

so this is
democracy?



State of media freedom in Southern Africa 2014

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Photojournalists under fire Reflecting on 2014

From the office of the Regional Director

Welcome to the 2014 edition of the Media Institute of Southern Africa's (MISA) flagship publication, *So This Is Democracy?: State of Media Freedom in Southern Africa*.

Each year, MISA produces this report based on our daily monitoring of media freedom victories and violations occurring in the 11 Southern Africa Development Community (SADC) countries within which MISA operates. This report is a core part of our work as the leading advocate for free expression in the southern African region and informs our campaigns and initiatives as we work toward our vision of a southern Africa where everyone enjoys freedom of expression and pluralism of views and opinions.

It is with great sadness, therefore, that I report yet another year stained with the blood of journalists physically attacked and, in one case, killed in the course of doing their jobs.

On 13 January 2014, police shot dead freelance journalist, Michael Tsele, in the North West of South Africa, where he was covering a local protest against the community's lack of water and sanitation services. While the official investigation concluded Tshele was likely caught in the crossfire between protestors and police, community members say police shot Tshele because he was taking photographs.

I express our outrage over the continued obstruction of media freedom and free expression in the SADC region, demonstrated by restrictive legislation, misuse of legislation like criminal defamation laws, unwillingness to pass positive media policies and legislation, and violations perpetrated against media workers and activists.

This is the most extreme example, but there were many more incidents of attacks, threats and harassment perpetrated primarily by police and government authorities toward media workers. And, in

Reflecting on 2014

particular this year, media workers were targeted while using their cameras, most often during demonstrations. This lead us to theme this year's report, 'photojournalists under fire.'

The year 2014 was a concerning year for media freedom the world over. As wars raged across the globe, governments lead the fight for information, seeking to control media messages through violence, intimidation, restrictive legislation and unfair arrests and sentences.

On behalf of MISA, I express our outrage over the continued obstruction of media freedom and free expression in the SADC region, demonstrated by restrictive legislation, misuse of legislation like criminal defamation laws, unwillingness to pass positive media policies and legislation, and violations perpetrated against media workers and activists.

This year, MISA is particularly outraged by the unreasonable sentencing of the editor of independent Swazi magazine *The Nation*, Bheki Makhubu and human rights lawyer Thulani Maseko to two years in prison, without the option of a fine, on 25 July 2014 in Mbabane, Swaziland.

The harsh sentence followed Makhubu's and Maseko's conviction on contempt of court charges on 17 July 2014, for separate news articles each wrote criticising the kingdom's chief justice. The ruling is unreasonably severe and is clearly intended to send a message to those who might contemplate future criticism of Swaziland's judiciary. A ruling such as this serves to instil self-censorship among Swazi journalists – as journalists fear the consequences of speaking out against the oppressive government.

We were greatly encouraged in 2014 by the December 2014 ruling by the African Court on Human and Peoples' Rights, in

the case of *Konaté v Burkina Faso*, which found that prison sentences as penalties for defamation violate the African Charter on Human and People's Rights and the International Covenant on Civil and Political Rights. The African Court on Human and Peoples' Rights ruled criminal defamation laws cannot include custodial sentences or sanctions that are disproportionate, such as excessive fines.

This was a landmark ruling that will have far reaching impact on media freedom in the region as the judgment is binding on African Union member States. We note with disappointment, however, the continued use of archaic laws criminalising expression and impeding journalists from doing their jobs without obstruction or fear of being threatened or arrested. As we go to print, in 2015, we are calling on the government of Angola to respect this ruling and to uphold the right to free expression in the trial of Angolan journalist and human rights activist Rafael Marques De Morais.

Angolan journalist and human rights activist, De Morais, is facing 15 libel charges, in addition to the nine charges for criminal defamation arising from a book published in 2012, *Blood Diamonds: Corruption and torture in Angola*. The book contains details of more than 100 killings and torture cases against civilians and small-scale miners at diamond mining fields in the Cuango region in Angola, allegedly carried out by security guards and members of the Angolan army. De Morais will face nine years in jail and libel fees of £800,000 (R14 333 246.69) if found guilty.

Defamation still continues to be a crime punishable by imprisonment in Angola and under its 2006 Press law, journalists who criticise the government face grave reprisals. Despite Angola being a State Party to the African Charter on Human

and Peoples' Rights (African Charter) and the International Covenant on Civil and Political Rights (ICCPR), the government is not upholding citizens' right to freedom of expression and MISA urges the Angolan government to heed this ruling and release de Morais immediately.

There was significant progress made by access to information advocacy in the region in 2014, with Malawi marking a positive start to the year in January when the cabinet adopted the Access to Information (ATI) Policy. The ATI Policy provides a framework for enacting and implementing the ATI Bill. And then, on 26 November 2014, we welcomed the Mozambican Parliament's passing of an access to information (ATI) Bill. The Bill passed its first reading on 21 August and in November the Assembly of the Republic, during an extraordinary session, unanimously passed the second and final reading of the Bill.

These victories, however, highlight the frustrating stagnation in processes to pass access to information legislation; to amend ineffective laws; or to implement existing legislation in other countries. We call on the governments of Botswana, Lesotho, Swaziland and Zambia to expedite the adoption of access to information laws in their countries.

In 2014, as in the year before it, we continued to see more and more media workers and citizen journalists turning to online platforms to express themselves. But, with the increasing use of new media and online platforms to create and share information, we are also seeing increased insecurity from governments and subsequent attempts to curtail freedom of expression in the online arena.

We condemn efforts to inhibit freedom of expression and access to information through ICT platforms, including the mis-

use of legislation such as national security laws, to impose restrictions on the use of online platforms. MISA will continue to work closely with other concerned organisations to campaign for freedom of expression online and to participate in the drafting of an African Declaration on Internet Rights to ensure respect for human rights in the online arena.

MISA remains committed to achieving media freedom and freedom of expression in Southern Africa and will continue to bring violations – and victories – such as those documented in this report, to light and to fight for perpetrators to be held accountable.

I urge you to join us in our fight by reporting any media violations and visiting our website to find out how you can become involved in our campaigns to improve access to information and free expression in southern Africa.

Enjoy the read!

Zoé Titus





Police assaulting Tanzanian reporter, Joseph Isango. He was covering a political fracas between the police force and opposition party supporters at police headquarters in Dar es Salaam in September, 2014.
Photo: Fidelis Felix, Mtanzania 2014

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MISA alerts

Throughout the year, MISA issues media alerts in the following 11 categories:



ASSAULTED

This includes any incident where journalists are physically assaulted, tortured, or wounded during the course of their work. The statistic refers to the number of media workers involved.



BOMBED

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



CENSORED

This covers incidents where information is prevented from being communicated. For example, issuing a gagging order, forcing editorial changes, using legislation like interdicts and court orders to stop information from being published, shutting down or suspending production and confiscating equipment or materials. The statistic given is for the number of media workers or media organisations involved.



DETAINED

This refers to an incident where a media worker is imprisoned or detained. It can be legal or illegal and includes being sentenced to a gaol term or being detained without charge or incommunicado, held for preventative reasons, or arrested. The statistic given is for the number of media workers involved.



EXPELLED

This includes incidents where journalists are expelled from, prevented from entering or leaving (such as by denying visas, work papers or accreditation), and / or generally inhibited from moving freely in a country or certain areas to perform their work. The statistic given is for the number of media workers involved.



KILLED OR MISSING

This tops the list in terms of severity, and there is no need to explain why. Included under this category are incidents where journalists have been killed, kidnapped or gone missing in circumstances that suggest a link to their work or role as a journalist. The statistic given is for the number of media workers involved.



LEGISLATED

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. The statistic given is for the number of incidents reported.



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, death threat, various forms of harassment (such as veiled warnings, threats of action, interference in editorial processes, cyber attacks, raids and forcibly occupying a home or office), 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 includes immediate victories for media workers or organisations including being released unconditionally, having charges dropped, winning or avoiding civil litigation, overturning gagging orders and being acquitted of criminal charges. This category also includes incidents that advance media freedom, access to information or freedom of expression in general. For example, favourable policy statements, media friendly laws or policies and favourable and precedent-setting court judgements. The statistic given is for the number of incidents reported.



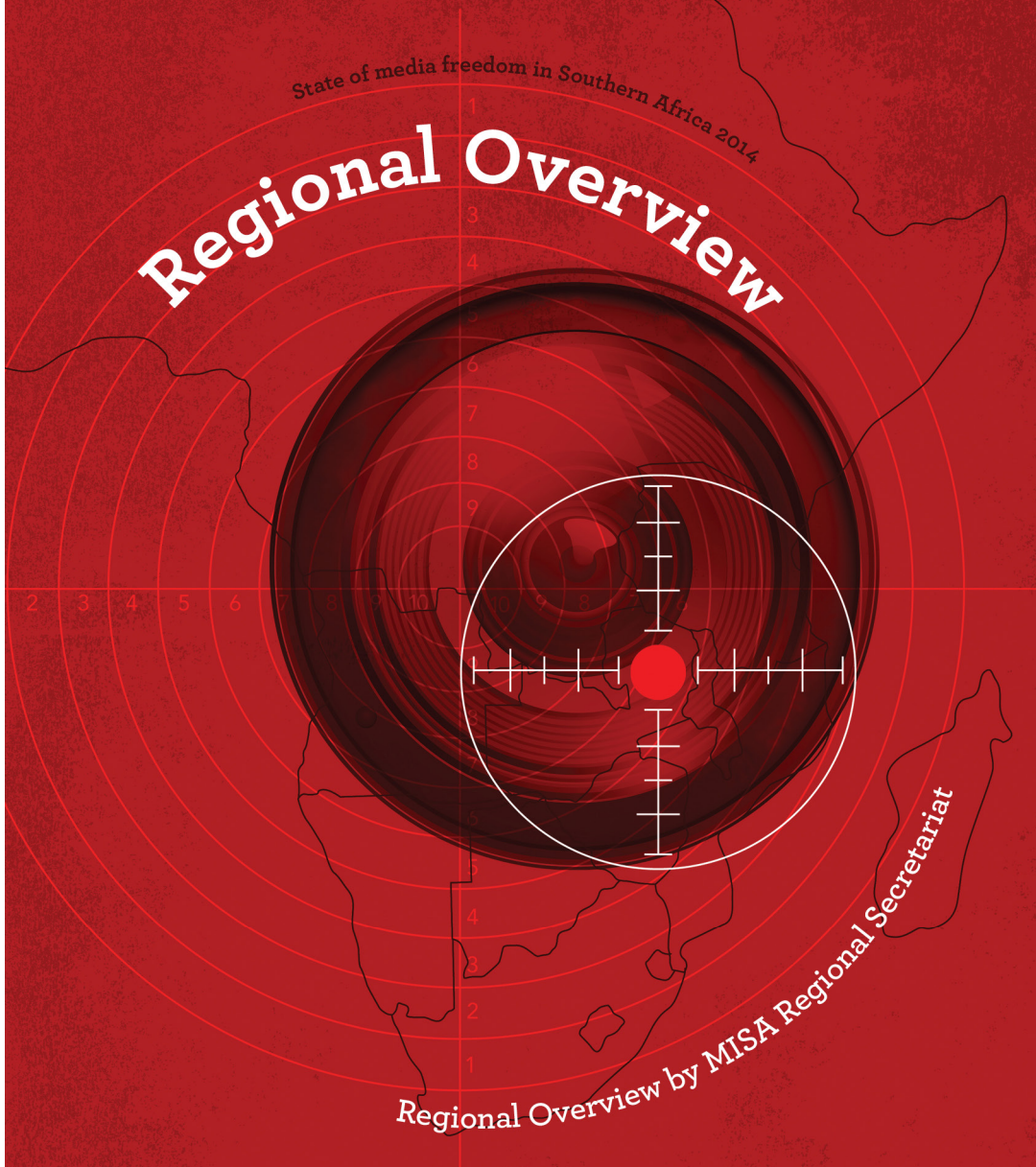
VIOLATION OF PUBLIC FoE*

This category includes incidents that affect freedom of expression (FoE) or speech in general, and do not necessarily involve media workers or organisations. For example, cases of sedition against members of the public, general curbs on free speech and access to information, violations of the right to freedom of assembly and protest, restrictions on artistic or academic freedom and restrictions on access to public media. The statistic given is for the number of incidents reported.

*Freedom of expression

State of media freedom in Southern Africa 2014

Regional Overview



The theme for this year's report is 'photojournalists under fire', as one of the main targets for attacks in 2014 were photojournalists and other media workers using cameras to expose the truth. Attacks included assaults, detention, confiscating equipment, deleting photos and in the most extreme case, fatally shooting a reporter.

JOURNALIST SAFETY

The decline in journalist safety documented in the 2013 edition of *So This Is Democracy?*, sadly continued in 2014.

In general, perpetrators were governments and authorities but in some cases even private citizens attacked media workers.

As noted, photojournalists and other media workers trying to capture events on camera and in video were particularly targeted in 2014. In many cases, photojournalists were attacked while covering demonstrations. A picture tells a thousand words and in the current age of technology, pictures can be distributed around the world in just moments. This year, oppressive governments strove to control and stop the spread of information and truth through images.

The most shocking attack of 2014 resulted in death. On 13 January 2014, police shot dead freelance journalist, Michael Tsele, in the North West of South Africa, where he was covering a local protest against the community's lack of water and sanitation services. While the official investigation concluded Tshele was likely caught in the crossfire between protestors and police, community mem-

bers say police shot Tshele because he was taking photographs.

On November 23, Zambian youth activist Laurinda Gouveia endured two hours of brutal attack at the hands of police and state security. The attack took place in a school, where she was arrested for taking photos of police mistreating two youth demonstrators at Independence Square in Luanda.

In Zimbabwe, on 18 August 2014, police assaulted Anjela Jimu, a photographer with the *Zimbabwe Mail*, while covering a demonstration in Harare by opposition MDC-T youths.

On 28 May 2014, police briefly arrested *Rádio Despertar* journalist Adérito Pascual at a police station in Viana, Angola when he asked for an official statement for a live broadcast on a violent operation to remove street traders. Police seized his phone, recorder and identification and government agents forced him to delete his videos. He was released after two hours and his equipment returned.

These are just a few examples of the many violations of media freedom that occurred in 2014 against media workers trying to document stories and human rights abuses on video or in pictures.

In previous editions of *So This Is Democracy?*, the Media Institute of Southern Africa (MISA) has lamented the downward spiral of media freedom in Tanzania and in 2014, we continued to see reports of police brutality against media workers in that country. However, a beacon of hope was offered when on 17 September 2014, Vice President of the United Republic of Tanzania Dr Gharib Mohammed Bilal stood before an audience of media houses, law, defense and security organs declaring the police force

Regional overview

and other security organs need to work out their differences with the media and stop treating journalists as enemies.

Unfortunately, a slew of police attacks against media workers in Tanzania followed the announcement. In fact the very next day, police attacked journalists attempting to cover a story involving the Chairman of Tanzania's main opposition party, who had been summoned to the police headquarters in Dar es Salaam. Josephat Isango, a journalist with the local private daily newspaper *Tanzania Daima*; Yusuf Badi, a photographer with state owned newspaper, *The Daily News*; and journalist Shamimu Ausi of the local weekly paper *Hoja*, all sustained serious injuries.

FREE EXPRESSION AND THE LAW

When it comes to the legal environment and its impact on media freedom in southern Africa, 2014 was a rollercoaster of highs and lows as we experienced a number of victories for free expression, marred by serious setbacks.

One of the most shocking setbacks for free expression in southern Africa in 2014 took place in Swaziland – the arrest and sentencing of Bheki Makhubu and Thulani Maseko, editor and columnist respectively of the independent Swazi news magazine, *The Nation*.

Makhubu and Maseko, a human rights lawyer in Swaziland, were arrested and detained on the instructions of Chief Justice Michael Ramodibedi after they wrote and published two articles in *The Nation*'s February and March 2014 editions, criticising Ramodibedi for denying a suspect legal representation and calling on the judiciary to uphold freedom of expression and the rule of law.

Ultimately, the presiding Judge, Mpen-

dulo Simelane, found Makhubu and Maseko guilty as charged and his judgement and sentencing on 17 July 2014 sent shockwaves amongst Swaziland's media fraternity and free expression activists around the world. Simelane levied a hefty fine of US\$10,000 on both the *Swaziland Independent Publishers* and *The Nation*.

“Media freedom needs to be protected in constitutions, to hold governments accountable and restrictive press laws that are not compatible with the constitutional provisions can be challenged.”

However, there were also victories to be celebrated in 2014 – most notably improvements in the legal landscape for access to information and the use of defamation laws against media workers in the region.

Perhaps the most significant and far-reaching victory, was the December ruling by the African Court on Human and Peoples' Rights, in the case of *Konaté v Burkina Faso*. The African Court on Human and Peoples' Rights ruled criminal defamation laws cannot include

custodial sentences or sanctions that are disproportionate, such as excessive fines. The Court ordered Burkina Faso to change its criminal defamation laws and pay compensation to the applicant.

This was a landmark ruling with far-reaching impact on media freedom in the region as the judgment is binding on African Union member States.

On 3 April 2014, journalist Metlhaetsile Leepile, won a long running defamation case against High Court judge Justice Mpaphi Phumaphi. The case was filed thirteen years ago after Justice Phumaphi felt aggrieved by a document written by Leepile.

The media industry hailed the court's progressive decision to dismiss the application and hope it will pave way to more legislative reforms and, ultimately, improved media freedom in Botswana.

In December, journalist Cecil Motsepe won his appeal in the Pretoria High Court in South Africa against the criminal defamation conviction handed down to him in June 2013. The conviction related to an article Motsepe, a reporter for the daily newspaper *Sowetan*, wrote in 2009 investigating alleged racist judgments of a South African magistrate.

While the overturned conviction was a victory for Motsepe, the court also ruled defamation as a crime for journalists is in line with South Africa's constitution – an extremely worrying outcome for media freedom.

Media freedom needs to be protected in constitutions, to hold governments accountable and restrictive press laws that are not compatible with the constitutional provisions can be challenged.

FREEDOM OF INFORMATION

This is another area in which great strides were made in some countries in the region, with both Malawi and Mozambique passing access to information legislation or policies.

Malawi produced a promising start to the year, with the Malawi cabinet adopting the Access to Information (ATI) Policy on January 27, 2014. The adoption of this policy closed a chapter that started in 2009 when the government indicated Malawi could not enact ATI legislation without an enabling policy. The ATI Policy provides a framework for enacting and implementing the ATI Bill.

On Wednesday, 26 November 2014 freedom of information and human rights activists around the globe and region celebrated the Mozambican Parliament's passing of an access to information (ATI) Bill. The Bill passed its first reading on 21 August and in November the Assembly of the Republic, during an extraordinary session, unanimously passed the second and final reading of the Bill.

This makes Mozambique the fourth southern African country to adopt an access to information law, joining the other 14 countries on the continent that have specifically passed a law guaranteeing the right to access to information.

These victories, however, served to highlight the frustrating stagnation in processes to pass access to information legislation; to amend ineffective laws; or to implement existing legislation in other countries.

In Zimbabwe, for example, the continued existence of restrictive laws such as the Access to Information and Protection of Privacy Act (AIPPA), Criminal Defa-

Regional overview

mation, Public Order and Security Act (POSA), Interception of Communications Act and the Entertainment Controls Act, has a serious bearing on citizens' full enjoyment of the right to freedom of expression and access to information. Access to and the free flow of information are critical for citizens to make informed choices and hold government and public institutions accountable for their actions. The Criminal Law (Codification and Reform) Act currently retains sections that hinder this right.

ELECTIONS AND THE MEDIA

In 2014, Botswana, Malawi, Mozambique, Namibia and South Africa all held national elections.

The media have a key role to play in ensuring fair and transparent elections with informed voters. They act as a watchdog: ensuring greater transparency and accountability during the election process; providing citizens with information on their candidates, party policies and the elections process; and enabling them to make informed decisions when they cast their votes or engage in public debate. The media also have a responsibility to produce accurate, professional and impartial reports.

In many countries – even those with well-established infrastructure and diversified media environments – illiteracy rates and costs of accessing technology mean the majority of the population rely on public television and radio stations for news and information. In an election year, that means these are the main sources of information for voters to access information on processes, candidates and do on. However, where media freedom is lacking and journalists are self-censoring due to intimidation and fear, voters cannot be guaranteed unbiased information from state broad-

casters.

For example, in recent years South Africa's public broadcaster, *SABC*, has increasingly proven to be hampered by self-censorship and board loyalties to the ruling party.

The media have a key role to play in ensuring fair and transparent elections with informed voters ...

The media have a responsibility to produce accurate, professional and impartial reports.

During the election, South African newspaper *CityPress* reported *SABC* management ordered senior *SABC* news executives not to broadcast footage of the crowds attending opposition election rallies. And, *SABC* board chairperson Ellen Tshabalala reportedly told news staff the National Intelligence Agency (NIA) was monitoring their mobile phones.

In Botswana, the ruling Botswana Democratic Party (BDP) tried to control the media in the lead up to the 2014 election. Their behaviour included boycotting parliamentary and presidential debates organized by *Gabz FM*, a local private radio station.

FREE EXPRESSION ONLINE

Online platforms and other information and communication technologies (ICTs) have become an important way for citizens and media alike to disseminate independent news and opinions. This is particularly the case in countries, such as Swaziland, where the traditional media are under tight state control.

Governments have struggled to keep up with the changes in this environment, and restrictions on internet freedom have mostly been less severe than those on traditional media. However, this is quickly changing. More and more, governments are using censorship and surveillance, misusing laws such as privacy and national security laws, imposing criminal penalties, and arresting people for content they publish online.

