



2021 Regional Annual Report

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MISA RGC Chairperson Golden Maunganidze

Chairperson's Report

The year 2021 was one of consolidation and the repositioning of our organisation in the aftermath of the several headwinds that we faced.

When we started this journey – midway through 2021 – we dared to dream and our dreams are now becoming reality. We took a leap of faith and the results are beginning to show.

While we have managed to score some successes, this is not the time to rest on our laurels, but to continue rolling our sleeves and getting the work done.

In 2021 we restructured our Regional Governance Council (RGC) and took the necessary steps to reclaim the ground that we had lost.

The next step was to come up with a new strategy document covering the period 2021 to 2026. These processes were foundational and vital for MISA to reposition itself as the thought leader in terms of freedom of expression and of the media in Southern Africa.

The strategy is instructive as it forces us to introspect and chart the future of this historical and formidable organisation that turns 30 years this year.

It cannot be business as usual because we have a lot of ground to cover to ensure that we consolidate our status as the regional shield in defence of expression in Southern Africa amid a complex and ever-changing environment as attacks are coming from both the usual and unusual places.

A huge burden thus remains on MISA's shoulders

to galvanise and convene a much-needed forum of like-minded organisations, in an organic manner, to build solidarity in a generally fragmented regional, continental and global sphere. To keep ahead we need to be innovative and responsive to the changes in our society – thus our business unusual approach.

This entails that our body language and actions at national and regional levels need to be strategically in lock-step in our march towards being the thought and convening leader in the region as articulated in our 2021 – 2026 strategic plan.

In 2022, MISA celebrates its 30th anniversary, indeed a significant milestone for our organisation.

The vision to build towards the next 30 years begins and starts now. We all have a collective responsibility of ensuring that everything we do now builds towards the next 30 years and does not betray the founding values of this organisation. To this, we make a declaration that we dare not, and will not fail!

Golden Maunganidze
Chairperson
MISA Regional Governing Council



MISA Regional Director Tabani Moyo

Regional Director's Report

The year 2021 was a mixed bag for freedom of expression in Southern Africa, with the freedom of expression environment improving in some countries, stagnant in others, while others recorded declines.

Malawi led the way with the adoption of its access to information legislation, while Lesotho adopted its long-awaited media policy. In Tanzania, the assumption of the presidency by Samia Sulu Hassan, raised hope for improved relations between the media and the government following a sharp deterioration during the late John Magufuli's tenure.

A change of government in Zambia also brought optimism that the media environment would improve in that country.

Despite these improvements, there is need for MISA to remain vigilant, as the media environment in Southern Africa can be very unpredictable and vulnerable to shock developments.

The COVID-19 pandemic provided ample illustration on how vulnerable the rights to freedom of the media and freedom of expression are in the region as a number of countries enacted legislation that infringed on these rights.

The enactment of legislation to curb the spread of the coronavirus saw an increase in media violations across the region, with literally no country spared.

MISA's position is that the COVID-19 pandemic is on the decline and it is imperative for all the SADC countries to now repeal, or come up with a roadmap of when they will repeal legislation that curtails freedom of the media and freedom of expression which was enacted ostensibly to mitigate the spread of the virus.

The fragility of freedom of expression and freedom of the media comes at a time when most countries in the region have either enacted or are in the process of enacting cybersecurity laws, which have the potential of

undermining these constitutionally guaranteed rights.

Whether by design or fortuitously, the enactment of these cyber security laws followed a SADC Heads of Government Summit in Maputo, Mozambique, in August 2020, where a resolution was made to take "pre-emptive measures against external interference, the impact of fake news and abuse of social media particularly in electoral processes".

In the wake of this resolution, there is a seemingly frightening regional consensus to crackdown on free expression online.

Countries such as Botswana, Eswatini, Tanzania, Malawi, Zambia and Zimbabwe, have already passed cyber security and cybercrime laws, while Lesotho is in the process of crafting legislation on cyber security and cybercrime.

Namibia is also working on a similar law.

MISA acknowledges that cyber security laws are important, but that countries need to adopt a human-based approach, where emphasis is on promoting freedom of expression and digital rights, rather than criminalising it.

In that regard, the issue of internet shutdowns also continues to be problematic in the region. Tanzania implemented a partial shutdown of the internet in 2020 ahead of its general elections and this continued well into 2021.

During elections in August 2021, the government of Zambia blocked access to social media platforms such as *Facebook* and *Twitter*, and instant messaging platform, *WhatsApp*.

In 2021, the Kingdom of Eswatini blocked access to the internet, on at least three occasions, following unrests in that country.

One of the characteristics of 2021 was that civic space continued to shrink, with Zimbabwe and Malawi being cases in point, with the two countries formulating legislation to govern the operations of civil society organisations.

These legislations have a chilling effect on freedom of association and of expression.

While the operating environment in the region was difficult, the silver lining on the dark cloud is that MISA found its footing as a thought leader in terms of lobby and advocacy for freedom of expression in Southern Africa.

In the past year, MISA embarked on a process of rejuvenating the regional network, which is a critical step in the continuous fulfilment of the organisation's

role as the regional shield in defending the right to freedom of expression in Southern Africa.

While there are legacy issues to deal with, MISA is more than determined to continue on the path of repositioning itself as the foremost organisation with the widest reach and influence in the region.

In 2021, MISA developed the 2021-2026 Strategy Document, which is the result of a meeting held in October 2021 that was attended by three representatives from each of the regional Chapters.

MISA convened the Regional Internet Governance Forum during which the Regional Governing Council (RGC), also held its own side meeting in formalising the relocation of the Regional Office from Zambia to Zimbabwe. This epic meeting received wide media coverage, thereby setting the organisation on a new trajectory.

