

SWAZILAND 2007

AFRICAN MEDIA BAROMETER SWAZILAND 2007

Sector 1: Freedom of expression, including freedom of the media, are effectively protected and promoted.

1.1 *Freedom of expression, including freedom of the media, is guaranteed in the constitution and protected by other pieces of legislation.*

ANALYSIS:

The Constitution of the Kingdom of Swaziland came into effect on 8 February 2006. Freedom of expression and freedom of the media are guaranteed and protected by the Constitution, but there are no other pieces of legislation that protect these twin freedoms.

Section 24 of the Constitution states:

“(1) A person has a right of freedom of expression and opinion.

(2) A person shall not except with the free consent of that person be hindered in the enjoyment of freedom of expression, which includes the freedom of the press and other media...”

However, Section 24 (3) contains broad limitations on the right to freedom of expression which can undermine the protections provided in clauses (1) and (2).

It states: “Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this section to the extent that the law in question makes provision –

- (a) that is reasonably required in the interests of defence, public safety, public order, public morality or public health;
- (b) that is reasonably required for the purpose of –
 - (i) protecting the reputations, rights and freedoms of other persons or the private lives of persons concerned in legal proceedings;
 - (ii) preventing the disclosure of information received in confidence;
 - (iii) maintaining the authority and independence of the courts;
 - (iv) regulating the technical administration of the technical operation of telephony, telegraphy, posts, wireless broadcasting or television or any other medium of communication;

(c) that imposes reasonable restrictions upon public officers, except so far as that provision or, as the case may be, the thing done under the authority of that law is shown not to be reasonably justifiable in a democratic society.

Such elaborate limitations can be used to curtail freedom of expression and freedom of the media. For example, allowing freedom of expression to be restricted in the interests of public morality gives huge scope for prohibiting free speech since there are no agreed moral standards. Further, some of these limitations actually entrench existing restrictive laws. For instance, preventing the release of information because it is received in confidence can be used to justify the Official Secrets Act 1963, which prohibits access to any kind of government-held information.

Before the Constitution was finalised, there were many objections to this basic law, “but it was pushed through anyway.” Ironically, those who pushed it through are now reluctant to allow constitutional rights in practice.

Customary law, which under Swaziland’s dual legal system has equal status with the Roman Dutch Common Law and statutes, continues to restrict freedom of the media and freedom of expression. For instance, there are cultural dictates that prevent people from criticising or questioning those in authority, especially the King. Although, in theory, the Constitution is supreme over all other laws, unwritten customary law wields enormous power in practice and because Swazi Law and Custom is not codified, it cannot yet be tested against the Constitution.

Section 268 of the Constitution states that the Constitution is to prevail when in conflict with existing legislation. However, this does not mean all laws that contradict the Constitution are automatically nullified. There is a raft of laws restricting media freedom and freedom of expression that remain on the statute books (see 1.3). Only when these laws are challenged in court, repealed or amended will they cease to have an impact. As long as these laws remain unchallenged, “we are at sea.” For example, the Constitution protects freedom of association and assembly, but the 1973 Proclamation banning political parties has not been declared unconstitutional, so there is much reservation and uncertainty about registering political parties.

The prevailing feeling is that there has been little real progress with regard to protecting and guaranteeing freedom of expression and media freedom because of the onerous list of limitations in Section 24 (3) of the Constitution, the failure to repeal or amend the laws that inhibit these freedoms, the power of customary law and the ruling elite’s reluctance to see the constitutional guarantees in action.

It should be noted that the Ministry of Public Service and Information is attempting to introduce new media laws, including freedom of information legislation, aimed at reforming the media landscape. Consultations on the draft bills are ongoing.

SCORES:

Individual scores: 2, 2, 2, 2, 2, 2, 3, 2

Average score: **2.1 (2005=1.5)**

1.2 *The right to freedom of expression is enforced and citizens, including journalists, are practised without fear.*

ANALYSIS:

There has been a noticeable increase in the exercise of freedom of expression, both by individuals and the media. It is more common now to hear people challenging government and speaking out. The media is giving voice to a greater diversity of opinions. During a recent workers' strike, trade unionists and other progressives were granted considerable airtime on state television: "They wouldn't have had such a platform in the past."

This increase in free expression can be credited, in part, to the adoption of the Constitution, which has created greater public awareness about freedom of expression. The fact that the current government is more tolerant of free expression and freedom of the media has also contributed to the increased openness.

But this new openness is not exercised without fear and there remain considerable restraints on the practice of freedom of expression. "People still talk in hushed tones." Some panellists spoke of being regularly followed by police, and having their work monitored. Government spies "always" attend public events where their presence alone "is enough to just shut you up." These tactics of intimidation result in reduced criticism of the ruling elite and less political activism.

People can suffer retribution for speaking out against the status quo, though this often happens in a "subtle and covert" manner. Land expulsion is the most threatening form of retribution. The majority of Swazis live on Swazi national land, which is controlled by the traditional authorities. "Speak too openly and you risk eviction from your home". The lack of land tenure inhibits the practice of freedom of expression.

Fear of those in power (both traditional and political authorities) means people only express their political views "behind closed doors". Political debate does not occur publicly and is suppressed by the cultural dictate that those in authority must not be questioned. The media is often told not to question the King on sensitive political issues, and they always follow suit. Criticism of the monarchy remains strictly off-limits. When the *Times of Swaziland* recently published a story that blamed the dwindling economy on the King's lavish spending, the paper was forced to issue an apology immediately or face closure.

The constitutional protection of freedom of expression was described as mere "window-dressing", guaranteeing this right "on paper only, not in practice."

SCORES:

Individual scores: 1, 3, 3, 2, 2, 2, 2, 2

Average score: **2.1 (2005=1.6)**

1.3 *There are no laws restricting freedom of expression such as excessive official secret or libel acts, or laws that unreasonably interfere with the responsibilities of*

the media.

ANALYSIS:

There are still at least 32 pieces of legislation on the statute books that restrict freedom of expression and/or media freedom, many dating back to the pre-independence era.

The Proscribed Publications Act 1968 gives the Minister of Information sole power to declare a publication “prejudicial to the interests of defence, public safety, public morality or public health”. The Sedition and Subversive Activities Act 1968 criminalises the making of statements that “bring into hatred and contempt” the King, his heirs or successors; “raise discontent or disaffection” among the people of Swaziland and “promote feeling of ill-will and hostility” between different groups.

