



# **STATE OF THE MEDIA REPORT**

**2018**

## TABLE OF CONTENTS

<b>Introduction</b>	<b>3</b>
<b>Political Context and Key Events</b>	<b>4</b>
<b>Media Environment</b>	<b>7</b>
<b>Arrests, threats and harassment of journalists</b>	<b>9</b>
<b>Access to Information/Freedom of Expression</b>	<b>12</b>
<b>Media Professionalism</b>	<b>13</b>
<b>Broadcasting/Telecommunications/ICTs</b>	<b>14</b>
Mobile penetration/telecommunications	16
<b>Way Forward in 2019</b>	<b>18</b>
<b>Appendix: Media Violations Statistics 2018</b>	<b>20</b>

## ❖ Introduction

Zimbabwe held its 2018 elections on 30 July 2018 against the backdrop of previously contested outcomes amid allegations of rigging and manipulation of the results which were continuously won by former president Robert Mugabe since independence in 1980.

The 30 July elections were thus significant in that Mugabe was not a factor in these elections following his removal in a military coup in November 2017. Equally significant was that his long standing nemesis, former Prime Minister Morgan Tsvangirai, for the first time since 2000, did not contest in the 2018 elections. Tsvangirai, who was the leader of the MDC-T since its formation in 1999, succumbed to cancer of the colon in April 2018.

The absence of the two protagonists undoubtedly changed the complexion of the country's politics as his successor Emmerson Mnangagwa, who stood as Zanu PF's presidential candidate, promised to break with Mugabe's intransigence politics.

In his inauguration speech on 24 November 2017 following Mugabe's ouster, President Mnangagwa, said he would strengthen and ensure the pillars of democracy are respected in Zimbabwe.

This raised hope that he would move with speed and implement outstanding socio-economic and political reforms ahead of the 2018 elections. It is common cause that the elections came without implementation of the envisaged reforms.

Worse still, the outcome of the presidential elections, was yet again disputed with the MDC-Alliance led by Nelson Chamisa mounting a constitutional court challenge. The Constitutional Court, however, upheld President Mnangagwa's victory over Chamisa.

The elections were poignant as they were supposed to cleanse Zimbabwe of its previously disputed election results and open the country's socio-economic and political democratic space and retention of international goodwill conducive to foreign direct investments.

International goodwill and foreign investments are critical to curing the country's socio-economic ills and stagnation characterised by 90 percent unemployment, corruption and mismanagement of national resources.

Regrettably as 2018 came to a close, a year after President Mnangagwa's post-coup leadership and five months after the July elections, the outstanding reforms were still to be implemented.

Laws such as the discredited Access to Information and Protection of Privacy Act (AIPPA), used to license 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 Public Order and Security Act, 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.

Encouraging though is that President Mnangagwa in his State of the Nation Address to the 9<sup>th</sup> Parliament of Zimbabwe, singled out AIPPA and BSA as among the laws that will be tabled for amendment.

Similarly, 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 should take.

That as it may be, the question being generally asked is whether the President will live up to his promises and whip his ruling Zanu PF with its two-thirds parliamentary majority, to play ball and not scupper the long overdue media laws and policy reforms.

#### ❖ **Political Context and Key Events**

It is trite to note that the above-mentioned envisaged reforms have been outstanding since the inception of the 2013 Constitution and should be viewed against the ecstatic jubilations that engulfed the country following Mugabe's ouster in November 2017.

Mugabe was largely accused of being the stumbling block to progressive reforms due to his obsessive desire to cling to power by all means necessary without due regard and attention to the country's unresolved socio-economic and political ills.

His ouster thus raised hope that the post-2018 election period would open a new era for Zimbabwe.

As mentioned earlier in this report, at the epicentre of the country's socio-economic ills is the bane of Zimbabwe's disputed elections dating to as far back as the 2000 elections as retention of power by whatever means became the major pre-occupation by then president Mugabe and his Zanu PF party.

And as if Zimbabwe's is jinxed, the 2018 elections produced yet another disputed presidential election outcome at a time when the country was beginning to show all the signs of the 2007 – 2008 hyperinflationary period. The country started experiencing acute fuel, foreign currency and drug shortages, erosion of incomes, shortages and increases in the prices of basic commodities in an economy with 90 percent unemployment.

Junior doctors went on strike demanding better salaries and improved working conditions. Teachers affiliated to the Amalgamated Rural Teachers Union, embarked on a 270-kilometres protest march from the eastern border town of Mutare to Harare.

And as the country battled with a foreign and domestic debt of \$16,9 billion, the issue of the outstanding reforms, respect for human rights and freedoms, tackling corruption and government profligacy critical to unlocking international financial support and investments to kick-start the ailing economy, thus remained on the agenda.

Meanwhile, the period preceding the July 30 elections was generally peaceful with opposition political parties campaigning freely in rural areas which were largely no-go areas during the Mugabe era. Another plus was President Mnangagwa's open invitation to previously banned Western countries to observe the elections.

