



STATE OF THE MEDIA REPORT

2019

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❖ Introduction

Zimbabwe's 2018 elections coming on the backdrop of the ouster of former President Robert Mugabe in November 2017, were held amid great expectations of a new era that would spur the country's socio-economic development in a concomitantly open and free democratic space.

These expectations were underpinned through pledges by President Emmerson Mnangagwa's newly elected government to undertake requisite economic and political reforms to unlock international foreign direct investment as enunciated through his Zimbabwe is 'open for business' mantra. Media policy and law reforms were among the key reforms critical to steering the Zimbabwean ship in the right direction and retaining its pride of place in the international community.

It is against these expectations that the Ministry of Information, Publicity and Broadcasting Services led by Monica Mutsvangwa, in November 2018, held consultative meetings with key media stakeholders to get input into the form and shape the envisaged reforms would take.

Resultantly, the government conceded to the unbundling of the discredited Access to Information and Protection of Privacy Act (AIPPA) through the gazetting of the Freedom of Information Bill and the Zimbabwe Media Commission Bill. The Broadcasting Services Act, was also lined up for similar reconstruction through the Broadcasting Services Amendment Bill.

However, as 2019 came to a close, more than a year after the July 2018 elections, government's sincerity in undertaking the envisaged democratic reforms became increasingly questionable.

While the government has since gazetted the Freedom of Information Bill and the Zimbabwe Media Commission Bill, it is regrettable that the two Bills were generally viewed as a far cry from meeting the country's constitutional yardsticks as envisaged under Sections 61 and 62 of the Constitution which guarantees freedom of expression, media freedom and access to information.

The government's lethargic, if not lacklustre approach, in implementing genuine democratic reforms is thus cause for great concern.

This should be viewed on the backdrop of the resuscitation of the repressive Public Order and Security Act (POSA) – albeit under a new name – the Maintenance of Order and Peace Act (MOPA), but with the retention, if not tightening of POSA's draconian provisions.

Reservations by the United Nations Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association, Clement Nyaletsossi, at the end of his visit to Zimbabwe (17 - 27 September 2019), prior to the enactment of MOPA, are poignant in that regard.

Nyaletsossi, said then, the proposed law had worrying similarities to POSA revealing a common scope in which the exercise of the right to peaceful assembly is not fully guaranteed. He noted that the Bill (before its enactment), did not propose "significant substantive amendments) targeted to address the main problems then prevailing under POSA.

"Instead the ... bill continues to give law enforcement agencies broad regulatory discretion and powers," " he said in his end of mission to Zimbabwe statement.

Nyaletsossi, however, noted one important improvement being the deletion of Section 27 of POSA related to the temporary prohibition of holding processions or public demonstrations within particular police districts. "However this change is made based on the declaration of unconstitutionality made by the Constitutional Court in 2018.

"Another improvement is the provision mandating the President, instead of the Minister of Defence (as provided by POSA), to authorise the deployment of military forces to assist the police in exercising their functions, and report promptly to Parliament bringing it in line with the Constitution.

The UN Special Rapporteur, was nonetheless circumspect on the deployment of military forces. "From my discussions on recent events, I have perceived that the use of military forces has a profound negative impact, including in the minds of the population, who fear these forces are not adequately trained to handle demonstrations.

"On this point, I would like to stress that the involvement of the military in the managing of assemblies contradicts the *Guidelines for the Policing of Assemblies by Law Enforcement*

Officials in Africa, as they provide that military forces must only be used in exceptional circumstances and only if absolutely necessary.”

His observations came on the backdrop of the shrinking of the country’s democratic space as evidenced by the suppression of demonstrations and abductions of civic society activists and other dissenting voices. In January 2019, an estimated 17 people were killed by security personnel following nationwide protests against fuel price increases resulting in a four-day Internet shutdown.

Inevitably, several journalists were caught in the crossfire of the government’s crackdowns against constitutionally guaranteed rights to media freedom, freedom of expression, assembly and association. In that regard, the operational environment and democratic space remained volatile, uncertain and unpredictable.

Given the foregoing, Zimbabwe was thus back to the pre-Government of National Unity (GNU) 2007-2008 *status quo ante* characterised by socio-economic political instability and contested presidential election results, triggering incessant calls for political dialogue and implementation of fundamental reforms.

This scenario, notwithstanding the temporary relief ushered by the GNU (2009 – 2013), was back to haunt the country yet again despite President Mnangagwa’s pledges to usher socio-economic and political stability hinged on strengthening Zimbabwe’s institutions of democracy.

❖ **Political Context and Key Events**

It is trite to note that the foregoing developments came in the wake of brutal clampdowns on opposition MDC Alliance demonstrations, reported abductions and torture of human rights activists and political players allegedly by the police and State actors.

These repressive actions were undoubtedly aimed at containing an increasingly restive population squirming under worsening economic hardships and impoverishment characterised by power outages of up to 20 hours, company closures, high unemployment, shortages of foreign/local currency, fuel and water, endemic corruption and soaring prices of basic commodities and services.

During the year under review, inflation spiked from under 1 percent in 2017 to more than 400 percent in October 2019, triggering fears of a return to the 2007 2008 hyperinflationary period. The economy was thus projected to shrink by 7% according to the International Monetary Fund at a time when an estimated 8 million Zimbabweans are facing hunger and in need of food aid and the worst drought since 1992.

The crisis was worsened by the dispute between President Mnangagwa and MDC Alliance leader Nelson Chamisa over the 2018 presidential election results, with the latter refusing to recognise the former's incumbency. This dispute spilled into Parliament, where Zanu PF MPs retaliated by refusing to recognise the chairpersons of parliamentary committees led by MDC Alliance MPs.