The Books and Newspapers Act 1963 requires all print operators to be licensed and places a prohibitive cash bond of E15,000 (Emalangi equals South African Rand) on entry into the print media industry. The Official Secrets Act 1963 prohibits access to government-held information, except on approval by senior government officials.

Efforts are under way to reform some of these laws. The Ministry of Public Service and Information has produced six draft bills, including the Freedom of Information and Protection of Privacy Draft Bill 2007, which is meant to replace the Official Secrets Act. There is also the Books and Newspapers (Amendment) Draft Bill 2007. However, this amendment bill does not reduce the restrictive cash bond required of print media operators.

SCORES:

Individual scores: 1, 1, 1, 1, 1, 1, 1, 1

Average score: **1.0 (2005=1.3)**

1.4 *Entry into and practice of the journalistic profession is unrestricted.*

ANALYSIS:

There is no law restricting the entry into and practice of journalism in Swaziland. However, the Media Commission Draft Bill 2007 introduced by the Ministry of Public Service and Information gives powers to the Commission to introduce compulsory registration and accreditation of journalists and media institutions.

The media has categorically rejected the draft bill and is fast-tracking the establishment of a self-regulatory mechanism to thwart government attempts to impose these restrictions on the practice of journalism.

SCORES:

Individual scores: 5, 5, 5, 4, 4, 5, 5, 4

Average score: **4.6 (2005=4.7)**

1.5 *Protection of confidential sources of information is guaranteed by law.*

ANALYSIS:

There is no law protecting confidential sources of information. Journalists subpoenaed to appear in court can be forced to disclose their sources. If they refuse to do so they risk being found guilty of contempt of court under the Criminal Procedures Act.

The Prevention of Corruption Act 2006 does protect whistleblowers, but it does not provide specific protection for journalists.

The Freedom of Information and Protection of Privacy Draft Bill does not contain any protection of confidential sources.

SCORES:

Individual scores: 1, 1, 1, 1, 1, 1, 1, 1

Average score: **1.0 (2005=1.0)**

1.6 *Public information is easily accessible, guaranteed by law, to all citizens, including journalists.*

ANALYSIS:

There is no freedom of information legislation in Swaziland. The government and public institutions cannot be forced to disclose information of public interest. The Official Secrets Act 1963 makes it entirely the government's prerogative whether to release information or not, and there is no means of appealing against government decisions. There are no formal procedures for obtaining public information and requests often get caught up in bureaucratic red tape. Information that should be in the public domain, such as the defence budget and the budget of the King's office, is never disclosed.

There is an attempt to introduce freedom of information legislation in the Freedom of Information and Protection of Privacy Draft Bill 2007. However, there are concerns that the draft bill contains too many restrictions on accessing information and, in fact, "turns the whole idea of FOI on its head" by opening up ways for the government to access private information, rather than opening up the public's access to public information.

SCORES:

Individual scores: 1, 2, 1, 1, 1, 1, 1, 1

Average score: **1.1 (2005=1.3)**

1.7 *Civil society in general and media lobby groups actively advance the cause of media freedom.*

ANALYSIS:

Civil society and other lobby groups are not doing enough to advocate for media freedom. The little activism that is done is not cohesive and often not visible. Weak relationships between the media and civil society organisations (CSOs), where both sides often fail to support the other, are partly to blame. There is no sense of solidarity and shared purpose. When the *Times of Swaziland* was recently forced to issue a front-page apology for publishing an article critical of the King, civil society was silent. The response from one political lobby group, angry that the *Times* would not give them more coverage was, “Serves you right.” There is also pervasive apathy and lack of leadership (“It’s like building a castle on the sand”).

Fear is another factor in the failure to react to media freedom violations. Most media institutions and many CSOs are financially dependent on government and fear falling out of favour with the authorities if they are too vocal.

The Media Institute of Southern Africa (MISA) - Swaziland chapter has found media owners are more concerned about protecting their business than fighting for media freedom. Often MISA Swaziland’s attempts to receive coverage on media freedom issues get rebuffed.

The media itself is not presenting a united front. It is a fractious industry and the media associations are ineffective and do not garner wide support. The most well-known group, the Swaziland National Association of Journalists (SNAJ), was described as a “toothless dog”.

The existing media organisations are: Swaziland National Association of Journalists (SNAJ); MISA Swaziland; Media Workers Union of Swaziland (MWUS); and Gender and Media Swaziland (GEMSWA).

SCORES:

Individual scores: 2, 2, 2, 2, 3, 2, 3, 2

Average score: 2.3 (2005=2.1)

Overall score for sector 1:

2.0 (2005 = 1.9)

Sector 2: The media landscape is characterised by diversity, independence and sustainability.

2.1 *A wide range of sources of information (print, broadcasting, internet) is available and affordable to citizens.*

ANALYSIS:

Radio is the most accessible and affordable source of information for most people in Swaziland. There are two domestic stations - the state broadcaster, Swaziland Broadcasting and Information Services (SBIS), and the religious station, Voice of the Church (VOC), established by Transworld International.

SBIS has two channels – SBIS 1 (siSwati) and SBIS 2 (English) – which cover approximately 95% of the country. VOC reaches about 70% of the country. VOC is

becoming increasingly popular and has recently introduced non-religious content, creating real competition for SBIS.

Listeners are not restricted to the local stations because South African radio floods the market and is very popular. There is no community radio in Swaziland.

The choice of local television stations is limited. There are just two domestic channels: Swazi TV and Channel Swazi. The smaller of the two, Channel Swazi, (privately owned “on behalf of His Majesty”) is not available in most parts of the country, even in the major towns, due to lack of transmitters. Swazi TV, the state broadcaster, has a reach of 75%, but is not popular. Those who do watch it “don’t have a choice.”

Those with choice watch South African television channels accessible through satellite decoders, which cost between E800-1,200. Decoders enable viewers to receive SABC 1, 2, 3 and eTV.

The satellite television service, DSTV, is available, but at a minimum of E350 a month it is unaffordable for most of the population.

There are two national daily newspapers, the *Times of Swaziland* (private) and the *Swazi Observer* (owned by the king through a royal conglomerate). Both are published in English. The *Times* has an average daily print run of 26,000 and an estimated readership of 100,000. The *Observer* averages 15,000 prints a day with an estimated readership of 85,000. At E2.20 a copy, newspapers are affordable even for many rural communities (a loaf of bread costs E4.00).