All that went up in smoke following the 1 August killings of six civilians in Harare by the military following violent demonstrations by protesters demanding the release of the presidential election results. This resulted in the setting up of a Commission of Inquiry into the shootings led by former South African President Kgalema Motlanthe.

And as if that was not enough of a blow to President Mnangagwa's pledge to break with the past, the elections were dismissed as not being free, fair and credible by the European Union Observer Mission (EUOM), Commonwealth Observer Mission and International Republican Institute and National Democratic Institute, among others.

The EUOM was scathing in its final report describing the presidential election results as not "verifiable" and "traceable". It also said the Zimbabwe Electoral Commission (ZEC) "lacked full independence and appeared to not always act in an impartial manner".

“The final results announced by the Electoral Commission, contained numerous errors and lacked adequate traceability, transparency and verifiability,” the EUOM said in its final report dismissing the elections as falling far short of international standards.

These findings should be viewed against President Mnangagwa’s pledge to deliver free, fair and credible elections. The general expectation was that these pledges would have been underpinned by the long overdue media and policy reforms, among other expectations, ahead of the 2018 elections.

This became imperative after the country took the commendable step of signing the African Charter on Democracy, Elections and Governance (ACDEG) on 21 March 2018.

By signing this Charter, State parties pledge to develop the necessary legislative and policy frameworks to establish and strengthen a culture of democracy and peace. State parties also pledge to establish public institutions which promote democracy and constitutional order.

Additionally, the Charter seeks the promotion and protection of an independent judiciary. More importantly, the Charter seeks to promote citizenship participation, transparency, access to information, freedom of the press and promotion of gender balance and equality in the governance processes.

Concrete steps should therefore have been taken to ratify the Charter and domesticate its principles into the relevant laws and strengthen the pillars of democracy ahead of the elections.

As the country grappled with the unfolding socio-economic crisis, the United States, exerted more pressure on the Harare government over and above its Zimbabwe Democracy and Economic Recovery Act (ZIDERA) of 2001 which imposes sanctions on Zimbabwe.

In a statement before the US Senate Committee on Foreign Relations Subcommittee on Africa and Global Health Policy in December 2018, deputy assistant secretary of State for Africa, Matthew Harrington, noted that President Mnangagwa’s government had tried to change “but so far, the pace and scale of reforms has been too gradual and not nearly ambitious enough”.

Harrington said these reforms include: restoration of rule of law, commitment to equitable, legal and transparent land reform and ensuring military and national police forces are subordinate to the civilian government. AIPPA and POSA which have long been used to “suppress human rights and which violate Zimbabwe’s constitution”, should be repealed.

This situation imposes immense responsibilities on President Mnangagwa as it demands his urgent attention of which demonstration of leadership skills and qualities should be the key driver to the rebranding of Zimbabwe.

#### ❖ **Media Environment**

The fact that the year under review passed without the envisaged media law and policy reforms posed as a serious indictment on the government's commitment to implementing these reforms in line with the 2013 Constitution.

These socio-economic and political reforms are critical in underpinning the enjoyment and protection of fundamental rights in line with internationally recognised declarations and principles. It goes without saying that they are at the core of Zimbabwe unlocking critical foreign direct investment and international goodwill to kick-start its ailing economy and generate employment.

Implementation of these reforms ahead of the 2018 elections would have been a progressive milestone in entrenching citizens' rights to freedom of assembly, association, access to information and free expression. It would have also gone a long way in exorcising the country of the ghost of its continuously disputed election outcomes.

It is against the background of the stalled reforms and lack of political will to ditch Mugabe's tattered legacy, that MISA Zimbabwe cautiously welcomed President Mnangagwa's mention of the Broadcasting Services Act (BSA), as among other laws that would be amended during the session of the Ninth Parliament of Zimbabwe.

In his State of the Nation Address when he officially opened the First Session of the 9<sup>th</sup> Parliament in Harare on 18 September 2018, the Zanu PF leader also spoke on the need to finalise and debate new Bills such as the Cybersecurity and Cybercrimes Bill, the Data Protection Bill and the Electronic Transactions and Electronic Commerce Bill.

MISA Zimbabwe has consistently called for the amendment of the now outdated BSA and AIPPA, to ensure among other considerations, it reflects the technologically driven changes the broadcasting sector has gone through.

There were also plans to table the Zimbabwe Media Commission (ZMC) Bill during this parliamentary session. The ZMC is currently established in terms of the Access to Information and Protection of Privacy Act (AIPPA). However, the 2013 Constitution requires that the Commission be guided by a formal Act of Parliament that empowers ZMC.

While the President did not expressly refer to amending AIPPA, the Bill in question will effect amendments to those sections of the law that currently deal with the establishment and functions of the Zimbabwe Media Commission.

