informação no avanço da democracia, na redução de pobreza e na alfabetização. Não obstante, com o apoio da Deutsche Welle (DW.DE), Unesco e Fesmedia, há muitas iniciativas de capacitação que deverão ter um impacto positivo no sector.

Reforma ou Deformação?

Em 2012, a sociedade civil e os órgãos de informação reafirmaram a necessidade de ter-se, na Namíbia, acesso à lei da informação. Numa conferência renomada que teve lugar em Agosto, todos os sectores da sociedade reuniram-se para a discussão da fundamentalidade do acesso à informação para a liberdade de expressão, e como a sua falta influenciava-os. A conferência de dois dias, organizada pelo MISA, em parceria com a ACTION Namibia Coalition, constituída pelo MISA-Namíbia, a revista Insight Namibia e o Instituto para a Investigação das Políticas Públicas (IPPR), foi antecedida por um workshop para jornalistas de categoria elevada sobre o acesso à informação.

Lançou-se, na conferência, uma campanha multi-sectorial sobre o acesso



à informação, e o ano 2013 será para sensibilização sobre o acesso à informação como direito humano básico, e não apenas um assunto respeitante à liberdade dos órgãos de informação. Apesar de tantos apelos no sentido de para uma tal legislação, o governo tem procrastinado o início do ante-projecto.

No entanto, a Comissão de Legislação e Reforma Legislativas (LRDC) comprometeu-se com uma lei, e deverá haver, em 2013, um workshop com os responsáveis por redigir as leis e o processo deverá começar em 2013. Entretanto, precisamos certificar que isso não venha resultar num Ante-Projecto de Lei de Protecção da Informação, que foi o caso na África do Sul.

A migração namibiana do análogo ao digital, em conformidade com o Guião para a Difusão Digital na SADC, parece ser mais fácil para a NBC do que para a televisão comercial One Africa, o que se deve primariamente aos custos. Sendo uma instituição financiada pelo estado, a NBC dispõe de fundos e recursos para a migração, o que não se pode dizer sobre a One Africa. A NBC também aparenta ditar o passo, o que devia ser feito pelo Fórum multi-sectorial para a Digitalização Nacional, Estabelecida pelo Ministério das TIC. Isto suscita perguntas

sobre o conflito de interesses, será condescendente que a NBC seja jogadora e árbitra neste processo? Argumenta-se que a Telecom Namíbia está em melhor altura de liderar o processo.

A princípio, tudo indicava que o governo financiaria a migração, o que não parece ser mais o caso.

Na altura da publicação do presente, não havia orçamento alguma para a migração, e os intervenientes não a mínima noção dos custos implicados.

A data-limite da SADC é Dezembro de 2013, ao passo que a data-limite da União de Telecomunicações Internacional (ITU) é Junho de 2015.

Liberdade e Responsabilidade

A admirável liberdade de trabalho que temos parece ter contribuído para o nosso olvido os princípios fundamentais de jornalismo e o nosso papel importante na qualidade de Quarto Estado.

A MISA-Namíbia está preocupada com detrimento do jornalismo em termos de qualidade e ética, o que possivelmente se deve aos objectivos lucrativos ao invés de publicar artigos ricos em conteúdos, bem como a falta de jornalistas formados, que leva à pobre qualidade de jornalismo.



Apesar de administrar-se cursos mediáticos nas duas instituições de ensino superior, não se traduziu em melhoria dos padrões jornalísticos, possivelmente porque os licenciados nem sempre ingressam na carreira jornalística. Ao invés disso, encetam carreiras mais remunerativas, tal como as Relações públicas.

Recentemente, num planeamento estratégico, o MISA recomprometeu-se à capacitação de jornalistas mediante a formação e outras intervenções. Estamos convictos que isso resultará no aprimoramento do jornalismo, e a realização do jornalismo de advocacia é necessária para que as mudanças económico-sociais sejam mais rápidas.

No tangente às acções judiciais, importa ressaltar que o jornalista John Grobler venceu o caso de difamação contra o partido no poder, SWAPO, após a publicação de declarações difamatórias a seu respeito no website do partido. Foi tratado por "soldado Koevoet (ekakunya) que, com os outros brutos fanáticos do apartheid, cometeu várias atrocidades contra o povo namibiano." e, "Em suma, as suas mãos estão encharcadas de sangue do povo namibiano." A *Free Press Namibia* e o *The Namibian* também tiveram uma vitória judicial quando

a alegação de difamação do ex-Director Executivo da Câmara Municipal de Walvis Bay, Augustinus Katiti, contra o jornal foi rejeitado pelo tribunal supremo.

No entanto, em Outubro foram alvo de mais um processo, aberto pelo piloto Presidencial, Alois Nyandoro, que, segundo alega, um artigo publicado em 2010 foi difamatório. O processo continua.

Em Novembro, o jornal *Informanté* recebeu uma ordem do tribunal a pagar uma indemnização de N\$50,000 ao Vice-Comissário Geral dos Serviços Correccionais, Tuhafeni Hangula. Segundo a decisão do Juiz Dave Smuts, o jornal foi incapaz de provar, numa escala de probabilidades, a veracidade das alegações feitas contra Hangula.

Felizmente, temos um sistema judicial que não está a se desviar dos princípios de um estado de direito que garantem a prevalência da justiça.

Em conclusão, temos pouco mais de um ano ante das eleições importantíssimas de 2014. O papel dos órgãos de informação de informar, educar e, de modo crítico, analisar a liderança política e o seu desempenho será mais acentuado nessa época.

Esperamos, e é da nossa intenção, que os órgãos de informação da Namíbia

desempenhem construtivo e influente nessa época e que não sejamos vítimas de conflitos, opressão e exclusão social advenientes. Desejamos que o povo vote pela democracia, pelo progresso, e pelo livramento da pobreza e de todos outros males sociais. O MISA-Namíbia estará na liderança da nossa caminhada rumo à democracia.

Alert

Date: January 18, 2012

Person/ institution: John Grobler

Violation/ issue: Legislation

Four businessmen accused of assaulting a freelance journalist in 2010 at a bar in Windhoek will on 9 March 2012 find out whether or not they are off the hook, says a report by New Era.

Businessmen, David Imbili, Kiriata Kamanya, Desmond Amunyela and Agab Zedekias Gowaseb face a charge of assault to do grievously bodily harm after they allegedly assaulted freelance journalist John Grobler on 9 January 2010 at Pharaoh's Lounge, a bar in Klein Windhoek.

Alert

Date: January 24, 2011

Person/ institution: The Namibian

Violation/ issue: Legislation

Local news papers reported that, the N\$300 000 defamation claim of former Walvis Bay Municipality Chief Executive Officer Augustinus Katiti against The Namibian is due to continue after a ruling was given in Katiti's favour in the High Court in Windhoek. In the ruling by Acting Judge Petrus Unengu an application by the newspaper, its former editor, Gwen Lister, and Swakopmund-based reporter Adam Hartman for Katiti's defamation claim against them to be dismissed was itself dismissed with costs.

August 8, 2012: The defamation claim of former Walvis Bay Municipality Chief Executive Officer Augustinus Katiti against The Namibian continued in the High Court in Windhoek Wednesday 7 August 2012. The case was adjourned in January

2012 after Acting Judge Petrus Unengu dismissed an application by *The Namibian* for the defamation claim against them to be dismissed. Gwen Lister, former Editor of the newspaper said in their defense, "During pre-independence, we spoke out for the oppressed. Post-independence, it continued its strong, independent stance to be a watchdog; to be the conscience of the people." She further argued that though at the time the article was published Augustinus Katiti has retired what he does as a prominent figure was and is still in public interest.

Communiqué

Date: January 31, 2012

Person/ institution: John Grobler

Violation/ issue: Legislation

The matter in which freelance journalist Jonathan Grobler is suing the Minister of Justice and Secretary-General of Swapo Party, Pendukeni Iivula-Ithana, and the Swapo Party over allegations that Grobler was a "Koevoet" member resumed in the Windhoek High Court on the 30th January 2012 yesterday. Grobler is suing the secretary-general and the ruling party for libel in an article that was allegedly published on the party's website alleging that the freelance journalist was a member of Koevoet, "whose hands are soaked in the blood of the Namibian people", reported *New Era*.

Alert

Date: February 3, 2012

Person/ institution: Tileni Mongudhi, Insight magazine

Violation/ issue: Other?

Barely four months after launching a scathing verbal attack on *Namibian Sun's*

Editor Jan Poolman, it is reported that Youth Minister Kazenambo Kazenambo, allegedly attacked another journalist.

According to published reports, this time around the Cabinet Member verbally abused *Insight* and freelance journalist Tileni Mongudhi, calling him a "stupid, unqualified, inexperienced Owambo journalist" during a heated interview last month.

Communiqué

Date: April 19, 2012

Person/ institution: Namibia Broadcasting Corporation (NBC)

Violation/ issue: Other

MISA Namibia has called upon members of the public, including political office bearers, to embrace and promote a free and independent media but also to support the transformation of the state-controlled broadcaster, Namibia Broadcasting Corporation (NBC) into a Public Service Broadcaster (PSB).

A public service broadcaster, as commonly understood, is fully independent in all editorial and operational matters and free from any possible interference from external interests, especially political.

Communiqué

Date: 29 June 2012

Person/ institution: Communication Regulatory Authority of Namibia

Violation/ issue: Other

The Communication Regulatory Authority of Namibia (CRAN) has recently issued a statement announcing that they will be opening the airwaves soon. This development comes shortly after local media reported that a new radio station

called Hitradio will air soon and will be broadcasting 70% in German and 30% in English.

Alert

Date: September 21, 2012

Person/ institution: Uushona Hiskia and Selma Ikela

Violation/ issue: Detained

The Namibian Broadcasting cooperation (NBC) Cameraman Uushona Hiskia and Namibian Sun newspaper journalist Selma Ikela were detained briefly on September 20, 2012 at the Katutura Magistrate Court for filming and taking pictures in court. The pair was covering a court case involving two suspects (20 and 21 years old) accused of 3 cases of armed robbery and assault at the Katutura Magistrate Court.

Alert

Date: October 2, 2012

Person/ institution: The Namibian newspaper

Violation/ issue: Legislation

The Namibia newspaper is back at court yet again on charges of defamation, this time they are taken to court by the Presidential pilot Alois Nyandoro. He is suing the Free Press of Namibia (PTY) Ltd, which is the company owning The Namibian, the newspaper's former editor, Gwen Lister, and a former journalist, Jana-Mari Smith, for N\$ 500 000 (US\$ 61,069.30) in connection with an article which was published in the March 11, 2010. According to a report by *The Namibian* Nyandoro claims that a story published under the headline "Air Namibia 'bypasses' pilot

licensing rules", was defamatory as it alleged that he abused his position and office to solicit for a license to be issued a South African pilot under falsified information.

Alert

Date: October 15, 2012

Person/ institution: New Era newspaper

Violation/ issue: Legislation

The Namibian newspaper reported on Wednesday 10 October, that the Government-owned newspaper *New Era* is reviewing its editorial and recruitment policies in an apparent attempt to exert more control over the paper's reporting. According to the report, the board chairman, Ben Mulongeni, has confirmed the review, but said that it was not aimed at muzzling the paper.

Alert

Date: October 17, 2012

Person/ institution: Jihad Karools, Informante

Violation/ issue: Assaulted

Jihad Karools, a reporter with a weekly tabloid, *Informanté*, was on Thursday, 11 October 2012 assaulted by Jamaica Awaseb, a representative of Ehupo Trading Enterprise, the company responsible for distributing maize meal to government schools. Karools was assaulted after an article citing Awaseb titled "Illegally storing a large consignment of maize meal bags in in-laws's house" was published. MISA-Namibia condemns any attack on media practitioners in their line of duty, as violence will not serve

to stifle/coerce/silence the voice of the media. The media has a rightful duty to investigate and report ably on matters of public interest. The public has a right to know.

Alert

Date: November 29, 2012

Person/ institution: Windhoek

Observer

Violation/ issue: Threatened

The leadership of the Swapo Party Youth League threatened to kick out the editor of the *Windhoek Observer*, Kuvee Kanguuchi, from its media conference at the Swapo Party headquarters in Windhoek recently. Local newspapers reported that, an argument started between Kanguuchi and Job Amupanda, the youth wing's spokesperson, after SPYL secretary Elijah Ngurare had charged that some newspapers "spice up" news reports to suit their agendas. Ngurare singled out Kanguuchi and reporter Diana Ndimbira for "spicing up stories". He charged that the youth wing had been called "all sorts of names" in newspaper articles. Kanguuchi advised that saying that instead of singling out his newspaper, the youth leaders should address the issues for which the press conference was called.

Alert

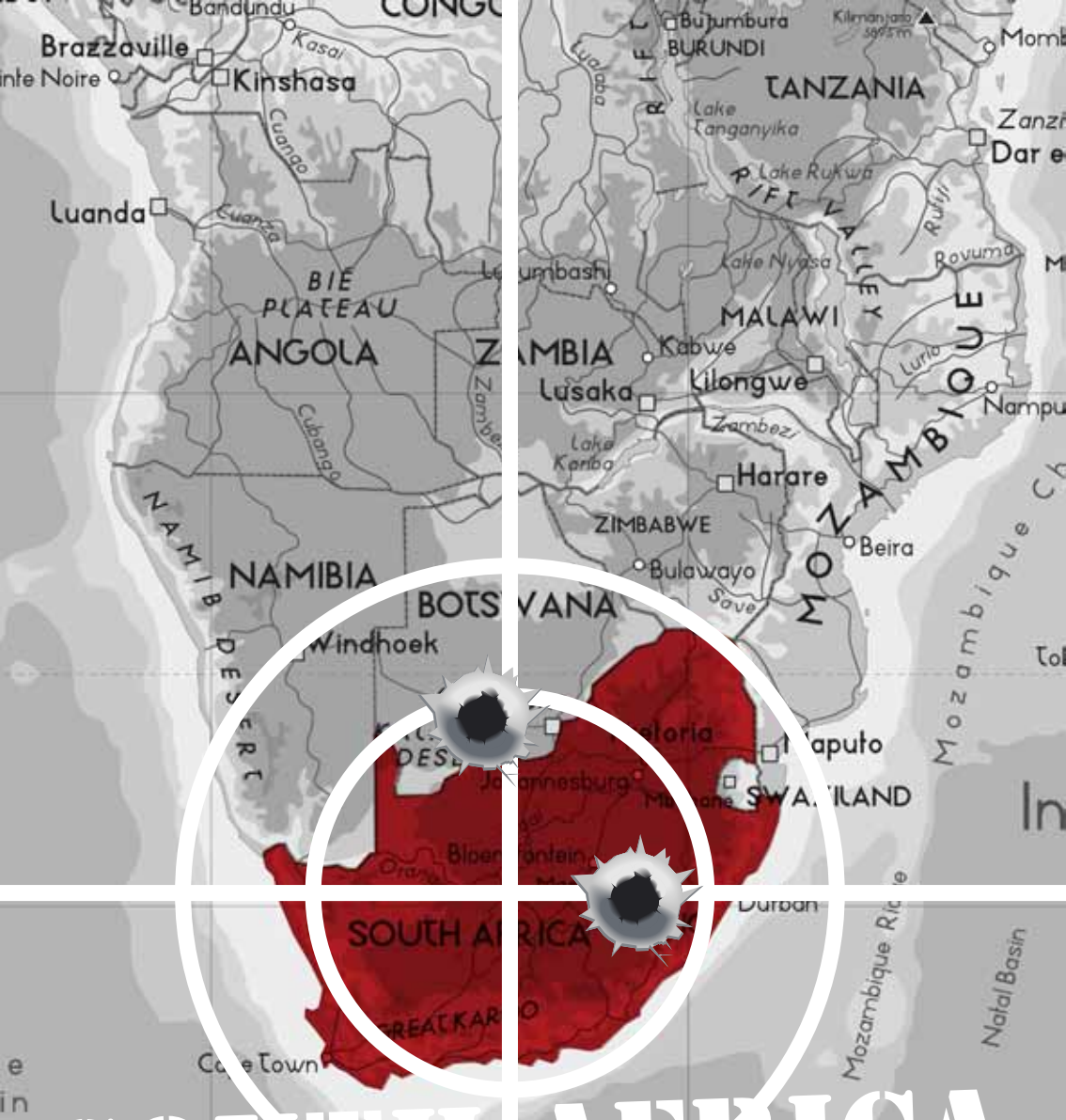
Date: December 3, 2012

Person/ institution: Informanté

Violation/ issue: legislation

The Windhoek High Court on the 26 November 2012 ordered the *Informanté* newspaper to pay N\$ 50 000 (USD\$ 5,

567.18) in damages to a senior prisons official. Informanté is a weekly tabloid owned by Trustco Company and is distributed every Thursday for a minimal fee. The Deputy Commissioner General of the Correctional Services, Tuhafeni Hangula, sued Trustco and the editor of Informanté following an article published in December 2011. The article which appeared on the first page was titled "Prisons Deputy helps bank-fraudster escape". It alleged that, " the ringleader and the first accused in a record of N\$1,500 000 (USD\$ 1, 670, 160) bank card cloning fraud case , Amirthalingam Pugalnanthy, a Sri Lanka national was granted free passage to flee Namibia in February 2009 after paying N\$ 150 000 (USD\$ 16,701.6) bribe to Prisons Deputy Tuhafeni Hangula. The article further claimed that the suspect who was at that time out on a N\$200 000 (USD 22,268.7) bail, was allegedly escorted by two police officers in a vehicle with government registration number to the Noordoewer Border Post in the South on 21 February 2009.



SOUTH AFRICA



National Overview
by Glenda Daniels

Senior Researcher, Wits Journalism

Introduction

It was a traumatic and tumultuous year for media freedom in South Africa's nearly two-decade-old democracy.

Journalists, reeling from the tumult of 2012's Protection of State Information Bill (widely known as the Secrecy Bill), realised that worse was to come when the increasingly insecure ruling party, the African National Congress (ANC) reaffirmed its commitment to a statutory Media Appeals Tribunal (MAT) at its December 2012 Mangaung policy conference.¹ If implemented, this would constitute political oversight of the media.

The year 2012 kicked off with presentations by editors, civil society groups, government and the ANC to the Press Freedom Commission (PFC) about regulation of the print media in January. By the middle of the year, the mood veered onto an unprecedented path when the ANC staged a mass march against a painting of President Jacob Zuma, and called for the boycott of a Sunday paper, *City Press*. ANC spokesperson, Jackson Mthembu urged party supporters not to buy the newspaper. "Don't buy City Press, don't buy," he urged them.

Shortly after this it became clear that the draconian Secrecy bill was inches away from being passed. Then the MAT idea which journalists thought was dead as press reforms had replaced it, realised

they'd been mistaken. By January 2013, Reporters Without Borders downgraded South Africa for freedoms of information. It lost its place in the top 50 positions in the world by ten notches, hurtling down from place 42 to 52. So what happened in SA vis-à-vis press freedom, freedom of information, and censorship?

Secrecy bill, Paia and National Key Points Act

The most serious of all 2012's developments was the fact that the Secrecy Bill was passed in Parliament. Two sets of laws enable the free flow of information. First, Section 16 of the Constitution guarantees a free media under the principle of freedom of expression: *Everyone has the right to freedom of expression, which includes a) freedom of the press and other media; b) freedom to receive or impart information or ideas; c) freedom of artistic creativity; and academic freedom and freedom of scientific research.*

However, no right is absolute, and so freedom of expression, for instance, is balanced against other rights such as "human dignity". Second, the Promotion of Access to Information Act (Paia) of 2000 – which stipulates that information, should flow freely, in the interests of transparency and democracy. The Secrecy Bill stands in direct contradiction to Paia. If the Secrecy Bill were enacted, it would prevent certain stories from being published as it allows a broad range of information to be classified as secret. The bill, up for enactment in 2013, does not protect a journalist or whistleblower from being jailed for passing on and publishing classified informa-

¹ The Mangaung December 2012 resolution read: "...the ANC reaffirms the need for Parliament to conduct an inquiry on the desirability and feasibility of MAT within the framework of the country's Constitution..."



tion, which would be a threat to “national security”. The public interest override is not adequate and this has been the major contention by right to information activists. The National Assembly voted the Secrecy Bill in on 22 November 2011, by a hefty ANC majority (229 to 107).

The second tier of Parliament, the National Council of Provinces (NCOP) conducted public consultations at which many members of the public protested against the implications of the Bill. Amendments were made but not enough to protect journalists. In November 2012, the NCOP passed the Bill. In 2013 the Bill will go before the National Assembly one more time, before it proceeds for the president’s signature. Then it is law.

The Right2Know (R2K) coalition, consisting over 400 organisations and over 30,000 individuals, consistently fought the Bill from its inception. Once the Bill is enacted the Confederation of South African Trade Unions (Cosatu), the R2K and the South African National Editors’ Forum (Sanef) intend challenging it in the Constitutional Court.

Already, journalists struggle to acquire information in the public interest, as they are up against the National Key Points Act, of 1980 (protecting “installations of strategic importance”), legisla-

tion from apartheid days. According to R2K using this act has increased by 50% over the past five years to stop the flow of information. The most recent case was the Public Works Ministry blocking financial info to journalists about president Jacob Zuma’s R280-million (approximately US\$30-million) development of his homestead in Nkandla, Kwazulu-Natal province. Thus, the president has been shielded from scrutiny.

From Self-regulation to “Independent co-regulation”

Seemingly unrelated, a move from within the industry itself, cut into media freedom, was the switch from self-regulation to “independent co-regulation”. While industry players, from Sanef to the Press Council, emphasised that a review of self-regulation had nothing to do with the ANC’s criticism of the press, and its desire for a MAT, and the review was a “completely independent process”, from an outsider perspective, it appeared to be a trade off, and a response to the ANC’s and South African Communist Party’s numerous complaints about the “untransformed and bourgeoisie media”. The ruling party’s view was that the Press Council had no “teeth”, was not independent of



the press, and so the errant media which had an "oppositional" ideological outlook, needed to be brought in line. Parliament, (the majority of whose members are ANC) would have ultimate oversight if a MAT were constituted. Against this background, the PFC was set up. Sanef, Print & Digital Media SA (PDMSA), representing more than 700 newspaper and magazine titles) and the Press Council, said they would conduct their own assessment of regulation. They set up the Press Freedom Commission (PFC), headed by former Chief Justice Pius Langa, in July 2011.

PFC commissioners visited the United Kingdom, Denmark, Tanzania and India conducting research into different types of regulation. After January 2012 public hearings, the PFC then asserted, without convincing evidence and reason, that "independent co-regulation" was the best for model to adopt for South Africa. The ANC responded positively and the media thought the MAT idea was now dead. Hence, in October 2012, Sanef, PDMSA and the Press Council accepted the PFC's recommendation, for independent co-regulation, a system that commenced operation in January 2013. There will be more serious punishments for newspapers that ignored the Press Council's calls to hearings, and more members of the

public will be involved in governing the press.

Then, at the ANC's elective conference in December 2012, the media discovered that the MAT resolution had been reaffirmed.

Censorship and Freedom of Expression

A depiction of president Zuma's penis featured in a painting by artist Brett Murray and displayed in Rosebank's (Johannesburg) Goodman Gallery in May 2012. The painting came to be known as "The Spear of the Nation". The satirical depiction was of Zuma as a Leninist figure, fully clothed but with his penis popping out. It was art for supporters of artistic freedom and freedom of expression. The ANC, and many of its members, saw it as an affront to Zuma's dignity.

The party whipped up a frenzy of support and thousands marched to the gallery, ordering the painting to be removed.² The gallery's management was chastised and intimidated, eventually removing the painting. The ANC then bullied *City Press* editor Ferial Haffajee to remove the depiction from its website. She refused

² See *City Press*: Spear Divides ANC 27 May 2012

but later caved in under pressure and anonymous threatening phone calls. The SACP and the ANC called for a banning of the painting, and its members burnt copies of *City Press*. Five months later, by October 2012, Haffajee said she was manipulated; she regretted her decision to remove the painting: "We were played," she said.³ The ANC had shown its pattern of paranoia its reactions. The same pattern was evident with presidency spokesperson, Mac Maharaj's reaction to *Mail & Guardian* accounts of alleged corruption with transport tenders and Swiss bank accounts.

Criminal charges against journalists: 26 July 2012: *M&G* editor Nic Dawes and amaBhungane journalists Stefaans Brummer and Sam Sole were charged with "theft" of confidential records and disclosing information for which they could get 15 year sentences after they published a story in November 2011, alleging that Maharaj and his wife received large sums of money through the arms deal. The hysteria moves from spurious theft charges against journalists to pulling television programmes from the public broadcaster, dubbed party broadcaster, (the SABC) if they are too critical.

SABC politicisation: The tension between freedom of expression and rights to dignity was played out when the SABC found that popular cartoonist, Jonathan Shapiro's "Zapiro" cartoons were too "insulting" to President Zuma. Hence, in the first week of December

2012 it dropped a pre-recorded interview with the cartoonist. "We are very sensitive about all peoples' rights and dignity and so we could not carry that interview, Zapiro must do what he does best, but we disagree and we can't endorse his cartoons on our platform," said CEO Hlaudi Motsoeneng.⁴ Shapiro said he was "blacklisted" for the third time. The other two occasions were on SABC radio: *Metro FM* and *5FM*.

In a further SABC censorship incident, on 7 November 2012, head of news Jimi Matthews blacklisted from his journalists from using the term "Nkandlagate" in their reports. The term described the inordinate amount of money, about R280-million (approximately US\$30-million), on Zuma's homestead development in KwaZulu-Natal.

The SABC, the biggest media body in the country, lurched from crisis to crisis (management, leadership, board and financial) in 2012. This seemed to be the position of the SOS Coalition, which was set up to monitor the role of the SABC, shine a light on corruption, review broadcasting policy, and try to steer the institution towards being a public broadcaster rather than a party mouthpiece.

Then there were new concerns when the SABC linked hands with the ANC's **benefactor**, The New Age (TNA), to conduct what are termed "business breakfasts" which cost hundreds of thousands and funded by mainly by State-owned enterprises (SOEs), indirectly the State, and therefore the taxpayer. These break-

3 She made this comment at the launch of the book *Fight for Democracy: The ANC and the Media in SA*, 10 October 2012, at Wits University, where she was guest speaker.

4 M&G: Zapiro cartoons too insulting for SABC: December 14-20, 2012.

fasts seem to be overpriced but they have been defended by interested parties.

TNA, Breakfasts, and the Guptas

The Gupta family, who are close friends with president Zuma, own TNA, a "good news" publication highlighting government's positive work. The TNA refuses to release circulation figures, but has substantial, full-page colour advertising, mainly from State-owned enterprises and government departments. TNA teamed up with SABC, to organise "networking" breakfasts. The press exposed the splurges: Gauteng premier Nomvula Mokonyane sponsored one breakfast for R683,095 (approximately US\$74,00). The premier's office was also invoiced for 500 guests at R801.78 (just under US\$100) per head, totalling R400,890 (approximately US\$43,000); and four front-page advertisements at R44,070 (just under US\$5,000) each, amounting to R176,280 (approximately US\$19,000).⁵ The trend of business breakfasts look set to continue in 2013 and politicians (including opposition party leader Helen Zille's), government may continue endorsing the one newspaper, and one broadcaster event.

However, amidst the doom, there were some media freedom victories.

Victories

- Zuma dropped charges: on 28 Oc-

tober 2012, Zuma dropped his R5-million (approximately US\$540,000) lawsuit against "Zapiro" for the Lady Justice cartoon, which depicted him unzipping his trousers to rape the justice system. This was hailed as a victory for freedom of expression. The bad news is that the seemingly litigious president has 15 more claims against other media, totalling about R50-million (approximately US\$5,500,00), according to lawyer, Dario Milo.

- Media's secret sources: In November 2012, a landmark judgement by the Constitutional Court in the case of a newspaper protecting its sources against security and management company Bosasa was hailed a press freedom victory. The *Mail & Guardian* would not disclose its confidential sources from which it was able to break stories of tender corruption going into multimillions. Bosasa tried with several courts from the North Gauteng High Court, to the South Gauteng High Court where Judge Moroa Tsoka said protecting ones sources was "the democratic function of the press".⁶ Bosasa went to the Constitutional Court to appeal, and lost, again.

Still, media freedom entered 2013 on the back-foot with the looming twin threats of the Secrecy Bill and MAT, and the uphill battle journalists faced with the National Key Points Act. The struggle for media freedom, freedom of informa-

⁵ <http://www.iol.co.za/news/politics/gauteng-s-r700k-new-age-breakfast-1.1460885#>.
URJdp0l6arc: 30 January 2013.

⁶ Mg.co.za/article/2012-11-22_bosasa-lose-sources-case-appeal-bid-with-costs

tion and expression will continue to burn intensely with the ruling elite growing more insecure as its shenanigans get reported in the media.

This calls for vigilance of the sharpest kind, so that media freedom, a fundamental democratic principle, is not whittled away. The best news is that fearless and robust investigative journalism continues to expose corruption and a lack of service delivery, holding power to account, while courts uphold constitutional principles in favour of a free media, signifying victory for democracy. But this takes place in an increasingly fragile regulatory environment, the progressive Constitution notwithstanding.

PORTUGUESE VERSION

Introdução

Foi um ano de trauma e tumulto para a liberdade de imprensa na África do Sul – país democrático há duas décadas.

Jornalistas, sofrendo com o tumulto do Projecto-Lei de Protecção da Informação do Estado de 2012 (mais conhecido como o Projecto-Lei do Sigilo), perceberam que o pior estava por vir, quando o partido Congresso Nacional Africano (ANC), cada vez mais inseguro, reafirmou o seu compromisso com o Tribunal de Recurso da Comunicação Social (MAT) na sua conferência de Mangaung sobre política em Dezembro de 2012.⁷ Se for promulgado, constituirá uma supervisão política sobre os órgãos de comunicação social.

O ano de 2012 começou com apresentações feitas por editores, grupos da sociedade civil, do governo e do ANC à Comissão de Liberdade de Imprensa (PFC) sobre a regulamentação da imprensa em Janeiro. No meio do ano, o clima mudou inesperadamente quando o ANC realizou uma marcha contra uma pintura do presidente Jacob Zuma, e pediu o boicote de um jornal de domingo, *City Press*. O porta-voz do ANC, Jackson Mthembu exortou simpatizantes do partido a não comprarem o jornal. "Não comprem o

⁷ A resolução de Mangaung (Dezembro de 2012) reza: "...o ANC reafirma que é necessário que o Parlamento faça um inquérito sobre a desejabilidade e praticabilidade do MAT no âmbito da Constituição do país..."

City Press, não comprem", disse ele.

Pouco depois disso, ficou claro que o projecto draconiano da lei do Sigilo estava quase a ser aprovado. Contrariamente ao que pensavam que a ideia do MAT estava morta tendo em vista as reformas de imprensa que substituíram-na, os jornalistas perceberam então que isto não correspondia à verdade. Em Janeiro de 2013, a Reporters Without Borders (Repórteres Sem Fronteiras) rebaixou a África do Sul no tangente à liberdade de informação. A África do Sul desceu, no ranking mundial dos top 50, por 10 posições, i.e., da 42a posição para a 52a. O que terá acontecido na África do Sul face à de iberdade imprensa, à liberdade de informação, e à censura?

Projecto de Lei do Sigilo, Paia e Lei dos Pontos Nacionais Chave

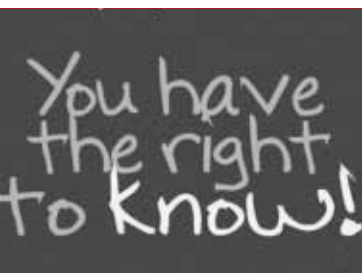
O mais grave de todos os acontecimentos de 2012 foi o facto do Projecto de Lei do Sigilo ter sido aprovado pelo Parlamento. Duas leis permitem o livre fluxo de informações. Primeiro, a Secção 16 da Constituição garante a liberdade de imprensa no âmbito do princípio da liberdade de expressão: Toda pessoa tem direito à liberdade de expressão, que inclui a) liberdade de imprensa e outros meios de comunicação; b) liberdade de receber ou de transmitir informações ou ideias; c) liberdade de criatividade artística; e liberdade académica e liberdade de investigação científica.

No entanto, nenhum direito é absoluto, e assim o direito à liberdade de expressão, por exemplo, é usufruído

sem prejuízo aos outros direitos, como a "dignidade humana". Segundo, a Promoção do Acesso à Informação (Paia) de 2000, as informações, devem fluir livremente, no âmbito da transparência e da democracia. O Projecto-Lei do Sigilo está em contradição directa com a Paia. Se o Ante-Projecto Lei de Sigilo for promulgado, proibirá a publicação de certas notícias, uma vez que classificará uma ampla gama de informações como secretas. O projecto lei, cuja promulgação está prevista para 2013, não protege um jornalista ou denunciante de ser preso por passar e publicar informação secreta, o que constituiria uma ameaça à "segurança de estado". A prevalência do interesse público não é adequada e esta tem sido a grande disputa dos activistas do direito de informação. A Assembleia Nacional votou a favor do Projecto-Lei do Sigilo aos 22 de Novembro de 2011, com uma maioria esmagadora do ANC (229 a 107).

A segunda câmara do Parlamento, o Conselho Nacional das Províncias (NCOP) realizou audiências públicas nas quais muitos membros do público protestaram contra as implicações do Projecto-Lei. Fizeram-se emendas, que não são suficientes para proteger os jornalistas. Em Novembro de 2012, o NCOP aprovou o Projecto-Lei. Em 2013, o Projecto-Lei volta à Assembleia Nacional antes de ser encaminhado ao presidente para promulgação. Dali, será lei.

A coligação Right2Know (R2K), de mais de 400 organizações e mais de 30.000 indivíduos, de forma consistente, opôs-se ao Projecto-Lei desde o seu início. Quando o Projecto-Lei for promul-



gado, a Confederação dos Sindicatos Sul-africanos (Cosatu), a R2K e Fórum Nacional dos Editores Sul-Africanos (Sanef) tencionam desafiá-lo no Tribunal Constitucional.

Os jornalistas já lutam para adquirir informações de interesse público, uma vez que estão contra a Lei Nacional de Pontos-Chave de 1980 ("proteger instalações de importância estratégica"), uma legislação do tempo do apartheid. De acordo com a R2K, o uso desta lei aumentou a 50% nos últimos cinco anos, dificultando assim o fluxo de informações. O caso mais recente foi o bloqueio de jornalistas por parte do Ministério das Obras Públicas, para não obterem informações financeiras sobre a construção da casa do presidente Jacob Zuma em Nkandla, província de Kwazulu-Natal, no valor de R280 milhões (cerca de US\$ 30 milhões). Assim, o presidente foi protegido contra o escrutínio.

Da auto-regulamentação à "co-regulamentação Independente"

Embora aparentemente não estão relacionados, um movimento da própria indústria, envolveu-se na liberdade de imprensa. Trata-se de uma mudança da

auto-regulamentação para " co-regulamentação independente ". Enquanto as partes intervenientes do sector, da Sanef ao Conselho de Imprensa, enfatizaram que a revisão da auto-regulamentação não tinha nada a ver com a crítica do ANC sobre a imprensa e seu desejo de que se crie um MAT, e que a revisão foi um "processo completamente independente", duma perspectiva independente, parecia ser um comprometimento, e uma resposta às inúmeras reclamações e denúncias do ANC – Partido Comunista Sul-Africano – sobre a "os órgãos de comunicação social burgueses e que não se transformam". Segundo o partido no poder, o Conselho de Imprensa não tinha "dentes", não era independente da imprensa, e os órgãos de comunicação social errantes tinham o mesmo ponto vista ideológico "que oposição", e que precisavam ser alinhados. O Parlamento, (cujos membros são maioritariamente do ANC) supervisionaria o MAT. Neste contexto, criou-se o PFC. O Sanef, os Média Impressos e Digitais da África do Sul (PDMSA), que representam mais de 700 títulos de jornais e revistas) e o Conselho de Imprensa, disseram que fariam a sua própria avaliação do regulamento. Criaram então a Comissão de Liberdade de Imprensa (PFC), liderada pelo ex Presi-



dente do Tribunal Supremo Pius Langa, em Julho de 2011.

Os Comissários do PFC visitaram o Reino Unido, Dinamarca, Tanzânia e Índia ao pesquisar sobre os vários tipos de regulamentos. Depois das audiências públicas de Janeiro de 2012, o PFC então afirmou, sem provas e razões convincentes, que "a co-regulamentação independente" é o melhor modelo para a África do Sul. O ANC respondeu positivamente e os meios de comunicação acharam que o MAT estava morto. Assim, em Outubro de 2012, o Sanef, o PDMSA e o Conselho de Imprensa aceitaram a recomendação do PFC de ter-se uma co-regulamentação independente, sistema que começou a operar em Janeiro de 2013. Punir-se-á com mais severidade os jornais que ignorarem os apelos do Conselho de Imprensa de comparecerem nas audiências, e o público estará mais envolvido na administração da imprensa.

