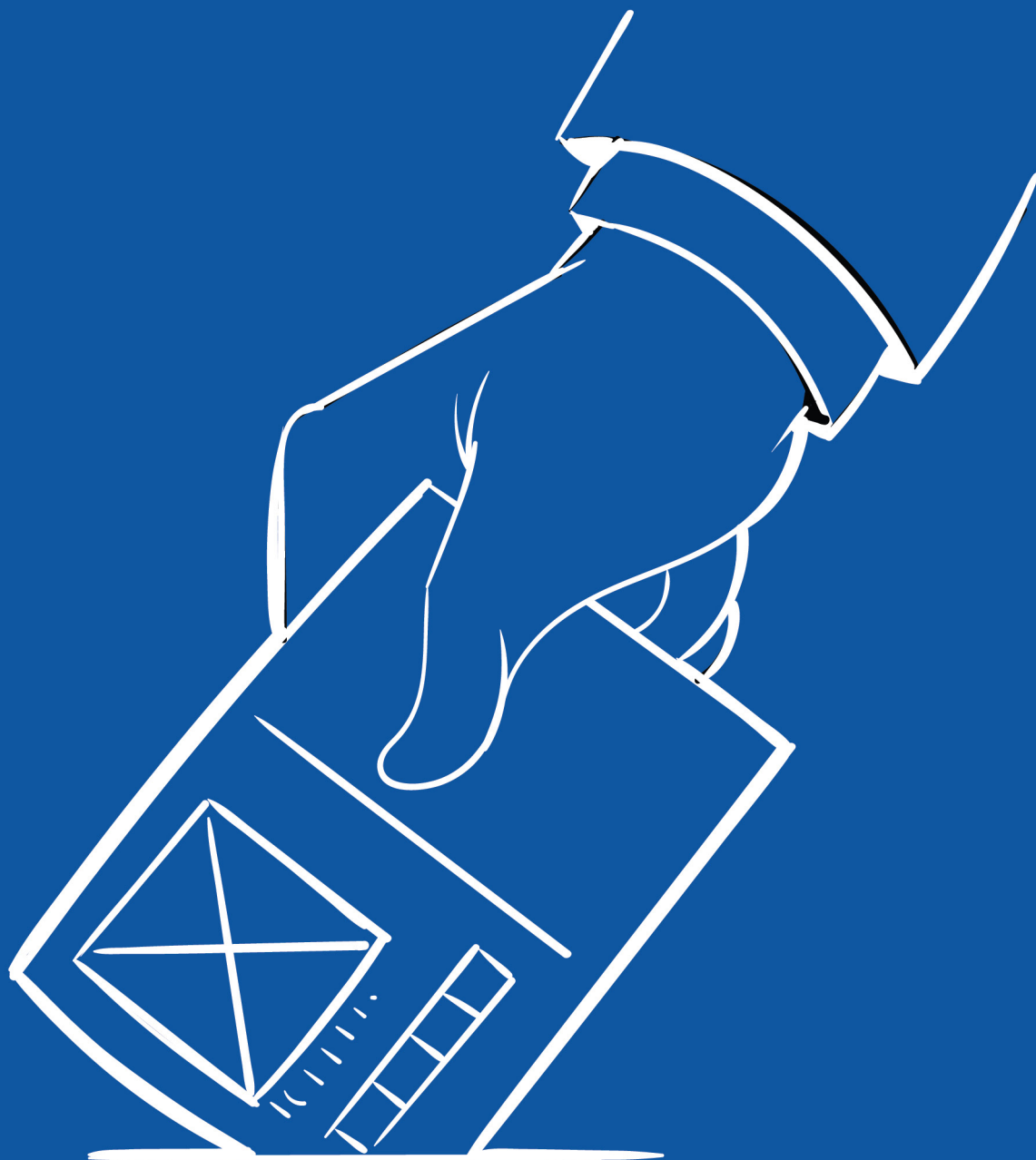


# ZIMBABWE 2023

## ELECTIONS AND BEYOND:

### MEDIA REGULATION, JOURNALISM SAFETY AND SECURITY



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## BACKGROUND

In 2018 the new government led by President Emmerson Mnangagwa, in a welcome and progressive development, reiterated its commitment to undertake comprehensive media law reforms.