In a first for the organisation, MISA observed the Zambian General elections in August 2021. The delegation comprised RGC members from Mozambique, Tanzania, Malawi, and the Regional Office.

MISA continued to build on its formidable reputation as a regional leader in the generation of well-researched documents and publications on the state of media freedom and access to information in the region.

MISA released the inaugural State of Press Freedom in Southern Africa Report and continued to produce the regional Transparency Assessment Index. The organisation also produced reports on the state of digital rights in the region.

Suffice to say, while the environment may be challenging, MISA is poised for further growth driven by its collective purposefulness and determination to improve freedom of the media, freedom of expression, access to information, the right to privacy and digital rights in Southern Africa.

Guided by its compass, the 2021-2026 Strategic Plan, it is hands on the decks, sleeves rolled and back to work, hand in glove with like-minded organisations in the creation of both collaborative and solidarity platforms in tackling these current and future daunting tasks.

Tabani Moyo

**Regional Director
MISA Secretariat**

Introduction

The year under review – 2021 – was a particularly difficult year for the media in Southern Africa, with the right to freedom of the media and freedom of expression coming under increased strain.

The breakout of the COVID-19 pandemic in 2020 saw the introduction of new legislation that saw the right to freedom of expression being curtailed across the region during the year under review.

Media Freedom and Digital Rights

South Africa was the first country to come up with false news laws regarding the pandemic, with other countries such as Zambia and Zimbabwe, following suit. This marked the onslaught on freedom of expression and digital rights in the media.

Following a resolution in Maputo in 2020, where Southern African Development Community (SADC) Heads of State and Government resolved to take pre-emptive action against the abuse of social media particularly during elections, a sustained onslaught on media freedom and digital rights got underway.

Zambia quickly cobbled the Cyber Crimes and Cyber Security Act (2021), which has been challenged in that country's courts as it ostensibly violates the right to freedom of expression and the right to protection by the law. Zimbabwe followed suit with the enactment of the Cyber and Data Protection Act, which despite having some progressive provisions, also has sections that have the potential to infringe on the right to freedom of expression.

The Zimbabwean law has provisions that prohibit the publication of falsehoods online despite a previous court ruling that decriminalised the publication of falsehoods.

At the time of the writing of this report a cyber security law was being drafted in Namibia.

In Lesotho, a parliamentary portfolio committee dismissed the Computer Crime and Cybersecurity Bill of 2021, as well as the Communications (Subscriber Identity Module and Mobile Device Registration) Regulations of 2021 from the National Assembly, to allow for the Minister of Communications, Science and Technology to go back and revisit the two pieces of legislation.

This has not been helped by internet shutdowns in the region. In Eswatini, the government shut down the internet on at least two occasions following demonstrations against the Monarchy in that country.

MISA engaged the authorities and wrote a petition to King Mswati III and the government advising against the dangers of shutting down the internet and how that was a violation of freedom of expression. Legal action has since been taken against the government for the internet shutdowns.

Furthermore, in June 2021, MISA, together with the African Freedom of Expression Exchange (AFEX), Collaboration on International ICT Policy for East and Southern Africa (CIPEA), IFEX and Panos Institute Southern Africa, petitioned the Eswatini Prime Minister to ensure that the internet, social media platforms, and all other communication channels remained open, secure, and accessible regardless of the protests that were taking place in that country.

The organisations pointed out that shutting down the internet was “abhorrent and undemocratic” and was a clear violation of the ACHPR principles. The African Commission on Human and Peoples' Rights (ACHPR) Resolution of 2016, recognises the “importance of the internet in advancing human and people's rights in Africa, particularly the right to freedom of information and expression.”

The ACHPR/Res. 362 (LIX) 2016, also condemns the “emerging practice of State Parties interrupting or limiting access to telecommunication services such as the internet, social media, and messaging services”.

In that regard, MISA wrote to the United Nations Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression, and, the African Commission on Human and Peoples' Rights Special Rapporteur on Freedom of Expression and Access to Information regarding the disturbing trend in Eswatini, where the government resorts to internet shutdowns and escalates media violations in the wake of protests in that country.

In August 2021, Zambia held general elections. When it was increasingly becoming evident that the incumbent government was losing, the authorities ordered a partial shutdown of the internet. This resulted in social media platforms such as *Facebook* and *Twitter* and instant messaging platform, *WhatsApp* being inaccessible.

Tanzania held elections in October 2020, but well into 2021, a partial shutdown of the internet remained in place, with access to social media platforms being restricted. People in Tanzania had to resort to the use of Virtual Private Networks (VPNs), to access social media platforms.

From the foregoing, it can be concluded that there is a sustained attack on media freedom, freedom of expression and digital rights in the region. With the internet increasingly becoming ubiquitous, there is a real possibility that attacks on freedom of expression and of the media will continue to increase.

Violations against the media

According to the annual Reporters Without Borders (RSF) World Press Freedom Index, countries in the Southern African region recorded a general decline in press freedom, with an escalation of attacks against the media.

While some Southern African countries moved up and down the global rankings, Angola, Botswana, Malawi and Zambia recorded improved media freedom environments in their countries. The most improved country in terms of media freedom ranking was Malawi, which moved up seven places from being ranked 69 in 2020 to 62 in 2021.

While a number of media violations were recorded in 2020, RSF noted that the enactment of the Access to Information law in Malawi was a positive sign that the operating environment for the media was improving.

Zambia gained five places, moving to 115 from 120 in 2020. Despite the progress, RSF pointed out that as the country moved towards elections in August that year, the government moved to restrict media freedom. Zambia enacted the Cyber Security and Cyber Crimes Act, which is widely seen as having a chilling effect on freedom of expression. Furthermore, an academic, Sishuwa Sishuwa, faced charges of sedition for an article that was published in a local newspaper.