Suffice to say the worsening socio-economic environment can easily be transposed with the 2007 – 2008 hyper-inflationary era before the relative stabilisation of the socio-economic environment during the 2009 – 2013 Government of National Unity.

And as the economy continued to deteriorate, junior and senior doctors, nurses and other health workers went on strike protesting poor working conditions and shortages of drugs thereby crippling the health delivery system. Similar protests and demonstrations were staged by civil servants including teachers complaining they were incapacitated from fulfilling their duties due to poor salaries.

Coming on the backdrop of the brutal clampdown of the August 2018 and January 2019 protests, Zimbabwe's democratic space continued to shrink as the year progressed.

Similar actions were meted yet again, when anti-riot police dispersed and assaulted citizens and innocent bystanders at the MDC Alliance Headquarters in Harare where its leader Nelson Chamisa was scheduled to deliver his 'Hope of the Nation Address'. Again scores of people were injured, including journalists, as police indiscriminately assaulted supporters and bystanders that had gathered at the party's headquarters, including elderly women.

These actions undoubtedly drew local and international outrage and condemnation and by among others, heads of mission of the delegation of the European Union i.e. France, Germany, Greece, the Netherlands, Romania, Sweden and the United Kingdom and those of Australia, Canada and United States.

Meanwhile, and as the socio-economic and political crises deepened, the United Nations, through its Special Rapporteur on the Right to Food, Hilal Elver, added its voice.

Ms Elver recounted seeing people waiting for hours, in long lines, in front of gas stations, banks, and water dispensaries, and receiving information that public hospitals had been reaching out to humanitarian organisations after their own medicine and food stocks were exhausted.

Ms. Elver called on the Zimbabwean Government, political parties, and the international community to come together to “put an end to this spiraling crisis before it morphs into a full-blown conflict”.

The independent UN human rights expert was presenting her assessment on the current situation in Zimbabwe, concerning all aspects related to the right to food, following an 11-day visit to the country.

Because of hyperinflation, which, said Ms. Elver, has reached some 490 per cent, more than 60 per cent of the population is now “food-insecure”, in a country once seen as the breadbasket of Africa: “In rural areas, a staggering 5.5 million people are currently facing food insecurity, as poor rains and erratic weather patterns are impacting harvests and livelihoods”, she said.

“In urban areas, an estimated 2.2 million people are food-insecure and lack access to minimum public services, including health and safe water”.

She described the figures as “shocking”, and warned that, due to factors such as poverty and high unemployment, widespread corruption, severe price instabilities, and unilateral economic sanctions, the crisis is getting worse.

It is these developments that gave rise to the incessant calls for Zimbabwe to implement democratic reforms and the need for dialogue between protagonists President Emmerson Mnangagwa and MDC Alliance leader Nelson Chamisa.

And as the year, drew to a close, former South African President Thabo Mbeki came to Harare in December 2019 and held meetings with President Mnangagwa and Chamisa on an exploratory mission to facilitate dialogue to end the socio-economic and political logjam.

Media Environment

On 20 May 2019 Permanent Secretary in the Ministry of Information, Publicity and Broadcasting Services, Nick Mangwana, held a progress update meeting on the media law reform process.

The meeting provided opportunity to discuss other media related issues such as licensing of community radio stations, appointment of the Broadcasting Authority of Zimbabwe's board, as well as progress on Zimbabwe's migration to digital broadcasting.

The Zimbabwe government has so far based its media law reform process on the repeal of the Access to Information and Protection of Privacy Act (AIPPA). This law currently regulates three broad areas of law namely, access to information, data protection and regulation of the media industry.

This came after government conceded to breaking AIPPA into three Bills, i.e. the Freedom of Information Bill, Protection of Personal Information Bill and Zimbabwe Media Commission Bill. The Broadcasting Services Act was also to be duly amended.

However, as the year 2019 came to an end, no timelines or indications were given on when and whether other statutory provisions that restrict media freedom would actually be reviewed and amended or repealed. Contrary to popular belief, it is the Criminal Law (Codification and Reform) Act that has generally been used to violate free expression and media freedom in Zimbabwe, when compared with AIPPA.

Crimes found in the Criminal Law Code such as the publishing or communicating false statements prejudicial to the State, or undermining the authority of the President, have been used to punish offenders for publication of information that portrays the State or President in an unflattering manner.

Suffice to say laws such as the discredited AIPPA, used to licence and regulate the media; the Official Secrets Act (OSA), to broadly embargo information held by public bodies and the Broadcasting Services Act (BSA), to hinder free establishment of private radio stations, remained entrenched in the country's statutes.

Other restrictive laws include the Censorship and Entertainment Controls Act (CECA), and the Criminal Law (Codification and Reform) Act. This should also be viewed against the

government's accelerated efforts to introduce the cybercrime laws, generally perceived as intended to curb free speech online.

These laws essentially curtail citizens' right to freedom of assembly and association, demonstrate and petition, including the right to freedom of conscience, as provided for by Sections 58, 59 and 60 of the Constitution as well as Sections 61 and 62 which protect the right to free expression, media freedom and access to information.

For instance, more than 30 Harare-based journalists on 8 April 2019 petitioned the Zimbabwe Republic Police following the firing of teargas canisters by the police into the offices of online publication *263Chat* in Harare on 4 April 2019.

The journalists marched to Harare Central Police Station where they were initially barred from entering the premises by heavily armed police officers. The officers confiscated and tore the placards they were holding.