These proposed amendments to AIPPA should, however, go beyond the provisions dealing with the Zimbabwe Media Commission alone. MISA Zimbabwe insists on the complete overhaul of AIPPA.

The proposed Cybersecurity and Cybercrimes Bill, the Data Protection Bill and the Electronic Transactions and Electronic Commerce Bill, came at a time when Zimbabwe does not have adequate data protection legislation that will ensure the safekeeping of stored information and in line with citizens' right to privacy as provided for under Section 57 of the Constitution.

The legal protection of this data becomes even more urgent after revelations early in 2018 that the Zimbabwean government had undertaken to transfer large amounts of data to Cloudwalk Enterprises. This Chinese-based entity is creating an Artificial Intelligence-based facial recognition software that will be used by the Zimbabwean government to maintain public law and order.

The right to privacy as enshrined in the Zimbabwean Constitution means that government cannot unilaterally transfer citizens' personal information to other countries without the knowledge and consent of the citizens concerned. Government should therefore respect this constitutional right.

Furthermore, laws must be put in place to ensure that unauthorised use, and transfer of data is sanctioned.

Outside the law alignment process, which is focused on the two laws namely AIPPA and BSA, there is need for government to take a cluster approach on all laws that infringe the rights that are provided for in the 2013 Charter. This will go a long way in deepening and entrenching constitutionalism and rule of law. This is because the enjoyment of all the rights in the Bill of Rights are dependent on the enjoyment of media freedom and freedom of expression, which have over the years proven to be the conduit through which other rights are enjoyed.

Crimes against journalists spiked during the pre-election campaign and post-election period. It is regrettable that State organs and political parties were the perpetrators of the majority of the violations recorded by MISA Zimbabwe.

Some of these crimes were of a grave nature and involved the injury of journalists as witnessed when some journalists were assaulted while covering demonstrations that broke out in Harare on 1 August 2018.



The perpetrators of these acts of violence had not been arrested at the time of publication of this report.

While Zimbabwe may not have recorded the killing of any journalists while on duty, impunity for crimes against journalists still goes beyond murders and assassinations.

Journalists face retribution for their work that sometimes uncovers public scandals, acts of corruption and general misgovernance. A recent example of the dangers journalists live with is the killing of Saudi journalist Jamal Khashoggi in October 2018 at the Saudi Arabian Consulate in Turkey.

It is believed that Khashoggi was assassinated for his criticism of the Saudi government. Unfortunately, his death is not an isolated incident as the United Nations estimates that globally, 88 journalists were killed for their work between January and October 2018.

While some of the violations or crimes against journalists, may appear to be minor infractions, they are nonetheless still crimes and for that reason, must be investigated, and where appropriate, prosecuted accordingly.

The State has a constitutional duty to promote and protect fundamental rights enshrined in Zimbabwe's Constitution. These rights include the right to access information, free expression and media freedoms in general.

The State through its various arms and agencies also has a responsibility to investigate allegations of crimes against journalists and to ensure that such crimes are duly prosecuted.

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

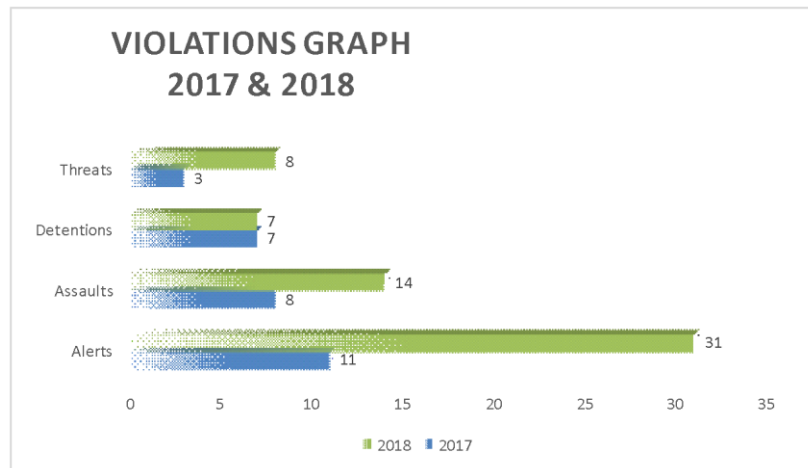
While the country was beginning to experience steady decline in the number of media freedom violations in the wake of the 2013 Constitution and its explicit provisions on freedom of expression, media freedom and access to information, these regrettably shot up in 2018.

Several of the violations recorded in 2018 occurred during the election and post-election period.

For instance, 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%).

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, the majority of the cases of assault of journalists on duty were perpetrated by the police.

However, the situation deteriorated in 2018. During the period under review there was an upsurge in the number of media violations recorded through the issuance of 31 Alerts compared to 11 in 2017, marking an increase of 182%. A total of 14 journalists were assaulted compared to eight (8) in 2017 an increase of 86%.



