



Tanzania

National Overview 2016
by MISA Tanzania

OVERVIEW

“The Newspaper titled “Mawio” shall cease publication permanently including any electronic communication as per the Electronic and Postal Communication Act, with effect from January 15th, 2016”.

This statement appeared in the government notice no 55, published on January 15, evidence that the infamous Newspaper Act of 1976 had struck again, this time to de-register the privately owned weekly tabloid called *Mawio* and stop the publication from operating entirely, even through online platforms. Information Minister Nape Nnauye claimed that *Mawio* had demonstrated a culture of publishing inflammatory content and despite repeated warnings it had refused to tone down its “provocative” coverage.

Previously, the Act was used to ban publications that authorities claim were undermining the law of the land, including *Mawio*’s sister paper *MwanaHalisi* which was banned indefinitely in 2015. However, *MwanaHalisi* successfully challenged the ban in the High Court of Tanzania and was back in the streets in 2016. The same Act was used to suspend *The East African*, a weekly publication, in early 2015 for allegedly not “being properly registered,” even though the paper had been operating in the country for more than two decades. In 2016 the government allowed the return of the *East African*.

Before the media had time to process the news of the closure of the paper, on Monday 18 January, just three days

after *Mawio* was completely removed from the newsstands, the Government suspended 27 TV and Radio stations for three months for failing to fulfill their licensing requirements. With only three months in power, the 5th phase government had sent a clear message to the media in Tanzania that the next 57 months weren’t going to be easy.

A very challenging year for media freedom in the country...

Media Freedom

While the region and the world celebrate the presidency of John Magufuli in Tanzania, there is no doubt that 2016 has been a very challenging year for media freedom in the country.

It was marked with banning and suspension of many media outlets. Not only were media outlets attacked but also individual journalists were victims of press freedom violations all over Tanzania. The violations ranged from physical assaults, threats and intimidation, harassment and court cases over sedition charges, denial of access to information in public offices or access public events. Close to 40 cases of media freedom violations were recorded last year from all over the country.

Some of the notable ones were the abduction of the Zanzibar based Mwananchi newspaper reporter and Deutsche Welle (DW) correspondent Salma Said. Salma was flying from

Zanzibar to Dar es Salaam and was abducted by a group of men travelling in an unmarked saloon car on exiting Julius Nyerere International Airport. She was released after three days from an unknown location where she had been held and tortured.

‘TAKE ONE’ a lifestyle TV show by *Clouds TV* was suspended for three months by the Tanzania Communications Regulatory Authority (TCRA) for allegedly airing programmes that promote prostitution and homosexuality. The suspension sparked mixed opinions among Tanzanians over the content of the programmes aired.

Once again, Information Minister Nape Nnauye ordered two privately owned stations, Radio Five of Arusha and Magic FM based in Dar es Salaam to cease their broadcasting over allegedly “seditious” content that could incite public violence and disturb the peace.

Kagera-based *AZAM TV* reporter Junior Mwemezi was arrested by anti-robbery police in Kagera town towards the end of the year for allegedly possessing government documents illegally. Mwemezi had written a story on tax evasion by a company. According to Mwemezi the story showed some malpractice by several public officials and this angered them. Earlier on, Mwemezi had been given a tip on the matter and had these documents in his car when the anti-robbery squad arrested and took him to police station for interrogation. According to him he was handcuffed and beaten. He was released on bail after six days. With support from his lawyer, the issue of possessing public documents was taken off the table but he still has another case in court for allegedly impersonating a public official.

One of the biggest blows to press free-

dom in 2016 was the government decision to ban the live broadcasting of the Parliament Sessions in April 19. Despite public outcry in conjunction with journalists and human rights groups alike, the government turned a deaf ear. This wasn’t only a challenge to the media but a direct denial of the public’s right to information. The Government claimed that live broadcasting was expensive, and according to state officials it cost up to Tanzania Shillings 5 billion. When Tanzania Media Foundation (TMF) offered to cover the cost of live broadcasts, it was rejected. This led critics to believe that there was another motive behind the ban.

The MSA has created a number of bodies which undermine the freedom of the media.

Even though perpetration of media violations include ordinary citizens, there is overwhelming evidence that in 2016, Government institutions and political leaders were the highest in number in terms of committing violations. Media monitoring reports from other organizations such as the Media Council of Tanzania (MCT), Tanzania Human Rights Defenders Coalition (THRDC) and others indicate that violations committed by government institutions (police, government officials) make up to 80 per cent of the violations reported.

New Media Law

The year under review also witnessed the enactment of the new media law in Tanzania - the Media Services Act (MSA) no. 12, 2016 and its regulations of 2017. This long-awaited law comes with stiff challenges and even bigger threats to the entire media industry, and this has triggered a national outcry from both media and human rights defenders and the public at large.

The MSA has created a number of bodies which in one way or another to undermine the freedom of the media. The Journalist Accreditation Board, whose members are appointed by the Minister under section 12 of the Law has the mandate to accredit and discredit journalists. This body however, works under the instruction of the Minister responsible for information. This is open to abuse, in that, a journalist critical to the government can be removed from the journalists' roll at any time.

Another body created by the Act is called the Independent Media Council under section 24 of the Act. On the surface it would seem that this body is run by journalists themselves and it has been given powers to, amongst other issues, develop a code of ethics and promote ethical and professional standards. However, all these duties have to be undertaken in collaboration with the Accreditation Board. In the other words, the Accreditation Board, which is under the Minister responsible for Information will act as overseer of the Independent Media Council.

