



ZIMBABWE

National Overview 2017
by MISA Zimbabwe

INTRODUCTION

In his inauguration speech on 24 November 2017 following the ouster of former Zimbabwean leader Robert Mugabe, President Emmerson Mnangagwa said he would ensure the pillars of democracy were strengthened and respected in Zimbabwe.

At face value, these remarks can be interpreted as a realisation that during his 37-year hold on power, former President Mugabe, failed to strengthen the pillars of democracy. This was despite the coming into existence of the much-acclaimed 2013 Constitution which was expected to usher in a new democratic dispensation in Zimbabwe.

In so saying, President Mnangagwa was on target, given that as the year came to a close, laws such as the inaccurately named Access to Information and Protection of Privacy Act (AIPPA), used to license and regulate the media; the Official Secrets Act (OSA), which would broadly embargo information held by public bodies; and the Broadcasting Services Act (BSA) threatening to hinder free establishment of private radio stations, remained entrenched in the country's statutes.

Other restrictive laws include the Public Order and Security Act, Censorship and Entertainment Controls Act (CECA) and the Criminal Law (Codification and Reform) Act. These should also be viewed against the government's accelerated efforts to introduce the cybercrimes law, generally perceived as designed to curb free speech online.

The above-mentioned laws are seen as essentially curtailing citizens' rights to freedom of assembly and association,

protest and petition, including the right to freedom of conscience, as provided for by Sections 58, 59 and 60 of the Constitution, as well as contravening Sections 61 and 62 which protect the right to free expression, media freedom and access to information.



The government demonstrated its determination to close the democratic space through a slew of threats to clamp down on, among other repressive measures, social media and those who are alleged to abuse it.

FREEDOM OF EXPRESSION

While section 62 of the Constitution explicitly provides for the right to access public information and urges the enactment of a requisite law to give effect to the enjoyment of this right, the widely hindering AIPPA remains firmly entrenched in the statutes.

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In fact, the government demonstrated its determination to close the democratic space through a slew of threats to clamp down on, among other repressive measures, social media and those who are alleged to abuse it.

This came at a time as government ramped up its drive to enact the Cybercrimes and Security Bill, which culminated in the establishment of such ministry late in 2017. Named the Ministry of Cybercrimes, Threat Detection and Mitigation, its lifespan was short-lived as its responsibilities were incorporated into that of Information and Communication Technology (ICT) upon President Mnangagwa's ascension to power.

In a press statement issued on 24 September 2017, then Minister of Home Affairs, Dr Ignatius Chombo, made clear government's intentions in that regard. He accused the press and social media of spreading alarm and despondency warning that government would take "decisive action to deal a telling blow" to the perpetrators of such 'crimes'.

The minister's statement was seen as a blatant threat against the exercise of freedom of expression on the part of both citizens and the media as provided for in Sections 61 and 62 of the Zimbabwean Constitution.

PRINT MEDIA

As the print media struggled for survival and solutions against the background of unfolding technological advances, compounded by dwindling advertising revenue in an unfavourable economic environment, it also came under the spotlight following accusations of its capture, particularly in the context of the ruling Zanu PF succession fights.

Both the public and private media were accused of being factional, biased and partisan in their coverage of the Zanu PF succession story. Though unsubstantiated, there were also accusations that some journalists were in the pockets of high-ranking politicians, businesspersons and prominent church leaders.

During a meeting convened by MISA Zimbabwe and the Zimbabwe National Editors Forum (ZINEF) on 9 September 2017 in Zimbabwe's second city of Bulawayo, journalists in attendance acknowledged there were, among them, journalists working in cahoots with politicians across the political divide to the detriment of media professionalism.

They maintained 'media capture' in the form of interference with editorial independence by government officials especially in the public-owned media.

The 'capture' was not only restricted to public media but was also evident in the private media where certain journalists were accused of being under the control of influential politicians. Concerns were expressed about appointments of editors along political lines, some of them without journalism experience, which was also contributing to the lowering of standards as well as erosion of ethical practice and conduct.

Other journalists were seen to be 'moles' for political and business gurus, making it difficult for colleagues to work on sensitive stories without risk of being spied on and reported to either corporate or business paymasters.

Media capture also came in the form of intimidation by big corporates threatening withdrawal of advertising revenue in the event of what they perceived as negative publicity.

On the worrying issue of corruption in the media, they attributed this to poor working conditions and low salaries.

Amidst a range of issues the meeting recommended:

- MISA and ZINEF should convene a national indaba/meeting to discuss the negative state of affairs with the view to coming up with solutions to free up the media and reinforce media professionalism and accountability.
- Media houses should be encouraged to have an in-house press ombudsman to instill ethical conduct and practice in newsrooms.
- There was need for a strong union and a compulsory media employment council that sets standards of recruitment, working conditions and salaries for the media sector as a way of countering corruption in the media.
- Findings and recommendations from the Information Media Panel of Inquiry (IMPI) process should be implemented.
- Revival of the Mass Media Trust to protect the editorial independence of public owned newspapers from political interference.
- Internal life-style audits of editors and journalists by their employers/publishers where corruption is suspected.