Commendably so, no journalist was arrested, detained or assaulted by the police in the first six months of 2018 and during the election period and more-so during the election-related demonstrations that rocked Harare on 1 August 2018.

However, a member of the riot police shoved one foreign journalist Joseph Cotterill, with a rifle butt when the police put up a blockade at an MDC Alliance election-related press conference at a Harare hotel 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.

However, this changed during the post-election period in September. For instance, freelance journalist Columbus Mavhunga, was detained for close to three hours during a police crackdown on vendors in Harare on 16 September 2018. Mavhunga was detained after he refused to delete footage he had recorded of the police arresting vendors in the Central Business District (CBD).

He endured a three-hour ordeal as the police officers drove around with him while they continued with their arrests of vendors.

Mavhunga was only released after interventions by national police spokesperson, Senior Assistant Commissioner Charity Charamba.

On 21 September 2018, the police briefly detained Pauline Chateuka for filming police officers as they arrested vendors around the Copacabana bus terminus in Harare. Police detained Chateuka despite the fact that she was visibly wearing her press card. According to Chateuka, once police officers noticed that she was using a video camera to record the events, one officer ran up to her and pushed her into a nearby police lorry with his rifle butt. She was released an estimated 10 minutes later with no charges laid against her

In the meantime, Chateuka had been separated from her colleague Joseph Andras. Andras was accosted by riot police who demanded the deletion of footage from his cellphone. He refused to delete the footage arguing that he was a duly accredited journalist. Chateuka and Andras are reporters with Community Radio Harare, a local community radio initiative.

In a similar incident, police officers briefly detained *New Zimbabwe* editor Gilbert Nyambavhu on 19 September 2018. Nyambavhu was taking pictures of the police during their raid on vendors in Harare. He was detained in the company of his colleague Idah Mhetu.

More still needs to be done to ensure journalists conduct their lawful professional duties without hindrance as the profession is critical to the free flow of information that enables citizens to participate in governance issues.

### **Journalists' safety and security**

The safety and security of journalists is of paramount importance and steps should be taken to domesticate the United Nations Plan of Action on Journalists Safety and the Issue of Impunity. This plan of action contains three fundamental principles that can be summarised as the **Three Ps**.

The first P refers to **Policies** that governments must put in place to promote journalist' safety. Such policies come in different forms and may include government statements condemning crimes against journalists and government policy frameworks that put measures that promote the safety of journalists.

The second **P** refers to the **Protection** of journalists in moments of immediate crisis. Such interventions can be sponsored by either the State or civil organisations. For example, MISA Zimbabwe has a mobile phone Application such as the *JournoSOS App* and the Media Defence Fund to provide emergency assistance to distressed journalists.

Lastly, there should be **Procurement** of justice, which simply means that alleged crimes against journalists are investigated and prosecuted as seriously as any other crimes. The United Nations

strongly believes that the implementation of these three fundamental principles will greatly reduce impunity for crimes against journalists.

### **Access to Information/Freedom of Expression**

Zimbabwe's public institutions are still far from fulfilling their roles as holders of information that should be released upon request and in the public interest.

The opaqueness and secretive nature of the country's public institutions as revealed in surveys conducted by MISA Zimbabwe over the years, risks standing in the way of President Mnangagwa's *Zimbabwe is open for business* mantra.

Business invests and thrives in an environment where relevant information is readily available as opposed to situations where requests are subjected to tedious bureaucratic processes or worse still, not being responded to.

Section 62 of the Constitution guarantees the right to access to information. However, the continued existence of restrictive laws such as the Access to Information and Protection of Privacy Act (AIPPA) and Official Secrets Act (OSA), among others, erode guarantees enshrined in the Constitution.

AIPPA provisions, not in sync with the Constitution are:

- Section 5 of AIPPA which limits access to information which is in the hands of a public body. Secondly, this section also restricts the exercise of this right to citizens and residents of Zimbabwe. This is in contravention of Section 62 of the Constitution which states that the right to access information can be exercised by every person, and it is applicable to information stored by public, State, and private bodies.
- Sections 64 and 80 of AIPPA which criminalise "abuse of freedom of expression" and "abuse of journalistic privilege" respectively. These provisions contradict Section 61 of the Constitution which protects the right to freedom of expression and media freedom.

The continued discord between legislation and the Constitution goes beyond being a rights issue because it also affects Zimbabwe's business prospects on the global stage. For instance, Section 65 of AIPPA restricts foreigners from owning mass media services (mass media services include print and broadcast media which are intended to be read, seen or heard, as the case may be, by an unlimited number of people).

Furthermore, the data protection provisions found in AIPPA are insufficient when tested against the European Union's current General Data Protection Regulations. These insufficiencies make Zimbabwe an unattractive destination for data and information, thus effectively counteracting government efforts in opening Zimbabwe to business.

