



NAMIBIA

National Overview
2017 by MISA

NATIONAL OVERVIEW

Namibia continues to enjoy its status as the highest ranked country in sub-Saharan Africa on the 2017 World Press Freedom Index compiled by Reporters Without Borders (RSF). Globally, it has moved down from 17 to 24 out of 180 countries which may be attributed to the fact that Namibia still has no freedom of information law to guarantee citizens and the media access to public information.

The Public Service Act of 1995, which is the current legislation in place, makes it difficult to access information held by the state, as it restricts public servants from disclosing public information that should in fact be available.

Prior to coming into office President Hage Geingob always assured the sector of his commitment towards media freedom. In a speech at the investor's conference in New York in September 2016 the president said,

"As a former freedom fighter, press freedom is one of the things we fought for. Even when I was prime minister the first time, I used to assure one of the stalwart editors in Namibia that government would never compromise on the freedom of the press. Therefore, we will not rein in on the freedoms of the press."

These sentiments contradict the behaviour of certain members of the political leadership of the country who have berated the media in recent months, causing ripples on the surface of a seemingly smooth and conducive media environment.

President Hage Geingob's stance is more difficult to fathom. While he is seen as a

strong advocate of media freedom, he has on some occasions been critical of the media.

Overall, the socio-political context remains conducive for free expression in general, and media freedom in particular.

FREEDOM OF EXPRESSION

Unlike other countries on the African continent, Namibia once again had no incidents of assault, imprisonment, murder or threats in relation to freedom of expression in 2017. Media practitioners continued to have the freedom to investigate and report on public interest issues. Citizens were able to freely express themselves on issues that directly or indirectly affect them on social and mainstream media platforms.

However, it would be remiss if mention was not made of political leaders inclination, and in particular President Hage Geingob's consistent questioning of the media and civil society's credibility and mandate.

Back in 2016, an article published in *The Namibian* on 20 August quoted information minister Tjekero Tweya saying the Ministry of Information and Communication Technology (MICT) will drive the agenda to create a statutory body "as a matter of urgency to ensure that the media is held responsible in the event that they abuse their power to report, write and broadcast, and make themselves guilty of defamation and slander of people's character in public, and get away with murder. This tendency must come to an end."

According to *The Namibian* the minister had, on earlier occasions, explained that he was planning the establishment of a regulatory body tasked to "regulate and punish the media".

However only weeks later, Tweya was said to have stated that he will no longer make comments on media regulation and the possibility of punishment of journalists, the *Windhoek Observer* reported on 15 September 2016. According to the article, this was in reaction to a press briefing President Geingob held during which he “warned his ministers”, explaining that it is not government policy to control the media.

There was a hope that in 2017 verbal attacks issued against the media by the Geingob administration would cease, but unfortunately they did not. This, despite the fact that the president was keynote speaker at the official 2017 World Press Freedom Day commemoration, where he, on behalf of government, re-committed to protecting and supporting media freedom. At the occasion, President Geingob also launched the Editors’ Forum of Namibia (EFN) revised Code of Ethics.

During a SWAPO Party star rally in March, Geingob reportedly directed criticism towards the media and civil society, accusing them of making concerted efforts to paint a picture of a government unable to uphold democracy and freedom in the country, reported *The Namibian* on 13 March 2017. The president further criticised journalists aged between 40 and 50 for wanting to be “guardians of freedom” while at the same time these “kingpins” had not been involved in the country’s liberation struggle.

Taking another swipe at civil society during the rally, Geingob is quoted in the *Namibian Sun* to have said that “they are failed politicians who want to come [in] from the back door now. Civil society wants to come in; why do we have elections then?”

Free expression advocates were in a conundrum in terms of how to address the current situation where political leaders used public meetings, attended by ordinary citizens, to attack the media and civil society. Not only did this contradict government policy, but it created mistrust of the two sectors that are critical for the democracy project.



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It further entrenched an existing culture of fear of victimisation among citizens, in particular those working in the public sector. If teachers or administrators want to express themselves on governance, politics and Namibian society in general, they should be able to do so without fearing backlash or name-calling from the president and his team. Rights to free expression should not exist on pa-

per only, but Namibians have to live and revel in them.

A 2008 article published in *The Namibian* quoted former Prime Minister Hage Geingob warning journalists to “tell the truth and nothing but the truth”, adding that “the press is there to report positively on events”. Herein lay the problem - the Geingob administration wanted ‘sunshine journalism’, meaning the media must only report on positive developments and to create an image that all was well in the Land of the Brave.