Então, na conferência electiva do ANC em Dezembro de 2012, os média descobriram que a resolução MAT tinha sido reafirmada.

Censura e Liberdade de Expressão

Uma representação do pénis do

presidente Zuma apareceu numa pintura de Brett Murray e foi exibida na Galeria Rosebank Goodman (Joanesburgo), em Maio de 2012. A pintura veio a ser conhecida como "A Lança da Nação". A representação satírica era de Zuma como uma figura leninista, completamente vestido, mas com o pénis pulando para fora. Era arte para os adeptos da liberdade artística e liberdade de expressão. O ANC, e muitos de seus membros, encaram isso como uma afronta à dignidade de Zuma.

O partido organizou milhares de membros que marcharam à galeria, ordenando que a pintura fosse removida.⁸ A Direcção da galeria foi repreendida e intimidada, e por fim removeu a pintura. O ANC intimidou então a editora do *City Press*, Ferial Haffajee, a fim de remover a descrição do seu site. Ela recusou-se a fazê-lo, mas depois cedeu à pressão e telefonemas anónimos ameaçadores. O SACP e o ANC apelaram à proibição da pintura, e seus membros queimaram exemplares do *City Press*. Cinco meses depois, em Outubro de 2012, Haffajee disse que tinha sido manipulada; lamentou a sua decisão de remover a pintura: "Nós

⁸ Veja *City Press*: Spear Divides ANC [A Lança divide o ANC] de 27 de Maio de 2012

somos jogados", disse ela.⁹ O ANC mostrou o seu padrão de paranóia nas suas reacções. O mesmo padrão foi evidente com o porta-voz da presidência, Mac Maharaj, na reacção ao relato do *Mail & Guardian* sobre alegada corrupção no concurso para a provisão de transporte e sobre contas bancárias suíças.

Processos-crime contra jornalistas: 26 de Júlio de 2012: o editor da *M&G* Nic Dawes e os jornalistas amaBhungane Stefaans Brummer e Sam Sole foram acusados de "roubo" de registos confidenciais e divulgação de informações pelo que seriam condenados a 15 anos de prisão após terem publicado uma notícia em Novembro de 2011, alegando que Maharaj e sua esposa receberam grandes somas de dinheiro como resultado do negócio de armas. A histeria começou com falsas acusações de roubo contra jornalistas, e alastrou-se à remoção de programas da emissora televisiva pública (a SABC, apelidada emissora do partido no poder) quando forem muito críticos.

Politização do SABC: A tensão entre a liberdade de expressão e direito à dignidade foi minimizada quando o SABC descobriu que os desenhos animados do cartunista popular, Jonathan Shapiro "Zapiro" eram, para o Presidente Zuma, grandes "insultos". Assim, na primeira semana de Dezembro de 2012, o SABC rejeitou uma entrevista pré-

gravada com o cartoonista. "Nós somos muito sensíveis sobre os direitos e dignidade de todos os e por isso não podemos fazer essa entrevista. Zapiro deve fazer o que ele faz de melhor, mas discordamos e não podemos endossar os seus desenhos animados na nossa plataforma", disse o Director Executivo Hlaudi Motsoeneng.¹⁰ Shapiro disse que ele foi posto na "lista negra" pela terceira vez. As outras duas ocasiões foram na rádio SABC: *Metro FM* e *5FM*.

Num outro incidente de censura ainda do SABC aos 7 de Novembro de 2012, o supervisor das notícias, Jimi Matthews, incluiu na lista negra dos seus jornalistas o uso do termo "Nkandlagate" nos seus relatórios. O termo descreve a avultada soma de R280 milhões (cerca de US\$ 30 milhões), para construção da casa de Zuma em KwaZulu-Natal.

Em 2012, a SABC, o maior órgão de comunicação social do país, ia de crise em crise (gestão, liderança, conselho directivo e finanças). Esta parecia ser a posição da Coligação SOS, que foi criada para monitorar o papel do SABC, focar a luz sobre a corrupção, proceder a revisão da política de difusão, e tentar guiar a instituição de modo a tornar-se uma emissora pública, em vez de uma boca de aluguer de um partido.

Em seguida, houve novas preocupações quando o SABC indicou estar de mãos dadas com o **benfeitor** do ANC, A Nova Era (TNA), na realização dos chamados "pequenos-almoços de negócios"

9 Ela fez este comentário por ocasião do lançamento do livro *Fight for Democracy: The ANC and the Media in SA* [A Luta pela Democracia: o ANC e os Órgãos de Comunicação Social], aos 10 de Outubro de 2012, na Universidade de Wits, à qual foi convidada a discursar.

10 M&G: Zapiro cartoons too insulting for SABC [Desenhos animados de Zapiro insultuosos de mais para o SABC]: 14-20 de Dezembro de 2012.

que custam centenas de milhares e que são financiados principalmente por Empresas Estatais, indirectamente pelo Estado, e, portanto, pelo contribuinte. Estes pequenos-almoços parecem ser dispendiosíssimos, mas são defendidos pelas partes interessadas.

A TNA, os Pequenos Almoços, e os Guptas

A família Gupta, que é amiga achegada do presidente Zuma, é proprietária da TNA, uma publicação que destaca "boas notícias" i.e., o trabalho positivo do governo. A TNA recusa-se a divulgar estatísticas de circulação, mas tem publicidade substancial colorida de página inteira, principalmente de empresas estatais e departamentos governamentais. A TNA, trabalha em parceria com o SABC, para organizar pequenos-almoços de "entrelaçamento". A imprensa expôs os factos: O Presidente do Conselho de Gauteng, Nomvula Mokonyane, patrocinou um pequeno-almoço no valor de R683,095 (cerca de US\$ 74,00). O gabinete do Presidente do Conselho também recebeu uma factura de R801.78 pelos 500 convidados (pouco menos de US\$100 por cada pessoa), totalizando R \$400,890 (cerca de US\$43 mil dólares), e quatro de publicidades de primeira página no valor de R44, 070 (pouco menos de US\$5,000) cada, totalizando R176, 280 (cerca de US\$19,000).¹¹ Pelos vistos, os pequenos-almoços de negócios e os

políticos (incluindo o líder do partido da oposição Helen Zille), continuarão em 2013. Portanto, o governo pode continuar endossando o evento de um jornal, e uma emissora.

No entanto, no meio do destino lúgubre, houve algumas vitórias da liberdade de imprensa.

Vitórias

- **Zuma retira as acusações:** aos 28 de Outubro de 2012, Zuma abandonou o litígio com "Zapiro", o equivalente a R5 milhões (cerca de US\$540.000), pelo desenho animado Justice Lady (Senhora da Justiça), que retratava-o abrindo o fecho de sua calça a fim de estuprar o sistema de justiça. Isto foi saudado como uma vitória da liberdade de expressão. Infelizmente, o presidente é aparentemente litigioso e tem mais 15 alegações contra outros órgãos de comunicação, totalizando cerca de R50 milhões (cerca de US\$5,500,00), de acordo com o advogado, Dario Milo.
- **Fontes secretas dos Órgãos de Comunicação social:** Em Novembro de 2012, registou-se um julgamento marcante no Tribunal Constitucional, no caso de um jornal proteger suas fontes contra a empresa de gestão e segurança Bosasa que foi saudado como uma vitória da liberdade de imprensa. O *Mail & Guardian* não revelou as suas fontes confidenciais com base nas quais foi capaz de relatar sobre corrupção em concurso públicos multimilionários.

11 <http://www.iol.co.za/news/politics/gauteng-s-r700k-new-age-breakfast-1.1460885#>.
URJdp0l6arc: 30 de Janeiro de 2013.

Bosasa tentou em vários tribunais, do Tribunal Supremo de Gauteng do Norte ao Tribunal Supremo do Sul de Gauteng no qual o Juiz Moroa Tsoka disse que proteger as fontes de informação era "a função democrática da imprensa". Bosasa recorreu ao Tribunal Constitucional, e perdeu, de novo.

Ainda assim, a liberdade de imprensa entrou no ano 2013 com o pé esquerdo, com a ameaça dupla da aprovação do Projecto-Lei do Sigilo e da criação do MAT, e a difícil batalha dos jornalistas em virtude da Lei de Pontos Nacionais Chave. A luta pela liberdade de imprensa, liberdade de informação e liberdade expressão, continuará intensa, uma vez que a elite dominante fica cada vez mais insegura quando os seus erros são difundidos nos órgãos de comunicação social.

É necessário muita vigilância para que a liberdade de imprensa, um princípio democrático fundamental, não seja desbastada. A melhor notícia é que jornalismo investigativo destemido e robusto continua a expor a corrupção e a falta de serviços, levando assim o poder de às contas, enquanto os tribunais defendem os princípios constitucionais à favor de uma imprensa livre, o que é vitória para a democracia. Mas isso acontece num ambiente de regulamentação cada vez mais frágil, embora a Constituição o seja progressista.

Communiqué

Date: January 18, 2012

Person/ institution: South African Broadcasting Corporation (SABC)

Violation/ issue: Other

Lulama Mokhobo has been appointed as the Group Chief Executive of the SABC. "After a recommendation by the South African Broadcasting Corporation (SABC) Board, Communications Minister Dina Pule applied her mind and is pleased to announce the appointment of Lulama Mokhobo as the Group Chief Executive of the SABC," said the Ministry. The appointment, with immediate effect, is for a five-year period, reported BuaNews on the 17 January 2012.

Communiqué

Date: 1 February 2012

Person/ institution: World Editors Forum (WEF)

Violation/ issue: Other

Cherilyn Ireton has been appointed executive director of the World Editors Forum (WEF), and she is the first woman to head the global organisation of world's editors. Ireton, a South African editor and successful senior manager at some of the country's top newspapers, has been appointed executive director of the World Editors Forum, the global organisation for editors within the World Association of Newspapers and News Publishers (WAN-IFRA). She is the first woman to head the organisation, which was created in 1994 as a unique global network for exchanging ideas on newsroom management, editorial quality, online strategies and press freedom issues.

Alert

Date: May 2, 2012

Person/ institution: Print media

Violation/ issue: Legislation

A report released by the Press Freedom Commission on Wednesday, 25 April 2012, the PFC, has recommended independent co-regulation and rejected the existing model of self-regulation. The South African National Editors Forum (SANEF) and Print Media South Africa (PMSA) mandated the Press Freedom Commission to independently carry out research and come up with recommendations on the ideal regulatory framework for print media in South Africa. This was done in response to the ruling African National Congress' (ANC) proposed Media Appeals Tribunal (MAT), which sought to establish a framework for political oversight of the media.

Alert

Date: October 17, 2012

Person/ institution: Press Ombudsman

Violation/ issue: legislation

Nic Dawes, editor-in-chief of investigative newspaper, Mail & Guardian, together with South Africa Press Ombudsman, Joe Thloloe will today, Wednesday, 17 October 2012, discuss – via a live video interview – a new press code that will come into effect from January 2013 despite it having launched formally on 3 October 2012. The new press code, a 50-page document, is the result of broad consultations which took place against the backdrop of proposals for a statutory media regulation body by

the ruling African National Congress (ANC). The proposal for a Media Appeals Tribunal (MAT), as it was called, threatened media freedom in South Africa as various journalists, media professionals, academics, activists and politicians argued.

Alert

Date: November 19, 2012

Person/ institution: Mzilikazi wa Afrika

Violation/ issue: Victory

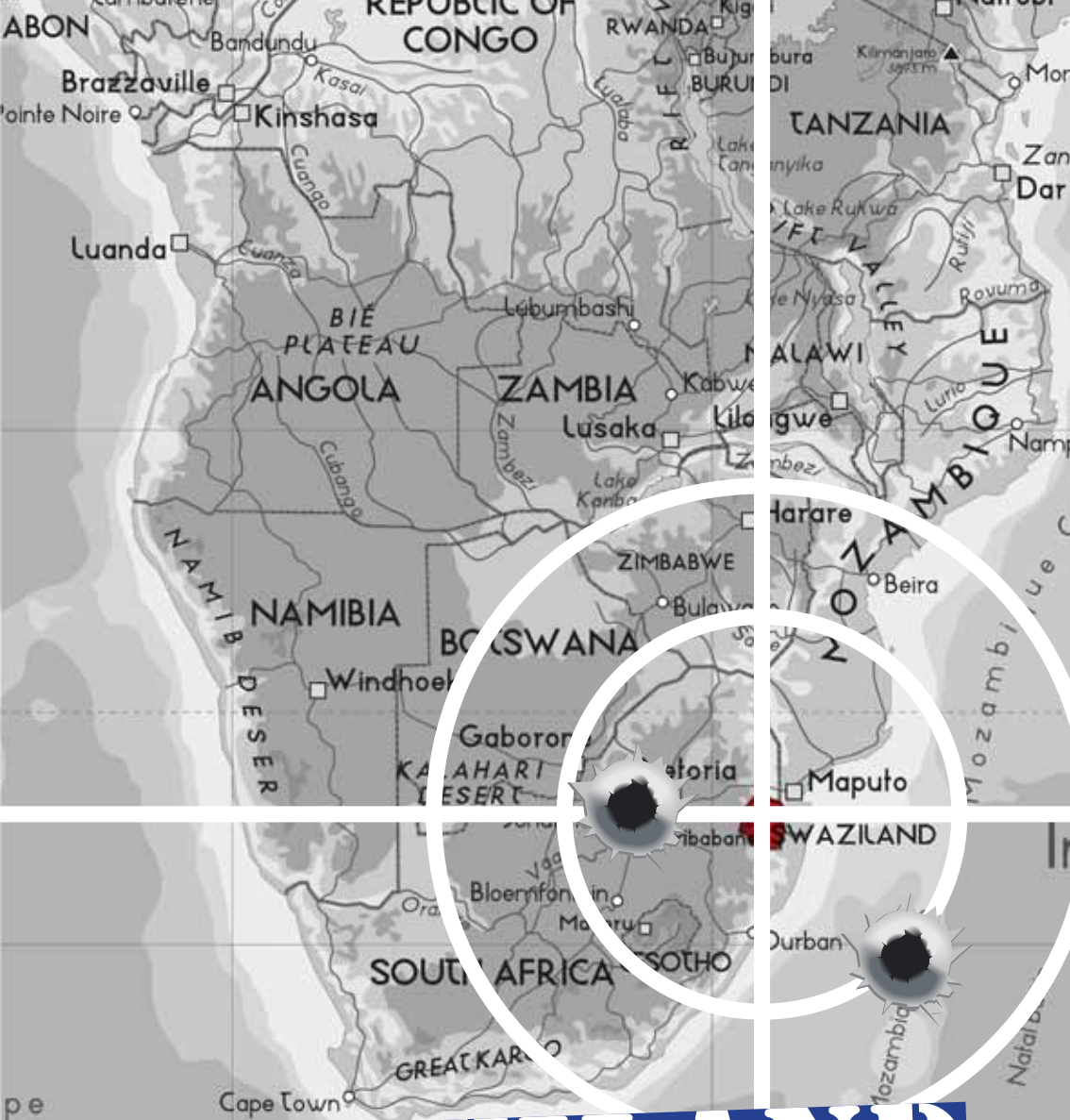
Minister of Police, Nathi Mthethwa has conceded that the 2010 arrest of investigative journalist, Mzilikazi wa Afrika, was wrongful and will now pay damages of R100,000 (US\$11,320) as well as the legal costs of the newspaper wa Afrika's writes for, The Sunday Times.

The journalist was arrested after publishing a series of stories which pointed to then Inspector-General of Police, Bheki Cele, having been involved in questionable deals on the lease for new South African Police Headquarters in the capital, Pretoria. Cele was subsequently fired.

According to media reports at the time of his arrest, wa Afrika was denied access to his lawyers for 48 hours and was transported from Gauteng Province, where he was arrested to Mpumalanga Province without the knowledge of his lawyer. He was never brought to court.

"This was a full-frontal assault on the freedom to report on corruption and it is comforting that the minister has acknowledged the arrest was wrongful. However, no amount of money can

make up for the pain and suffering experienced by Mzilikazi," the newspaper's editor, Ray Hartley has been quoted as saying.



SWAZILAND



National Overview
by MISA-Swaziland



Introduction

The more things change, the more they stay the same. This proverb aptly describes the unchanged media environment in the Kingdom of Swaziland. Nothing has changed in the seven years since the adoption of a new Constitution in 2005. Section 24 of the Constitution guarantees freedom of expression, including freedom of the press and other media, yet in reality this freedom remains largely theoretical.

The three seats of power – government, big business, and media owners – continue to violate the constitutional rights of citizens to freedom of expression. In defiance of the kingdom's supreme law, they maintain a stranglehold on the media.

On top of the 32 media restrictive laws, plus the draconian **Suppression of Terrorism Act of 2008**, the government has invoked the Public Service Announcement (PSA) guidelines to further suppress dissenting voices in the state broadcast media.

2012 saw but one promising media development. The Ministry of Information, Communication and Technology (ICT) finally tabled the Swaziland Communications Bill of 2010 in Parliament

since the signing of the controversial Joint Venture Agreement (JVA) between the Swaziland Posts and Telecommunications (SPTC) and Swazi MTN Limited fourteen (14) years ago. This Bill seeks to liberalise the airwaves and introduce an independent regulatory regime in the state-controlled communications industry.

In the year under review, the Constitution faced its most telling test. Attorney General Majeh'enkhamba Dlamini, acting on instruction from the Chief Justice, opened a case of contempt of court against *The Nation* magazine after it ran a story calling on judges to inject a dose of judicial activism into the justice system, in line with the constitution. *The Nation*, published monthly, calls for entrenching a culture of constitutionalism and democracy in Swaziland, an absolute monarchy hiding in the clothes of constitutional democracy. The Attorney General, however, revealed that Swaziland is not yet ready for true democracy, and it is the prerogative of the executive (and therefore not the judiciary) to entrench a culture that respects the legal system.

The print media also felt a few shocks in 2012, as newspaper owners increasingly tried to ingratiate them-



selves with the ruling elite. The Swazi Observer, a royalist newspaper, purged its Editor-in-Chief who dared to give column space to several progressive groups. The daily paper, which many rightly view as a pure propaganda machine for the royal family, also suspended two editors for not adhering to its 'original' mandate.

On the other hand, the *Times of Swaziland* publisher has allowed commercial interests to take precedence over editorial independence. After his managing editor jumped ship to join the *Swazi Observer*, he recalled his former managing editor – now beholden to the higher authorities – from the Prime Minister's Office, where he served as Head of Secretariat for the **SMART** Partnership Office.

Left in this exposed state, the print media are easily manipulated by the ruling elite. Interference, censorship, assault, harassment and intimidation are all common. In short, Swazi citizens are being denied their right to freedom of expression and information, thanks largely to the symbiotic relationship between government, business and media owners.

State of Media

Struggling from the global economic meltdown as well as severe internal financial troubles, Swaziland has seen only one new entrant into the media industry. In August 2012, Blankly Investments (Pty) Ltd started a monthly magazine called *Agribusiness*. Endorsed by the Ministry of Agriculture and the farming community at large, it specialises in agriculture news. It has joined another periodical, *The Nation*, which focuses mainly on socio-economic and political issues. Published by the Swaziland Independent Publishers (Pty) Ltd, it remains the pulse of the country's news analysis.

The Times of Swaziland Group of Newspapers and Observer Group of Newspapers remain the two dominant players in the newspaper industry. The former publishes the *Times of Swaziland*, *Swazi News* and *Times of Swaziland Sunday*. The latter publishes *Swazi Observer* and *Weekend Observer*. There are also two weekly tabloids namely the *Swazi Mirror* and *Ingwazi News*. As fairly new entrants, these tabloids are struggling to attract advertising. The same applies to the broadsheet *Business Sunday*. Their future looks bleak, as

they are unable to generate advertising revenue – the lifeblood of any newspaper.

Adding to the woes, the Swazi print media suffered a setback when sole proprietor of the only vernacular newspaper *Vuka Ngwane*, Bonisile Mncina, died mid-year. Her newspaper was targeting readers in the remote rural areas in the country's four regions. Barely five years into the market, *Vuka Ngwane* was forced to close down after Mncina's death. Constantly marginalised by the profit-driven English-language newspapers, a bulk of the SiSwati populace in the rural areas has limited access to print media. (Broadcast media, particularly radio, has a more reach and influence in rural areas).

Little has changed in the broadcast media. The Swaziland Broadcasting and Information Services (SBIS), which controls radio, and Swaziland Television Broadcasting Corporation (STBC), television, remain the two dominant players – the two only players, really. They operate with public funds, yet they remain state broadcasters instead of public service broadcasters. Government has invoked Public Service Announcement (PSA) guidelines to prevent citizens from airing their views via these state broadcasters. There is one other radio station, the Voice of the Church (VOC), airing mostly religious programmes. And there is a private television station, Channel Swazi, which is on and off air due to financial challenges. Neither of these independent broadcasters dare to question the country's ruling elite or report on them in anything but positive terms.

In optimistic and laudable readiness for the passage of the Swaziland Communications Bill of 2010, which might free up the airwaves, the unlicensed community radio stations have formed a Community Radio Network to speak with one voice. They are the Lubombo Community Radio, Matsanjeni Community Radio and Ngwempisi Community Radio.

Access to Information

Swaziland does not have an Access to Information Law. Naturally, this curtails the free flow of information. When the media, whose *raison d'être* is to disseminate information, requests information from either government or business; it finds itself shoved from pillar to post. Even the popular monthly breakfast media briefings organised by the public and private sector have not helped the situation. Industry captains and senior government officials simply use them to share selective information with the media practitioners. A good example being an apology demanded by Martin Dlamini, governor of the Central Bank of Swaziland, from the media after a one and half days media briefing with all the editors from the media meetings.

Using clandestine methods to curry favour with the media, big corporations dole out freebies to the editors and journalists. True to the saying 'there is no such thing as a free lunch' these freebies tend to compromise editorial independence of the media; not to mention Article 3(1) of the journalists' code of ethics: "Journalists should not accept

bribes or any form of inducement to influence the performance of his/her professional duties."

Appointment of a government spokesperson and other information officers has not solved the problem of access to information. Access to public information in the ministries remains the media's biggest challenge. In practice, nothing can be done by the information officers because only the ministers are mandated to release information to the media.

What's more, Cabinet issued a directive not to release information to blacklisted media houses. According to the Ministry of Health spokesperson, the minister has blacklisted *The Nation*. The Swaziland Water Services Corporation (SWSC), a public company, echoed these words. Threats to withdraw advertising are a common strategy used by government to silence the critical media. At the core of this issue is a fundamental misunderstanding of the role of the media and the right of that media to access and the citizens' right to know public information.

State of Print Media

Government has tightened its grip on the once uncompromising print media. In January 2012, Minister of Information, Communication and Technology (ICT), Winnie Magagula held an impromptu meeting with all editors where she told them they must positively report the visit of Equatorial Guinean President, Teodora Obiang Nguema Mbasago. The newspapers heeded her direc-

tive: all the media houses waxed lyrical about the expected socio-economic benefits to be reaped from a questionable oil deal. The editors suppressed President Mbasago's negative stories of graft and repression that were run by the international media. In fact, the *Swazi Observer* was forced to apologise for a cable news item published by SAPA that negatively exposed the President.

For a contempt of court charge laid in November 2009, *The Nation* finally had its day in court in February 2012. This landmark case tests Swaziland's commitment to its Constitution. The Attorney General (AG) has told the court that Swaziland is not yet ready for democratic values enjoyed in the civilised world. The magazine has called for High Court judges to take part in entrenching a culture of constitutionalism in Swaziland. The Chief Justice has found that invitation contemptuous of the court.

Representing *The Nation*, Advocate Gilbert Marcus argues: "Freedom of expression lies at the heart of democracy. It is valuable for many reasons, including its instrumental function as a guarantor of democracy, its implicit recognition and protection of the moral agency of individuals in our society and its facilitation of the search for truth by individuals and society generally." Many months later, the judge has not made a court decision on this landmark case, which will test the constitutional right to media freedom.

On celebrating World Press Freedom Day on May 3, Swaziland Editors' Forum (SEF) member, Mbongeni Mbingo, then managing editor of the *Times of Swazi-*

land, betrayed the cosy relationship that already exists among media managers, government and business. He declared: "I agree with the notion that media freedom is fragile. In fact, I can almost say that it is a fallacy and can hardly be achieved." Mbingo questioned the constitutional rights of the "political activists" to press freedom. He blasted "a sector of people with their own agendas," questioning their right to press freedom. This was indicative of the much bigger twin problem of censorship and self-censorship.

In February, the Observer Group of Newspapers, owned by the Tibiyo Taka Ngwane, a royal conglomerate, experienced a major shake-up to its management team. *Swazi Observer* editor-in-chief, Musa Ndlangamandla was fired. His sin, amongst others, was that in his column *Asikhulume* he featured leaders of the proscribed People's United Democratic Movement (PUDEMO) and other civil society representatives calling for political change.

Later, mid-year, without consulting the *Swazi Observer* Board, newly appointed managing director Alpheous Nxumalo also suspended editor of the daily, Thulani Thwala and editor of the weekly, Alec Lushaba. Both Thwala and Lushaba remain in limbo, pending investigation into their failure to follow the publication's 'original' mandate. When Board members sought answers, the managing director made it clear that he is not answerable to them.

Nearly a year later, the *Swazi Observer* managing director has not finalised the investigation. The Swaziland Editors'

Forum (SEF) has done nothing about it. In fact, the MD is on record saying progressive voices or NGOs, whom he suspects of pushing an agenda for political change, will not be entertained by his newspaper, as long as he is in charge.

Newsrooms in the print media are no longer a safe haven for journalists following their infiltration by spies. In August 2012, police interrogated one of the reporters at one of the print media houses after common and casual news-room talk with his colleagues.

According to a complaint lodged by the Swaziland Diaspora Platform (SDP) with the MISA Swaziland chapter, a journalist who was spying reported him to the police and on others in the news-room. Journalists have begun to tread cautiously and carefully in the wake of police informants in the media houses. This heightened climate of fear perpetuates the already endemic self-censorship, which in turn bodes further ill for media freedom.

The recall of *Times of Swaziland* managing editor, Martin Dlamini, from Government, has raised eyebrows within the discerning civil society and media fraternity. As someone now allegedly beholden to higher authorities, there is fear that the newspaper editorial independence is at stake. This fear has been exacerbated by his unprecedented coverage of King Mswati III's trip to the United Nations in New York, later in the United Arab Emirates in October 2012, where he not only reported for his own publication but also for the competing *Swazi Observer*!

Dlamini undertook this trip as part of

the king's delegation. The mere fact that the *Times of Swaziland* managing editor, a leading private publication, is found writing stories for the *Swazi Observer*, a royalist publication, is cause for serious reflection. His position is untenable. How can he discharge his unbiased editorial duty when he would appear to be beholden to the authorities?

Taking their cue from leaders, members of the public have continued to attack and harass media practitioners in their line of duty. The 2012 victims were a reporter and photojournalist from the Times of Swaziland Group of Newspapers. Four men at eNkhaba area attacked Swazi News journalist, Sabelo Masimula, when he tried to balance a story of a widow who ran away when her in-laws tried to forcefully remove her **weeds**.

A colleague Walter Dlamini, a *Times of Swaziland* Sunday photojournalist, was also attacked by seven members of the uniformed forces after taking a picture of an asthmatic maiden who had collapsed at the Reed Dance at Mbangweni Royal Residence. They forced him to delete the pictures.

State of Broadcasting

Unbridled censorship remains a concern within the state broadcasters, namely, the Swaziland Broadcasting and Information Services (SBIS) and Swaziland Television Broadcasting Corporation (STBC). Government has banned reporting on the activities of the labour unions, including strikes and announcements, in the state broadcasters. Affiliates of the Trade Unions Congress of Swaziland

(TUCOSWA) the Swaziland National Association of Teachers (SNAT) reacted by kicking out Swazi TV reporters from their meetings accusing them of negative reporting or total news blackout.

Union leaders were not the only ones affected. ICT minister Winnie Magagula has extended the ban to all Swazi people irrespective of their status in society. She has invoked the Public Service Announcement (PSA) guidelines, which bar citizens from airing their opinions in the radio and television stations. They have to clear their views or opinions with their chiefs before they can be aired on the broadcast media.

Setting an example, both Swazi TV and Swazi Radio pulled off air a national announcement made by Acting Governor of Ludzidzini Royal Residence, Timothy Velabo Mtetwa. Hot on the heels was the stoppage of a popular Swazi TV talk-show, *Makhelwane Umbona Ngetento*, hosted by gospel artist Mduduzi Simelane. In addition, the minister issued a warning to prevent parliamentarians and ministers from making statements or announcements in the broadcast media that could be construed as campaigns.

Banning citizens from speaking freely on the state broadcaster has demonstrated an urgent need to transform the state broadcaster into the public service broadcaster. Swazi TV suspended acting assistant news editor, Vusi Gamedze, and avid editor, Earnest Mabaso for allowing a foreign newsworthy into the bulletin that 'misrepresented the annual Reed Dance ceremony'.



ICTs and Telecommunications

A protracted legal battle between Swaziland's telecommunications giants, Swaziland Posts and Telecommunications Corporation (SPTC) and Swazi MTN Limited, has proven costly for consumers. About 64 000 consumers were deprived of an alternative affordable telecommunications service. The bone of contention was a Joint Venture Agreement (JVA) breached by SPTC when introducing new products, 'One mobile phones' and 'Wireless Fixedfones', into the market. Swazi MTN enjoys exclusive rights to operate a mobile network, thus they argued that SPTC had breached the JVA. The International Court of Arbitration (ICA) ruled in MTN's favour and ordered the public company to withdraw its affordable products.

Technicalities aside, the SPTC/MTN saga revolved around nothing but a conflict of interest. With its affordable products, SPTC gave Swazi MTN stiff competition. MTN's powerful shareholders, namely King Mswati III and Prime Minister Sibusiso Barnabas Dlamini, were supposedly torn between the national interest and their own self-interests. The Swazi MTN shareholding structure has SPTC holding 41%, Swaziland Empower-

ment Limited, a consortium, 19%, MTN International, 30%, and King Mswati III, 10%. Princess Sikhanyiso was appointed to the Swazi MTN Board to manage the royal shares.

New Media and Social media

In a country where the mainstream media is highly censored, the new media and social media are now considered as an alternative platform for the free flow of information. A growing number of Swazis, especially the youth, use the social media as the most convenient tool of communication. It enables them to enjoy their constitutional right to freedom of expression. They post all sorts of information, including at times seditious information, which has led incensed legislators to call for the censorship of the internet. They have asked the head of government to find ways to censor the internet. However, the prime minister – who is also minister responsible for the police – has repeatedly told parliamentarians that it is extremely difficult to censor the internet.

Their information banned or censored by both the private and state media, civil society groups have taken advantage of the new or social media. They mobilise people by sending text messages, tweets



or facebook updates. The Swaziland National Association of Teachers (SNAT), for example, used social media to mobilise their members during the three-month long teachers strike. The censored media, especially the newspapers, ran stories that were sourced from Facebook. Though social media is not widely used at the moment, it is undoubtedly gaining pace. In many regards, the new forms of media (text messages, Twitter, Facebook, YouTube, WhatsApp, etc.) have allowed citizens of Swaziland to put into practice their constitutional right to freedom of expression and media freedom.

Conclusion and projections

To achieve greater freedom of expression, and by association media freedom, Swaziland's media institutions – MISA Swaziland, Swaziland Editors' Forum, and Swaziland National Association of Journalists (SNAJ) – must speak in a strong and united voice. This is not to say we all must agree. Rather, the media must first acknowledge and accept that freedom of speech goes both ways: the right to question and the right to be questioned; the right to criticise and the right to be criticised. And also to accept that freedom of speech is for everyone:

citizens, business people, parliamentarians, cabinet members, civil society leaders, public servants, journalists – and the list goes forever on.

Moreover, it is worth keeping in mind that a tool is only good as the person using it. There is, therefore, an urgent need to equip journalists with professional skills. This way, they will be able to manoeuvre, survive, and prosper in this difficult media environment, an environment that might be likened to a minefield. Training will help them understand and appreciate the parameters of media freedom – underpinned by the notion of the public interest.

Abiding by the Swaziland Journalists Code of Ethics and the Constitution cannot be overemphasised. Yet the continued violation of the code of ethics and the Constitution by the Swazi media is as good as giving ammunition to those who wish to further curtail media freedom. MISA acknowledges the grave conditions that journalists work in, yet there is still a lot to be said for taking personal responsibility. The Swazi media, if it is serious about freedom of speech, must look itself in the mirror while simultaneously demanding more freedom for all citizens.

As a united force – that thrives on healthy and honest debate – the media

must steadfastly argue for the repeal of the 32 restrictive laws. They should do so by lobbying the soon-to-be-elected 2013 parliamentarians. Until journalists themselves argue for meaningful law reform, freedom of expression and media freedom in Swaziland will remain a mirage.

PORTUGUESE VERSION

Introdução

Quanto mais as coisas mudam, mais continuam na mesma. Este provérbio descreve adequadamente o ambiente mediático inalterado no Reino da Suazilândia. Nada mudou nos últimos sete anos desde a aprovação de uma nova Constituição em 2005. O Artigo 24o da Constituição garante liberdade de expressão, incluindo a liberdade de imprensa e de outros meios de comunicação; mas, na realidade, essa liberdade ainda é, em grande parte, teórica.

Os três ramos do poder – governo, grandes empresas e proprietários dos órgãos de comunicação – continuam a violar os direitos constitucionais dos cidadãos à liberdade de expressão. Em desafio às leis supremas do reino, eles mantêm um domínio sobre os meios de comunicação.

Para além das 32 leis restritivas dos órgãos de comunicação em massa, e para além da supressão draconiana da Lei do Terrorismo, de 2008, o governo invocou as directrizes de Anúncio de Serviço Público (PSA) para reprimir ainda mais vozes discordantes nos órgãos de comunicação em massa do estado.

Viu-se em 2012, mas um desenvolvimento dos órgãos de comunicação em massa promissor. O Ministério da Tecnologia de Informação e Comunicação (TIC) finalmente apresentou ao Parlamento da Suazilândia um Projecto-Lei das Comu-

nicações de 2010, desde a assinatura do controverso Acordo de Empreendimento Comum (JVA), entre a *Swaziland Posts and Telecommunications (SPTC)* e a MTN Swazi Limited há catorze (14) anos atrás. Este projecto-lei pretende liberalizar as ondas de rádio e introduzir no sector das comunicações, um regime regulador independente controlado pelo Estado.

No ano em análise, a Constituição enfrentou o seu teste mais revelador. O Procurador-geral Majeh'enkhaba Dlamini, sob instruções do Presidente do Tribunal Supremo, abriu um caso de desacato à ordem tribunal contra a revista *The Nation* [A Nação] depois que publicou um artigo no qual pede aos juizes que injectem uma dose de activismo judicial no sistema de justiça, em consentaneidade com a constituição. *The Nation*, publicado mensalmente, apelou para entrenchamento de uma cultura de constitucionalismo e democracia na Suazilândia que é uma monarquia absoluta nas vestes da democracia constitucional. O Procurador-geral da República, no entanto, revelou que a Suazilândia ainda não está pronta para a verdadeira democracia, e que é prerrogativa do executivo (e, portanto, não do judiciário) inculcar uma cultura que respeite o sistema jurídico.

Os média impressos também sentiram alguns choques em 2012, uma vez que os proprietários de jornais tentavam cada vez mais granjear simpatias com a elite dominante. O *Observer Swazi*, um jornal monarquista, purgou o seu editor-chefe que se atreveu a dar espaço a vários grupos progressistas. O diário, que muitos vêem como uma máquina para

propaganda da família real, também suspendeu dois editores por não aderirem ao seu mandato 'original'.

Por outro lado, o editor do *The Times* da Suazilândia permitiu que interesses comerciais tivessem mais relevo que a independência editorial. Depois que o editor-chefe juntou-se ao *Observer Swazi*, ele chamou novamente seu ex-editor-chefe – que agora está grato às autoridades superiores do Gabinete do Primeiro-Ministro, onde actuou como Chefe de Secretaria de Gabinete da parceria **SMART**.

Neste estado, os média impressos são facilmente manipulados pela elite dominante. Interferência, censura, agressões, assédio e intimidação são comuns. Em suma, os cidadãos da Suazilândia são negados o direito à liberdade de expressão e informação, em grande parte graças à relação simbiótica entre empresários, governo e os órgãos de comunicação em massa.