Resultantly, and in the context of the ongoing media law reforms, the widely discredited Access to Information and Protection of Privacy Act (AIPPA) of 2002, was repealed, paving the way for the enactment of the Freedom of Information Act (2020) and the Zimbabwe Media Commission Act (2020).

The other proposed law, the Protection of Personal Information Act, has since been shelved.

In addition, a Writeshop was convened for stakeholder input into the Draft Broadcasting Services Amendment Bill in Gweru. A stakeholders engagement meeting was also convened in Kadoma on the Zimbabwe Media Practitioners Bill to address the issue of co-regulation of the media as agreed upon and endorsed by media stakeholders and the government.

The two Bills are still to be gazetted and presented before Parliament.

The repealing of AIPPA was received as a welcome development that would go a long way in entrenching the enjoyment of media freedom with journalists conducting their lawful professional duties without hindrance and fear of being unlawfully arrested, assaulted, harassed, or intimidated while on duty.

Under AIPPA, several journalists and media workers were arrested while on duty, and newspapers such as the *Daily News* and *The Tribune* were banned in terms of the draconian law.

## MEDIA OPERATING ENVIRONMENT

Sadly, the country continued to witness cases involving the wanton unlawful arrests, assaults, and harassment of journalists with impunity, with none of the perpetrators of these media freedom violations being held accountable or brought to book.

Some of these violations result from the continued existence of a plethora of existing laws that impact on the exercise of fundamental rights, or newly enacted laws that have claw back provisions that curtail the enjoyment of freedom of expression and access to information while also instilling media self-censorship.

These laws include, among others, the Interception of Communications Act, the Official Secrets Act, the Censorship and Entertainment Controls Act, provisions of the Cyber and Data Protection Act and the Criminal Law (Codification and Reform) Act which criminalise the publication of falsehoods.

A number of journalists were arrested in 2022 and charged for contravening Section 164C of the Criminal Law (Codification and Reform) Act as amended through the Cyber and Data Protection Act.

Observations by the United Nations Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association, Clement Nyaletsossi Voule, following a visit to Zimbabwe in 2019, are critical in that regard.

The Special Rapporteur recommended the repeal of legislation that is inconsistent with the Constitution and the exercise of fundamental freedoms.

He also said steps should be taken to ensure that all those monitoring assemblies, including journalists, media workers and human rights defenders, are allowed to do so and are protected at all times during assemblies and that violations are duly investigated.

It is trite to note that these violations have contributed to Zimbabwe's low global press freedom rankings, thereby denting the strides realised through the enactment of the Freedom of Information Act to enhance citizens' (including the media) right to access to information.

Some of the violations recorded in previous years involving the assault and harassment of journalists were perpetrated by the police or during events or rallies organised by political parties, thereby placing the lives and security of journalists at great risk. These violations also tend to increase during election periods.

It is against this background that MISA Zimbabwe in partnership with media representative organisations under the auspices of the umbrella Media Alliance of Zimbabwe (MAZ), in February this year, embarked on the nationwide police-media engagement meetings as part of efforts to secure a safe and conducive operating environment for the media, prior to and beyond Zimbabwe's 2023 elections.

Similar engagements were held with political parties, notably Zanu PF, Citizens Coalition for Change, and the MDC-T.

We are therefore happy to report that since February this year, we have not recorded cases involving the arrest or assault of journalists conducting their lawful professional duties by the police.

Few cases have also been reported of journalists being harassed at political meetings or rallies and it is our hope that this positive development will endure during this election period and beyond.

In the wake of these ongoing reforms, the government has also continuously reiterated its commitment to ensuring the safety and security of journalists. Beyond these assurances, concrete steps should be taken to ensure perpetrators of media freedom violations are brought to book.

The safety and security of journalists is of paramount importance as they play a critical role in the enjoyment of citizens' right to freedom of expression and access to information.

This role, underpinned by the safety and security of media workers, is of critical importance during elections as citizens rely on an unfettered media for credible and verifiable information to make informed choices and decisions.

MISA Zimbabwe urges the government, police, state security agents, political parties, and other responsible authorities to ensure the safety and security of journalists and media workers during the 2023 elections and post-election period.

Also, key in ensuring a conducive operating environment is the regulation of the media during elections by putting in place mechanisms for swift responses and speedy adjudication of cases involving the unlawful hindrance of the work of journalists and media workers on duty.