Angola was also a notable gainer, moving three places up from 106 to 103. Botswana gained one place from 39 to 38, while Eswatini remained on position 141 while Tanzania remained unmoved at 124.

Mozambique, which was ranked 104 in 2020, fell to 108 in 2021. The country's journalist, Ibrahimo Mbaruco, remains unaccounted for more than a year after he disappeared, with little indication that the government is doing much to locate him. An insurgency in northern Mozambique has seen an increase in media violations in that country.

Zimbabwe is another country that slid on the rankings, falling from 126 to 130.

While there have been some improvements such as the enactment of the Freedom of Information Act, the onset of the COVID-19 pandemic saw Zimbabwe tightening media regulations.

The RSF reported that Zimbabwe had “positioned itself between Nigeria and Uganda on the podium of Africa’s most repressive countries with regard to the coverage of the coronavirus crisis”.

Africa’s highest-ranked country, Namibia fell one place from 23 to 24, while Lesotho moved down two places from 88. South Africa fell one place from 32 to 31.

These findings were echoed by the inaugural State of Press Freedom in Southern Africa Report, which was commissioned by MISA. The report noted that there had been some improvements in the state of media freedom and a reduction in media violations in some countries, but generally, the state of press freedom in the region continued to be on the decline.

In 2021, MISA was particularly concerned with the rapid deterioration of the freedom of expression environment in Eswatini. To that end, in June 2021, MISA wrote a letter to King Mswati III expressing its disquiet with the media freedom environment in that country.

In the letter, MISA pointed out that there had been a marked increase in the harassment, intimidation and physical violence against journalists, which resulted in almost constant self-censorship.

In addition, MISA pointed out that Zweli Dlamini, the editor of the *Swazi News*, had been forced into exile in South Africa. Eugene Dube, another journalist, has also been forced into exile in South Africa and was unable to practise his trade in Eswatini. Dlamini and Dube’s “crimes” were that of writing articles deemed to be too critical of the King.

MISA also expressed concern that the Monarchy had filed court papers in South Africa seeking to stop Eswatini publications from publishing stories on the King, his family and associates without their prior consent.

MISA reminded the King that Section 24 of the Eswatini Constitution promotes freedom of expression, although this right remained elusive for media workers in that country. MISA further reminded the King of the revised principles of the African Commission on Human and Peoples’ Rights (ACHPR) Declaration on Freedom of Expression and Access to Information. The Declaration expressly calls on African governments to promote freedom of expression and of the media in their respective countries.

The year 2021 was a rollercoaster for Tanzania, as it witnessed a transition, following the death of President John Magufuli, who was succeeded by the incumbent, President Samia Suluhu Hassan. Magufuli’s administration was tough on the media, with organisations regularly forced to shut down, while Hassan promised to allow more democracy in the media space.

To illustrate this, in January 2021, authorities in Tanzania suspended *Wasafi TV* from broadcasting for six months for allegedly violating broadcasting regulations during a live show. This came on the backdrop of the violations witnessed during the previous year where several broadcasters and media houses had their licences revoked over a slew of allegations. This was all

under Magufuli's administration.

Upon assumption of the presidency, Hassan ordered the reopening of media houses that were shut during the term of her predecessor, the late Magufuli, a development that could lead to the thawing of hitherto soured relations between the authorities and journalists.

Speaking at State House in Tanzania on 6 April 2021, President Hassan said Tanzania would no longer be seen as a country that attacks the press and curtails media freedom.

Lesotho is due to hold elections in 2022, but towards the end of 2021, there was an escalation of media violations in that country. This points to possible increases in violations in the run-up to the 2022 elections, and the need to focus on the safety and security of journalists.

Snapshot of the violations:

On 9 November 2021, gunmen attacked the family of veteran journalist, Marafaele Mohloboli, and seriously injured her husband. The motive of the attack is still unknown and the alleged perpetrators are yet to be held accountable.

On 14 November 2021, Lebeso Molati, from 357FM, was detained and allegedly choked by a police officer after he reported on alleged missing guns. The police who were accused of assaulting and torturing Molati are yet to be brought to book. Commissioner of Police Holomo Molibeli, however, said action would be taken against the police officers who allegedly tortured Molati.

On 15 November 2021, *Lesotho Times* investigative journalist, Mohalenyane Phakela, was barred from covering the courts by Chief Justice Sakoane Sakoane for stories published by his paper. The judge said Phakela will not be allowed to report on the courts until his editor apologised.

On 17 November 2021, police raided PCFM to interrogate journalist Teboho Ratalane over a story he had reported on.

On 18 November 2021, the Lesotho Communications Authority suspended the licence of 357FM on accusations that the station had not complied with regulatory requirements.

MISA Regional Programmes

a. World Press Freedom Day Commemorations

MISA coordinated the Africa Regional Conference ahead of the World Press Freedom Day commemorations. During the 30th anniversary of the World Press Freedom Day Commemorations in Windhoek, Namibia, MISA

played the role of facilitator and rapporteur.

b. Multi-stakeholder Regional Internet Governance Forum

On 4 June 2021, MISA hosted the annual Multi-stakeholder Regional Internet Governance Forum in Harare. Botswana, Eswatini, Lesotho, Malawi, Mozambique, Tanzania and Zimbabwe participated during the Forum. The Annual Regional Multi-stakeholder Internet Governance Forum is an opportunity to rally support for a democratic and inclusive internet regulatory framework and to promote the role of the internet in healthy democracies globally.

c. Leadership renewal

On 4 June 2021, the Media Institute of Southern Africa (MISA) Regional Governing Council elected its new leadership. The RGC held its meeting in Harare where it elected Golden Maunganidze as its chairperson. He is deputised by Nkoale Ts'oana Joseph, the MISA Lesotho Chairperson, while Salome Kitomary, the MISA Tanzania chairperson was elected Treasurer. Maunganidze took over from Helen Mwale, the former MISA Zambia chairperson. Subsequently, MISA Zimbabwe Director, Tabani Moyo was appointed the Regional Director.