Information assists citizens as well as business in making informed decisions and choices on matters affecting their lives and operations. This entails proactive public interest disclosure of information to instil transparency and accountability in public institutions.

Regrettably, requests for information by MISA Zimbabwe from various public institutions under the annual MISA Regional Transparency Assessment surveys, points to a culture of inefficiency and entrenched secrecy in public institutions. Results of the surveys which are released on the International Day for Universal Access to Information, analyse the ease or difficult with which the public can access relevant information.

In that regard, the Parliament of Zimbabwe emerged as this year's most open and transparent institution while the Postal and Telecommunications Regulatory Authority of Zimbabwe is the most closed and secretive institution.

AIPPA should thus be replaced with separate, standalone and focused pieces of legislation that respectively deal with the right to privacy, access to information, administration of the Zimbabwe Media Commission, and lastly, regulation of the media.

In doing so, the government should be guided by the African Platform on Access to Information Declaration and African Charter on Human and Peoples Rights Model Law on Access to Information in Africa.

#### ❖ **Media Professionalism**

Findings by international observers to Zimbabwe's 2018 elections on the bias of state-controlled media such as Zimpapers and the Zimbabwe Broadcasting Corporation, buttresses calls and agitations for their transformation to secure their editorial independence as espoused in the Constitution.

Both Zimpapers and ZBC are supposed to serve and fulfil a public service mandate as provided under Section 61 of the Constitution which provides for freedom of expression and media freedom. This has not been the case for decades now owing to interference with their editorial independence by the Executive.

The findings by the European Union Observer Mission, National Democratic Institute, African Union and SADC observer missions, are therefore not new at all, but compel the transformation of these entities.

The African Union Election Observer Mission (in its preliminary report), noted that it had in the past recommended for measures to be undertaken to guarantee equal access to the state broadcaster to all contestants during elections and for the full implementation of the Broadcasting Services Act (BSA) to ensure balanced and pluralistic media.

“Regrettably, these recommendations were not implemented. The media environment still remains largely polarised,” AUEOM noted.

The observer missions generally noted that the state media failed to abide by its legal obligations to ensure equitable and fair treatment of all political parties and candidates and was “heavily biased” in favour of the incumbent president (Mnangagwa) in their election related coverage.

In its 2018 Media Complaints Analysis Report, the self-regulatory body, Voluntary Media Council of Zimbabwe (VMCZ), said section 11 of its Code of Conduct on reporting on elections, was the most breached in 2018.

#### ❖ **Broadcasting/Telecommunications/ICTs**

The script almost remained unchanged concerning the broadcasting sector in Zimbabwe saves for statements of intent pertaining to the envisaged reforms.

For instance as of December 2018, the government was still to license a single community radio station, 17 odd years after enactment of BSA, which provides for community radios.

In 2018 the government announced that it had approved the merging of the Broadcasting Authority of Zimbabwe (BAZ) and the Postal and Telecommunications Regulatory Authority of Zimbabwe (POTRAZ).

This announcement was made by then Permanent Secretary for Information, Media and Broadcasting Services, George Charamba. He was speaking after an inspection of the proposed Maphisa digital broadcasting transmission site on 26 April 2018.

Currently, BAZ is responsible mainly for broadcasting related affairs while POTRAZ is responsible for the administration of telecommunications and internet related services. The proposed parastatal will incorporate all the areas currently covered separately by POTRAZ and the BAZ.

Advancements in technology mean that these previously distinct fields overlapped and thus no longer efficient to administer them separately. Meanwhile, Charamba did not go into detail on what the merged parastatal would look like in terms of its composition or roles as well as that of Transmedia, the signal carrier. He also did not give timelines on when the merger of BAZ and POTRAZ would be finalised.

POTRAZ was established in terms of the Postal and Telecommunications Act, while BAZ was established in terms of the Broadcasting Services Act. Government will have to establish the new parastatal by an Act of Parliament. Government's first option is to amend either of the two Acts which established POTRAZ and BAZ to include the expanded roles of the merged parastatal. The second option is to come up with a new Act which establishes the merged parastatal.

### **Digitisation**

Zimbabwe is now way beyond the 17 June 2015 International Telecommunications Union's (ITU), deadline for migration from analogue to digital broadcasting, a development it attributes to lack of funds. The country also missed the Southern African Development Community's (SADC) June 2016 deadline.

Nick Mangwana, the Permanent Secretary for Information, Publicity, and Broadcasting Services, in 2018 said the digitisation project needed direct funding of an estimated \$100 million for its completion. He made this revelation when he submitted his ministry's budget estimates to the Parliamentary Portfolio Committee on Media and Broadcasting.

Mangwana warned that inadequate budget allocations would further delay completion of the digitisation project.