However, after an initial standoff, they were then allowed to enter the police station where they presented their petition to Chief Superintendent Simba Chagu. Superintendent Chagu then addressed the journalists and told them they had contravened sections of the then Public Order and Security Act by failing to notify the police about their intention to deliver the petition before dismissing them.

Earlier, the journalists had marched from the Media Centre to Town House where they were addressed by Harare Mayor Herbert Gomba upon presentation of the same petition. The mayor said the Council had instituted an investigation into the incident.

"A police report (following the incident) was lodged and visual evidence of the attackers is available to assist the police in their investigations of this matter. To our knowledge, no arrests had been effected at the time of the submission of this petition to your esteemed offices," read part of the petition.

"Media practitioners have a right to cover current affairs such as police operations against vendors in a public space. The only limitation being that such media coverage should not interfere with the ongoing police operation."

The journalists condemned the firing of teargas canisters into the occupied offices of *263Chat* as unwarranted and unjustified. "We therefore urge you to conduct thorough investigations into this shocking incident as a matter of urgency and thus assure the safety and security of

journalists undertaking their lawful professional duties as provided for by the Constitution,” the petition read.

The incident happened on 4 April 2019 during a joint operation against vendors by police and Harare municipal police officers in the central business district.

Such violations of media freedom impose greater urgency and the requisite political will on the need for comprehensive media law and policy reforms. These reforms should not only be restricted to the media and information industry, but also include wholesale political and economic policy shifts in line with the Constitution, which are critical to unlocking both domestic and foreign direct investment.

❖ **Arrests, threats and harassment of journalists**

In September 2016 and December 2017, media representative bodies led by MISA Zimbabwe Trustee and veteran journalist, Cris Chinaka, under the auspices of the Media Alliance of Zimbabwe, met with senior police officers led by then National Police Spokesperson Senior Assistant Commissioner Charity Charamba.

The two meetings were informed by what can be termed as deteriorating relations and hostility between the media and the police in the wake of increased cases involving the harassment, assault and arrests of journalists conducting their lawful professional duties by members of the police.

During the meetings, the parties raised issues of mutual professional concerns and acknowledged that these needed to be addressed in the context of respective mandates and responsibilities as provided for by the Constitution.

It is against this background that the December 2017 follow-up meeting culminated in the production of key action points that needed to be taken to improve professional relations between the police and the media.

Commendably, the agreed action plans and interventions went a long way in not only improving relations between the two parties, but in reducing the number of cases involving the unlawful arrests, assaults or harassment of journalists by the police.

For instance, and commendably so, no journalist was arrested, detained or assaulted by the police in the first six months of 2018 following the December 2017 meeting and its attendant action plans. This situation also subsisted during the election period and more-so during the election-related demonstrations that rocked Harare on 1 August 2018.

However, one foreign journalist, Joseph Cotterill, was reportedly shoved with a rifle butt by a member of the anti-riot police when the police tried to block an MDC Alliance election-related press conference at a local hotel in Harare on 3 August 2018. The other three cases involved the assault of journalists by the military during the violent demonstrations in Harare on 1 August 2018.

Regrettably, this changed during the post-election period in 2018 and during the course of 2019 as the country continued to witness cases involving the assault or arrests/detention of journalists by anti-riot police.

For instance, in 2017, MISA Zimbabwe recorded the specific assault of eight (8) journalists during the course of their duties compared to the 12 recorded in 2016. Then, and as obtained in 2019, the majority of the cases of assault of journalists on duty were perpetrated by the police.

A total of 14 journalists were assaulted in 2018 compared to eight (8) in 2017, an increase of 75%.

Thus the situation remained relatively unchanged in 2019 during which 12 journalists were assaulted while conducting their lawful professional duties. While this marks a decline of 14.3%, the majority of the cases save for two, yet again, involved the police.

The violations for the year 2019 are noted as:

- 27 violations - number of journalists and artists who's media freedom and freedom of expression rights were violated.
- 25 of these cases were recorded with two incidents unrecorded because the journalists involved declined to be so recorded.
- 20 alerts issued (alerts may contain more than 1 violation)

Statistical analysis of media freedom violations from 2016 - 2019

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7

Recorded cases of harrasments in 2019

8

Recorded cases of harrasments in 2018

14

Assaults in 2018

8

Assaults in 2017

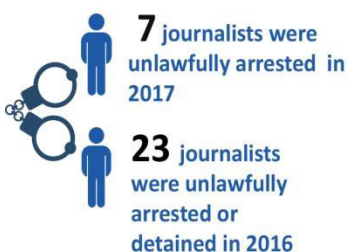
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12

Assaults in 2016

In 2017, MISA Zimbabwe recorded the specific assault of eight (8) journalists during the course of their duties compared to the 12 recorded in 2016

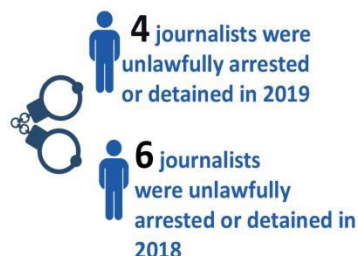
A total of seven (7) journalists were unlawfully arrested or detained in 2017 compared to 23 journalists the previous year. This marked a decline of almost 70% (69.5%).



This marked a

70%

Decline in unlawfuful arrests from 2016 -2017



This marked a

33%

Decline in unlawfuful arrests from 2018 -2019

As was the case in 2018, we again recorded seven (7) cases involving the intimidation and harassment of journalists during the course of their work. Some of these media freedom violations were perpetrated by supporters of the major political parties, Zanu PF and MDC Alliance.