The only siSwati newspaper, *Tikhatsi TeMaswati*, a translation of the *Times*, ceased publication in November 2006, as it was no longer commercially viable. But according to the *Times*, rural readers have been demanding its return. It was suggested that had *Tikhatsi* provided original siSwati content, it might have been successful. However, its main obstacle was attracting advertisers who assume people reading siSwati are poor and are, therefore, not worth advertising to.

There has been one new entrant into the newspaper industry, *Ligoli*, a privately owned weekly sports newspaper. A new player in the magazine industry brings the numbers up to three monthly publications - *The Nation*, *Youth Connexion* and the newly established *Business World*. *The Nation* has the largest circulation at 3,500-4,000 per month. *Youth Connexion* has a print run of 2,000. The majority of Swazis cannot afford magazines which average E10.00 per copy.

There are a wide variety of imported newspapers and magazines available in urban centres.

Internet is still unaffordable for most Swazis and is limited to the main towns. Most Internet cafés charge at least E20.00 for 15 minutes. Broadband is still not available, as the government is yet to license operators, so connections are slow and unreliable.

SCORES:

Individual scores: 3, 3, 3, 4, 3, 2, 4, 3

Average score: **3.1 (2005=2.9)**

2.2 *Citizens' access to domestic and international media sources is not restricted by state authorities.*

ANALYSIS:

Access to domestic and international media is not restricted by the state. State television, Swazi TV, relays CNN and Deutsche Welle daily. State radio, SBIS, provides live feeds of BBC World and Voice of America (VOA) news programmes.

But there have been incidents where international content is censored by the authorities. The *Times* was recently threatened with closure for publishing a story from the international Afrol news agency that criticised the king. The paper was forced to retract the story and publish two front-page apologies. However, access to the Afrol story online was not restricted.

SCORES:

Individual scores: 4, 4, 4, 4, 3, 4, 3, 3

Average score: **3.6 (2005=4.0)**

2.3 *Efforts are undertaken to increase the scope of circulation of the print media, particularly to rural communities.*

ANALYSIS:

The *Observer* makes some effort to widen its circulation by conducting road shows in outlying towns. But it doesn't venture into the far-flung rural communities because it is not economical. The *Times* does very little to broaden its circulation base and as such it is largely restricted to the main towns.

SCORES:

Individual scores: 3, 2, 4, 2, 3, 3, 1, 2

Average score: **2.5 (2005=2.9)**

2.4 *Broadcasting legislation has been passed and is implemented that provides for a conducive environment for public, commercial and community broadcasting.*

ANALYSIS:

Existing legislation does not create an environment where public, commercial and community broadcasting can flourish. The government effectively maintains a monopoly in the broadcasting sector.

The parastatal, Swaziland Posts and Telecommunications Corporation (SPTC), governed by the SPTC Act 1983, issues radio and telecommunication licenses and all frequencies (including television frequencies). The state-owned Swaziland Television Authority (STVA), which operates Swazi TV and is governed by the STVA Act 1983, issues television licenses. These two Acts set up a major conflict of interest in allowing government to be both an operator and the regulator. Thus, the broadcasting sector is uncompetitive. There are no adhered-to rules and procedures for granting licenses. In practice, getting a broadcasting license is a very murky and cumbersome process that discourages new players. The only two non-state broadcasters, VOC and Channel Swazi, were issued licenses under “gentlemen’s agreements”.

However, there are efforts under way to reform broadcasting legislation. The Information and Media Policy adopted in 2005 promotes the three-tier broadcasting system and calls for an independent broadcasting regulator. The Ministry of Public Service and Information, tasked with implementing the policy, has produced two draft bills. The Broadcasting Draft Bill 2007 repeals the STVA Act 1983 and seeks to establish an independent regulator, and the Public Broadcasting Corporation Draft Bill 2007 seeks to transform the state broadcasters into public broadcasters.

The consultation process on the draft bills is ongoing, but stakeholders have expressed dissatisfaction with the Commonwealth consultant and are concerned that the consultations have not been inclusive.

Meanwhile, the Ministry of Tourism, Environment and Communications (MOTEC) has drafted the Telecommunications Bill to replace the SPTC Act 1983. This bill covers regulatory powers, as does the Broadcasting Draft Bill. However, there was no collaboration between MOTEC and the Ministry of Public Service and Information in the drafting of these two bills. The consensus is that they need to be harmonised to establish a single communications regulator.

SCORES:

Individual scores: 1, 1, 1, 1, 1, 2, 2, 1

Average score: **1.3 (2005=1.1)**

2.5 *Community broadcasting enjoys special promotion given its potential to broaden access by poor and rural communities.*

ANALYSIS:

There are still no community radio stations operating in Swaziland. The Lubombo Community Media Group has been trying to establish a station for the past eight years, but is yet to be granted a license. This despite the fact that the former Minister for Information promised to issue several community licenses after the adoption of the

Information and Media Policy in 2005. The Policy states, “As a means of expanding public access and participation in mass media and development, community radio stations shall be introduced in the Kingdom of Swaziland, licensed for an initially renewable period not exceeding 24 months, owned and managed by a particular community through a trust or association, and whose main aims shall be to serve and benefit the community in question.”

Lubombo Community Radio (LCR) has been granted three temporary licenses to broadcast royal events. The most recent was a 3-day license to broadcast the King’s birthday celebrations. But the licensing process was frustratingly slow and the license was only granted on the day the station was scheduled to begin broadcasting, preventing LCR from raising funds, advertising the frequency and preparing programme content. The failure, so far, to issue a permanent licence to LCR has meant the station’s equipment has not been maintained and volunteers who were trained have now moved on.

Community radio is viewed as competition for the state-owned SBIS. It is, therefore, not in the interest of government to promote it.

The Ministry of Public Service and Information, however, lays the blame for the lack of community stations at the feet of the communities for not equipping themselves with the necessary resources. The costs for setting up a station, though, are so prohibitive that most communities cannot raise enough funds.

It should be noted that the Broadcasting Draft Bill does include community broadcasting.

