



Way Forward Post-2023 Zimbabwe Elections



CONTENTS

INTRODUCTION	3
CONTEXTUAL BACKGROUND	4
MEDIA REGULATORY ENVIRONMENT	4
RECOMMENDATION	5
BROADCASTING SERVICES ACT	5
RECOMMENDATIONS	5
STATUTORY INSTRUMENT 33 OF 2008	6
RECOMMENDATION	6
CYBER AND DATA PROTECTION ACT	6
RECOMMENDATION	7
ACCREDITATION OF JOURNALISTS	7
RECOMMENDATION	7
MEDIA OPERATING ENVIRONMENT: JOURNALISM SAFETY AND SECURITY	8
RECOMMENDATION	9
CONCLUSION	9

INTRODUCTION

Zimbabwe's harmonised elections held in August 2023 were conducted in a drastically improved media operating environment regarding journalists' and media workers' safety and security.

This is evidenced by the massive reduction in media freedom violations, which tend to spike during the country's election campaign seasons.

Historically, Zimbabwe's elections have generally been marred by increased media freedom violations, contributing to the country's poor World Press Freedom Index rankings over the years.

These violations involve the unlawful arrests, assaults, and harassment of journalists by state and non-state actors, such as supporters of political parties.

Such violations impede the media from freely fulfilling its mandate during elections, compromising citizens' ability to access information that enables them to make informed decisions and choices.

Hence, the safety and security of media workers is critical as citizens rely on unfettered media for credible and verifiable information to participate in elections freely.

It is with that in mind that MISA Zimbabwe, in conjunction with key stakeholders, took various steps and interventions to secure a conducive media operating environment ahead of Zimbabwe's 2023 harmonised elections, resulting in the vastly improved safety and security environment for the country's journalists and media workers.

Several meetings were held with the police and political parties to secure a conducive media operating environment ahead of the 2023 elections.

Further, in collaboration with the Zimbabwe Media Commission and UNESCO Regional Office Southern Africa, MISA engaged the media since the beginning of the year to re-commit to the ideals of professionalism while covering elections. This was drawn from MISA's experiences in the Lesotho elections of 2022, where MISA Lesotho took leadership in mobilising the media to commit and recommit to professionalism while covering the election.

Zimbabwe's media, comprising state-owned, private and community media, campus radio stations and freelance journalists, committed themselves to the highest ethical standards in the coverage of the 2023 elections.

Media advocacy groups and academics also appended their signatures to the Harmonised Elections Media Code of Conduct Pledge 2023 in Bulawayo on the 10th of August 2023. The pledge was endorsed by the Government of Zimbabwe (GoZ), the Zimbabwe Republic Police (ZRP), political parties, Chapter 12 institutions and statutory bodies.

CONTEXTUAL BACKGROUND

The SADC Principles and Guidelines Governing Democratic Elections outlines, among other principles, the need for member states to promote the necessary conditions to foster transparency, freedom of the media, access to information by all citizens, and equal opportunities for all candidates and political parties to use the State media.

In Zimbabwe, freedom of the media is protected by Section 61, which also stresses that freedom of expression and the media excludes, among others, incitement to violence, advocacy of hatred or hate speech.

The right to freedom of expression and freedom of the media should also be read in tandem with Section 62 on access to information, which states that the media has the right to access information held by the State or by any institution or agency of government at every level.

This right is guaranteed as far as the information is required in the interests of public accountability or the exercise or protection of a right.

A free and unhindered media thus plays a critical role in disseminating information that triggers citizen participation in governance issues for informed choices and decisions on issues that affect their daily lives.

Election periods thus thrust immense responsibility on the media to provide the public with accurate information that will enable the electorate to make informed decisions and choices when they eventually cast their votes.

MEDIA REGULATORY ENVIRONMENT

Section 160G (1) of the Electoral Act says public broadcasters shall afford all political parties and independent candidates contesting an election such free access to their broadcasting services as prescribed.

Section 160 further says a broadcaster or print publisher shall not be obliged, subject to Section

160G, to publish any advertisement by or on behalf of a political party or candidate contesting an election, but if the broadcaster or publisher is prepared to publish any such advertisement—The broadcaster shall offer the same terms and conditions of publication, without discrimination, to all the political parties and candidates contesting the election.