Along the same lines, during a media briefing on Cabinet decisions in April 2017 Tweya cautioned media houses to report positive developments instead of focusing on negative or non-factual stories, according to a *New Era* article.

This, while all was not well in what is known as the ‘Land of the Brave’.

The country experienced high rates of violence against women and children, corruption, poverty, alcohol and drug abuse. Recent budget cuts had left schools, hospitals and clinics short on staff, medication, medical equipment, textbooks, stationery, cleaning materials and toilet paper. Were the media supposed to ignore all this and only report on yet another speech made by a minister at the opening of a workshop or conference?

In a landmark 1996 High Court case (*Fantasy Enterprises v Minister of Home Affairs, 1996*), the judgement stated that “the need to jealously protect the right to freedom of speech and expression and the value thereof in a democratic society has been stated and restated over many decades in many jurisdictions all over the world.” The High Court judge further argued that the concept of freedom of speech and expression is “not limited in

content to that which can be regarded as pleasing, inoffensive or indifferent, but extends also to that which disturb, offend or shock.”

In addition to the socio-economic challenges faced by ordinary citizens, the media and civil society began to face crippling financial decline.

Due to Namibia being labelled a middle-income country seen against the background of the global economic slowdown; the country was no longer the darling of the international donor community. At least two civil society organisations had closed down annually over the last three years.

Social media had become the preferred source of news for many, which resulted in a decrease in newspaper sales. Print was trying to find ways to gain revenue from their online versions, but this was still in its infancy stages and it is not yet known if this would succeed in enhancing their financial sustainability.

News stories of underachievement, corruption, nepotism or failure of government policies remain vital in pointing out where the nation needs attention - for directing, assisting efforts towards achievement of national goals. Perhaps, as Tawana Kupe suggests, media (party, government or private) need to find some sort of common ground - “a balance between an affirmation of positive developments ... and highlighting those tensions that signal that all is not well.”

PROFESSIONAL STANDARDS

The media would be the first to admit that it is not perfect, hence the commitment to consistently improving and strengthening the self-regulatory system. During the year under review, the Editors’ Forum of Namibia (EFN) appointed

John Nakuta, a well-respected human rights lawyer and academic, as the new Media Ombudsman. Nakuta took over from Clement Daniels who had been appointed in 2009. Media Complaints and Media Appeals committees consisting of a diverse group of professionals to support the work of the Media Ombudsman's office were also established.



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Through the formation of a strategic partnership with the Namibia Media Trust (NMT), the EFN launched a revised Code of Ethics and Conduct for

Namibian print, broadcast and online media. The revised code was launched by President Hage Geingob at a belated celebration of World Press Freedom Day in Namibia on 10 May 2017.

NMT Executive Chairperson Gwen Lister said the Code held the potential of breaking ground in Africa in terms of forming the basis of a unique form of co-regulation of the fourth estate, which had the legal backing of the law. Dani Booysen, the Secretary General of the EFN, added that the purpose of revamping the Code of Ethics was to reinforce effective complaint procedures and penalties, accentuate the protection of whistle-blowers and to address ethical considerations across print, broadcast and online media categories.

The self-regulatory system is effective only when the public make use of the accountability measures in place. This includes direct communication with the media house in question or laying a complaint with the Media Ombudsman.

On the occasion of WPF 2017 the NMT issued a statement to say that the global outlook was depressing, and that "much more needs to be done to consolidate freedom of the media in many parts of the world, because without it, free expression was compromised too".

The NMT noted that the celebration of 3 May each year as WPF had come in response to a call by African journalists who had gathered in the Namibian capital in 1991 to craft the historic Windhoek Declaration on a Free, Independent and Pluralistic Media.

While Namibia remained first in Africa, according to the RSF, with an improved score, it had nevertheless slipped down in the rankings, from 17th in 2016 to 24th position in 2017.

This was due in part to the brief detention of two visiting international journalists and confiscation of their equipment, as well as ongoing threats to regulate the media. In a disturbing development, a Cabinet memorandum had been issued to direct government advertising and information primarily to state-owned media.

The NMT, which had provided assistance to the EFN to redraft the Code of Ethics and Conduct, commended this initiative to strengthen regulation and enhance journalistic professionalism.

While membership of the EFN was voluntarily, the NMT called on all media to join up and commit themselves to adherence to the Code in order to maintain high standards in Namibian journalism on all platforms.

While to many it is undeniable that the quality of journalism has deteriorated over the last few years, this is not unique to Namibia, rather, it is a global occurrence that can be ascribed to a number of factors.

In Namibia's case, it can be argued that the journalism training institutions do not provide a sufficient number of graduates to staff newsrooms. When they do, some media houses unfortunately do not provide graduates with in-house training and mentorship by senior journalists. Modern-day journalism is even more deadline driven and stressful than that of yesteryear.