In April 2014, for example, the Botswana Parliament passed a law allowing electronic communications to be used as evidence in court. The then Minister of defence justice and Security Dikgagamatso Seretse said the law will compliment the Criminal Procedure and Evidence Act by allowing information stored in computers, exchanged in emails and social networks to be admissible in court as evidence. This may spread fear as users worry they could end up in court for alleged defamation, over content they post online, since the law allows for their recorded conversations to be used as evidence in courts.

In another example, in May 2014, high profile economist, Carlos Nuno Castelo-Branco, was summoned to the Public Prosecutor's office in Maputo, Mozambique, to answer questions about an open letter to President Armando Guebuza he wrote and posted on his Facebook page in 2013.



... governments are using censorship and surveillance, misusing laws such as privacy and national security laws, imposing criminal penalties, and arresting people for content they publish online.

And in Zambia, the government made numerous calls for regulation of the online media during the course of 2014 and condemned online media as being unethical and intrusive. The government also clamped down on online media by restricting access to websites perceived to be critical, forcing them to set up social media pages as an alternative channel.

African Declaration on Internet Rights and Freedoms

MISA joined other organisations working on internet governance in Africa and around the world in celebrating the launch of the African Declaration on Internet Rights and Freedoms at the global Internet Governance Forum in Istanbul, Turkey on 4 September 2014.

The Declaration is a Pan-African initiative lead by African civil society and developed to define and strengthen in-

Regional overview

internet principles, standards and responsibilities in Africa. MISA is one of the organizations involved in drafting the Declaration and we believe it will be a useful tool in advocating for an internet that is accessible, locally relevant and a tool for successful development.

The process for drafting the Declaration involved consultation and input at the individual and organizational level and it builds on well-established African human rights documents including the African Charter on Human and Peoples' Rights of 1981, the Windhoek Declaration on Promoting an Independent and Pluralistic African Press of 1991, the African Charter on Broadcasting of 2001, the Declaration of Principles on Freedom of Expression in Africa of 2002, and the African Platform on Access to Information Declaration of 2011.

MISA calls for the Declaration to be endorsed by everyone with a stake in the internet in Africa. We call on governments, individuals and organisations to endorse the Declaration and in doing so help shape Internet policy-making and governance across the continent.

LOOKING TO 2015

MISA will continue to publish media alerts on violations in the region and we urge media professionals and citizens alike to report any violations in their respective countries.

Together, we will hold governments, corporates and other institutions accountable for violations against freedom of expression and media freedom. We will strive for a southern Africa in which all citizens are free to claim their right to free expression.

Region-wide victories in 2014



4 September ■

MISA joined other organisations working on internet governance in Africa and around the world in celebrating the launch of the African Declaration on Internet Rights and Freedoms at the global Internet Governance Forum in Istanbul, Turkey on 4 September 2014.



14 December ■

In *Konaté v Burkina Faso* the African Court on Human and Peoples' Rights rules that criminal defamation laws cannot include custodial sentences or disproportionate sanctions such as excessive fines. Ruling applies to all members of the African Union.

Angola

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National Overview 2014 by MISA Regional Secretariat



In 2014, the Angolan government continued to stifle free expression and media freedom by attempting to silence critical journalists and activists by using criminal defamation lawsuits, unjustified arrests, trials, intimidation and harassment.

FREE EXPRESSION AND THE LAW

Angolan government defying international law, imprisoning journalists on defamation charges

In December 2014, the African Court on Human and Peoples' Rights handed down a powerful first judgment on press freedom in *Konaté v Burkina Faso*, by ruling criminal defamation laws cannot include custodial sentences or sanctions that are disproportionate, such as excessive fines. The court ordered Burkina Faso to change its criminal defamation laws and pay compensation to the applicant.

The judgment is binding on African Union member States, yet the Angolan government and authorities continue to regularly use restrictive laws, such as criminal defamation laws, to exert control over the media and seek prison sentences in these cases. Furthermore, these cases and trials are frequently characterised by irregularities and unjust proceedings.

For example, journalists Armando Chicoca and William Tonet each lodged appeals in 2011 against their convictions for criminal defamation, yet in 2014 those appeals had still not been heard.

A long running case – also reported on in the 2013 edition of *So This Is Democracy?* –

is that of investigative journalist Rafael Marques De Morais. In January 2013, De Morais was charged with filing a false complaint against a diamond mining company, private security company, and seven high-ranking generals after he wrote the book - *Blood Diamonds: Corruption and Torture in Angola*.

The book describes human rights abuses committed by Angolan military officials and private security companies against Angolan villagers during diamond mining operations. It contains details of more than 100 killings and torture cases against civilians and small-scale miners at diamond mining fields in the Cuango region in Angola.

It took a whole year for De Morais to receive official details of the case, which he received in January 2014. Then, in July 2014, the seven army generals and the diamond mining company Sociedade Mineira do Cuango filed criminal libel charges against him, demanding he pay a combined US\$1.2 million in damages. The case has been marked by delays, irregularities and harassment, not only toward De Morais but also witnesses.

The Angolan government is clearly targeting De Morais for exercising his fundamental right of freedom of expression and they are using criminal defamation laws to try to stop important human rights reporting.

As of 24 March 2015, De Morais is facing 15 libel charges, in addition to the nine charges for criminal defamation arising from the book. De Morais appeared in court on 24 March 2015, where he was expected to face the original nine charges when his lawyers notified him of the additional charges.

Angola

Defamation continues to be a crime punishable by imprisonment in Angola and under its 2006 Press law, journalists who criticise the government face grave reprisals. The authorities continue to use this law to silence journalists who expose corruption in the state or private sector.

If found guilty, De Morais faces nine years in jail and libel fees of £800,000 (R14 333 246.69). This despite the December 2014 decision by the African Court on Human and Peoples' Rights, which found it is a violation of the African Charter on Human and People's Rights (African Charter) and the International Covenant on Civil and Political Rights (ICCPR) to hand down prison sentences as penalties for defamation.

Angola is a State Party to the African Charter and the ICCPR, yet the government is clearly not upholding citizens' right to freedom of expression.

In another example of authorities using the law to harass and threaten, on 7 February, radio journalist Queirós Anastácio Chiluvia received a six-month suspended jail sentence and \$600 fine on charges of slander and defamation after he broadcast detainees calling for help for one of their fellow detainees, who was very ill.

Chiluvia is the news director of *Radio Despertar*, a station funded by the main opposition party Unita. Chiluvia was convicted on charges of defamation, offending the police and working illegally as a journalist. The six-month sentence was suspended for two years.

Chiluvia heard the detainees' cries as he was passing the police station in Cac-uaco, a suburb of the capital, Luanda, on 2 February. He went into the police station to ask for an official explanation

or statement about the cries, which were coming from detainees calling for help for a fellow inmate who was gravely ill with tuberculosis. When the police ignored his questions, Chiluvia broadcast the cries for help live on *Radio Despertar*.

As a result, he was arrested and held for five days without being charged or tried. On 7 February, he was finally brought before a judge, who convicted him and then released him after he had paid 2,000 dollars in bail.

The detainee with tuberculosis was transferred to hospital after Chiluvia's radio broadcast, but died a few hours later.

JOURNALIST SAFETY

Angolan authorities have demonstrated a worrying trend of trampling on the right to free expression among both media workers and the general public, with a particular focus on restricting the right to free assembly by violently breaking up protests and public gatherings and preventing people from expressing their opinions.

Between May and October there were at least eight incidents where police used excessive force to break up youth demonstrations in Luanda, where the majority of protesters were doing so silently with only hand written messages. Police arrested dozens of people on arbitrary grounds.

On November 23, youth activist Laurinda Gouveia endured two hours of brutal attack at the hands of police and state security. The attack took place in a school, where police arrested her for taking pictures of police mistreating two youth demonstrators at Independence Square in Luanda.

On 11 October, police arrested at least 12 youth protesters in Luanda and injured several others using metal batons. While the police released most of the protesters that day without charge, one was sentenced to 30 days in prison, for allegedly tearing a police agent's uniform. Police held five of the students for nearly two weeks, denying them medical care and access to lawyers until five days after their arrest.

On 28 May 2014, police briefly arrested *Rádio Despertar* journalist Adérito Pascual at a police station in Viana when he asked for an official statement for a live broadcast on a violent operation to remove street traders. Police seized his phone, recorder, and identification and government agents forced him to delete his videos. He was released after two hours and his equipment returned.

In a similar incident on 24 September 2014, police briefly arrested Álvaro Victoria, a journalist with the privately owned weekly newspaper *Novo Jornal*, at the S. Paulo market in Luanda, where he filmed police beating street traders. Police assaulted, threatened and then detained him for two hours, after which he was released without charge.

CENSORSHIP AND BANNING

Journalists banned from broadcasting freedom of expression debate

In a shocking contradiction, reporter Gonçalves Vieira from *Radio Despertar* was forced to leave precincts of the National Assembly in late May during a session of Parliament apparently aimed at celebrating Freedom of Expression Day.

Just as the debate, "The Role of Public Media in a Democratic State" com-

menced, Vieira was forced to stop the live broadcast and was quietly removed from the upper floor chambers of Parliament as the debate continued.

"A civilian addressed me and asked if I knew that live broadcasts were prohibited. I replied that I knew the sessions were open to the public," Vieira of *Radio Despertar* told MISA Angola.

As he continued to broadcast the debate, Vieira was approached again. "What are you doing?" asked a woman with no nametag. "I am broadcasting the debate live," Vieira responded.

According to Vieira, the incident drew the attention of Vianey Baptist, head of the Office of Communication of the Assembly. Baptist ordered the reporter to stop the broadcast immediately.

Vieira was discreetly asked to leave the room from the doorway by a man who later identified himself as a superintendent of police. He was forced to leave his work equipment behind, including his computer, recorder and backpack.

MISA Angola's sources say audience members are frequently asked if they are journalists before being allowed to enter the room.

President of the National Assembly, Fernando da Piedade Dias dos Santos, also known as Nando, condemned the presence of media during the debate, saying *Radio Despertar* took advantage of broadcasting the debate live. "This is wrong, in this room access is allowed, but only if you do not perform the duties of a reporter." Such comments seem inconceivable, particularly in the context of the topic of the debate that was taking place at the time.

Angola

FREEDOM OF INFORMATION

In 2014, Angola faced renewed pressure from the international community to address its access to information.

The United Nations Human Rights Council (UNHCR), through a draft report from its Working Group on the Universal Periodic Review, called on the government of the Republic of Angola to amend and strengthen the national access to information law to guarantee citizens' right to access information freely.

Angola's current access to information provisions are inadequate, especially when compared to the African regional standards outlined in the African Platform on Access to Information (APAI), the Declaration of Principles on Freedom of Expression in Africa, and the Draft Model Law for AU Member States on Access to Information.

Angola must work with civil society and the wider public to amend the Freedom of Information Act to comply with regional and international standards and to develop and implement a comprehensive Freedom of Information Action Implementation Programme with clear actions, time frames and resources to advance the right to information in the country.

The current law provides for a Freedom of Information Monitoring Commission, and this should be established immediately.

FREE EXPRESSION ONLINE

With heavy investment in information and communication technologies (ICTs) since 2005, internet and mobile technologies are highly accessible in Angola. The country is now one of the largest mobile telecommunications markets in

sub-Saharan Africa.

This investment has continued, with the government funding the 2013 – 2017 Strategic Plan for E-Governance and in 2014, providing more than US\$267.3 million in the national budget towards the country's technological infrastructure.

When it comes to traditional forms of media, the environment can be oppressive and dangerous for journalists and this leads to self-censorship, particularly in state media and private media controlled by the ruling party. As a result, journalists, activists and citizens are increasingly turning to online and social media to express themselves.

However, President José Eduardo dos Santos - who has been in power for more than 34 years - frequently and unjustly uses laws, to restrict freedom of expression online. The Electronic Communications and Information Society Services' Law, for example, gives the president broad legal powers to control and punish internet service providers over content.

Angola 2014 violations & victories

2 February



Queirós Anastácio Chilúvia, deputy editor of the private Radio Despertar, arrested after entering police headquarters in Luanda seeking comment on prisoners' screams he heard while walking past the station.

28 May



Rádio Despertar journalist Adérito Pascual briefly arrested requesting official statement for a live broadcast on a violent operation to remove street traders. Police seized his phone, recorder, and identification and government agents forced him to delete his videos. He was released after two hours and his equipment returned.

24 September



Álvaro Victoria, journalist with privately owned weekly newspaper Novo Jornal, arrested at S. Paulo market in Luanda, where he filmed police beating street traders. Police assaulted, threatened and then detained him for two hours, after which he was released without charge.



23 November



Youth activist Laurinda Gouveia endured two hours of brutal attack at the hands of police and state security and was arrested for taking pictures of police mistreating two youth demonstrators at Independence Square in Luanda.

7 February

Queirós Anastácio Chilúvia, deputy editor of the private Radio Despertar, received six-month suspended jail sentence for broadcasting the shouts of detainees calling for help for one of their fellow detainees, who was ill.



4 July

Reporter Gonçalves Vieira from Radio Despertar forced to leave the National Assembly and cease broadcasting during a public session in which they were holding a discussion titled, "The Role of Public Media in a Democratic State."



11 October

At least 12 youth protesters arrested in Luanda and several others injured from police assaults.



15 December

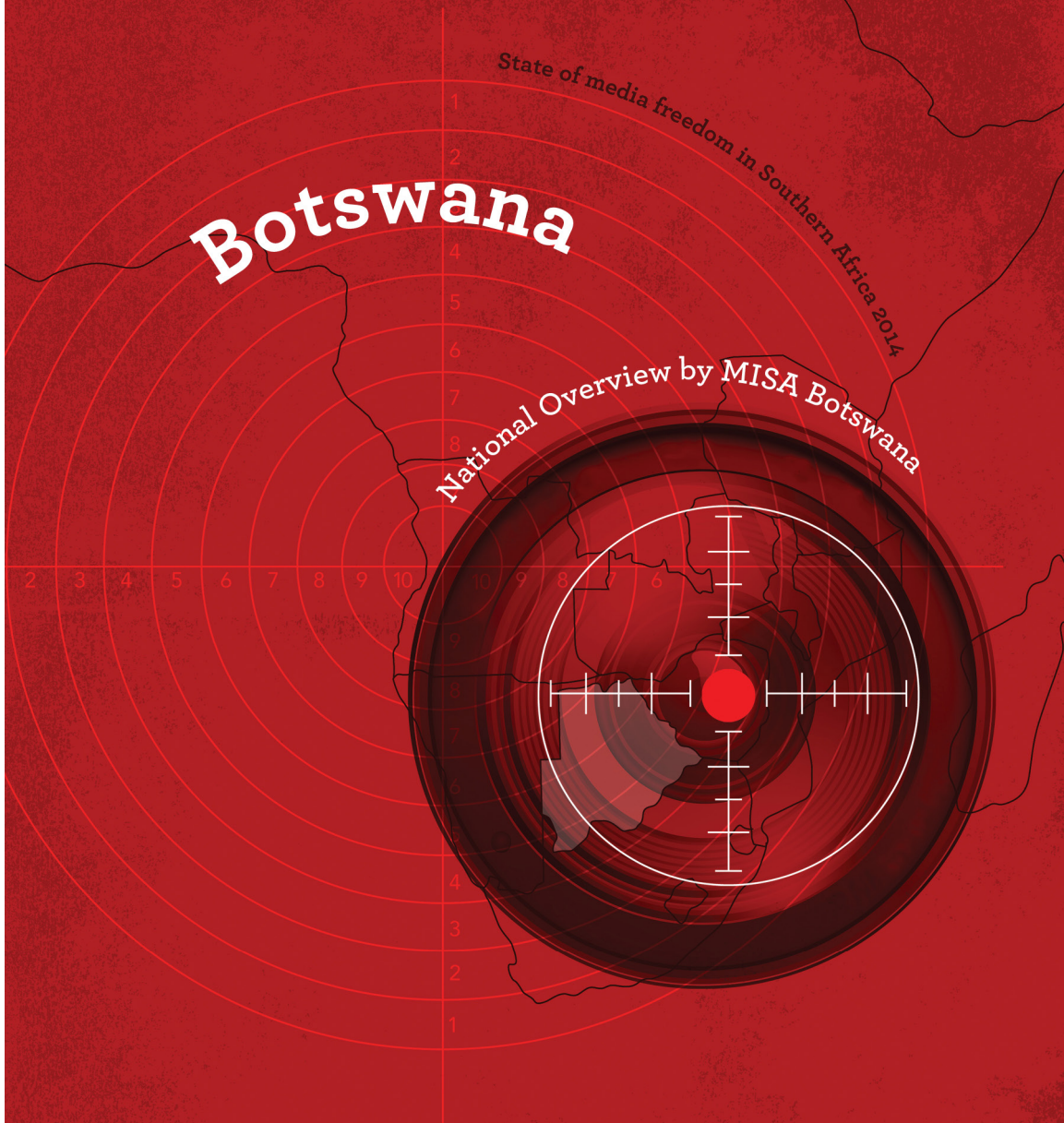
Writer and journalist Rafael Marques de Morais to appear in court in Luanda on criminal defamation charges in connection with his 2011 book about human rights violations in Angola's diamond mining industry, entitled "Blood Diamonds: Corruption and Torture in Angola."



Botswana

State of media freedom in Southern Africa 2014

National Overview by MISA Botswana



In 2014, Botswana's media industry experienced the oppressing hand of government more than in any other year, mostly likely because it was an election year and the ruling party faced more pressure than ever before from the newly formed political party, Umbrella for Democratic Change (UDC).

ELECTIONS AND THE MEDIA

Media freedom during the 2014 Botswana election

The labor movement increased pressure by publicly declaring their support for UDC and sensing possible loss or humiliation the ruling Botswana Democratic Party (BDP) applied draconian tactics to stifle the media including boycotting parliamentary and presidential debates organised by *Gabz FM*, a local private radio station. The aim of the BDP was to sabotage the debates to an extent that the station would rescind from continuing. The now vice President Mr Mokgweetsi was even recorded, and the tape leaked to the media, boasting about how they tricked *Gabz FM* into believing BDP would participate, while the ruling party was actually busy planning similar debates with other, more sympathetic, broadcasters.

The election came and went with the ruling party retaining power with the lowest popular vote ever since independence. The leadership of the party passed the blame on to the private media for their poor performance and by the close of the year media houses were experiencing dwindling advertising from government departments.

Then, there was a grape vine circulating that government had decided to with-

hold advertising on certain newspapers said to be critical of it. This divide and rule stance is aimed at creating animosity among the media houses and practitioners and hence, we ask, "So this is democracy?"

Public media relocated to the office of the president

The government's decision to relocate the public media to the office of the president was a deliberate move to thwart transformation efforts from state media to public media as expounded on the Broadcast Act of 1998. This was later followed by the repeal of the act.

Opposition politicians felt the results of the above move more than anyone else during the 2014 election period. *Radio Botswana* and *Botswana Television's* coverage was biased towards the ruling BDP. The anomaly was noted by most observer missions and recommended that the situation be revised in future.

CENSORSHIP AND BANNING

Government heads to courts to impede the media

By mid-2014, hostility against the private media had risen and the government resorted to the courts to silence the media.

A weekly broadsheet, the *Sunday Standard*, published a series of stories regarding an investigation by the Directorate on Corruption and Economic Crime (DCEC) into corruption allegations against the Director of Intelligence Services (DIS) Chief, Isaac Kgosi. However, the DCEC successfully sought an interdict against the *Sunday Standard* and the Lobatse High Court ordered the newspaper not to publish in verbatim extracts from interviews conducted by

Botswana

the DCEC with Kgosi before the hearing on 14 July 2014.

The order also barred the *Sunday Standard* from mentioning the names of witnesses interviewed on the case. The newspaper's editor, Outsa Mokone confirmed to the Media Institute of Southern Africa's Botswana chapter (MISA Botswana) they received an affidavit from DCEC seeking court interdiction restraining the *Sunday Standard* from publishing, distributing or disseminating information or materials from the docket containing Kgosi's interviews.

The interdict further required the *Sunday Standard* to return to the DCEC any information from Kgosi's docket.

It is shocking for the DCEC to have taken such a decision to gag the media. He further added that it would be unfair for the DCEC to claim back information allegedly obtained by the newspaper as this is tantamount to interfering with the newspaper's editorial independence.

FREE EXPRESSION AND THE LAW

Both government and private sector misusing laws to control the media

As election day approached and pressure increased on the ruling party, a magistrate court in Gaborone issued a warrant of arrest for *Sunday Standard* editor Mr Outsa Mokone. Mr Mokone was arrested and detained overnight by the Botswana police. The media came with guns blazing and other stakeholders such as the labor movement, law society of Botswana, Ditshwanelo human rights group and the embassy of America in Gaborone joined in the chorus and Mr Mokone was eventually freed. However, he is still facing sedition charges that could send him back to jail for three

years and close the *Sunday Standard* for a year if found guilty.

On 8 September 2014, Botswana police arrested *Sunday Standard* editor Outsa Mokone. According to the warrant of arrest issued by the Gaborone Magistrate Court, Mr Mokone was arrested in connection with a "seditious intention contrary to section 50(1) (a) as read with section 51(1)(c) of the Penal Code." The arrest was in respect to a story published by the *Sunday Standard* newspaper on 31 August 2014 headlined "President hit in a car accident while driving alone at night." The State considered the article to be malicious and defamatory to President Ian Khama Seretse Khama. According to a letter of complaint from the Attorney General Dr Attaliah Molokomme the contents of the story were defamatory of the good name and reputation of the President on his personal and private capacity.

In an example of the private sector using the courts to impede the media, on 5 August, the Dikgang Publishing Company (DPC) (publishers of *Mmegi* and *Monitor* newspapers) was in court for defamation filed by former managing Director of Botswana Development Corporation (BDC) Maria Nthebolan.