Estado dos Órgãos de Comunicação em Massa

Enfrentando dificuldades desde o colapso da economia mundial, e tendo em vista os graves problemas financeiros internos, a Suazilândia entrou apenas um novo operador no sector da comunicação em massa. Em Agosto de 2012, a Blankly Investments (Pty) Ltd começou a publicar uma revista mensal chamada *Agribusiness*. A revista que foi aprovada pelo Ministério da Agricultura e pela comunidade agrícola em geral, especializa-se em notícias da agricultura. Portanto, juntou ao outro periódico, *The Nation*, que se

concentra principalmente em questões socioeconômicas e políticas. A revista que é Publicada pela Swaziland Independent Publishers (Pty) Ltd, continua sendo a cadência de análise de notícias do país.

O Grupo de Jornais *Times of Swaziland* e o Grupo de Observadores de Jornais continuam sendo os dois intervenientes dominantes na indústria de jornais. O primeiro é editor dos jornais *Times of Swaziland*, *Swazi News* e *Times of Swaziland Sunday*. O último edita para o *Swazi Observer* e o *Weekend Observer*. Há também dois tablóides semanais, nomeadamente, o *Mirror Swazi* e o *Ingwazi News*. Como participantes bastante novos, esses tablóides estão tentando atrair publicidade. O mesmo se aplica ao *Broadsheet Business Sunday*. O seu futuro parece sombrio uma vez que são incapazes de gerar receitas das suas publicidade – o cerne de qualquer jornal.

Somando os problemas, a imprensa da Swazi sofreu um revés quando o único proprietário do único jornal vernáculo *Vuka Ngwane*, *Bonisile Mncina*, morreu no meio do ano. O seu jornal tinha como leitores-alvo: residentes em áreas rurais remotas das quatro regiões do país. Após apenas cinco anos no mercado, *Vuka Ngwane* foi obrigado a fechar depois da morte do Mncina. Constantemente marginalizada pelos fins lucrativos dos jornais de língua Inglesa, grande parte da população SiSwati nas áreas rurais tem acesso limitado aos média impressos. (A radiofusão tem maior alcance e influência nas áreas rurais).

Pouco mudou nos meios de comunicação em massa. Os Serviços de Trans-

missão e de Informação da Suazilândia (SBIS), que controlam a rádio, e o Swaziland Television Broadcasting Corporation [Canal de Transmissão Televisiva da Suazilândia] (STBC) que controlam a televisão, continuam a ser os dois intervenientes dominantes – na prática, os dois únicos intervenientes. Estes canais operam com recursos públicos. Não obstante, continuam sendo emissoras estatais, em vez estarem ao serviço de serviço do povo. O Governo invocou as directrizes de Anúncio de Serviço Público (PSA) para impedir que os cidadãos de expressem as suas opiniões através dessas emissoras estatais. Há uma outra estação de rádio, a Voz da Igreja (VOC), que transmite programas principalmente religiosos. E há uma estação de televisão privada, Canal Swazi, que transmite apenas de tempo em tempo devido a problemas financeiros. Nenhuma destas emissoras independentes se atreve a questionar a elite do país dominante ou relatar sobre os seus pontos negativos.

Em preparação optimista e louvável para a passagem do projecto de lei das Comunicações de 2010, que pode liberar as ondas de rádio, as estações de rádio comunitárias sem licença formaram uma rede para falarem com uma só voz. Trata-se das rádios Comunitárias Lubombo, Matsanjeni e Ngwempisi.

Acesso à Informação

A Suazilândia não tem nenhuma Lei de Acesso à Informação. Naturalmente, isso restringe o fluxo de informações. Quando os órgãos de comunicação em massa, cuja razão de ser é disseminar

informações, solicitam informações a partir do governo ou empresas, são atraídos de um lado para o outro. Mesmo os briefings em pequeno-almoço mensais organizados pelos sectores público e privado não melhoram a situação. Capitães da indústria e altos funcionários do governo simplesmente usam-nos para compartilhar informações selectivas com os profissionais da comunicação social. Um bom exemplo disso é um pedido de desculpas que o governador do Banco Central da Suazilândia exigiu dos órgãos de comunicação em massa depois de um dia e meio de briefing com todos os editores da imprensa.

Usando métodos clandestinos para agradar os órgãos de comunicação, as grandes corporações distribuem ofertas aos editores e jornalistas. Fiel ao ditado inglês "não há almoço grátis" esses brindes tendem a comprometer a independência editorial dos meios de comunicação, para não mencionar o artigo 3 (1) do Código da Ética Jornalística: "Os jornalistas não devem aceitar subornos ou quaisquer formas de incentivo para influenciar o desempenho dos seus deveres profissionais".

A nomeação de um porta-voz do governo e outros oficiais de informações não resolveu o problema do acesso à informação. O acesso à informação pública nos ministérios ainda é um desafio para os órgãos de comunicação em massa. Na prática, os oficiais de informação nada podem fazer, visto que só os ministros são capazes de divulgar informações aos órgãos de comunicação em massa.

Ademais, o executivo baixou ordens para se não divulgarem informações so-

bre a lista negra dos órgãos de comunicação em massa. De acordo com o porta-voz do Ministério da Saúde, o ministro tem na lista negra o jornal *The Nation*. A *Swaziland Water Services Corporation* [Serviços de Água da Suazilândia (SWSC), uma empresa pública, repetiu estas palavras. As ameaças de retirar publicidade são uma estratégia comum usada pelo governo para silenciar os meios de comunicação críticos. No cerne desta questão está um equívoco fundamental do papel dos órgãos de comunicação em massa bem como o seu direito de ter acesso, e direito dos cidadãos de ter informações públicas.

Estado dos órgãos de comunicação impressos

O Governo reforçou o seu controle sobre a imprensa que era intransigente. Em Janeiro de 2012, o ministro da Tecnologia de Informação e Comunicação (TIC), Winnie Magagula realizou uma reunião improvisada com todos os editores na qual disse que eles devem difundir positivamente a visita do Presidente da Guiné Equatorial, Obiang Nguema Mbasago Teodora. Os jornais acataram a directiva: todos os órgãos de comunicação em massa pintaram um bom quadro sobre os benefícios socioeconómicos que se esperava de um acordo petrolífero questionável. Os editores esconderam os relatos negativos sobre corrupção e repressão praticado pelo Presidente Mbasago segundo os órgãos de comunicação internacionais. Na verdade, o *Swazi Observer* foi obrigado a pedir desculpas por uma notícia negativa sobre o presidente



publicada pelo SAPA.

O jornal *The Nation* finalmente teve o seu dia no tribunal em Fevereiro de 2012 por desacato à ordem do tribunal colocado em Novembro de 2009. Este caso de referência testa o compromisso da Suazilândia com a sua Constituição. O Procurador-Geral disse ao tribunal que a Suazilândia ainda não está pronta para os valores democráticos que mundo civilizado goza. A revista pediu que os juizes do Tribunal Supremo a participassem no cultivo de uma cultura de constitucionalismo na Suazilândia. Segundo o Presidente do tribunal Supremo, o pedido é um desprezo para o tribunal.

O advogado do *The Nation*, Marcus Gilbert, argumenta: "A liberdade de expressão está no cerne da democracia. É valiosa por várias razões, entre elas: a sua função instrumental como um assegurado da democracia, o seu reconhecimento implícito e protecção da agência moral dos indivíduos na nossa sociedade, e sua facilitação da busca pela verdade por indivíduos e pela sociedade em geral". Muitos meses depois, o juiz não tomou nenhuma decisão judicial sobre este caso que irá testar o direito constitucional à liberdade de imprensa.

Ao celebrar o Dia Mundial da Liberdade de Imprensa, aos 3 de Maio, o

membro do Fórum de Editores da Suazilândia (SEF), Mbongeni Mbingo, então editor-chefe do *Times of Swaziland*, traiu os laços existentes entre os gerentes dos órgãos de comunicação em massa, governo e as empresas. Ele declarou: "Eu concordo com a noção de que a liberdade de imprensa é frágil. Na verdade, eu quase posso dizer que é ilusória e dificilmente de ser alcançada". Mbingo questionou os direitos constitucionais dos "activistas políticos" à liberdade de imprensa. O mesmo criticou "um sector de pessoas com agendas pessoais" que questiona o seu direito à liberdade de imprensa. Este foi um indicativo de um grande problema de censura e autocensura.

Em Fevereiro, a equipa dos gerentes do Grupo de Observadores de Jornais, de Taka Tibiyo Ngwane, um conglomerado real, foi fortemente abalada. O editor-chefe do *Swazi Observer*, Musa Ndlangamandla, foi demitido. O seu pecado, entre outros, foi que, no seu artigo *Asikhulume*, encontrou-se com líderes do Movimento Popular Democrático Unido (PUDEMO) e outros representantes da sociedade civil que exigem uma mudança política.

Mais tarde, no meio do ano, sem consultar o Conselho da *Swazi Observer*, o director recém-nomeado, Alpheous



Nxumalo também suspendeu o editor do diário, Thwala Thulani e editor do semanário, Alec Lushaba. Tanto Thwala como Lushaba continuam na incerteza enquanto se aguarda pela investigação sobre a sua incapacidade de seguir o mandato 'original' da publicação. Quando os membros do Conselho tentaram questioná-lo, o director deixou claro que não lhes presta contas.

Depois de quase um ano, o gerente da *Swazi Observer* não concluiu a investigação. O Fórum de Editores da Suazilândia (SEF) não fez nada sobre isso. Na verdade, há uma gravação na qual o Director Geral diz que as vozes progressistas ou ONG, a quem ele suspeita de estarem a pressionar para que haja uma agenda de mudança política, não serão atendidos pelo seu jornal enquanto ele estiver no comando.

As instalações da imprensa não são mais seguras para os jornalistas após uma infiltração de espões. Em Agosto de 2012, a polícia interrogou um repórter nas instalações de um dos meios de comunicação impressos após uma conversa comum e informal com os seus colegas.

De acordo com uma denúncia apresentada pela Plataforma da Suazilândia na Diáspora (SDP) com o capítulo MISA

Suazilândia, um jornalista que estava espionando denunciou tanto ele como outros que estiveram nas instalações à polícia. Os jornalistas começaram a ter mais cautela e cuidado tendo em vista os informantes da polícia nas instalações dos órgãos de comunicação em massa. Este clima de medo perpetua a já endêmica auto-censura, que por sua vez ainda ameaça a liberdade da imprensa.

A renomeação do editor-chefe do *Times of Swaziland*, Martin Dlamini, pelo Governo, suscitou suspeitas no seio da sociedade civil e fraternidade da mediática perspicazes. Uma vez que é alguém que está alegadamente muito grata às autoridades superiores, receia-se que a independência editorial do jornal está em jogo. Esse medo foi exacerbado pela sua cobertura sem precedentes de viagens do Rei Mswati III às Nações Unidas, em Nova Iorque, e, mais tarde, aos Emiratos Árabes Unidos em Outubro de 2012, quando relatou não só para a sua própria publicação, mas também para o *Swazi Observer* – o seu adversário!

Dlamini viajou como membro integrante da delegação do rei. O simples facto de o editor-chefe do *Times of Swaziland*, uma publicação privada renomada, escrever relatos para o *Swazi Observer*, uma publicação monarquista, é

motivo de séria reflexão. A Sua posição é indefensável. Como é que ele cumpre o seu dever editorial imparcial quando ele parece ser obrigado pala as autoridades?

Com o exemplo dados pelos líderes, o povo continuou a atacar e perseguir os profissionais mediáticos no exercício do seu cargo. As vítimas de 2012 eram um repórter e fotojornalista do Grupo de Jornais *Times of Swaziland*. Quatro homens na área deNkhaba atacaram o jornalista da Swazi News, Sabelo Masimula, quando ele tentou equilibrar o relato de uma viúva que fugiu quando os sogros tentaram forçosamente tirar-lhe o luto.

Um colega, Walter Dlamini, fotojornalista da *Times of Swaziland Sunday*, também foi atacado por sete agentes da aplicação da lei após ter tirado uma foto de uma moça asmática que caiu no palácio real em Reed Dance, Mbangweni. Ele foi obrigado a apagar as imagens.

Estado da Radiofusão

A Censura desenfreada é ainda uma grande preocupação nas emissoras estatais, nomeadamente, os Serviços de Transmissão e de Informação da Suazilândia (SBIS) e o Swaziland Television Broadcasting Corporation [Canal de Transmissão Televisiva da Suazilândia] (STBC). O Governo proibiu a difusão de notícias sobre as actividades dos sindicatos, inclusive greves e anúncios, nas emissoras estatais. Afiliados ao Congresso dos Sindicatos da Suazilândia (TUCOSWA), a Associação Nacional dos Professores da Suazilândia (SNAT) reagiu expulsando repórteres de TV Swazi das suas reuniões acusando-os de notificação negativa ou

ocultação das notícias.

Os líderes sindicais não foram os únicos afectados. A Ministra das TIC, Winnie Magagula, estendeu a proibição a todos os cidadãos da Suazilândia independentemente do seu estatuto na sociedade. Ela invocou as directrizes de Anúncios do Serviço Público (PSA), que proíbe os cidadãos de expressarem as suas opiniões nas estações de rádio e de televisão. Devem expor os seus pontos de vista ou opiniões aos seus chefes antes de serem difundidos nos órgãos de comunicação em massa.

A título de exemplo, tanto a Swazi TV como a Rádio Swazi deixaram de difundir um anúncio nacional do governador interino do Palácio Real de Ludzidzini, Timothy Velabo Mtetwa. A paralisação de um debate popular com intervenção de ouvites da TV Swazi, *Makhelwane Umbona Ngetento*, organizado pelo cantor de gospel, Mduduzi Simelane, foi um caso crítico. Além disso, a ministra emitiu um aviso que proibia os deputados e ministros de fazer declarações ou anúncios nos meios de comunicação social que pudessem ser interpretados como campanhas.

A proibição que impedia a livre expressão dos cidadãos livremente na emissora estatal demonstrou uma necessidade urgente de transformar a emissora estatal numa emissora de serviço público. A Swazi TV suspendeu o editor assistente de notícias, Vusi Gamedze e o editor ávido, Mabaso Earnest por terem permitido a transmissão de uma notícia estranha que "deturpou a cerimónia anual de Dance Reed".

TIC e Telecomunicações

O longo litígio entre os gigantes das telecomunicações da Suazilândia, a Swaziland Posts and Telecommunications Corporation (SPTC) e a Swazi MTN Limited, veio a ser dispendioso para os consumidores. Cerca de 64 000 consumidores foram privados de um serviço de telecomunicação alternativa acessível. Em causa estava um Acordo de Empreendimento Conjunto (JVA) violado pela SPTC ao introduzir no mercado novos produtos: "telemóveis *One*" e "Telefones fixos Wireless". A Swazi MTN tem direitos exclusivos de operar uma rede móvel. Assim sendo, eles argumentaram que a SPTC violou o acordo. O Tribunal Internacional de Arbitragem (ICA) decidiu a favor da MTN e condenou a empresa pública a retirar os seus produtos a preços acessíveis.

Tecnicismos de lado, a saga SPTC / MTN giravam apenas em torno de um conflito de interesses. Com os seus produtos a preços acessíveis, a Swazi SPTC competia com a MTN. Os accionistas poderosos da MTN, ou seja, o Rei Mswati III e o Primeiro-Ministro Sibusiso Barnabas Dlamini, ficaram supostamente divididos entre o interesse nacional e os pessoais. A estrutura da Swazi MTN das acções é a seguinte: a SPTC tem 41%, Swaziland Empowerment Limited, um consórcio, tem 19%, a MTN Internacional tem 30%, e o rei Mswati III tem de 10%. A Princesa Sikhanyiso foi nomeada para o Conselho da MTN Swazi a fim de gerir as acções reais.

Os Novos Órgãos de Comunicação em Massa e as Redes Sociais

Num país onde os órgãos de comunicação são é fortemente censurados, os novos meios de comunicação em massa e as redes sociais são agora consideradas uma plataforma alternativa para o livre fluxo de informações. Um número crescente de cidadãos da Suazilândia, especialmente os jovens, usam as redes sociais como ferramenta de comunicação mais conveniente, o que permite-lhes usufruir o seu direito constitucional de liberdade de expressão. Eles postam todo tipo de informação, incluindo, por vezes, informações sediciosas, o que levou os legisladores irritados a pedir a censura da Internet. Pediram ao chefe de governo para encontrar mecanismos de censurar os conteúdos da internet. No entanto, o primeiro-ministro – que também é ministro responsável pela polícia – disse várias vezes aos deputados que censurar a internet é difícil.

Uma vez que a sua informação é proibida ou censurada pelos órgãos de comunicação em massa privados e estatais, grupos da sociedade civil têm aproveitado os novos meios de comunicação ou as redes sociais. Eles mobilizam as pessoas enviando mensagens de texto, *tweets* e actualizações do *Facebook*. A Associação Nacional de Professores da Suazilândia (SNAT), por exemplo, usou as redes sociais para mobilizar os seus membros durante a greve de professores que teve três meses de duração. Os meios de comunicação censurados, especial-

mente os jornais, publicaram notícias extraídas do *Facebook*. Embora as redes sociais não sejam amplamente utilizadas de momento, está, sem dúvida, ganhando terreno. Em muitos aspectos, as novas formas de comunicação em massa (mensagens de texto, *Twitter*, *Facebook*, *YouTube*, *WhatsApp*, etc) têm permitido cidadãos da Suazilândia, colocar em prática o seu direito constitucional de liberdade de expressão e liberdade de imprensa.

Conclusão e Projeções

Para conseguir mais liberdade de expressão e liberdade de imprensa, as instituições de comunicação em massa da Suazilândia – MISA Suazilândia, o Fórum dos Editores da Suazilândia, e a Associação Nacional dos Jornalistas da Suazilândia (SNAJ) – devem falar com uma voz forte e unida. Isso não quer dizer que todos devem concordar. Em vez disso, os órgãos de comunicação em massa devem primeiro reconhecer e aceitar que a liberdade de expressão tem dois sentidos: o direito de questionar e o direito de ser questionado, o direito de criticar e o direito de ser criticado. Impõe-se aceitar também que a liberdade de expressão é para todos: cidadãos, empresários, deputados, membros do executivo, líderes da sociedade civil, funcionários públicos, jornalistas, entre outros.

Além disso, é bom ter em mente que uma ferramenta só é boa quando a pessoa a usa, urgindo assim a necessidade de se munir os jornalistas com habilidades profissionais. Dessa forma, eles

serão capazes de manobrar, sobreviver e prosperar neste difícil ambiente da comunicação em massa, ambiente este que pode ser comparado a um campo minado. A formação ajudá-los-á a compreender e apreciar os parâmetros da liberdade de imprensa – sustentada pela noção de interesse público.

O respeito pelo Código de Ética Jornalística da Suazilândia e pela Constituição não pode ser subestimado. No entanto, a contínua violação do código de ética e da Constituição pelos órgãos de comunicação da Suazilândia é como entregar munições àqueles que desejam restringir ainda mais a liberdade de imprensa. O MISA reconhece as graves condições de trabalho dos jornalistas, mas ainda há muito a ser dito sobre a auto-responsabilização. Se os órgãos de comunicação em massa da Suazilândia, levam a liberdade de expressão a sério, devem olhar-se no espelho ao exigirem mais liberdade para todos os cidadãos.

Como uma força unida – que prospera em debate saudável e honesto – os órgãos de comunicação em massa devem firmemente defender a revogação das 32 leis restritivas. Devem fazê-lo através do lobby junto dos deputados a serem eleitos logo em 2013. Enquanto os próprios jornalistas não defenderem uma reforma legislativa significativa, a liberdade de expressão e a liberdade de imprensa na Suazilândia não passarão de uma miragem.

Alert**Date: March 16, 2012****Person/ institution: Bheki Makhubu, the Nation Magazine****Violation/ issue: Legislation**

Lawyers representing Bheki Makhubu, Editor of the Nation decided to pull out and left exposed the editor of the Magazine on his own. The Nation magazine is facing a law-suit by Titus Mlangeni the President of the Law Society in Swaziland. This follows the stinging article Makhubu wrote last where he was questioning the Lawyer's integrity. Lawyers presenting Makhubu pulled out at the last minute with the matter already in the court's role. The judge had no alternative but to give Makhubu time to seek legal representation.

Alert**Date: March 16, 2012****Person/ institution: Media****Violation/ issue: Others**

Phathaphatha Mdluli, the magistrate in Mbabane has threatened that journalists coming to his court room will now be searched for possessing Cell phones. The Magistrate is convinced that journalists who reported from his courtroom are prone to not switching off their cellphones and have made it a habit to record the proceedings.

Alert**Date: March 23, 2012****Person/ institution: Radio Sikhuphe FM****Violation/ issue: legislation**

Swazi Government spokesperson, Mr. Percy Simelane says the Swazi Government is very much angry that an Internet Radio broadcasting, Radio Sikhuphe FM is broadcasting without a licence via the internet. He reckons that the owners will have to face the law and will be dealt with accordingly. He concludes by saying as long as the Radio Station is broadcasting using any form of transmitters, it will be dealt with accordingly.

Alert**Date: April 11, 2012****Person/ institution: Tumaole Mohlaoli and Meshack Dube, e.TV journalists****Violation/ issue: Detained**

Swaziland government officials detained two e.TV journalists on the morning of Wednesday, 11 April 2012. Journalist Tumaole Mohlaoli and Cameraperson Meshack Dube were, according to reports, detained at a roadblock outside the capital, Mbabane and had their passports and equipment seized. e.TV is a South Africa-based free-to-air news and entertainment television channel. Speaking to the Media Institute of Southern Africa (MISA) Regional Secretariat, e.TV Africa Editor and Head of News, Chris Maroleng confirmed the development and said from the information they have gathered so far, the crew was detained for not having appropriate accreditation



to cover marches taking place this week in Swaziland to commemorate the 39th anniversary of the 1973 King's decree that enslaved and imprisoned Swazis.

Alert

Date: July 18, 2012

Person/ institution: Swazi Observer

Violation/ issue: Censorship

On July 15, 2012, the Swazi Observer issued letters of suspension to its Editor, Thulani Thwala, its Weekend Editor, Alec Lushaba, and the Newspaper's Chief Financial Officer (CFO) and Senior Manager, Mr. Nkabinde. No explanation was given for the suspension. Both editors have been suspended for one month and await the outcome of an investigation into the matter. National Director of the Swaziland Chapter of the Media Institute of Southern Africa (MISA Swaziland), Comfort Mabuza, has condemned this development, branding it a clandestine action to silence the editors and prevent them from the informative and critical reporting that they are known to facilitate in Swaziland.

Alert

Date: July 19, 2012

Person/ institution: Swazi Observer

Violation/ issue: Other

The managing director of Swazi Observer has stated that staff of the newspapers should restore the original mandate of the newspaper. He was addressing His staff following the suspension of the editors of the paper Thulani Thwala and Alec Lushaba. In his address, he told the staff that every newspaper in the world has its own mandate which the owners and shareholders want it to achieve and carry out. He then urged the employees to remain calm, be forever dedicated to their jobs, and make the paper succeed as it has a great future.

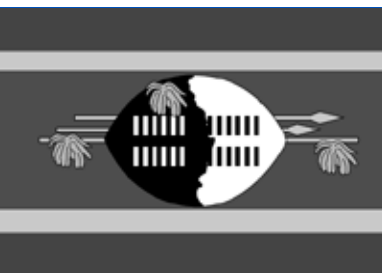
Alert

Date: September 12, 2012

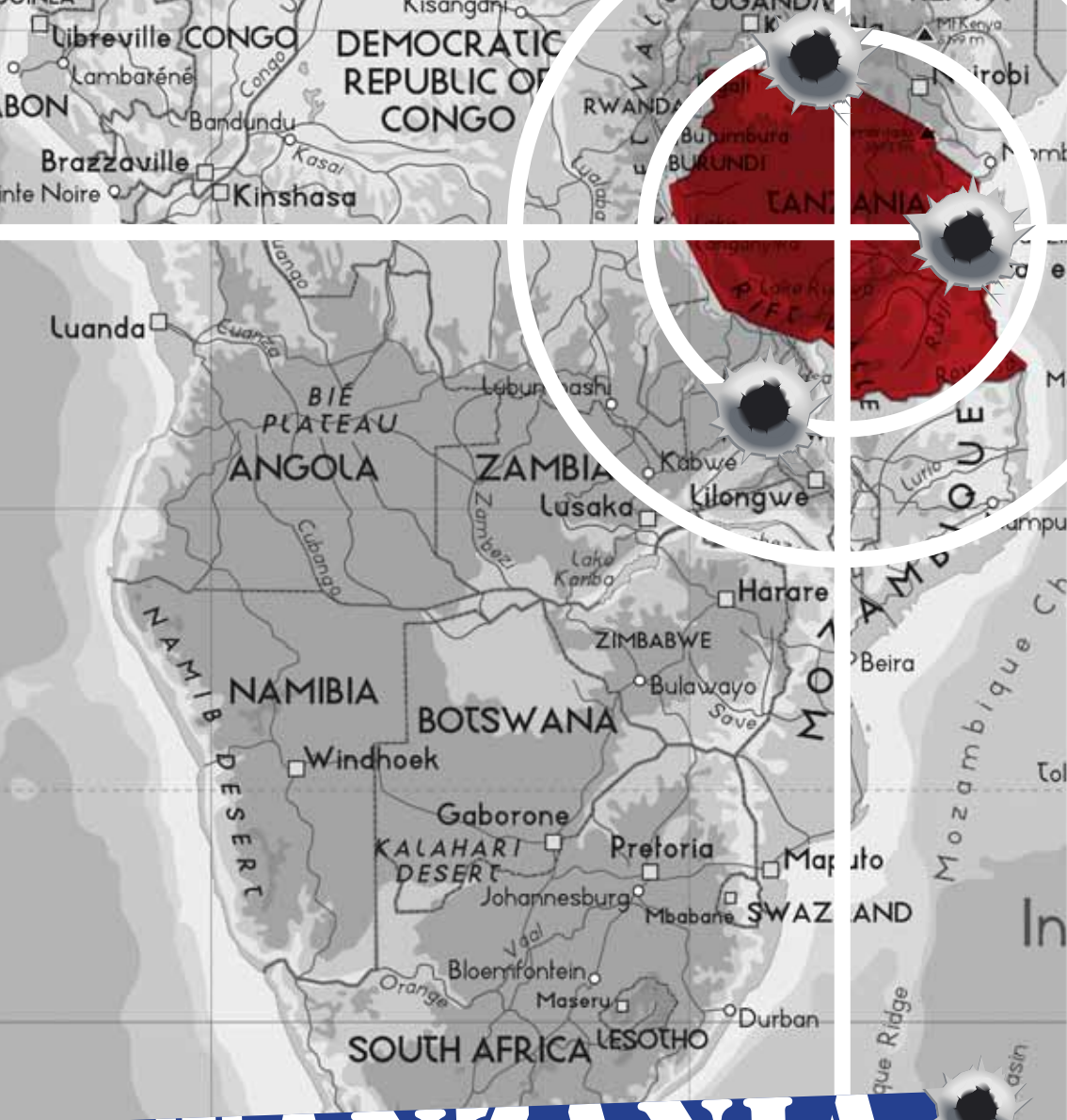
Person/ institution: Swazi TV

Violation/ issue: Censored

Two journalists at the state-censored Swazi TV were suspended from work for allowing an unauthorized item about King Mswati III to appear in a news bulletin. It concerned the traditional Umhlanga Reed Dance that took place last week. A news report about the event sourced from Channel France International (CFI) did not give the king enough



respect, according to Swazi TV bosses. The report mentioned the fact that sometimes the king uses the Reed Dance to find himself a wife from the tens of thousands of semi-naked women and girls, some as young as nine years old, who dance in front of him.



TANZANIA



National Overview
by MISA-Tanzania

The Media Freedom situation

There is no definite way of explaining the Media Freedom Situation in the country. If one explains it from the presence of media outlets' point of view, one can conclude that Tanzania has a free press. This is because the country has one of the highest media concentrations in the region.

According to registrar of the newspapers' office Tanzania has 706 newspapers (both weeklies and dailies), and according to the Tanzania Communications and Regulatory Authority (TCRA), there are (licensed) 59 radio stations and 28 TV stations.

However, whatever these outlets are reporting is a matter of concern when it comes to defining media freedom. If media freedom is defined from the fact that journalists have the right to publish anything that is of the public interest, then year 2012 has been challenging in terms of media freedom.

Adherence to the Codes of ethics by editors/journalists is still a challenge. This is made difficult especially with interference from media owners themselves, influence by advertisers, news sources (particularly politicians), unqualified practitioners and the absence of a strong standing Media Law that enshrines press freedom.

Among the important highlights of the year in terms of press freedom violations were the killing of TV Journalist Daudi Mwangosi by an explosive that was fired by the local police. The incident happened in Iringa region, where the Channel 10 Correspondent, alongside

other reporters, was covering political rallies by the largest opposition party in the country, Chama cha Demokrasia na Maendeleo (CHADEMA).

Another incident that almost took the life of another journalist was the shooting of Tanzania Daima Newspaper reporter, Shaban Matutu, at his home in the outskirts of the Commercial city of Dar es Salaam. Even though the police shot Matutu, there was no clear established link between his work and the shooting.

Lawsuit threats by political leaders have been a common feature of the media status this year. Several cases have been referred to the Media Council of Tanzania (MCT) for mediation. One of the cases involved former Prime Minister, Edward Lowassa, and the local daily, Dira ya Mtanzania.

MCT ruled that Dira ya Mtanzania newspaper undermined the journalism profession by publishing series of defamatory and biased stories on the former Prime Minister, while denying him the right of reply. It was ordered to apologise to Lowassa and reimburse the costs, including those incurred in instituting the complaint.

Court cases by the government against independent newspapers were also recovered in this year. One of the most covered cases was against the local weekly Tanzania Daima and its editor (by then) Absalom Kibanda for publishing an article that the government said was meant to incite chaos in the country. The case also involved the publisher, Mwananchi Communication Ltd, which was represented by Theofil Makunga (then



Southern Africa hope to secretive public institutions – Research findings



Acting CEO). The case is still ongoing.

But one of the landmark cases involving newspapers for year 2012 was the indefinite ban of the local weekly, *MwanaHalisi* newspaper, by the government for publishing a story on the alleged kidnapping and torture of the Medical Doctors Association president, Dr. Stephen Ulimboka.

In its three publications – no.302 publication of Wednesday, July 11-18, 2012, no.303 of Wednesday 18-24, 2012, and no.304 of Wednesday July 25-01, 2012 – it ran a story concerning the kidnapping and torture of Dr Ulimboka. The article alleged that the person in question was a government agent.

In 2012, the Ethics Committee of the MCT sat three times for arbitration of complaints.

The MCT successfully mediated four complaints at its level, including two from an accomplished businessperson, Ali Mufuruki, who filed complaints against ITV and Channel 10 television stations. Others successfully mediated were those filed by SUMATRA versus Taifa Letu, and one by a prominent lawyer, Ms. Hawa Sinare, versus *MwanaHALISI* newspaper.

According to its annual report last year, MCT handled 28 complains in 2012,

including those which were determined at the Ethics Committee level, Secretariat level and others which were filed and later formally withdrawn or just not pursued, by complainants, for loss of interest or other reasons.

Differences between government/political leaders and journalists are directly linked to whatever they write. There are those who write what the leaders want and there are those who stand by their profession. Those who say anything that doesn't find favour in the eyes or ears of those in power are hated.

"Press violations are widespread and sometimes they are committed with the aid of fellow journalists", says Fredrick Mgoi, Kwanza Jamii's News Editor in Iringa region. He says his paper gave the Development Directors in the region a free page to write their information on any development plans, projects accomplishments etc but they declined.

"When we published a story on how they underperformed and the possibility of them being fired, they became furious. We had a Deputy Editor who went behind our backs and apologised to the Directors saying that it wasn't him who wrote the story. It was later on that we learnt of his involvement in soliciting adverts for other newspapers from the



Directors,” Mgoi said.

Critics say relations between the police force and the media are very crucial to development since they are interdependent and, the fact that, they all serve the same public.

2012 recorded tainting relations between members of the police force and those of the media. Even though there have been incidences of press freedom violations in the country, these incidences had never reached the extent of journalists being killed, as that incident in Iringa region of the killing the of journalist, Daudi Mwangosi. The case is still in court.

However, the situation has improved for the better as journalists and the police are still working closely. This was evident during the killing incident involving radio Kwizera journalist Issa Ngumba from Kakonko in Kigoma region, as police officers accompanied/escorted the MISA-TAN team and other journalists to the scene of the incident.

Owners of the media houses are also part of the press freedom violation. It is not a strange thing for the owner to call the newsroom and order the editor to scrap a story or change the headline. A story that might compromise the owner's political aspiration or business con-

tract will hardly find a way in the newspaper or have air time, no matter how good it might be.

Cases of journalists pursuing political careers are also mentioned as a big threat to press freedom. It is not strange that several journalists have been elected to political administration posts, while others are still vying to be elected for National Executive Committee posts of major political parties, and critics argue that their appointments are a 'thank you' from party leaders, as their appointments are largely dependent on what they have been doing, either during campaigns or at personal level.

Right to assembly and expression of opinions and views according to the law is a guarantee to every citizen. Banning of newspapers, taking editors and publishers to court under insult and defamation laws, attacking and killing of journalists is curtailing media freedoms and, thus, denying people of their right to know, which is a fundamental human right.

Media is the fourth estate of any government. Governments that have prospered socially and economically learnt the good side of the media many years ago and have made good use of it. We urge the government to see that in another light and make a positive move towards re-

specting the media and the role it plays in the development of the country.

Right to Know and Media Services Bills

Efforts to pressure the government into establishing two major laws concerning the media and information were stepped up. The Coalition for Right to Information, which is comprised of media experts, Lawyers, Media Owners and Social activists, is working on that tirelessly.

In the year 2012, through forums with Members of the Parliament, courtesy visits to the Ministers responsible, international community, community workshops and meetings, the Coalition worked very hard to create an understanding of the importance of the two bills and how they could be detrimental to country's development.

The need to have Right to information legislation in Tanzania is derived from the best practices that have already taken place in various countries of the World. The provisions of the local and international instruments have also supported this need.

Media Services legislation is a separate set of principles and standards, which the government wishes to, shape the dissemination of information by and to members of the public. There are pertinent issues distinguished from freedom of information legislation, which need specific address by the law to be enacted. Such issues include, but are not limited to such things as licensing of mass media for the purposes of practicing in the country; and contents management

and control in order to protect the public morals and ethics and promote growth of a society and regulation of professional misconducts and/or behaviour of media practitioners among others.

Legislation on media services has to incorporate a wide number of such issues addressed above in order to promote the enjoyment of diverse media contents to suit diverse interests of consumers. To have independent and professional media personnel, any legislation to be enacted should not ignore the issues noted.

It is important to notice at this point that freedom of information legislation can easily be implemented where there are media services laws that adequately promote media freedom. In the absence of such relationship, the enjoyment of article 18 of the Constitution of the United Republic of Tanzania will remain a dream to be achieved.

MISA Tanzania believes that it is through legislation of the MSB & ATI Laws that will guarantee journalism as a trusted profession in the country and grant the general population access to relevant information, thereby allowing them to participate in the development of the country in an informed manner.

Digital Migration

Until few minutes before midnight on 31st December 2012, the system of broadcasting was predominantly analogue especially the free to air services. Cable television services have changed tremendously over the years since 1994 when Cable television licences were granted. Cable television operators in

major cities are now on broadband, with the capability of offering a number of enhanced services on the digital platform. The government began digital migration with Dar es Salaam on 31 December 2012, and the exercise is still going on to other regions up country. Thus, there is every possibility that Tanzania will meet the SADC deadline.

We are told that the new digital technologies have brought about significant changes in the broadcasting landscape. The changed broadcasting environment needs to be addressed by new policies, laws, regulations and rules.

Policies, laws and regulations governing the provision of Broadcasting Services of the time, allowed content service providers to own and operate studios and transmitters for both radio and television. The Converged Licensing Framework (CLF) adopted by the Authority. In February 2005, the separation of roles and functions between content service provision and transmission facilities was made. TCRA introduced separate licenses for content service provision, as a standalone license and for signal distribution/transmission falling under the Network Facilities license category.

With public information campaigns via media that spanned for several months, the country at last switched that off the analogue broadcasting system by midnight of December 2012. Thus, 2013 woke up to a new dawn of digital broadcasting.