Notable cases, among others, involve Costa Nkomo, journalist with *263Chat*, who was on 9 January 2019, assaulted by the police as they were rounding up vendors in Harare's central business district. On 4 April 2019, police fired teargas canisters into the *263Chat* offices as they pursued journalist Lovejoy Mutongwizo who had been covering an operation by the police and Harare Municipal police.

One of the police officers reportedly fired a canister at the journalist, which struck him on the abdomen.

On 7 June 2019, Nunurai Jena, correspondent with VOA's Studio 7, was arrested and detained without charges for about three hours by police in Kadoma after they spotted him taking pictures of a roadblock (police checkpoint), mounted close to a polling station in Rimuka township.

These violations of media freedom continued with the assault of Talkmore Fani Mapfumo, journalist with online publication *Zim Morning Post* on 16 August 2019. He was assaulted by anti-riot police while filming the police as they were dispersing protesters in Harare's central business district.

Leopold Munhende, journalist with *NewZimbabwe.Com*, was on 23 August 2019 arrested at the New Government Complex in Harare while covering a demonstration by members of the Amalgamated Rural Teachers Union, despite him duly producing his accreditation card.

On 19 October 2019, anti-riot police assaulted Ruvimbo Muchenje, a journalist with Alpha Media Holdings, with batons during running battles between the cops and vendors in Harare's central business district after a female police officer reportedly alerted her colleagues to her presence saying: *there is a photojournalist deal with her*. She sustained injuries following the assault.

Of concern as has been the case over the years, is these cases involve members of the police who are supposed to protect journalists and the citizens in general. Worse still, the

perpetrators of these violations have never been accounted for, even in instances where reports have duly been made with respective police stations.

Access to Information/Freedom of Expression

As the year drew to a close, the Parliamentary Portfolio Committee on Information, Media and Broadcasting Services, produced its report on the public hearings it conducted on the Freedom of Information Bill, setting the stage for its debate and eventual enactment.

It is trite to note that the report adequately captures submissions made during the earlier public hearings. Recommendations by the Committee on issues that need to be addressed, if they are heeded and not subjected to narrow partisan political agendas, offer glimmer of hope that could set the country towards enactment of a democratic access to information law.

Zimbabwe should therefore seize this moment by ensuring that provisions of the Freedom of Information Bill which seek to foster the exercise and enjoyment of the right to access information, are in sync with Sections 61 and 62 of the Constitution which provide for media freedom, freedom of expression and access to information.

Fundamentally, this Bill should also meet regional and international benchmarks, and as set out in the African Commission on Human and Peoples Rights' Model Law on Access to Information. Undoubtedly, this imposes immense national responsibility on the government and parliament to do the right thing.

Parliament should therefore ensure that contributions from the public hearings are adequately captured and debated to fill identified gaps and inadequacies in the current Bill before it is passed into law. This obviously also applies to the Zimbabwe Media Commission Bill and the proposed Protection of Personal Information Bill.

In doing this, Parliament should not be influenced by narrow partisan political persuasions. Parliament should thus be driven by collective national resolve to set Zimbabwe on a clear democratic path that entrenches transparency and accountability of which access to information is a key ingredient.

Parliamentary debates on the Bill should be further guided by the United Nations Sustainable Development Goal (SDG 16), which outlines initiatives to adopt and implement constitutional, statutory and/or policy guarantees for public access to information.

It is MISA Zimbabwe's well-considered view that a democratic access to information law underpinned by requisite infrastructure and technology development is key to unlocking the country's socio-economic potential. This is critical when viewed against SDG 2 on investment in rural infrastructure and technology development to build knowledgeable and informed societies.

Access to information and knowledge, free expression (online and offline), respect for cultural and linguistic diversity and quality education for all, are key pillars in building knowledge societies.

According to the United Nations Education Scientific and Cultural Organisation (UNESCO), adoption of democratic freedom of and/access to information laws, has been a global trend during the last 10 years. As of 2019 more than 120 countries had put in place the required access to information legal frameworks. Zimbabwe cannot, therefore, continue to lag behind other progressive nations.

While the alignment of media, freedom of expression and access to information with the country's supreme law has been outstanding for years, the crux of such initiatives should be underpinned by implementation and adherence to the constitution and the dictates of the envisaged laws.

This entails creating the democratic space for the enjoyment of fundamental rights and curbing the unlawful arrests and harassment of citizens exercising their constitutionally guaranteed rights by bringing perpetrators to account.

Cases such as the reported assault and abduction of *BUSTOP TV* comedienne Samantha Kureya by unidentified armed men from her home in Harare's high-density suburb of Mufakose, only serve to dent the country's human rights record.

The armed and masked men reportedly forced their way into the house around 10 pm and assaulted Kureya's family members as well, including minors. Her brother filed a police report at Marimba Police station. The report number is RRB 4149688.

Earlier, in February 2019, Kureya, otherwise popularly known as *Gonyeti*, and her colleague from *Bustop TV*, were detained and fined after police held that a satirical skit they produced in 2016 amounted to public nuisance. During their brief detention in February, the *Bustop TV* pair was warned that their satirical skits were growing more political.

These acts of lawlessness cannot be allowed to continue with impunity given the serious risk they pose to the security, life and limb of vulnerable Zimbabwean citizens at large. The Zimbabwean government has an obligation to protect and ensure the safety and security of its citizens at all times.

Citizens, including journalists and comedians, should feel secure at all times particularly when in their homes, as provided for under Sections 51 and 52 of the Constitution which provide for the right to human dignity and personal security. In addition, Section 61 provides for freedom of expression and freedom of the media which also includes freedom of artistic expression, scientific research and creativity and academic freedom.