Between 2008 and 2011 *Mmegi* newspaper reported on alleged corruption within BDC. The newspaper carried several articles reporting on the controversial Palapye glass production company (Fengue Glass Company) depositing money amounting to P3 Million in some of staff members' accounts including that belonging to Nthebolan. Nthebolan has maintained there was no mysterious funds, that all funds in her bank account could be explained and accounted for and that she never received a share of P3 million from anyone. This information came after the defendant's attorney

Omphemetse Motumise asked Nthebolan to disclose the source of close to 3900 Euros deposited into her account in 2008. Nthebolan said she got the money from a friend.

Journalist wins long running defamation case

In a victory for media freedom, on 3 April 2014 Metlhaetsile Leepile, a Media veteran and pioneer of MISA and Southern Africa Media Development Fund (SAMDEF) won a long running defamation case against a Francistown High court Judge Justice Mpaphi Phumaphi. The Case reached the courts thirteen years ago after Justice Phumaphi felt aggrieved by a document written by Leepile contributing to a Constitutional amendment public debate in progress at the time.

Justice Phumaphi felt the document could tarnish his image and cost him other opportunities. At the time he was awaiting presidential appointment to the legal bench. The court was to determine whether or not the document was defamatory of Justice Phumaphi and whether or not Mr Leepile published the document or caused it to be published.

The media industry hailed the court's progressive decision to dismiss the application and hope it will pave way to platforms of dialogue in legislative reforms aimed at achieving an environment more conducive to media freedom.

Botswana's media controlled by two opposing media regulations

The media finds its self under the control of two opposing media regulations. The autonomous Press Council of Botswana has the backing of the private media whilst the media statutory regulation un-

der the media Practitioners Act has the blessing of government. Government undermines the Press Council of Botswana by saying it is a voluntary organisation whose decisions are not binding and not supported by any law.

On the other hand, the private media has rejected the Media practitioner Act as it sees it as a government tool to control the media industry. There are indications government, through the ruling BDP, wants to review some sections of the Media Practitioners' Act to allow the law to be implemented in a manner that will give them power to humiliate the private media.

The implementation of the Media Practitioner's Act was partly delayed because the Law society of Botswana refused to recommend a lawyer to chair the Appeals committee of the media council within the Media Practitioner's Act. There is a strong belief BDP is targeting this section for review so the appeals committee can be headed by someone they recommend. This belief was re-affirmed when BDP secretary Mpho Balopi told ENCA news the media in Botswana is unregulated.

JOURNALIST SAFETY

Unfortunately, 2014 saw several cases of violence against journalists.

In one example, on 5 August, *The Voice* newspaper journalist Chenjelani Baraedi was attacked by a prison officer for photographing a man accused of raping two women in Francistown. The incident took place outside the Francistown Magistrate Court. Baraedi said while he was on duty trying to take pictures, the prison officer charged and pushed him before threatening to confiscate his camera, preventing him from the taking photographs. He reported the matter to

Botswana

prison authorities, who affirmed there is nothing wrong with taking pictures as long as one is outside court and not disturbing prison officers from executing their duties. Fortunately, Baraedi was not injured but was unfairly and violently prevented from doing his job and bringing information to the public.

FREE EXPRESSION ONLINE

New Bill threatens freedom of expression online

On 22 April 2014, the Botswana Parliament passed a law allowing electronic communications to be used as evidence in court. The then Minister of defence justice and Security Dikgagamatso Seretse said the law will compliment the Criminal Procedure and Evidence Act by allowing information stored in computers, exchanged in emails, and social networks to be admissible in court as evidence. According to the law the burden of proof lies on the aggrieved to convince the court that indeed the said communication originates from the accused. Botswana Communication Regulatory Authority (BOCRA) will be responsible for authenticating communications.

This bill has the potential of discouraging people from contributing to live discussions on broadcast media, fearing the real possibility of being dragged before courts of law for alleged defamation, since the law allows for their recorded conversations to be used as evidence in courts.

FREEDOM OF INFORMATION

Access to information advocates use election as impetus to increase lobbying

MISA Botswana continued throughout

2014 to scale up freedom of information campaigns by encouraging government to hasten legislating freedom of information. Lobbying across the country focused on advising members of the public to demand aspiring members of parliament to support access to information initiatives in exchange for their votes.

As a result, many aspirants declared publicly during the Gabz FM parliamentary debates that they would support the bill if elected to parliament. The freedom of information campaign team will reach parliament end of February 2015 and the public will be waiting to gauge their newly elected legislators' trustworthiness.

At present, Botswana's government closely guards information. Journalists constantly report being made to wait unreasonable lengths of time or not receiving non-committal attitudes from government officers when posing questions to them regarding services within their custody – questions they should have no trouble answering and which are in the public interest and right to have answered.

Botswana 2014 violations & victories



3 April

Journalist Metlhaetsile Leepile wins long running defamation case against a Francistown High court Judge Justice Mpaphi Phumaphi.



30 June

High court orders Weekly broadsheet, *The Sunday Standard* not to publish verbatim extracts from interviews conducted by the Directorate on Corruption and Economic Crime (DCEC) with Director of Intelligence Services (DIS) Chief Mr Isaac Kgosi, until the case is heard on 14 July.



8 September

Sunday Standard editor arrested. Outsa Mokone arrested and detained on charges of "seditious intention." He was released on appeal the next day.



12 September

Sunday Standard senior reporter Edgar Tsimane fled Botswana to South Africa in fear of his safety after security agents harassed him for writing a series of stories about the government.

22 April

Botswana Parliament passes law allowing electronic communications to be used as evidence in court.



5 August

The Voice Newspaper Journalist Chenjelani Baraedi attacked by prison officer for taking photographs of a man accused of raping two women in Francistown.



5 August

Tuesday 5 August 2014. Dikgang Publishing Company (DPC) publishers of *Mmegi* and *Monitor* newspapers in court over defamation case filed by former managing Director of Botswana Development Corporation (BDC) Maria Nthebolan, regarding articles published between 2008 and 2011 about alleged corruption.



16 December

Botswana Government threatens to use advertising as a weapon against the private media.



Lesotho

State of media freedom in Southern Africa 2014

National Overview by MISA Lesotho



Lesotho's media freedom was on shaky ground in 2014 as the country suffered extreme political unrest, culminating with Prime Minister Thomas Thabane fleeing to South Africa at the end of August. He fled the capital, Maseru, just before Lesotho Defence Force soldiers, led by army commander Lieutenant-General Tlali Kamoli, attacked his official residence and military units surrounded government and police buildings.

In this environment we saw no progress towards much needed legal reforms to depoliticise state-owned media and prevent government censorship. Instead, Lesotho's state of media freedom seems to have backtracked nearly four decades, with increased polarisation of the broadcasting sector along political lines and Lesotho's one year old Broadcasting Dispute Resolution Panel proving to be crippled by a weak legal framework and lack of financial independence.

FREE EXPRESSION AND THE LAW

No progress on media law reforms

Against a backdrop of political instability and uncertainty, Lesotho's long awaited media reforms continued to stall in 2014.

The package of reforms are the result of almost one and a half decades of discussions between government and media professionals. They were almost passed in 2010 but instead, Cabinet referred them back to the Ministry of Communications.

The reforms would have depoliticised government-owned media outlets, re-

moved statutes allowing government censorship in the name of 'national security' and assisted in the decriminalisation of speech by moving many slander and libel cases out of the courts and into an arbitration system.

FREEDOM OF INFORMATION

Political unrest stalls access to information advocacy

Despite the Media Institute of Southern Africa Lesotho chapter's (MISA Lesotho) intensive lobbying and advocacy campaign to pass the Access and Receipt of Information Bill, Lesotho is still without any access to information (ATI) law. The Lesotho Law Reform Commission drafted the Bill in 2000 but it still remains to be approved by Parliament.

Supported by the Open Society Initiative in Southern Africa (OSISA), MISA Lesotho collected more than 10,000 signatures in 2014, on a petition to pass the ATI Bill into law. Sadly, the political unrest and worrying signs of instability in the government prevented us from submitting the petition to the Minister for Communication, Science and Technology, Selibe Mochoboroane.

Mochoboroane was fired but backed by his political party, which is one of three in the coalition government. He refused to vacate the office, placing a dark cloud over media legal reforms at the government and civil society levels and bringing to a halt recent strides made by access to information advocacy.

BROADCASTING

Broadcasting dispute resolution panel hampered by lack of resources

In July 2013, MISA Lesotho reported

Lesotho

the successful establishment of the Broadcasting Dispute Resolution Panel (BDRP), in accordance with the Communications Act of 2012. The BDRP was established to resolve disputes regarding broadcast content and develop a broadcasting code.

The Panel's importance cannot be over emphasised. The challenge, however, is that the panel depends on the Lesotho Communications Authority (LCA) for administrative and financial support. The BDRP has no office, administrative staff or basic resources like stationary and it clearly comes second to any of LCA's business.

Despite the lack of resources, one of the BDRP's achievements in 2014 was to draft a broadcasting code repealing the Broadcasting Rules of 2004. The draft is ready for submission to the communications Minister, but the instability within the government and confusion over the legality of the current Minister is presenting a challenge. As a result, the Panel continues to use the existing rules, which are criticised for being biased towards broadcasters in terms of dispute settlements.

Radio stations polarised along political lines

Lesotho's radio stations have traditionally been a valuable source of information for citizens and a vibrant forum for discussion and citizen participation through the phone-in facilities. However, with the political instability, which has been growing since late 2013, Lesotho's radio stations are no longer free.

Most radio stations, both government and privately owned, are controlled by politicians who use them as mouth pieces for advancing their political agendas. While the state owned television and ra-

dio are a battlefield for the three political parties in the coalition government, the privately owned are divided into congress and national ideologies. Even citizens who phone in to participate on programmes, know which radio station to say things that would be of interest to either the congress or nationals.

Radio presenters do not hide their political preferences, regularly expressing opinions and emotions about issues on which they should be maintaining neutrality and upholding professionalism and media ethics.

“Most radio stations, both government and privately owned, are controlled by politicians who use them as mouth pieces for advancing their political agendas.”

MISA Lesotho, with support from OSISA and the United Nations Development Programme Lesotho has been trying to address the situation. In December, 2014 we began implementing a training and education programme, Broadcasters' Capacity Building on Peace Building and Conflict Reporting. The project objective is to contribute the building of peace through conflict sensitive reporting.

MISA Lesotho's initiative is comple-

mentary to the LCA's efforts. Mostly, the activities consist of training heads of radio stations and political programme presenters. While these efforts are important there is a need for longer term solutions and training programmes for the media.

There was a small victory for media freedom in the broadcasting sector in 2014, when *Lesotho Television*, a state television broadcaster run under the Lesotho National Broadcasting Service, was allowed to briefly cover a High Court case.

Justice T'seliso Monaphathi permitted the television cameraman to take shots just minutes before he presided over a fraud case involving former Lesotho's minister of finance Timothy Thahane.

This development gives hope to the media since, according to the High Court Act 1978 the judge has powers to order everyone to clear the court if he finds it fit. Lesotho television stations have never before been allowed to cover court proceedings.

JOURNALIST SAFETY

Threats and physical attacks used to prevent journalists from doing their jobs

As in 2013, there were again this year examples of journalists being physically assaulted, threatened and unjustly detained in the course of doing their jobs.

On 17 July 2014, four unknown men attacked *Ts'eno FM*, a private radio station in Maseru. The men assaulted a presenter on duty named Mohau Toi and vandalized radio equipment worth over R100,000.000.

According to the radio station owner,

Mr. Mohau Kobile, the incident was politically motivated and he suspected the All Basotho Convention (ABC), a political party lead by the Prime Minister of Lesotho, since Kobile says Thabane is angry that *Ts'eno FM* presenters openly criticise him on air.



There is an unfortunate history of both government officials and private citizens in Lesotho responding to media criticism with punitive lawsuits.

Kobile said Prime Minister Thomas Thabane verbally attacked the radio station during two ABC political rallies in 2014 and threatened to have his son, Potlako Thabane, beat Kobile. Responding to Kobile's accusations, the Secretary General of the ABC, Samonyane Ntsekele, said his political party was not associated with any criminal actions and if they had anything against *Ts'eno FM* they would take legal action.

There is an unfortunate history of both government officials and private citizens in Lesotho responding to media criticism with punitive lawsuits. In the wake of the political unrest in August and June 2014 – an incident the Prime Minister described as an attempted military coup – two journalists were arrested over a story published in the *Lesotho Times* edition of 19-25 September. The

Lesotho

article alleged the Lesotho Mounted Police Service (LMPS) was planning to charge Lesotho Defence Force (LDF) Commander Lieutenant General Tlali Kamoli, Deputy Prime Minister Mothetjoa Metsing and several other high-ranking LDF, LMPS and government officials with high treason and murder after the attempted coup.

On Sunday 21 September, the *Lesotho Times* and *Sunday Express* Editor, Lloyd Mutungamiri and Senior Reporter, *Lekhetho Ntsukunyane*, were arrested. Police informed the pair they were being detained because of the story, 'Top officials face high treason charges' and would be charged with defamation under Penal Code of 2011, Section 104.

CENSORSHIP AND BANNING

Radio and televisions jammed during attempted 'coup'

On 30 August 2014, just after Prime Minister Thomas Thabane fled to South Africa, the Lesotho military reportedly took control of police headquarters and jammed radio, television and telephone signals.

Only one station, *Lesotho Catholic Radio FM*, was not jammed and all signals were back online by the middle of that same day.

Victory for media pluralism

In the midst of the declining state of media freedom witnessed throughout 2014, we were pleased to see the overturning of an interim interdict against a new newspaper, which had been granted earlier in the year.

On 5 March 2014, the Commercial Court in Maseru, Lesotho, interdicted the former *Lesotho Times* weekly news-

paper editors, Abel Chapatarango and Shakemen Muragi together with the former senior political reporter Caswel Tlali, from practicing as journalists and publishing a newspaper – *The Post*.

Basildon Peta, the Chief Executive Officer and Director of all the applicants, argued the three respondents formed a company called *The Post* (Pty) Ltd while they were still under his employ and had plotted to steal his employees and go into unlawful competition with his companies.

The 12 months interdict, which was applied from September 2013 and scheduled to end in August 2014, was sought by African Media Holdings (Pty) Ltd, *Lesotho Times* (Pty) Ltd and *Sunday Express* (Pty) Ltd.

The restraint also barred the three journalists and *The Post* (Pty) Ltd from carrying on the profession of journalism and publishing business in Lesotho for 36 months and twenty four months for Chapatarango and Mugari. The interdict further prevented them from carrying such a business within a radius of two hundred (200) kilometres from the offices of the African Media Holdings (Pty) Ltd which owns *Lesotho Times* and *Sunday Express*.

On 24 October 2014 the Court of Appeal of Lesotho set aside the decision of the lower court, The High Court of Lesotho.

The Post came into circulation in Lesotho in November, bringing the number of weekly newspapers in Lesotho to seven.

Lesotho 2014 violations & victories

25 March 



Commercial Court in Maseru, Lesotho interdicts former *Lesotho Times* weekly newspaper editors, Mr. Abel Chapatarango and Shakemen Muragi together with the former senior political reporter Caswel Tlali, from practicing as journalists and publishing a newspaper.

30 August 



Lesotho military took control of police headquarters and jammed radio and television stations during attempted coup.

23 September 



The Lesotho Times and *Sunday Express* Editor, Lloyd Mutungamiri and Senior Reporter, Lekhetho Ntsukunyane, were arrested on Sunday 21 September over a story published in the *Lesotho Times* edition of 19-25 September 2014.

14 November 



Lesotho Television, a State television broadcaster run under the Lesotho National Broadcasting Service, was allowed to broadcast brief coverage, for the first time, of a High Court case.

 **18 July**

Private radio station *Ts'enolo FM* attacked by four unknown men who assault a presenter on duty named Mohau Toi and vandalize radio equipment worth over ZAR 10,000.000.



 **8 September**

Sunday Standard editor arrested. Outsia Mokone arrested and detained on charges of "seditious intention." He was released on appeal the next day.



 **24 September**

The African Media Holdings (Pty) Ltd and its newspapers, the *Lesotho Times* and *Sunday Express*, have lost a court case in which their company got an interim interdict to prevent a new tabloid, *The Post*, from publishing.



State of media freedom in Southern Africa 2014

Malawi

National Overview by MISA Malawi



History will remember 2014 as a moment of great triumph for democracy and the Malawi media. The

country held its first ever Tripartite Elections, featuring the traditional conflict between the State, its opposition and the media. However, for this first time in the country's history, the Malawi Electoral Commission (MEC) included presidential debates in the electoral calendar. The debates were championed and coordinated by the Media Institute of Southern Africa's Malawi Chapter (MISA Malawi) with support from the Open Society Initiative for Southern Africa (OSISA) and provided an open platform for critical discussion on matters of public interest between presidential candidates and voters. The debates also ushered in an era of active citizen participation in the democratic process and cast the spotlight on issues rather than personalities.

The country witnessed another milestone with the adoption of the Access to Information Policy by cabinet on 27 January 2014.

Another landmark for the country's media and democracy generally was

a marked move by state media during the elections to programming based on public interest and professionalism rather than political whims. *Malawi Broadcasting Corporation* (MBC) has over the years gained a reputation for being a mouth-piece of the ruling party, with over 99 percent content in favour of the state. Much as MBC's content still favoured then incumbent Joyce Banda and her People's Party (PP), the broadcaster moved away from issuing pure propaganda for the ruling party to providing a platform for critical debate and dialogue on matters of national interest. MBC proved most critics wrong by broadcasting all the presidential debates live, despite incumbent Joyce Banda's refusal to participate in the debates.

On the policy front, the country witnessed another milestone with the adoption of the Access to Information (ATI) Policy by cabinet on 27 January 2014. Adoption of the ATI Policy closed a chapter that started in 2009 when government indicated the country could not move forward in enacting ATI legislation without an enabling policy on the same. The ATI Policy provides a framework for enacting and implementing the ATI Bill.

Although the country did not witness any new media outlet on the market, the sector continued to grow in strength by speaking with one voice on matters of national interest.

The media continued to comment on the country's worst looting of public funds, popularly known as 'cashgate', and the need to demonstrate political will in concluding the cases. The media also came out strongly on government and the MEC to provide people with information during the electoral impasse. The media proved to be instrumental and gained the confidence of the people as a source of critical information at a

Malawi

time when the nation was on the verge of chaos as the major political parties failed to agree on the outcome of the elections. The media, MBC and *Zodiak Broadcasting Station* (ZBS) – which were appointed by the MEC as official broadcasters of the elections – proved critical in updating Malawians on the outcome of the elections. The media also came out strongly in condemning attempts by the then incumbent Joyce Banda to annul the elections and saved as a platform for dialogue on controversial matters such as recount of the votes and extension of the voter tabulation period.

FREE EXPRESSION AND ELECTIONS

Government intimidation and threats toward ‘critical’ media workers lead to fear and self-censorship

Intimidation and threats worsened during the campaign period and PP functionaries branded those critical of the party’s policies and strategies as pro-opposition. As noted in the 2013 review, such statements spread fear and intimidated journalists, some of whom cowered into silence.

In the first and second quarters of 2014, the PP administration continued to castigate media workers and civil society leaders who were ‘critical’ of the Joyce Banda administration as enemies of the state.

MISA Malawi, for example, had information that reporters deemed critical of the administration were receiving calls from ‘high places’ cautioning them against writing unpatriotic stories about the Banda administration. In February 2014, then presidential press secretary Steven Nhlane is said to have warned *Malawi News Agency* (MANA) journalist Grace Kapatuka for commenting on

the controversial sale of a presidential Jet. Nhlane warned Kapatuka to resign as MANA reporter instead of ‘degrading’ President Banda. Kapatuka made her comments on a MISA Malawi google group discussion forum where journalists share experiences, views and opinions. MISA Malawi suspended Nhlane as a member of the google group after his action. Several senior journalists also reported receiving calls directly from the Head of State castigating them for criticising her administration and demanding they desist from writing negative stories about government.

Some media, however, appeared to be in the government’s good books and towed the government line. This turned the sector into a battleground of conflicting interests and ideologies. Politicians rushed to their favourite outlets and journalists for cheap publicity. Instead of lodging their complaints with relevant bodies and waiting for proper processes to be concluded, most political parties preferred to run to the media. In the end, the media became a complaints body, judge and battleground. Even the ruling PP resorted to the media, state and private, to complain about irregularities in the electoral process, fulfilling a known fact that people – including authorities, merely use the media as a means to an end rather than a partner and critical player in the development discourse.

A key area of concern over the years has been the nature and conduct of presidential press conferences, ‘which are usually party rallies rather than a platform for engagement between the media and the president.’ The first and second quarter of 2014 saw unabated continuation of the practice despite numerous efforts by MISA Malawi and other players for government to change. The new President Arthur Peter Mutharika has, however, brought in a marked

change and party supporters are no longer allowed to attend the press conferences. This has made the conferences less hostile. Mutharika has also created optimism in the sector with repeated pledges and commitment to media freedom and freedom of expression, including creating a favourable environment for journalists.

FREE EXPRESSION AND THE LAW

Un-constitutional anti-press laws continue to threaten media freedom

As stated in past reports on Malawi media, over a dozen archaic, anti-press laws still remain on the country's statute books – in sharp contradiction with the post-single-party Republican Constitution, which clearly provide for media freedom, freedom of expression and access to information. 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 past administrations have applied to silence critics. The Protected Flags, Emblems and Names Act still quotes a fine in Pound Sterling (1000 Pounds, about MK660, 000) and not Malawi kwacha, an element that supports the argument that this law is archaic and needs to be reviewed, 51 years after independence.