It was a broad move that aimed at revolutionizing the broadcasting industry but it never went without challenges and criticism. Reports of inadequate dig-

ital receivers (decoders) and poor signals were some of the complaints anticipated. The exercise began with few regions, as a starter, before it was taken to the whole country.

ICT & new media

When TV Journalist Daudi Mwangosi was murdered, it was the blogs that first broke the news. Via mobile phones, photos of the mutilated body were fast posted on the web and in a very short time everybody was sharing the images, from Facebook pages to every other social media available.

ICT and new media in Tanzania have been on the rise in recent years in the country. Studies show that Tanzania is fourth (after South Africa, Nigeria and Kenya) in mobile phones penetration.

Mobile phones were particularly used to reach village grassroots in the remotest parts of Tanzania during the 2010 elections. According to statistics by the Ministry of Communication, Science & Technology, 25.6 million mobile phones are registered in Tanzania. A credit for that goes to the influx of cheap cellular phones from Asia and lower tariffs due to increased service providers (Tanzania has eight).

Social media (websites and blogs) in Tanzania are not required to register or obtain permission from state authority like in media outlets such as print or broadcasting. Only Internet service providers are required to register. Social media was notably used for the first time in the 2010 general elections when websites, blogs, Facebook and Twitter were

used to conduct election campaigns. Records by the same Ministry show that the number of Internet users rose to 6 million by May 2012 from 5.3 million at the end of 2011.

Right now the mushrooming of the independent bloggers is unimaginable. A good number of them publish content that isn't suitable for society consumption.

Because the Internet can be easily accessed via mobile phones, bloggers can easily post anything at any time, and people share whatever is posted without caring who is at the receiving end. And, the number of Internet users is growing at unprecedented rate, which includes mostly the youth.

The biggest challenge that faces civic journalism is content censorship. There are codes of ethics for every profession. Journalism has it but it doesn't necessarily apply to civic journalism. With the rise of the digital age, information sharing has become so easy but at a greater cost. With mainstream media, it wasn't possible or it is not possible to publish photos of a mutilated body but with social media, people share and 'like' on Facebook walls without considering the effect it will cause to those involved.

There is a need for a code of ethics in the new brave world of digital communications and some sort of censorship to regulate the industry. In so doing, the rate of moral decadence and misuse of the new media can be controlled.

Conclusion

The media industry in Tanzania is currently facing many challenges, from outdated laws such as The Newspaper Act (1976), which was used to ban the MwanaHalisi newspaper, to the appalling relationship between the police and the media, to unethical journalism done by many unprofessional journalist, who are better known by the alias, 'makanjanja'.

This has put the industry in the dilemma on how to fully exploit its opportunity as the government's watchdog. Unless broad measures are taken to repeal all the bad laws that deny the freedom of press in the country, it will be awkward to boast ourselves as Tanzanians as a free society.

PORTUGUESE VERSION

A Situação da Liberdade da Mídia

Não há nenhuma maneira definitiva de explicar a situação da liberdade da mídia no país. Se explicarmos do ponto de vista da presença de meios de comunicação, pode-se concluir que a Tanzânia tem uma imprensa livre. Isto é porque o país tem uma das mais altas concentrações de mídia na região.

De acordo com o secretário de gabinete dos jornais, Tanzânia tem 706 jornais (tanto semanários quanto jornais diários), e de acordo com a Autoridade Reguladora de Comunicações da Tanzânia (TCRA), há 59 estações de rádio e 28 emissoras de TV (licenciadas).

No entanto, o que está sendo relatado por esses estabelecimentos é uma questão de preocupação quando se trata da definição da liberdade de imprensa. Se a liberdade de imprensa é definida a partir do facto de que os jornalistas têm o direito de publicar qualquer coisa que seja do interesse público, então o ano de 2012 tem sido um desafio em termos de liberdade de imprensa.

Adesão aos códigos de ética por editores / jornalistas ainda é um desafio. Isto torna-se difícil, especialmente com a interferência dos próprios proprietários das empresas de mídia, influência pelos publicitários, fontes de notícias (especialmente os políticos), profissionais não qualificados e a ausência de uma Lei de Imprensa forte que consagra a 'liberdade de imprensa'.

Entre os destaques importantes do ano, em termos de violação da liberdade de imprensa, foi o assassinato do jornalista de TV Daudi Mwangosi por um explosivo que foi detonado pela polícia local. O incidente aconteceu em Iringa região onde o Correspondente do Canal 10, ao lado de outros repórteres, estava cobrindo comícios políticos por parte do maior partido da oposição no país, Chama cha Demokrasia na Maendeleo (CHADEMA).

Outro incidente que quase tirou a vida de um outro jornalista foi o tiroteio contra o jornalista da Tanzânia Daima Shaban Matutu em sua casa nos arredores da cidade comercial de Dar es Salaam. Matutu foi baleado pela polícia, mas não havia nenhuma ligação clara estabelecida entre seu trabalho e do tiroteio.

Ameaças de processos movido por líderes políticos têm sido uma característica comum no estado de mídia este ano. Vários casos foram encaminhados para o Conselho de Comunicação Social da Tanzânia (MCT) para a mediação. Um dos casos envolveu o ex-primeiro-ministro Edward Lowassa e o diário local Dira ya Mtanzania.

MCT concluiu que o jornal Dira ya Mtanzania minou a profissão de jornalismo por publicar séries de histórias difamatórias e tendenciosas sobre o ex- primeiro-ministro, Edward Lowassa, negando-lhe o direito de responder. O jornal foi condenado a pedir desculpas ao Lowassa e reembolsar as despesas do processo, incluindo as de instituir a queixa.

Processos judiciais por parte do governo contra os jornais independentes também foram recuperados este ano. Um dos casos mais cobertos era contra o jornal semanal Tanzânia Daima e seu editor (até então) Ab-



salom Kibanda por publicar um artigo que o governo disse que pretende incitar caso no país. O caso também envolveu a editora Mwananchi Communication Ltd, que foi representado por Theofil Makunga (até então CEO interino). O caso ainda continua.

Mas um dos casos marcantes envolvendo jornais para o ano de 2012 foi a proibição por tempo indeterminado do jornal semanal local MwanaHalisi pelo governo por publicar uma reportagem sobre o suposto sequestrador e torturador do presidente da Associação dos Médico Dr. Stephen Ulimboka.

Em seus três publicações; no.302 publicação de quarta-feira 11-18 julho de 2012, n ° 303 de quarta-feira 18-24 2012, e n ° 304 de quarta-feira 25-01 julho de 2012, a história sobre o sequestro e tortura do Dr. Ulimboka. O artigo alegava que a pessoa em questão era um agente do governo.

Em 2012, a Comissão de Ética do Conselho de Comunicação Social da Tanzânia (MCT) sentou três vezes para a arbitragem de reclamações.

MCT mediu com sucesso quatro queixas no seu nível, incluindo dois de um talentoso empresário Ali Mufuruki que apresentou queixas contra ITV e a estação de televisão canal 10. Outros que com sucesso foram mediados, foram aqueles arquivados por SUMATRA contra Letu Taifa e um pro-

eminente advogado Hawa Sinare contra jornal MwanaHALISI.

De acordo com o seu relatório anual do ano passado, o MCT tratou 28 reclamações em 2012, incluindo os que foram determinados a nível da Comitê de Ética, a nível do Secretariado e outros que foram arquivados e mais tarde formalmente retirados ou simplesmente não perseguidos por denunciantes ou por perda de interesse ou por outras razões.

Diferenças entre governo / líderes políticos e jornalistas estão diretamente ligados a tudo o que eles escrevem. Há aqueles que escrevem o que os líderes querem e há aqueles que praticam a profissão. Aqueles que dizem aquilo que não tem graça aos olhos e ouvidos dos que estão no poder, são odiados.

"Violações de imprensa são vastos e, por vezes, estão cometidos com a ajuda de colegas de jornalismo", diz Fredrick Mgoi, Editor de notícias de Kwanza Jamii na região de Iringa. Ele disse que o seu jornal deu, aos Diretores de desenvolvimento na região, uma página para escrever de graça suas informações acerca de qualquer plano de desenvolvimento, projetos e realizações, mas eles recusaram.

"Quando publicamos uma reportagem sobre o seu desempenho inferior e



a possibilidade d'eles serem demitidos eles ficaram furiosos. Tivemos um Editor adjunto que passou pelas nossas costas e pediu desculpas aos diretores dizendo que não foi ele quem escreveu a história. Foi mais tarde que soubemos da sua participação na solicitação de publicidades dos Diretores para outros jornais ", diz Mgoi.

Os críticos dizem que as relações entre a polícia e a mídia são muito crucial para o desenvolvimento, uma vez que são interdependentes e o fato de que todos eles servem o mesmo público.

2012 registrou relações contaminadas entre os membros da força policial e da mídia. Houve casos de violações da liberdade de imprensa no país. Estes incidentes já existiram, mas nunca chegou ao ponto de matarem jornalistas como aquele incidente na região de Iringa, onde o jornalista local Daudi Mwangosi foi morto pela polícia enquanto cobria um comício político do partido Chama cha Demokrasia na Maendeleo (CHADEMA). O caso ainda está no tribunal.

No entanto, a situação melhorou, os jornalistas e a polícia ainda estão a trabalhar juntos, na verdade, durante o incidente envolvendo a morte do jornalista da radio Kwizera, Issa Ngumba, de Kankono na região de Kigoma, foi a poli-

cia que acompanharam / acompanhou a equipada MISA-TAN e outros jornalistas para o local do incidente.

Proprietários das impresas de mídia também fazem parte da violação da liberdade de imprensa. Não é uma coisa estranha para o proprietário chamar a redação e pedir o editor para desfazer uma história ou alterar o título. Uma história que pode comprometer a aspiração política do proprietário ou o contrato comercial dificilmente vai encontrar um caminho para o jornal ou para o ar por mais bom que seja.

Casos de jornalistas que procuram carreiras políticas também são mencionadas como uma grande ameaça à liberdade de imprensa. Não é estranho que vários jornalistas foram eleitos para cargos de administração política, enquanto outros ainda estão disputando para serem eleitos para cargos Executivos do Comitê Nacional dos principais partidos políticos, e os críticos argumentam que é um agradecimento de líderes partidários, que tem muito a ver com o que eles têm feito, quer seja durante as campanhas ou a nível pessoal.

Direito de reunião e de expressão de opiniões e pontos de vista, de acordo com a lei, é uma garantia para todos os cidadãos. Proibição de jornais, levar edi-

tor espera o tribunal sob leis de insultos e difamação, atacando e matando jornalistas é cercear a liberdade de imprensa e assim negando as pessoas o seu direito de saber o que é um direito humano fundamental.

Mídia é o quarto poder de qualquer governo. Governos que prosperaram socialmente e economicamente aprenderam o lado bom da mídia há muitos anos e tem feito bom uso dele. Pedimos ao governo para ver isso de uma maneira diferente e fazer uma mudança positiva no sentido de respeitar a mídia e o papel que ela desempenha no desenvolvimento do país.

O Direito de Saber e Leis de Serviços de Mídia

Esforço para preçionar o governo para estabelecer duas leis principais, concernente a Mídia e informação, foi intensificado. A Coalizão para Direito à informação, que é composta por especialistas em mídia, advogados, donos da mídia e activistas sociais estão trabalhando nisso incansavelmente.

No ano de 2012, através de fóruns com os membros do Parlamento, visitas de cortesia aos ministros responsáveis, a comunidade internacional, workshops e reuniões da comunidade, a Coalizão trabalhou arduamente para criar esclarecer a importância dos dois projetos de lei e como eles poderiam ser impotantíssimos para o desenvolvimento do país.

A necessidade de ter legislação de Direito à informação na Tanzânia, é derivada das melhores práticas que já ocorreram em vários países do Mundo. Esta

necessidade também foi apoiada pelas providências de ferramentas locais e internacionais.

A legislação de Serviços da Mídia é um conjunto de princípios e normas separado, que o governo pretende, moldar a divulgação de informações por e para os membros do público. Há questões pertinentes distinguidos da legislação de liberdade de informação, que precisa de atenção especificada lei para ser promulgada. Essas questões incluem, mas não estão limitados a coisas como o licenciamento da mídia para fins de praticar no país, gestão de conteúdos e controle, a fim de proteger o moral e a ética do público e promover o crescimento de uma sociedade e regulação de comportamentos abusivos e profissionais ou o comportamento de profissionais da Mídia entre outros.

Legislação sobre serviços da mídia tem que incorporar um grande número de questões abordadas acima, a fim de promover o gozo de diversos conteúdos da mídia para atender diversos interesses dos consumidores. Para ter pessoal independentes e profissionais da mídia, qualquer legislação a ser aprovada não deve ignorar as questões acima

É importante notar a esta altura que a legislação sobre a liberdade de informação pode ser facilmente implementado, onde há leis de serviços da mídia que promovam adequadamente liberdade de imprensa. Na ausência de tais relações, o gozo do artigo 18 da Constituição da República Unida da Tanzânia continuará sendo um sonho a ser alcançado.

MISA Tanzânia acredita que é at-

ravés da legislação das Leis de MSB & ATI que garantam o jornalismo como uma profissão de confiança no país e a conceder o acesso da população em geral à informação relevante, permitindo-lhes participar no desenvolvimento do país de uma forma informada .

Migração Digital

Até poucos minutos antes da meia-noite de 31 de Dezembro de 2012, o sistema de radiodifusão era predominantemente analógico especialmente a liberdade de serviços aéreos. Serviços de TV a cabo têm mudado muito ao longo dos anos, desde 1994, quando as licenças de TV a cabo foram concedidas. Operadores de televisão por cabo nas grandes cidades já estão à banda larga com capacidade de oferecer uma série de serviços avançados na plataforma digital. O governo começou a migração digital com Dar es Salaam em 31 de dezembro de 2013 e o exercício ainda está em curso para outras regiões no país. Assim, há muitas possibilidades de que a Tanzânia vai cumprir com o prazo da SADC.

Dizem-nos que as novas tecnologias digitais trouxeram mudanças significativas no cenário da radiodifusão. O ambiente de radiodifusão, que foi mudado, precisa ser abordado por novas políticas, leis, regulamentos e regras.

Políticas, leis e regulamentos que regem a prestação de serviços da radiodifusão da época, permitiu prestadores de serviços de conteúdo para serem proprietários e operarem estúdios e transmissores para rádio e televisão. O Converged Licensing Framework (CLF), aprovada

pela Autoridade. Foi em fevereiro de 2005, quando a separação de papéis e funções entre prestação de serviços de conteúdo e locais de transmissão foi feita. TCRA introduziu licenças separadas para a prestação de serviços de conteúdo, como uma licença independente e para distribuição de sinal / transmissão caio sob a categoria da licença de Equipamentos Rede

Com campanhas de informação pública via mídia, que estendeu-se por vários meses, o país finalmente desligou-se do sistema de transmissão analógico até a meia-noite de dezembro de 2012. O ano de 2013 acordou com um novo amanhecer da radiodifusão digital.

Foi um movimento amplo que visa revolucionar a indústria de radiodifusão, mas isso nunca foi sem desafios e críticas. Relatos de receptores digitais inadequados (decodificadores) e mal sinal eram algumas das reclamações antecipadas. O exercício começou com poucas regiões no princípio antes de avançar para todo o país.

TIC e Nova Mídia

Quando o Jornalista de TV Daudi Mwangosi foi assassinado, foram os blogs que primeiro deu a notícia. Através de telefones móveis, fotos do corpo mutilado foram rapidamente publicado na web e em um tempo muito curto, todo mundo estava compartilhando, a partir das páginas do Facebook para outras mídias sociais disponíveis.

TIC e Nova Mídia na Tanzânia têm aumentado nos últimos anos no país. Pesquisas mostram que a Tanzânia é o

quarto (depois da África do Sul, Nigéria e Quênia) em penetração de telefones móveis.

Os telefones Móveis foram particularmente utilizados para atingir bases da vila em partes mais remotas da Tanzânia durante as eleições de 2010. De acordo com as estatísticas do Ministério da Comunicação, Ciência e Tecnologia, 25.6 milhões de telefones celulares são registrados na Tanzânia. Crédito para isso vai para o influxo de celulares baratos da Ásia e tarifas mais baixas, devido ao aumento de prestadores de serviços (Tanzânia tem oito).

Mídias sociais (sites e blogs) na Tanzânia não são obrigados a se registrar ou obter permissão de autoridade do Estado como os outros meios de comunicação, tais como imprensa ou radiodifusão. Apenas Prestadores de serviços de internet são obrigados a se registrar. Notavelmente meios de comunicação social, foram utilizados pela primeira vez nas eleições gerais de 2010, onde sites, blogs, facebook e twitter foram utilizados para realizar as campanhas eleitorais. Arquivos do mesmo ministério indica que o número de usuários de internet subiu para 6.000.000 em maio deste ano, de 5.3 milhões no final de 2011.

Agora a proliferação dos blogueiros independentes é inimaginável. Um bom número deles publicam conteúdo que não é adequada para a sociedade.

A Internet sendo facilmente acessada através de telefones celulares, os blogueiros podem facilmente postar qualquer coisa a qualquer momento, as pessoas partilham o que é postado sem

se importar com quem está a receber do outro lado. E o número de usuários de internet está crescendo a uma taxa sem precedentes, a maioria são jovens.

O maior desafio que o Jornalismo Civil encara é a censura de conteúdo. Existem códigos de ética para cada profissão. Jornalismo tem, mas isso não se aplica necessariamente ao jornalismo civil. Com a era digital, o compartilhamento de informações tornou-se tão fácil, mas a um custo maior. Com grande mídia, não foi possível ou não é possível publicar fotos de um corpo mutilado, mas com as mídias sociais, as pessoas compartilham e 'gosto' em paredes de facebook sem considerar o efeito que irá causar aos que estão envolvidos.

Há uma necessidade de um código de ética no mundo admirável das comunicações digitais e algum tipo de censura para regular o sector. Ao fazer isso a taxa da decadência moral e uso indevido dos novos meios de comunicação pode ser controlada.

Conclusão

A Indústria da Mídia na Tanzânia está atualmente enfrentando muitos desafios, começando com as leis ultrapassadas, como a de 1976 (A Lei de jornal), que foi usada para proibir o jornal MwanaHalisi, a relação terrível entre a polícia e a mídia, até o jornalismo in-ético feito por muitos jornalistas não profissionais, alias, "makanjanja".

Isso colocou a indústria em um dilema sobre como explorar plenamente a sua oportunidade como cão de guarda

do governo. Se pelo menos medidas amplas são tomadas para revogar todas as leis ruins que negam a liberdade de imprensa no país, será difícil vangloriar-se como uma sociedade livre.

Alert

Date: February 10, 2012

Person/ institution: Activists

Violation/ issue: Detained

16 human rights activists led by the Legal and Human Rights Centre Director Dr. Hellen Kijo Bisimba and the Tanzania Women Journalists Association Director Ananilea Nkya were on 9 February 2012 detained in Dar es Salaam for allegations of illegal assembly and breach of peace. According to the Police Commander, Kinondoni Special Zone, Charles Kenyela, the activists were detained following security intel that they were heading for illegal assembly at the Muhimbili National Hospital while carrying banners with messages intended to disrupt peace. He said this is a criminal offense and police would not let that happen.

Alert

Date: March 8, 2012

Person/ institution: Mwananchi Communications (Ltd)

Violation/ issue: Legislation

A Dar-es-Salaam court has charged two senior Editors, Absalom Kibanda of Tanzania Daima, Theopil Makunga of Mwananchi Communications (Ltd) and Features Writer, Samson Mwigamba with sedition. The charges are in connection with an article authored by Mwigamba and published last year in a local daily tabloid, Tanzania Daima. The prosecution read a new charge of sedition against the three, substituting it from the previous one that was in reference to 'inciting a mutiny' through a newspaper article. They were told that the previous



charge of 'inciting soldiers and policemen to mutiny' was drawn under the Penal Code and the new charge of sedition was made under the Newspaper Act as amended in 2002.

Alert

Date: August 1, 2012

Person/ institution: MwanaHalisi

Violation/ issue: Censored

The government of the United Republic of Tanzania has banned, indefinitely, the critical local weekly MwanaHalisi, accusing the newspaper of publishing seditious articles according to a statement released by the Information ministry released Monday, 30 July 2012. The Tanzania government reached this decision after MwanaHalisi published content in its July 11-18, 2012; July 18-24, 2012 and July 25-01 August, 2012 editions that is deemed to have brought fear to society.

Alert

Date: August 17, 2012

Person/ institution: Government of Tanzania

Violation/ issue: Legislation

In a move that is likely to have a chilling effect on how the media in Tanzania

operate, the government of the republic has expressed its commitment to implementing, to the letter, the draconian Newspaper Act of 1976, which has been previously used to either suspend or shut down newspapers deemed critical of the government.

Alert

Date: September 3, 2012

Person/ institution: Daudi Mwangosi

Violation/ issue: Killed

Prominent journalist, Daudi Mwangosi on Sunday, 2 September 2012 died in the line of duty while covering clashes between the police and members of Tanzania's largest opposition political party, Chama cha Demokrasia na Maendeleo (Chadema). The incident occurred in the southern highlands region of Iringa. Until his death, Mwangosi was correspondent for television station, Channel Ten and also served as the Chairperson of the Iringa Press Club.

October 12, 2012: Tanzanian police may be responsible for the eventual death of journalist, Daudi Mwangosi, who died on Sunday, 2 September 2012 after a confrontation with members of the Field Force Unit (FFU), a quasi-military wing of the police force. Information gathered



from two investigations into Mwan-gosi's death, one from the Commission on Human Rights and Good Governance (CHRGG) and the other from the Media Council of Tanzania (MCT) highlights the police's actions in handling gathering members of the opposition political party, Chama cha Demokrasia na Maendeleo (Chadema), as contributing significantly to the eventual death of the journalist. CHRGG, chaired by the eminent retired Justice, Judge Amir Manento, has found that the Chadema gathering was not illegal and that in deeming it illegal, the Regional Police Commander (RPC), Assistant Commissioner of Police, Michael Kamuhanda himself acted illegally.

just after 22:00hrs (GMT+3). The Tanzania Chapter of the Media Institute of Southern Africa (MISA-Tanzania) visited Matutu at his home on Thursday, 6 December moments after the scribe had been discharged from hospital. "I was awoken by the sound of several people outside. Before my wife and I could properly investigate what was going on, the locked door to our home was forced open and pushed down," Matutu told MISA-Tanzania.

Alert

Date: December 7, 2012

Person/ institution: Shabani Matutu, Tanzania Daima

Violation/ issue: Assaulted??

Shabani Matutu, a journalist with privately-owned daily newspaper, Tanzania Daima, is recovering after being shot at by police at his Kunduchi-Meco home in Dar-es-Salaam. The incident, which resulted in Matutu sustaining a wounded left shoulder, occurred on the evening of Tuesday, 4 December 2012



ZAMBIA



National Overview
by MISA-Zambia

Introduction

The year 2012 began on a high note with optimism for an improved media environment. This followed several promises by the newly elected Patriotic Front (PF) government of liberalising the Zambian media. The PF government came into power with a pledge to deliver change in various areas of concern, including the media sector.

According to its manifesto, the PF says that it will implement the provisions of the *Zambia National Broadcasting Corporation (ZNBC) Amendment Act of 2002* that would allow ZNBC to operate as a public service broadcaster; review and implement the provisions of the *Independent Broadcasting Authority Act of 2002*; promote the autonomy of the government print media to enable them to compete with the private media; review and reconcile the provisions of the Official Secrets Act of 1969 and the Freedom of Information Bill of 2002 in order to enact the *Freedom of Information Bill of 2002* into law; and, support self regulation of the media in Zambia and review operations of the public media.

These remedies are based on the observation that the public media under the previous Movement for Multi-Party Democracy government was simply a mouthpiece of its master, the party in government.

Following its election victory, the new PF government, through its Minister of Information, Honourable Given Lubinda, promised to enact the *Access to Information (ATI) Bill* by May 2012, while promises to operationalise the *In-*

dependent Broadcasting Authority (IBA) Act were also high on the agenda.

Subsequent Ministers of Information have made similar policy pronouncements regarding media freedom and access to information. For instance, on 25th January 2012, newly appointed Minister of Information, Fackson Shamenda, urged the media to desist from praising government all the times, especially when it was wrong. Similar words were echoed during the World Press Freedom Day Commemorations on 3rd May 2012.

"Press Freedom is non-negotiable as far as the PF government is concerned, as is public access to information in order to have a well informed society. Before 20th September 2011 [the day PF came into power], heads of public media used to queue up every day before the Information Permanent Secretary to have their news items approved for publication, as the permanent secretary was the de facto editor-in-chief for the *Times of Zambia*, *Zambia Daily Mail* and *ZNBC*," Shamenda said.

With these assurances, state-owned media such as *ZNBC* and *Zambia Daily Mail* have since improved news coverage to include 'dissenting' views from opposition political parties on various national issues. The front pages of state-owned dailies were no longer a preserve of the ruling party. Furthermore, the government allowed the media to launch a non-statutory media regulation body, which had stalled following calls by the previous government for a statutory media regulation framework as opposed to non-statutory regulation.

Additionally, the government began the process to enact the ATI Bill in earnest in the second quarter of the year by appointing a Taskforce on ATI to redraft the ATI Bill and undertake sensitisation campaign. This goodwill continued to be manifest through the approval of over seven full broadcast and one television licences. Furthermore, eight radio and three television construction permits were issued in May.

However, not all was rosy as the second and third quarters saw an increase in media freedom violations that included verbal abuses, physical attacks, un-lawful detentions, censorship, reduction of radius for UNZA Radio, threats of closure of online media such as the *Zambian Watchdog*, and the dismissal of two journalists.

Media Law and Policy Reforms

IBA Act

The ray of hope towards the IBA becoming operational in 2012 was bright at the beginning of the year but dwindled at its close. However, government undertook three key activities of developing and approving the IBA structure, allocating offices to the IBA and commencing efforts to appoint a Director General (DG). It is vital to state that since the law was enacted in 2002, this attempt was the first aimed at making the Act operational.

In contrast, the previous government only ended at enacting the law and later amending it after eight years of non-implementation. The amendment resulted in the removal of the appoint-

ments committee, which was supposed to select and recommend names to the Minister of Information to sit on the IBA board. However, the 2010 IBA Act has left the selection of IBA Board members in the Information Minister's hands, giving him a firm grip on the broadcast sector.

MISA Zambia and other stakeholders have recommended that the appointments committee be reinstated into the IBA Act if public service broadcasting and independent broadcast regulation are to be attained. It further expressed concern that the IBA Director General (DG) was being appointed before the board was put in place. According to the IBA Act, the board is supposed to appoint the DG of the IBA.

The objective of the IBA was to remove government control over the broadcast sector in Zambia and usher in public broadcasting from the current state-owned media, which seems to be at the service of the party in power at the expense of all other stakeholders in the country. Several research reports indicate biasness of such media towards government.

ATI Bill

This Bill has been pending enactment since 2002 when it was withdrawn from Parliament. The PF government first promised to enact the Bill when it assumed office in November 2011, indicating that the Bill would be law in six months time. This meant that the Bill would have been an Act in May 2012.

However, with the transfer of Honourable Lubinda from the Ministry of formation, the process seemed to have

taken on a new twist. As the year progressed, the launch of the Bill scheduled for 21st June was moved to 26th June amidst promises of it being enacted into law by September 2012. However, the only recorded progress was the institution of a Taskforce on the ATI by the government in April that managed to draft and submit a 2012 ATI document by June.

The role of the Taskforce was to re-draft the 2007 ATI Bill and undertake sensitisation campaigns on ATI. Nonetheless, the Bill could not be launched because it was alleged that the Attorney General had not reviewed it, but even after he read the Bill, it was still yet to be launched. ATI legislation is viewed as cardinal because it helps to actualise the right of citizens to access public information.

The importance of enacting the ATI law is that it would spell out mechanisms to access information and outline grievance procedures in cases where information is denied. It also spells out which information is exempt from public access. In short, it is the oil that would bring to life the constitutional provision on ATI.

The sad part is that most African countries, Zambia inclusive, have re-democratised without putting into place sufficient legislation that empower citizens to fully take part in governance processes, which is rendered ineffective if citizens lack ATI.

Constitutional Reforms

While the above picture seems quiet gloomy, another wind of hope blew for

the media and it came in the form of a First Draft Constitution launched in April 2012. The Draft elated media advocacy bodies such as MISA Zambia and Press Association of Zambia (PAZA). This is because, from Article 36 – 38, the Draft contains good provisions that, if maintained in the final constitution, will improve the media landscape. The Draft Constitution provides an expanded right to freedom of expression, which includes academic and artistic freedom. It further guarantees the right to access information under Article 37, while Article 38 guarantees freedom of the media and protects the independence of the media, including the state-owned media. This article is a great expansion compared to the current Constitution, which provides for press freedom in passing under Article 20(2) "Subject to the provisions of this Constitution no law shall make any provision that derogates from the freedom of the press".

Self- Regulation of the Media

In July 2012, the media launched a non-statutory regulation body called Zambia Media Council (ZMAEC). This followed an almost three and half year battle between the previous government and the media. The previous government would not allow the Zambian media to launch a non-statutory media regulatory body. This is because a non-statutory media regulatory body is internationally recognised as ideal as it protects the media from the manipulation by the powerful and those in government, whilst providing corrective mechanisms



to journalist found wanting for flouting journalism ethics.

This mechanism is preferred because it is less susceptible to manipulation from the three wings of government, which the media watch over. With this in mind, the Zambian media was forced to register ZAMEC under the Companies Act as opposed to the Societies Act, which requires the line Ministry, in this case the Ministry of Information, to endorse its registration. However, while it was registered, it could not begin operations as the then government threatened to pull out all state-owned media if made operational without government's views being taken into consideration. The proposal of the government was that the self-regulatory body needed to be under an act of parliament like it is for the Law Association of Zambia. While ZAMEC was launched in July 2012, it is still not operational because its articles of association were not in line with the law it was registered under. This meant that the Articles of Association had to be reviewed while a board, which had been launched, was dissolved. This was to ensure that articles of association were in line with the Act under which ZAMEC was registered. At the close of 2012, the review of the constitution had reached an ad-

vanced stage meaning that the operationalisation of ZAMEC was also at the brink of the horizon. The government, however, did indicate during its launch that if the media failed to establish an effective media regulatory body, it could be forced to initiate measures to address the gap regarding to media professionalism oversight.

ICTs and Telecommunication Development

2012 also saw Zambia launch mobile television by a mobile and landline telephone provider Zambia Telecommunications Company (ZAMTEL). Viewers could now watch ZNBC and Muvi Television on their mobile phones.

The subscribers could access such services using Android-powered and third generation (3G) capable mobile handsets.

Further, the strength of online publications, such as *The Zambian Watchdog*, grew and became news leaders for most of the media. As of December 2012, Zambia had over 100 registered bloggers while online media kept on increasing but few, such as the *Lusaka Times*, continued to be sources of news especially to news consumers with access to inter-



net. However, it is noteworthy to state that Internet access is still limited to a few who are mostly along the line of rail.

With regards to the embracing of social media, most of the media in Zambia had a presence on most notable social media like Facebook, Twitter and YouTube. Interaction with media in Zambia has, thus, improved as news consumers with Internet access now have opportunities to react to reports almost immediately.

However, in terms of digital migration, Government assured the nation that it would meet the 2015 deadline to migrate from analogue to digital migration. Therefore, a number of study tours and a consultative conference were undertaken. It is cardinal to state that Zambia being a member of the Southern African Development Community (SADC) has committed to go digital by 2013.

Conclusion

While 2012 seemed promising, with the government taking several positive steps to liberalise the media such as providing independence to state-owned media and others, several activities still need to be undertaken to fully actualise

media freedom, freedom of expression and access to information. These include the need to operationalise the IBA Act, enact the ATI Bill and guaranteeing, through good laws, the space for public media, which include a good constitution, and privatizing over 60% of state-owned print media.

Additionally, efforts should be made to protect television consumers as digital migration sets in while efforts for the whole country to migrate should also be stepped up. Lastly, there is a need for innovation and reduction in tax for media equipment if the print media is to continue growing in Zambia and also if the electronic media which is growing at a high rate is to be sustained.

PORTUGUESE VERSION

Introdução

O ano de 2012 começou com optimismo de um melhor ambiente mediático. após várias promessas da recém-eleito governo da Frente Patriótica (PF) de liberalizar os órgãos de comunicação da Zâmbia. O governo PF assumiu o poder com a promessa de mudar várias áreas de preocupação, incluindo o sector mediático.

No seu manifesto, a PF diz que vai aplicar as disposições da Lei de Emendas da Corporação de Transmissão Nacional da Zâmbia (ZNBC) de 2002, que permitiria ZNBC a operar como uma emissora pública; proceder revisão e implementação das disposições da Lei de Autoridade de Transmissão Independente de 2002; promover a autonomia dos média estatais impressos a fim de competirem com os órgãos de comunicação privados; proceder a revisão e conciliação das disposições da Lei de Segredos Oficiais de 1969 e o ante-projecto-lei de Liberdade de Informação de 2002 para que se torne lei; e, apoiar a auto-regulação mediática na Zâmbia e proceder a revisão das operações de revisão dos órgão de informação públicos.

Esta acção se deve à observação do facto de que os órgãos de informação públicos eram, com o governo cessante, um porta-voz do seu patrão – o partido no poder.

Após a sua vitória nas urnas, o novo

governo da PF, na pessoa do seu Ministro para a Informação, Sua Excelência Given Lubinda, prometeu aprovar o ante-projecto-lei do Acesso à Informação (ATI) até Maio de 2012 além das promessas de operacionalizar a Lei de Autoridade de Transmissão Independente (IBA) que também eram importantíssimos, segundo a agenda.

Ministros de informação sucessivos fizeram pronunciamentos similares sobre a liberdade de imprensa e acesso à informação. A título de exemplo, aos 25 de Janeiro de 2012, o recém-nomeado Ministro para a Informação, Fackson Shamenda, exortou os órgãos de informação a não persistir em lisonjear o governo, sobretudo quando estiver em erro. Ouviram-se palavras similares por ocasião da Comemoração do Dia Mundial da Liberdade de Imprensa aos 3 de Maio de 2012.

"Par o governo da PF, a Liberdade de Imprensa é inegociável. O mesmo se dá com o acesso público à informação para que a sociedade esteja bem informada. Antes do Dia 20 de Setembro de 2011 [data em que a PF tomou o poder], Os chefes dos órgãos de informação estatais ficavam em filas diante do Gabinete do Secretário Permanente para a Informação para a aprovação das suas notícias antes da sua publicação, uma vez que o secretário permanente era o editor-chefe de facto para o *Times of Zambia*, *Zambia Daily Mail* e o *ZNBC*," Shamenda said.

Com esta garantia, os órgãos de informação estatais como o *ZNBC* e o *Zambia Daily Mail* melhoram a cobertura de notícias de modos a incluir, em vários assuntos nacionais, pontos de

vista contraditórios de partidos políticos da oposição. As páginas iniciais dos diários estatais deixaram de ser reservadas ao partido no poder. Ademais, o governo permitiu que os órgãos de informação criassem um órgão regulamentar mediático não-estatutário, que haviam parado devido aos pedidos, por parte do governo cessante, de criar-se um quadro regulamentar mediático ao invés de uma regulamentação não-estatutária.

Além disso, o governo deu seriamente início ao processo de aprovação do anteprojecto-lei ATI no segundo trimestre do ano nomeando uma *Task-force* de ATI a fim de proceder a revisão do anteprojecto-lei e dar início à campanha de sensibilização. Esta boa vontade continuou a manifestar-se ao longo da aprovação de sete licenças de radiodifusão e uma de transmissão televisiva. Ademais, foram concedidos oito permits de construção instalações de rádio e três de televisão em Maio.

No entanto, não era tudo um mar de rosas. No segundo e terceiro trimestres, houve um aumento nas violações de liberdade de imprensa que incluíram abusos verbais, ataques físicos, detenções ilegais, censura, redução do alcance do sinal da Rádio UNZA, ameaças de encerramento de órgãos de comunicação *online* tal como a *Zambian Watchdog*, e a demissão de dois jornalistas.

Reformas da Lei e política dos Órgãos de Informação

Lei IBA

No princípio do ano havia esperança de que a IBA seria operacion-

alizado em 2012 – esperança que mais tarde diminuiu bastante. Não obstante, o governo empreendeu três actividades-chave: desenvolver e aprovar a estrutura da IBA, disponibilizar escritórios para a IBA, esforços iniciais para a nomeação de um Director Geral (DG). Importa referir que desde a aprovação da lei em 2002, esta foi a primeira tentativa de operacionalizar a Lei.