d. Digital Rights Literacy Campaigns

On 27 July 2021, MISA convened a Digital Rights Literacy Training for youths, women and people with disabilities in Lesotho. A total of 15 participants were in attendance. On 23 September 2021, MISA convened a digital rights literacy training in Lilongwe, Malawi. In attendance were representatives of women organisations, women with HIV/AIDS, youths and people with disabilities from the 12 districts across Malawi. Some of the participants from the Malawi training conducted information sharing meetings in their communities. They were also able to identify digital rights issues as they happened in their communities, which they shared in the *WhatsApp* group.

e. Strategic meeting

MISA convened a meeting of eight chapters in Johannesburg, South Africa on 4 October to 7 October 2021 to come up with a regional strategy. The Chapters that were represented were Angola, Botswana, Eswatini, Lesotho, Malawi, Mozambique, Tanzania, Zambia and Zimbabwe. Following deliberations, MISA came up with a 3-in-1 strategy that looked at the regional strategy, the advocacy strategy and the communications plan. This is a five-year

strategic plan.

f. Elections monitoring

In August MISA dispatched a delegation of Regional Governing Council members to observe the elections in Zambia.

g. Regional engagement on Technology, Surveillance and Data Protection

On 8 October 2021, MISA organised a regional engagement meeting on Technology Surveillance and Data Protection meeting in Johannesburg, South Africa. The sessions focused on artificial intelligence and fundamental rights in Southern Africa and free expression versus hate speech and curbing disinformation and misinformation.

h. Regional Dialogue for Non-State Actors on the SADC RISDP 2020-30

MISA was part of the organising committee of the Regional Dialogue for Non-State Actors on the SADC RISDP 2020-30 Implementation Plan on 29 and 30 June 2021, which was [held virtually](#). The dialogue was co-convened by Southern Africa Trust, Economic Justice Network (EJN) of the Fellowship of Christian Councils in Southern Africa (FOCCISA), Southern African People's Solidarity Network (SAPSN), Southern Africa Coordination Council (SATUCC), Gender Links, Media Institute of Southern Africa (MISA), and the Partnership for Social Accountability (PSA) Alliance (a consortium of ActionAid International (AAI), Public Service Accountability Monitor (PSAM) of Rhodes University, Eastern and Southern Africa Small Scale Farmers' Forum (ESAFF) and SAFAIDS).

i. The 68th Session of Africa Commission on Human and Peoples' Rights (ACHPR)

MISA, through its Regional Director, Tabani Moyo addressed the 68th Session of the ACHPR wherein, he updated the Commission on the challenges faced by the media and expression in Southern Africa in July 2021

j. The Africa ICT Ministers Forum

MISA addressed the Africa ICT Ministers Forum on the State of Internet Freedom in Southern Africa on 4 November 2021, tackling the challenge of the sprouting of cyber security laws in the region that were not in sync with the ACHPR's Declaration on the Principles of Freedom of Expression and Access to Information. The address was extensively covered by the SABC and eNCA among othe

[global channels](#).

k. Global Leadership Footprints

MISA through its Regional Director was elected into the Global Forum for Media Development (GFMD) Steering Committee as one of the 17 board members in September 2021. GFMD has more than 200 organisations promoting free media globally.

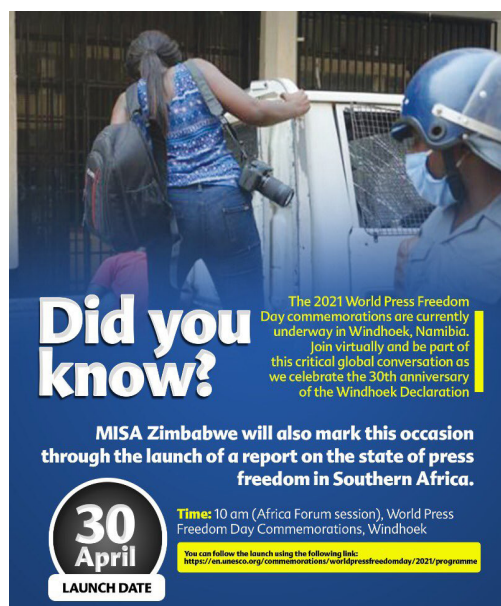
MISA Regional Publications

State of Press Freedom in Southern Africa Report

MISA produced the first State of Press Freedom in Southern Africa Report. This report looks at the state of access to information, freedom of expression and freedom of the media in 10 countries in Southern Africa. The report seeks to ascertain how far Southern African countries would have gone towards attaining Sustainable Development Goal 16.10. This is an annual report.

Transparency Assessment Index

One of MISA's strategic goals is to ensure that countries in the region adopt access to information laws. Furthermore, when access to information legislation is adopted, MISA surveys how open public institutions are in terms of disseminating public information to the public. In 2021 the Transparency Assessment Index focused on Botswana, Lesotho, Tanzania, Zambia and Zimbabwe. In 2022, the scope of the Transparency Assessment Index will be expanded to cover more countries.



Country reports snapshots

Angola

The Angolan government owns most of the media in the country. In return journalists by and large report favourably about the authorities. Angola is ranked 106 out of 180 countries in the 2021 World Press Freedom Index.

The Angola media landscape is characterised by self-censorship, which could be a result of years of sustained attacks against the media in that country.

Freedom of expression and access to information are enshrined in the Angolan Constitution. Article 40 of the Constitution states that “everyone has the right to freely and publicly express and share opinions in words, images or by any other means”.