The Democratic Progressive Party (DPP) has promised to amend and/or repeal laws that limit freedom of expression, including signing the Declaration of Table Mountain, but such promises are not new and nothing might be done as was the case with Joyce Banda who promised the same immediately after assuming office in 2012. Though most of these laws appear harmless, their presence alone remains a cause for concern be-

cause they have a chilling effect on both journalists and civil society actors.

FREEDOM OF INFORMATION

Victory as cabinet adopts ATI policy

The campaign on Access to Information (ATI) triumphed with the adoption of an ATI Policy by cabinet in January 2014. The adoption of the policy signalled a new chapter in the ATI campaign and provides a framework for enacting and implementing an ATI regime. The policy also makes it imperative for government to adopt ATI legislation. Among other key priority areas, the policy provides for enactment of the ATI Bill, awareness campaigns on ATI, systematic records management and coordination in government departments and ministries.

Apart from the adoption of the policy, it is important to note the draft ATI Bill is now formally with the Ministry of Justice. This is a key development in the campaign and ought to be commended. Since the campaign started in 2003, no government department or ministry had come in the open to own the process and take responsibility. We now have direction and we are able to monitor progress.

It is important to also note that MISA Malawi made ATI a campaign issue during the 2014 Tripartite Elections and capitalised on the presidential debates to confirm commitments from the candidates to enact legislation on ATI once in power. The DPP actually committed in its manifesto to ensure Malawi has ATI legislation. Section 180 of the DPP manifesto reads: 'We recognize that access to information is a major challenge... In this regard, the DPP government will pass and implement the Access to Information bill.'

Malawi

It is on this basis that MISA Malawi believes the current administration is committed to promoting access to information. Whether the bill will be enacted as promised by the authorities, however, is a different story.

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. For example, factors such as an unresponsive or unwilling public sector and illiteracy combine to limit the citizenry from enjoying this right. With the policy in place, the Ministry of Information is on record as starting to implement some provisions of the policy, including encouraging government departments and ministries to recruit Information Officers and proactively disseminate information.

BROADCASTING

Sector growing, but operation costs continue to threaten community radio and sector diversity

The broadcasting sector has grown from a single radio outlet in the early 1990s to 78 to date, 26 of which are not yet operational. The growth in the sector has increased sources of information for the citizenry. Unfortunately, however, only few outlets have the financial means to sustain their operations, let alone roll out.

MISA Malawi secured funding from OSISA around September 2014 to support a community radio initiative in Nsanje district called *Nyanthepa*, which was granted a license in 2010 but has been failing to roll out due to financial constraints. The radio is now set to go on air in April, 2015.

Securing a broadcasting license is one thing but rolling out and sustaining operations, especially community, is another. The limited independent television outlets granted licenses in 2012 and 2013 are also struggling to roll out.

“The growth in the sector has increased sources of information for the citizenry. Unfortunately, however, only few outlets have the financial means to sustain their operations, let alone roll out.

Nonetheless, the growth in the sector is important as it demonstrates government's commitment and willingness to strengthen the broadcasting industry given the country's literacy levels and limited penetration and circulation of the print media.

A notable development in the broadcasting sector during the elections period was a marked move by state run MBC to programming based on public interest and professionalism. MBC has always supported the party in power with over 99 percent content in favour of the state. However, a media monitoring project during the 2014 elections

funded by DFID, USAID and Institute for War and Peace Reporting (IWPR), which MISA Malawi participated in noted, "... compared with the bias demonstrated by the state media towards the ruling party in 2009, this time round the bias was slightly less... a development that can only be welcomed.'

Much as MBC's content still favoured then incumbent Joyce Banda and her People's Party (PP), it was obvious to all the station had moved away from operating as pure propaganda machinery for the party in power to a platform for critical debate and dialogue on matters of national interest. To the surprise of many, MBC broadcast all the presidential debates live, despite the fact that incumbent Joyce Banda had refused to participate. MBC also featured the opposition and people critical of the PP, a development that probably led to the unceremonious dismissal of Director General Benson Tembo during the unofficial announcement of the results. A court injunction saved Tembo from the chopping board, but still demonstrated the need for speedy review of the Communications Act to ensure statutory independence of the public broadcaster.

Different governments have come and gone with promises that they would loosen government grip on MBC. The current administration has promised the same and we are yet to see what will happen. What is clear, however, is that at the time of writing this review the draft Communications Bill had been finalised by the Ministry of Justice and set for review in cabinet. The bill will most likely be tabled in Parliament in June alongside the E-Transactions Bill – which aims at regulating on-line content, and the Access to Information Bill. Our only hope is that the bill will not be changed to provide government leeway to continue interfering with MBC opera-

tions.

FREE EXPRESSION ONLINE

Malawi on track for digital migration, but are we ready for it?

With the deadline for digital migration approaching, government in February 2014 registered a company called Malawi Digital Broadcasting Network Limited to provide signal distribution services to all licensed broadcasters and hopes are high that the country will meet the June 17 deadline. Government officials are also optimistic that the country is on the right track, being among the top four in SADC – alongside Tanzania, Mauritius and Namibia, promising to meet the deadline. Media reports and random interviews, however, show that little has been done to sensitize people and broadcasters on digital migration and what it will mean for the country and its citizens come June 17.

PRINT MEDIA

Concerns over threats to Malawi's media plurality

The Malawi print media has shown little signs of growth when the broadcast sector is increasing in numbers, largely due to the costs associated with printing. The sector is also urban based with little penetration even in semi-urban and remote districts. It is important to note, however, that the print media remains the most direct and influential platform for decision makers. Most comments and complaints by those in power are based on newspaper reports and columns. This, to a large extent, shows that the print media is key in reaching out to the echelons of power.

One key development in the print media

Malawi

in the year under review is diversification. One of the print media publishing giants, Times Group, has ventured into television broadcasting and is set to also venture into radio. On a positive note, the move has created competition in the broadcast sector and might force state run *MBC TV* to be more professional and competitive. The move, however, is creating a media empire without much plurality across its spectra as the same people are responsible for creating all the content for the various platforms - *Daily Times*, *Malawi News*, *Sunday Times* and *Times Television*.

In all respects, as noted in past reviews, the print media has managed to establish itself as a true watchdog and continues to expose mismanagement of public resources and the need for change and it is fair to say that 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.

LOOKING TO 2015

The year ahead promises more gains for the media and democracy as a whole. Several key bills – ATI, Communications and the E-Transactions Bill, will likely be tabled in Parliament in 2015. The challenge is not only to ensure these bills go to Parliament, but that the final products adhere to international instruments and standards.

Malawi 2014 violations & victories



27 January ■

Government adopts Access to Information Policy.

■ **February**

Then presidential press secretary Steven Nhlane allegedly told *Malawi News Agency* journalist Grace Kapatuka she should resign after she commented on the controversial sale of a presidential Jet.



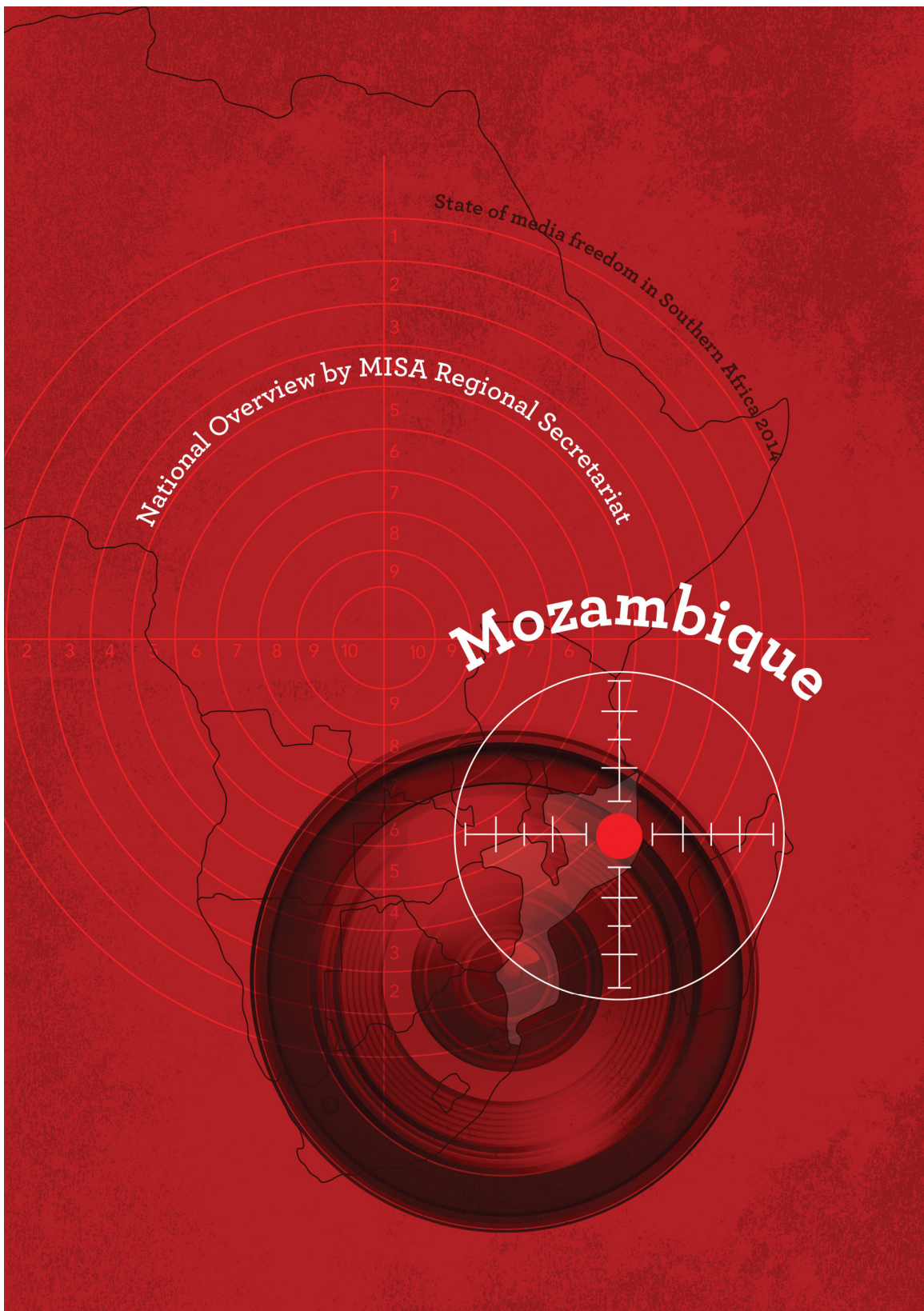
21 October ■

Journalist, Archibald Kasakula, arrested southern Malawi for allegedly taking pictures of an altercation between Blantyre City Council officials and vendors.

■ **21 October**

Journalist, Archibald Kasakula, beaten by police when they arrested him for allegedly taking pictures of an altercation between Blantyre City Council officials and vendors.





State of media freedom in Southern Africa 2014

National Overview by MISA Regional Secretariat

Mozambique

The year 2014 was one of change in Mozambique, as the national election saw the installation of a new president, Filipe Jacinto Nyusi. President Nyusi replaces Armando Emilio Guebuza, (both represent the Frelimo Party), whose two-year term had come to an end.

In this environment of change, we have seen greater opportunities for free expression opening up on social media and other online networks and an increase in citizen journalism in Mozambique.

Mozambique's traditional media environment, too, has been growing, with new players entering the print, radio and television markets. This market growth is encouraging for the expansion of free expression in the country.

Perhaps the most significant event for media freedom in Mozambique, and in the region, in 2014 was the passing of the Access to Information Bill, which came about in December.

FREE EXPRESSION AND THE LAW

Constitutional right to free expression limited by other restrictive laws

Freedom of expression, including press freedom, is guaranteed in Mozambique's revised 2004 Constitution, which explicitly protects journalists and grants them the right not to reveal their sources. Article 48(1) of the Constitution of the Republic states "all citizens have the right to freedom of expression, press freedom, and the right to information".

This is further supported by the Press Law of August, which states, "no citizen's employment can be harmed due to the legitimate exercise of his right to express his thoughts freely through the press".

However, despite the constitutional right to free expression and media freedom, other legislation inhibits the media. For example, a clause in the law on crimes against state security treats libel against the president, prime minister, and other senior political and judicial figures as a security offense.

The government has done little over the past few years to improve the media environment in Mozambique. This includes failing to encourage equitable distribution of government advertising across media outlets, considering government is the largest advertiser and the revenue it provides is fundamental to media sustainability in the country.

FREEDOM OF INFORMATION

Victory as parliament passes access to information Bill

On Wednesday, 26 November 2014 freedom of information and human rights activists around the globe and region celebrated the Mozambican Parliament's passing of an access to information (ATI) Bill. The Bill passed its first reading on 21 August and in November the Assembly of the Republic, during an extraordinary session, unanimously passed the second and final reading of the Bill.

This makes Mozambique the fourth southern African country to adopt an access to information law, joining the other 14 countries on the continent that have specifically passed a law guaranteeing the right to access to information.

Mozambique

Access to information is constitutionally protected in Mozambique, and the government has ratified five of the six African Union treaties recognising the right to access to information.

“Information is a powerful tool in empowering people in their interaction with both public and private institutions and [the ATI Bill] goes a long way in ensuring that goal is achieved.

The Bill, which will oblige public bodies and private bodies invested with public powers to release information upon request, has been on the policy agenda since 2005 when MISA Mozambique facilitated a media seminar that crafted the framework for a draft Bill. It seeks to create greater transparency and generate public participation in Mozambique, however it has also been the subject of some criticism with respect to whether it adequately enforces the right in all its dimensions.

The Bill imposes a duty on public and some private bodies to “make available information of public interest in their power, publishing it through legally permitted channels, which can make it increasingly accessible to citizens”. The only requirement on people requesting information is that they identify themselves; they will not need to explain

what they want to do with the information. Requested information must be provided within 21 days.

The passing of this Bill is an important step in the process of strengthening the democratic process in Mozambique. The Bill has weaknesses, in that it does not provide for an independent mechanism to oversee its implementation or to handle complaints from the public, but it is definitely a first step in the right direction. However, it is now important to focus on effectively implementing the law to bring into our system of governance the notion that public institutions should be accountable to the public.

Information is a powerful tool in empowering people in their interaction with both public and private institutions and this law goes a long way in ensuring that goal is achieved.

BROADCASTING

Mozambique lacks an Independent Regulatory Authority to ensure public broadcasting serves the people. The independence of public broadcasters are further hampered by a dependence on direct government funding, in the form of program contracts with the Ministry of Finance.

Public broadcasting organisations have come under increasing criticism due to their type of political coverage.

Both *Radio Mozambique* and *Mozambique Television* have been accused of promoting partial coverage that is biased towards the ruling part Frelimo and its government. For example, during the 2014 general elections the opposition Mozambique Democratic Movement (MDM) submitted a complain to the Higher Council of the Media, claiming that *Mozambique Television's* program-

ming was promoting debates that were clearly in favour of Frelimo and its presidential candidate, to the detriment of other political parties and their respective candidates.

FREE EXPRESSION ONLINE

Citizen charged with defamation over Facebook post

In May 2014, high profile economist, Carlos Nuno Castelo-Branco, was summoned to the Public Prosecutor's office in Maputo to answer questions about an open letter to President Armando Guebuza he wrote and posted on his Facebook page in 2013.

Castelo-Branco is facing charges for defamation against the Head of State, which constitutes a crime against the security of the state, in relation to the letter. He posted the letter to his Facebook page in November 2013 and in it he questioned President Guebuza's governance. The letter was picked up and re-published in some newspapers around the country.

The session in May was a preliminary hearing, in which the prosecutor asked Castel-Branco if he wrote the letter and whether he had sent it to the media. Castel-Branco's lawyer, Alice Mabota (chairperson of the Mozambican Human Rights League) argues Castel-Branco did not 'publish' the letter, but rather posted it on Facebook and that it is not Castel-Branco's responsibility if media picked it up from Facebook. Mabota says she is not aware of any law in Mozambique prohibiting citizens from discussing ideas with their friends on Facebook.

Citizen journalists take to web to report election irregularities

The media has traditionally had an im-

portant role to play in exposing corruption in Mozambique, so it is perhaps not surprising that with the uptake of social media and mobile technology this role is now also being taken up by citizen journalists.

In October 2014, Mozambique held its presidential election, the first in which ruling party Frelimo could be said to be facing a real political challenge since the country's independence from Portugal in 1975.

During the year, the Centre for Public Integrity in Maputo harnessed the power of online and social media, coordinating a small army of citizen reporters to bring to light irregularities in election campaigns and activities across the country. Citizens used email and social media to send photos and news updates to the CIP to publish on their website and in their online newsletter, from which the stories were picked up by the media and reported on. The CIP team would carefully check the information before publishing it, to ensure the journalistic integrity of the project.

The project demonstrates the importance of online channels in Mozambique's media environment and the rise of citizen journalism in the country.

Digital migration behind schedule

Mozambique's migration from analog to digital is behind schedule and there is a lack of public information about how the government plans to put the country back on track to meet the deadlines set by the International Telecommunication Union (ITU). There are also concerns over how costs will affect access for most citizens.

Even with pressure being brought to bear by civil society organisations, de-

Mozambique

manding to know what were the government plans in relation to this issue, information is still lacking.

The government admitted in December 2014 that the migration process was delayed, and that under such circumstances Mozambique would not be able to meet the ITU deadline. The solution, therefore, was to enter into agreements with neighbouring countries so that there would be no interference along the border districts.

This delay is mainly the result of the government of Mozambique not having been able to secure the necessary funding from China, which is partnering with the government of Mozambique for the implementation of the digitalisation process. In addition to that, there seem to be no specific plans or policies to ensure the involvement of the private sector, which has systematically been complaining of being excluded in the process.

There have also been delays in the setting up of the regulatory framework regarding licencing and contents provision, which would ensure protection from piracy and violation of the rights of individuals to their dignity, that would result from an increase in the number of players in the broadcasting industry.

Mozambique 2014 violations & victories



26 November 

Mozambican Parliament unanimously passed final reading of access to information (ATI) Bill.



May 

High profile economist, Carlos Nuno Castelo-Branco, charged with defamation over an open letter to President Armando Guebuza he wrote and posted on his Facebook page in 2013.

State of media freedom in Southern Africa 2014

South Africa

National Overview by MISA Regional Secretariat

In 2014, media freedom in South Africa was off to a disturbing start, with reports in late January that police shot dead 62-year-old freelance journalist, photographer and community activist, Michael Tsele, during a service delivery protest in Mothutlung in the North West of the country.

This incident launched a year marked by increased assaults, intimidation and harassment towards media workers, in particular photographers.

Deputy President Cyril Ramaphosa offered hope for the government's attitude toward media freedom when he spoke at the South African National Editors' Forum (SANEF) annual Nat Nakasa awards ceremony in June 2014. He said it was necessary for the media to hold government accountable by challenging it and being critical, but stated it was important to be balanced and also tell the good stories.

In general, however, 2014 lay witness to a disturbing increase in anti-media messages from the South African ruling party. When the results of the national election were announced, for example, Malusi Gigaba, head of ANC election campaigns told journalists at a press conference on 11 May, "you campaigned hard against the ANC and we beat you. We defeated you."

FREE EXPRESSION AND THE LAW

Overtured defamation conviction is individual victory but long term set-back for free expression

In December 2014, journalist Cecil Motsepe won his appeal in the Pretoria High Court in South Africa, against the criminal defamation conviction handed

down to him in June 2013. The conviction related to an article Motsepe, then a reporter for the daily newspaper Sowetan, wrote in 2009 investigating alleged racist judgments of a South African magistrate.

[The shooting of freelance journalist and photographer, Michael Tsele] launched a year marked by increased assaults, intimidation and harassment towards media workers, in particular photographers.

The overturned conviction was a victory for Motsepe. However, the Media Institute of Southern Africa (MISA) is deeply concerned because the court also ruled defamation as a crime for journalists is in line with South Africa's constitution – a ruling described by the Freedom of Expression Institute as clearly inconsistent with the regional and international trend away from criminal defamation.

"Spy Act", "Secrecy Bill" and National Key Points Act too broad and vulnerable to abuse

Some of the other key laws negatively impacting on access to information and

South Africa

media freedom in South Africa in 2014 include the Protection of State Information Bill (dubbed the “Secrecy Bill”), National Key Points Act and the General Intelligence Laws Amendment Bill (known as the “Spy Bill”).

“... [the “Secrecy Bill’s”] offences and penalties do not sufficiently take into account the fact that in a democratic society, information should be disclosed if it is in the public interest.

The controversial “Secrecy Bill”, which we also reported on in 2013, was not signed into law in 2014. Some civil society concerns were incorporated into the revised Bill, adopted by the National Assembly on 12 November 2013, but it still poses a serious threat to media freedom in South Africa, with each of the “Secrecy Bill” offences carrying a possible or mandatory prison term.

If enacted, it is feared this law would be open to broad interpretation and abuse due to vague and ambiguous language regarding: the definition of “national security matters”; how information is possessed and communicated, for example stating that a person ought to reasonably know whether or not information would benefit a state and therefore affect na-

tional security; and the lack of distinction between public servants, the media and the public when it comes to applying offenses or penalties.

In addition, the Bill’s offences and penalties do not sufficiently take into account the fact that in a democratic society, information should be disclosed if it is in the public interest. A public interest defence clause, therefore, must be included in the Bill to increase the media’s ability to combat corruption. The government must therefore send this bill to the Constitutional Court for ratification before signing it into law.

The General Intelligence Laws Amendment Bill – or the “Spy Bill” – is also yet to be passed. This Bill echoes a global trend of governments increasing monitoring in the name of national security. In its current form, the Bill does not contain the necessary checks and balances to prevent the government from spying on citizens, including journalists.