Isto representa um grande contraste com o governo cessante que limitou-se apenas a legislar e emendá-lo após oito anos de não-implementação. A emenda resulto destituição do comité nomeador que seleccionaria e recomendaria, ao Ministério para a Informação, pessoas a serem membros do Concelho da IBA. No entanto, a Lei de IBA de 2010 deixou a selecção de membros do Concelho da IBA na sob inteira responsabilidade do Ministro da Informação, concedendo-lhe muito domínio sobre o sector da difusão.

O MISA-Zâmbia e outras partes intervenientes recomendaram que o comité nomeador seja reincorporado na Lei da IBA para que haja emissoras públicas e independentes. Mostrou-se também preocupado pelo facto de o Director Geral (DG) ter sido nomeado antes da criação do Concelho. Segundo a Lei IBA, cabe ao conselho nomear o DG da IBA.

O objectivo da IBA era, parar o controlo estatal sobre o sector da transmissão na Zâmbia, e dar início à transmissão pública dos órgãos de informação estatais, que aparentam media estar ao serviço do partido no poder em detrimento de todas outras partes intervenientes do país. Vários relatórios de investigação indiciam favoritismo de tais

órgãos ao governo.

Ante-projecto-lei ATI

Este ante-projecto não foi implementado desde 2002 quando foi retirado do Parlamento. A primeira promessa do governo da PF de aprovar a Lei foi quando assumiu o poder em Novembro de 2011, quando indicou que o projecto-lei tornar-se-ia lei em seis meses, ou seja, em Maio de 2012.

No entanto, com a transferência de Sua Excelência Lubinda do Ministério da Informação, tudo indicava que o processo sofreu alguma alteração. No decorrer do ano, a emissão do projecto agendada para 21 de Junho foi protelada para 26 de Junho com promessas de que seria aprovado em Setembro de 2012. Não obstante, o único progresso registado foi a instituição da Taskforce de ATI, por parte do governo, em Abril que esboçou e procedeu a entrega, em Junho, do documento ATI 2012.

O papel da Taskforce era redigir de novo o projecto-lei ATI de 2007 e empreender campanhas de sensibilização das populações sobre o ATI. Não obstante, o projecto não foi emitido porque alegou-se que o Procurador-Geral não o tinha revisto. Porém, mesmo depois de tê-lo lido, o projecto não foi lançado. O ATI é importantíssimo porque ajuda a actualizar o direito dos cidadãos ao acesso à informação pública.

A aprovação do ATI delinearia mecanismos de acesso à informação bem como os procedimentos a seguir em caso de negação de informação. Delineia também a informação exemptada do público. De modo sumário, seria a im-

plementação do disposto constitucional sobre ATI.

Infelizmente, a maioria dos países africanos, incluindo a Zâmbia redemocratizaram-se ser legislação suficiente para a promoção do cidadão a fim de terem melhor participação na governação, que é inefectiva quando os cidadãos não têm conhecimento sobre o ATI.

Reformas Constitucionais

Enquanto o cenário acima descrito parece sombrio, houve uma luz de esperança para os órgãos de informação com o início da primeira proposta de constituição em Abril de 2012. A proposta foi saudada pelos órgãos de informação tais como o MISA-Zâmbia e a *Press Association of Zambia* (Associação de Imprensa da Zâmbia) (PAZA). Isto se deve às boas provisões da proposta, conforme os Artigos 36 a 38 que, se forem plasmadas na versão final, melhorarão o cenário mediático. A constituição proposta concede mais direito de liberdade de expressão, que incluem liberdade académica e artística. Garante ainda o direito de aceder a informação ao abrigo do Artigo 37, além do Artigo 38 que garante e protege a liberdade e independência dos órgãos de informação, inclusive os do estado. O artigo representa uma grade melhoria em comparação com a actual constituição que faz provisões para liberdade de imprensa no Artigo 20(2) "Salvo as provisões da referida constituição nenhuma lei fará provisão que derogue a liberdade de imprensa".

Auto-Reguamentação Mediática

Em Julho de 2012, órgãos de infor-

mação lançaram um órgão regulamentador não-estatutário –Zambia Media Council (Concelho Mediático da Zâmbia) (ZMAEC) depois de três anos de fricção entre os órgãos de informação e governo anterior que contrapôs-se, visto que um órgão regulamentador não-estatutário é reconhecido internacionalmente como ideal, uma vez que protege os órgãos de comunicação contra manipulações dos poderosos e dos governantes além de providenciar a mecanismos correctivos de ética jornalística.

Este mecanismo é preferível porque é menos suscetível à manipulação das três alas do governo, que os órgãos de informação vigiam. Com isto em mente, os órgãos de informação da Zâmbia foram obrigados a registrar ZAMEC sob a Lei das Empresas em contraste com a Lei das Sociedades, que requer que o Ministério indicado, neste caso, o da Informação, para endosse tal registo. No entanto, apesar de ter sido registrado, o ZAMEC não podia começar operações uma vez que governo de tal altura ameaçou retirar todos os meios de comunicação estatais se o ZAMEC fosse operacionalizado sem levar em consideração o ponto de vista do governo. O governo propôs que o órgão de auto-regulamentação devia ter respaldo numa lei aprovada pelo Parlamento, como é o caso da Associação de Direito da Zâmbia. Enquanto ZAMEC foi lançado em julho de 2012, ainda não está operacional porque os seus estatutos não estavam de acordo com a lei sob a qual registrado. Isto era para garantir que os Artigos de Associação deviam ser revistos, enquanto uma o concelho, que havia sido lançado, foi destituído. Isto

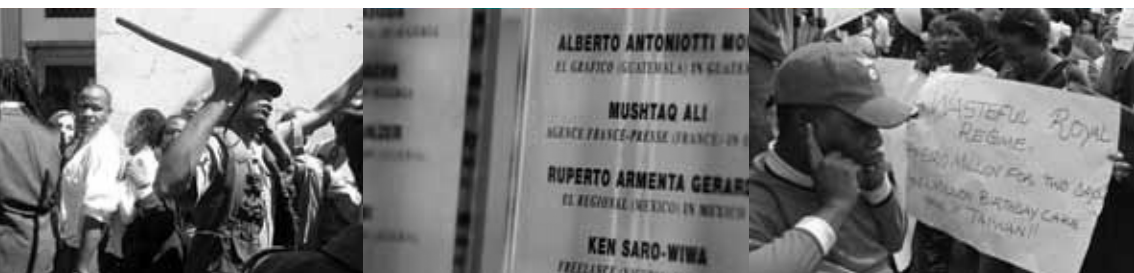
era para garantir que os estatutos estavam em consentaneidade com a Lei sob a qual o ZAMEC foi registrado. No final de 2012, a revisão da Constituição estava em fase avançada. Em outras palavras, a operacionalização do ZAMEC também estava prestes. No entanto, o governo indicou durante o seu lançamento que, se os órgãos de comunicação não estabelecessem um órgão regulador mediático eficaz, seria obrigado a dar início a medidas para preencher a lacuna em da supervisão profissionalismo dos meios de comunicação.

Desenvolvimento das TIC e Telecomunicações

A Zambia Telecommunications Company (ZAMTEL), uma rede de móveis e fixos, lançou, em 2012, a televisão móvel. Os telespectadores começaram a assistir à ZNBC e Muvi Television nos seus telemóveis.

Os subscritores podiam ter acesso a tais serviços usando telemóveis Androide e 3G.

Além disso, a popularidade das publicações *on-line*, como o *The Zambian Watchdog*, propagou-se a ponto de se tornar o líder de notícias para a maioria dos meios de comunicação. Em dezembro de 2012, a Zâmbia tinha mais de 100 blogueiros cadastrados enquanto os órgãos de comunicação online continuavam a aumentar mas poucos, como o Lusaka Times, continuaram a ser fonte de notícias especialmente para os consumidores de notícias com acesso a internet. No entanto, importa referir que que o acesso à Internet ainda é limitado



a uns poucos que estão na sua maioria ao longo da linha férrea.

Com relação a abraçar a mídia social, a maioria dos meios de comunicação na Zâmbia teve uma presença nas mais notáveis mídias sociais como *Facebook*, *Twitter* e *YouTube*. Assim, a interação com a mídia na Zâmbia, melhorou visto que os consumidores de notícias com acesso à Internet têm agora a oportunidade de reagir a relatórios quase imediatamente.

No entanto, em termos de migração digital, o Governo assegurou à nação que iria cumprir o prazo de 2015 para migrar do sistema analógico para o digital. Portanto, foram realizadas várias excursões de estudo e uma conferência consultiva. É cardeal referir, a Zâmbia é como membro da Comunidade de Desenvolvimento da África Austral (SADC) comprometeu-se a entrar na era digital em 2013.

Conclusion

Enquanto 2012 parecia ser promissor, com o governo a tomar várias medidas positivas para liberalizar os meios de comunicação, tais como a concessão de independência aos meios de comunicação estatais e outros, várias atividades ainda precisam ser empreendidas

para concretizar plenamente a liberdade de imprensa, liberdade de expressão e o acesso à informação. Estes incluem a necessidade de operacionalizar a Lei IBA, promulgar a Lei ATI e garantir, através de boas leis, espaço para os meios de comunicação públicos, que inclui uma boa constituição, e privatizar mais de 60% dos meios de comunicação estatais impressos.

Além disso, devem ser feitos esforços para proteger os consumidores de televisão no princípio da migração digital, enquanto intensificam-se esforços para que todo o país migre. Por último, há necessidade de inovação e redução de impostos para equipamentos midiáticos para os média impressos continuem a crescer na Zâmbia e também para sustentar os média eletrônicos que estão crescendo vertiginosamente.

Communiqué



Date: February 27, 2012
Person/ institution: ACP-EU Joint Parliamentary Assembly
Violation/ issue: Other

The 7th regional African Caribbean and Pacific-European Union (ACP-EU) Joint Parliamentary Assembly has affirmed free media as a prerequisite to development and critical "in the promotion of democracy, human rights and good governance." The regional meeting (southern Africa), held in Lusaka, Zambia from 22- 24 February 2012, discussed also issues of regional integration, mineral resources and their contribution to development, strengthening democracy and Millennium Development Goals (MDGs).

Communiqué
Date: April 18, 2012
Person/ institution: Patriotic Front government
Violation/ issue: Legislation

The Patriotic Front government in Zambia has commenced the process to finalise the 2011 Draft National Information and Media policy whose purpose is to enhance the effective coordination and dissemination of public information and to facilitate the growth of a free, ethical, socially responsible and sustain-

able media industry. The aim of the 2011 National Information and Media Policy is to facilitate the creation of a well informed and motivated citizenry which embraces democratic governance for national development; and the creation of an environment that safeguards the right of the people, including the right to know and the freedom of the media.

Communiqué
Date: April 18, 2012
Person/ institution: Patriotic Front government
Violation/ issue: Legislation

The government of Zambia has commenced the process to finalise the Draft National Information and Media Policy whose purpose is to enhance the effective coordination and dissemination of public information and to facilitate the growth of a free, ethical, socially responsible and sustainable media industry. The aim of the policy is to facilitate the creation of a well-informed and motivated citizenry, which embraces democratic governance for national development and the creation of an environment that safeguards the right of the people, including the right to know and the freedom of the media. Some of the objectives of the policy include to

facilitate the establishment of a regulatory authority for the electronic media, to ensure adherence to policy provisions in order to promote attainment of a free, socially responsible and sustainable media industry, to develop a countrywide information and communication infrastructure for improved radio and television services and to ensure speedy transmission of news and information across the country by both print and electronic media.

Communiqué

Date: April 20, 2012

Person/ institution: MISA Zambia

Violation/ issue: Other

On 19 April 2012, MISA Zambia chairperson Daniel Sikazwe urged the media to stand up for their profession instead of fighting battles for others. Speaking at a media briefing at MISA Zambia that was called to update the public on the ongoing organisation of the World Press Freedom Day (WPFDD), Sikazwe said that nobody would take journalists seriously if they did not show commitment towards the profession. Sikazwe encouraged media to broaden their understanding on a wide range of issues.

Communiqué

Date: April 20, 2012

Person/ institution: Times of Zambia

Violation/ issue: Other

On 18 April 2012, Times of Zambia Managing Editor Godfrey Malama said the media in Zambia is perceived to be biased because media reforms have lagged behind political development.

He said this when the Parliamentary Committee on Information conducted a familiarisation tour of his institution's Head Offices based in Ndola on Zambia's Copperbelt province. Malama said media reforms in normal circumstances should have progressed in tandem with political developments in the country. He said Zambia had reverted to multi-party democracy in 1991 but the media reforms are lagging behind.

Communiqué

Date: April 20, 2012

Person/ institution: Government

Violation/ issue: Other

On 20 April 2012, the Zambia Daily Mail reported that government had begun the process to equip its public relations wing called Zambia News and Information Services (ZANIS) in order to improve information flow in the country. Permanent Secretary (PS) in the Ministry of Information, Broadcasting and Labour Amos Malupenga said this in Siavonga where he handed over a video camera worth K40 million and computer equipment to the ZANIS office in Siavonga.

Zambia Alert-Update

Date: April 27, 2012

Person/ institution: Muvi TV

Violation/ issue: Detained

On Thursday, 26 April 2012, three (3) Movement for Multiparty Democracy (MMD) party supporters were jailed for three years with hard labour for committing aggravated robbery on a television crew from the privately-owned, Muvi TV. The incident occurred in July 2011 and

affected reporters, a cameraperson and a driver from the station. Abram Banda, 28, Cephas Phiri, 29 and Use Mukalipi, 27 were jailed for physically attacking the news crew, which had gone to cover land wrangles between residents of Nakachenje area and MMD cadres in Lusaka West.

Communiqué

Date: May 8, 2012

Person/ institution: The Technical Committee on Drafting the Zambian Constitution (TCDZC)

Violation/ issue: Legislation

On 30 April 2012, Chairperson of the Technical Committee On Drafting The Zambian Constitution (TCDZC), Justice Annel Silungwe launched the 2012 First Draft Constitution for purposes of wide consultation with the public. The committee started work on the draft charter on 1 December 2011 and was supposed to have produced the draft in February 2012 but failed to do so. Regardless, this first draft consists of several progressive articles and clauses on media freedom, freedom of express, right to access information and even freedom to state-owned media.

Alert

Date: May 23, 2012

Person/ institution: Patrick Mubanga

Violation/issue: Detained

A civil servant in Kasama has been sentenced to three (3) months imprisonment with hard labour by the Magistrate Court for defaming Republican President Michael Sata. This is according to

an online publication of 15 May, 2012 called the Zambian watchdog. The paper reports that Kasama District Culture Officer Patrick Mubanga, 38, of ZAMTEL Compound was found guilty of the offence by Magistrate Monica Mwamulima when he appeared for judgement on 14th May, 2012.

Communiqué

Date: May 31, 2012

Person/ institution: Government

Violation/ issue: Other

On 30 May, 2012, Matero Member of Parliament (MP) Miles Sampa launched the first-ever constituency website at a ceremony held at Matero Boys Basic School in Lusaka. According to the Daily Mail of 31 May, 2012, the website would contain information regarding Matero Constituency including that on projects, schools, clinics, councillors, profiles for the MP and the Patriotic Front's hierarchy in the area. The paper states the website and a magazine were launched as a way to enhance communication between the constituency office and the community of Matero.

Communiqué

Date: May 30, 2012

Person/ institution: Ministry of Information, Broadcasting and Labour

Violation/ issue: Other

On 30 May 2012, the Zambian Government, through the Ministry of Information, Broadcasting and Labour, announced that it had issued full broadcasting licences to one private (1) tel-

vision station and seven (7) private and community radio stations. This is according to a press statement issued to MISA Zambia on the 30 May, 2012 by the Press and Public Relations Officer at the Ministry of Information, Broadcasting and Labour Betiniko Kayaya. The radio stations that have been issued licences include, Kariba FM radio (Siavonga), Kafue FM radio (Kafue), Mpika FM radio (Mpika), Comet FM radio (Lusaka). Others include Ama FM radio (Lusaka), Pan African FM radio (Lusaka) as well as Millennium FM radio of Lusaka. The Television Station has been named as North-West television (Solwezi).

Alert

Date: June 1, 2012

Person/ institution: Mpandmwike, Zambia National Broadcasting Corporation (ZNBC)

Violation/ issue: Detained

On 24 May 2012, Andrew Mpandmwike, a Zambia National Broadcasting Corporation (ZNBC) reporter was nearly charged with criminal trespass while him, his driver and camera were detained for hours until his Assignment Editor Chansa Mayani intervened. Mpandmwike was harassed as he was covering an alleged abuse of the rights of a police officer who alleges that he had been transferred four times within a year. According to Edem Djokotoe in his column titled Soul to Soul, and published in The Post of 1 June 2012, Mpandmwike was assigned to peruse the story following a walk-in interview by a Police Officer identified as Sergeant Maxwell Kabungo who alleged that his children's education was being

disrupted due to frequent transfers.

And Chansa Mayani, the ZNBC Kitwe Studios assignments Editor said that Mpandmwike went

Alert

Date: June 11, 2012

Person/ institution: Richard Sakala, Daily Nation newspaper

Violation/ issue: Legislation

Defence Minister Geoffrey Mwamba, who is also a member of parliament for Kasama Central, has sued the Daily Nation newspaper editor-in-chief Richard Sakala for alleged defamation and is claiming K500 million as damages. According to the Zambia Daily Mail of 11 June, 2012 Mwamba has taken Sakala to court over an article titled "Malawi to sell oil donated by Zambia" published in May 2012 which contained allegations that controversy was till brewing over the transportation of donated fuel following reports that unregistered vehicles belonging to Mwamba were used to ferry the fuel to Malawi.

Alert

Date: June 12, 2012

Person/ institution: United Party for National Development (UNDP, the Daily Nation and Zambian Watchdog
Violation/ issue: Legislation

Zambian President Michael Sata has sued five person among them a President of an opposition political party, United Party for National Development (UNDP) Hakainde Hichilema, the Daily Nation and Zambian Watchdog media proprietors, Richard Sakala and Lloyd Himaambo respectively for defamation.

According to the Zambia Daily Mail of 9 June 2012, The Zambian President's has also sued the University of Zambia history Lecturer Choolwe Beyanil and lawyer Robert Amsterdam who is acting for former President of Zambia Rupiah Banda's son Henry.

Communiqué

Date: June 11, 2012

Person/ institution: Media

Violation/ issue: Other

ZAMBIA'S former Ambassador to Belgium Dr Inonge Mbikusita Lewanika says the media should report more on developmental issues instead of concentrating on politics.

She said this in an interview with The Post newspapers. The Post newspaper of 11th June, 2012 reports that Dr Lewanika said the media in Zambia largely depended on politics yet there was a lot of developmental news. "There is a lot of good work being done all over Zambia, good initiatives. There was that award called 'Women Celebrated' which UNFPA took all over the schools, we need to know more of that. So the media needs to cover developmental also and not only politics," she said.

Alert

Date: 13 June 2012

Person/ institution: Daily Nation

Violation/ issue: legislation

The Zambian President Michael Sata has sued Daily Nation proprietor and publisher Richard Sakala for defamation as a second defendant for a story he published in his newspaper on 16 May 2012

in volume number 2 Issue 182 with a headline 'Malambo's removal is criminal'. According to the statements of claim obtained by MISA Zambia, the first defendant Dr Choolwe Beyani, who is a Policy Research Director in the United Party for National Development, an opposition political party wrote and published or caused to be published to the second defendant [Richard Sakala of the Daily Nation] the words which were defamatory to the plaintiff [President Mihael Sata] on or about the 15th of May 2012.

Alert

Date: June 14, 2012

Person/ institution: The Post

Violation/ issue: Other

Forth President's office demands apology, accuses The Post of trying to divert the nation's attention. The Office of the immediate former President of Zambia Rupiah Banda has accused The Post, a privately owned newspaper of trying to divert the nation's attention from pertinent issues currently affecting Zambia. According to a statement issued by his office, the newspaper's story with a headline "Rupiah, Thandiwe differ over dollars" published on 13 June 2012 had some factual errors. "We consider today's story in The Post newspaper entitled "Rupiah, Thandiwe differ over dollars" not worth responding except to put the record straight and expose to the Zambian people the desperately appalling levels of journalism being practised by some media houses." Reads the statement in part.



Alert

Date: June 29, 2012

Person/ institution: Muvi TV, Times of Zambia

Violation/ issue: Detained

On Thursday, 21 June 2012, members of the Zambia Police Service detained two journalists from privately-owned Muvi TV reporter and the state-owned Times of Zambia newspaper. The two had gone to investigate allegations of the torture of a suspect accused of being involved in one of the largest ivory theft scandals in Zambia's Chilanga area, near Lusaka. According to the Muvi TV journalist, Bruce Mwale, who is a court reporter, the tip-off came to him while on duty and he decided to rush to Chilanga to investigate the story and put it on tape. The alleged victim had been detained at a police post in Linda within Chilanga.

Communiqué

Date: July 2, 2012

Person/ institution: Public media

Violation/ issue: Other

The public media in Zambia are now free to set their own agenda as they execute their mandate of informing, educating and entertaining the nation, minister of Information, Broadcasting and Labour

Fackson Shamenda has said. Reports in the Zambia Daily Mail of 27 June 2012, indicate that Shamenda said this as he launched the Zambia National Broadcasting Corporation's (ZNBC) Strategic Plan for 2012 – 2014 and TV2 newsroom. Reacting to these developments, chairperson of the Zambia Chapter of the Media Institute of Southern Africa (MISA-Zambia), Daniel Sikazwe said that although there is to a degree some level of freedom at public media entities, there was need for government to back the pronouncements with progressive laws.

Communiqué

Date: July 9, 2012

Person/ institution: Media Council

Violation/issue: Legislation, Victory

The long-awaited Zambia Media Council (ZAMEC) was last week on Friday 6 July 2012 launched by several Zambia media bodies at the Government Complex in Lusaka following a full day Extra Ordinary General Meeting (EOGM) held at Cresta Golfview Hotel earlier. Information, Broadcasting and Labour Minister Fackson Shamenda, speaking during the launch in Lusaka on 6th July 2012, said the Government would give conditional backing to the self-regulatory body and



that it would keenly watch developments to see whether the media would effectively regulate themselves.

Alert

Date: August 24, 2012

Person/ institution: Lloyd Kapusa, MUVI Television

Violation/ issue: Assaulted

A United Party for National Development (UPND) member, William Banda, has physically assaulted a cameraperson from the privately-owned MUVI Television, Lloyd Kapusa. The incident occurred on Wednesday, 22 August 2012, at Woodlands Police Station in Lusaka, Zambia where Banda was being held on charges of being in possession of property suspected of being proceeds of crime according to the Joint Investigations Team Acting Public Relations Officer, Christopher Chibanku.

Alert

Date: September 10, 2012

Person/ institution: Taskforce on Freedom of Information

Violation/ issue: Legislation

The Civil Society members of the Taskforce on Freedom of Information (FOI) have expressed concern over govern-

ment's delay in giving a concrete position on the launch of the Draft Access to Information (ATI) Bill. According to the post Newspaper of September 15, 2012, the information was issued in press a statement made available to the media. The Civil Society members who include; Jesuit Centre for Theological Reflection (JCTR) Transparency International Zambia (TIZ), Economics Association of Zambia (EAZ), Media Institute of Southern Africa (MISA) Zambia, Law Association of Zambia (LAZ), University of Zambia and the Department of Mass Communication are dismayed that the Draft Bill which was scheduled to be launched first on the 21st June and then postponed to 26th June 2012 has to date not been launched and there has been no indication from government when the launch would take place.

Communiqué

Date: September 12, 2012

Person/ institution: Zambia Information and Communication Authority (ZICTA)

Violation/ issue: Legislation

Government has asked the Zambia Information and Communication Authority (ZICTA) to come up with legislation

to protect people who fall victim of Internet misuse. According to a Zambia National Broadcasting Corporation (ZNBC) report, Ministry of Information and Broadcasting Services Permanent Secretary Amos Malupenga said internet in Zambia has continued to be used for wrong reasons. Officially opening a four day stakeholders meeting on the Information for All Program (IFAP) in Lusaka on Tuesday, Malupenga said increasing access to information should come with care and caution. Malupenga who is also incoming chair of IFAP has stated that the program has come at a time when government has placed information for all high on its development agenda.

Alert

Date: September 13, 2012

Person/ institution: University of Zambia (UNZA)

Violation/ issue: Other

On 12 September 2012, University of Zambia (UNZA) students protested the reduction of their radio stations' coverage area by boycotting class, blocking some roads leading to the Great East Road campus and undertaking a protest march to the Ministry of Information and Broadcasting Services Permanent Secretary, Amos Malupenga's office. According to media reports monitored by MISA Zambia on 13 September 2012, Malupenga told journalists, shortly after a failed meeting with the UNZA students who stormed out of the meeting, that government had reduced the radius of the station to 500 watts in conformity with the law governing community radio stations.

Communiqué

Date: September 13, 2012

Person/ institution: Zambians

Violation/ issue: Other

Zambians to watch TV on mobile phones at a fee. Zambia's state-owned mobile and landline phone service provider, Zamtel, launched on 12 September 2012 mobile TV services which its subscribers can watch at a fee. According to media reports monitored by MISA Zambia, Zamtel made the revelation through its Chief marketing officer Evans Muhanga. He said that the service was available to all Zamtel pre-paid subscribers and would soon be made available to post-paid ones.

Communiqué

Date: September 17, 2012

Person/ institution: The Patriotic Front

Violation/ issue: Other

The Patriotic Front (PF) will not protect its members who are taking the law into their own hands, says party Secretary General Wynter Kabimba. This is according to The Post newspaper of September 14, 2012. In an interview, Kabimba said law and order should be observed regardless of the political party one belongs to. "We don't want anarchy in this country; we don't want disorder in this country. Anarchy is anarchy whether it is perpetrated by the MMD or it is perpetrated by UPND or it is perpetrated by PF.

Alert

Date: September 17, 2012

Person/ institution: Kasempa

Community Radio Station

Violation/ issue: Censored

On September 14th, 2012, two uniformed officers from the Zambia Police stormed Kasempa Community Radio Station situated in a rural community in the North-western province of Zambia and forced themselves in the on air studio and demanded that a Good Governance program which was running be stopped. According to Station Manager Nyambe Muyumbana, the Police did not stop at this request but also pulled out the discussant from the programme leaving the presenter with no option but to stop the programme in its tracks before time. The MISA Zambia has since written a letter of complaint to the Inspector General urging her to address the harassment of Kasempa Radio and the letter was delivered on 18 September 2012 to her office.

Communiqué

Date: September 17, 2012

Person/ institution: Zambian

Government

Violation/ issue: Other

Government has appointed an eight-member technical committee to spearhead the construction of television stations in all the provincial centres. Deputy Minister of Information and Broadcasting Services Mwansa Kapeya says the technical committee was appointed this week and had its first meeting last on September, 13, 2012. This is according to the Zambia Daily Mail of September 15,

2012. The paper reports that the names of members of the committee were not immediately made available.

Communiqué

Date: September 22, 2012

Person/ institution: Zambian

President, Micheal Sata

Violation/ issue: Other

Zambian President, Micheal Sata has said that his government's agenda on the media is to ensure that it continuously challenges Government to serve the people of Zambia better. He explained that in order to achieve the above, his government had, in the last 12 months, embarked on a wide range of policy interventions. "We have removed Government controls on public media so that they carry out their role of informing, educating and entertaining the public freely and professionally. Even our colleagues in the opposition are now happy beneficiaries of this open policy of my Government." President Sata said this during the official opening of Parliament on 21 September 2012 in Lusaka.

Alert

Date: August 4, 2012

Person/ institution: Zambian

Watchdog

Violation/ issue: Legislated, Censored

The Ministry of Home Affairs through the Office of the Registrar of Societies has given notice of cancellation of a certificate of registration to a prominent online media organisation the Zambian Watchdog. A newspaper advert published on Thursday, 4 October 2012 in

The Post newspaper and signed off by the Chief Registrar of Societies, Clement An-deleki, states that the Zambia Watch-dog's office has remained unknown but only has a registered postal address and is also alleged to have neglected to remit statutory fees and inform the Registrar of Societies about the status of the media organisation.

August 14, 2012 : On July, 24TH, 2012 Defence Minister, Geoffrey Mwamba, threatened to take legal action against the Zambia watchdog an online publication, after the 7 day ultimatum given to them to apologize elapses. This followed a story which was published by the online publication, Zambia Watch-dog, in which the publication was alleged to have insinuated that he had gone to visit the president when he had gone for his son's graduation ceremony at Manchester University.

Alert

Date: November 5, 2012

Person/ institution: Zambia National Broadcasting Corporation (ZNBC)

Violation/ issue: Other

On 2 November, 2012 opposition Member of Parliament from the Movement for Multi-Party Democracy (MMD) Vincent Mwale was irked by the state owned and controlled Zambia National Broadcasting Corporation (ZNBC) over an inaccurate report on the 2013 budget reports the Zambia Watchdog. According to the online media publication, Mwale has since advised ZNBC to desist from misinforming Zambians in their attempt to impress their masters.

Alert-Update

Date: November 8, 2012

Person/ institution: Minister of Information and Broadcasting Services

Violation/ issue: Other

Minister of Information and Broadcasting Services, Kennedy Sakeni has urged the police to arrest political activists and party supporters who physically attack or harass journalists and prevent them from doing their job.

According to media reports, Sakeni said this on Tuesday, 6 November 2012, as he received a petition from the Media Liaison Committee (MLC) against continued harassment of media practitioners by some political activists and cadres.

The MLC is an umbrella organisation representing media associations and trade unions in Zambia, with a focus on advocacy for media law reforms, protection of media practitioners and self-regulation of the media. It comprises of the Zambia Chapter of the Media Institute of Southern Africa (MISA-Zambia), Press Association of Zambia, Panos Institute of Southern Africa, Zambia Media Women Association (ZAMWA), Press Freedom Committee of The Post (PFC), Zambia Union of Journalists (ZUJ), United Nations Information Center (UNIC) and Zambia Union of Broadcasters and other Information Disseminators (ZUBID).

Alert

Date: November 8, 2012

Person/ institution: Media

Violation/ issue: legislation

Speaker of the National Assembly

Dr Patrick Matibini has warned media houses that continue to publish false reports of parliamentary proceedings that they risk being barred from covering the proceedings of the house and its committees reports a Lusaka based privately owned radio station QFM radio reported on 6 November, 2012 . And The Post Newspapers of November 7, 2012 reports that on 31 October, 2012 Matibini warned that some media institutions risk being barred from covering proceedings of parliament if they continue misrepresenting debates resulting in inaccurate reports . According to QFM radio, Dr Matibini further warned that such media houses also risk being subject to criminal proceedings under section 25 of the National Assembly Powers and Privileges Act. This follows an inaccurate story published in the Zambia Daily Mail of 18 October 2012 in which Home Affairs Minister Edgar Lungu was wrongly quoted as saying that the deportation of Lundazi Catholic Priest Father Vetoir Banyangandora was necessitated by grave misconduct.

November 9, 2012: Speaker of the National Assembly Patrick Matibini says he could not find Managing Editor of a local Zambian newspaper, Daily Nation, Richard Sakala's contempt of parliament because the article they published was already published by an online publication Zambian Watchdog. This was in his ruling on a Point of Order raised by Patriotic Front (PF) Bangweulu Member of Parliament (MP) Chifita Mutafuli regarding a newspaper article entitled 'Kaingu suspected from Parliament' published

in the Daily Nation Newspaper on October 4, 2012 reports the Zambian Watchdog.

Communiqué

Date: November 11, 2012

Person/ institution: ZNBC TV

Violation/ issue: Other

On October 31, 2012 the Ministry Information and Broadcasting Services commended Zambia National Broadcasting Corporation (ZNBC) management for resuming sign language interpretation after suspending the exercise due to a technical problem. Information Deputy Minister Mwansa Kapeya said government was happy with the development as it is in line with its policy of ensuring access to information for all regardless of one's physical status. Kapeya said the Ministry was happy because it had been receiving many queries from people over the absence of sign language interpretation on ZNBC television.

Communiqué

Date: November 27, 2012

Person/ institution: ZNBC

Violation/ issue: Other

United Party for National Development (UPND) Deputy Spokesperson Cornelius Mweetw says he is happy with the manner in which the Zambia National Broadcasting Corporation (ZNBC) is managing its news content. Mweetwa who is also Choma Central Member of Parliament said the national broadcaster is currently the most reliable media house in the country because of its wide news coverage. The Deputy Min-

ister told parliament on November 24, 2012 that ZNBC management should be commended because there is a huge difference in the manner news gathering is being compiled compared to previous administrations.

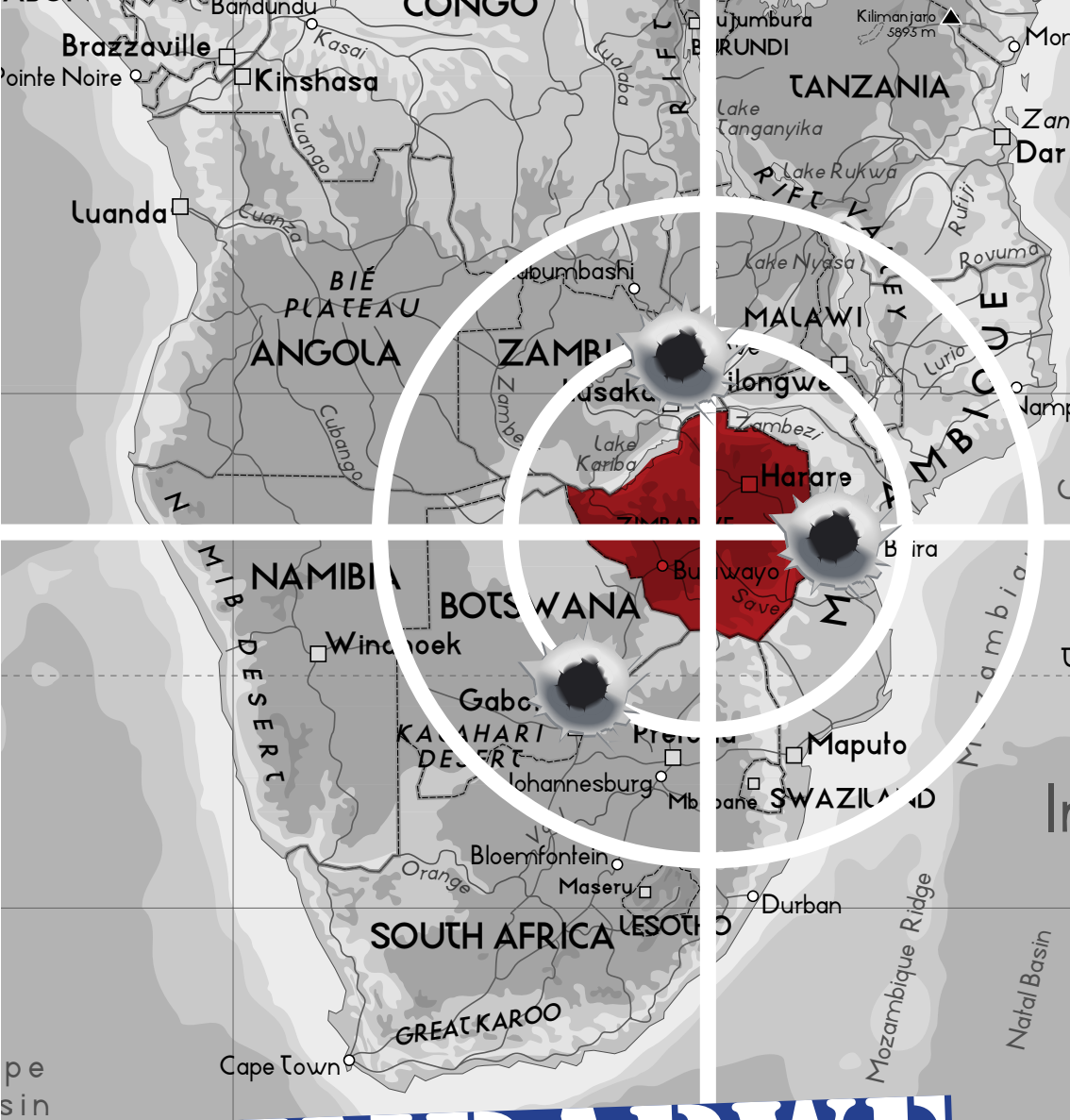
Communiqué

Date: November 27, 2012

Person/ institution: ZNBC

Violation/ issue: Other

Mongu residents have questioned the rationale of making them pay compulsory TV levy when some of them do not own TV sets despite having electricity in their homes reports the a Zambian online media "The Zambia Watchdog". The paper reports that a Mulambwa resident, Amukusana Aongola, complained to the Zambia News and Information Agency (ZANIS) in an interview that it is not fair for Zambia National Broadcast Corporation (ZNBC) to make it compulsory for everyone to pay TV levy as long as one is on Zambia Electricity Supply Corporation (ZESCO) prepaid metering regardless of whether one owns a television set or not. Aongola complained that, ever since ZESCO installed a prepaid meter in his house, ZNBC keeps on charging him TV levy despite him having no television set in his house. He charged that when people live in an electrified house it does not mean that they automatically own TV sets.