Unfortunately, Mangwana's pleas went unheeded as only \$45 million was allocated to the ministry. This amount is meant to cover the ministry's administrative and project costs including the digitisation exercise. Even if the whole amount of \$45 million was dedicated to digitisation, it would still woefully fall short of getting the job done.

This is unfortunate because Mangwana said government would only start licensing more television and radio stations once the digitisation process is complete. This therefore, makes the advancement of media plurality contingent on the completion of the digitisation exercise.

This will most likely perpetuate the current situation where for example, community radio stations have gone unlicensed for the past 17 years. MISA Zimbabwe is therefore appealing for the expeditious

conclusion of the digitisation process to further open the broadcasting field to private players as well as community-based broadcasters.

MISA Zimbabwe monitors developments in this regard because of their impact on the national spectrum in the areas of broadcasting, telecommunications, free expression and access to information. This is because the digital dividend which will emerge from this migration process will increase the national capacity in every facet of communication.

This will only be possible if Zimbabwean media laws and policies are amended in tandem with the media freedoms enshrined in the country's 2013 constitution.

#### ❖ **Mobile penetration/telecommunications**

The Postal and Telecommunications Regulatory Authority of Zimbabwe (POTRAZ), in its Postal and Telecoms Sector Performance report for the 3<sup>rd</sup> Quarter of 2018, reported that usage traffic for internet and data services was expected to continue to grow.

This is evidenced by a 21% increase in mobile internet and data usage to 7,395 Terabytes (TB) from 6,104TB during the 2<sup>nd</sup> quarter of 2018. The increase was driven by the rise in mobile data usage with *WhatsApp* bundles constituting 32% of total mobile data usage. The envisaged growth will be spurred by innovation related to non-traditional business models such as The Internet of Things (TITs).

According to POTRAZ, there was a 4% increase in the mobile penetration rate reaching 91.9% from 87.7% recorded in the 2<sup>nd</sup> quarter of 2018. Other highlights during the same period included:

- 7% growth in active internet subscriptions to reach 7,690,134 from 7,197,279
- 3.5% increase in the internet penetration rate to reach 55.4% from 51.9%.

It is, however, feared that despite these positive developments, operating costs pose a threat to viability as it puts pressure on prices.

Meanwhile, the popularity of say *Facebook* or *WhatsApp* gives the illusion that Internet access in Zimbabwe is affordable when in fact it is not; social media services are just one small component of Internet based tools.

Internet affordability is different from Internet accessibility. Internet accessibility is determined by equipment such as base stations, and the availability of reliable electricity supply to power those base stations and deliver mobile data with adequate speeds for effective internet access.



According to POTRAZ, 92 additional base stations were commissioned in the 3<sup>rd</sup> quarter of 2018 bringing the country's total to 8,622 from 8,570 recorded in the previous quarter.

### ❖ **Cyber Bills**

The proposed merging of the three cyber bills into one bill has the potential of muddying and undermining other fundamental rights enshrined in the Constitution.

Appearing before the Parliamentary Committee on Media, Information Communication Technology and Cyber Security on 8 February 2018, the then Minister of ICTs, Supa Mandiwanzira, justified the consolidation of Cybersecurity and Cybercrimes with the draft Data Protection Bill and the Electronic Transactions and Electronic Commerce Bill. He said then all three Bills work to prevent various forms of cybercrime. The decision might also have been inspired by the introduction of an omnibus Cybercrimes Bill in South Africa.

MISA Zimbabwe therefore disagrees with the justifications to merge the three cyber bills into one omnibus bill. An omnibus law is a Bill or Act which caters for a number of diverse issues or topics. One such example is the Access to Information and Protection of Privacy Act (AIPPA). AIPPA seeks to regulate diverse topics such as Privacy, Access to Information and Media Regulation under one Act. In the end, AIPPA just briefly touches on each of the rights it seeks to regulate.

For example, only seven sections under AIPPA are dedicated to the protection of the right to privacy. This is simply inadequate and unacceptable. Grouping fundamental rights such as the right to privacy, access to information with consumer rights and cyber security into one piece of legislation, has the potential of undermining the protection of those rights.

MISA Zimbabwe believes that fundamental rights such as the right to privacy must be protected by a piece of legislation dedicated solely to the protection and promotion of that right. This is why there is need for a standalone Data Protection law in Zimbabwe.

This is the case in South Africa, where the introduction of an omnibus Cybercrimes Bill complemented that country's Protection of Personal Information Act and the Electronic Communications and Transactions Act instead of absorbing or repealing them.

In saying this we are guided by the three Model Laws produced by SADC which cater for Data Protection, Cybersecurity, and Electronic Transactions, respectively. This was obviously well thought out to ensure each area is regulated by a dedicated in-depth piece of legislation.

This becomes of even greater concern given that the right to privacy is currently not properly provided for under AIPPA.

Privacy is a fundamental right which fosters the promotion, and protection of related rights such as the right to freedom of expression. Any laws or policies which negatively impact on the right to privacy have a negative impact on the right to freedom of expression in Zimbabwe.