The National Key Points Act is an apartheid-era law that prevents publishing security arrangements at strategic installation points called “national key points.” For example, key points, which are described as places deemed by the Minister of Defence to be so important that their loss, damage, disruption or immobilisation may prejudice the Republic, may include banks, munitions industries and water, air and electricity industries. However, we say “may include” because the government has refused to release a list of national key points. Therefore, this Act allows the government to declare any building a key point and on this basis, to refuse access to information about that building.

When spending details on the claimed “security upgrades” for President Zuma’s Nkandla lodge were requested in

November 2012, for example, the Public Works Ministry declared Nkandla a national key point and said that prevented them from releasing any figures.

JOURNALIST SAFETY

Increase in police threatening and assaulting journalists

As in 2013, we are saddened to report that 2014 was another year marked by police brutality against journalists in South Africa. Photographers, in particular, suffered unfairly at the hands of the authorities in 2014 with many incidents recorded of photo-journalists being targeted while covering demonstrations – the most shocking case resulting in death.

On 13 January 2014, police shot dead freelance journalist, Michael Tsele, in the North West Province where he was covering a local protest against the community's lack of water and sanitation services.

Bystanders said Tshele was photographing broken water pipes (the reason for the water stoppage in the township) when he was shot. An eyewitness told the Sunday newspaper, *City Press*, Tshele did not have any weapon in his hands, saying "the only threat he posed was that his camera was recording evidence of what the police were doing."

The official investigation into the shooting concluded Tshele was likely to have been caught in the crossfire between protestors and police. While community members say they witnessed Tshele being shot by a police officer because he had a camera and was taking photographs.

“Photographers, in particular, suffered unfairly at the hands of the authorities in 2014 with many incidents recorded of photo-journalists being targeted while covering demonstrations – the most shocking case resulting in death.”

Just days after the shooting, on 18 January, the *Daily Sun* claimed police assaulted one of their journalists, Ricky Dire, after he photographed the police allegedly accepting a bribe from Chinese shop owners in Rustenburg, in the North West.

The *Daily Sun* reported that police insulted and assaulted Dire, confiscated his cellphone and deleted the pictures from his camera. Police threatened to detain Dire over the weekend, but the lawyers for the *Daily Sun* secured his release after five hours.

Private citizens and groups lash out at media workers

The above outlines some of the disturbing cases and allegations of police obstructing journalists while carrying out

South Africa

their duties in 2014. However, private citizens, too, perpetrated threats and physical attacks against media workers.

For example, in December Ms Thandeka Nene – a building contractor who was out on bail after being arrested for corruption and fraud in relation to her work on President Jacob Zuma's Nkandla homestead – allegedly assaulted a Sunday Tribune journalist, Sandile Ngidi.

Nene's mother had been stabbed to death by intruders so Sunday Tribune journalists went to Nene's home to cover the story. Nene allegedly attacked the reporters, leaving Ngidi bleeding and needing several stitches.

Nene certainly had the right to ask the reporters to leave, but it was not lawful to attack the journalists. This was unjust and a grave violation of media workers' rights to be able to do their jobs without fear or threat of violence.

In another incident, alleged community leaders kidnapped *Daily Sun* staff during a protest about the building and demolition of shacks in Malemaville, an area just outside Pretoria.

The journalists were held against their will and one said his clothing was torn. He was slapped and hit with a beer bottle on the knee. The perpetrators allegedly threatened to necklace the journalists to gain more media attention. They also confiscated the journalists' equipment and when they returned it later the camera was damaged.

Photographers prime target of assaults and threats in 2014

On 25 April 2014, a member of President Zuma's VIP Protection Unit demanded that eNCA reporter Nikolaus Bauer delete photos he had taken at an

election rally in Duduza. When he refused, the guard forcibly took the phone from Bauer's hands and deleted the images. Other journalist at the scene photographed the guard deleting the photos.

Bauer said another bodyguard who asked him to delete the photos said if he did not, it would result, "in us giving you hell."

In another incident, police detained freelancer Sandiso Phaliso in early February while covering a story for the *Daily Sun* on a vigilante attack in Phillipi.

Phaliso photographed police officers taking pictures on their mobile phones of a badly injured victim and discussing how they would post the pictures on Facebook. When the officers saw him, they locked him in the back of a police van and insisted he delete his photographs. He was kept at the Nyanga police station for two hours, before being released.

In an attempt to address such incidents, the South African National Editors Forum (SANEF) requested a meeting with the National Police Commissioner, General Riah Phiyega and the two bodies decided to establish a high level committee of senior SAPS and SANEF members to improve police-media relations and facilitate training for police officers and journalists to help them understand their complementary roles in serving the public interest. By April 10 2015 the committee had not been set up.

CENSORSHIP AND BANNING

Parliamentary debates censored by cutting broadcasting feeds

There were several incidents throughout the year of interference with the audio and visual news feeds from Parliament,

usually during moments of chaos or particularly heated debate in the National Assembly.

In some cases the visual feed was cut and in others different camera angles chosen to focus on the Speaker and prevent viewers from seeing the actual proceedings in the chamber.

BROADCASTING

Proposal to licence journalists at odds with media freedom in a democratic South Africa

During the annual Radio Days conference at Witwatersrand University on 3 July 2014, SABC acting chief operations officer Hlaudi Motsoeneng proposed journalists should be required to register for a licence to practice, in the same way doctors and lawyers do. Journalists who act unprofessionally, can then be stripped of their licences.

The South African National Editors' Forum roundly condemned the proposal pointing out that it would clearly impact negatively on media freedom in South Africa. It is clearly at odds with media freedom and democracy and signals a move towards that adopted in many dictatorships and authoritarian countries, where journalists are forced to register and obtain licences to work so governments have more control over how news is gathered and published.

The media has already established regulatory mechanisms, including an ombudsman and a retired High Court judge (as the head of the Press Council's Appeal panel) to deal with journalistic practice that breaches the professional code of conduct.

New communications ministry causes concern

When President Zuma won his second term as president and announced his new cabinet on 25 May 2014, he also announced the new Ministry of Communications.

It is concerning that the public broadcaster is grouped with organisations whose mandate is to positively promote South Africa and further the South Africa "brand".

He split the previous Department of Communications in two: the Ministry of Telecommunications and Postal Services responsible for the technology industry and the post office; and the Ministry of Communications responsible for "overarching communication policy and strategy, information dissemination and publicity as well as the branding of the country abroad."

The new communications ministry will oversee the South African Broadcasting Corporation (SABC); the broadcasting and telecommunications regulator, the Independent Communications Authority of South Africa (ICASA); the Media Development and Diversity Agency

South Africa

(MDDA) which funds community media; the Film and Publications Board; and Brand South Africa and the Government Communications and Information System (GCIS)--both of which administer public relations.

“The media have a key role to play in ensuring fair and transparent elections with informed voters. They act as a watchdog, ensuring greater transparency and accountability during the election process, providing citizens with information on their candidates, party policies and the elections process, enabling them to make informed decisions when they cast their votes or engage in public debate.

It is concerning that the public broadcaster is grouped with organisations whose mandate is to positively promote South Africa and further the South Africa “brand”. This raises serious concerns about the independence of institutions such as the SABC and ICASA and whether the broadcaster will be used for propaganda rather than news.

ELECTIONS AND THE MEDIA

SABC provides predominantly positive election coverage to ruling party

On 11 May 2014, the results of South Africa’s fifth democratic election since 1994 were announced – confirming a second term for President Jacob Zuma.

In South Africa, despite a diversified media environment, the costs of accessing this media – internet access, satellite television contracts, buying printed publications – means the majority of the population rely on the public television and radio stations for news and information. And in recent years South Africa’s public broadcaster, SABC, has increasingly proven to be hampered by self-censorship and board loyalties to the ruling party.

During the election, South African newspaper CityPress reported that SABC management ordered senior SABC news executives not to broadcast footage of the crowds attending opposition election rallies. And, SABC board chairperson Ellen Tshabalala reportedly told news staff the National Intelligence Agency (NIA) was monitoring their mobile phones.

The media have a key role to play in ensuring fair and transparent elections with informed voters. They act as a watchdog, ensuring greater transpar-

ency and accountability during the election process, providing citizens with information on their candidates, party policies and the elections process, enabling them to make informed decisions when they cast their votes or engage in public debate. The media also have a responsibility to produce accurate, professional and impartial reports.

FREE EXPRESSION ONLINE

Government striving for significant improvements to internet accessibility by 2020

Online self-censorship is generally low in South Africa, with limited fear around expressing oneself online.

Those who can afford internet access can gain exposure to a variety of viewpoints and information sources and there is so far little evidence to suggest the government actively tries to hamper or control discussions in this space. However, access is limited by the fact that while there is English and Afrikaans content online, South Africa's other official languages are under-represented, even on government websites.

In an effort to improve accessibility, the Department of Communications implemented a new broadband policy in December 2013 –South Africa Connect – striving to ensure every citizen can access a broadband connection for 2.5 percent or less of the average monthly income by 2020.

Adding to these efforts, the Gauteng provincial government has ramped up plans for its Gauteng Broadband Network, awarding a ZAR 1.5 billion tender in February 2014 to provide 95% of the province's population with free broadband access by 2019.

“Secrecy Bill” threatens free expression online

The “Secrecy Bill”, explained above, also threatens to criminalize the possession and distribution of state information online. Citizens who intentionally access leaked information, including information online, could be held criminally liable and face up to 10 years in prison.

The General Intelligence Laws Amendment Bill (“Spy Bill”) also threatens freedom of expression online as it grants governments expanded surveillance powers. This is especially worrying given the South African Government has made an increasing number of requests for user data from Google and Facebook in recent years.

South Africa 2014 violations & victories

13 January 



Freelance journalist, Michael Tsele, shot dead by police while covering a local protest against lack of water and sanitation services.

 **18 January**

Daily Sun journalist Ricky Dire assaulted by police after he photographed police allegedly accepting a bribe from Chinese shop owners.



10 February 



Freelance journalist Sandiso Phaliso detained in Cape Town after photographing police officers at the scene of a vigilante attack. He was arrested and forced to delete his photos.

 **26 February**

Media photographers banned from Eminem concert in Cape Town, just days before the event, even though they have obtained accreditation.



25 April 



eNCA journalist, Nikolaus Bauer, assaulted and threatened by a police officer guarding President Jacob Zuma during his election campaign. The bodyguard grabbed Bauer's cellphone camera and deleted pictures.

 **May**

During the election, SABC management ordered senior SABC news executives not to broadcast footage of the crowds attending opposition election rallies.





May

During the election, *SABC* board chairperson Ellen Tshabalala reportedly told news staff the National Intelligence Agency (NIA) was monitoring their mobile phones.



15 November

Two *Sunday Times* reporters detained by prison authorities at Durban Westville in KwaZulu-Natal while attempting to interview a prisoner during visiting hours.



5 December

Pretoria High Court upheld journalist Cecil Motsepe's appeal against a conviction of criminal defamation.



December

Daily Sun staff kidnapped by alleged community leaders outside Pretoria during a protest around the building and demolition of shacks in the area.

3 July

SABC acting chief operations officer Hlaudi Motsoeneng proposes licensing for journalists



14 November

Continued interference with audio and visual feeds from Parliament during moments of chaos in the National Assembly. Several incidents of the feed being cut of camera angles changed when scuffles or arguments break out.



5 December

In Cecil Motsepe's appeal against his criminal defamation conviction, the court ruled that the crime of defamation for journalists falls in line with South Africa's constitution.



December

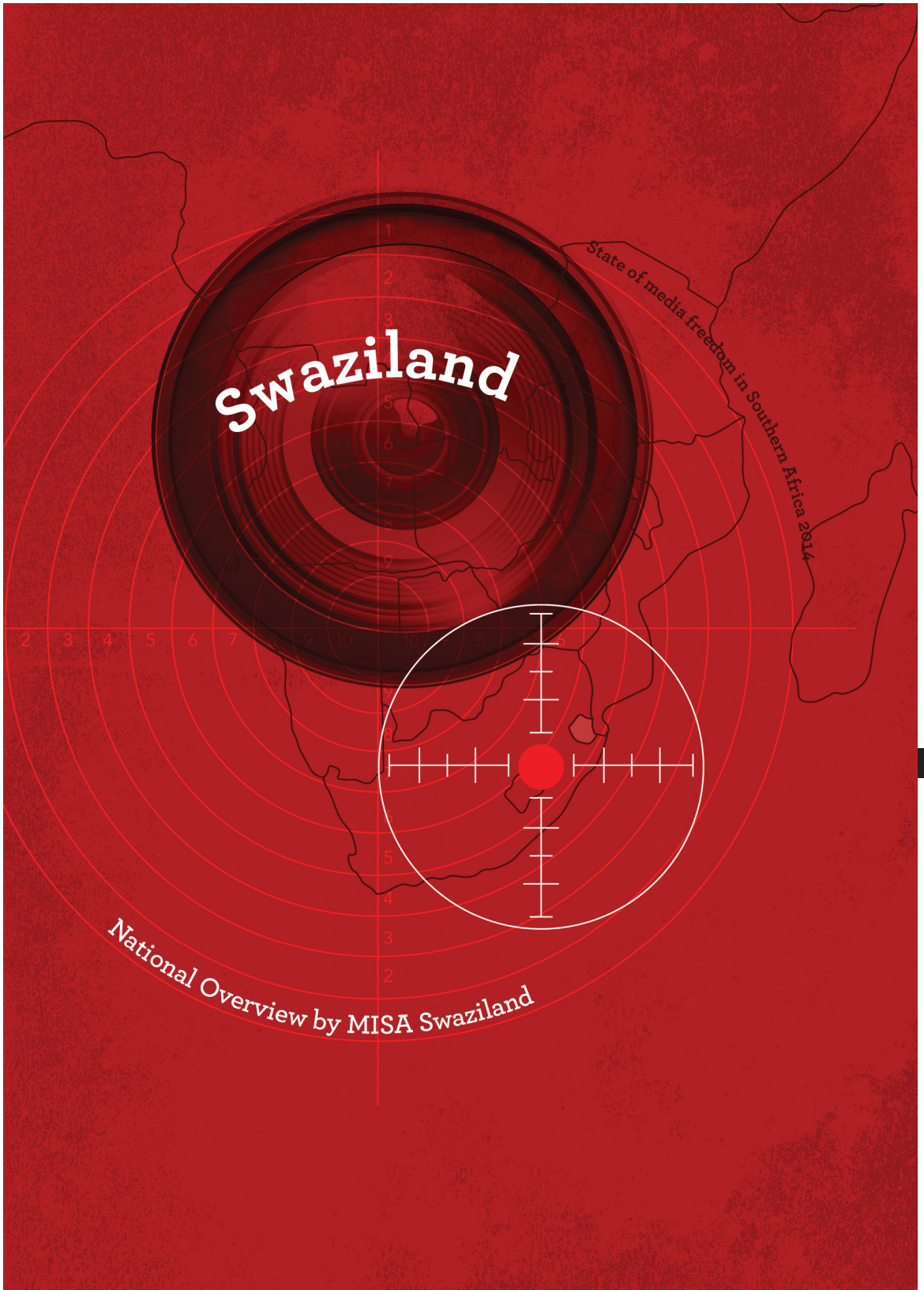
Sunday Tribune journalist, Sandile Ngidi allegedly assaulted by Ms Thandeka Nene (involved in building of President Jacob Zuma's Nkandla homestead) and another person. Ngidi was at Nene's home covering the story of her mother's death by stabbing.



Swaziland

State of media freedom in Southern Africa 2014

National Overview by MISA Swaziland



Never before has media freedom in the Swazi Kingdom been under such severe attack than as it was in 2014 and continues to be as this report goes to print. Throughout the year, Swaziland was the subject of free expression conversations around the world for all the wrong reasons as we witnessed shocking incidents of the government attempting to control and coerce the media and using legislation to deny Swazi citizens their constitutional right to free expression.

In a panel discussion hosted by MISA in May 2014 to evaluate media freedom in Swaziland, it was clear journalists and citizens in general do not feel free to express themselves, with panel members – experts from Swazi media and civil society – saying, “spaces are shrinking for free expression.”¹

FREE EXPRESSION AND THE LAW

‘Contempt of court’ represents shocking setback for free expression in southern Africa

The stand-out incident for the Swazi media fraternity in 2014 and one of the most shocking setbacks for free expression in the region that year, was the arrest and sentencing of Bheki Makhubu and Thulani Maseko, editor and columnist respectively of the independent Swazi news magazine, *The Nation*.

Barely three months into the year,

¹ Swaziland African Media Barometer Report, MISA and Fesmedia Africa 2014

Makhubu and Maseko, a human rights lawyer in Swaziland, were arrested and detained on the instructions of Chief Justice Michael Ramodibedi. The arrest came after they wrote and published two articles in *The Nation*’s February and March 2014 editions, criticising Ramodibedi for denying a suspect legal representation and calling on the judiciary to uphold freedom of expression and the rule of law.

[In 2014] Swaziland was the subject of free expression conversations around the world for all the wrong reasons as we witnessed shocking incidents of the government attempting to control and coerce the media and using legislation to deny Swazi citizens their constitutional right to free expression.

Instead of serving Maseko and Makhubu with court papers, Chief Justice Ramodibedi hauled the editor and columnist

Swaziland

into his chambers and charged them both with contempt of court. On 17 March, police picked up Maseko from his law firm and raided Makhubu's home and that of his parents. Makhubu was not at either residence, so he surrendered himself the next day.

In their defence, Makhubu and Maseko invoked Section 24 of Swaziland's Constitution, which guarantees "a right of freedom of expression and opinion" and states, "A person shall not, except with the free consent of that person, be hindered in the enjoyment of the freedom of expression, which includes the freedom of the press and other media..."²

Subsequent clauses of the constitution, however, restrict this right, stating it should be balanced with a consideration of what is "reasonably required in the interests of defence, public safety, public order, public morality or public health."³ Therefore, freedom of expression in Swaziland is not absolute and the Constitution is worded so broadly it is difficult to define, for example, what measure of public morality is being violated.

Pansy Tlakulu, the United Nations' Special Rapporteur on Freedom of Expression and Access to Information and Commissioner of the African Commission for Human and People's Rights (ACHPR) embarked on a fact-finding mission in Swaziland in 2014. During her visit she met the families of the incarcerated editor and columnist. However, Commissioner Tlakula was not able to visit Makhubu and Maseko as prison authorities at the Big Bend Correctional Centre refused her entry.

The arrest and trial were marked by injustices including: a clear conflict of interest, since the presiding judge was named in one of the articles; the original arrests occurred under defective warrants; the pair were denied access to their lawyers; and the summary proceedings were conducted behind closed doors.

Ultimately, the presiding Judge, Mpendulo Simelane, found Makhubu and Maseko guilty as charged and his judgement and sentencing on 17 July 2014 sent shockwaves amongst Swaziland's media fraternity and free expression activists around the world. Simelane levied a hefty fine of US\$10,000 on both the Swaziland Independent Publishers and *The Nation* - fining both a publisher and publication was previously unheard of in the jurisdiction. And, he went on to convict Makhubu and Maseko to two years in jail without an option of a fine.

This came in the wake of the May 2014 Supreme Appeal Court sitting, where the judges set precedent in another case involving Makhubu and the Swaziland Independent Publishers. Both were charged on two counts of contempt of court for two articles in *The Nation*, one published in November 2009 (count one) and one published in February 2010 (count two). The appeal judges overturned the conviction for count one, saying *The Nation* was asserting its constitutional right to freedom of expression. On the second count, they reduced Makhubu's harsh sentence of two-years in jail to a fully suspended sentence of three months and reduced the US\$20,000 fine against the publisher to US\$3,000.

While the judge reduced the severity of the sentence, the court's devastating attitude toward media freedom was clear. In his ruling, Judge Simelane said, "press

² *The Constitution of the Kingdom of Swaziland Act, 2005* section 24, sub section 2

³ *The Constitution of the Kingdom of Swaziland Act, 2005* s24 ss (3) p (a).



Editor of *The Nation* Bheki Makhubu and human rights lawyer Thulani Maseko sentenced to two years in prison, without the option of a fine for separate news articles each wrote criticising the kingdom's chief justice, published in the independent news magazine, *The Nation*.

Photo: MISA Swaziland

freedom is not absolute" in Swaziland, but rather it is conditional on and subservient to the rights of others (in this case, the judge who was attacked) and the public interest.

The media fraternity was still reeling from the harsh sentence handed down to Makhubu and Maseko when, on 3 December 2014, appeal judges continued Swaziland's clampdown on free expression and upheld a controversial US\$55,000 defamation claim against the country's only privately-owned newspaper, *Times of Swaziland* (*The Times*). The claim was lodged by Swaziland Senate President, Gelane Zwane, who sued *The Times* over an article raising questions about Simelane-Zwane's birth name and the subsequent legitimacy of her chieftaincy of KoNtshingila. This is reportedly the highest defamation claim to be awarded by any court within

the member states of the Southern African Development Community (SADC). And in their ruling, the judges emphasised Simelane-Zwane's high-status in Swazi politics and society, suggesting the more powerful one is the higher their win should be.

The Times was also involved in a case earlier in the year, when former Deputy Prime Minister, Themba Masuku sued them for defamation over an article alleging Masuku used government money to fund his wife's trip to the United States. The case was withdrawn in March 2014 when the Times agreed to pay an out-of-court settlement of US\$20 000.

Even *The Swazi Observer* (*The Observer*) – owned by King Mswati's personal investment arm, Tibiyo taka Ngwane – drew the ire of the Chief Justice by publishing stories exposing injustices.

Swaziland

In April, Ramodibedi summoned *The Observer's* Managing Editor, Mbongeni Mbingo, to his chambers and threatened him with arrest and detention.