ZIMBABWE



National Overview
by MISA-Zimbabwe



Introduction

When President Robert Mugabe officially opened the Fifth Session of the Seventh Parliament of Zimbabwe in November 2012, expectations were high that he would outline a legislative agenda that would address the envisaged media, electoral and security reforms necessary for the staging of elections whose outcome would be universally accepted.

These expectations were justified in the context of the insistence by the Southern African Development Community (SADC) mediation team led by South Africa president, Jacob Zuma, that these reforms be undertaken before the staging of 2013 elections as agreed to in terms of the Global Political Agreement (GPA), signed four years earlier.

This is critical to note given SADC's insistence on key reforms and that this would be the last session of Parliament before the much-anticipated 2013 elections and more so were it pertains to the envisaged media reforms.

However, that was not to be, notwithstanding the fact that on 13 July 2010, president Mugabe announced during the opening of 3rd Session of the 7th Parliament of Zimbabwe that the Media Practitioners' Bill, which had been on

the cards for more than a year following recommendations of the All Media Stakeholders Conference held in Kariba (northern Zimbabwe) in May 2009, would be among 23 Bills constituting the legislative agenda of parliament.

He said then that the Media Practitioners Bill would seek to "repeal the part of the Access to Information and the Protection of Privacy Act (AIPPA), which deals with the registration of journalists and privacy issues".

President Mugabe, however, made no reference to the Media Practitioners Bill nor the expected repeal or amendment of repressive laws such as AIPPA, Broadcasting Services Act, Public Order and Security Act (POSA) and the Criminal Law (Codification and Reform) Act which pose serious hindrances to media freedom, freedom of expression and access to information.

There was also no movement pertaining to the tabling of the Freedom of Information Bill, which then deputy minister of Information, Jameson Timba, promised way back in 2010. The closest there was to the proposed Bill was through a draft Private Members Bill presented to stakeholders by Member of Parliament, Settlement Chikwinya.

However, the draft was widely con-



demned by media stakeholders who said it was a replica of AIPPA, which criminalises the profession and retains provisions that are still undemocratic and hinder freedom of expression.

Statutory regulation of the media under AIPPA and through the Zimbabwe Media Commission (ZMC) remained in force with the Commission, in September 2012, forging ahead with the establishment of the disciplinary media council.

The council's mandate will be to develop and enforce a code of conduct and ethics that will allow the Commission to punish offending journalists and media institutions. It is undemocratic for governments to seek control media activity and deciding on codes of conduct for the industry beyond strictly administrative roles. Such laws can and are used to stifle free debate and silence critical voices in society.

Suffice to say this development is in blatant disregard of the Banjul Declaration of Principles of Freedom of Expression in Africa and concerns by the African Commission on Human and Peoples Rights (ACHPR), on the continued retention of laws such as AIPPA.

ACHPR Special Rapporteur on Freedom of Expression and Access to Information in Africa Advocate Pansy Tlakula,

in November 2012 told Radio VOP in an exclusive interview that Zimbabwe should repeal laws such as AIPPA and POSA which continue to impede media work.

"The new constitution will not solve all the problems. Even after the new constitution is put in place, you will still have to deal with all laws that impede expression like AIPPA, POSA and all the other laws that are not in conformity with regional and international instruments that Zimbabwe has ratified," said Tlakula.

The Banjul Declaration explicitly and unequivocally states: Self regulation is the best system of instilling professionalism in the media. This position cannot be interpreted to mean otherwise as it is self-explanatory in its explicitness.

Laws such as AIPPA, Broadcasting Services Act, Criminal Law (Codification and Reform) Act, Official Secrets Act, Interception of Communications Act (ICA), only serve to perpetuate state controls on media activity and as tools to muzzle the independent media.

The most favoured tool, it would seem, has been the Criminal Law (Codification and Reform Act), which criminalises defamation. Scores of journalists have been arrested or face prosecution

under this law for allegedly criminally defaming some individuals they report on.

The failure by the statutory ZMC to take the lead in protecting media freedom vindicates views that swelled during its formation that the body was a charade meant to dupe the world into believing that the state had relinquished its stranglehold on media activity in the country.

Its meekness was exposed when the Minister of Media, Information and Publicity stated that he would work with the Commission to close some sections of the media that continue to denigrate president Mugabe. There was no comment from the ZMC, let alone a statement disowning the minister's brazen attempts to project the commission as a subordinate body of the ministry.

Another ominous threat to media freedom in Zimbabwe came in the form of a High Court ruling on 24 October 2012 ruled that newspapers could now be sued for damages for financial loss incurred by members of the public as a result of publishing stories misrepresenting the situation in the country.

In the past, people could only sue newspapers for defamation. But the High Court ruled that an indigenous investment company, Vakakora Capital (Pvt) Limited, could sue two private newspapers – NewsDay and the Daily News – for articles they published in May 2011 saying there was political violence in the country.

Vakakora Capital argued that it lost US\$250 million after the stories scared away foreign investors who had shown

interest in working with the company. This development could result in a plethora of suits that could bankrupt media companies and stifle media freedom and freedom of expression.

Thus the media environment remained and is likely to remain constricted ahead of the 2013 elections through the continued existence and selective application of the laws in question.

Arrests, threats, harassment of journalists

The formation of the inclusive government in 2009 has somehow resulted in the decline of cases involving the arrests, harassment and threats against journalists especially those working for the independent media.

This is commendable given that in 2009, MISA-Zimbabwe issued more than 80 alerts on media violation cases which then dropped to a total of 27 in 2010 while a total of 28 were issued in 2011. At the time of writing this report, MISA-Zimbabwe had issued 28 alerts pertaining to media freedom violations.

While in the past several journalists and media workers were either arrested or charged under AIPPA and POSA, criminal defamation is becoming the weapon of choice against media freedom and freedom of expression in terms of the Criminal Law (Codification and Reform) Act.

Zimbabwe is a signatory or state party to the Universal Declaration of Human Rights, International Covenant on Civil and Political Rights, Article 9 of African Charter on Human and Peoples' Rights

and Banjul Declaration on the Principles of Freedom of Expression in Africa, which guarantee and protect freedom of expression.

The retention and increased application of these laws is therefore emblematic of intolerance to media freedom and freedom of expression and determination on the part of public officials to instil fear and self-censorship in the media.

Criminal defamation laws have no place in modern democracies and should thus be scrapped. In modern and civilized democracies complaints against the media are handled by self-regulatory bodies such as the Voluntary Media Council of Zimbabwe or through civil courts as opposed to criminalising a profession that is key to the exercise and enjoyment of fundamental human rights.

This calls for the urgent repeal of provisions on criminal defamation as enshrined in the Criminal Law (Codification and Reform) Act as these laws impinge on the fundamental right to seek, access, receive, impart and share information on issues of public interest.

The cases in question relate to the court case against The Standard editor Nevanji Madanhire, reporter Patience Nyangove and the publishing company's human resources manager.

Stanley Gama, editor of the Daily News and his deputy Chris Goko are also facing a \$25 million criminal defamation suit. Gama and Goko were arrested and detained at Harare Central Police station on 8 October 2012 over a story alleging that the disappearance of businessman Munyaradzi Kereke's family was a hoax.

The two who spent four hours at the

police station, were released after signing warned and cautioned statements in which they denied Kereke's criminal defamation charges.

Other cases involved Dennis Kagonye editor of The Weekly Mirror and journalist Nhau Mangirazi. Kudakwashe Matura, a community news activist was remanded to December 12 for trial on criminal defamation charges. Matura was later acquitted of the charges.

The year under review also saw an increase in the number of citizens being arrested for allegedly insulting the President – a development which only serves to curb free expression and impacts negatively on the media's watchdog role over the three arms of the state.

The Zimbabwe Lawyers for Human Rights (ZLHR), said it was representing more than 50 individuals arrested and taken to court in terms of Section 33 of the Criminal Law (Codification and Reform) Act which deals with undermining the authority of or insulting the President.

Access to Information

The right to freedom of expression, media freedom and of access to information is enshrined in a number of international and regional instruments, which Zimbabwe has acceded to.

Thus, by acceding to the instruments, Zimbabwe is obliged to uphold these provisions through its legislative framework. In other words, Zimbabwe's laws on free expression, access to information and media freedom should conform to the benchmarks set by these regional

and international instruments.

As highlighted in the 2011 State of the Media Report, AIPPA remains a misnomer to citizens' right to access to information as it retains restrictive provisions that are cumbersome to the exercise of that fundamental right more so in the context of the media's watchdog role over the three arms of the state i.e. Executive, Legislature and Judiciary.

Despite the cosmetic 2008 Amendments to AIPPA, the law still retains the provision among others, which gives public bodies 30 days within which to respond to requests for information.

This has resulted in several public institutions continuing to operate in secrecy owing to the absence of a democratic freedom of information and access to information laws and an explicit constitutional provision to that effect.

Lack of willingness to speedily provide information has seen the media tending to speculate and using unnamed sources thus severely compromising the citizens' inalienable right to access information held by both public and private bodies to enable them to make informed decisions and choices.

Among its other benchmarks, the Banjul Declaration stipulates that public bodies shall be required "even in the absence of a request" to actively publish important information or significant public interest. It further states that any refusal to disclose information shall be subject to an appeal to an independent body and or courts.

In terms of Section 8 of AIPPA for one to get information from a public

body, one has to make a formal communication in writing to the head of the intended public body in the custody of the required information.

However, the head of the public body has 30-day latitude period within which to respond to the application and he/she has leeway to extend the period with the commission's consent. There is no justification for the 30-day response period which is unnecessarily long and insensitive to the needs of those requiring that information.

This situation is made worse by other existing legislation such as the Official Secrets Act and the fact that the constitution does not explicitly guarantee the right to access to information.

MISA-Zimbabwe is therefore encouraged by the inclusion of an explicit constitutional provision on the right to access to information which should go a long in the enactment of a democratic Freedom of Information Act.

Broadcasting and Telecommunications

Regulatory Framework

The licensing of the first ever privately owned radio stations, ZiFM and Star FM in September last year is a welcome development that has somehow diversified the broadcasting sector for years dominated by the state-controlled Zimbabwe Broadcasting Corporation.

The government, however, appears to be dragging its feet in terms of instituting comprehensive legislative reforms that will free the media space, fundamentally as it pertains to the broadcast-

ing sector as pledged in terms of the GPA. The reforms agreed to encompassed the need to reconstitute the Broadcasting Authority of Zimbabwe (BAZ), transforming ZBC into a truly independent public broadcaster, reconstitution of the Zimbabwe Mass Media Trust (to oversee the management of the state controlled Zimbabwe Newspapers (Zimpapers).

And since the Zimbabwe Media Commission is the overall body responsible for media activity in the country, it means that aspiring broadcasters have to first get licensed by BAZ and then get registered with the Commission, creating unnecessary bureaucratic impediments.

Also in the frame of regulation is the ministry of ICTs. Although it has been stripped of all Acts it was supposed to administer, it still issues pronouncements on ICT policy frameworks which have a bearing on the media.

Besides, all these bodies, there also exists a civil society and media initiative in the form of the Voluntary Media Council of Zimbabwe (VMCZ), which was set up as an alternative entity to foster media professionalism.

The body was established to amicably resolve grievances of members of the public who feel wronged by the media, without necessarily going through the costly court route or resorting to the use of archaic laws that criminalise the practice of journalism.

Reconstitution of BAZ was agreed to by President Robert Mugabe and Prime Minister Morgan Tsvangirai following the controversy surrounding appointments of the new board by the Minis-

ter of Media, Information and Publicity Webster Shamu in September 2009. BAZ was to be reconstituted to secure wide representation on its board thus fostering a much more open and transparent in so far as the adjudication and licensing of aspiring broadcasters.

Transformation of ZBC

The seeming reluctance to liberate the Zimbabwe Broadcasting Corporation (ZBC) from the control of the Ministry of Information and make the broadcaster accountable to parliament, has seen the broadcaster continue being used to only reflect the views of those who control it and not the whole spectrum of Zimbabwean thought.

The information ministry has made it clear that it would not usher in reforms at the state broadcaster. In its oral presentation before the parliamentary committee on media and information in May 2012, the ministry passed a vote of confidence on ZBC's governing board, which remains one of the sources of dispute in government.

ICTs and telecommunications

In June 2009, the government announced that an Information Communications Technology Bill was in the offing. The bill would merge the BAZ and Postal and Telecommunications Authority of Zimbabwe (POTRAZ) and create the National Information and Communications Technology Authority of Zimbabwe.

Three years down the line, all that has materialised are statements of intention to that effect as the Bill is still to be presented before Parliament. In April



2010, the Bill was referred back to the responsible minister owing to what was then reported as its "structural defects".

In August 2012, the Minister of Information, Communication Technology, said the ministry had now finished consultations on the review of the National ICT Policy Framework. The ICT policy is expected to provide for, among other factors, national information and communication authority and converged regulator and e-government. The e-government agency will develop, promote and co-ordinate the use of ICTs in government for the exchange of information and delivery of services.

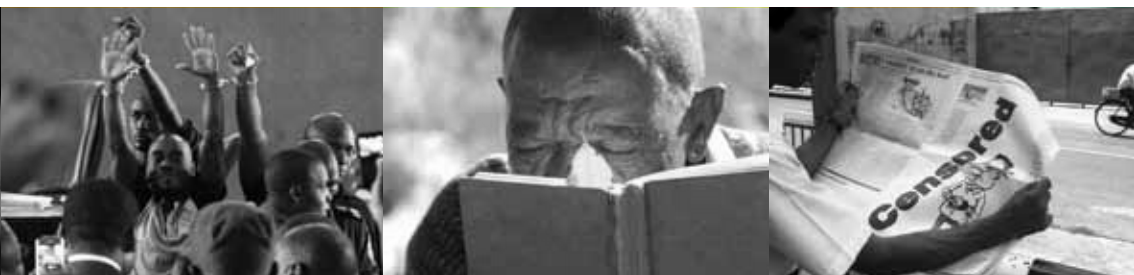
This comes on the backdrop of increased uptake in ICTs. According to survey released by Freedom House in August 2012, about 13% of Zimbabwe's estimated 12 million people, have access to the Internet. And, according to the latest Zimbabwe All Media Products Survey (ZAMPS), close to three million people have access to satellite TV, the majority being those with free-to-air decoders. About nine people million also have access to mobile phone technology and 64% of them use it for sms-texting.

Conclusion

In its present form, the new constitution will a go a long way in safeguarding media freedom, free artistic expression, freedom of expression and access to information as it has explicit guarantees for the enjoyment of these rights.

This would render as unconstitutional several of the mentioned restrictive laws used to erode freedom of expression and the media. The only blemish is its entrenchment of state ownership of the media, which can be used to perpetuate state controls of ZBC, as well the retention of a statutory ZMC with powers to take "disciplinary" measures against the media.

MISA-Zimbabwe is thus encouraged by SADC's insistence that the next elections should be held under a new democratic constitution and a clear election roadmap which encapsulates the fundamentals of the SADC Principles and Guidelines on the Conduct of Democratic Elections to ensure and secure equal and equitable access to the public media as well as free and fair elections.



PORTUGUESE VERSION

Introdução

Quando o presidente Robert Mugabe, abriu oficialmente a Quinta Sessão da sétima legislatura do Zimbábue em Novembro de 2012, havia altas expectativas que ele delinearía uma agenda legislativa que iria abordar as reformas mediáticas, eleitorais e de segurança que são necessárias para a realização de eleições cujos resultados seriam universalmente aceites.

Essas expectativas foram justificadas no contexto da insistência da equipa de mediação da Comunidade de Desenvolvimento da África Austral (SADC), liderada pelo presidente da África do Sul, Jacob Zuma, que estas reformas sejam iniciadas antes das eleições de 2013, conforme acordado nos termos do Acordo Político Global (GPA) que foi assinado quatro anos antes.

Importa tomar nota disto, dada a insistência da SADC em reformas-chave e que esta seria a última sessão do Parlamento antes das tão esperadas eleições de 2013 e quanto mais quando se trata das reformas mediáticas previstas.

No entanto, isto não aconteceria, não obstante o facto de que aos 13 de julho de 2010, o presidente Mugabe anunciou durante a abertura da 3ª Sessão da 7ª Legislatura do Zimbábue que o Ante-Projecto de Lei dos Profissionais da Comunicação Social ", que ficou mais de um ano sem ser discutido após as recomendações da Conferência de todas as Partes Intervenientes dos órgãos de comunicação realizada em Kariba (norte do Zimbabwe) em maio de 2009, que o ante-projecto fizesse integrasse a agenda legislativa do parlamento.

Referiu então que o Ante-Projecto de Lei dos profissionais da comunicação social buscaria "revogar a parte da Lei de Acesso à Informação e Proteção da Privacidade (AIPPA) que trata do registro de jornalistas e questões de privacidade"

No entanto, o Presidente Mugabe, não fez nenhuma referência ao Ante-Projecto de Lei dos Profissionais da Comunicação Social, nem à esperada revogação ou emenda de leis repressivas como a AIPPA, Lei dos Serviços de Difusão, Lei da Ordem e Segurança Pública (POSA) e a Lei Penal (Codificação e Reforma) que representam grandes obstáculos à liberdade de imprensa, liberdade de expressão e acesso à informação.

Também não houve tempo reservado

à apresentação do Ante-Projecto de Lei Liberdade de Informação, que o então vice-ministro da Informação, Jameson Timba, prometeu em 2010. O maior progresso registado foi a apresentação, pelo Deputado Settlement Chikwinya, do Ante-Projeto de Lei a todas as partes intervenientes.

Contudo, o projecto-lei foi amplamente condenado pelos intervenientes mediáticos, segundo os quais o referido projecto era réplica da AIPPA, que criminaliza a profissão e mantém as disposições não-democráticas e impede a liberdade de expressão.

A regulamentação legal mediática sob o AIPPA e através da Comissão Mediática do Zimbabwe (ZMC) continuou em vigor com a Comissão, em setembro de 2012, avançando com a criação do Conselho Disciplinar Mediático.

O mandato do Conselho será o de desenvolver e aplicar um código de conduta e ética que permita à Comissão punir jornalistas e instituições mediáticas infratores. Não é democrático que os governos busquem controlar as actividades mediáticas decidam sobre os códigos de conduta para a indústria além do papel estritamente administrativo. Tais leis podem e são usadas para reprimir o debate livre e silenciar as vozes críticas da sociedade.

Pode chegar-se à conclusão de que este desenvolvimento é um flagrante desrespeito à Declaração de Banjul sobre os Princípios de Liberdade de Expressão na África e as preocupações da Comissão Africana dos Direitos Humanos e dos Povos (ACHPR), sobre manter leis como AIPPA.

O Relator Especial da ACHPR sobre a Liberdade de Expressão e Acesso à Informação na África, advogado Pansy Tlakula, em novembro de 2012, falando à Rádio VOP, numa entrevista exclusiva, que o Zimbabwe deve revogar leis como a AIPPA e a POSA que continuam a dificultar o trabalho dos órgãos de comunicação social.

"A nova Constituição não resolverá todos os problemas; mesmo depois da sua entrada em vigor, haverá que enfrentar todas as leis que impedem a expressão como a AIPPA, POSA e todas as outras leis que não estão em conformidade com os instrumentos regionais e internacionais que o Zimbabué ratificou", disse Tlakula.

A Declaração de Banjul diz explícita e inequivocamente: A auto-regulação é a melhor a bordagem para incutir profissionalismo nos meios de comunicação. Esta posição não pode ser mal-interpretada, pois é auto-explicativa na sua explicitação.

Leis como a AIPPA, Lei da Transmissão, Lei Penal (Codificação e Reforma), Lei dos Segredos Oficiais, Lei de interceptação das comunicações (ICA), só servem para perpetuar o controlo estatal sobre a actividade dos média como ferramentas para amordaçar os meios de comunicação independentes.

A ferramenta mais favorecida, ao que parece, tem sido a Lei Penal (Lei da Codificação e Reforma), que criminaliza a difamação. Dezenas de jornalistas são presos ou processados nos termos desta lei alegadamente por difamar criminalmente alguns indivíduos sobre os quais noticiam.

O fracasso do ZMC legal de assumir a liderança na proteção de liberdade de imprensa justifica questões suscitadas na sua criação, que o órgão era uma farsa destinada a enganar o mundo em acreditar que o estado tinha abandonado seu domínio sobre as actividades mediáticas no país.

A sua mansidão foi exposta quando o Ministro da Comunicação Social, Informação e Publicidade afirmou que iria trabalhar com a Comissão para fechar alguns sectores mediáticos que continuam a denegrir o presidente Mugabe. Não houve comentários do ZMC, muito menos uma declaração a rejeitar as tentativas do ministro de projectar a comissão como um órgão subordinado pelo ministério.

Outra ameaça sinistra a liberdade de imprensa no Zimbábue veio na forma de uma decisão do Tribunal Superior aos 24 de Outubro de 2012 que os jornais podiam ser processados por danos de perdas financeiras sofridas por membros do público como resultado de publicação de notícias que deturpam a situação no país.

No passado, as pessoas só poderiam processar jornais por difamação. Mas o Supremo Tribunal decidiu que a empresa de investimento indígena, Vakakora Capital (Pvt) Limited, podia processar dois jornais privados - *Newsday* e *Daily News* - pelos artigos que publicaram Maio de 2011 dizendo que havia violência política no país.

Vakakora Capital argumentou que perdeu EUA 250 milhões dólares após a notícia ter assustado os investidores estrangeiros que já haviam manifestado

interesse em trabalhar com a empresa. Este desenvolvimento pode resultar num grande número de processos que podem levar as empresas mediáticas à falência e sufocar a liberdade de imprensa e liberdade de expressão.

Assim, o ambiente mediático permaneceu e é provável que se mantenha restrito na véspera das eleições de 2013 através da existência e aplicação selectiva das leis em questão.

Detenções, Ameaças e Hostilização de Jornalistas

A formação do governo inclusivo, em 2009, resultou, de alguma forma no declínio de casos de detenções, assédio e ameaças contra jornalistas especialmente os que trabalham para os meios de comunicação independentes.

Isso é louvável, uma vez que em 2009, o MISA-Zimbabwe emitiu mais de 80 alertas de casos de violação mediáticas que desceu para para um total de 27 em 2010, enquanto emitiu-se um total de 28 foram em 2011. No momento da elaboração deste relatório, o MISA-Zimbabwe emitira 28 alertas relativas a violações de liberdade de imprensa.

Enquanto no passado vários jornalistas e profissionais mediáticos foram presos ou processados sob a AIPPA e a POSA, a difamação está se tornando a arma predilecta contra a liberdade de imprensa e liberdade de expressão, nos termos de Código Penal (Codificação e Reforma).

Zimbabwe é estado signatário da Declaração Universal dos Direitos Humanos, do Pacto Internacional sobre os Direitos

Civis e Políticos, do artigo 9 ° da Carta Africana sobre dos Direitos Humanos e dos Povos e da Declaração Banjul sobre os Princípios da Liberdade de Expressão em África, que garantem e proteger a liberdade de expressão.

A retenção e aumento no recurso a essas leis é, portanto, indício da intolerância da liberdade de imprensa e liberdade de expressão e da determinação, por parte dos oficiais públicos, infundir medo e auto-censura nos meios de comunicação.

As leis de difamação criminal não têm lugar na democracia moderna e devem, portanto, ser revogadas. Nas democracias modernas e civilizadas, as reclamações contra os meios de comunicação são tratadas pelos órgãos de auto-regulação, como o Conselho Mediático Voluntário do Zimbabwe ou mediante os tribunais civis ao invés de criminalizar uma profissão que é fundamental para o exercício e gozo dos direitos humanos fundamentais.

Isto exige a revogação urgente de disposições sobre a difamação conforme plasmado no Código Penal (Codificação e Reforma), uma vez tais não estão em consentaneidade com

o direito fundamental de buscar, aceder, receber, divulgar e partilhar informações sobre questões de interesse público.

Os casos em questão dizem respeito ao processo judicial contra o editor do *The Standard*, Nevanji Madanhire, o repórter Patience Nyangove e o Chefe dos recursos humanos.

Stanley Gama, editor do *Daily News* e seu vice Chris Goko também enfrentam um processo de difamação criminal de

25 milhões dólares. Gama e Goko foram detidos e presos no Comando Central da Polícia em Harare aos 8 de Outubro de 2012 sobre uma notícia que alegava que o desaparecimento da família de empresário Munyaradzi Kereke era uma farsa.

Os dois jornalistas que passaram quatro horas no comando policial, foram liberados após terem assinado declarações nas quais negavam as acusações criminais de difamação Kereke.

Outros casos envolviam Dennis Kagonye, editor do *The Weekly Mirror* e o jornalista Nhau Mangirazi. Kudakwashe Matura, um activista de notícias da comunidade foi detido a 12 de Dezembro para ser julgado por difamação. Matura foi mais tarde absolvido das acusações.

O ano em análise também viu um aumento no número de cidadãos presos por supostamente insultar o presidente - o que só serve para coibir a liberdade de expressão e que tem impactos negativos sobre o papel dos órgãos de comunicação de vigiar os três ramos do Estado.

Os Advogados de Direitos Humanos do Zimbábue (ZHHR), disse que estava a defender mais de 50 indivíduos presos e levados a tribunal nos termos da Secção 33 do Código Penal (Codificação e Reforma) que trata da autoridade do Presidente ou do insultos contra o mesmo.

Acesso à Informação

O direito à liberdade de expressão, liberdade de imprensa e acesso à informação está consagrado em vários instrumentos internacionais e regionais, aos quais o Zimbabwe aderiu.

Portanto, com a adesão aos instru-

mentos, o Zimbabwe é obrigado a manter essas disposições na sua legislação. Em outras palavras, as leis do Zimbábue sobre a liberdade de expressão, acesso à informação e liberdade de imprensa devem estar de acordo com os critérios estabelecidos por esses instrumentos regionais e internacionais.

Conforme destacado no Relatório do Estado dos Órgãos de Comunicação de 2011, a AIPPA é um termo inapropriado para o direito dos cidadãos ao acesso à informação, uma vez que mantém disposições restrictivas que impedem o exercício desse direito fundamental sobretudo no contexto do papel dos órgãos de comunicação social na qualidade de fiscalizadores do três ramos do Estado i.e. o Executivo, o Legislativo e o Judiciário.

Apesar das emendas cosméticas de 2008 à AIPPA, a lei ainda mantém a disposição, entre outros, o que dá aos órgãos públicos 30 dias para responder a pedidos de informação.

Como resultado, várias instituições públicas continuam a operar em segredo devido à ausência de leis de liberdade de informações democrática e leis de acesso à informação bem como uma disposição constitucional explícita para o efeito.

A falta de vontade de rapidamente fornecer informações tem feito com que os órgãos de comunicação tendam a especular e utilizar fontes anónimas, comprometendo assim o inalienável direito dos cidadãos ao acesso à informação guardada tanto pelos órgãos públicos como privados para que possam tomar decisões informadas e escolhas certas.

Entre os seus outros marcos de referência, a Declaração de Banjul estipula

que os órgãos públicos deverão, "mesmo na ausência de um pedido", activamente publicar informações importantes ou de interesse público. Afirma ainda que em caso de recusa de prestação de informação, recorrer-se-á a um órgão independente e ou tribunais.

Nos termos do Artigo 8º da AIPPA para obter-se informações de um órgão público, far-se-á uma comunicação formal por escrito dirigida ao chefe do órgão público que tiver tal informação.

No entanto, o chefe do órgão público tem 30 dias para responder ao pedido e tem liberdade de prolongar o período com o consentimento da comissão. Não há justificativa para o prazo de resposta de 30 dias, que é desnecessariamente longo e insensível às necessidades dos que necessitam dessa informação.

Esta situação é agravada pela legislação vigente, como a Lei dos Segredos Oficiais e pelo facto de que a Constituição não garante explicitamente o direito de acesso à informação.

Para o MISA-Zimbabwe sente-se encorajado pela inclusão de uma disposição constitucional explícita sobre o direito de acesso à informação, que deve poderá entrar em vigor a promulgação da Lei democrática de liberdade Informação.

Difusão e Telecomunicações

Órgão Regulador

O licenciamento das primeiras estações de rádio privadas, *ZiFM* e *Star FM*, em Setembro do ano passado é uma evolução positiva, que de certa forma a diversifica o sector de radiodifusão dominado por anos, pela estatal *Zimbabwe*



Broadcasting Corporation.

O governo, no entanto, aparenta ter falta de vontade de instituir amplas reformas legislativas que vão libertar o espaço mediático, fundamentalmente no que se refere ao sector da Transmissão como prometeu nos termos do GPA. As reformas acordadas englobavam a necessidade de restituir-se a Autoridade de Transmissão do Zimbabué (BAZ), transformando ZBC em Emissora pública verdadeiramente independente, a reconstituição do Zimbabwe Mass Media Trust (para supervisionar a gestão do Jornais estatais do Zimbabwe (Zimpapers).

E uma vez a Comissão Mediática do Zimbábue é o órgão responsável pelas actividades mediáticas no país, isso significa que as emissoras devem ser licenciadas pelo BAZ e depois ser registradas com a Comissão - entraves burocráticos desnecessários.

Também no quadro da regulação está o Ministério das TIC. Embora tenha sido despojado de todos os actos que era suposto administrar, o Ministério das TIC ainda emite pronunciamentos sobre os quadros de políticas de TIC que têm uma influência sobre a Comunicação Social.

Além de todos estes órgãos, existe também uma sociedade civil e uma iniciativa de mediática na forma da Con-

selho Mediático Voluntário do Zimbabué (VMCZ), que foi criado como uma entidade alternativa para fomentar o profissionalismo mediático.

O corpo foi criado para solucionar, amigavelmente, queixas de membros do público que se sentem injustiçados pela órgãos de Comunicação Social, sem necessariamente enveredar pela via judicial onerosa ou recorrer ao uso de leis anti-gas que criminalizam a prática do jornalismo.

A reconstituição do BAZ foi acordada pelo Presidente Robert Mugabe e o Primeiro-Ministro Morgan Tsvangirai após a controvérsia em torno de nomeações para a nova direcção feitas pelo ministro da Comunicação Social, Informação e Publicidade Webster Shamu, em Setembro de 2009. O BAZ estava para ser reconstituído para garantir ampla representação no seu conselho para que a adjudicação e licenciamento de emissoras aspirantes fosse mais aberta e transparente.

Transformação do ZBC

A aparente relutância de liberar o Zimbabwe Broadcasting Corporation (ZBC) do controlo do Ministério da Informação e transformá-lo numa emis-



sora responsabilizada pelo Parlamento, faz com que a emissora continue sendo usado para reflectir apenas as opiniões daqueles que o controlam e não o espectro de pensamento de todo o Zimbábue.

O Ministério da Informação já deixou claro que não iria reformar a emissora estatal. Na sua apresentação oral perante a comissão parlamentar Mediática e de informações em Maio de 2012, o ministério aprovou um voto de confiança no Conselho de Administração ZBC, que continua a ser uma das fontes de conflito no governo.

TIC e telecomunicações

Em junho de 2009, o governo anunciou que o Ante-projecto de Lei de TIC estava preste. O projeto de lei funde a BAZ e Autoridade dos Correios e Telecomunicações do Zimbábue (POTRAZ) e cria a Autoridade Nacional de TIC Zimbábue.

Três anos mais tarde, tudo o que se materializou são as declarações de intenção para esse efeito, o ante-projecto ainda está por ser apresentado ao Parlamento. Em abril de 2010, o projeto foi remetido ao ministro responsável, devido aos seus "defeitos estruturais".

Em agosto de 2012, o ministro das TIC disse que o ministério já tinha terminado as consultas sobre a revisão do Quadro de Política Nacional de TIC. A política de TIC deverá prever, entre outros fatores, a autoridade nacional para a informação e comunicação e a convergência do regulador e administração digital. A agência de administração digital vai desenvolver, promover e coordenar a utilização das TIC no governo para a troca de informações e prestação de serviços.

Isto vem no contexto do aumento da captação de TIC. De acordo com pesquisa divulgada pela Freedom House, em agosto de 2012, cerca de 13% do Zimbábue, estimadamente 12 milhões de pessoas, têm acesso à Internet. E, de acordo com a mais recente All Media Products Survey Zimbabwe (ZAMPS), perto de três milhões de pessoas têm acesso à televisão por satélite, sendo a maioria aqueles com descodificadores que captam o sinal de canais grátis. Cerca de nove milhões de pessoas também têm acesso à tecnologia de telefonia móvel e 64% delas usam-na para mensagens SMS.

Conclusão

Na sua forma actual, a nova Constituição terá um longo percurso para

salvaguardar a liberdade de imprensa, expressão artística livre, liberdade de expressão e acesso à informação, pois tem garantias explícitas para o usufruto de tais direitos.

Isso inconstitucionalizaria várias muitas das leis restrictivas mencionadas, usadas para subverter a liberdade de expressão e de imprensa. O único defeito é a propriedade estatal dos meios de comunicação, que pode ser usada pelo estado para perpetuar controlos sobre o ZBC, bem como para reter uma ZMC estatutária, com poderes para tomar "medidas disciplinares" contra os órgãos de comunicação social.

Para o MISA-Zimbabwe, é encorajadora a insistência da SADC que as próximas eleições sejam realizadas sob uma nova constituição democrática e um roteiro de eleições claro que encapsula os fundamentos dos Princípios e Normas da SADC sobre a realização de eleições democráticas para assegurar e garantir o acesso igual e equitativo aos meios de comunicação públicos, bem como as eleições livres e justas.

Communiqué

Date: January 24, 2012

Person/ institution: Media

Violation/ issue: Other

The National Blood Services (NBS) together with MISA-Zimbabwe, Zimbabwe Union of Journalists (ZUJ) and Friends of the late veteran journalist Freedom Moyo will on Saturday, 28 January 2012 launch a campaign to encourage members of the public to donate blood. The campaign follows the death of Freedom who died at West End Clinic in Harare on Tuesday, 17 January 2012 after sustaining serious injuries in a traffic accident three days earlier.

Medical personnel who attended to Freedom struggled to secure emergency supplementary blood in the wake of his excessive bleeding from injuries sustained in the traffic accident.

Alert

Date: January 25, 2012

Person/ institution: Media

Monitoring Project of Zimbabwe

Violation/ issue: Legislation

Gwanda magistrate Sheila Nazombe on 24 January 2012 threw out two of the three charges that against Media Monitoring Project of Zimbabwe (MMPZ) personnel Molly Chimhanda, Fadza December and Gilbert Mabusa. This followed an application for refusal of further remand by their lawyer Kossam Ncube who argued that the state had failed to prove reasonable suspicion they had committed the offences in question.

February 8, 2012: Two Media Monitoring Project Zimbabwe (MMPZ) personnel, Molly Chimhanda and Fadza December

together with Gilbert Mabusa, Chairperson of MMPZ's Public Information Rights Committee appeared in the Gwanda Magistrate Court again on Tuesday, 7 February to answer charges of "undermining the authority of or insulting the President". Ncube has also applied successfully for the case to be referred to the Supreme Court of Zimbabwe and is putting forward the argument that the Criminal Codification and Reform Act (Section 33) infringes of the three's freedom of expression. However, the three are still on remand as another application for their removal from remand was turned down on the grounds that it was still premature for such a request to be made and granted. Therefore, they will have to appear again at the Gwanda Magistrate court on 30 April 2012.

May 2, 2012 :The case of two Media Monitoring Project Zimbabwe (MMPZ) staffers, Molly Chimhanda and Fadzai December together with MMPZ chairperson (Public Information Rights Committee) Gilbert Mabusa resumed again on the 30th April 2012 at the Gwanda Magistrate Court and ended with the trio being removed from remand, meaning that their case will now proceed by way of summons.

Communiqué

Date: January 31, 2012

Person/ institution: Broadcasting

Authority of Zimbabwe (BAZ)

Violation/ issue: Other

The Broadcasting Authority of Zimbabwe (BAZ) has extended its deadline for applications for free to air local commercial radio broadcasting service licence from 31 January 2012 to the 29th of February

2012. The initial deadline for the 14 local commercial radio stations had been set for the 31st of January 2012. The application fees for the potential broadcasters are US\$9 500 and include an initial fee of US\$2 500 and a fee of US\$7 500 for the public enquiry. On being granted a licence, prospective broadcasters will be expected to pay a licence fee of US\$15 000 plus per annum.