SCORES:

Individual scores: 2, 1, 1, 1, 1, 1, 1, 1

Average score: **1.1 (2005=1.1)**

2.6 *The editorial independence of print media published by a public authority is protected adequately against undue political interference.*

ANALYSIS:

The *Swazi Observer* is owned and published by Tibiyo TakaNgwane, which in turn is owned by the King on behalf of the Swazi nation. There was much debate among panellists as to whether Tibiyo could be classified as a public authority because legally it is a private entity. It was agreed that although Tibiyo is registered as a private company and does not use taxpayer funds, it is effectively controlled by the King and “held in trust for the Swazi nation” and, therefore, is a public authority. Tibiyo appoints the board of the *Observer* and though the King is not directly involved in the appointments, he is kept informed and theoretically could influence the decisions. The dominant public perception is that the *Swazi Observer* is a state newspaper.

The *Observer* is not able to publish criticism of the King and the Queen Mother, but “this is the only editorial restriction.” And the same restriction applies equally to the privately

owned *Times of Swaziland*. The *Observer* regularly carries stories critical of government and public bodies: “For all intents and purposes it is a free paper.”

SCORES:

Individual scores: 2, 3, 2, 2, 3, 3, 2, 2

Average score: **2.4 (2005=1.9)**

2.7 *Local or regional independent news agencies gather and distribute information for all media.*

ANALYSIS:

There are no news agencies currently operating in Swaziland.

SCORES:

Individual scores: 1, 1, 1, 1, 1, 1, 1, 1

Average score: **1.0 (2005=1.0)**

2.8 *Media diversity is promoted through adequate competition regulation/legislation.*

ANALYSIS:

There is no legislation that promotes competitive practices and ensures media diversity.

The Information and Media Policy adopted in 2005 states: “An independent regulator shall enforce fair and competitive market practices and discourage monopolistic tendencies in the information and media industry in accordance with the Fair Competition Act” (7.7.3). But in the absence of both an independent regulator and a Fair Competition Act, this policy statement is yet to be realised. A competition bill has been piloted under the Ministry of Enterprise and Employment.

SCORES:

Individual scores: 2, 1, 1, 1, 1, 2, 1, 1

Average score: **1.3 (2005=1.3)**

2.9 *Government promotes a political and economic environment which allows for a diverse media landscape.*

ANALYSIS:

The adoption of the Constitution and the Information and Media Policy indicates that government is attempting to open up the media landscape. But existing legislation still inhibits media diversity.

The STVA Act 1983, for example, confers power on the operator of Swazi TV, the Swaziland Television Authority (STVA), to regulate the television industry. Similarly, the radio sector is extremely uncompetitive since the dominant player, government, also governs licensing and frequency distribution through the parastatal, the SPTC.

The Books and Newspapers Act 1963 is still in place, making it prohibitively expensive for new players to enter the print industry. The Act stipulates that a cash bond of E15,000 must be paid to the Registrar of Books and Newspapers to establish a newspaper. An amendment to the Act has been drafted, but it does not remove or even reduce the cash bond.

There are no practical efforts, such as tax incentives for media operators, to encourage media diversity. In fact, the general environment is becoming even more regulated and restrictive: "They are creating more monopolies all the time."

SCORES:

Individual scores: 3, 1, 2, 2, 2, 1, 1, 1

Average score: **1.6 (2005=1.0)**

2.10 *Private media outlets operate as efficient and professional businesses.*

ANALYSIS:

The *Times of Swaziland*, the dominant private media outlet, makes a substantial profit and has seen circulation increase over the last two years, an indication that it is operating efficiently and professionally.

The other private publication, *The Nation* magazine, is doing reasonably well in business terms, though profits are modest. However, *Youth Connexion* magazine is struggling and sometimes has to forego monthly editions.

SCORES:

Individual scores: 4, 3, 4, 4, 3, 3, 4, 4

Average score: **3.6 (2005=2.6)**

2.11 *State print media are not subsidised with taxpayers' money.*

ANALYSIS:

The *Swazi Observer*, the only state print media, is not subsidised with taxpayers' money. It is subsidised by the royal conglomerate Tibiyo TakaNgwane, but Tibiyo does not use tax funds.

SCORES:

Individual scores: 5, 5, 5, 5, 5, 5, 5, 5

Average score: **5.0 (2005=4.8)**

2.12 *Government does not use its power over the placement of advertisement as a means to interfere with media content.*

ANALYSIS:

The government is the biggest single advertiser and wields enormous power in the small advertising market. Government regularly uses this power to control media content.

Recently the Ministry of Health ran a series of announcements in the *Observer*, but refused to run them in the *Times*. When the newspaper confronted the Ministry, they said they withheld the advertisements because they were unhappy with the *Times*' criticism of the Ministry over the public health crisis. The *Observer* has had similar experiences of government withholding advertisements on particular issues. This is not the result of top-level policy, but rather "just depends on which government department it is."

The media itself is to blame for sometimes being complicit in government's interference with content. Newspapers offer articles as part of advertising packages, but do not mark these articles as advertorials. This is justified as "a marketing tactic."

SCORES:

Individual scores: 2, 1, 1, 1, 2, 2, 1, 2

Average score: **1.5 (2005=2.9)**

2.13 *The advertising market is large enough to maintain a diversity of media outlets.*

ANALYSIS:

The advertising market in Swaziland is too small to sustain a multiplicity of media outlets. Government and parastatals are the big advertisers and if they were removed from the market, the media would barely survive. Advertising from private businesses is rare and ad hoc. The *Times*, however, generates considerable revenue from the classifieds.

SCORES:

Individual scores: 1, 1, 1, 1, 2, 2, 2, 1

Average score: 1.4 (2005=2.2)

Overall score for sector 2: 2.3 (2005 = 2.2)

Sector 3: Broadcasting regulation is transparent and independent, the state broadcaster is transformed into a truly public broadcaster

3.1 *Broadcasting is regulated by an independent body adequately protected against*

interference, particularly of a political and economic nature.

ANALYSIS:

There is no independent broadcasting regulator in Swaziland. Regulatory power is split between two government-owned bodies, the Swaziland Posts and Telecommunications Corporation (SPTC) and the Swaziland Television Authority (STVA). This regulatory system reinforces the government's monopoly over broadcasting and leaves the sector extremely vulnerable to political interference.