This right includes the right to be informed or to inform others, that is, the right to be able to transmit information or access information. The Constitution goes further by providing that such rights must be maintained and realised without hindrance, discrimination or censorship, as well as guaranteeing every individual or legal entity equal right of reply, correction and compensation for any damage suffered as a result of such free expression.

However, a number of the Press Law’s articles violate Angola’s international obligations in respect of media freedom.

These include:

Article 29 gives the Ministry of Social Communication the authority to oversee how media organisations carry out editorial guidelines and to punish violators with suspension of activities or fines.

Article 35 imposes excessive fees to establish a media group of 35 million kwanzas for a news agency (US\$211,000) and 75 million kwanzas (US\$452,000) for a radio station.

Article 82 criminalises publication of a text or image that is “offensive to individuals.” Under the penal code, defamation and slander are punishable with fines and imprisonment for up to six months.

The law’s overly broad definition of defamation opens the door for the government to arbitrarily prosecute journalists who report about illegal or improper activity by officials and others.

Angola created a Data Protection Agency in 2016, which allowed the country to ratify, in February 2020, the African Union Convention on Cyber Security and

Protection of Personal Data (Malabo Convention).

However, implementation of the legal framework on data protection remains problematic. The Data Protection Agency (DPA) has not been functioned efficiently, as it depends on the government for its operations. The DPA is appointed by the government and this may affect its neutrality.

In terms of programmes, the MISA Regional Secretariat did not carry out any programmes with the MISA Angola Chapter as the chapter is still going through the process of re-inventing itself.

The MISA Regional Secretariat is working on fully re-engaging with the MISA Angola Chapter, which has over the years gone through periods of lulls. The MISA Angola Chapter was present at the regional strategic meeting and hopefully this will open more doors for re-engagement at regional level.



MISA Regional Director Tabani Moyo in an interview with the SABC on the Africa ICT Ministry Forum held in Namibia on the 14th of November 2021.



Access to information workshop for political party leaders in Lesotho.

Botswana

Operating environment

Botswana has traditionally been regarded as one of the stable countries with a conducive and enabling environment for media freedom. Freedom of expression is enshrined in Chapter 12 of Botswana's Constitution.

On the surface the country seems to have a relatively free and diverse media environment. However, in practice Botswana's past and current leaders have failed to recognise the importance of freedom of expression and access to information for all citizens.

Botswana is one of the countries in the region that is yet to enact an access to information law and this belies its perception as the citadel of freedom of expression and of the media.

The country still has a Sedition Law in place, which has a chilling effect on freedom of expression and of the media.

MISA Botswana needs to position itself to attract funding from donors as it faces competition from other organisations that have benefited through projects that could have been carried out by MISA Botswana.

Challenges

MISA Botswana continues to face challenges in accessing funding to meet operational needs. The organisation has embarked on a recruitment drive to attract new subscribers. The process has been slow, but the results are beginning to show.

The decline in advertising revenue in private media from the government has been a challenge for the last decade. Media houses are losing experienced reporters because of low salaries and bad conditions of service.

There is a new phenomenon known as "media capture" by powerful influencers in the economy. MISA Botswana has noticed that some media houses are targeted and used to write stories in support of certain or against certain individuals due to the scourge of brown envelope journalism. The issue is complicated as evidence is hard to get and no one is really coming out to challenge the activity.

Projects

MISA Botswana has managed to get some funding to carry out training and stakeholder engagement activities. MISA Botswana held a Sustainable Development Goals (SDGs) Media Training. This was a week-long training for media practitioners.

African Declaration on Internet Rights and Principles

Coalition (AfDec) – MISA Botswana conducted trainings with other NGOs on the use of digital platforms and how they could harness the sector to spread their footprint, communication and engage with stakeholders. The second engagement will be with members of parliament to discuss the role of the media, benefits and how they could assist grow the media in Botswana.



Lesotho

Operating Environment

The COVID-19 outbreak took effect when MISA Lesotho was beginning to find its feet and the organisation's rebuilding efforts were gaining momentum.

In mid-2020, MISA Lesotho had no grants to sustain its programmes, but then it secured two projects from UNICEF and ARISA, which saved the Institute from collapse. But with COVID-19 gradually intensifying in 2020, the situation affected the organisation's activities with stay-at-home orders making it impossible to implement the projects.

It has proved difficult for MISA Lesotho to recover from effects of the pandemic, even after the institute launched the Media Relief Fund in 2021, the financial situation kept worsening. MISA Lesotho staffers went for months without salaries as there is no consistent funder to support everyday operations.

MISA Lesotho also operates in a politically-polarised society, a society torn by political divisions engineered by political leaders for their own self-aggrandisement.

However, against the background of the mentioned challenges, MISA Lesotho continues to perform to the required standards.

Challenges:

1. Finance: MISA Lesotho continues to operate without a consistent funder that supports institutional capacity building and sustainability of operations.
2. Capacity: Because of lack of financial resources, MISA Lesotho finds itself having to operate with under-qualified staff – in this case, interns – to meet its mandate.
3. Small grants and short-term projects: Because of these capacity issues, MISA Lesotho seems to only attract short term projects with minimal funding.

Successes:

Between 2019 and 2022, MISA Lesotho has increased its staff from as little as three staffers to now around 10 members, with a few of them fairly competent to perform the organisation's functions, thanks to the government's initiative on youth apprenticeship.

MISA Lesotho has doubled its membership base in a period of one year. The membership, mostly media practitioners, including media houses, now stands at over 150.

Through strategic advocacy, MISA Lesotho has managed to push back repressive laws against media freedom. MISA Lesotho pushed back on the Computer Crime and Cybersecurity Bill

of 2021 and Communications (SIM and Mobile Device) Registration of 2021.