Communiqué

Date: February 1, 2012

Person/ institution: Bornwell

Chakaodza, Makuwerere Bwititi

Violation/ issue: Other

Veteran Zimbabwean media guru and journalist Bornwell Chakaodza has died. Chakaodza, 60, died in the early hours of 1 February 2012 at St Annes Hospital in Harare after succumbing to cancer of the bowels. His death comes at a time when the media fraternity is still coming to grips with the recent deaths of senior Zimbabwean journalists Makuwerere Bwititi and Freedom Moyo. Bwititi who is still to be buried, died this week on Sunday in Windhoek, Namibia where he now worked for the New Era following a rewarding career in journalism spanning 26 years. Freedom who was a current affairs manager with the Zimbabwe Broadcasting Corporation, died in Harare on 31 January 2012 following serious injuries sustained in a traffic accident. Chakaodza, a media trainer and consultant with vast experience, was known for his forthrightness and passion for media professionalism.

Alert**Date: February 3, 2012****Person/ institution: Foreign print media****Violation/ issue: Legislation**

The Zimbabwe Media Commission (ZMC) has reportedly enlisted the service of the police in a bid to stop foreign newspapers without local offices from circulating. Publications that might be affected include; the Sunday Times, Mail and Guardian, Business Day and the Zimbabwean. ZMC chairperson, Godfrey Majonga said the affected newspapers should register in Zimbabwe as soon as possible before the titles are stopped from coming into the country. According to section 66(1) of AIPPA a mass media shall carry on the activities of a mass media service only after registering and receiving a certificate of registration in terms of the Act. The only exception is where such a mass media owner has set up representative office of a mass media service permitted to operate in Zimbabwe in terms of section 90.

Communiqué**Date: February 3, 2012****Person/ institution: KISS-FM****Violation/ issue: Legislation**

KISS-FM has withdrawn its legal suit challenging the Broadcasting Authority of Zimbabwe's (BAZ) decision to deny them a national commercial radio broadcasting licence. KISS-FM director Sharon Mugabe said the withdrawal was based on the drastic changes in the media landscape, particularly the migration of airwaves from analogue to the digital platform. The changes have created new

opportunities to participants and for channels of media previously excluded it will re-launch in anticipation of these developments in Zimbabwe, she said.

Communiqué**Date: February 10, 2012****Person/ institution: Broadcasting****Authority of Zimbabwe****Violation/ issue: Legislation**

On 9 February 2012 MISA Zimbabwe held a press club discussion under the theme: BAZ under the spotlight: was the appointment process above board, during which the panellists offered different views on what exactly transpired. Panelists included the Minister of State in the Prime Minister's Office Jameson Timba, member of the Parliamentary Portfolio Committee on Media, Information and Communication Technology Bright Matonga and Dr Lovemore Madhuku.

Communiqué**Date: February 29, 2012****Person/ institution: Morgan****Tsvangirai****Violation/ issue: Other**

Zimbabwe's major opposition party, the Morgan Tsvangirai-led Movement for Democratic Change (MDC) has urged Zimbabweans to use social media sites such as Facebook, Twitter and YouTube as platforms to express themselves in a country that has failed to satisfactorily diversify its media. The call for social media use, made by MDC Secretary-General Tendai Biti, comes at a time when speculation is rife that Zimbabwe will go to the polls this year. President Robert Mugabe, who recently celebrated his

88th birthday, has called for elections to be held this year. Mugabe's party, ZANU-PF, has strongly opposed proposed media reforms in the country even though regional institutions such as the Southern African Development Community (SADC) have encouraged such reforms as a precondition for the holding of free, transparent and credible elections.

Alert

Date: March 3, 2012

Person/ institution: MISA-Zimbabwe

Violation/ issue: Other

The Zimbabwe chapter of the Media Institute of Southern Africa (MISA-Zimbabwe) has dismissed allegations made by state media that it is clandestinely collecting signatures from people 'bused-in' from various communities in its bid to 'create' community radio stations. The allegations were published in the state-controlled *The Herald* and featured in the Zimbabwe Broadcasting Corporation's news bulletins of 1 March 2012. Further allegations are that the signatories would become trustees that would run the radio stations. In a statement, MISA-Zimbabwe Chairperson, Njabulo Ncube reaffirmed that MISA-Zimbabwe "has no intention of establishing community radio stations that operate outside the ambit of the Broadcasting Services Act (BSA)" as was being alleged by the state-controlled media.

Alert

Date: March 8, 2012

Person/ institution: Daily News

Violation/ issue: Censored

The privately-owned newspaper, *Daily*

News has reportedly been banned from circulating in Mashonaland East province's Mutoko and Murehwa areas. In a front-page story published on 8 March 2012, the newspaper said the ban was allegedly being effected by former ruling party, Zanu-PF supporters who were forcing people to read only state-owned publications. Councilor Shama Kativhu, of Ward 20 in Mutoko said the "thugs" were hostile to all independent newspapers circulating in the areas. The paper also reported that copies of its newspaper were torn in Kadoma by "identified Zanu PF supporters" after they accused a vendor of selling the newspaper close to a shop owned by a Zanu-PF official. Kadoma is in the Midlands province of Zimbabwe.

Alert

Date: March 8, 2012

Person/ institution: NewsDay

Violation/ issue: Threatened

Leaders of the Zimbabwe National Liberation War Veterans Association (ZNL-WVA) in Harare on 7 March 2012 threatened to shut down the privately-owned newspaper *NewsDay* unless the daily discloses the sources of a story alleging the former liberation war fighters had attempted to dig up the remains of Cecil John Rhodes from Matobo Hills, a UNESCO World Heritage site.

Alert

Date: March 8, 2012

Person/ institution: Activists

Violation/ issue: Legislation

The Minister of Media, Information and Publicity, Webster Shamu, has been sum-



moned to explain why he is not implementing envisaged media reforms as agreed to and ordered by the principals in Zimbabwe's inclusive government. Joram Nyathi, spokesperson for the Joint Monitoring and Implementation Committee (JOMIC), the committee tasked with the duty of fully implementing the Global Political Agreement (GPA), confirmed this development to the Daily News on 8 March 2012. President Robert Mugabe, Prime Minister Morgan Tsvangirai and his deputy Professor Arthur Mutambara were recently reported as having ordered Shamu to immediately reconstitute the boards of the Broadcasting Authority of Zimbabwe (BAZ), Zimbabwe Mass Media Trust and the Zimbabwe Broadcasting Holdings in line with a raft of other envisaged media reforms.

Alert

Date: March 12, 2012

Person/ institution: Journalists

Violation/ issue: Detained

Four journalists based in Mutare, Eastern Zimbabwe, were on 9 March 2012 arrested in Nyanyadzi, Manicaland Province while covering a story on pollution in the area. Charges were still to be preferred against Sidney Saize, Andrew

Mambondiani, Chengetai Murimwa and Admire Matende. The four were only released on the same day at 8pm into the custody of their lawyer David Tandiri who is also a member of MISA-Zimbabwe's Media Lawyers' Network. The journalists were released on condition that they report at Mutare's Law and Order section at 7am on Saturday 10 March 2012 only for them to be further released into their lawyer's custody on condition that they report to the same section on 12 March 2012 for the determination of charges to be preferred against them.

Communiqué

Date: March 19, 2012

Person/ institution: The Media Institute of Southern Africa

Violation/ issue: Other

The Media Institute of Southern Africa (MISA) on 15 April 2012 bemoaned the current state of access to information in Africa, citing the negative impact the glaring lack of information is having on the citizenry. This observation was made during the ongoing NGO Forum of the 51st Session of the African Commission on Human and Peoples' Rights (ACHPR) in the Gambian capital of Banjul. Referring to the African Platform on Access to



Information campaign initiated in 2011, MISA Regional Specialist on Media Policy and Law, Karen Mohan, said access to information is a right that many African citizens were still struggling to realise.

Alert

Date: April 23, 2012

Person/ institution: Hammond Robin Nicholas, Bertha Chiguvare

Violation/ issue: Detained

The privately owned daily, NewsDay of 23 April 2012 reports that the foreign journalist, Hammond Robin Nicholas (37) who was arrested on April 16, 2012 has been fined \$150 for contravening sections of the Protected Areas and Places and Immigration Acts by Beitbridge magistrate Carrington Karidzangundi. Nicholas risks a 60-day jail term if he fails to pay the fine by the end of the week. He was arrested together with Zimbabwean national, Ms. Bertha Chiguvare (31) after being allegedly found taking photographs at the Beitbridge Border Post for a story on the irregular migration of Zimbabweans to South Africa.

Alert

Date: May 2, 2012

Person/ institution: Radio Dialogue

Violation/ issue: Censored

Zimbabwe Police in full riot uniform disrupted a road show organized by a local community radio initiative, Radio Dialogue. The incident occurred on Saturday, 28 April 2012 during the Zimbabwe International Trade Fair (ZITF). The police claimed that the road show was called to an end due to lack of space. Radio Dialogue, for the past 6 years has been successfully holding the road show in question without any hindrance and this year's disruption is rather surprising given that the radio station had cleared with the Bulawayo City Council to use the space in question.

Communiqué

Date: May 7, 2012

Person/ institution: AMH publisher

Violation/ issue: Other

Alpha Media Holdings (AMH) publisher Trevor Ncube has scooped the inaugural MISA-Zimbabwe Press Freedom Award for continuing to provide platforms and access to critical alternative views and ideas on Zimbabwe's socio-economic and political issues. The award was pre-

sented at a MISA-Zimbabwe World Press Freedom Day dinner which also coincided with the Justice John Oliver Manyarara Memorial Lecture held at Bulawayo Rainbow Hotel on 4 May 2012 in Bulawayo, Zimbabwe's second largest city.

Communiqué

Date: May 15, 2012

Person/ institution: KISS FM

Violation/ issue: Legislation

KISS FM representatives on 10 May 2012 bemoaned the adjudication process employed by the Broadcasting Authority of Zimbabwe (BAZ) in the awarding of commercial radio broadcasting licences. The representatives were giving oral evidence before the Parliamentary Portfolio Committee on Media, Information and Communication Technology during a committee meeting held at Parliament Building in Harare.

Alert

Date: May 24, 2012

Person/ institution: Newsday and Daily News

Violation/ issue: Censored

Vendors selling copies of the privately-owned Newsday and Daily News newspapers in Gokwe in the Midlands Province were on 22 May 2012 ordered by a lone soldier to surrender their newspapers at a local police post in the Midlands provincial town centre. According to a report carried by Newsday in its edition of 23 May 2012, the soldier arrived at a local sports bar in the morning and ordered the vendors not to sell the papers.

Alert

Date: June 4, 2012

Person/ institution: Petros Trelawny

Violation/ issue: Detained

A British Broadcasting Corporation (BBC) music presenter Petros Trelawny who was arrested on 26 May 2012 for working in Zimbabwe without accreditation in terms of the repressive Access to Information and Protection of Privacy Act (AIPPA) was freed of all charges and flew out of the country on 1 June 2012. Trelawny was arrested in Bulawayo, Zimbabwe's second largest city, during the Bulawayo Music Festival. After being released on 30 May 2012, he then faced new charges on allegations of breaching Zimbabwe's immigration laws. However, the charges were dropped on 31 May 2012 and his passport returned to him. Trelawny was acting as a compère during the festival and was in Bulawayo in his personal capacity as opposed to being on assignment for the BBC.

Alert

Date: July 17, 2012

Person/ institution: Aaron Ufumeli

Violation/ issue: Detained

Photojournalist Aaron Ufumeli was on 17 July 2012 arrested while covering a demonstration organised by the women's movement at the Africa Unity Square in Harare. Ufumeli who works for the privately-owned NewsDay, was arrested around 9:30am (GMT+2) by an unidentified police officer while taking pictures of what appeared to be a confrontation between a police officer and one of the demonstrators.

Alert**Date: July 24, 2012****Person/ institution: Regis****Marisamhuka****Violation/issue: Assaulted**

Freelance photojournalist Regis Marisamhuka was on 22 July 2012 allegedly assaulted by ZANU PF supporters at Murombedzi growth point in Zvimba where he had travelled to cover an MDC-T rally. According to Marisamhuka, two distinct groups comprising Zanu PF and MDC-T were gathered at the venue of the scheduled rally. However, upon entering the football grounds where the two political parties had converged, Marisamhuka was allegedly assaulted by Emmanuel Tandi who is said to be an aspiring ZANU PF candidate in the pending general elections.

Alert**Date: August 7, 2012****Person/ institution: The Standard****Violation/ issue: legislation**

The trial of The Standard Editor, Nevanji Madanhire, journalist Patience Nyangove and Alpha Media Holdings (AMH) group resources manager Loud Ramakgapola, has been pushed to 4 December 2012. The trio is being charged with criminal defamation following the publication of a story in The Standard of 26 June–2 July 2011 titled; MDC-T fears for missing Timba. The three made an application in terms of Section 24(2) of the Constitution of Zimbabwe in December 2011, challenging that the charge infringed on their right to freely express themselves and disseminate information without fear or favour.

Alert**Date: September 18, 2012****Person/ institution: Media****Violation/ issue: threatened**

Zimbabwe's Minister of Media, Information and Publicity, Webster Shamu on Wednesday, 12 September 2012 threatened to revoke the operating licences of media organisations which he accused of abusing media freedom to denounce the country and its leadership.

Minister Shamu issued what he said was the final warning against media organisations denigrating President Robert Mugabe and the country's leadership. Shamu said this as he addressed mourners during the burial of former Harare province's Zimbabwe National Liberation War Veterans Association vice chairman, Christopher Pasipamire, at the Heroes Acre at Warren Hills cemetery in the capital city, Harare.

Alert**Date: September 27, 2012****Person/ institution: Crispin****Sachikonye****Violation/ issue: Detained, Censored**

Crispin Sachikonye who is allegedly linked to an illegal television broadcasting station operating in Harare on 27 September 2012 denied the allegations saying they were in fact operating a news agency duly registered in terms of the law. Sachikonye named the news agency in question as African Open Media Initiative (Private) Limited which collected news from Zimbabwe and sold it internationally. Police in Harare on 26 September 2012 raided DDB Harsh 3, an

alleged television station before arresting the employees and seizing broadcasting equipment.

The suspected TV station whose company premises are situated in Belgravia in Harare, stands accused of allegedly gathering news and exporting it to ATV, a United Kingdom television station based in Manchester that would then broadcast the material.

Alert

Date: October 9, 2012

Person/ institution: Daily News

Violation/ issue: Detained

The editor of the privately-owned Daily News, Stanley Gama and his deputy Chris Goko, were arrested and detained at Harare Central Police station on Monday, 8 October 2012 over a story alleging that the disappearance of local businessman Munyaradzi Kereke's family was a hoax. The two spent four hours at the police station before they were released after signing warned and cautioned statements in which they denied Kereke's criminal defamation charges. Gama and Goko were arrested after the Daily News published a news article which alleged that Kereke's report on his missing family was a plot used to deceive people in a bid to substantiate his claims that his life was in danger from a multiplicity of forces, including Reserve Bank of Zimbabwe Governor Gideon Gono and unnamed security agents. Kereke is a former advisor to Gono.

Alert

Date: October 10, 2012

Person/ institution: Kudakwashe

Matura

Violation/ issue: legislation

Kudakwashe Matura, a community news activist facing charges of criminal defamation was on Wednesday, 10 October 2012 denied his freedom when the State invoked Section 121 of the Criminal Procedure and Evidence Act to effectively suspend bail granted by a Kariba magistrate earlier. Kariba is a town located in northern Zimbabwe. Matura was arrested on Monday, 8 October 2012 after a complaint was lodged by one Sam Mawuwa on allegations that a story published in the Kariba News newsletter about him was defamatory. He is, therefore, facing criminal defamation charges under Section 96 of the Criminal Law (Codification and Reform) Act.

October 25, 2012: The State, on Friday 19 October 2012 filed confirmation of abandonment of its notice to appeal against the bail granted to community news activist, Kudakwashe Matura, by Kariba magistrate Felix Chauromwe. The Attorney-General's Office, represented by prosecutor, Unite Saize, had on Tuesday, 9 October 2012 highlighted its intention to appeal against the granting of bail to Matura. This came after the State invoked Section 121 of the Criminal Procedure and Evidence Act (CPEA), which automatically suspended the bail granted to Matura. However, according to the same section of the CPEA, a notice of appeal has to be filed within seven (7) working days and this period

lapsed on Friday, 19 October 2012. This effectively meant that the notice to appeal fell away rendering Matura eligible to pay the \$100 bail originally granted. 22 November 2012: Kariba magistrate Felix Chauromwe on Tuesday, 20 November 2012 remanded community news activist Kudakwashe Matura who is being charged with criminal defamation to Wednesday, 12 December 2012 for trial. Kariba is a town in Northern Zimbabwe. 13 December 13, 2012: Kariba magistrate Felix Chauromwe on Thursday, 13 December 2012 acquitted community news activist, Kudakwashe Matura, who was being charged with criminal defamation. The ruling came after Matura's lawyer, Tapiwa Muchineripi, made an application for discharge at the close of the state case. He argued that the state had failed to prove its case against the defendant, noting that there had been no evidence adduced to prove that Matura had published the article in question.

Alert

Date: October 15, 2012

Person/ Institution: Thomas Madhuku

Violation/ issue: Legislation

Freelance journalist Thomas Madhuku has been freed on charges of practicing journalism without accreditation after Harare magistrate Anita Tshuma ordered the state to put its house in order. Magistrate Tshuma freed Madhuku after the state failed to furnish the court with a trial date. The magistrate said the state had shown that it was not ready to proceed to trial after postponing the case on several occasions.

Alert

Date: October 16, 2012

Person/ institution: Bethule Nkiwane and Tendai Kamhungira, Daily News
Violation/ issue: Assaulted

Daily News reporters, Bethule Nkiwane and Tendai Kamhungira, were manhandled and threatened by expelled South African ANC Youth League president Julius Malema's bouncers in Harare on Sunday, 13 October 2012. The bouncers harassed the two journalists when they tried to interview Malema about the money laundering charges he is facing in South Africa and his alleged links to Zimbabwe's former ruling party, Zanu-PF. A report was made to the police. Stanley Gama, Daily News editor, had earlier informed the reporters that Malema had agreed to the interview, but the bouncers became aggressive after introductions had been made in the presence of Zanu-PF officials. Gama said Malema was willing to cooperate but his bouncers intervened and told the reporters to "go to hell".

Communiqué

Date: October 19, 2012

Person/ institution: The African Commission on Human and People's Rights

Violation/ issue: Other

The African Commission on Human and People's Rights (ACHPR) on Friday, 12 October 2012 stepped up its efforts to protect and promote the right to freedom of expression on the continent by launching a continental-wide campaign to decriminalise expression. The Com-

mission, through its Special Rapporteur on Freedom of Expression and Access to Information, Advocate Pansy Tlakula, officially launched the campaign during the 52nd Ordinary Session of the African Commission on Human and Peoples' Rights in Yamoussoukro, Ivory Coast. The Ordinary Session came on the occasion of the commemoration of the 10th anniversary of the Declaration of principles on Freedom of Expression in Africa.

Communiqué

Date: November 5, 2012

Person/ institution: Pansy Tlakula

Violation/ issue: Other

Advocate, the Special Rapporteur on Freedom of Expression and Access to Information in Africa and a member of the African Commission on Human and Peoples Rights says she is "deeply concerned" with the continued existence of laws that impede the work of the media in Zimbabwe. Tlakula told Radio VOP in an exclusive interview on the sidelines of the inaugural Carlos Cardoso Memorial lecture at the University of Witwatersrand in Johannesburg, that Zimbabwe should repeal laws such as Access to Information and Protection of Privacy Act (AIPPA) and Public and Order Security Act (POSA), which continue to impede media work. "The new constitution will not solve all the problems. Even after the new constitution is put in place, you will still have to deal with all laws that impede expression like AIPPA, POSA and all the other laws that are not in conformity with regional and international instruments that Zimbabwe has ratified," said Tlakula.

Alert

Date: November 7, 2012

Person/ institution: Watson Ofumeli, Daily News

Violation/ issue: Detained

Watson Ofumeli, a photographer with the Daily News was arrested on Monday, 5 November 2012 by the police's law and order section while covering a raid by members of the force on the offices of the Counselling Services Unit (CSU) in Harare. The officers raided the offices in search of what they described as offensive and subversive material. Ofumeli was taken to Harare Central Police station where he was briefly detained and only released after being forced to delete the pictures that he had taken. He was arrested together with five CSU members of staff.

Alert

Date: November 7, 2012

Person/ institution: Dennis Kagonye, Weekly Mirror

Violation/ issue: Detained,

Legislation

Dennis Kagonye, editor of the Weekly Mirror, was on Wednesday, 7 November 2012 fined US\$100 for operating a mass media service without a licence in contravention of Section 72 of the draconian Access to Information and Protection of Privacy Act (AIPPA). Chinhoyi magistrate Fanuel Nyakudya, sentenced Kagonye to two months in prison with the option of a \$100 fine. Kagonye was also slapped with a further suspended sentence of six months imprisonment on condition he does not commit a similar

offence within the next five years. He was arrested on Tuesday, 6 November 2012 on allegations of operating a media house without a licence.

Communiqué

Date: November 12, 2012

Person/ institution: MISA-Zimbabwe

Violation/ issue: Other

Veteran broadcast journalist publishes memoirs

The Chairperson of MISA-Zimbabwe Njabulo Ncube has urged Zimbabwean journalists to write and produce memoirs on their professional experiences and the momentous events and policy decisions that influenced the shaping of the country's socio-economic, political and cultural development. Ncube was speaking during a press club debate at the Bulawayo Press Club on 9 November 2012 on the role of journalists in educating and enhancing access to information through writing their own memoirs.

Alert

Date: November 29, 2012

Person/ institution: Ropafadzo

Mapimhidze, Newsday

Violation/ issue: Legislation

Newsday features and supplements editor Ropafadzo Mapimhidze is facing charges of contravening the Postal and Telecommunications Act for allegedly threatening Zaka chief Rangarirai Nhema. Mapimhidze's lawyer Martin Mureri said Nhema claimed that Mapimhidze had made threatening telephone calls to him. She is likely to be charged under Section 88(c) of the Postal and

Telecommunications Act (Chapter 12:05 which makes it unlawful to make a telephone call without reasonable cause for the purpose of causing annoyance, inconvenience or needless anxiety. Nhema alleges that he was threatened by Mapimhidze with unspecified actions if he continued to harass MDC supporters in his area. If convicted, she could face a six- months' prison term or a fine not exceeding US\$100.

Alert

Date: November 29, 2012

Person/ institution: NewsDay, Hardlife Samuwi

Violation/ issue: Threatened

Anglican Bishop Nolbert Kunonga on 28 November 2012 threatened to shoot NewsDay photojournalist Hardlife Samuwi who was covering his eviction from the church's properties in Harare. This followed a Supreme Court order for him to surrender a Mazda 626, Toyota Fortuner and Toyota Hilux and to vacate the Anglican Cathedral and deliver all assets belonging to the Church of the Province of Central Africa by end of day on 27 November 2012.

MISA-Zimbabwe condemns the bishop's ominous threats as unbecoming of a man of God and urges the government to guarantee the safety and security of journalists going about their lawful professional duties of gathering and disseminating information in the public interest. We will continue to monitor the situation.

CLASSIFICATION

| Country | beaten/ assaulted | legislated | killed | victory | bombed |
|--------------|----------------------|------------|--------|---------|--------|
| Angola | 0 | 0 | 0 | 0 | 0 |
| Botswana | 1 | 1 | 0 | 0 | 0 |
| Lesotho | 0 | 1 | 0 | 0 | 0 |
| Malawi | 1 | 2 | 0 | 0 | 0 |
| Mozambique | 0 | 0 | 0 | 0 | 0 |
| Namibia | 1 | 6 | 0 | 0 | 0 |
| South Africa | 0 | 2 | 0 | 1 | 0 |
| Swaziland | 0 | 2 | 0 | 0 | 0 |
| Tanzania | 1 | 2 | 1 | 0 | 0 |
| Zambia | 1 | 11 | 0 | 1 | 0 |
| Zimbabwe | 2 | 11 | 0 | 0 | 0 |
| Total | 7 | 38 | 1 | 2 | 0 |

NUMBER OF ALERTS, COMMUNIQUÉS, AND PRESS STATEMENTS

| Country | Number Of Alerts | Number Of Communiqués | Press Statements | Total |
|---|---------------------|--------------------------|---------------------|------------|
| Angola | 1 | 0 | 0 | 1 |
| Botswana | 2 | 1 | 4 | 7 |
| Lesotho | 2 | 2 | 1 | 5 |
| Malawi | 11 | 7 | 2 | 19 |
| Mozambique | 1 | 0 | 0 | 1 |
| Namibia | 9 | 3 | 5 | 17 |
| South Africa | 3 | 2 | 0 | 5 |
| Swaziland | 7 | 0 | 1 | 8 |
| Tanzania | 6 | 0 | 1 | 7 |
| Zambia | 16 | 20 | 8 | 44 |
| Zimbabwe | 24 | 12 | 2 | 38 |
| Press Release Sent By Misa Regional Secretariat | 0 | 2 | 10 | 12 |
| Total | 82 | 49 | 34 | 164 |

| arrested | sentenced | others | censored | Expelled/ banned | Threatened | Total |
|----------|-----------|--------|----------|---------------------|------------|-------|
| 0 | 0 | 0 | 1 | 0 | 1 | 2 |
| 0 | 0 | 1 | 0 | 0 | 0 | 3 |
| 0 | 0 | 1 | 1 | 1 | 0 | 4 |
| 2 | 0 | 8 | 2 | 1 | 4 | 20 |
| 0 | 0 | 0 | 1 | 0 | 0 | 1 |
| 1 | 0 | 3 | 0 | 0 | 1 | 12 |
| 0 | 0 | 2 | 0 | 0 | 0 | 5 |
| 1 | 0 | 2 | 2 | 0 | 0 | 7 |
| 1 | 0 | 0 | 1 | 0 | 0 | 6 |
| 4 | 1 | 19 | 2 | 0 | 1 | 40 |
| 8 | 0 | 10 | 4 | 0 | 3 | 38 |
| 17 | 1 | 46 | 14 | 2 | 10 | 138 |

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 17 years, MISA has provided skills training opportunities for many media workers in the region.

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 is 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.
4. 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. Media Support Activities which form the basis of the fourth programme area seeks

to enhance Media Accountability and Professionalism, Community Broadcasting and The MISA News Exchange. The first programme area of media accountability and professionalism seeks to assist the media in ensuring that media products are professionally provided and the media is accountable to the general citizenry and consumers of media products. It is the aim of this programme area to ensure that code of ethics and a self-regulatory system are established for each of the eleven countries in which MISA operates. The Community Broadcasting programme is an initiative to assist in the establishment of community broadcasting stations in the region. The News Exchange which started in 1994, will continue and be extended to include a Portuguese language exchange and a 'rip and read' service for broadcasting stations most of which do not have resources to gather news.

5. Over the years, MISA has assisted media practitioners and houses with legal fees to enable them to engage lawyers for their defence in courts of law, mostly brought against them by the State. The majority of cases concern criminal defamation, which is still quite prevalent in the region. The Legal Support programme area is the subject of assistance MISA plans to continue to give to media houses and practitioners who may find themselves under such situations. The major element of

this programme area is the plan to establish a Legal Defence Fund in each of the countries where MISA operates.

Two strategies will assist MISA in reaching its objectives outlined in its five programme areas. These are respectively the strategies for Communication, Dissemination and Publications and the Implementation and Monitoring. The first strategy recognises that an effective communication and information dissemination system is essential to an advocacy organisation. Furthermore, the fact that the organisation is spread across eleven countries requires an efficient exchange of information to allow for frequent interaction.

The second strategy is concerned with the management of the Strategic Partnership Programme 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, EU, Open Society Institute for Southern Africa (OSISA) and the Friedrich Ebert Stiftung.

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

What happens with your information?

Depending on the case, MISA will:

- Investigate and confirm the report
- Pressure authorities to respond
- Notify human right groups and press organisations around the world, including IFEX, Article

19, Amnesty International, Reporters San Frontiers, Human Rights Watch and the International

- Federation of Journalists and
- Increase public awareness through the press
- Publish advisories to warn other journalists about potential dangers
- Send a fact-finding mission to investigate

MORE ABOUT MISA ALERTS

The alert is different to a media statement that the latter is more a reaction and comment on an incident, while an alert is simply a report about it. Where comment is included in an alert it is best reported as a quote.

Action alerts also educate people about the nature of media freedom violations, leading to greater sensitivity to threats and violations, thus ensuring that more and more violations do not go unreported. MISA alerts are used as a source of information by media freedom organisations around the world and serve to augment important international reports and publications which in turn are used as advocacy tools or research documents.

What types of incidents are reported in an action alert?

1. Direct violations against journalists' right to operate or report freely
 - these include physical or verbal attacks or threats against journalists during the course of their work or as a result of their work; journalists being barred illegally from observing events or incidents or inspecting areas, journalists evicted or deported from a country because of their work, journalists imprisoned or detained and, journalists killed during the course of or as a result of their work.

2. Censorship - this is where media workers, institutions or activities are banned or blocked. Where this does happen always indicate who issued the ban, why and in terms of which laws the ban was issued (sometimes countries have more than one law which could be used to censor media).
3. Court cases - these are court cases involving the media or concerning issues which affect the media (e.g. a 1995 case in Zimbabwe involving cell phone company Retrofit did not include the media but significantly advanced freedom of expression and required to be reported). Alerts are not normally issued for trials or cases which are in progress (unless something significant happens), the commencement and conclusion (judgement) are the most important to report (it requires however that the entire trial be monitored). Background information is very important in alerts relating to court cases e.g. where a newspaper is being sued over an article, find out when the contentious article was published and give a brief idea of what the article said or reported. This helps to assess whether a trial is reasonable and fair. In the case of a criminal trial, indicate exactly which law and sections thereof the journalist or media is being charged under.
4. Legislation - This refers to the introduction, amendment or repealing of all legislation affecting

media in some way or the other. Very draconian legislation is usually monitored and reported from the stage at which it is mooted. When issuing 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.



APPENDICES

Windhoek Declaration

African Charter on Broadcasting

Declaration of Principles on Freedom of Expression

Declaration of Table Mountain

African PLatform on Access to Information

Guidelines on Media Coverage of Elections in SADC region

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 nongovernmental 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 multiparty democracies provide the climate in which an independent and pluralistic press can emerge.
 5. The worldwide 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, oneparty 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 nongovernmental), development agencies and professional associations—should as a matter of priority direct funding support towards the development and establishment of nongovernmental 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 nongovernmental donor agencies, relevant nongovernmental organizations and professional associations, into the following specific areas:
 - a. 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;
 - b. training of journalists and managers and the availability of professional training institutions and courses;
 - c. legal barriers to the recognition and effective operation of trade unions or associations of journalists, editors and publishers;
 - d. 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;
 - e. 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 SecretaryGeneral of the United Nations to the United Nations General Assembly, and by the DirectorGeneral 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.
- 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.

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

DECLARATION OF PRINCIPLES ON FREEDOM OF EXPRESSION

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. 1. A public complaints system for print or broadcasting should be available in accordance with the following principles:
complaints shall be determined in accordance with established rules and codes of conduct agreed between all stakeholders; and
the complaints system shall be widely accessible.
2. Any regulatory body established to hear complaints about media content, including media councils, shall be protected against political, economic or any other undue interference. Its powers shall be administrative in nature and it shall

not seek to usurp the role of the courts.

3. Effective self-regulation is the best system for promoting high standards in the media.

X Promoting Professionalism

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

XI Attacks on Media Practitioners

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

XII Protecting Reputations

1. States should ensure that their laws relating to defamation conform to the following standards

no one shall be found liable for true statements, opinions or statements regarding public figures which it was reasonable to make in the circumstances; public figures shall be required to tolerate a greater degree of criticism; and sanctions shall never be so severe as to inhibit the right to freedom of expression, including by others.

2. Privacy laws shall not inhibit the dissemination of information of public interest.

XIII Criminal Measures

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

XIV Economic Measures

1. States shall promote a general economic environment in which the media can flourish.
2. States shall not use their power over the placement of public advertising as a means to interfere with media content.
3. States should adopt effective measures to avoid undue concentration of media ownership, although such measures shall not be so stringent that they inhibit the development of the media sector as a whole.

XV Protection of Sources and other journalistic material

Media practitioners shall not be required to reveal confidential sources of information or to disclose other material held for journalistic purposes except in accordance with the following principles:

the identity of the source is necessary for the investigation or prosecution of a serious crime, or the defence of a person accused of a criminal offence; the information or similar information leading to the same result cannot be obtained elsewhere;

the public interest in disclosure outweighs the harm to freedom of expression; and

disclosure has been ordered by a court, after a full hearing.

XVI Implementation

States Parties to the African Charter on Human and Peoples's Rights should make every effort to give practical effect to these principles.

DECLARATION OF TABLE MOUNTAIN

The World Association of Newspapers and the World Editors Forum, meeting at the 60th World Newspaper Congress and 14th World Editors Forum Conference in Cape Town, South Africa, from 3 to 6 June 2007,

Note that in country after country, the African press is crippled by a panoply of repressive measures, from the jailing and persecution of journalists to the widespread scourge of 'insult laws' and criminal defamation which are used, ruthlessly, by governments to prevent critical appraisal of their performance and to deprive the public from information about their misdemeanours,

State their conviction that Africa urgently needs a strong, free and independent press to act as a watchdog over public institutions,

Consider that press freedom remains a key to the establishment of good governance and durable economic, political, social and cultural development, prosperity and peace in Africa, and to the fight against corruption, famine, poverty, violent conflict, disease, and lack of education,

Reaffirm our responsibility as the global representative organisations of the owners, publishers and editors of the world's press to conduct "aggressive and persistent campaigning against press freedom violations and restrictions",

Reaffirm our commitment to freedom of the press as a basic human right as well as an indispensable constituent of democracy in every country, including those in Africa,

Note that Article 19 of the Universal Declaration of Human Rights guarantees freedom of expression as a fundamental right, and emphasise that freedom of expression is essential to the realization of other rights set forth in international human rights instruments,

Recall that those principles have been restated and endorsed in the 2002 Declaration on Principles of Freedom of Expression in Africa, adopted by the African Commission on Human and Peoples' Rights and the African Union, thus requiring member states of the African Union to uphold and maintain press freedom,

Recall also the 1991 Windhoek Declaration on Promoting an Independent and

Pluralistic African Press,

Observe that despite numerous opportunities for a free press to emerge from national independence, fully-fledged press freedom still does not exist in many African countries and that murder, imprisonment, torture, banning, censorship and legislative edict are the norm in many countries,

Recognise that these crude forms of repression are bolstered by the deliberate exclusion of certain newspapers from state-advertising placement, the burden of high import taxes on equipment and newsprint and unfair competition from state-owned media,

Note that despite the adoption of press freedom protocols and the repression of that freedom on a wide scale in Africa, the African Union in instituting its African Peer Review Mechanism under the NEPAD (New Partnership for Africa's Development) programme has excluded the fostering of a free and independent press as a key requirement in the assessment of good governance in the countries of the continent, and

Identify as the greatest scourge of press freedom on the continent the continued implementation of "insult laws," which outlaw criticism of politicians and those in authority, and criminal defamation legislation, both of which are used indiscriminately in the vast majority of African states that maintain them and which have as their prime motive the "locking up of information",

Declare that

African states must recognise the indivisibility of press freedom and their responsibility to respect their commitments to African and international protocols upholding the freedom, independence and safety of the press, and

To further that aim by, as a matter of urgency, abolishing "insult" and criminal defamation laws which in the five months of this year have caused the harassment, arrest and/or imprisonment of 229 editors, reporters, broadcasters and online journalists in 27 African countries (as outlined in the annexure to this declaration),

Call on African governments as a matter of urgency to review and abolish all other laws that restrict press freedom,

Call on African governments that have jailed journalists for their professional activities to free them immediately and to allow the return to their countries of journalists who have been forced into exile,

Condemn all forms of repression of African media that allows for banning of newspapers and the use of other devices such as levying import duties on newsprint and printing materials and withholding advertising,

Call on African states to promote the highest standards of press freedom in furtherance of the principles proclaimed

in Article 19 of the Universal Declaration of Human Rights and other protocols and to provide constitutional guarantees of freedom of the press,

Call on the African Union immediately to include in the criteria for "good governance" in the African Peer Review Mechanism the vital requirement that a country promotes free and independent media,

Call on international institutions to promote progress in press freedom in Africa in the next decade, through such steps as assisting newspapers in the areas of legal defence, skills development and access to capital and equipment,

Welcome moves towards a global fund for African media development and recommends that such an initiative gives priority attention to media legal reform and in particular the campaign to rid the continent of "insult" and criminal defamation laws,

Commit WAN and WEF to expand their existing activities in regard to press freedom and development in Africa in the coming decade.