There is an inherent conflict of interest in the regulatory set-up since government is both an operator (through SBIS and Swazi TV) and a regulator (through the SPTC and STVA). The board of the parastatal, the SPTC, is appointed by the Minister for Tourism, Environment and Communications and has sole power to issue and revoke radio licenses. The SPTC Act 1983 does not contain any procedures for parties to appeal against licensing decisions. The only non-state radio broadcaster in Swaziland, Voice of the Church, was issued a license through a "gentleman's agreement" in 2003 because the government was seeking to block the transmission of the South African stations, Radio Zulu and Radio siSwati.

The STVA board is also appointed by the Minister for Public Service and Information and has broad-ranging powers to issue and withdraw licenses and even censor programme content. The only non-state television broadcaster, Channel Swazi, was also issued a license under a "gentleman's agreement". Channel Swazi is run by a relative to the King and was originally set up to promote the king and the royal family.

The Information and Media Policy states that "an independent regulator shall be established to regulate private, public, community and commercial broadcasters...appointments to the regulating body shall be made through a transparent process, including the procedures for issuing rulings and decisions, and the processes for petition or appeal by applicants." In an effort to implement this policy, the Broadcasting Draft Bill seeks to set up an independent broadcasting regulator. However, stakeholders have lodged objections to the bill's failure to include adequate protections against political interference.

SCORES:

Individual scores: 1, 1, 1, 1, 1, 1, 1, 1

Average score: **1.0 (2005=1.2)**

3.2 *The appointments procedure for members of the regulatory body is open and transparent and involves civil society.*

ANALYSIS:

The appointments procedure for the SPTC Board and STVA Board is neither open nor transparent. The relevant ministers directly appoint members for each board. The

positions are not advertised and there is no effort to include participation from civil society.

SCORES:

Individual scores: 1, 1, 1, 1, 1, 1, 1, 1

Average score: **1.0 (2005=1.1)**

3.3 *The body regulates broadcasting in the public interest and ensures fairness and a diversity of views broadly representing society at large.*

ANALYSIS:

There is no evidence of the regulating bodies acting in the public interest and promoting fairness and diversity in the broadcasting sector. Since they are effectively government-controlled and not accountable to the public, they are not expected to espouse these principles, nor do they demonstrate any effort to do so.

SCORES:

Individual scores: 1, 1, 1, 1, 1, 1, 1, 1

Average score: **1.0 (2005=1.0)**

3.4 *The body's decisions on licensing in particular are informed by a broadcasting policy developed in a transparent and inclusive manner.*

ANALYSIS:

Licensing decisions are not informed by sound policy. In the absence of an independent regulator, government interests determine licensing decisions. As the Information and Media Policy acknowledges: "The authority to grant broadcast licenses is vested with authorities whose organisations are also competitors in the same lines of business". The Policy promotes independent and transparent licensing decisions, but this cannot be realised until legislation is passed to establish an independent regulator.

The panel noted that the Policy was not developed in a transparent and inclusive manner.

SCORES:

Individual scores: 1, 1, 1, 1, 1, 1, 1, 1

Average score: **1.0 (2005=1.0)**

3.5 *The public broadcaster is accountable to the public through a board representative of society at large and selected in an independent, open and transparent manner.*

ANALYSIS:

The Swaziland Broadcasting and Information Services (SBIS) are state-owned and accountable only to government. The service operates as a department within government and therefore does not have a board.

Swazi TV is a parastatal established under the STVA Act. The Minister for Information directly appoints the STVA board. There are no measures in place to ensure the board is representative of society and accountable to the public.

It should be noted that the recently drafted Public Service Broadcasting Corporation Draft Bill aims to transform both SBIS and Swazi TV into full public broadcasters with a single board appointed through an open and transparent process.

SCORES:

Individual scores: 1, 1, 1, 1, 1, 1, 1, 1

Average score: **1.0 (2005=1.5)**

3.6 *Persons who have vested interests of a political or commercial nature are excluded from possible membership in the board, i.e. office bearers with state and political parties as well as those with a financial interest in the broadcasting industry.*

ANALYSIS:

There are no restrictions on who is eligible to serve on the STVA board. The minister can make appointments at his own discretion and his decisions are not scrutinised. Further, according to the Public Enterprises (Control and Monitoring) Act 1989, every parastatal must have at least one government representative on its board.

SCORES:

Individual scores: 1, 1, 1, 3, 1, 1, 1, 1

Average score: **1.3 (2005=2.2)**

3.7 *The editorial independence of the public broadcaster from commercial pressure and political influence is guaranteed by law and practiced.*

ANALYSIS:

The editorial independence of Swazi TV and SBIS is not guaranteed in law, though in practice there is some effort to resist political influence.

Journalists at both broadcasters are demonstrating more freedom in editorial decision-making and taking more risks by including progressive voices and running stories critical of government. For example, during the recent strike, trade unionists were given considerable airtime on both SBIS and Swazi TV to air their grievances.

In part, this new editorial license has been put down to the protections brought in by the Constitution. But mostly it is thought to be motivated by a staff rebellion against management (particularly in the case of SBIS). In other words, it is not so much fuelled by a desire to fight for media freedom, but rather driven by internal politics and personality issues.

Despite efforts to exercise greater editorial independence, journalists still work under considerable constraints. For instance, the crippling border blockades instigated by a group lobbying for political reform were not given any coverage on SBIS.

The consensus is that journalists will not be able to resist political influence in editorial decision-making until they have legal protection.

SCORES:

Individual scores: 1, 1, 1, 2, 2, 1, 2, 2

Average score: **1.5 (2005=1.1)**

3.8 *The public broadcaster is adequately funded in a manner that protects it from arbitrary interference with its budget.*

ANALYSIS:

Neither SBIS nor Swazi TV is adequately funded or protected from budgetary interference.

Poor funding is particularly evident at Swazi TV where resources are scarce, quality of programmes is poor and there is very little local content. Swazi TV relies mostly on government subsidies, but supplements its income with license fees and advertising.

SBIS is exclusively reliant on government funding. What little advertising income that

station generates is directed back into general revenue.

SCORES:

Individual scores: 4, 1, 2, 2, 2, 1, 1, 2

Average score: **1.9 (2005=2.1)**

3.9 *The public broadcaster is technically accessible in the entire country.*

ANALYSIS:

The two channels on state radio, SBIS 1 and SBIS 2, reach approximately 95% of the country. Swazi TV has considerably less coverage at about 75%.