According to Mbingo, the Chief Justice warned him to stop the “negative reporting” on the Makhubu and Maseko case, or else Ramodibedi would put him behind bars like Makhubu. Furthermore, the Swaziland Judicial Service Commission (JSC), of which Ramodibedi is the chair, issued a statement to staff of *The Observer*, threatening to imprison them if they continued their wide coverage of the Makhubu and Maseko contempt of court case. The JSC ordered *The Observer's* staff to stop reporting on the case and to stop drawing comparisons between the Swazi and US legal systems.

A further disappointment in 2014 was the failure of United Nations (UN) agencies to condemn Swaziland's human rights violations. The UN Educational Scientific and Cultural Organisation (UNESCO) Commission to Swaziland office did not even attend Swaziland's 2014 World Press Freedom Day, which was commemorated by MISA Swaziland, the Swaziland Editors' Forum, Swaziland National Association of Journalists, Swaziland Press Club, Swaziland Community Radio Network and Media Workers Union of Swaziland.

JOURNALIST SAFETY

Fear of imprisonment and physical assault looms over Swazi journalists

The environment for media workers in Swaziland in 2014 was one of fear, not only for their freedom – with the threat of imprisonment looming for those who speak out against the government and King – but fear for their physical safety, with examples of journalists being as-

saulted and harassed in the line of their work.

For example, in 2014, Mbabane Swallows Football Club director Victor Gamedze assaulted reporter for *The Observer*, Baphelele Kunene, in front of the paper's managing editor. Kunene reported the assault to the police, but they took no action against Gamedze. Even the weekly tabloid, *Swazi Mirror*, which broke the story, was affected – its copies did not reach the newsstands that week.

CENSORSHIP AND BANNING

Restrictive environment breeds self-censorship

Swaziland's restrictive media environment leads to self-censorship amongst both private and state media. There is an unspoken mandate not to criticise the royal family and media workers feel, “if a politician makes reckless statements, the politician will always make it the journalist's problem.”⁴

In May 2014, for example, *The Times* factually reported that the Principal Secretary of the Ministry of Finance, Khabonina Mabuza, told the Public Accounts Committee E208 million was missing from state coffers. Mabuza said only E5m of the Finance Ministry's recorded E213m over-expenditure was accounted for. Mabuza told the committee she did not want to elaborate because the issue touched on labadzala (the Swazi authorities).

The government ordered *The Times* to retract the story, claiming the report was incorrect, despite the fact that the Principal Secretary's statements were on record. *Radio Swaziland* reporter, Thandiswa Ginindza, was banned from

4 Swaziland African Media Barometer Report, MISA and Fesmedia Africa 2014

air after interviewing Manzini North Member of Parliament, Jan Sithole. This interview was of public interest because it concerned the loss of the Africa Growth Opportunity Act (AGOA).

If a politician makes reckless statements, the politician will always make it the journalist's problem.

Swaziland Television Broadcasting Corporation (STBC) Chief Executive Officer, Bongani Austin Dlamini suspended three media practitioners from the state owned television station. Editor-in-chief Nathi Mabusela, reporters Zodwa Dlamini and Mbongwa Dube were suspended for turning up late to an assignment where the ICT Minister Dumisa Ndlangamandla was representing the Deputy Prime Minister.

FREEDOM OF INFORMATION

Efforts to pass Freedom Information Bill stalled

Swaziland does not have legislation guaranteeing access to public information and both ordinary members of the public and journalists find it very difficult to obtain such information.

The Freedom of Information and Protection of Privacy Bill of 2007 is still in draft form and efforts to pass it into legislation have stalled. The current draft of the Bill is not ideal and features a number of impediments to accessing to public

information, such as high costs.

State officials routinely use clawbacks like those found in the Constitution's Section 24 (3) – including defence, public safety or public order – to stop journalists and others from accessing information.

For example, when the brother of a youth committee leader in Swaziland was allegedly shot by game rangers in early 2014, police refused to allow the family access to the post-mortem report. The youth committee leader and his family made verbal and written requests for the information, but the police clearly stated they will not release the information because it belongs to the state.⁵

BROADCASTING

Members of parliament banned from communicating on state radio

Since 2013, Prime Minister Barnabas Sibusiso Dlamini has banned members of parliament from using the state radio station, which has the broadest reach of all the stations in the country, to communicate with their constituencies. Cabinet ministers, however, are allowed to use the radio station at any time.

FREE EXPRESSION ONLINE

Internet a relatively safe platform for expression in Swaziland

The 2010 Electronic Communications Act allows the state to access and moni-

⁵ Case study recorded during an October 2014 workshop in Swaziland, held by MISA Regional Secretariat and MISA Swaziland. The case study is documented in the report of the workshop and the MISA Swaziland Access to Information Advocacy Strategy.



“In silencing the media the judiciary is ultimately harming the prospects of the nation.

Without open and unfettered debate, progress will only benefit the fortunate few at the top.



tor citizens' electronic communications "to gather intelligence for reasons of public order and national security". However, media workers in Swaziland say the state is still relatively ignorant when it comes to new media and has not yet 'caught up' with regulating it. Until they do, Swazi media and civil society experts say this space is a relatively free and safe platform for expression in Swaziland.⁶

The army and National Security Agency, however, control and monitor the internet gateway to the country. 'Anti-government' photographs and web pages have allegedly been removed from time to time and army intelligence officials have been known to warn high profile, vocal citizens like union leaders and activists, not to send "unsavoury" content via e-mails. Another restriction to accessing information via the internet is the cost of connectivity, with both broadband and mobile data costs being too expensive for most citizens.

Digital migration project launched

In May 2014, the ICT Ministry launched the Swaziland digital migration project, in accordance with the dictates of the International Telecommunication Union (ITU), which states broadcasting must migrate from analogue to digital in June 2015. Under the ICT Ministry, the Information and Media Development Directorate and Swazi Television Authority ran nationwide campaigns to create awareness about transition from analogue to digital. The ICT Ministry also held a number of stakeholder consultative meetings with stakeholders and members of the public to deliberate on ways of handling the issues of spectrum

allocation in the country.

LOOKING TO 2015

The criminalisation of freedom of expression had a chilling effect on Swaziland's citizens and media practitioners in 2014. The conviction of editor Bheki Makhubu and human rights lawyer Thulani Maseko instilled fear in media practitioners, development partners and citizens, resulting in self-censorship as those who disagree with the government are gripped with fear at the thought of speaking out.

In silencing the media the judiciary is ultimately harming the prospects of the nation. Without open and unfettered debate, progress will only benefit the fortunate few at the top.

“ ‘Anti-government’ photographs and web pages have allegedly been removed from time to time and army intelligence officials have been known to warn high profile, vocal citizens like union leaders and activists, not to send “unsavoury” content via e-mails.

Swaziland

In suppressing sincerely held opinions or inconvenient truths in the name of respect, the judiciary is displaying remarkable disrespect for the principles of natural justice and tolerance. If freedom of speech is continually trampled on, the image of Swaziland in the eyes of the world will continue to decline. It is not so-called 'disrespectful' or 'offensive' speech that causes the problems; it is the criminalising and silencing of that speech, of that open debate, which causes the problems.

In handing out disproportionate rulings in defamation cases in the name of protecting the powerful, the judiciary is harming Swaziland's constitution, which should be protecting free speech and media freedom.

What we must take from the shocking events of this year is the importance of standing together to fight for free speech in Swaziland. It has been a wake-up call to Swaziland's divided media organisations and we must respond by becoming stronger and uniting in our struggle for the decriminalisation of freedom of expression.

Swaziland 2014 violations & victories

5 March 



Police manhandled and detained students at a high school in the country's capital Mbabane as the students protested against the school's decision to suspend sporting activities.



1 June 



Appeal court set aside a criminal contempt of court ruling against Bheki Makhubu. However, Makhubu remained in detention on another contempt of court charge.

25 July 



Editor of *The Nation* Bheki Makhubu and human rights lawyer Thulani Maseko sentenced to two years in prison, without the option of a fine for separate news articles each wrote criticising the kingdom's chief justice, published in the independent news magazine, *The Nation*.

August 



Swaziland minister for information, communication and technology Dumisani Ndlangamandla warns national TV and radio stations are primarily there to serve the interests of the state.

4 September 



The Commonwealth Parliamentary Association kicked out journalists from a post elections seminar held in the town of Ezulweni.

8 March 

Prominent human rights lawyer, Thulani Maseko and *Nation* magazine editor, Bheki Makhubu arrested and charged with contempt of court relating to two separate articles in *The Nation* magazine and were critical of the arrest of government vehicle inspector Bhantshana Gwebu, who is also facing a contempt of court charge.



18 July 

Members of banned political organisations in Swaziland said prison guards didn't let them take a copy of newsmagazine *The Nation* into one of the kingdom's prisons.



7 August 

Swazi Prime Minister told union representatives to "strangle" two civil society activists when they return from a civil society conference in Washington DC.



27 August 

Vincent Ncongwane, the secretary general of the Trade Union Congress of Swaziland (TUCOSWA), prevented from speaking at a gathering in Matsapha.



12 December 

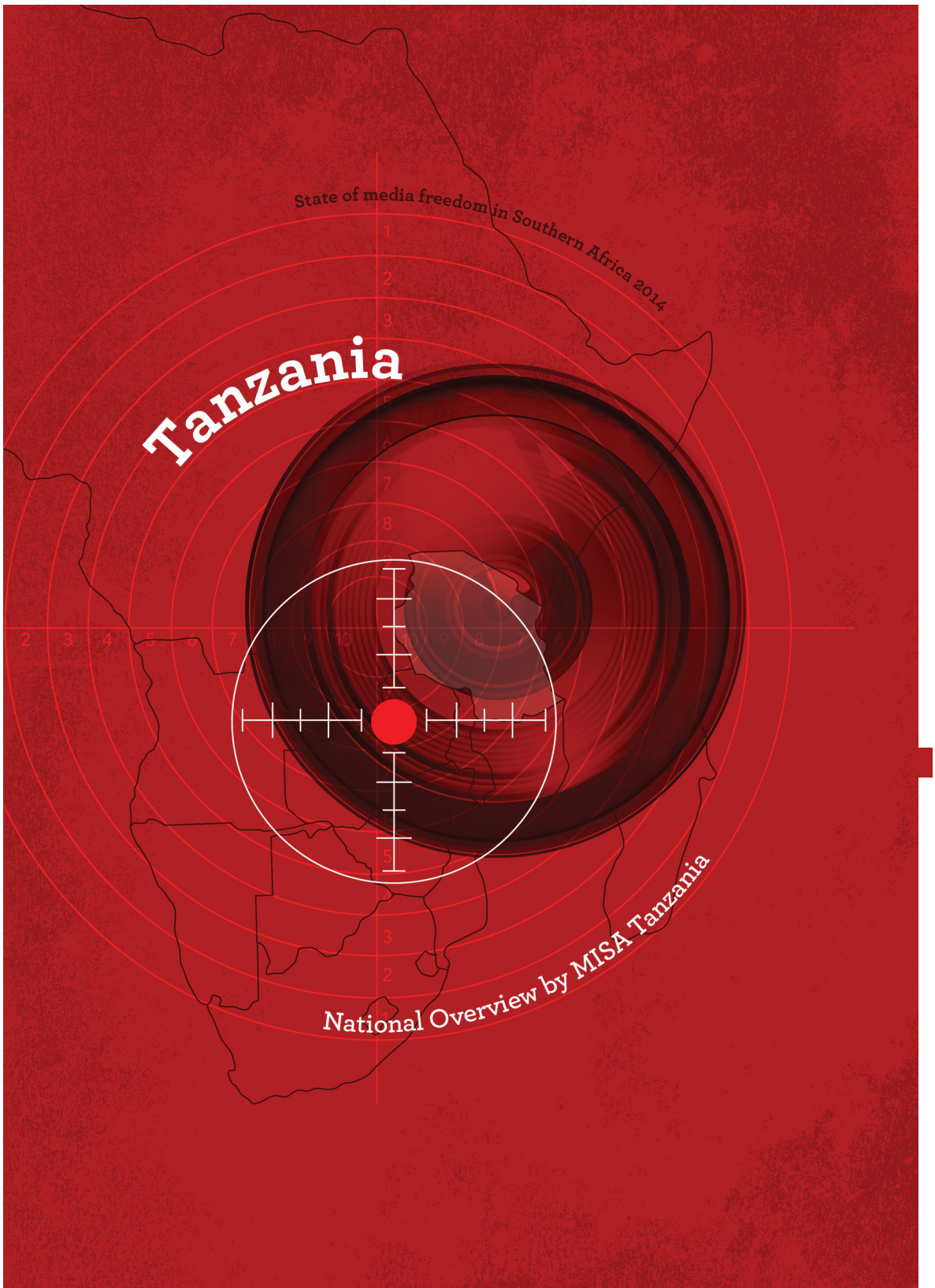
Swazi Senate President Gelane Simelane-Zwane won US\$50,000 in defamation case against privately-owned daily newspaper, *Times of Swaziland*.



State of media freedom in Southern Africa 2014

Tanzania

National Overview by MISA Tanzania



In the last two editions of *So This Is Democracy?*, the Media Institute of Southern Africa's Tanzania Chapter (MISA Tanzania) mapped a decline in media freedom in Tanzania.

We are saddened to report the trend continued in 2014.

A shocking display of police brutality against journalists in September 2014 invoked memories of previous attacks against journalists in Tanzania, including the killing of television journalist Daudi Mwangosi in 2012, the 2013 killing of radio Kwizera reporter Issa Ngumba and the brutal attack against Tanzania Editors Forum Chairman Absalom Kibanda in 2013, which left him half-blind.

The year was not without hope, however. Tanzania is in the process of revising its constitution and the drafting committee has accepted the recommendation of media and civil society stakeholders to include two draft bills, which have the power to positively affect the state of media freedom in the country.

JOURNALIST SAFETY

A downward spiral of police brutality against journalists

On 17 September 2014, Vice President of the United Republic of Tanzania Dr Gharib Mohammed Bilal stood before an audience of media houses, law, defense and security organs gathered for a consultative meeting in Dar es Salaam.

The Vice President delivered the keynote speech, throughout which he stressed the need for the police force and other security organs to work out their differences with the media and stop treating journalists as enemies.

Unfortunately, the police were the only major law enforcers not represented at the meeting, which was aimed at improving the relationship between media practitioners and security organs.

As if in mocking response to the plea, the very next day police attacked journalists attempting to cover a story involving the Chairman of Tanzania's main opposition party, who had been summoned to the police headquarters in Dar es Salaam.

Joseph Isango, a journalist with the local private daily newspaper *Tanzania Daima*; Yusuf Badi, a photographer with state owned newspaper, *The Daily News*; and journalist Shamimu Ausi of the local weekly paper *Hoja*, all sustained serious injuries.

Isango sustained a leg injury, Ms Ausi was hit on her face near the eye and John Badi said he would have lost his leg to a police dog that charged him, if not for his camera, which he used as a shield. This shocking display of police brutality towards the media was greeted with a wave of condemnation from human rights activists and media associations all over the country.

In July, Police in Dar es Salaam summoned the Managing Editor of Swahili daily newspaper, *NIPASHE*, Jesse Kwayu and the Managing Director of Guardian Limited, Kiondo Mshana, for questioning over stories alleging corruption amongst local motorcycle patrol police.

When he arrived at the police station, Kwayu produced a letter written and signed by Senior Superintendent of Police Mr Amani Makanyaga, ordering him and Mshana to report to the station for questioning. However, when the pair arrived at the central police station, the head of Criminal Investigation in Dar es Salaam Special Zone, Jafaril Ibrahim,

Tanzania

claimed no knowledge of the summons and letter.

Adding to the confusion, the police held a press conference after the incident and denied outright ever sending the letter. The police claimed they had no information about the summons and said they never complained about any story. Media stakeholders in the country were shocked to hear the police deny the summons was legitimate.

In February 2014, journalist and Iringa Press Club Chairperson Frank Leonard was arrested at the Court after being accused of taking photos during a case in progress – the case was that of slain journalist Daudi Mwangosi. Leonard said he had not been taking photos. Rather, he claims he was trying to switch off his mobile phone. Police interrogated Leonard at the Central Police Station and found him not guilty. A few hours after the incident, he received a phone call from the Assistant Regional Police Commander ordering him not to report on what happened to him.

A beacon of hope for improved relations between the media and the judiciary

The year 2014 ended with an interesting event, hopefully signalling a new dawn for improved relations between media and Tanzania's judiciary. Just like the police, for many years the judiciary and the media have had a tumultuous and adversarial relationship.

This changed when MISA Tanzania launched the Tanzanian edition of the publication, *Government Secrecy In An Information Age: 2014 Report on Open & Secretive Public Institutions in Southern Africa*. In the report, MISA Tanzania named the judiciary as the recipient of the Golden Padlock Award for being

Tanzania's most secretive public institution in 2014.

MISA Tanzania was greatly encouraged by the judiciary's reaction to receiving this not so illustrious award. In November 2014, for the first time in history, the Judiciary of Tanzania organised the Judicial Media Forum in Dar es Salaam bringing members of almost every major and small media outlet together with representatives from the Judiciary to discuss how to improve their relationship with each other. Over 150 people attended. The Chief Justice, 12 High Court and Court of Appeal judges, among others, represented the Judiciary while senior editors, media and human rights non-governmental organisations (NGOs), retired journalists, journalism lecturers and practising journalists made up the media contingent. The Golden Padlock Award was in display at the high table and was central to the discussions of the day.

As much as there is still a shaky marriage between the media and the police force, media stakeholders believe relations can be repaired. The Judiciary, probably one of the most conservative institutions of Tanzania has paved the way, so there is every reason for others to follow suit.

MEDIA LAWS AND REGULATIONS

More broken promises as access to information bill remains stalled

For over a decade now, MISA Tanzania has been leading efforts to decriminalise free expression and repeal laws limiting media freedom in Tanzania, beginning in 2001 when MISA Tanzania and other stakeholders reviewed the country's media laws to identify those inhibiting media freedom.

In 2003, the Information and Broadcasting Policy was formally launched. The Policy was a product of deliberations bringing together key stakeholders including government, media and civil society organisations. Stakeholders wanted it to address crucial issues in the Information and Broadcasting policy, such as media freedom, gender equality and diversity and pluralism amongst media ownership.

“... 2014 has seen the media trying to heal the disunity that, in the past, seemed to derail efforts to establish an effective media law and access to information law.

In 2005, the amended Constitution saw the removal of the claw-back clause, “Subject to the laws of the land...”, which had rendered protection of the right to freedom of expression useless.

The second phase of reform started in 2006, when the government posted a draft Freedom of Information (FOI) Bill on their official government website. Media and free expression stakeholders provided feedback and even proposed content for the FOI legislation in Tanzania, including the Right to Information Act and the Media Services Bill.

Despite endless promises, these bills remain un-tabled, mainly due to the turnover of Ministers, who come with

different priorities in their tenures. These included Mr Huruma Mkuchika, Dr John Nchimbi and now Dr Fenella Munkangara.

In 2013, speaking in London at an event organised by Open Government Forum, President Kikwete promised his government would send the FOI Bill to parliament by April 2014. This never happened and was followed with yet another promise in 2014 that the ATI Law would be ready by February 2015. This came as a new hope and as a way of honouring his promises the President agreed to a Constitutional Review Process in the country.

The drafting committee accepted stakeholders’ recommendations to include the Right to Information Act and the Media Services Bill in the draft constitution. However, the committee did not incorporate all the recommendations regarding human rights. The additional recommendations need to be included in articles 38 and 39 of the proposed new constitution.

The Tanzanian Coalition of Right to Information (CORI) has since tried to engage with the drafters and members of the Constitutional review process to ensure the human rights laws are worded appropriately. CORI is also pushing for the recommendations that have not yet been taken on board, such as the need for an independent public broadcaster, to also be included in the new Constitution.

Therefore, 2014 has seen the media trying to heal the disunity that, in the past, seemed to derail efforts to establish an effective media law and access to information (ATI) law. A constitutional referendum will be held in Tanzania in April 2015 and media stakeholders are hoping the media and ATI laws are includ-

Tanzania

ed, approved and implemented to transform the media and how they operate.

Broadcasting authority challenged over election reporting guidelines

In May 2014, the broadcasting regulatory authority established, 'Political Party Election Guidelines', purposely for the coming general election coverage on October 2015. Critics and analyst challenged the move, saying the Media Council should issue ethical guidelines.

ICT's AND DEVELOPMENT

ICTs more affordable and accessible

Arguably, Tanzania has seen country-wide improvement in its information communication technology (ICT) development in 2014. Services have become more affordable and therefore more accessible to a greater proportion of the population.

The transport and backhaul costs paid by operators for example, have decreased by 99 per cent from USD 20,000 to USD 160 per month per 2Mbps-E1 carrier stream, according to reports by the Tanzania Communication Regulatory Authority (TCRA).

This places Tanzania as one of the countries in Africa with the most price-friendly internet access today, with the ICT infrastructure to sustain it in the long-term.

"The successful installation and implementation of the TCRA's Telecommunication Traffic Monitoring System (TTMS) is not only a revolution but also one of the greatest achievements to the country's communication sector", reads a line in one of TCRA's reports.

The TTMS is capable of detecting and tracking illegal communication operators stripping licensed communications services operators of their earnings.

The country's communication sector has undergone exponential growth in recent years with the number of mobile phone subscriber identification module cards (SIM cards) sold increased from 2.1 million in 2004, to 17.6 million in 2009, to 28 million in 2014.

On track to meet digital migration goals
By the end of 2014, more than 14 regions in Tanzania had migrated from analogue to digital broadcasting since the Digital Terrestrial Television switchover commenced in 2012. The number of television stations on the digital platform stands at 16, leaving only five yet to convert, according to TCRA.