RECOMMENDATION

The ZBC's editorial independence and accountability to the public must be provided for and be guaranteed. This will go a long way in ensuring the broadcaster is balanced in its coverage in line with the mandate of a true public broadcaster as espoused by the African Charter on Broadcasting.

Section 61 (4) of the Constitution says all State-owned media of communication must be free to determine independently the editorial content of their broadcasts or other communications. It further states that they must be impartial and afford fair opportunity for the presentation of divergent views and dissenting opinions.

BROADCASTING SERVICES ACT

The Broadcasting Services Act was enacted in 2001 and is now obsolete. Certain sections of the Act have proved difficult to implement and some sections have become inconsistent with the new constitution. Technology has also evolved rapidly over the last few years, making sections or definitions of services meaningless or definitions meaningless or out of sync with reality.

RECOMMENDATIONS

MISA Zimbabwe is thus encouraged by the inclusion of the Broadcasting Services Amendment Bill in the legislative agenda of the 10th Session of Zimbabwe's Parliament, which increases the threshold of foreign investment in the broadcasting sector to 40% for foreign investors.

It is hoped the resultant broadcasting law and regulatory framework will be in line with the Constitution of Zimbabwe, the African Charter on Broadcasting, the African Commission on Human and Peoples' Rights (ACHPR) Declaration on Freedom of Expression and Access to Information, among other instruments that set democratic principles and standards on regulation while stimulating growth and sustainability of the broadcasting industry.

The proposed law must also respond to the need for more diversity in the ownership of broadcasting services. We urge the government to be open to further engagements, concessions and changes to the Bill based on stakeholder and public input into the law-making process.

STATUTORY INSTRUMENT 33 OF 2008

The Statutory Instrument (SI) 33 of 2008 is an archaic executive order that sets additional regulations and functions for the Zimbabwe Electoral Commission, setting out regulations for the coverage of elections. The SI came into effect 15 years ago and proved to be an obsolete piece of law. \\

RECOMMENDATION

Repeal the SI and replace it with a more responsive framework in sync with technological and other socio-economic and political developments shaping our societal evolution 15 years on.

CYBER AND DATA PROTECTION ACT

The law has progressive provisions relating to specifications on the rights of data subjects notification of security breaches and the responsibilities placed on data controllers to promote data protection and privacy.

The other provision is on cyber-bullying and harassment. Such provisions are progressive as far as women's rights online are concerned. Several women, particularly female journalists and female politicians in Zimbabwe, have been victims of cyber-bullying and harassment, which has greatly affected the exercise of digital rights by women.

If implemented properly, this provision will be critical in ensuring that individuals respect the rights of others to express themselves and access information online, particularly during election time.

Regrettably, the Cyber and Data Protection Act also has provisions to reverse these gains. One such provision criminalises the transmission of data messages that incite violence or damage to property.

Another problematic provision relates to the transmission of false data messages. False news offences promote self-censorship and unjustifiably infringe on freedom of expression, media freedom, and citizens' right to access information for informed choices and decisions.

This position is also supported by an existing constitutional [court order which struck off criminal defamation](#).

At least four journalists have been arrested and charged for contravening Section 164C of the Criminal Law (Codification and Reform) Act as amended through the Cyber and Data Protection Act.

MISA Zimbabwe is, however, happy to report that no journalists were arrested in terms of this law in the context of the 2023 harmonised elections.

RECOMMENDATION

These provisions unnecessarily portray Zimbabwe negatively and must be given sufficient attention considering the existing constitutional [court order which struck off criminal defamation](#).

ACCREDITATION OF JOURNALISTS

Both local and foreign journalists faced challenges in being accredited by the Zimbabwe Electoral Commission (ZEC) amid reports that some journalists were only duly accredited a few days from the election day on 23 August 2023.

Regrettably, three Kenyan journalists, Duncan Khaemba, Chris Omulando and their cameraman from the Nation Media Group, who were accredited to report on Zimbabwe's election, had their equipment seized by authorities at the Robert Gabriel Mugabe International Airport upon arrival.

Despite being cleared by the Ministry of Information, Publicity and Broadcasting Services, the three were told they could only enter the country with their equipment if they paid a deposit equivalent to half the purchasing price of the broadcasting equipment.

They complied with the dual accreditation process and got the accreditation by the Zimbabwe Media Commission (ZMC) and the Zimbabwe Electoral Commission (ZEC).

Furthermore, they were told they needed further accreditation from the Broadcasting Authority of Zimbabwe. They left their equipment at the airport, assuming they would collect it when leaving Zimbabwe.