Under Section 50(2) of the Act a journalist who operates without accreditation or who has failed to renew his or her license on time due to financial grounds will be liable to a fine of not less than five million shillings or a jail term of not

less than three years. The act provides for minimum penalties and fines.

The MSA also introduced a new element - which gives the Director of Information Services under section 5(i) the mandate to coordinate all government advertisements and he has a power to determine where to publish on the same. This is excessive power he might use against private media if he feels they are not publishing stories which pleases the state.

Section 52(1) which then talks about "seditious intention" also punishes journalists who publish stories which are regarded seditious. The term is open to interpretation. This could have detrimental effect on investigative journalism.

The MSA criminalises defamation and this part of the law has been copied from the repealed News Papers Act, 1976. The intention of criminalization of journalists and media fraternity is built under part VII - Offences & Penalties.

In addition to the contentious clauses, the Media Services Act, 2016 and its Regulations have several areas which add value to the media industry. The Act also recognises journalism as a profession by setting standards for the qualifications of journalist. The minimum standards for one to be recognised as a journalist under this Act are to possess a Diploma in Journalism from a recognised institution.

The Act sets obligations for the print media - e.g. Journalists are required to uphold Tanzanians natural sovereignty, unit, security and both economic and diplomatic interests. The Act requires media to preserve Tanzania cultural value, identity and observe good taste and decency and public morality.

Journalists are also required to exercise

great care when reporting incidents of torture, ill treatment of people or animals, dead or mutilated bodies, people in extreme pain or at the point of death, molestation or abusive treatment against children.

The Media Services Act, 2016 and its Regulations has a number of problematic clauses and numerous stakeholders which include the Media Council of Tanzania (MCT) and the Union of Tanzania Press Clubs, have filed a Constitutional case before the High Court of Tanzania and the East African Court of Justice to challenge the constitutionality of the Media Services Act.

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In 2015, after a silence of almost a decade, push and pull between the media stakeholders and the government, there was a move by the latter to enact two bills, namely the Access to Information Bill 2015 and Media Services Bill 2015 under a certificate of urgency.

This move was vehemently opposed by stakeholders, and eventually the Parliament refused to continue with the enactment processes and asked the government to use normal route for enactment of laws which involves public consultations. It was through these consultations and pressure from both within and outside that the Ministries of Information,

Culture, Artists and Sports, under Nape Nnauye and of Justice and Constitutional Affairs under Dr Harrison Mwakymbembe were eventually able to table the two bills in 2016, and have them approved by Parliament and eventually passed.

Despite the fact that the two laws are not of the exact quality that stakeholders wished for, they do have certain sections that have somehow included stakeholders opinions.

Free Expression Online Under Massive Scrutiny

"Any person who publishes information, data or facts presented in a picture, text, symbol or any other form in a computer system where such information, data or fact is false, deceptive, misleading or inaccurate commits an offence, and shall on conviction be liable to a fine not less than three million shillings or to imprisonment for a term not less than six months or to both".

This is the infamous Section 16 of Tanzania's Cybercrime Act of 2015. Two citizens who know this law rather intimately are Maxence Mello of *Jamii Forums* and netizen Isaac Habakuk Emily from Arusha. The two and countless others have appeared in courts on charges of "insulting" the country's president, John Magufuli or for allegedly misusing the social media. Surprisingly, it has been hard for the state to prove malice in most of these cases, and subsequently their cases have been thrown out by the court. Undoubtedly, 2016 was the year of court cases related to online content.

CHALLENGES

Upholding media ethics

Ethical issues such as reporting of unsubstantiated rumours, sensationalism, stereotyping etc were once a highlight in the media sector in 2016. The challenges for the media result from having poorly trained journalists or corrupt editors on staff, a legal regime in place that enforces self-censorship, and the weak economic conditions many outlets operate under.

Most media are poorly financed and do not pay staff well or promptly, leading to what is commonly referred to as the “brown envelope syndrome”, where media practitioners accept freebies from sources resulting in biased stories.

Critics propose training, both long term and short courses (classroom and in-house) and refresher courses, ensuring the adherence to the basic tenets of professional journalism standards.

Lack of unity among the media practitioners and stakeholders has been a great setback for achieving progressive media and related laws in Tanzania. Efforts to collaborate on policy formulation was acrimonious to the point that Nape Nnauye, the Minister of Information at the time, taunted the media by asking them to take over in leading the process and not leaving to the activists.

In looking ahead, it is clear that awareness training on the contents of the new media laws and its regulations is imperative if journalists are to survive and avoid jail terms and hefty fines in 2017.

This is so because struggle for a free, professional and independent media in Tanzania has yet to bear tangible fruits. Success on this depends solely

on the promptness and capability of the media to adequately develop of journalists.

Since 2016 highlighted the growing of mistrust between the Parliamentarians and the media, it is important for the media to enhance their professional and ethical reporting skills. More so, because politicians continue to suppress media freedom under the guise that they are curtailing “irresponsible journalism”. They also continuously castigate the media on unbalanced or biased media coverage.



MPs complained that
“they have been hurt
by the media”.

Observers believe that this could be one of the contributing factors to the passing of the unfavourable media laws by the lawmakers. During several encounters between the two parties at the Parliament grounds, MPs would be heard complaining that “they have been hurt by the media”. Perhaps this was one way of getting back at them despite the fact that MPs tend to use the media on their way up when they are vying for political posts).