Tanzania 2014 violations & victories

29 January



New Habari Managing Editor, Absalom Kibanda; former Managing Editor for *Mwananchi Communications Ltd*, Theophil Makunga; and former Chama cha Demokrasia na Maendeleo (Chadema)'s Arusha Regional Chair Samson Mwigamba acquitted of sedition charges due to lack of evidence.

July



Police summoned Managing Editor of daily newspaper, *NIPASHE*, Jesse Kwayu and Managing Director of *Guardian Limited*, Kiondo Mshana, for questioning over stories alleging corruption amongst local motorcycle patrol police.

November



The Judiciary of Tanzania organised the Judicial Media Forum in Dar es Salaam bringing members of almost every major and small media outlet together with representatives from the Judiciary to discuss how to improve their relationship with each other.

February

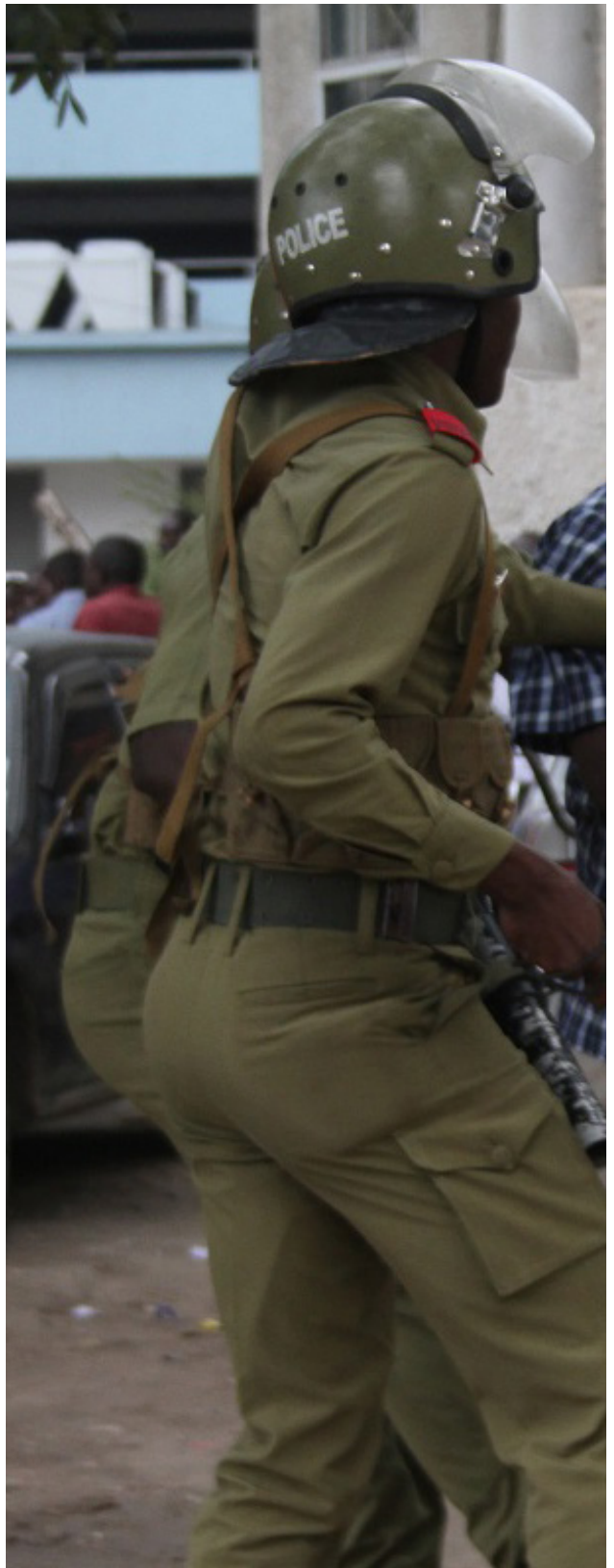
Journalist Frank Leonard arrested for allegedly taking photos during a case in progress – he said he had not been taking photos but was trying to switch off his mobile phone.



18 September

Police attacked journalists attempting to cover a story involving the Chairman of Tanzania's main opposition party. Joseph Isango, a journalist with *Tanzania Daima*; Yusuf Badi, a photographer with state owned newspaper, *The Daily News*; and journalist Shamimu Ausi of the local weekly paper *Hoja*, all sustained serious injuries.





Police assaulting Tanzanian reporter, Joseph Isango. He was covering a political fracas between the police force and opposition party supporters at police headquarters in Dar es Salaam in September, 2014.

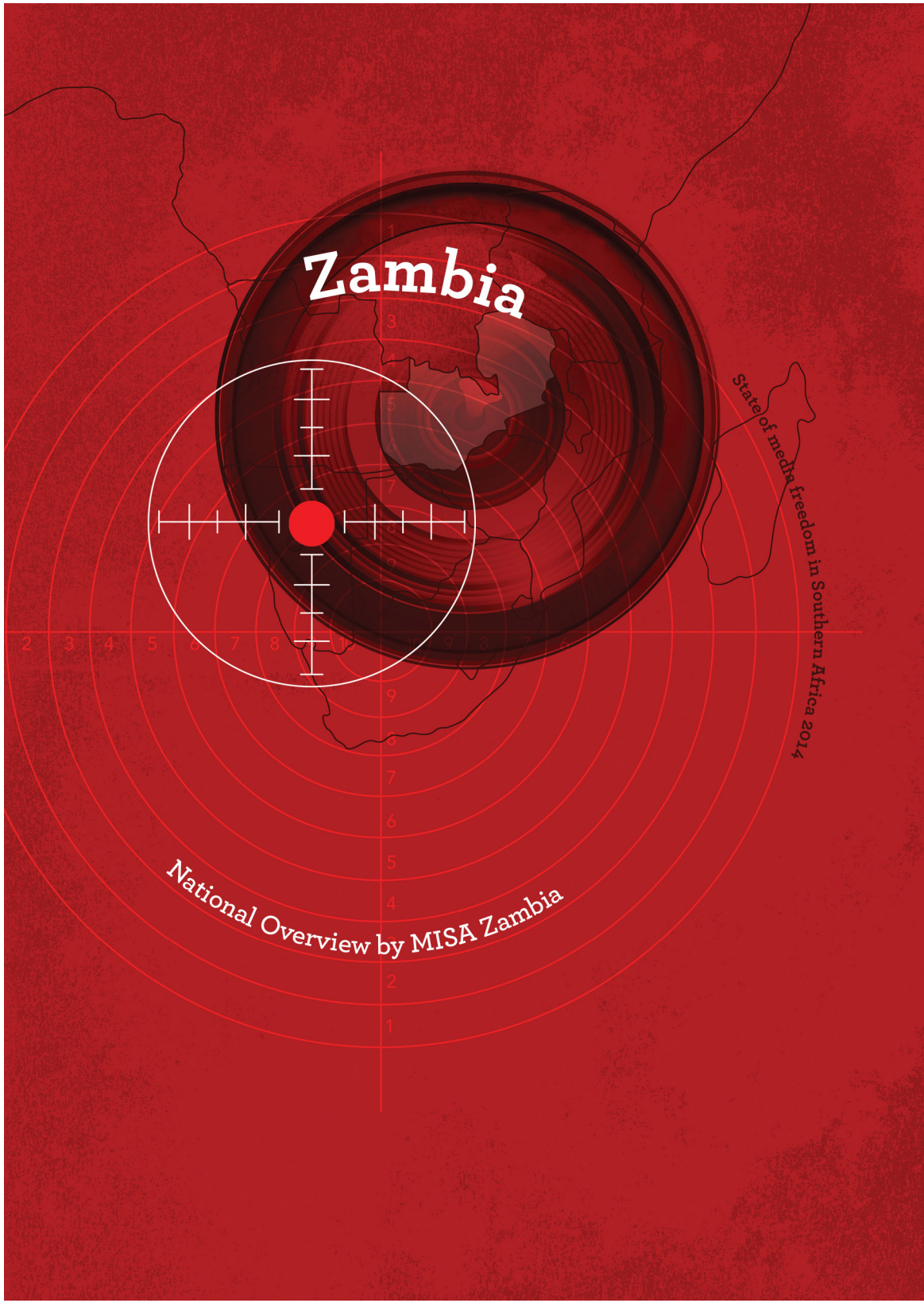
Photo: Fidelis Felix, Mtanzania 2014



Zambia

State of media freedom in Southern Africa 2014

National Overview by MISA Zambia



In 2014, Zambia's media sector continued to witness a gap between the liberal promises made by the ruling Patriotic Front (PF) government and the dawning reality of the constraints of the media's working and policy environment.

While the party promised in 2011 to liberalise the airwaves and allow radio and television stations to broadcast countrywide, then Republican President Michael Chilufya Sata dressed-down Ministry of Information Permanent Secretary Emmanuel Mwamba for issuing nationwide broadcast licenses to two privately owned radio stations, *Q FM* and *Radio Phoenix*. The decision was immediately reversed and the Permanent secretary later retired.

Major events of the year included the secrecy surrounding the president's health and his subsequent death in the later part of the year, despite continued assurances from senior cabinet and government officials of his good health. This development brought into question the need to strike a balance between giving out important information in the public interest whilst remaining sensitive to national security. There had also been threats of arrest and cancellation of licenses of any media outlet discussing the President's alleged ill health.

Additionally, the year saw a vicious clampdown on online media with some websites remaining inaccessible for extended periods while continuing to operate anonymously. Those associated with the online sites (directly or indirectly) were arrested and prosecuted on an assortment of charges.

Generally, there was continued polarisation of the media with occasional outbursts between two of the prominent

daily newspapers in their editorials.

The legal environment remained much the same save the successful annulment of the law on publication of false news with intent to cause fear and alarm to the public, in a lengthy case in which the state dragged to court a daily newspaper editor and a civil society activist. In the midst of the controversy surrounding the constitution making process, some headway was made as the country's newly appointed Justice Minister released the final draft constitution, which was earlier censored and withdrawn. Fortunately, the final draft had favourable legislation for the media such as an explicit guarantee of media freedom, access to information and freedom of expression among others.

FREE EXPRESSION AND THE LAW

Government commits to improving media freedom

Despite the many challenges, government showed some commitment towards the operationalisation of the Independent Broadcasting Authority (IBA) by appointing the Board and Director General. However, concerns were still raised on the authority's independence, as it was directly appointed by the Minister of Information.

Also, government embarked on recapitalisation of the public media with a view to making them self-sustainable and profitable.

FREEDOM OF INFORMATION

Government continues to stall tabling of access to information bill

Very little change was observed under efforts towards the enactment of the

Zambia

Access to information bill. In spite of numerous promises recorded earlier, government maintained it was still consulting and would present it in the first parliamentary session in 2014 after reconciling the law with conflicting legislation. By the end of the year, the bill had still not been tabled before parliament and the way forward remained unclear.

JOURNALIST SAFETY

Violations against journalists and media freedom

In a bizarre turn of events, it was surprising to witness the reversal of a decision to grant nation-wide licenses to two prominent radio stations citing issues of national security and declaring only the state-owned media should broadcast nationwide.

During the official opening of Parliament, various media houses were barred from covering the proceedings of the house in the chamber. Only state media and one privately owned, but government aligned, newspaper were allowed. This came after authorities cautioned against 'irresponsible reporting' of the president's health. MISA Zambia later challenged the decision in court.

Another major violation was the storming of the main public broadcaster, Zambia National Broadcasting Corporation (ZNBC) Newsroom by government officials in alleged protest against stories carried by the outlet, further ordering removal of certain news items.

FREE EXPRESSION ONLINE

Government promises to meet digital migration deadlines

The ministry of broadcasting and information launched the digital migration

policy and reassured stakeholders of commitment towards meeting the deadline set by the ITU. Publicity and public awareness activities commenced and trial dates for switch over set and later moved forward.

Government condemns online media as unethical and intrusive

There were numerous calls to regulate online media and condemnation by the government stating said media are unethical and intrusive. The government also clamped down on online media by restricting access to websites perceived to be critical, thereby relegating them to their social media pages.

There was a notable increase in the number of online publications in the year under review, with more mainstream media improving their use of social media, a laudable move.

President takes to Facebook

Another move worth commendation was the establishment of a Facebook page by the republican President, allowing some level of interaction with the citizenry.

LOOKING FORWARD TO 2015

Through most of the events characterising 2014, it is evident that so many steps have to be taken to ensure media freedom and freedom of expression are guaranteed and protected. The coming year offers some hope in view of the release of the final draft constitution with considerable laws offering solace to the fight for media freedom and guaranteed freedom of expression. This, however, will only be consummated by the subsequent adoption and enactment of the said constitution.

Zambia 2014 violations & victories

19 January 



Republican Vice President Dr. Guy Scott stated that government was investigating the source of the Draft Constitution leaked to the *Zambian Watchdog*, an online publication.

1 February 



Former Defence minister, Geoffrey Mwamba, sued *The Post Newspaper Limited* and two others, demanding K14 billion as damages for alleged malicious falsehood.

21 February 



Journalism lecturer Clayson Hamasaka illegally detained before a case was established against him, in relation to the charge of possession of obscene materials.

3 March 



Ruling Patriotic Front (PF) Copper Belt Provincial chairman, Sturdy Mwale, threatened to fire ZNBC reporters for not covering the election victory of the ruling party in Wusakile local government by-election.

20 January 

Minister of communications, Yambwa Mukanga, allegedly said the government and Zambia Information and Communication Technology Authority are working on a law to make online media 'accountable'.



18 February 

Kasempa district council Deputy Secretary Dominic Makisa was charged with assault occasioning bodily harm by Zambia Police for physically attacking *K FM* station manager, Nyambe Muyumbana in Kasempa.



2 March 

Government warned *Mano Community Radio Station* in Kasama to immediately stop broadcasting inflammatory programmes that could cause public discontent or risk revocation of its license.



7 March 

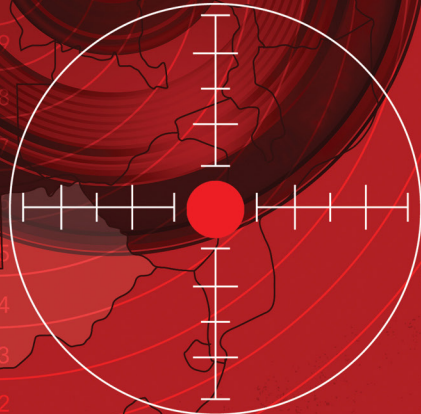
Daily Nation proprietor Richard Sakala, his production editor Simon Mwanza and Foundation for Democratic Process (FODEP) Executive Director Macdonald Chipenzi charged with publishing false information with intent to cause fear and alarm, their case was transferred to the Lusaka High Court for constitutional determination.



Zimbabwe

National Overview by MISA Zimbabwe

State of media freedom in Southern Africa 2014



Zimbabwe's new Constitution, established in 2013, now explicitly guarantees the right to media freedom and citizens' right to access to information, offering immense opportunity to realign the country's repressive media laws with the new constitutional provisions.

Sadly, that has not happened and there appears to be a distinct lack of political will to do so.

Tellingly, when President Robert Mugabe officially opened the second session of the Eighth Parliament on 28 October 2014, he unveiled 15 Bills to be tabled during the session for alignment with the new constitution. Of the 15, not one related to improving media freedom, freedom of expression or access to information (ATI). The closest the government has come to the expected reforms is listing AIPPA among the 400-plus laws being scrutinized by an inter-ministerial committee for realignment.

As a result, laws crafted under the old constitution continue to corrode the democratic principles and human rights safeguards contained in the new constitution, including explicit guarantees for media freedom, promotion and protection of freedom of expression and access to information.

This legislative disjuncture has been underscored, in 2014, by authorities using the country's harsh media laws to arrest and harass journalists; ban marches and gatherings by media practitioners, civil society organisations and members of the public; and restrict citizens' freedom of expression through online platforms.

“Tellingly, when President Robert Mugabe officially opened the second session of the Eighth Parliament on 28 October 2014, he unveiled 15 Bills to be tabled during the session for alignment with the new constitution. Of the 15, not one related to improving media freedom, freedom of expression or access to information.**”**

Examples include the arrest of *Daily News* editor Stanley Gama and reporter Fungai Kwaramba under criminal defamation laws; the conviction of provincial community newspaper publisher James Muonwa under AIPPA in April 2014; and the raiding of community radio initiatives, *Radio Dialogue* and *Radio Kwelaz* in April and June 2014 respectively, under suspicions they violated the Broadcasting Services Act.

Zimbabwe

JOURNALIST SAFETY

Reduction in reported violations, but Zimbabwe still not safe for journalists

Overall, MISA Zimbabwe is pleased to report a steady decline in the number of media violations recorded since 2009.

In 2014, we reported a total of 22 cases compared to the 28 cases reported in 2013 - a positive trend when viewed against the 80 alerts issued in 2009.

While this reduction is commendable, the nature of the violations recorded in 2014 is cause for great concern.

Examples include:

18 August – Police assaulted Anjela Jimu, a photographer with the *Zimbabwe Mail*, while covering a demonstration in Harare by opposition MDC-T youths.

19 September - Privilege Musvanhiri, an online editor with the *Zimbabwe Mail*, sustained bruises in the back after Harare Municipal Police assaulted and arrested him for photographing clashes between council workers and commuter omnibus operators.

16 October - security officer at Harare International Airport stripped naked *The Herald* photographer, Justin Mutenda, who was covering the departure of the Bangladeshi national cricket team

22 October - Harare police assaulted and detained Tapiwa Zivira, online reporter for *NewsDay*, for four hours after he filmed a police blitz against touts operating in the central business district

These are just some of the reported cases and none of the perpetrators of these assaults had been brought to book at the

time of the writing of this report.

These violations cannot be taken lightly when viewed against threats by Media, Information and Broadcasting Services Secretary George Charamba on 8 October 2014. Charamba was reported on ZTV warning the media that the government could resort to administering “unpalatable instruments” to rein in media deemed to be unprofessional.

Even more ominous was the First Lady Grace Mugabe’s veiled threats against journalists working for the privately owned *Newsday* and *Daily News* during her ‘Meet the People’ rallies.

Daily News journalist Fungai Kwaramba was among the journalists at a Zanu PF rally at Rudhaka Stadium in Marondera on 17 October 2014, when the First Lady demanded journalists working for the *Daily News* identify themselves. According to media reports, the atmosphere was highly charged given the enmity among supporters of the different factions within Zanu PF who could easily have taken the law into their own hands if the journalists had identified themselves as demanded.

The First Lady had issued similar threats earlier in the Midlands capital of Gweru, reportedly saying she prayed for the closure of the *Daily News* and *Newsday* for writing untruthfully about her and the First Family.

FREEDOM OF INFORMATION

Restrictive laws continue to block access to information

The continued existence of restrictive laws such as AIPPA, Criminal Defamation, Public Order and Security Act (POSA), Interception of Communications Act and the Entertainment Controls

Act, has a serious bearing on citizens' full enjoyment of the right to freedom of expression and access to information.

This is despite the Supreme Court rulings against criminal defamation in 2013 and 2014 in the old Constitution and the Minister of Media, Information and Broadcasting Services Professor Jonathan Moyo's assertions that criminal defamation should be repealed.

Access to and the free flow of information are critical for citizens to make informed choices and hold government and public institutions accountable for their actions. The Criminal Law (Codification and Reform) Act currently retains sections that hinder this right.

These are:

- section 95, providing for the offence of criminal insult;
- section 31, providing for the offence of publishing or communicating false statements prejudicial to the State; and
- section 33, providing for the offence of undermining authority of or insulting the President.

Several citizens have been arrested and charged under this law, especially Section 33.

The fact that Zimbabwe is still to come up with a democratic access to information law as demanded by the new constitution is a serious indictment on the government's commitment to entrenching democratic principles and values.

This development should be viewed against the passing of an access to information bill by the Mozambican parliament on 26 November 2014. The Mozambican bill seeks to create greater transparency and generate public participation in Mozambique.

Access to and the free flow of information are critical for citizens to make informed choices and hold government and public institutions accountable for their actions. The Criminal Law (Codification and Reform) Act currently retains sections that hinder this right.

The Bill imposes a duty on public and some private bodies to "make available information of public interest in their power, publishing it through legally permitted channels, which can make it increasingly accessible to citizens". The only requirement on people requesting information is that they identify themselves; they will not need to explain what they want to do with the information. Requested information must be provided within 21 days.

Meanwhile, Section 62 (4) of the Zimbabwean Constitution, which is still to be fulfilled provides as follows:

Legislation must be enacted to give effect to this right (access to information), but may restrict access to information in the interests of defence, public security or professional confidentiality,

Zimbabwe

to the extent that the restriction is fair, reasonable, necessary and justifiable in a democratic society based on openness, justice, human dignity, equality and freedom.

The media plays a fundamental role in accessing information, which is vital to the day-to-day functioning of a democracy and the socio-economic wellbeing of citizens. Citizens should thus be empowered through enabling legislation to request and receive information from public and private bodies.

FREE EXPRESSION ONLINE

Free expression online curtailed by arrests and restrictive legislation

On 13 June 2014, the government repealed Statutory Instrument 142/2013 of the Postal and Telecommunications (Subscriber Registration) regulations following an adverse report by the Parliamentary Legal Committee (PLC).

The PLC passed the adverse report in March 2014 after observing the regulations were unconstitutional as they allowed state security agents to access subscribers' personal data without a court search warrant.

The new regulations S.I.95 of 2014 bar the release of subscriber information to law enforcement agents without a court warrant.

The repealed regulations previously allowed POTRAZ to give information in its central database to a law enforcement agent only if it was requested in writing by an officer of or above the rank of Assistant Commissioner of Police or an equivalent rank in another force.

