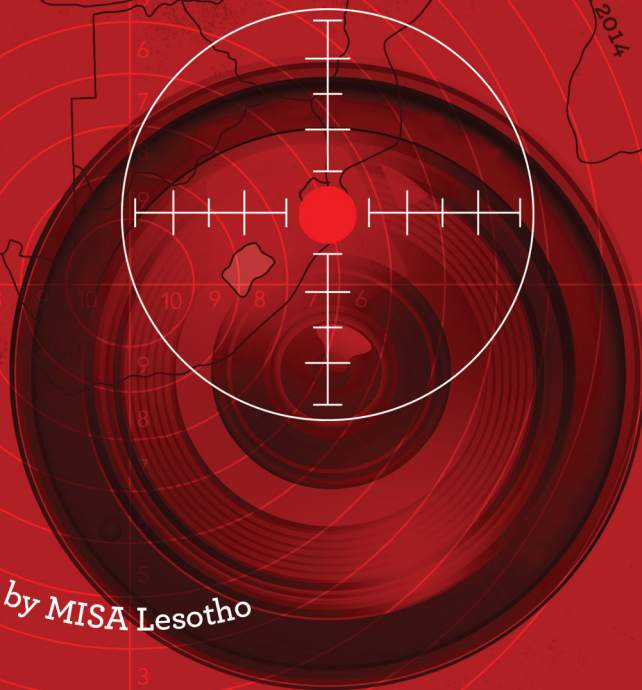


Lesotho

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

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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.



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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'enolo 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'enolo 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'enolo 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

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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, *Le-khetho 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 over-turning 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 Chapararongo 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 



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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 Outsa 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.



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Malawi

National Overview by MISA Malawi