SCORES:

Individual scores: 3, 4, 4, 4, 2, 4, 4, 2

Average score: **3.4 (2005=3.8)**

3.10 *The public broadcaster offers diverse programming for all interests.*

ANALYSIS

SBIS performs reasonably well in providing a wide range of programmes, but some interest groups are not catered for. Several NGOs broadcast programmes on health, social and development issues. There are youth programmes, programmes on women's issues and a plethora of sports programmes. However, children's programming is very scant, there are no human rights-based programmes and no programmes servicing minority religious groups. In fact, recently members of the Bahai faith applied for airtime, but were reportedly denied on the basis that they do not preach the gospel. SBIS and the Ministry of Home Affairs are now negotiating their application.

There was considerable concern about the station's continued commitment to broadcast a satirical show called 'Khalamdumbadumbane', where the presenters are frequently accused of perpetuating harmful gender stereotypes and being misogynists. It was said the show does a disservice to women and to the cause of gender equality, particularly because the main presenter is the traditional prime minister and wields enormous influence.

There is much less diversity of programming on Swazi TV than on radio. The programme guide is still dominated by foreign content – news (CNN and Deutsche Welle), movies and soap operas. There has been a slight increase in local content in the last two years,

but the lack of programme diversity is still severe enough to drive many (those who can afford it) to watch South African television.

SCORES:

Individual scores: 3, 3, 5, 2, 3, 4, 4, 3

Average score: 3.4 (2005=2.3)

3.11 *The public broadcaster offers balanced and fair information reflecting the full spectrum of diverse views and opinions.*

ANALYSIS:

The last two years have seen a slight improvement at SBIS in providing balanced and fair content. The daily breakfast show, for example, presents a greater diversity of voices and airs opinions that might challenge the *status quo*.

However, in terms of news content, stories are still packaged around the king and the government. Single-sourced stories are common, capturing only the views of government. There is a definite hierarchy that must be followed – stories about the King always lead, followed by the Prime Minister, Cabinet and then individual ministers and MPs. As an example of the preference given to government stories, it was confirmed that if the choice of lead story were between the PM delivering a speech or major bush fires that wiped out hundreds of homes, the PM's speech would always lead. MPs are allocated exclusive airtime on SBIS once a week to air their views.

News content on Swazi TV is similarly skewed toward government interests and stories about the king always get preference. If footage of the king comes in too late to be allocated the top story, the presenter will have to explain on air why the story was not given priority.

SCORES:

Individual scores: 3, 1, 4, 3, 2, 3, 3, 2

Average score: 2.6 (2005=1.6)

3.12 *The public broadcaster offers as much diverse and creative local content as economically achievable.*

ANALYSIS:

SBIS radio offers a wealth of local content on both channels. Local content on Swazi TV,

however, is still very limited, although there has been a slight increase in domestic production in the last two years. New programmes include a show on siSwati praise names, an interview programme and programmes promoting local musicians. But resources are scarce, so the quality of production is poor.

SCORES:

Individual scores: 2, 4, 4, 3, 3, 4, 2, 3

Average score: **3.1 (2005=2.4)**

Overall score for sector 3: 1.9 (2005 = 1.8)

Sector 4: The media practice high levels of professional standards.

4.1 *The media follow voluntary codes of professional standards, which are enforced by self-regulatory bodies.*

ANALYSIS:

The media has adopted a code of ethics developed by the Swaziland National Association of Journalists (SNAJ), but there are no self-regulatory bodies to monitor adherence and awareness and understanding of the code in newsrooms is scant.

Efforts to establish a self-regulatory mechanism for the print media were kick-started 10 years ago, but there is still no functioning complaints commission.

The fifth attempt to launch the Media Complaints Commission (MCC) was carried out early in 2007 after the media categorically rejected the government's Media Commission Draft Bill 2007. The bill is the government's second attempt to introduce statutory regulation.

Failure to establish the MCC in the past was partly due to a lack of commitment from the broadcasters who were insisting on a separate regulatory body. Now that the government has drafted legislation to establish an independent broadcasting regulator, the MCC is to go ahead as a print media regulator only.

MISA Swaziland and SNAJ are driving the process of making the MCC operational. They are currently involved in registering the MCC as a company, securing funding to cover administrative costs and identifying five commissioners. Both national

newspapers, *Times of Swaziland* and *Swazi Observer*, have indicated their support and are willing to make a financial commitment, although the *Observer* is awaiting confirmation of legal registration and a draft budget before giving final approval.

There is a sense of urgency about making the MCC operational as the threat of statutory regulation still hangs over the industry. Despite the media's objection to the Media Commission Draft Bill, the government has not indicated that the bill will be abandoned. The media is thus fearful of the government's agenda. But at the same time, there is some doubt amongst media practitioners themselves that self-regulation will really work.

SCORES:

Individual scores: 3, 3, 3, 1, 2, 3, 3, 3

Average score: **2.6 (2005=1.3)**

4.2 *The standard of reporting follows the basic principles of accuracy and fairness.*

ANALYSIS:

While the basic principles of accuracy are, for the most part, upheld by the media, the standard of reporting is lowered by repeated failure to be fair and balanced.

A monitoring study conducted by MISA Swaziland on the print media indicated significant flaws in the standard of news reporting, such as a majority of single-sourced stories and a high incidence of failing to present competing perspectives and seek rejoinders. A second study on the reporting of gender violence indicated a propensity to report gender violence and child abuse stories unfairly.

The drop in reporting standards is blamed on the lack of training and experience in the newsrooms: "There are no quality journalists any more." Senior journalists are leaving the profession at a rapid rate and cub reporters (usually school leavers or at best diploma graduates from the University of Swaziland [UNISWA]) are thrown in the deep end, given no tutelage or mentorship ("Editors don't have the time").

The high staff turnover in newsrooms is due to poor pay and lack of benefits. Most of the experienced journalists have moved into more lucrative positions in government or the NGO sector. The drain from the profession is also partly because of "political encroachment" where the government deliberately poaches journalists for well-paying government jobs. It was also suggested that the "right calibre" of people are no longer attracted to the profession.

SCORES:

Individual scores: 3, 3, 3, 2, 3, 2, 2, 3

Average score: **2.6 (2005=2.6)**

4.3 *The media cover the full spectrum of events, issues and cultures, including business/economics, cultural, local and investigative stories.*

ANALYSIS:

The breadth of content in the media is satisfactory, but investigative stories are “no longer here” and the depth of reporting generally is very poor. Most reports are superficial, lacking adequate information and analysis: “Journalists can be patronisingly simple.”