In practice this has not been so as wit-

nessed by the number of arrests of ordinary Zimbabwean citizens and media professionals relating to their use of the internet and social media platforms in Zimbabwe.

The arrests have raised pertinent questions on internet freedom, security and citizen journalism, social media and the law. With the precedent cases of Vikazi Mavhudzi in 2011 over a post made on former Prime Minister, Morgan Tsvangirai's Facebook page, several arrests were made.

For example, Harare tailor, Madzibaba Chacha, was arrested after a picture of him in a Zimbabwe Republic Police uniform went viral on Whatsapp; and names of individuals 'connected' to online character Baba Jukwa were released, including Sunday Mail Editor Edmund Kudzayi and University of Zimbabwe student Romeo Musemburi.

MISA-Zimbabwe recognises the internet and social media as a democratic and ideal space for individuals to freely express themselves owing to the continued control of the mainstream media; a position acknowledged by the United Nations in a declaration of Internet freedom as a basic right in 2012.

The authorities should therefore speedily repeal AIPPA and all pieces of legislation that criminalise freedom of expression; curtail access to information and choke the media from freely fulfilling its fundamental watchdog role.

PRINT MEDIA SECTOR

Dwindling economy takes its toll on journalist morale and professionalism

While Zimbabwe boasts a plethora of print media houses, the long-term viability of newspaper companies is threat-

ened by the underperforming economy, which signals declining advertising revenue.

The largest newspaper stable, the state-controlled Zimpapers operates 12 publications, a commercial printing press, a radio station and two digital platforms. In the half-year ended 30 June 2014, they recorded a \$1,417 million loss after tax after a positive out turn of \$358 000 the previous year as revenue tumbled due to high finance costs and a worsening economic environment.

This scenario paints a gloomy picture on the future viability and sustainability of newspaper companies with several of them struggling to break even resulting in downsizing of staff and late payments of salaries.

The small privately owned weekly newspapers that fill the gap at provincial community levels in terms of citizens' right to access to information are literally struggling with the majority now publishing fortnightly instead of weekly. The situation is particularly dire for the smaller publications as advertisers turn to the national circulating giants and the new online platforms. This negative outlook for 2015 is chilling to contemplate given that where there is limited plurality and diversity of information platforms, the state often controls the public sphere by using the dominant media it controls to set the agenda and suffocates citizens with one-sided narratives on matters affecting them.

The low morale among journalists compounded by the state's continued stranglehold on Zimpapers and Zimbabwe Broadcasting Corporation (ZBC), contributed immensely to the continued decline in professional journalism in Zimbabwe.

The long and short of this situation which requires serious attention, is that journalism in Zimbabwe is on the precipice as epitomised by partisan reportage along party political affiliations, in blatant disregard of the codes and ethics of the profession.

Quality of information is thus compromised thereby short-changing readers and Zimbabwean citizens when it comes to reliability of information upon which they can make informed decisions on issues that affect their daily lives.

Zimbabwean newspapers therefore need to revisit their business sustainability models for them to survive the economic hardships at a time when the majority of companies are operating on shoe-string budgets.

BROADCASTING,

TELECOMMUNICATIONS AND ICTs

Government continues stranglehold on state broadcaster

Section 61 of the Constitution guarantees freedom of expression and freedom of the media, and sub-section 3 (b), states broadcasting and other electronic media should be independent of control by government or by political or commercial interests.

Further, sub-section 4 says all state-owned media must: be free to determine independently the editorial content of their broadcasts or other communications; be impartial; and afford fair opportunity for the presentation of divergent views and dissenting opinions.

Yet, despite these provisions – and assurances by the Minister of Media, Informa-

Zimbabwe

tion and Broadcasting Services that the government would comply with these provisions – the government continued its stranglehold on ZBC in 2014.

While the minister proceeded to appoint a new ZBC board of governors, the appointments were not in line with the new Constitution and principles stipulated in key instruments such as the African Charter on Broadcasting, which states:

All state and government controlled broadcasters should be transformed into public service broadcasters that are accountable to all strata of people as represented by an independent board ... [and] should be governed by bodies that are protected against interference.

The Declaration of Principles of Freedom of Expression in Africa also underscores how vital the independence of a public broadcaster is, noting in part VI: State and government controlled broadcasters should be transformed into public service broadcasters, accountable to the public through the legislature rather than government, in accordance with the following principles; (that) Public broadcasters should be governed by a board which is protected against interference, particularly of a political or economic nature.

MISA Zimbabwe maintains the full recovery and success of the bankrupt ZBC hinges on appointing a board that is truly independent from all influences and is accountable to the public as mandated by the above-mentioned instruments. Further, the board must be able to determine editorial content independently as mandated by 61 (4) (a) of the constitution.

The government must therefore revisit the ZBC Commercialisation Act and all

other applicable laws governing the appointment of its board, its conditions of service and policies regarding editorial content and general functions of ZBC.

“While the minister proceeded to appoint a new ZBC board of governors, the appointments were not in line with the new Constitution and principles stipulated in key instruments such as the African Charter on Broadcasting

Still no licenses for community radio stations

Zimbabwe is still to license community radio stations, 13 odd years after the enactment of BSA which provides for community radios. The issue of when applications will be called for continued to be bogged down by excuses such as lack of resources for the requisite infrastructure and the need to come up with a binding definition of what constitutes a community.

On a positive note, the government conducted 12 public hearings into applications for provincial commercial radio stations. Initially, the call for applica-

tions was for 25 provincial radio stations resulting in the shortlisting of 18 and the subsequent 12 public hearings after six applicants pulled out.

Zimbabwe likely to miss 2015 digital migration deadline

Zimbabwe missed SADC 2013 deadline and is likely to miss the International Telecommunications Union's 2015 deadline despite assertions by the government that digital broadcasting has the potential to support 80 television services. .

Currently ZBC (television), is not accessible in some parts of the country and in those parts where there is signal, the reception is extremely poor. However, radio transmission had reportedly increased to 80 percent in 2013 following a Transmedia co-franchise with Skynet over satellite services that allowed for transmission expansion nationwide.

The equipment used in radio stations owned by the ZBC, due to under-capitalisation, is antiquated and needs replacing with digital studios. Former Information Minister Webster Shamu told Parliament in 2009 that ZBC needed approximately \$70 million to replace its obsolete equipment, saying all transmitters in the country were more than 25 years past their lifespan. The current minister reiterated in 2014 that ZBC needs an overhaul of its existing equipment and transmitters if digital migration is to be successful.

Mobile and internet penetration not as high as previously thought. Despite having an "over-subscribed" mobile penetration rate of 106%, the Postal and Telecommunications Regulatory Authority of Zimbabwe (POTRAZ), estimates the actual head-count of people in possession of SIM cards is only 60% of the

population, that is, approximately 8.4 million people.

This raises questions about mobile penetration and some key decisions that may have been based on misplaced assumptions. For example, Minister of Finance, Patrick Chinamasa, imposed a 25% duty tariff on mobile devices and other IT gadgets because he believed Zimbabwe had achieved over 100% mobile penetration and concluded the previous duty free tariff on mobile devices had "achieved its purpose".

Meanwhile, internet penetration is now 47%. The total number of internet subscriptions in the country as at the end of June 2014 was 6.1 million, up from 5.6 million in March this year.

LOOKING TO 2015

As we look to 2015, if Zimbabwe is to realise an environment that is more conducive to media freedom, free expression and access to information, government and public authorities must:

- Swiftly align media laws, policy and regulatory frameworks with the new constitutional dispensation and the regional and international instruments Zimbabwe is a state party or signatory to;
- Ensure the safety and security of journalists and bring perpetrators of media violations to justice;
- Replace the ZBC Commercialisation Act with one that ensures ZBC's governance, managerial and editorial independence as provided for under the new constitution;
- Provide the public and broadcasting stakeholders with regular updates on Zimbabwe's digital migra-

tion plans and developments;

- Ensure citizen participation in the transparent and democratic appointment process for the ZBC board, while securing and guaranteeing its independence and accountability in carrying out its public service mandate;
- Reconstitute the Zimbabwe Mass Media Trust to cushion Zimpapers from political interference; and
- Urgently formulate a clear policy and regulatory framework for community broadcasting.

In addition, publisher and media professional bodies will need to:

- Address issues of knowledge, skills and ethics in the media industry by media practitioners, managers and owners to foster media accountability to the public; and
- Agree on a framework addressing the working conditions of journalists and other media workers.

Zimbabwe 2014 violations & victories

20 February 



Harare businessman holds a gun to Phillimon Mhlanga, *Financial Gazette* business reporter during a meeting to discuss a story.

 **24 February**

How Mine Football coach Philani Ncube stormed the *Southern Eye* newspaper's offices in Bulawayo and threatened the publication for revealing his team was failing to honour a \$250 debt.



16 March 



Standard Weekly Newspaper barred from covering the eviction of more than 300 people from Spelenken Farm, Mazowe, Mashonaland Central Province.

 **7 April**

Stanley Gama and Fungai Kwaramba, editor and senior reporter with *Daily News*, arrested in connection with stories linking businessman Kamal Khalfan to underhand deals in Zimbabwe.



24 April 



James Muonwa, editor-in-chief with the *Western Star* convicted of operating a mass media house without a valid licence in contravention of Section 72 of AIPPA.

 **3 May**

World Press Freedom Day March Police banned a Media Alliance of Zimbabwe coordinated World Press Freedom Day march in Harare.



18 May 



The Broadcasting Authority of Zimbabwe threatened to cancel State-controlled *StarFM* and privately owned *ZiFM* radio stations licences for failing to comply with operating requirements to install 24 transmitters countrywide.

 **19 May**

Chitungwiza Municipality delayed an Information and Media Panel of Inquiry outreach meeting at Huruyadzo Community Hall alleging the meeting had not been cleared by the police.



Zimbabwe 2014 violations & victories



30 May

Relax Mafurutu, *ZBC* cameraperson, sustained serious injuries after being assaulted by members of an Apostolic Sect in Harare's Budiriro high density suburb.



3 July

Helen Kadirire, reporter with the *Daily News* detained by police in Mutoko, Mashonaland East for allegedly inciting the community to demonstrate.



18 August

Anjela Jimu, photographer with the *Zimbabwe Mail*, sustained a swollen arm after being assaulted by members of the police force while covering a demonstration in Harare by opposition MDC-T youths.



19 September

Privilege Musvanhiri, online editor with the *Zimbabwe Mail* sustained bruises in the back after he was assaulted and arrested by members of the Harare Municipal Police while taking pictures of clashes between council workers and commuter omnibus operators.



23 May

An unidentified man stormed the *Mirror* offices in the southern town of Masvingo and threatened journalists there for allegedly writing negative stories about Anglican Bishop Godfrey Taonezvi.



17 June

Police raided *Radio Kwelaz* offices on allegations of operating without a licence. They confiscated CD productions.



18 August

Anjela Jimu, photographer with the *Zimbabwe Mail*, detained at Harare Central Police Station following the assault only to be released without charges.



2 September

Broadcasting Authority of Zimbabwe (BAZ) banned Journalists Lifaqane Nare and Mvelo Zondo from recording or posting on social media postings public hearings for prospective commercial radio station applicants in Bulawayo.





8 October

George Charamba, Information Media and Broadcasting Services Permanent Secretary warned on ZTV that the government could resort to administering “unpalatable instruments” to reign in the media deemed to be unprofessional.



17 October

First Lady Grace Mugabe threatened journalists working for *Daily News* and *Newsday* and demanded they identify themselves during a rally at Rudhaka Stadium in Marondera.



22 October

Journalist Wilson Maphosa, arrested by police in the southern town of Masvingo at Roy business centre while taking pictures of houses that had allegedly been burnt by the police.

16 October

Justin Mutenda, photographer with *The Herald* was stripped naked by a female security officer at Harare International Airport while covering the departure of the national cricket team for Bangladesh.



22 October

Tapiwa Zivira, online reporter with *NewsDay*, assaulted and detained for four hours by police in Harare while recording video footage of a police blitz against touts operating in the central business district.



1 December

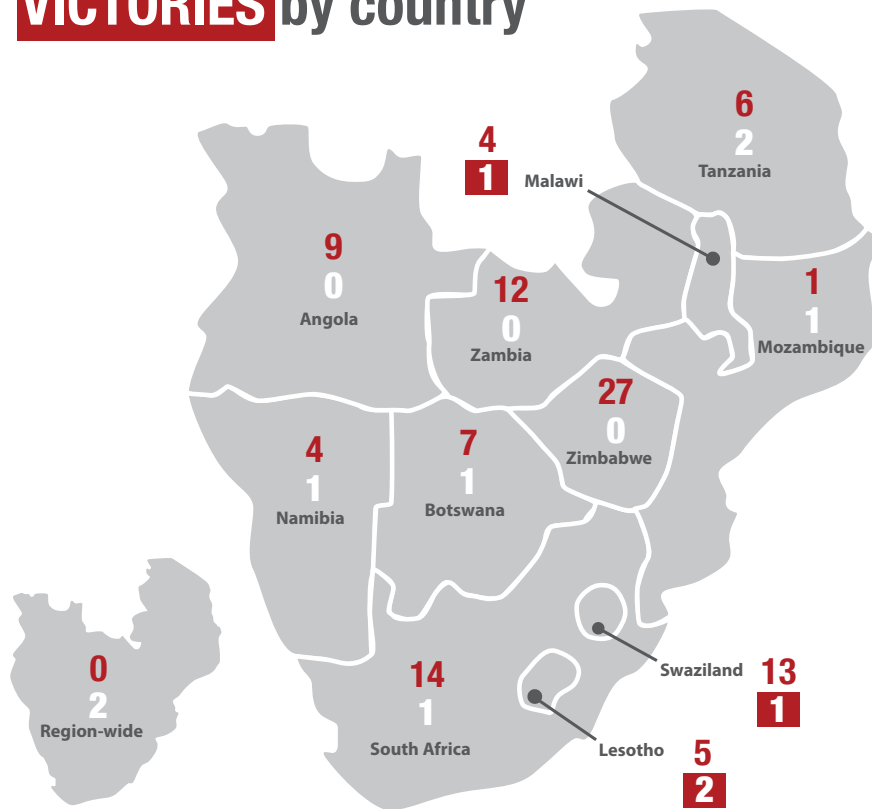
Daily News and *Zimbabwe Mail* journalists barred from covering President Robert Mugabe’s briefing after his meeting with security chiefs at Zanu PF headquarters in Harare.



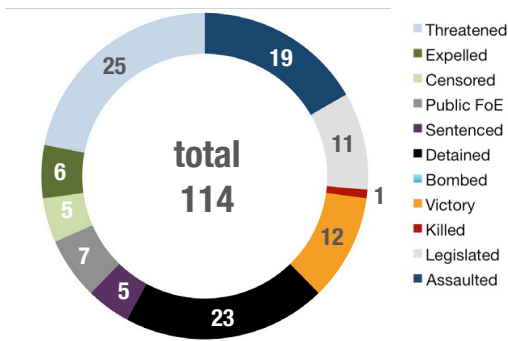
According to the *Daily News* issue of 1 December 2014, state-controlled media - *The Herald*, ZBC, *Star FM*, and the privately owned *ZiFM*, were allowed to cover the briefing during the ongoing Zanu PF congress.

Media freedom violations & victories in 2013

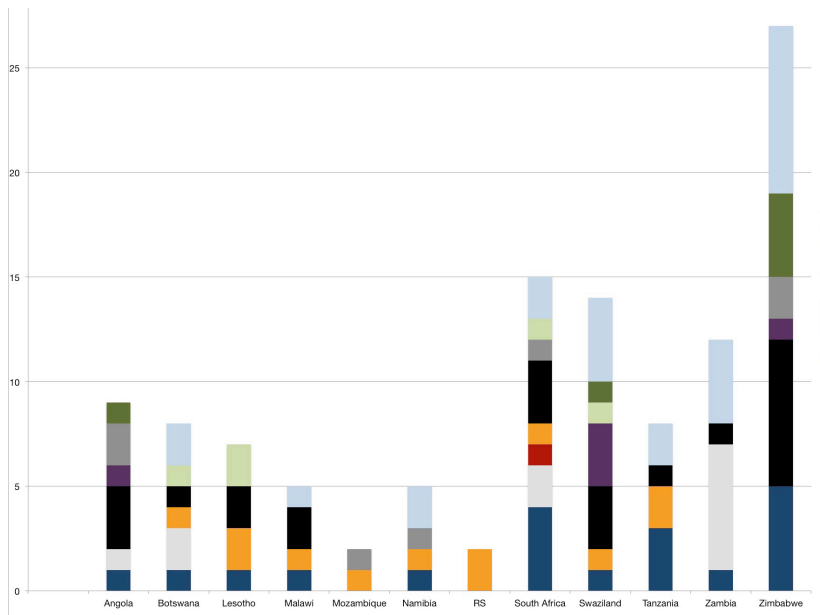
VIOLATIONS and VICTORIES by country



Violations and victories by category



Violations and victories by country and category



About MISA

Making southern Africa a more conducive environment for media freedom

Over the past 21 years, the Media Institute of Southern Africa (MISA) has been the primary advocate for media freedom and freedom of expression in southern Africa, issuing alerts on media freedom violations, condemnations of killings, assaults, criminal charges and other forms of unjustified attacks on journalists, including restrictions on access to information.

The research and analysis that makes up *So This Is Democracy?* is based on this daily monitoring and other research gathered in the 11 Southern Africa Development Community (SADC) countries where MISA operates through Chapter offices.

MISA's work focuses on making sustainable, lasting changes to the media landscape in the southern Africa region that will make our countries safer places for journalists to work and more conducive for media freedom and freedom of expression.

MISA's activities and programmes include:

- Advocating for changes to restrictive laws
- Advocating for development of positive legislation, such as access to information laws;
- Publishing media violation alerts;
- Researching and publishing reports on media violations and the state of the media environment in southern African countries; and
- Training, workshops and publications.

How to report a media freedom violation or victory

What to report:

Journalists and Free Expression activists who are:

- Assaulted;
- Arrested;
- Censored;
- Denied credentials;
- Harassed;
- Kidnapped;
- Killed;
- Missing;
- Threatened;
- Wrongfully expelled;
- Wounded; and/or
- 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 or have materials confiscated or damaged; and / or
- Wrongfully sued for libel or defamation.

What to include in your report:

To complete an accurate and relevant alert, please provide:

- The names of the journalists and news organisations involved;
- The date and circumstances of the incident; and
- Detailed background information.

Send your report to info@misa.org or call us on +264 61 232975.

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Appendices

State of media freedom in Southern Africa 2014

Windhoek Declaration
African Charter on Broadcasting
Declaration of Principles of Freedom of Expression
Declaration of Table Mountain
African Platform on Access to Information

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 publish-

ers 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 du-

ties, 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.

Africa 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 expres-

sion 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. 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 ac-

countable to all strata of the people as represented by an independent board, and that serve the overall public interest, avoiding one-sided reporting and programming in regard to religion, political belief, culture, race and gender.

2. Public service broadcasters should, like broadcasting and telecommunications regulators, be governed by bodies which are protected against interference.
3. The public service mandate of public service broadcasters should be clearly defined.
4. The editorial independence of public service broadcasters should be guaranteed.
5. Public service broadcasters should be adequately funded in a manner that protects them from arbitrary interference with their budgets.
6. Without detracting from editorial control over news and current affairs content and in order to promote the development of independent productions and to enhance diversity in programming, public service broadcasters should be required to broadcast minimum quotas of material by independent producers.
7. The transmission infrastructure used by public service broadcasters should be made accessible to all broadcasters under reasonable and non-discriminatory terms.

PART Three

COMMUNITY BROADCASTING

1. Community broadcasting is broadcasting which is for, by and about the community, whose ownership and management is representative of the community, which pursues a social development agenda, and which is non-profit.
2. There should be a clear recognition, including by the international community,

of the difference between decentralised public broadcasting and community broadcasting.

3. The right of community broadcasters to have access to the Internet, for the benefit of their respective communities, should be promoted.

PART Four

TELECOMMUNICATIONS AND CONVERGENCE

1. The right to communicate includes access to telephones, email, Internet and other telecommunications systems, including through the promotion of community-controlled information communication technology centres.
 2. Telecommunications law and policy should promote the goal of universal service and access, including through access clauses in privatisation and liberalisation processes, and proactive measures by the State.
 3. The international community and African governments should mobilise resources for funding research to keep abreast of the rapidly changing media and technology landscape in Africa.
 4. African governments should promote the development of online media and African content, including through the formulation of non-restrictive policies on new information and communications technologies.
 5. Training of media practitioners in electronic communication, research and publishing skills needs to be supported and expanded, in order to promote access to, and dissemination of, global information.
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 broadcasting policies, to develop specific models for regulatory bodies and public service broadcasting, and to lobby relevant official actors.
 3. All debates about broadcasting should take into account the needs of the commercial broadcasting sector.
 4. UNESCO should undertake an audit of the Charter every five years, given the pace of development in the broadcasting field.
 5. UNESCO should raise with member governments the importance of broadcast productions being given special status and recognised as cultural goods under the World Trade Organization rules.
 6. UNESCO should take measures to promote the inclusion of the theme of media, communications and development in an appropriate manner during the UN Summit on the Information Society in 2003.

PART Five

IMPLEMENTATION

1. UNESCO should distribute the African Charter on Broadcasting as broadly as

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. 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 associa-

tions.

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 without 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. 3

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, powers, 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 abus-

es 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 government 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 wrong-doing 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 government 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 corrupt 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 Peoples' 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 Extractive 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 ensure 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 Re-

gion (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 framework 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 elec-

- tion 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 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 parallel 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 opportunity 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

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