MISA Lesotho submitted a position paper on media reforms, which was successfully adopted by stakeholders in the national multi-sector reforms. Media is identified as one thematic area for reform.

Having advocated and lobbied for a Media Policy in Lesotho for more than two decades, MISA Lesotho is finally celebrating the adoption by Parliament and Cabinet of the National Media Policy of 2021, as well as the Media Code of Conduct, Behaviour and Practice of 2021.

Malawi

Operating Environment

In 2021, the COVID-19 pandemic continued to disrupt activities. However, through experience from 2020, MISA Malawi managed to negotiate the sharp corners that the pandemic has created and implemented most of its planned activities.

While some of the activities were planned and implemented online, some were implemented physically. Several developments happened in MISA Malawi's areas of focus: media freedom, freedom of expression, access to information, journalism education and digital rights.

Challenges

The media operating environment was difficult in 2021, as attacks on journalists were perpetrated by people and institutions with a constitutional mandate to protect Malawians and enforce laws – police officers. All cases of physical attacks on journalists in the year were perpetrated by police officers, a very worrying departure from 2020. In 2020, only two violation cases involved police officers.

In 2021, police officers physically attacked three journalists and arrested and questioned two journalists in the process of gathering information over published articles. One was arrested for allegedly publishing offensive communication. As has been the case, no officer was disciplined or prosecuted despite the Inspector General of Police promising to look into the matter and bring perpetrators to book. The impunity persists and perpetrators of the attacks on journalists remain scot-free.

MISA Malawi also received reports of media censorship, which is a threat to media freedom and independence. The year under review also saw the State curtailing freedom of assembly by arresting unarmed and

peaceful demonstrators. The enthusiasm that came with operationalisation of the Access to Information Act (ATI) has died down, as the government became secretive or closed at a time when the public expected transparency and accountability.

Freedom of expression came under intense attack in 2021. Some ordinary citizens were arrested for expressing themselves, particularly online. Criminal defamation cases have become the order of the day. Police reverted to using the Electronic Transactions and Cyber Security Act and Protected Flags, Emblems and Names Act to arrest citizens.

Successes

In January 2021, the government gazetted the Access to Information (ATI) Act regulations. This meant the process of requesting for information and disseminating information would be easily facilitated. It also meant public institutions and relevant private institutions were obliged to be forthcoming with information.

In some areas, it was noted that the government was trying to provide some of the information. The State House press briefings, which started in 2020 continued in 2021 notwithstanding COVID-19 related disruptions. The President also continued appearing in the National Assembly to respond to questions from Members of Parliament.

MISA Malawi continued with its capacity building initiatives in 2021 and received support from different partners. The Chapter mostly conducted virtual trainings, including WhatsApp-based trainings as was the case in 2020.

MISA Malawi continued to strengthen the capacity of the Media Council of Malawi (MCM) and media outlets to ensure the sustainability of media self-regulation. Since 2019, MISA Malawi has undertaken various initiatives aimed at resuscitating the operations of the Council and overall media self-regulation in Malawi.

On digital rights, in 2021 internet providers and the Malawi Communications Regulatory Authority (MACRA) started responding to a social media campaign dubbed *#DataMustFall* which aims at compelling internet service providers to reduce the cost of data.

Regional projects

Apart from participating in the MISA strategy meeting and other regional meetings, in 2021, MISA Malawi implemented two major regional projects.

1) Conference on the Future of Journalism Education in Southern Africa

In partnership with DW Akademie and Namibia Media Trust, MISA Malawi organised a three-day Conference on

the Future of Journalism Education in Southern Africa in November. Themed: *Telling the Truth - Restoring Trust*, the conference was a continuation of the conversations on trends and innovation in journalism education in Southern Africa that the three organisations started in 2019. In choosing the theme, organisers considered how the COVID-19 pandemic had cast the spotlight on the issue of trust in the media.

2) Regional Conference on Media Self-Regulation

Through its 2021 Media Self-Regulation campaign, MISA Malawi engaged national and regional level partners and stakeholders to support adoption and implementation of self-regulation systems and practices recommended by the model on media self-regulation, which are in line with the principles of the Windhoek Declaration.

MISA Malawi lobbied partners in the region to also push for the adoption and implementation of media self-regulation practices that are in line with principles of media independence, as envisioned by the Windhoek Declaration.

During the regional engagement, representatives of MISA Zimbabwe, MISA Zambia and MISA Tanzania, explained how their systems are work in progress and the need to push for media self-regulation while considering the differences in legal frameworks in the region.

Locally, MISA Malawi engaged media activists, human rights activists and civil society organisations to support media self-regulation in Malawi.

Mozambique

Operating environment

Mozambique continues to face declines in the press freedom environment. Violence, kidnappings, arrests/disappearance of journalists, surveillance, seizures of journalist's work materials, physical and psychological torture, restrictions on access to places and sources of information, assaults and burnings of media houses, and legal prosecutions to intimidate independent journalists, characterise the working environment.

Reports from The Economist Intelligence Unit, Civicus, and Reporters Without Borders, point to Mozambique increasingly becoming authoritarian. This is despite the democratic institutions that the country has put in place.

Challenges

Among the main challenges that MISA Mozambique faces, is the government's reluctance to enact

legislation that promotes a more pluralistic legal framework for media and to put in place constitutional guarantees that promote media freedom in line with regional and international frameworks and instruments.

The media and broadcasting law reform proposals submitted by the government to parliament fail to promote media freedom and freedom of expression. MISA Mozambique engaged parliament on why the provisions in the proposed legislation failed to meet the constitutional test.

However, the government insisted on proceeding with the legislation creating uncertainty regarding the future of freedom of expression in the country.

Successes

As a result of the advocacy initiatives within the context of reviewing the media legal framework, MISA Mozambique integrated a working group, invited by parliament, to come up with proposals for the two media laws proposed by the government (Social Media Law and Broadcasting Law).