It would therefore be sad for this important right to be inadequately protected under yet another omnibus law such as the proposed Cybersecurity and Cybercrimes Act at a time when there is unanimity on the inadequacies of AIPPA.

### **Way Forward in 2019**

- Maintain momentum and pressure on repeal of the Access to Information and Protection of Privacy Act (AIPPA) and Broadcasting Services Act (BSA): *#AIPPAMustFall! #BSAMustFall!*
- Increase and maintain pressure on the urgent need for transformation of the Zimbabwe Broadcasting Corporation (ZBC) into a truly independent public broadcaster.
- Pressurise the government of Zimbabwe to be transparent on the digital migration process and allocation of resources under this exercise.
- Government and its security arms, as well as political parties should prioritise the safety of journalists.
- Demand and push for an end to impunity on crimes and violence against journalists.
- Engage state security arms in view of the media violations that occurred in Harare on the 1<sup>st</sup> of August 2018.
- Maintain relations and engagements with the Zimbabwe Republic Police in implementing the December 2017 media/police resolutions.
- Urge media training institutions to fine-tune journalism training curriculums to suit industry and market needs.
- Promote the participation of women in decision making positions in the media industry and ensure that they are remunerated on the same scales as their male counterparts.

## ❖ Conclusion

As mentioned earlier in this report, it was not all gloom and doom following the stakeholder consultative meetings convened by the Ministry of Information in November and December 2018. These meetings were aimed at getting input on the extent to which media laws such as the Access to Information and Protection of Privacy Act (AIPPA) and Broadcasting Services Act [BSA], among others, need to be reviewed and align them with the Constitution.

Given the country's poor record when it comes to implementation of these now long overdue media reforms, MISA Zimbabwe therefore expects the Ministry of Information to honour its commitments and stick to timelines to ensure speedy alignment of these contentious laws.

The proposed Bills should also be subjected to public hearings to secure further input from the citizens as is provided for and required by the Constitution. The government has a constitutional obligation to promote participatory democracy in Zimbabwe hence the need to ensure the Bills are explained to the public.

Furthermore, beyond the two laws that are currently under the spotlight, the 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 and expression and access to information are concerned.

In that regard, the next five years and beyond, cannot be business as usual without the envisaged reforms.

**End**

❖ Appendix: Media Violations Statistics 2018

ASSAULTED		
Victim/Concerned Party	Issue	Date
Freelance journalist Godfrey Mutimba, Patrick Chitongo of Chiredzi's Flame newspaper, Morris Bishi of Masvingo Mirror and Tawanda Mangoma of Zimpapers.	Assaulted by family members of Andrew Takashinga Bere at the end of his bail hearing on accusations of defrauding American taxpayers of \$7 million during his stay in the United States. They were assaulted as they tried to take pictures of Bere as he left the court.	22 March 2018
Tawanda Mudimu, photographer with <i>The Herald</i> .	Manhandled by supporters of the MDC-T while covering demonstrations at the party's headquarters in Harare.	14 May 2018
Blessed Mhlanga, NewsDay reporter.	Assaulted by Deputy Minister of Finance Terence Mukupe during a radio interview at the Zimbabwe Broadcasting Corporation's <i>Spot FM</i> Highlands studios in Harare.	24 May 2018
Tamuka Charakupa, freelance journalist	Assaulted by MDC-Alliance youths while taking pictures of clashes between the party's youths and those from Zanu PF in Harare's dormitory town of Chitungwiza.	15 July 2018
Idah Mhetu, freelance journalist	A soldier whipped Mhetu with electric cables while covering riotous demonstrations in Harare's central business district over delays in releasing presidential election results.	1 August 2018
Daniel Chigundu, freelance journalist	Stoned on the forehead when a crowd that had gathered outside Rainbow Towers Hotel turned rowdy and started hurling missiles. The crowd was trying to force its way into the hotel grounds where the Zimbabwe Electoral Commission had set up its elections command centre.	1 August 2018.
Yeshiel Panchia, reporter with European Pressphoto Agency	Whipped by a soldier when the army was deployed to quell violent demonstrations in Harare.	2 August 2018
Joseph Cotterill, Southern Africa correspondent with <i>Financial Times</i>	Butted with a riot shield by an anti-riot policeman when the police temporarily blocked the media from covering an MDC-Alliance press conference at Bronte Hotel in Harare.	3 August 2018
<i>NewsDay</i> and <i>Zimbabwe Independent</i> vendors	Assaulted by unknown youths who went on to burn the newspapers. A total of 10 people were arrested in	11 October 2018

	connection with the incident.	
Panashe Makufa, journalist with online publication Mail and Telegraph.	Makufa was assaulted by a plainclothes police officer from the law and order section while taking pictures of the police as they arrested illegal foreign currency dealers at the Road Port regional bus terminus in Harare	18 October 2018
Hubert Sithole and Panashe Makufa, journalists with online publication Mail and Telegraph	Assaulted by the police who also confiscated their equipment while covering intra-party clashes among MDC Alliance supporters in a car park outside Harare Central Police Station.	11 December 2018