Social media has both negatives and positives. On the one hand it has elevated citizen journalism to a whole new level, but on the down side, it has heralded the arrival of 'fake news' as it is termed, which have combined to place undue pressure on mainstream media to break the news. In doing so, they fail

to do proper verification of information and at times fail the objectivity test. Some media houses went as far as to publish press statements word for word.

In November, life-threatening violence was sparked at a Katutura home when a live-caller announced on the *Otjiherero* radio station that the occupant had children's body parts in his refrigerator. This unverified information spread fast on social media, and within two hours hundreds of people were in front of the home demanding that the occupant hand himself over. Riot police dispersed the crowd with teargas and rubber bullets. Roadblocks and traffic jams added to the chaos.

These were challenges that have to be urgently addressed by the media sector. Stakeholders and citizens must hold the media accountable at all times, which is one of the best ways to improve their professionalism and ethics. Further, the media and stakeholders must provide media and information literacy (MIL) and Digital Literacy. MIL and digital literacy have become critical skills required in this information age where fake news is spread across media platforms as truth.

ACCESS TO INFORMATION

Renowned for its high degree of media freedom and equally lauded for the explicit guarantee of media freedom and freedom of expression enshrined in Chapter 3 of the Constitution, Namibia's downfall is the absence of a similar constitutional provision of access to information.

It should be mentioned here that in 2016 civil society organisations, under the umbrella of the Access to Information (ACTION) Namibia Coalition, worked with MICT to design an Access to In-

formation Bill using the African Union's Model Law on Access to Information as the basis. However, since that time, the draft bill languished in the halls of state and by end 2017 it was unclear whether or when the bill would make an appearance on the parliamentary agenda.

Good governance and freedom of expression cannot be fully realised without access to information. This is a fact that government itself has acknowledged. In 1998 government committed itself to passing, what was then called, a Freedom of Information Act. But 20 years later an Access to Information (ATI) BILL is still not part of the legislative framework of the country.

In his 2017 budget speech, the Minister of Information, Communication and Technology, Tjekero Tweya, assured the public that the ATI Bill, along with the reviewed National Information Policy "will see the light of the day before the end of 2017/18 Financial Year." This did not happen.

Cabinet referred the draft bill, formulated through the multistakeholder process, back to the MICT, because it was of the opinion that the bill lacked input by government security agencies. The MICT was thus compelled back to the drawing board to hold consultative meetings with the various agencies in government that deal with national security such as the Ministry of Safety and Security, which included the Namibian Police, as well as the Central Intelligence Service.

Tweya announced that he would table the Electronic Transactions and Cybercrime (ETC) Bill in Parliament in February, but it was withdrawn shortly thereafter. The second draft was not a hugely improved version of the first, according to the Institute for Public Policy Research (IPPR), as it still contained provi-

sions that would allow for the violation of privacy and contained language that could easily be used to repress freedom of expression on the internet.

The ICT ministry was at the time incorporating the input by the public and stakeholders. It was unclear when in 2018 the bill would be tabled.

The Data Protection Bill was also placed on the backburner until the ETC Bill was finalised. One of the recommendations being considered by the Ministry is for data protection to be a policy that supports the ETC Bill.

The Broadband Policy suffered the same fate as that of the ETC Bill. The lack of public and stakeholder consultation resulted in a draft policy that, as described by the ACTION Coalition and IPPR, "comes across more as a statement of intent rather than an actual policy statement".

The main critique was that the implementation provisions lacked adequate timeframes, priorities and that specific actions were poorly articulated. They also criticised the lack of consultation that preceded the drafting of the policy. The MICT withdrew the policy and conducted two public consultative meetings, and invited written input. As with the ETC Bill, it was expected to be formalised in 2018.

After intense lobbying by civil society, government removed the problematic Section 52 from the Whistleblower Protection Bill. The clause stated that a whistleblower's protection could be withdrawn if they were critical of government policy when making a disclosure. The Witness Protection Act and the Whistleblower Protection Act were then subsequently passed by Parliament.

The IPPR in collaboration with the International Budget Partnership (IBP) conducted the 2017 Open Budget Survey for which Namibia received a score of 50, beating the global average of 42. The survey used 109 equally weighted indicators to measure budget transparency. The indicators assessed whether government availed eight key budget documents to the public online in a timely manner and whether these documents presented budget information in a comprehensive and useful way.