Political parties can, in that regard, push for the adoption and localisation of the United Nations Plan of Action (UNPA) on the Safety of Journalists into the country's legislative frameworks as part of concrete efforts to end impunity of crimes against journalists.

## **DISINFORMATION DISORDERS IN ELECTION PERIODS**

Zimbabwe is among African countries facing the challenge of disinformation. Due to technological developments and the digital landscape, information is shared easily and quickly thereby increasing access to information.

The media and journalists should thus guard against being the main drivers of misinformation and disinformation during elections through strict verification and fact-checking of information they receive and process in the public interest.

People are equally using the online space to freely express themselves and access information. However, an increase in disinformation has been noted. Reports on the 2018 elections in Zimbabwe recorded an increase in online and propaganda wars which were characterised by the spread of false information, cyberbullying, and harassment.

Disinformation is dangerous during political campaigns where propaganda is generated and spread for consumption by voters. It affects democracy as voters are provided with damaging information which can influence the election of candidates or political parties.

Freedom of expression is greatly enabled by an independent and impartial media, devoid of disinformation, which serves as a campaign platform, and a watchdog on the electoral processes, thereby promoting accountability and transparency.

International law strikes a balance between freedom of expression and disinformation. Generally, it is accepted that criminalising disinformation is inconsistent with the right to freedom of information. The United Nations Human Rights Committee says punishing journalists for the publication of false news, merely on the grounds that the news is false, violates Article 19 of the International Covenant on Civil and Political Rights (ICCPR).

A cardinal principle at the heart of the right of access to information is that of proactive disclosure. Without access to accurate, credible, and reliable information about a broad range of issues prior, during and after elections, it is impossible for citizens to meaningfully exercise their right to vote.

The government, Zimbabwe Electoral Commission and other public institutions, should be proactive in the disclosure of information to counter the spread of false information. There is need for awareness campaigns on the existence and use of fact-checking organisations such as *ZimFact* which helps in verifying information.

## **CO-REGULATION OF THE MEDIA**

The media industry and critical stakeholders agreed on the issue of co-regulation of the sector at a time when the government has also made pledges to support the principle of co-regulation of the media and has since announced that the Cabinet principles to that effect were now in place.

Other key stakeholders including parliamentarians from across the political divide and through the Parliamentary Portfolio Committee on Information, Media and Broadcasting Services, have similarly endorsed co-regulation as articulated and reaffirmed by media stakeholders as the way forward.

Under co-regulation, a proposed media council (professional body) as espoused in the Draft Zimbabwe Media Practitioners Bill drafted by media stakeholders under the auspices of the umbrella Media Alliance of Zimbabwe (MAZ), would be the first entry point for lodging complaints against the media while the constitutional Zimbabwe Media Commission, would be the appellant body.

There are varying interpretations of media co-regulation, some of which, if not adequately addressed, could merely strengthen statutory regulation or be a form of piecemeal reforms that would not address the long-standing contestations against statutory regulation.

It is MISA Zimbabwe and MAZ's considered view that effective co-regulation should be underpinned by a strengthened and inclusive professional media regulatory mechanism in which there is joint enforcement of a Code of Ethics and Conduct with the statutory body.

The Zimbabwe Union of Journalists (ZUJ) and the Zimbabwe National Editors Forum (ZNEF), the frontline practitioners, are in consensus with the rest of the media stakeholders that this is the best way of regulation.

In this arrangement, the primary body for regulating the media and mediating complaints against the media will be the professional media council, with the statutory body (the ZMC) continuing to exercise its constitutional obligations as an appellate body.

The industry-driven council will be composed mainly of media professionals, and it will also be inclusive

to represent the various platforms and forms of news media, including print, broadcast and online media.

Both public and private media entities and practitioners will be within the structures of this mechanism.

Suffice to say the media industry is unequivocal on media co-regulation as the way to go as engagements between policymakers, parliamentarians, and media representative organisations continue on this outstanding matter.

## **MEDIA REGULATION DURING ELECTIONS**

The issue of dual accreditation, wherein media practitioners accredited with the Zimbabwe Media Commission (ZMC) are requested to be accredited again with the Zimbabwe Electoral Commission for purposes of covering the elections, remains of concern to MISA Zimbabwe.

The ZMC-issued accreditation card should suffice for media practitioners in Zimbabwe, working for both local and foreign media houses, to undertake their professional work on election reporting.