Lack of skills and experience, both in print and broadcasting, is a key reason for simplistic reporting. In addition, journalists don’t specialise in select fields to enable them to produce in-depth stories and this is compounded by journalists’ tendency to rely on their own knowledge rather than seek analysis and comment from experts. “Most journalists assume they know everything.” This know-it-all attitude together with an increased awareness of workplace rights has meant editors are less inclined to come down hard on reporters to produce better quality work: “Editors are not as tough on reporters as they used to be.”

Media houses don’t invest time and money in investigative reporting. Journalists are rarely afforded the time and resources to develop stories over a long period.

SCORES:

Individual scores: 3, 4, 3, 2, 2, 3, 2, 3

Average score: **2.8 (2005=3.4)**

4.4 *Gender mainstreaming is promoted in terms of equal participation of both sexes in the production process.*

ANALYSIS:

Although no media house has adopted gender policies that promote equal opportunities for both sexes, there is a sense that more women are working in the media than two years ago.

The *Times of Swaziland* has women in a few key positions – entertainment editor, business editor and world news editor. But notably all senior editors are men. Similarly at the *Observer*, while the CEO, marketing manager and business editor are women, the top editors are all men.

A MISA Swaziland study revealed that in print news reporting, 21% of stories are written by female journalists.

It was agreed that women do have equal opportunity in the media industry: “Opportunities are there, but women don’t push hard enough.” But there was also acknowledgement that gender prejudices persist. For example, some editors prefer to assign stories to male reporters because they trust them to get the job done (“Women can’t detach from the story”).

SCORES:

Individual scores: 2, 4, 3, 3, 3, 3, 2, 3

Average score: **2.9 (2005=2.1)**

4.5 *Gender mainstreaming is reflected in the editorial content.*

ANALYSIS:

Gender mainstreaming is not a priority for the media and is largely viewed as a foreign concept. As such, reporting can often be gender blind and perpetuate gender prejudices.

The prevailing feeling is that “women’s voices are silent.” Research by MISA Swaziland showed that 23% of all sources in news stories were female. Reporters are partly to blame for overlooking female sources, but the low representation of women’s voices also reflects the reluctance of women to speak to the media. Culturally it is the men who do the talking, so even if reporters do try to use female sources, they may often fail. Swazi society is still very much a male-dominated culture and the media tends to reinforce this rather than challenge it.

Though high-profile women often get media coverage, positive stories of ordinary women are extremely rare because “they don’t sell.”

MISA Swaziland’s study on the reporting of the 16 Days Campaign Against Gender Violence in 2006 showed that the campaign received very little coverage in print and even less on radio and TV. Many gender violence stories during that period perpetuated gender stereotypes, ignored the gender perspective and often gave unfair portrayals of the abused women.

SCORES:

Individual scores: 2, 3, 2, 2, 2, 2, 2, 3

Average score: **2.3 (2005=1.7)**

4.6 *Journalists and editors do not practice self-censorship.*

ANALYSIS:

Self-censorship is common across all media. There are four key areas where the media exercise self-censorship: the monarchy and traditional authorities, culture, media owners and advertisers.

Content that may be deemed critical of the King or the Queen Mother is automatically a no-go area for the media. The *Times* was threatened with closure earlier in the year when it published a story that claimed the country's economic decline was in part due to the unchecked spending of the King and his large family. The media is very careful not to criticise polygamy because this is seen as a direct criticism of the King.

The cultural expectation that elders must be respected means self-censorship also extends to senior traditional figures: "There are certain things you can't say about senior people with status." The lack of land tenure is a contributing factor to this type of self-censorship. If a journalist criticises the traditional authorities they can risk land expulsion for themselves or members of their family. Chiefs can exert a lot of "subtle and insidious" pressure on journalists ("Whose land is this?").

The media often censor their reporting on cultural issues as well because "some (cultural) subjects are taboo." For example, the media don't cover all the goings-on at incwala (the King's annual men's ritual) and they have in the past censored the real meaning of rituals at umhlanga (the Reed Dance). Those who dare to expose cultural "secrets" are labelled unSwazi.

One of the most powerful causes of self-censorship in the media is the need to protect advertising revenue. Censoring content to protect advertisers has become increasingly common. And since the government and parastatals are the biggest advertisers, this means information critical of government and public bodies can be withheld from the public.

Corruption amongst journalists was also cited as a cause of self-censorship.

SCORES:

Individual scores: 2, 2, 1, 1, 2, 1, 1, 2

Average score: **1.5 (2005=1.4)**

4.7 *Owners of private media do not interfere with editorial independence.*

ANALYSIS:

At the main private media outlet, the *Times*, the owner interferes heavily with editorial independence. The owner is "literally in the newsroom" and regularly sits in on editorial meetings. Staff feel pressure to accede to the owner's editorial demands and if they don't, they risk being "victimized".

One of the main reasons owners try to influence editorial content is to protect advertisers.

Recently the *Times* rejected an investigative piece that dug up dirt about a major advertiser. The same article has been submitted to the *Nation* magazine, the second biggest private media operator where the editor is also part owner, but is yet to be published.

Media owners also want input on editorial decisions to ensure libellous content is avoided. It was observed that “owners must put more trust in their editors.”

SCORES:

Individual scores: 2, 2, 1, 1, 1, 3, 1, 2

Average score: **1.6 (2005=1.6)**

4.8 *Salary levels and general working conditions for journalists and other media practitioners are adequate to discourage corruption.*

ANALYSIS:

There has been considerable improvement in salary levels and working conditions over the past two years. The resurrection of the union provided major impetus to improve conditions and media owners realised they would continue to lose valuable staff unless salary levels were increased.

The average salary for junior reporters has more than doubled to E2,200-2,500. Senior reporters receive no less than E3,500. Journalists all receive medical aid and some media houses offer pension schemes as well.

It is worth noting, however, that salaries in the media industry are still low compared to other sectors. But the low salaries are not necessarily linked to levels of corruption. The consensus was that corruption will exist “no matter how much you pay a person.”

Corruption in the media is rife. Reporters are offered large sums to drop a story altogether or to put a positive spin on it. Some journalists demand to be paid in exchange for silence. Journalists are often given freebies, many of which are quite obviously bribes - for example, an excessive E1,000 for “lunch money”. “They (bribers) may not expect results immediately, but they’ll want it eventually.”