Failure to investigate such cases risk spawning waves of similar wanton acts of lawlessness and instilling fear in citizens exercising their right to free expression as provided for by the Constitution. On the other hand, archaic and undemocratic laws continue to restrict free expression and access to information on online platforms.

Meanwhile, according to the Freedom of the Net Report published by Freedom House, Internet freedom has been on the decline globally for the past nine years. Zimbabwe, is however, cited as one of the five countries which have experienced the greatest decline in Internet freedom in the past year. This decline is largely due to the Internet shutdown experienced by Zimbabwe in January 2019 as well as the arrests and harassment of dissenting voices online.

However, the report found that Zimbabwe's Internet space is partly free.

Other factors that have led to the decline in the enjoyment of Internet freedom in Zimbabwe include the existence of laws in the country's Criminal Law (Codification and Reform) Act that criminalise fair enjoyment of the right to free expression. In 2019 a number of people were arrested for sharing messages that are said to undermine the authority of the President over social media platforms.

Thus, the January 2019 Internet shutdown had an impact on citizens' right to access, receive and exchange views not just on the unfolding events, but on their everyday communication thus impacting negatively on the right to free expression.

United Nations Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association, Clement Nyaletsossi, in his preliminary report aptly summed up the impact of internet shutdowns when he said:

“I was also informed of cases of internet shutdown that took place during the crackdown of protests further limiting the right to peacefully assembly. I strongly believe that network disruptions are in clear violation of international law and cannot be justified under any circumstances.

“Network shutdown orders often lack a legal basis and these events in Zimbabwe were no exception. In this sense, I applaud the High Court's decision ruling that the Minister of State responsible for national security in the President's Office did not have the authority to issue any directives in terms of the Interception of Communications Act.”

The ruling followed a court challenge mounted by MISA Zimbabwe.

Internet governance

It is against these developments that MISA Zimbabwe convened the 2019 Multi-stakeholder Internet Governance Conference to raise awareness about the African Declaration on Internet Rights and Freedoms (AfDec).

AfDec sets the principles which are necessary to uphold human and people's rights on the Internet, and to cultivate an Internet environment that can best meet Africa's social and economic development needs and goals.

Furthermore, the AfDec initiative seeks to build on seminal African human rights instruments such as the African Charter on Human and Peoples' Rights (ACHPR), the Windhoek Declaration on Promoting an Independent and Pluralistic African Press, the African Charter on Broadcasting, the Declaration of Principles on Freedom of Expression in Africa, and the African Platform on Access to Information Declaration.

African Union member states such as Zimbabwe, have obligations under the African Commission on Human and Peoples Rights; (ACHPR) Resolution 362 of 2016 to implement “legislative and other measures to guarantee, respect and protect citizens’ right to freedom of information and expression through access to Internet services” in line with the Commission’s resolution on the Right to Freedom of Information and Expression on the Internet in Africa.

In terms of Principle 37, of ACHPR’s Declaration on Principles of Freedom of Expression and Access to Information, States are encouraged to facilitate access to the Internet by:

- Facilitating freedom of expression and access to information online and the means necessary to exercise these rights.
- Recognising that universal, equitable, affordable and meaningful access to the internet is necessary for the realisation of freedom of expression, access to information and the exercise of other human rights.
- Cooperating with all relevant stakeholders adopt laws, policies and other measures to provide universal, equitable, affordable and meaningful access to the internet without discrimination.

❖ **Media Professionalism**

The ruling in 2019 by High Court judge Justice Joseph Mafusire, that ZBC and Zimpapers acted unconstitutionally during Zimbabwe’s 2018 elections as they failed to provide a fair opportunity for presentation of divergent views and dissenting voices, vindicates calls for the long-overdue transformation of the state-controlled media houses.

This followed several reports by election observer missions to the 2018 elections, notably the African Union Election Observer Mission, SADC observer missions, European Union Observer Mission and National Democratic Institute, on the unprofessional conduct of the state media.

Justice Mafusire said the two media houses had breached Section 61 of the Constitution (which provides for freedom of expression and media freedom). He ordered ZBC and Zimpapers to ensure their communications do not show bias in favour of one political party or its candidates and that they exercise impartiality and independence in their duties.

The court's ruling imposes serious obligation on the government to allow for the transformation of the two public assets for them to exercise their right to editorial independence in the execution of their professional duties as provided for by the Constitution.

Thus government should take the necessary steps to secure ZBC's editorial independence and governance by a board accountable to the public through parliament. In addition, among other critical measures, policies should be put in place to ensure its protection from interference or attempts to compromise its independence.

As for Zimpapers, the Zimbabwe Mass Media Trust, which acted as a buffer between the company and government to protect its editorial independence, should be reconstituted.

Encouraging is the fact that the ministry is seemingly aware of the need for the envisaged transformation if remarks by the Minister of Information Monica Mutsvangwa, are anything to go by. Speaking to the new ZBC board the minister urged them to work tirelessly in transforming the national broadcaster.

She reportedly said it was crucial for ZBC to align itself with the vision and efforts of those who desire to see the country prosper and flourish for the benefit of all Zimbabweans. The minister said her ministry was committed to giving ZBC enough space to operate without undue interference.

Encouraging though was government's commitment and concession to co-regulation of the media and that this would be incorporated into the Zimbabwe Media Commission (ZMC) Bill as acknowledged in its Draft National Media, Communication, Advertising and Film Industry Policy.

However, these commitments and pledges can only be proved through the text and content of the proposed legislation and in sync with the constitution and other instruments such as the African Charter on Human and Peoples Rights' Declaration on the Principles of Freedom of Expression and Access to Information.