Should there be a need for a separate and ZEC-specific accreditation, that accreditation should be processed without any requests for further payments, but rather as an administrative procedure.

For instance, ZEC can only require that media practitioners applying to be accredited by the Commission should submit their details based on the ZMC-issued accreditation cards without having to pay an additional accreditation fee.

Such details can then be verified with the ZMC before the accreditation card by ZEC is issued.

This dual accreditation and the fees in question can be a deterrent for media practitioners to undertake their work without any fear of harassment, exclusion, arrest, and detention while covering elections.

Dual accreditation should not be a deterrent for the media to play its role in information dissemination effectively. It is critical for the people of Zimbabwe to access election-related information to make informed decisions and choices.

## **FINDINGS BY ELECTION OBSERVER MISSIONS TO THE 2018 ELECTIONS**

The African Union Observer Mission noted that despite the existence of legal provisions that encouraged equitable access to the media and balanced reporting of activities of political parties and candidates, both private and state-owned media houses exhibited a degree of polarisation, with inequitable coverage of political parties and candidates.

The SADC Electoral Observer Mission had similar findings. It noted that the public broadcaster (ZBC) and the State-owned newspapers were in favour of one political party, contrary to the relevant provisions of the Constitution, the Electoral Act, and the Revised SADC Principles and Guidelines Governing Democratic Elections, which requires State-owned media to be impartial.

Similarly, the European Union Election Observer mission said election coverage in the media was not pluralistic.

In that regard, the media should ensure:

- All political parties and candidates are treated equitably to the extent, timing and prominence of the coverage accorded to them.
- Election reports are factually accurate, complete and fair.
- A clear distinction is made in the news between factual reporting on the election and editorial comment on it.
- Inaccuracies are rectified without delay and with due prominence.
- Political parties and candidates are afforded the right of reply.
- News media do not promote political parties and candidates that encourage violence or hatred.

Fundamentally, news media should avoid language that encourages prejudice or hatred, incites violence and may lead to public contempt against any person or political player.

## **RECOMMENDATIONS**

- Political parties and the police should ensure the safety and security of journalists during campaign rallies and at all times to avert the media freedom violations that contribute to Zimbabwe's low global media freedom rankings.
- Adoption and localisation of the United Nations Plan of Action (UNPA) on the Safety of Journalists into the country's legislative frameworks as part of concrete efforts to end impunity of crimes against journalists.
- Journalists should, and without fail, always strive for balance and fairness in their reportage and stories. In that regard, media professionalism is the very first line of defence for journalists as it is at the heart of media credibility and integrity.
- Journalists should avoid taking part in politics if one's mind is not yet made up as to which of the two, they want to pursue. Participating in political processes and returning to the newsroom upon failure to make it in politics presents serious ethical dilemmas for the industry.



- The media should ensure fair and equitable representation of women contesting in elections to counter the perennial trend of male dominance in election reporting.
- ZEC Media Monitoring Committee should consistently give updates of its assessment of the media's performance and regularly engage them to take corrective action as opposed to producing a report on its findings after the elections. Timely updates will go a long way in fostering professional coverage of the elections in a fair, balanced and accurate manner.
- The Zimbabwe Media Practitioners Bill should be crafted and guided by the unequivocal resolutions and affirmations of stakeholders in line with the form and nature of the guiding principles for co-regulation.
- Laws such as the Censorship and Entertainment Controls Act, Official Secrets Act, sections of the Criminal Law (Codification and Reform) Act, and Interception of Communications Act, among others, should be reviewed and aligned with the Constitution.
- The Broadcasting Services Amendment Bill should be benchmarked and gazetted in line with the African Charter on Broadcasting through regulatory frameworks that secure the independence of the Zimbabwe Broadcasting Corporation (ZBC) as a public broadcaster while stimulating the growth and sustainability of the broadcasting industry.
- Media stakeholders and the media ecosystem commit to a pledge to uphold the highest ethical standards during the election cycle and beyond.

## CONCLUSION

MISA Zimbabwe implores political parties, through their manifestoes and 2023 election campaigns to articulate their positions on the media law reform agenda and commit themselves to ensuring the safety and security of journalists.

MISA Zimbabwe is of the firm view that this will go a long way in entrenching the country's constitutional democracy, protection and enjoyment of fundamental rights.