In terms of transparency, the survey report noted that since 2015 Namibia had increased the availability of budget information by publishing the Mid-Year Review online. There has however been a decrease in the availability of budget information because the Citizen's Budget was not published online in a timely manner. Government also failed to produce an Audit Report and a Pre-Budget Statement. It further found that In-Year reports only contained scant budget information that lacked detailed information on critical topics such as expenditure by classification, or revenue by category or source.

Namibia scored zero for public participation because government provided the public with no opportunities to engage in budget processes. The global average score was twelve. For budget oversight, the country scored 33, which was classified as weak. They found that the Legislature provided weak oversight during the budget planning and implementation stages of the budget cycle.

MISA's annual *Transparency Assessment*, and the IPPR's *Access Denied* report, reconfirmed the lack of access to information, which should be in the public domain.

The *Transparency Assessment* assessed eight public institutions' accessibility and responsiveness to the public's demand for information. Of the eight institutions surveyed, only six had fully functional websites. Although all institutions had designated officials for information dissemination, the majority of institutions had a delayed response.

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Access Denied assessed the response of 100 public institutions, private companies, and civil society organisations to information request letters. However, only 20% of all requests were responded to.

There was at least one positive development in regard to good governance when Namibia became signatory to the African Peer Review Mechanism (APRM).

The APRM promotes transparent, accountable and participatory governance. It further presented governments with an opportunity to open up the policy-making process to non-state actors and citizens. It also encourages countries to sign, ratify and implement African and international codes and standards that promote and strengthen good governance.

While Namibia continued to maintain a diverse, plural and relatively free and independent media sector, state-owned media, in particular the Namibian Broadcasting Corporation's (NBC) current affairs and news units, however, have little freedom to broadcast information that was critical of government. Self-censorship in the state-owned media sector remained a problem. Most commercial radio stations avoided covering current affairs and instead provided news clips published by local newspapers. Encouragingly, talk-radio is thriving on NBC and community radio stations. The voices of women and children however remained minimal. Radio stations needed to find ways to encourage interaction by these groups.

The internet was profoundly and wonderfully expanding the free expression environment in Namibia. In response to that, the Namibia Internet Governance Forum (NamIGF) and the Internet Society of Namibia (ISOC) were launched towards the end of the year. These multi-stakeholder platforms aimed to engage on internet related issues, building the capacity of stakeholders, and contributing to policy development.

These positive developments were however soured when at the ruling SWAPO party's congress in November, delegates put forward a resolution for the establishment of a ministry of cybersecurity. This was a huge cause of concern but fortunately the resolution was not formally adopted. Considering the tone of the two drafts of the ETC Bill, which perpetuated censoring and surveillance, one could expect a similar tone if such a ministry was set up.

In conclusion, activists call on government to become an ally of civil society and the media in building a strong and vibrant democratic dispensation. The weakening of these two sectors does not bode well for Namibia's democracy. If government is committed to strengthening free expression and democracy overall, it should work with civil society and media to weather the storm and find new ways to ensure sustainability, vibrancy and proficiency.

Very importantly, citizens should not leave the task of civic action to civil society and the media only. Active engagement in social economic and political matters is urgently needed. Freedom of expression is seen to be increasingly under threat; and citizens should not wait until it is too late.

NAMIBIA MEDIA FREEDOM VIOLATIONS AND VICTORIES



10 May 2017 VICTORY

A revised Code of Ethics and Conduct for Namibian print, broadcast and online media was launched by President Hage Geingob at a belated celebration of World Press Freedom Day in Namibia on 10 May 2017. The Namibian Code is the first co-regulatory framework in Africa and is one of the most progressive frameworks in the world. At the launch the president guaranteed that as long as he is head of state “the freedom of the press is guaranteed.”



November 2017 THREATENED

A proposal was made at the SWAPO elective congress to create a cyber security ministry to control information on social media, hacking, and monitor illicit financial flows. The resolution was not adopted at the congress, it was nevertheless tabled and deferred to an extraordinary congress, which is likely to take place in 2018.



6 October 2017 LEGISLATED

The Whistleblower Protection Act and the Witness Protection Act were signed into law. Both instruments are aimed at strengthening anti-corruption efforts in the country. Prior to the adoption of the law, civil society successfully lobbied for the removal of Section 52 of the Act, which stated that a whistleblower’s protection could be withdrawn if the person was critical of government policy when making a disclosure.



December 2017 VIOLATION OF PUBLIC FREEDOM OF EXPRESSION

Then Attorney-General Shacky Shanghala filed a lawsuit in the High Court against activist Job Amupanda who he accused of defamation over several comments made on social media, during the 2017 Attorney Generals’ symposium in Doha, Qatar, where Amupanda was in attendance.