In that regard, the ZMC Bill has worrying provisions that among others, criminalise journalism and involve the police in professional investigations. While the Bill acknowledges co-regulation of the media by extracting the constitutional provision that empowers the Zimbabwe Media Commission to delegate its functions under Section 249 (1) (e) and (2), to any regulatory body for media practitioners set up under the law, this is rather vague.

Vague in that the media self-regulation mechanism envisaged in terms of the principle of co-regulation, would be at the pleasure of the statutory Zimbabwe Media Commission.

It is MISA Zimbabwe's strong view, the government's oft-repeated 'new dispensation' mantra will remain hollow if it is not followed through by democratic media law reforms backed by revamped and transformed public media including the boards and regulatory bodies under its firm grip.

Parliament should therefore fulfil its obligations by ensuring that gazetted bills such as the Freedom of Information Bill and Zimbabwe Media Commission Bill are in sync with the Constitution and other democratic regional and international instruments that Zimbabwe is party to.

❖ **Broadcasting/Telecommunications/ICTs**

As part of its reform agenda, the government promised to licence six new television stations by the end of 2019. However, that promise did not materialise thereby perpetuating the Zimbabwe Broadcasting Corporation's monopoly and ownership of the country's sole television station, Zimbabwe Television (ZTV).

Minister of Information, Publicity and Broadcasting Services, Monica Mutsvangwa, in a question and answer session in the Senate, said these were now expected in the first three months of 2020.

While the country now has 'private' commercial radio stations, in 2019 it was still to licence community radio stations, despite the government's commitment to further free the airwaves and increase access to information.

The government had previously attributed its failure to licence community radio stations to the absence of a board for the Broadcasting Authority of Zimbabwe (BAZ). BAZ had gone for five years without a substantive board before the appointment of the new 12-member board in July 2019.

Meanwhile, during the course of the year, the permanent secretary in the Ministry of Information, Publicity and Broadcasting Services, Nick Mangwana, said Zimbabwe had completed 37% of its migration process to digital migration. The digitisation process offers

immense opportunity to open up more space for television channels. In that vein, Mangwana said Zimbabwe expected to have 24 more television channels.

It is important to note that these 24 channels will not automatically translate to the licensing of 24 different broadcasting players running a channel each. Indeed, Mangwana stated that the Zimbabwe Broadcasting Corporation would control a “chunk” of the stations that would be availed through the ongoing digitisation process.

If the 2013 licensing of regional commercial radio stations is anything to go by, then future broadcasting licences will most likely continue to be issued to State owned enterprises such as the ZBC and Zimpapers, or entities owned by individuals with ties to government and in some instances, direct connections to the ruling party.

Restrictions on the amount of foreign ownership and investment into the broadcasting sector, also limit the ability of private players to raise the hefty capital injection needed to launch and sustain a viable broadcasting venture.

Currently, the Broadcasting Services Act prohibits the licensing of any broadcaster that uses equipment bought through foreign contributions or equipment donated wholly or in part by a foreign entity.

Furthermore, foreigners can only hold up to 20% ownership in local broadcasting enterprises. Mangwana, however, revealed that government is considering increasing this to 49% ownership. This remains to be seen.

According to Mangwana, the then absence of a BAZ Board held up the drafting of policies needed to initiate digital broadcasting in the country. Research carried out as part of MISA Zimbabwe’s DTT Report, reveals that the digital migration process is complete in Harare and Bulawayo.

However, there is need for policies to set out the distribution and pricing of the Set Top Boxes (STBs) or decoders those consumers would need to receive digital transmission in their homes.

Such policies should by law, come from the BAZ Board. However, Mangwana revealed that his Ministry was drafting policies on behalf of the then absent Board. He mentioned that once the Board was appointed, his ministry would hand over the draft Regulations for the Board to finalise.

That notwithstanding, it is unlikely that the Board will make any marked changes to drafts handed down by the Board's parent ministry. This undoubtedly, affects and compromises the Board's overall independence.

Digitisation

Implementation of the digitisation programme continued to be hampered due to lack of funds way beyond the 17 June 2015 International Telecommunications Union's (ITU), deadline for migration from analogue to digital broadcasting. This is notwithstanding the fact that the country also missed the Southern African Development Community's (SADC) June 2016 deadline.

The government has since extended the deadline to 2022.

Completion of the exercise is critical in the licensing of more television stations thus breaking the state-controlled Zimbabwe Broadcasting Corporation's monopoly in that sector (through Zimbabwe Television).

This will most likely perpetuate the current situation where for example, community radio stations have gone unlicensed for the past 18 years since the enactment of the Broadcasting Service Act in 2001. Other Southern Africa Development Community (SADC) countries such as South Africa, Zambia and Malawi already have a plethora of community radio stations.

Speaking during the induction of the Broadcasting Authority of Zimbabwe's Board Members in November 2019, the Minister of Information, Publicity and Broadcasting Services, Monica Mutsvangwa, said 18 of 48 television transmitter sites were ready to transmit digital television signals under the Zimbabwe Digital Broadcasting Migration Project.

She said government was now working on securing the requisite foreign currency to secure set top boxes.

❖ Mobile penetration/telecommunications

According to the Postal and Telecommunications Regulatory Authority of Zimbabwe (POTRAZ), in its 2019 third quarter report, mobile data and Internet usage registered a 3.2%

growth, which is a marked improvement compared to the 8.2% decline recorded in the previous quarter.

Popular social media platforms in Zimbabwe, *WhatsApp, YouTube, Facebook* and *Twitter* contributed 39.1% of total Internet and data usage.