This illustrates that MISA Mozambique is a critical partner of the legislature in terms of law reforms.

One of Mozambique's weaknesses is that there is impunity for perpetrators of crimes against journalists, an issue that MISA Mozambique has strongly advocated against.

MISA Mozambique is pleased to report that some perpetrators of attacks on journalists Marcos Nazário Tenesse and Naima José Gimo, from *Catandica's Community Radio*, in Manica Province, were held criminally responsible in 2021 after interventions by MISA and other partners.

Regional projects

The Chapter is implementing a regional project on cyber security and digital rights in Mozambique. The project is a contribution to the Human Resource Mechanism Programme, in partnership with Internews.

MISA Mozambique collaborated with different stakeholders in SADC, mainly the MISA Regional Office. MISA Mozambique also works with the International Senior Lawyers Project (ISLP) on capacity building in different areas of human rights interventions, particularly on protection of journalists.

VIRTUAL REPORT LAUNCH

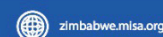
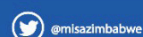
Webinar



10 September 2021



10:00 am -11:30am



ICT journalist Brenda Zulu running a training on digital security in Zambia.

Cybersecurity and Cybercrime
Laws in the SADC Region:
Implications on Human Rights.



Tanzania

Operating context

The media environment in Tanzania has notably improved over the past year, coinciding with the decision of the government of President Samia Suluhu Hassan to open up the country since coming into office in March 2021.

Following a change of tone from the top echelons of power, government officials have opened their doors for dialogue with media stakeholders and have shown a new willingness to reform media laws and regulations.

There has been a halt in the suspension of newspapers and imposition of hefty fines against TV and radio stations as well as online content providers since the Hassan government came into office.

There has also been a lull in arrests of citizens for exercising their freedom of speech online, contrary to the recent past.

However, the existence of restrictive laws and regulations in Tanzania has created a chilling effect on citizens and the media who are forced to practice self-censorship in exercising their freedoms of expression and that of the press to avoid being on the wrong side of the law.

Challenges

Lack of effective coordination among various media stakeholders in Tanzania poses a key challenge.

Media development associations must take advantage of the window of opportunity created by the opening up of the civic space to speak with one voice and strengthen solidarity for effective engagement with the government to push through comprehensive media laws reforms.

Successes

MISA Tanzania has played a leading role in advocacy for freedom of expression, press freedom and access to information in Tanzania.

MISA Tanzania has taken part in high-level advocacy with senior government officials and lawmakers at both the national and regional (East Africa) levels, as well as training of media practitioners to advocate for reform of media laws and regulations.

Regional projects

MISA Tanzania has taken part in various regional initiatives, including high-level engagements with the East African Community (EAC) and the East African

Legislative Assembly (EALA).

MISA Tanzania continues to cooperate with other MISA national chapters and the regional office to help build a stronger regional solidarity movement.

Zambia

Operating environment

Zambian journalists, civil society organisations and Human Rights Defenders continue to face an oppressive legal operating environment. Given that several laws exist that impede freedom of expression, the need for stakeholders; media inclusive, to tread carefully and watch every word or criticism they make, is a must in Zambia.

For instance, there are statutes such as the Penal Code which criminalises defamation of the President. However, what exactly constitutes this is unclear. Therefore, strong criticism of the President can warrant an arrest or court appearance, and if unlucky, conviction of up to a maximum of three years imprisonment.

Other sections in the Penal Code dwell on national security and ensuring a legally elected government is not taken out illegally. However, what is strange are some of the definitions outlined in the sedition section. For instance, it states that bringing the Zambian government or the justice administration system into hatred and contempt and to excite disaffection against either of them, is sedition.

In addition to laws that impede freedom of expression, some laws make freedom of expression hard as citizens are unable to access public documents. The State Security Act prevents access to public information from public bodies which has been classified; even without proper reasons.

Several government documents marked secret cannot be published nor used as sources of information by CSOs, media and human rights defenders. Other laws include the Cyber Crimes and Cyber Security Act, which permits the state to serve anyone they suspect is about to commit a crime and to also search and seize computers and these include mobile phones.

For media and journalists, such laws derail their ability to carry out investigative reporting and play their watchdog and agenda setting role adequately.

Zambia is yet to enact access to information legislation.

While the new government came with positive pronouncements on media freedom, freedom of expression and access to information, 10 months (at

the time of writing of this report) into their election, tangible steps are still to be taken towards improving the legal environment for freedom of expression.

Nonetheless, the media freedom and freedom of expression environment has improved since the new government came into power. However, the new government is not without fault. Several media violations have occurred since they came into power.

Zimbabwe

Operating Environment

The Reporters Without Borders (RSF) 2021 media freedom rankings, released in May 2021, saw Zimbabwe sliding in terms of its rankings. Zimbabwe was ranked at 130 out of 180 countries in 2021 compared to its ranking at 126 in 2020.

However, based on MISA Zimbabwe's monitoring of the media operating environment during the period under review, there was a marked, if not considerable reduction in the number of violations recorded in 2021 compared to the previous year.

This points to an improved media operating environment during the year under review.

On the positive side, the RSF said access to information had improved and self-censorship had declined, but that journalists were still often attacked or arrested.

While RSF noted that new broadcasting licences had been awarded, it noted the lack of diversity in the granting of the permits.

The clawback provisions in the Cyber and Data Protection Act promulgated at the end of 2021, risk eroding the gains made through the enactment of the Freedom of Information Act and undermine citizens' right to free expression online and ultimately access to information for informed decisions and choices.

In that regard, the government should be guided by the findings of the courts which struck down the criminal offence of publication of falsehoods to avoid costly constitutional court challenges against such provisions.