<b>THREATENED/HARRASSED</b>		
<b>Victim/Concerned party</b>	<b>Issue</b>	<b>Date</b>
TellZim and The Mirror based in the southern town of Masvingo	Zanu PF political commissar Omega Hungwe warned journalists in the southern town against reporting her remarks on how her party would win the 2018 elections.	21 January 2018
TellZim journalists	Threatened by MDC-T councillors Murangamwa Chanyau and Peter Chigaba following publication of a story on 15 March 2018 detailing how the party in Masvingo was allegedly planning to replace all sitting councillors with new ones.	21 March 2018
Miriam Magwaya, reporter with <i>The Mirror</i> .	Threatened and harassed by a Zanu PF youth while travelling from the burial of Chief Hama in Zimbabwe's Chirumanzi district.	26 June 2018
Joseph Cotteril, Southern Africa correspondent with the <i>Financial Times</i>	A soldier wielding an AK assault rifle threatened him while covering riotous demonstrations in Harare.	1 August 2018
Philemon Jambaya, freelance journalist	Threatened by Zanu PF supporters and councillors against taking pictures of protests that broke out during the Chitungwiza municipality mayoral elections.	4 September 2018
Tatenda Chitagu, NewsDay journalist	MDC Alliance councillor threatened and snatched Chitagu's cellphone as he filmed protests during mayoral elections in the southern town of Masvingo.	5 September 2018
Journalist Zenzele Ndebele	Questioned by the police about his documentary on the early 1980s army atrocities in the Midlands and Matabeleland regions.	17 September 2018

<b>BANNED/CENSORED/BARRED</b>		
<b>Victim/Concern Party</b>	<b>Issue</b>	<b>Date</b>
Mutare-based private media journalists	Barred by Manicaland Zanu PF provincial chairman, Mike Madiro, from covering the party's meeting in the eastern border town of Mutare.	24 March 2018
Zimbabwe National Army	Soldiers deployed in Harare's central business district ordered journalists covering riotous demonstrations over delays in releasing presidential elections to switch off their video recording equipment.	1 August 2018
Local and foreign journalists	The police temporarily barred the media from covering an MDC-Alliance press conference at Bronte Hotel in Harare.	3 August 2018
Violet Gonda, freelance journalist	Temporarily denied Zimbabwean passport by Registrar-General Tobaiwa Mudede because she was on a "stop list".	September 2018
Private media journalists	Briefly barred from covering proceedings of the Commission of Inquiry following the 1 August 2018 killings of civilians by the army during demonstrations in Harare.	16 October 2018
Godfrey Mutimba, freelance journalist	Ordered to delete footage of a police crackdown on vendors in the southern town of Masvingo. The police also confiscated his press accreditation card.	17 October 2018

<b>DETAINED</b>		
<b>Victim/Concerned Party</b>	<b>Issue</b>	<b>Date</b>
Tinotenda Samukange, journalist with NewsDay.	Detained for close to three hours by soldiers deployed in Harare's high density suburb of Kuwadzana. The soldiers ordered him not	3 August 2018
Columbus Mavhunga, freelance journalist	Police detained Mavhunga for almost three hours after he refused to delete footage he had recorded of a police crackdown against vendors in Harare's central business district. Police drove around with him in police truck as they continued with their operation.	16 September 2018
Gilbert Nyambabvu, NewZimbabwe editor and colleague Idah Mhetu	Detained briefly after police noticed him taking pictures of their raid against vendors in Harare.	19 September 2018
Pauline Chateuka and reporter with Community	Briefly detained by the police while filming police officers as they arrested vendors around Copacabana	21 September 2018

Radio Harare	bus terminus in Harare.	
Journalist Violet Gonda	Gonda was briefly detained by security agents at State House in Harare where she was covering closing proceedings of a meeting between President Emmerson Mnangagwa and local businesspersons. She was questioned on who had given her permission to live-stream her interviews with the businesspersons and Reserve Bank officials.	29 October 2018
Philemon Jambaya , freelance journalist	Arrested, detained, assaulted, and charged with obstructing the course of justice after taking pictures and video footage of police operations against illegal foreign currency dealers in Harare.	29 October 2018

<b>INJURED</b>		
<b>Victim/Concerned Party</b>	<b>Issue</b>	<b>Date</b>
Zimbabwe Broadcasting Corporation news crew, Chipo Five (technician), Forget Tsododo (producer) and Coster Thole	Injured following a bomb blast during President Emmerson Mnangagwa's election campaign rally at White City Stadium in Zimbabwe's second city of Bulawayo	24 June 2018