Active mobile subscriptions recorded a 4% growth to reach 12,4 from 12,9 recorded in the second quarter of 2019. This resulted in the mobile penetration rate increasing by 3.4% to reach 88.2% from 84.8% recorded in the previous quarter. All the mobile operators recorded growth in active subscriptions.

National mobile voice traffic increased by 8% from 1,3 billion minutes to 1,4 billion minutes. However, international outgoing mobile voice traffic declined by 39,3% from 13,622,129 to 8,262,022.

Gift Machengete, POTRAZ director-general, said the obtaining economic environment had impacted negatively on the performance of the sector in terms of service demand and consumption levels, operating costs and investment.

“The growth in operating costs poses a threat to operator viability and puts pressure on prices. This may in turn impact demand for postal and telecommunications services as consumers reduce usage,” said Machengete.

He said data and Internet services would, nonetheless continue to drive industry growth but that demand for fixed broadband at household level may be negatively affected by rising prices.

“The use of Over-the-Top services such as WhatsApp, Skype and Viber, is expected to grow as consumers cut back on communication expenditure.

❖ **Way Forward in 2020**

- Government/parliament should prioritise the urgency and necessity of democratic reforms by ensuring gazetted bills such as the Freedom of Information Bill and

Zimbabwe Media Commission Bill and the proposed Protection of Personal Information Bill and Broadcasting Services Amendment Bill are fine-tuned and in sync with the Constitution and regional and international principles.

- The media reform agenda should be expanded and be far-reaching in as far as the laws that affect the enjoyment of the rights to privacy, freedom of the media, free expression and access to information are concerned.
- The proposed cybercrimes and security laws should be formulated and crafted in sync with national and regional principles that protect privacy of communication, and the right of all citizens to freedom of expression, media freedom and access to information.
- The police should investigate cases involving the assault, harassment or unlawful arrests of journalists conducting their lawful professional duties for purposes of prosecuting the offenders to reduce and minimise impunity for crimes against journalists.
- The government, police and political parties, among others, should issue statements condemning media freedom violations with clear warnings to perpetrators on the ramifications of these criminal transgressions.
- The media and police should revisit and implement the resolutions and action plans agreed to in December 2017. These action plans are aimed at improving the professional working relationship between the media and the police
- The media should at all times conduct its duties in a professional manner as guided by the ethics and codes of the profession.
- Increase and maintain pressure on the urgent need for transformation of the Zimbabwe Broadcasting Corporation (ZBC) into a truly independent public broadcaster.
- Transparency in the regulation and envisaged licensing of community radio stations.
- Resuscitation of the Zimbabwe Mass Media Trust (ZMTT) to curb government interference with the editorial independence of public media such as Zimpapers.

❖ Conclusion

The media-operating environment in 2019 was far from the ideal when measured against the government's compliance with constitutional guarantees to media freedom, free expression and citizens' right to access to information.

This is despite pledges by the new government led by President Emmerson Mnangagwa, to break with the past which was characterised by unlawful arrests, assaults and harassment of journalists conducting their constitutionally guaranteed professional duties.

In 2019 we continued to witness cases involving the assaults or unlawful arrests of journalists that were perpetrated by the police– the very same agents that are supposed to protect journalists and the citizens in general.

The State should therefore take the lead in fulfilling its constitutional obligations of guaranteeing the safety and security of journalists, media workers and other content creators as they exercise their right to media freedom and freedom of expression.

This will go a long way in entrenching media freedom and citizens' right to free expression and access to information as provided for by the country's Constitution and other regional and international instruments that the country is party to.

End

❖ Media Violations Statistics 2019

| ASSAULTED | | |
|---|---|----------------|
| Victim/Concerned Party | Issue | Date |
| Costah Nkomo, journalist with 263 Chat. | Police assaulted the journalist while they were rounding vendors in Harare's central business district. | 9 January 2019 |
| Abigail Khupe and Lulu Brenda, Bulawayo – | Abigail and Brenda were teargassed by the police | 14 January |

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|---|---|-----------------|
| based journalists | while covering protests in the city of Bulawayo. | 2019 |
| Mduduzi Masiya, photojournalist with the Midlands Observer. | An unidentified youth assaulted Masiya at the Zanu PF Kwekwe offices where he had gone to interview former Kwekwe legislator Vongai Mupereri. The youth accused him of being an opposition party member. | 1 March 2019 |
| 263 Chat Offices/journalist Lovejoy Mutongwiza. | Police fired teargas canisters into the 263Chat offices where Mutongwiza had fled to while covering an operation by the police and Harare municipal police against vendors in the city centre. One of the police officers reportedly fired a canister at the journalist which struck him on the abdomen. | 4 April 2019 |
| Journalist Tendai Guvamombe | Assaulted by musician Suluman Chimbetu after the musician did not take kindly to a question that had been put to him by the journalist. The musician with the assistance of another person, punched the journalist on the sides of his abdomen. | 5 April 2019 |
| Fani Talkmore Mapfumo, journalist with online publication Zim Morning Post. | Assaulted by the police and sustained injuries while filming the police as they dispersed demonstrators in Harare's central business district. | 16 August 2019 |
| Ruvimbo Muchenje, Alpha Media Holdings journalist. | Anti-riot police assaulted Muchenje with batons during running battles between the cops and vendors in Harare's central business district after a female police officer reportedly alerted her colleagues to her presence saying: <i>there is a photojournalist deal with her</i> . She sustained injuries following the assault. | 19 October 2019 |