WAN and WEF make this declaration from Table Mountain at the southern tip of Africa as an earnest appeal to all Africans to recognise that the political and economic progress they seek flourishes in a climate of freedom and where the press is free and independent of governmental, political or economic

control.

This Declaration shall be presented to: The Secretary-General of the United Nations with the request that it be presented to the UN General Assembly; to the UNESCO Director-General with the request that it be placed before the General Conference of UNESCO; and to the Chairperson of the African Union Commission with the request that it be distributed to all members of the African Union so that it can be endorsed by the AU at its next summit meeting of heads of state.

Cape Town, 3 June 2007

AFRICAN PLATFORM ON ACCESS TO INFORMATION

19 September 2011

Preamble

We, participants at the Pan African Conference on Access to Information, organised by the Windhoek+20 Campaign on

Access to Information in Africa in partnership with the United Nations Educational, Scientific and Cultural Organisation (UNESCO), the African Union Commission (AUC) and the Special Rapporteur on Freedom of Expression and Access to

Information of the African Commission on Human and Peoples' Rights in Cape Town, South Africa, September 17 – 19, 2011:

Remembering the 1991 Windhoek Declaration on Promoting an Independent and Pluralistic African Press and viewing the significant progress that has been made in the past 20 years on freedom of expression, access to information and the free flow of information;

Stating that access to information (ATI)

is the right of all natural and legal persons, which consists of the right to seek, access and receive information from public bodies and private bodies performing a public function and the duty of the state to provide such information;

Emphasising that access to information is an integral part of the fundamental human right of freedom of expression, essential for the recognition and achievement of every person's civil, political and socio-economic rights, and as a mechanism to promote democratic accountability, good governance;

Acknowledging that access to information is instrumental to fostering access to education and health care, gender equality, children's rights, a clean environment, sustainable development and the fight against corruption;

Recalling Article 19 of the Universal Declaration of Human Rights of 10 December 1948, which guarantees that: "Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions with-

out interference and to seek, receive and impart information and ideas through any media and regardless of frontiers", Article 19 of the International Covenant on Civil and Political Rights and the UN Human Rights Committee General Comment No. 34 adopted in 2011 which states that Article 19(2) of the ICCPR includes the right of access to information held by public bodies, and Article 1.2 of the UNESCO Constitution;

Underlining Article 9 of the African Charter on Human and Peoples' Rights adopted by the Organisation of African Unity (OAU) on 27 June 1981, which provides that, "Every individual shall have the right to receive information";

Reaffirming Article IV(1) of the Declaration of Principles on Freedom of Expression in Africa, adopted by the African Commission on Human and Peoples' Rights at its 32nd Ordinary Session held in October 2002, which provides that "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";

Cognisant of the African Union Convention on Preventing and Combating Corruption, the African Charter on Values and Principles of Public Service and Administration, the African Charter on Democracy, Elections and Governance, the African Youth Charter and the African Statistics Charter, all of which promote transparency in public life.

Welcoming the efforts of the African Commission on Human and Peoples' Rights Special Rapporteur on Freedom of Expression and Access to Information in

developing a Model Law for AU Member States on Access to Information, aimed at assisting Member States in formulating, adopting or reviewing access to information legislation and its implementation;

Mindful of the efforts of international organisations and others to develop principles and declarations on the right of access to information and freedom of expression including the 2010 Brisbane Declaration "Freedom of Information: The Right to Know", the Atlanta Declaration and African Regional Findings, the Accra Agenda for Action, the Lagos Declaration on the Right of Access to Information, the Johannesburg Principles on National Security, Freedom of Expression and Access to Information, and the Declaration of Table Mountain;

Aware that the World Summit on the Information Society (WSIS) brought to the forefront the importance of access to information in the modern world through the Geneva Declaration of Principles and Tunis Commitment and that the Internet Governance Forum (IGF) plays a crucial role in bringing together all of the stakeholders to facilitate an international internet governance debate that includes issues of access and openness;

Recognising the work of the African Union Commission to give practical expression to the various instruments of the African Union on freedom of expression and access to information, through such initiatives as the Pan African Media Network and portal, the new AU website, social networks, the media center, training programmes, ensuring media access

to the AUC leadership, and publication of other information materials among others; as well as its efforts in promoting Information and Communications Technology (ICTs) in Africa;

Encouraged that over 90 countries around the world have adopted comprehensive national access to information laws or regulations including ten in Africa; that many countries in Africa have joined the Extractive Industries Transparency Initiative, the International Aid Transparency Initiative and the Open Government Partnership; and that the Economic Community of West African States is moving towards adoption of a binding Supplementary Act for a Uniform Legal Framework on Freedom of Expression and Right to Information;

Concerned that most African nations have not yet adopted comprehensive ATI laws or regulations and that significant problems remain with both the substantive provisions of many of those that have adopted laws and the full implementation of the laws;

Acknowledging that civil society organisations and government bodies around the world have adopted 28 September as International Right to Know Day; Convinced that it is of critical importance that clear and comprehensive principles are established to guide the promotion and protection of the right of access to information in Africa through the adoption and effective implementation of appropriate national laws and regulations;

Resolve to adopt the following Principles on The Right of Access to Information:

Key Principles

1. **Fundamental Right Accessible to Everyone.** Access to information is a fundamental human right, in accordance with Article 9 of the African Charter on Human and Peoples' Rights. It is open to everyone, and no one should be privileged or prejudiced in the exercise of this right on account of belonging to a class or group howsoever defined, and whether in terms of gender, class, race, political association, occupation, sexual orientation, age, nationality, HIV status, and other bases as cited in many African constitutions. It is not required that anyone must demonstrate a specific legal or personal interest in the information requested or sought or otherwise required to provide justification for seeking access to the information.
2. **Maximum Disclosure.** The presumption is that all information held by public bodies is public and as such should be subject to disclosure. Only in limited circumstances set out in these principles below may disclosure be denied.
3. **Established in Law.** The right of access to information shall be established by law in each African country. Such law shall be binding and enforceable and based on the principle of maximum disclosure. The law shall take precedence over other conflicting laws that limit access to information.
4. **Applies to Public Bodies and Private Bodies.** The obligations of

ATI shall apply to all public bodies, as well as to private bodies that are owned or controlled by the government, utilise public funds, perform functions or provide services on behalf of public institutions, or have exclusive contracts to exploit natural resources (with regards to said funds, functions, services or resources), or which are in possession of information which is of significant public interest due to its relation to the protection of human rights, the environment or public health and safety, or to the exposure of corruption or illegal actions or where the release of the information may assist in exercising or protecting any right.

5. **Clear and Unambiguous Process.**

The law shall include procedures for the exercise of the right. The process to obtain information should be simple and fast and take advantage of new information and communication technologies where possible. Bodies falling under the scope of the ATI law should provide assistance to requesters in order to ensure that they receive the information they need. The information provided should be provided in a form understandable to the requestor. Information should be disclosed within a clear and reasonable deadline provided for by law. It should be available at low or no cost.

6. **Obligation to Publish Information.**

Public and relevant private bodies shall be obliged to proactively release information in a timely manner about their functions, pow-

ers, structures, officials, decisions, expenditures, budgets, and other information relating to their activities that is of public interest. The dissemination should use all reasonable means of communications, including ICTs, to maximise access to all communities and sectors of society.

7. **Language and Accessibility.**

To the greatest extent possible, information should be available in the language of the person seeking it, in an accessible location, in a format that is as accessible as possible, and, in particular, ensures that it is accessible to those who may be particularly affected by the subject matter of the information.

8. **Limited Exemptions.**

The right of access to information shall only be limited by provisions expressly provided for in the law. Those exemptions should be strictly defined and the withholding of information should only be allowed if the body can demonstrate that there would be a significant harm if the information is released and that the public interest in withholding the information is clearly shown to be greater than the public interest in disclosure. Information can only be withheld for the period that the harm would occur. No information relating to human rights abuses or imminent dangers to public health, environment, or safety may be withheld. 4

9. **Oversight Bodies.**

Independent bodies such as an ombudsperson or information commissioner should be established to monitor and hold gov-

ernment bodies and relevant private entities to account on their access to information disclosure practices, to receive and decide upon complaints, and generally oversee the implementation of the access to information legislation. The oversight body should be adequately funded.

10. **Right to Personal Data.** All persons have a right to access and correct their personal data held by third parties.
11. **Whistleblower Protection.** To ensure the free flow of information in the public interest, adequate protections against legal, administrative and employment-related sanctions should be provided for those who disclose information on wrongdoing and other information in the public interest.
12. **Right of Appeal.** Everyone has a right to appeal administratively any action that hinders or denies access to information or any failure to proactively disclose information. They have a right to further appeal to an independent body and to finally seek judicial review of all limits of their right of access to information.
13. **Duty to Collect and Manage Information.** Public and relevant private bodies have a duty to collect information on their operations and activities on behalf of their citizens. They also have a duty to respect minimum standards in relation to the management of this information to ensure that it may easily be made accessible to citizens.

14. **Duty to Fully Implement.** Public and relevant private bodies have an obligation to ensure the law is fully implemented. This includes internal procedures and processes and the designation of responsible officials.

Application of Principles

These principles are essential to development, democracy, equality, and the provision of public service, and are applicable to, amongst others, the following:

1. **Enabling Environment.** Governments should ensure that the legal frameworks create an enabling environment allowing individuals, civil society organisations including trade unions, media organisations, and private businesses to fully enjoy access to information, thus fostering active participation in socio-economic life by all, in particular people living in poverty and those discriminated against or marginalised.
2. **Elections and Electoral Processes:** Governments and election management bodies have a positive obligation to provide the public with information before, during and after elections, not to interfere with media coverage, to encourage public participation and proactively publish campaign spending and contributions.
3. **Disadvantaged Communities:** Governments have a particular obligation to facilitate access to information by disadvantaged minority groups and minority language speakers, as well as 5 marginalised

groups including women, children, rural people, the poor and persons with disabilities. Information should be available at no costs to these groups. This especially applies to information that contributes to the long-term empowerment of the groups. Governments also have an obligation to ensure equitable and affordable access to ICTs for those with special needs and for other disadvantaged persons and groups.

4. **Women:** Governments, civil society and the media have an obligation to facilitate women's equal access to information, so that they can defend their rights and participate in public life. Civil society organisations should be encouraged to make the best use of access to information mechanisms to monitor governments' fulfilment of commitments to further gender equality, to demand the enhanced delivery of services targeted at women and to ensure that the public funds they are entitled to actually reach them. The collection, management and release of information should be gender disaggregated.
5. **Children and Youth:** Governments have an obligation to encourage the mass media to disseminate information and material of social and cultural benefit to children and the youth. Governments are further encouraged to facilitate the exchange and dissemination of such information and material from a diversity of cultural, national and international sources as well as the production

and dissemination of information specifically for children and youth and wherever reasonably possible facilitate and encourage access to such information by children and youth.

6. **Environmental Information:** Governments and inter-governmental organisations should increase their efforts in implementing Principle 10 of the 1992 Rio Declaration on the Environment and Development on the right of access to information, public participation and access to justice on environmental issues. Governments should adopt appropriate legislation and regulations to promote access and proactive release of environmental information, guarantee openness, fight secrecy in institutional practices, and repeal that which hinders public availability of environmental information. Governments' capacity to supply environmental information and civil society organisations' demand for such information, as well as engagement in decision-making processes and the ability to hold governments and other actors accountable for actions affecting the environment should be strengthened.
7. **Education:** Taking into account the close connection between the right of access to information and the right to education, governments have the duty to make publicly available information about educational policies and assessments of their impacts, school performance data, and budgets for education at all gov-

ernment levels. Governments also have a positive obligation to provide information for each school, in particular, schools' admission policies and admission lists, information on management practices, school governance, and other relevant aspects.

8. **Health:** Governments have a duty to provide access to information with a view to ensuring and improving access to health care services and enhancing accountability regarding their provision. Civil society actors should be encouraged to implement actions to expand the reach of this type of information to all sectors in society, promote the exercise of the right to information to advance the right to health and counter its violations, undertake advocacy and monitoring actions and directly involve individuals in them. Enhanced access to health-related information shall not preclude the protection of individuals' right to privacy. 6

9. **The Fight Against Corruption:** By contributing to openness and accountability, access to information can be a useful tool in anti-corruption efforts. Besides ensuring that access to information legislation is effectively implemented, governments have a duty to guarantee a broader legal and institutional framework conducive to preventing and combatting corruption. Civil society organisations and plural media independent of powerful political and commercial interests are critical actors in unveiling and fighting cor-

rupt practices, and their use of access to information laws and other mechanisms enhancing transparency should be encouraged.

10. **Aid Transparency.** Governments, donors and recipients have a duty to make all information relating to development assistance including grants, loans and transfers to public and private bodies, and assessments on the use and effects of such assistance fully public in a proactive manner based on the principles of the International Aid Transparency Initiative.
11. **Natural Resources Transparency.** Governments should proactively publish all information including policies, impact assessments, agreements, subsidies, licenses, permits and revenues relating to the exploitation of natural resources including the extractive industries, water, fisheries, and forests. Private bodies which are exploiting natural resources should be required to publicly disclose the terms of such agreements and payments made to governments based on the principles developed by the Extractive Industries Transparency Initiative (EITI).
12. **Media and Information Literacy.** Governments, civil society, education institutions, and the media have an obligation to promote media and information literacy, to assist individuals and communities to ensure that all members of society can understand and take advantage of new technologies, and to be able

to participate intelligently and actively in public matters, and enforce their right of access to information. Citizens should be empowered to be able to consume information critically and express their views on such information, as well as be enabled to seek corrections where applicable.

13. **Access to Information and Communications Technologies.** Governments have an obligation to (i) use ICTs and other media to ensure maximum disclosure and dissemination of information; (ii) promote and facilitate unhindered public access to such technologies for all citizens and especially for disadvantaged minority groups and minority language speakers, as well as marginalised people such as women, children, rural people, the poor and persons with disabilities.
14. **Apply in Other Spheres.** The principles stated above on the right of access to information also apply to various spheres that have not been listed.

Call to Action

In light of the above, the Conference calls on:

UNESCO to:

- Endorse, through its General Conference, the "African Platform on Access to Information" and the proclamation of 28 September as International Right to Information Day, also recommending the endorsement of this International Day

by the United Nations General Assembly, as a date to raise awareness about the importance of the right of access to information throughout the world;

- Develop and implement internal policies facilitating access to information held by UNESCO in line with this Declaration, and to encourage the adoption of similar policies by other UN agencies.

UN Economic Commission for Africa:

- Develop as part of the RIO +20 Earth Summit a regional convention on access to environmental information, public participation and access to justice based on Principle 10 of the 1992 Rio Declaration and the UNEP Bali Guidelines.

The African Union, its Organs and Institutions:

- The African Commission on Human and Peoples' Rights to promote 28 September as African Right to Information Day;
- The African Commission on Human and People's Rights to adopt use this Declaration for a resolution authorising the Special Rapporteur on Freedom of Expression and Access to Information to expand Article IV of the Declaration of Principles on Freedom of Expression in Africa to incorporate the principles of this Declaration.
- The African Commission on Human and Peoples' Rights to complete and approve the proposed Africa Model

Law for AU Member States on Access to Information;

- The African Union Commission to take forward this Declaration by (1) proposing to the next AU summit in January 2012 to adopt 28 September as African "Right to Information Day"; and (2) initiate an Experts Group to develop further instruments on access to information;
- The Pan-African Parliament (PAP) to endorse this Declaration;
- All African Union bodies to promote the respect of the principles in this Declaration by national governments and provide assistance in implementing them;
- The New Partnership for African Development (NEPAD) to adopt the revised African Peer Review Mechanism (APRM), which includes transparency and access to information;
- The African Union should develop and implement internal policies on access to information held by AU bodies based on this Declaration.

Other African Regional Organizations and Institutions:

- All Regional Economic Communities (RECs) should develop internal policies on access to information held by those bodies based on this Declaration;
- ECOWAS to review and adopt the Supplementary Act for a Uniform Legal Framework on Freedom of Expression and Right to Information in West Africa;
- The Southern African Development

Community (SADC) to revise the Protocol on Culture, Information and Sport to include principles on access to information;

- Inter-governmental Agency on Development (IGAD) to develop and adopt a Protocol on access to information based on this Declaration;
- The East African Community (EAC) to develop and adopt a Protocol on access to information based on this Declaration;
- The African Development Bank (ADB) to adopt a revised public access policy based on the Transparency Charter for International Financial Institutions.

National Governments of AU member states to:

- Adopt or revise existing comprehensive laws on access to information in line with the principles in this Declaration and the proposed AU Model Law, and fully implement them;
- Harmonise legal frameworks to ensure access to information including repealing or revising antiquated laws which restrict access and ensuring that new laws are compatible with the ATI principles;
- Engage with civil society and other stakeholders to ensure widespread information demand and effective implementation of laws and policies to advance access to information by all persons, especially marginalised groups.
- Join and implement multi-stakeholder efforts including the Extrac-

tive Industries Transparency Initiative (EITI), the Construction Sector Transparency Initiative (CoST) and the Medicines Transparency Alliance (MeTA) to further transparency;

- Promote availability of public domain information through ICTs and public access to ICTs;
- Support AU efforts to adopt an instrument on access to information;
- Officially recognise 28 September as International and African "Right to Information Day";
- Adopt and effectively implement legislation and policies ensuring whistleblower-protection.

Civil Society to:

- Engage with governments in developing, enhancing and implementing ATI laws;
- Monitor progress on the implementation of ATI laws including sectoral laws;
- Create awareness on ATI and provide assistance to facilitate information access by the general public as well as by specific audiences (including women, minority groups and minority language speakers, children, rural communities, individuals with disabilities or living in poverty);
- Ensure transparency in their own activities;
- Promote September 28 as African and International Right to Information Day and, in particular, carry out activities on that date every year to advance the recognition, awareness and enjoyment of the right of access

to information by all sectors of society.

Media to:

- Respect editorial independence, professional ethics and journalism standards in their provision of information;
- Recognise the need for transparency and accountability with regard to their own output and institutions, while safeguarding the principal of protecting sources;
- Respect and promote equality, and provide equitable representation within their information output;
- Promote the widest possible access to their information output;
- Enhance mechanisms for audience participation and response;
- Recognise and be responsive to gender differences in regard to audience and market research;
- Popularise the importance of, and issues around, access to information.
- Make optimum use of ATI laws to access information for the public interest.

Business Sector Companies and Corporations to:

- Join multi-stakeholder initiatives promoting transparency including EITI, CoST and MeTA;
- Adopt corporate and social responsibility (CSR) policies that promote transparency and accountability, including access to information and protection of whistleblowers;
- Proactively disclose information of

public interest including on pollution releases and other environmental issues;

- Support government and CSO efforts to improve access to information in society.

Public and Private Donors to:

- Ensure that all information relating to the use of development assistance and its effects are made public;
- Ensure that all information relating to development assistance is made available in conformity with the International Aid Transparency Initiative (IATI) standards;
- Encourage and support governments in the adoption and full implementation of access to information laws and policies;
- Support civil society and governments' efforts to promote access to information.

Adopted in Cape Town, South Africa, on this 19th Day of September 2011, upon a motion for adoption moved by Advocate Pansy Tlakula, Special Rapporteur on Freedom of Expression and Access to Information of the African Commission on Human and Peoples' Rights, and seconded by Hon. Norris Tweah, Deputy Minister of Information of the Republic of Liberia.

GUIDELINES ON MEDIA COVERAGE OF ELECTIONS SADC REGION

Preamble

We, the participants – journalists, broadcasters, media practitioners, media organisations, media councils and representatives of electoral management bodies throughout the SADC region gathered in Johannesburg, South Africa on 26 September, 2012 for the MISA Conference on Media and Elections.

Recognizing the importance of democratic elections at all levels;

Noting the important role of free media in promoting democracy, including the conduct of free and fair elections;

With due emphasis on the fundamental principle of editorial independence and importance of the media during election periods;

Firmly guided by the protocols, charters, conventions and guidelines endorsed, signed and/or ratified by our governments in the region in their desire to en-

sure the success of democratic processes and in particular:

- The African Charter on Human and Peoples' Rights (1981),
- The Windhoek Declaration on Promoting an Independent and Pluralistic African Press (1991),
- The African Charter on Broadcasting (2001)
- The Declaration of Principles on Freedom of Expression in Africa, adopted by formal resolution by the African Commission on Human and Peoples' Rights (2002),
- The SADC Principles and Guidelines Governing Democratic Elections (2004)
- The Southern African Broadcasting Association: Guidelines and Principles for Broadcast Coverage of Election in the SADC Region (2005)
- The African Charter on Democracy, Elections and Governance (2007),

Acknowledging the continuing challenges of limited access to information during the electoral cycle, amidst election conflict and violence, throughout

elections conducted in adverse environments of intolerance, especially of dominant ruling party states, and state repression;

Aware of the continuing deficit of freedom of expression and media freedom in parts of Southern Africa;

Mindful of the need for gender-sensitive and equitable reporting and programming of all information during the electoral cycle;

Appreciating the diversity of the electorate, especially the different information needs of marginalised communities and differently-abled persons;

Firmly believing that the coverage of elections by the media should be fair, accurate and balanced;

Recognising the need to take account of the significant differences which exist between the private, public and community media in the region as well as the differences between print, electronic and new media;

Taking into consideration that public service broadcasters have a particular mandate in ensuring fair and thorough coverage of elections through equitable distribution of airtime to political parties and candidates.

Determined to assist voters make informed choices:

Hereby agree on, adopt and resolve to abide by or support the implementation of the following voluntary guidelines, which media professionals are urged to apply throughout the electoral process – pre-voting, voting and post voting period.

1. Role of the media in elections

The role of the media during the entire electoral process is to ensure that voters make informed choices. The coverage of candidates, parties and electoral processes is in pursuit of this central purpose.

Principal roles of the media in elections are defined as follows:

The media are required to provide relevant information, analyse it and additionally offer substantive opinions to the public, while also serving as a platform for debate and discussion. Furthermore, the media shall fulfill their watchdog role by promoting transparency and thus preventing electoral fraud.

The media have a duty to provide election coverage that gives the voter comprehensive, accurate and reliable information on all aspects of the electoral process. This information will also help to ensure that the voters know and understand their democratic rights and exercise them free from fear, intimidation or coercion.

As the Fourth Estate the media is expected to:

- a) Ensure that journalists are familiar with the national legislative frame-

- work governing the electoral process and are fully conversant with all aspects of the electoral process, including the electoral institutions;
- b) Be familiar with regional and continental principles and benchmarks on election coverage
 - c) Provide platforms for accessing information that enable informed analysis and opinion on elections.

The role of the media is to report during the entire electoral process:

I. Pre-voting

- Electoral management institutions
- Civic education
- Electoral system
- Demarcation of constituencies
- Voter registration
- Voters' roll
- Candidate or party registration
- Nomination processes
- Official campaign period

II. Voting Period

- Voting days
- Voting procedures,
- Location of polling stations
- Activities at polling stations
- Role of stakeholders at polling stations
- Election monitors
- Election observers and their observations
- Vote counting and results

III. Post Voting Period

- Appointments to office
- Analysis of promises made by the government/governing party

- Holding parties accountable.

2. Conditions necessary for the media to play an effective role

Freedom of expression, freedom of the media and access to information are crucial for media to play

these roles effectively. Also of critical importance is that:

- a) Media houses provide adequate resources to their journalists for effective election coverage;
- b) The media enjoy unfettered editorial and programming independence from all vested interests including candidates, parties, media owners and organisations allied to and/or supporting candidates and political parties;
- c) All laws that hinder the media in fulfilling their role are repealed;
- d) All media are allowed access to all election activities including rallies, media conferences, candidates, parties and electoral management institutions and officials;
- e) Transparent polling procedures, fair, open counting of the votes and timely release of the results are guaranteed;
- f) Journalists and media houses can operate in an environment free of violence, harassment and intimidation;
- g) Sources and interviewees are not threatened, intimidated or harassed;
- h) Perpetrators of attacks against media personnel and property are

- brought to justice;
- i) State and public broadcasters are transformed into truly public service broadcasters as outlined amongst others in the African Charter on Broadcasting;
- j) Whistleblowers are protected;
- k) Complaints procedures for aggrieved media professionals exist (e.g. complaint mechanisms of Electoral Management Bodies).

Public authorities should take appropriate steps for the effective protection of journalists and other media personnel and their premises. At the same time this protection should not obstruct them in carrying out their work. Journalists reporting on the electoral process have a right to be protected from undue pressure and interference from public authorities with a view to influencing the elections.

3. Ethical considerations in election coverage

Journalists and editors should act with integrity and should neither ask for, nor accept bribes of any kind, be they financial or other, or give special favours to any politicians or party. Journalists should not defame or promote hate, violence or corruption.

Given the critical importance of media in covering the elections, the media must at all times observe the core values and principles of journalism which include:

a) Fairness and Accuracy

During election periods media must recognise that government officials are in a position to use their incumbency to advance their electoral prospects and should regard with particular caution any statement or action by an official of an incumbent party. In particular, media should ensure that they do not afford the policies of incumbent parties' greater legitimacy than they would afford those policies or actions if the party were not in government.

News reports must be factual, accurate, well-sourced and based on sound evidence. News should be comprehensive, fair and balanced ensuring that all candidates, parties and election issues are given equitable and gender sensitive coverage.

b) Opinion and Analysis

Editorial opinion must be clearly distinguished from fact or news. A diversity of opinions representing the broadest possible range of views and ideas especially those of contesting candidates and political parties should be allowed across all media platforms.

Media which choose to endorse candidates or parties must ensure the endorsement is clearly presented as opinion and is not part of its news reports.

Analysis should provide insights based on research and diversity of expert opinions which enable voters to get a deeper understanding of processes, issues and candidates.

Debate and discussion platforms, which include representatives of all shades of political opinion, experts and civil society representatives should be organised. As far as possible, and especially in the electronic media (including presidential or prime ministerial), candidates should be given an opportunity to debate with each other in moderated programmes.

c) Use of Language

Media must, without censoring and undermining freedom of expression of anyone, avoid and preclude the use of language which constitutes hate speech incites violence or promotes stereotypes.

d) Right of reply

A fair opportunity to reply to inaccuracies and allegations contained in a report that has been broadcast or published should be given to aggrieved individuals or organisations. The right of reply must be given in a timely manner and in a similar programme and with respect to the print media in space of appropriate prominence.

e) Diversity and Confidentiality of Sources

The media have an obligation to reflect the diversity and plurality of voices in society in its coverage including those of marginalised groups.

Reporting should be gender-balanced and sensitive, treating men and women equally as news sources and subjects.

Confidentiality of sources must be protected by the media (whereby the journalist knows the identity of the source even when not revealing it). Whenever possible the media should refrain from using anonymous sources (whereby the journalist does not know the identity of the source). The principle of multiple sources to verify information and facts applies. The media should recognise their obligation to the electorate to provide a full and accurate record of events and developments. It is critically important that media proactively seek information from political parties and not wait for information to be delivered to them. Failure to do so will give parties with greater resources inequitable amounts of news coverage.

f) Media Public Accountability

In ensuring their responsibility to the voters and exercising their right to freedom of expression, journalists shall respect the rights, integrity and reputation of others in terms of these guidelines as well as codes of conduct established by self-regulatory bodies.

4. Reporting on election observers and election monitors

Journalists are expected to distinguish between Election Observation being the information gathering, fact finding and reporting on the credibility, legitimacy and transparency of the electoral process.

ess often carried out by external personnel, who are not permitted to intervene in the voting and counting operation; and

Election Monitoring referring to the information gathering, fact finding and reporting on the credibility, legitimacy and transparency of the electoral process carried out by local agencies or personnel, who are able to draw attention to observed deficiencies during the voting and counting operations.

Media houses must scrutinize the work and reports of election observers and election monitors, including their identity i.e. the organisations and institutions they are from, their expertise and experience in election observation or election monitoring. They must report the methodologies used by election observers and election monitors and how they arrive at their conclusions.

5. Role of public and private media regarding election advertorials

State-operated media, and more specifically public service broadcasters, have a particular role to play in ensuring fair, balanced and equitable coverage and allocation of free airtime for party political broadcasts. In this regard they should work closely with independent electoral bodies, media regulatory bodies, media councils and Media Ombudsmen in developing formulas for fair and equitable allocation of air time.

All media houses should adopt their own transparent in-house policy or code on campaign advertisement and sponsorship. Such a policy should ensure that all candidates and parties are treated equitably.

Political adverts and advertorials should be clearly distinguished from editorial content. Before and after each party election broadcast there should be a clear statement identifying it as such.

Where media give political parties time slots to air programmes setting out their policies to voters, the content of the programmes will primarily be the responsibility of the party.

However, the broadcaster remains responsible for the broadcast as publisher and should require candidates and political parties to obey laws which may not impinge on freedom of expression, but instead observe standards that pertain to accuracy and fairness.

6. Converged media

With rapidly evolving ICTs, traditional media is expanding into the new and social media sphere and media outlets have a responsibility to extend the application of journalistic principles to these diverse platforms.

Specifically, the use of social media in election coverage of conventional media should take into account the following:

- a) Journalistic standards and ethics still apply.

- b) Journalists using social media platforms in their personal as well as professional capacity should try to separate the two as their audience might not be able to differentiate.

In conclusion, journalists should not be seduced by the informality of social media and compromise their integrity and professionalism.

7. Polls

a) Opinion Polls

Opinion polls are an important element in election coverage because they are one way of determining public attitudes toward(s) issues, candidates and parties. In this regard they can enrich coverage and enable voters to get a fuller picture of an election.

In reporting, opinion polls media need to reveal which party, individual or organisation commissioned and paid for the poll, the purposes of the poll, the identity of the polling organisation and its expertise in polling, the nature of the questions or issues the poll focused on, the geographic coverage and demographic profile of those who were polled, the methodologies used in polling including details of the sample and the margin of error which will contextualise the poll results.

b) Exit polls

Reporting of exit polls should be clearly identified as such and not as

a reflection of how all voters have actually voted and what the outcome of the election will be. The reporting should reveal a sample of the exit poll, the organisation that conducted and financed it, its methodologies and the margin of error. Results of exit polls should not be announced or broadcast until after the last polling stations have closed.

8. Reporting results

Media covering elections are obliged to inform the electorate of the election results in a comprehensive way, as they become available, whether provisional or final, as released by the Electoral Management Body. Journalists should take special care when predicting final results based on partial results available.

When reporting on parallel vote tabulation, journalist should be aware that parallel vote tabulation is an estimation of final results of an election based on the collection and aggregation of election results obtained at polling station level. This collection can be complete (all polling stations) or based on a random sample (selected polling stations). While parallel vote tabulation have a solid level of statistical validity, journalists must exercise caution, care and responsibility in reporting parallel vote tabulation to avoid confusing or mixing up official tallies and parallel tabulation. In reporting parallel vote tabulation media need to reveal which individual or organisation commissioned and paid for the parallel vote tabulation, the purposes of the par-

allel vote tabulation and the methodology used.

9. SMS surveys, phone-ins and talk shows

a) Radio/Television instant SMS audience surveys

With the increase in the use of mobile phones, radio and television broadcasters conduct so called 'opinion polls' during news bulletins, using text messages (SMS) sent by the audience, and

giving immediate results of the 'poll' at the end of the programme. Such a practice can be misleading as it contravenes the basic rules of scientific methodology and analysis.

Results from 'SMS polls' should not be treated as representative scientific results. If a broadcaster uses them nonetheless, they should at least make the audience aware of the lack of scientific methodology and indicate the number of respondents. 'SMS polls' can be reported as a reflection of some people's opinions and provide a snapshot of feelings and changes of views during an election. However, media must be alert and make their audiences aware of possible manipulation of SMS surveys by individual politicians and political or other interested parties.

b) Guidelines for Phone-ins and talk shows

Phone-ins and talk shows provide the viewer or listener with an op-

portunity to be heard, to participate, and sometimes to create content. Unlike newspaper copy or pre-recorded programmes, live radio and television can pose a challenge though.

Presenters must become their own editors and be acutely aware of the sort of content that should not be aired. This includes hate speech, ethnic baiting, lies and propaganda, crude and vulgar language, incitement to violence, and unverified information.

- i. Journalistic principles must apply during the programme.
- ii. The presenter should be alert and prepared to challenge a caller who says something that is problematic.
- iii. Time-delay technology or other mechanisms to filter out offensive content or calls prior to broadcast should be installed.
- iv. Viewers, listeners and callers should be treated with respect, honesty and fairness.
- v. The privacy of callers should be respected and their personal information safeguarded (e.g. the telephone numbers of callers should not be revealed to third parties).

10. Implementation and monitoring of media and election guidelines

To implement these guidelines effectively media houses need to do the following:

- a) Initiate a process of domestication at national level allowing for

amendments of the guidelines and aiming to create ownership and commitment by the media.

- b) Develop in-house editorial codes and policies based on these guidelines.
- c) Publish these guidelines and any internal codes that they develop to promote awareness and to help the public monitor media performance
- d) Establish their own internal mechanism to monitor their performance and, where resources are available, to contract external parties who have expertise in media monitoring
- e) Be prepared to take corrective measures to address problems of performance identified through media monitoring.

References

1. Guidelines for Election Coverage, Media Council Kenya
2. Principles for Election Management, Monitoring and Observation in the SADC Region, Electoral Commissions Forum and Electoral Institute of Southern Africa
3. Recommendations of the Committee of Ministers, Council of Europe

Participants of the conference were drawn from different SADC countries and organizations:

Angola

Freelance journalist

Botswana

Press Council of Botswana
MISA Botswana
Independent Electoral Commission
Democratic Republic of Congo
Electoral Commission

Lesotho:

MISA Lesotho
Harvest FM (Radio)
Electoral Commission

Madagascar

TV PLUS Madagascar
Freelance journalist
Madagascar Electoral Commission-
CENIT

Malawi

Media Council of Malawi
MISA Malawi
Malawi Electoral Commission

Mauritius

Mauritius Electoral Commission

Mozambique

Mediacoop
Electoral Commission Mozambique

Namibia

Editors' Forum of Namibia
MISA Namibia
Electoral Commission Namibia

Seychelles

Electoral Commission Seychelles

South Africa

South African National Editors' Forum

Swaziland

Swaziland Editors' Forum
Swaziland Media Complaints Commission
MISA Swaziland
Electoral and Boundaries Commission Swaziland

Tanzania

MISA Tanzania
National Electoral Commission of
Tanzania
Zanzibar Electoral Commission

Zambia

Zambia Media Council (ZAMEC)
MISA Zambia
The Post, Press Freedom Committee
Electoral Commission Zambia

Zimbabwe

Voluntary Media Council of Zimbabwe
MISA Zimbabwe
Zimbabwe Electoral Commission
SADC-CNGO
SADC- Electoral Commission Forum

Kenya

Media Council Kenya

The meeting was organised by the Regional Secretariat of the Media Institute of Southern Africa (MISA) and the SADC-Electoral Commission Forum with the support of fesmedia Africa, Friedrich-Ebert-Stiftung and the Open Society Institute of Southern Africa (OSISA)

SO THIS IS DEMOCRACY?



State of media freedom in Southern Africa 2012

This 19th edition of *So This Is Democracy?* documents numerous media freedom and freedom of expression violations that MISA recorded in Southern Africa during the course of 2012. The critical monitoring and research function is at the core of MISA's work throughout Southern Africa and closely-linked with decisive action, both in terms of practical support to journalists and media policy advocacy.

We make two key observations based on the analyses contained in this report.

One, the key issues that were previously observed, and will be carried over into 2013, will be around the safety and security (both offline and online) of journalists. The killing of Daudi Mwangosi and the brutal attack on Absalom Kibanda in Tanzania remain serious causes for concern and, therefore, necessitate greater attention to be paid to them.

Two, what is clear in the year under review is that the media law reform project largely stalled throughout the region. Throughout the SADC region, the use of outmoded laws to target journalists and stifle freedom of expression is a major cause of concern. From Tanzania down to Lesotho and South Africa, these laws have been used to ban newspapers, target individual journalists and criminalise free speech. Criminal defamation laws appear to be a popular choice for many governments for the exercise for these purposes.

MISA remains committed to fighting for media freedom and freedom of expression in Southern Africa.