However, they were to experience further unexplained delays in having their equipment returned to them as they exited the country. Due to this, they could not effectively report on the election, as they had to borrow equipment from local journalists, a less-than-ideal way of operating.

RECOMMENDATION

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 elections, remains of concern to MISA Zimbabwe.

The ZMC-issued accreditation card should suffice for media practitioners in Zimbabwe working for 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.

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

The experience of the Kenyan journalists calls for a genuine conversation on the need for a more transparent and responsive accreditation regime for foreign media in covering elections in the country to avoid such structural technicalities that needed to be communicated when the approval was communicated to the three journalists.

There is a need to increase transparency and accountability in the accreditation process for both local and international media.

One way of doing so is to take advantage of technological developments and introduce an online application process that allows for tracking the application and its status. The system should automatically highlight to the applicants whether the application has been successful and the reasons for the application's failure.

MEDIA OPERATING ENVIRONMENT: JOURNALISM SAFETY AND SECURITY

As highlighted earlier in this report, the media operating environment drastically improved during the 2023 elections compared to previous election seasons.

For instance, in 2018, of the 31 media freedom violations recorded, fifteen (15) involved security forces (ZNA and ZRP) members, while ten involved political actors and the other six involved other actors.

In 2022, a year in which we had by-elections in March, we recorded 24 media freedom violations affecting 36 journalists. Of the 24 incidents we recorded, nine (9) involved the police, while 10 involved political actors and the other five were perpetrated by other actors.

Encouragingly, and so far this year, the number of violations involving political actors and members of the security forces (ZRP and Zimbabwean airport security) has dropped to eight (8).

As of mid-October 2023, of the 13 cases recorded, two (2) involve members of the security forces (ZRP and Zimbabwean airport security), six (6) involve political actors, while the other five (5) involve other actors. These violations affected 11 journalists.

It is trite to note that following the proclamation of the 2023 Zimbabwean elections on 31 May 2023 and the holding of the elections on 23 August 2023 (a period usually characterised by a spike in media freedom violations), only three (3) violations involving political actors were recorded.

No media violations involving the police or other security arms of the state were recorded during that period.

RECOMMENDATION

Zimbabwe should adopt and localise 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 first line of defence for journalists as it is at the heart of media credibility and integrity.

CONCLUSION

Suppose this downward spiral in media freedom violations continues to subsist, Zimbabwe is poised for further improvement in the World Press Freedom Index rankings as the elections were held in a drastically improved media operating environment.

This commendable development can be bolstered by addressing the clawback provisions in laws such as the Cyber and Data Protection Act, which impact media freedom, freedom of expression and access to information.

In that regard, the media should also go the extra mile to ensure fair and equitable representation of women contesting in elections to counter the perennial trend of male dominance in election reporting.

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.

Finally, the adoption and localisation of the United Nations Plan of Action (UNPA) on the Safety of Journalists as part of concrete efforts to end impunity of crimes against journalists will be the clincher that will set Zimbabwe on the progressive path to the operations of a free and unhindered media.

Journalism Safety and Security

In 2018, of the 31 media freedom violations recorded, fifteen (15) involved security forces (ZNA and ZRP) members, while ten involved political actors and the other six involved other actors.

In 2022, a year in which we had by-elections in March, we recorded 24 media freedom violations affecting 36 journalists. Of the 24 incidents we recorded, nine (9) involved the police, while 10 involved political actors and the other five were perpetrated by other actors.

Encouragingly, and so far this year, the number of violations involving political actors and members of the security forces (ZRP and Zimbabwean airport security) has dropped to eight (8).

As of mid-October 2023, of the 13 cases recorded, two (2) involve members of the security forces (ZRP and Zimbabwean airport security), six (6) involve political actors, while the other five (5) involve other actors. These violations affected 11 journalists.

It is trite to note that following the proclamation of the 2023 Zimbabwean elections on 31 May 2023 and the holding of the elections on 23 August 2023 (a period usually characterised by a spike in media freedom violations), only three (3) violations involving political actors were recorded.

Media Freedom Violation Incidents involving members of the security forces and political actors.



Categories of the Media Freedom Violation Incidents involving members of the security forces and political actors.



Arrested/Detained/
Denied Bail/ Charged



Barred/Censored



Assaulted/ Attacked/
Injured/Threatened



Seizure/damage
of Equipment