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| OpenParly journalist Daniel Chingundu and intern, Loreen Tadzingwa and Ranganayi Zimunya, of (CORAH) Community Radio Harare. | Assaulted by anti-riot police as they dispersed people that had gathered at the MDC Alliance Headquarters where party leader Nelson Chamisa was scheduled to give his 'Hope of the Nation Address'. | 20 November 2019 |
| Journalist Steven Tsoroti | Assaulted by the police for reportedly taking pictures as the police ordered passengers to disembark from a commuter omnibus. Tsoroti was detained at Harare Central Police station for more than three hours. Released without charges but warned for disorderly conduct. | 21 December 2019 |

| THREATENED/HARRASSED | | |
|---|--|-----------------|
| Victim/Concerned party | Issue | Date |
| Zenzele Ndebele, journalist based in Bulawayo | Ndebele had a gun pointed at him by a police officer during protests in Bulawayo. | 14 January 2019 |
| John Cassim, Harare-based journalist | Threatened by a crowd of protesters during demonstration in Harare. | 14 January 2019 |
| TellZim staffers in Masvingo | Councillor Sengerayi Manyanga verbally threatened and assaulted TellZim staff over an article published by the weekly paper. The paper had carried a report that Manyanga was involved in planning Zanu PF protests against the Masvingo Town Council. | 1 February 2019 |
| Remigio Matangira, MP | Threatened and intimidated journalists covering a | 11 February |

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| for Bindura South | Parliamentary Portfolio Committee on Mines and Energy in Harare. The meeting was open to members of the public. | 2019 |
| Tafara Chikumira, ZBC reporter in the Midlands Province | Opposition MDC Alliance security details harassed Chikumira during a rally at Mkoba Stadium in the Midlands capital of Gweru, arguing the broadcaster is biased in favour of Zanu PF. | 24 February 2019 |
| Lovejoy Mutongwiza, journalist with online publication 263Chat. | Summoned to Harare Central Police Station and questioned over his coverage of state events which they police said had an impact on national security and safety. He was freed after two hours without charges. | 29 August 2019 |
| Journalist Ari Goldstein. Goldstein is the founding journalist with online publication, State of the Nation. | Unidentified MDC Alliance personnel grabbed and confiscated his Canon 6D digital camera during the party's rally in Glen View, Harare. | 1 September 2019 |

| BANNED/CENSORED/BARRED | | |
|--------------------------------------|--|------------------|
| Blessed Mhlanga, NewsDay journalist. | Barred from covering a defence forces graduation ceremony at the Zimbabwe Staff College. He said officials told him that only public media journalists from the Herald and Zimbabwe Broadcasting Corporation were allowed to cover the event despite the fact that he had been invited to cover the event. | 28 November 2019 |

| DETAINED | | |
|---|---|------------------|
| Victim/Concerned Party | Issue | Date |
| Mqondisi Nzipho, journalist based in Zimbabwe's second city of Bulawayo | Mqondisi was detained by police despite displaying his media accreditation card while covering protests in Bulawayo | 14 January 2019 |
| Nunurai Jena, correspondent with VOA's Studio 7 | Arrested and detained without charges for three hours by police in Kadoma after they spotted him taking pictures of a roadblock mounted close to a polling station in Rimuka township. | 7 June 2019 |
| Leopold Munhende, journalists with <i>NewZimbabwe.Com</i> . | Arrested at the New Government Complex in Harare while covering a demonstration by members of the Amalgamated Rural Teachers Union of Zimbabwe (ARTUZ). According to his colleague, Costa Nkomo, they were filming the demonstrations when the police approached Munhende. Nkomo said they still bundled Munhende into their vehicle despite the fact that he had shown them his accreditation card. | 23 August 2019 |
| Journalist Steven Tsoroti | Assaulted by the police for reportedly taking pictures as the police ordered passengers to disembark from a commuter omnibus. Tsoroti was detained at Harare Central Police station for more than three hours. Released without charges but warned for disorderly conduct. | 21 December 2019 |

| INJURED | | |
|--|---|------------------------|
| Victim/Concerned Party | Issue | Date |
| 263 Chat Offices/journalist Lovejoy Mutongwiza. | Police fired teargas canisters into the 263Chat offices where Mutongwiza had fled to while covering an operation by the police and Harare municipal police against vendors in the city centre. One of the police officers reportedly fired a canister at the journalist which struck him on the abdomen. | 4 April 2019 |
| Fani Talkmore Mapfumo, journalist with online publication Zim Morning Post. | Assaulted by the police and sustained injuries while filming the police as they dispersed demonstrators in Harare's central business district. | 16 August 2019 |
| Ruvimbo Muchenje, Alpha Media Holdings journalist. | Anti-riot police assaulted Muchenje with batons during running battles between the cops and vendors in Harare's central business district after a female police officer reportedly alerted her colleagues to her presence saying: <i>there is a photojournalist deal with her</i> . She sustained injuries following the assault. | 19 October 2019 |
| Journalist Steven Tsoroti | Assaulted by the police for reportedly taking pictures as the police ordered passengers to disembark from a commuter omnibus. Tsoroti was detained at Harare Central Police station for more than three hours. Released without charges but warned for disorderly conduct. | 21 December 2019 |

| Free Expression | | |
|--|---|------------------|
| Samantha 'Gonyeti' Kureya and Sharon 'Maggie' Chideu comedienne with Bustop TV | Arrested, charged and fined after police held that a satirical skit they produced in 2016 amounted to public nuisance. During their brief detention, the pair were warned that their satirical skits were growing more political. | 26 February 2019 |
| Samantha Kureya, comedienne with Bustop TV | Abducted and assaulted from her home in Harare's high density suburb of Mufakose by unidentified armed and masked men. The assailants reportedly forced their way into the house around 10pm and assaulted Kureya's family members, including minors. | 21 August 2019 |