The other major issue that needs sober consideration is the Private Voluntary Organisations (PVO) Amendment Bill. In its current status, the Bill poses the greatest risk to Zimbabwe's democratic credentials.

The government should also seize the opportunity of the proposed Broadcasting Services Amendment Bill to come up with a democratic broadcasting regulatory framework that allows for a free, independent, diverse and sustainable broadcasting industry.

Challenges

While there were no major challenges as MISA Zimbabwe's programming was informed and executed in line with the organisation's 2021-2025 Strategic Plan, as expected the organisation still experienced inevitable challenges that come with the nature of the work it is involved in.

These challenges are not unique to Zimbabwe alone, but permeate the southern African region as a whole in the wake of the outbreak of the COVID-19 pandemic and stifling of online expression under the guise of controlling the pandemic.

The other challenge is that of the future of the media (sustainability), which is under threat in the context of the intricate challenges posed by pandemics, climate change, natural disasters, dwindling revenue and the role of big tech companies vis-à-vis the quest for supporting and defending a resilient media given its critical role in the exercise of the right to free expression and access to information for informed decisions and choices.

Successes

The issue of media co-regulation remained on the agenda during the course of 2021 as engagements between policy makers, parliamentarians and media representative organisations continued on the matter.

Delegates to the Media Reforms Stakeholders Indaba convened by MISA Zimbabwe on 30 October 2021 in Harare made the following resolutions pertaining to regulation of the media and the ongoing media reform processes:

1. Regulation of the media
 - a) Government should allow the industry to self-regulate.
 - b) The industry is committed to the agreed compromise position of co-regulation, wherein the industry is the primary regulatory body while the constitutional Zimbabwe Media Commission serves as an appellant body.
 - c) Government should take into consideration the Draft Zimbabwe Media Practitioners Bill that was developed by the media industry after wide consultations with journalists in all the country's 10 provinces.
 - d) That any attempts towards entrenchment of statutory regulation in Zimbabwe will not be accepted by the industry.

Motion on information as a public good

In June 2021, the Chairperson of the Parliamentary Portfolio Committee on Information, Media and Broadcasting Services, Sipho Mokone, moved a motion imploring parliament to enact legislation that enhances media freedom and encourages the media to conduct their activities without fear or favour.

These sentiments were shared across the political divide as the motion on information as a public good, moved on 15 June 2021, was supported by other legislators who urged the government to observe the provisions of the Windhoek Declaration which calls for media freedom.

Reduction in violations

Engagement meetings were held with key stakeholders that included provincial police commanders during the period under review. These engagements contributed to the marked reduction in the number of media freedom violations recorded during the period under review, from 52 in 2020 to 22 in 2021.

Access to information

MISA Zimbabwe versus Minister of Health and Child Care and Another HC45/2021 – Access to COVID-19 related information case.

This case was an urgent application which related to the exercise of the right to access COVID-19 related information during an intense lockdown in January 2021. The matter was filed on 15 January 2021 and it was heard on an urgent basis. High Court Judge, Justice Mary Dube, ruled in favour of MISA Zimbabwe.

In compliance with this High Court order, the Ministries of Health and Information managed, to a larger extent, to comply with the order. The government, through these responsible Ministries, managed to provide extensive daily updates on the progression of COVID-19 in Zimbabwe.

Regional/International footprints

MISA Zimbabwe National Director, Tabani Moyo was elected into the Global Forum for Media Development (GFMD) Steering Committee (the board), at its elective Annual General Meeting held in Tirana, Albania, on 30 September 2021.

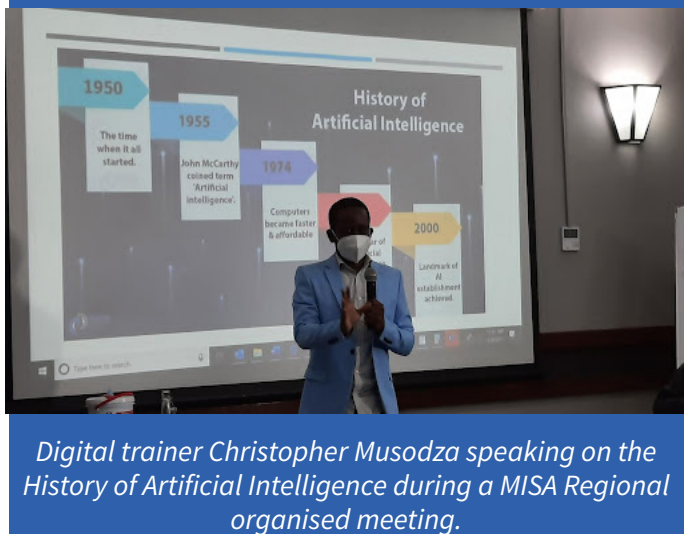
Moyo, who is also the MISA Regional Director, was elected with 17 other board members for a four-year term from 2021 to 2025. GFMD is an international network of about 200 journalism support and media development organisations, working in more than 70 countries. It is based in Brussels, Belgium.

Universal Periodic Review (UPR) Submissions

MISA Zimbabwe made submissions to the Third Cycle of the Universal Periodic Review (UPR) on Zimbabwe, where it noted improvements in the legislative environment, but decried the pullback provisions in proposed new laws that have the effect of infringing on freedom of expression, such as the then Cybersecurity and Data Protection Bill.



MISA Regional Director Tabani Moyo giving a presentation at the Africa Forum in Namibia ahead of the 2021 World Press Freedom Day Commemorations.



Digital trainer Christopher Musodza speaking on the History of Artificial Intelligence during a MISA Regional organised meeting.



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**Everyone
has the right
to freedom of
expression**

- The United Nations Universal
Declaration of Human Rights

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