SCORES:

Individual scores: 3, 3, 3, 2, 3, 3, 3, 2

Average score: **2.8 (2005=1.4)**

4.9 *Training facilities offer formal qualification programmes for journalists as well*

as opportunities to upgrade their skills.

ANALYSIS:

The little journalism training available in Swaziland is steadily being improved upon. The 3-year diploma offered by the University of Swaziland is soon to be upgraded to a 4-year degree. MISA Swaziland has partnered with the South African Institute for the Advancement of Journalism (IAJ) to deliver courses in Swaziland and enrolments for the first course are currently being sought. MISA Swaziland has also launched a programme with the Nordic-SADC Journalism Centre (NSJ) to provide in-house training at the media houses.

A major obstacle to training working journalists is finding the means to balance study and work simultaneously as media owners are often reluctant to release staff for extended periods.

SCORES:

Individual scores: 4, 4, 3, 4, 4, 4, 2, 5

Average score: **3.8 (2005=1.9)**

4.10 Journalists and other media practitioners are organised in trade unions and/or other professional associations.

ANALYSIS:

The Media Workers Union of Swaziland (MWUS) was launched in 2006 to replace the defunct Swaziland Media Publishers and Allied Workers Union (SMEPAW). The union has a membership of over 270.

Some media practitioners are also members of Swaziland National Association of Journalists (SNAJ), MISA Swaziland and Gender and Media Swaziland (GEMSWA),

SCORES:

Individual scores: 3, 3, 4, 4, 4, 4, 3, 4

Average score: **3.6 (2005=3.0)**

Overall score for sector 4:

2.7 (2005 = 2.0)

Overall country score for 2007

2.3 (2005 = 2.0)

Developments since 2005 and the Way Forward

Positive developments in the media environment in the last two years:

- The adoption of the Constitution, which guarantees both freedom of expression and media freedom.
- Increased public consciousness of the right to freedom of expression and increased effort by the media to enable people to exercise their right to freedom of expression.
- The drafting of six new media bills, designed to introduce freedom of information legislation, legislation establishing a public broadcasting corporation and an independent broadcasting regulator, amend the Books and Newspaper Act and replace the outdated Cinematography Act.
- Increased editorial freedom and independence at the state broadcasters, spearheaded by journalists willing to challenge the *status quo*.
- The resurrection of the media union with the launch of the Media Workers' Union of Swaziland (MWUS).
- Increased salaries for media practitioners.

Negative developments in the media environment in the last two years:

- The attempt by government to introduce statutory regulation with the Media Commission Draft Bill 2007.
- Little improvement in media diversity. There have been just two entrants to the media industry in the last two years: one monthly magazine and a sports weekly. Notably, there are no new players in the broadcasting sector.
- The stagnation of efforts to establish community radio, despite the commitment from government that licenses would be issued after the adoption of the Information and Media Policy two years ago.

Main drivers/actors for positive change:

- Government's change in attitude, making it more open to free media activity, has been an important catalyst for change and is evidenced, for example, by government's efforts to reform some media laws and provide funds to train journalists.
- Media managers who are determined to bring about industry reform and development.
- The Media Institute of Southern Africa (MISA) Swaziland has been instrumental in many different areas of media development, e.g. facilitating exchange programmes and in-house training for journalists, assisting with the launch of the MCC and voicing opposition to statutory regulation, critiquing the six media bills and conducting media content research.
- The Ministry of Public Service and Information (in particular the Director of Information), which is tasked with implementing the Information and Media Policy and is overseeing the drafting of new media legislation.
- Journalists who are willing to take risks by resisting self-censorship and censorship from the authorities.

Possible obstacles for further development:

- Parliament: despite the adoption of the Constitution, Parliament has demonstrated opposition to freedom of expression and media freedom, in particular. For example, there have been two parliamentary investigations into journalists who criticised public officials or institutions. In addition, politicians generally assume they ought to sue for defamation when criticised in the media for the performance of their public duties.
- Individual ministries that try to hamper media activity; e.g. Ministry of Health recently barred journalists from entering government hospitals.
- The Media Commission Draft Bill, which is an attempt by the Ministry of Public Service and Information (MOPSI) to introduce statutory regulation.
- The consultation process on the six media bills has been poorly managed by the consultant and, so far, not included all stakeholders. Stakeholders who participated and expressed their dissatisfaction with the draft bills and the consultant have not been informed by the MOPSI as to how the process will move forward.
- The lack of law reform. All 32 media unfriendly laws identified by MISA Swaziland in 2003 remain on the statute books and need to be systematically repealed or amended to bring them into line with the Constitution. However, there is no Media Reform Commission to spearhead this.
- Certain cultural expectations (e.g. do not question or criticise those in authority), which suppress freedom of expression and media freedom.
- Swazi Law and Custom, which can conflict with the constitutional protection of freedom of expression, but is unwritten and cannot be tested against the Constitution.

Activities needed over the next few years:

- A skills audit should be conducted in all media houses to assess the existing capacity of media practitioners at all levels.
- Skills development opportunities for working journalists should be increased, both in-house training as well as enrolment in external part-time or full-time courses.
- On-the-job training and mentorship programmes need to be established in all media houses to ensure entry-level reporters are given sufficient direction and guidance.
- Civic education on freedom of expression, access to information and media freedom needs to be conducted by the media and civil society organisations.
- The law reform process needs to be launched to ensure all media unfriendly laws are repealed or amended to conform with the Constitution. The establishment of a law reform commission should be fast-tracked.
- A national conference on law reform should be conducted to produce an action plan and way forward on the law reform process.
- The consultation process on the six draft bills needs to continue with a new consultant and should include a broader base of stakeholders.
- The Media Complaints Commission should be made fully operational and sustainable.

The panel meeting took place at Nhlngano Hotel from July 27-29 2007.

The Panel:

Phepisa Khoza, news editor, Thandi Khumalo, sociologist, Alec Lushaba, editor, Comfort Mabuza, media activist, Myzo Magagula, media manager (print), Cyril Maphanga, lawyer, Vusi Sibisi, journalist, Bongiwe Zwane, journalist,.

The Rapporteur:

Mrs Mary Ellen Rogers

The Facilitator:

Mr Hendrik Bussiek