BROADCASTING

The broadcasting sector largely remained constricted despite the licensing of eight provincial urban-based commercial radio stations by the Broadcast-

ing Authority of Zimbabwe (BAZ) in March 2015.

This was in addition to the licensing of the first-ever national commercial stations, *Star FM* and *ZiFM Stereo*.

As of December 2017, the government was still to license a single community radio station, let alone a privately-owned television channel, even 16 years after enactment of the BSA, which provided for community radio. Government continued to prevaricate on the licensing of community radio stations, but in 2016 said this would be done upon completion of the digitisation process, with preference being given to rural communities.

However, in 2017, the ministry's permanent secretary, George Charamba, was to bizarrely claim that the government had in fact licensed community radio stations, in apparent reference to the afore-mentioned commercial radio outlets. Community radio stations by definition are not for commercial profit and the Broadcasting Authority of Zimbabwe has never called for applications for community radio stations, let alone licensing one, as provided for in terms of the BSA.

The Zimbabwe Broadcasting Corporation (ZBC), which is supposed to be a public broadcaster, firmly remained in the clutches of the state and continued with its partisan coverage to the exclusion of diverse views and opinions.

This was despite assertions to the contrary by then Minister of Media, Information and Broadcasting Services, Christopher Mushowe, relating to *ZBC's* impartiality.

Mushowe was responding to questions raised by parliamentarians on 2 August 2017 related to ZBC's programming and licence fees. Harare West MP, Jessie Majome, asked the minister whether it was ZBC's editorial policy to 'favour' the ruling Zanu PF against other political parties. In his response, the minister deferred the question by saying Zimbabwe's opposition political parties should inform the public broadcaster when they had events that needed coverage. He maintained that the ZBC was ready to cover 'any worthy' activities of the opposition and that this was in fact already happening.

However, in contrast to the then Minister's statement, ZBC's partisanship and biased coverage has been well-documented. Reports by civil society organisations such as Media Monitors Zimbabwe (formerly Media Monitoring Project of Zimbabwe), and the Zimbabwe Election Support Network, attest to ZBC's inequitable and biased coverage of political parties, especially during elections.

Observations made by the Constitutional Court in July 2016 when it affirmed the legality of ZBC licence fees, were also telling in that regard. The court stressed the need for ZBC to be impartial and afford fair opportunity for presentation of divergent views and dissenting opinions.

Several reports, including those by relevant Parliamentary Portfolio Committees; even the ministry's very own sanctioned IMPI, Zimbabwe Electoral Commission's 2013 report and elections observer missions, repeatedly pointed out ZBC's deficiencies as a public broadcaster due to its political capture and abuse by the ruling party and government.



As the print media struggled for survival and solutions against the background of unfolding technological advances, compounded by dwindling advertising revenue in an unfavourable economic environment, it also came under the spotlight following accusations of its capture, particularly in the context of the ruling Zanu PF succession fights.

Without its transformation, ZBC as currently constituted, cannot objectively and impartially evaluate the 'worthiness' of activities of opposition political parties to determine coverage, as was posited by the minister.

The ZBC, nevertheless, has statutory obligations to exercise editorial discretion and judgments in the public interest.

This should include creatively covering political parties instead of waiting for notification of their activities. This would ensure desired balance in the coverage of political parties.

ACCESS TO INFORMATION

In its 2017 Q3 (third quarter) Report, the Postal and Telecommunications Regulatory Authority of Zimbabwe (POTRAZ), reported an increase in Zimbabwe's mobile penetration rate from 97% in Q2 to 100.5% in Q3.

POTRAZ attributed this to an increase in mobile subscriptions which had risen to 13,799,648 when compared with 13,311,223 during the previous quarter. However, the Minister of ICT, Supa Mandiwanzira, said while the penetration had hit the 95% mark, the statistics might be misleading as far as mobile penetration was concerned. He said this could be so because a number of people had two or three mobile lines each.

With an estimated population of 13 million, the statistics could mean that almost every citizen had a mobile phone. This came at a time when the minister was on record saying a suitable pricing model for the country would be arrived at following the conclusion of a survey which was undertaken by POTRAZ. The survey was conducted to establish the cost of landing bandwidth in the country by mobile network operators.

In January 2017, the minister issued a directive for the suspension of an increase in mobile network voice and data charges following a public outcry. While this step was commendable in the context of citizens' right to communicate and share information more affordably, according to Research ICT Africa, Zimbabwe's data charges remain the third

highest on the continent. The cheapest monthly 1 GB data package in the country is set at \$30.

As the prices of internet-enabled smartphones steadily dropped, more Zimbabweans were connecting to the internet via these mobile devices. This was reflected in the quarterly reports published by POTRAZ over the past two years.

As mentioned earlier in this report, these developments came at a time of spirited efforts by government to enact cyber-crime laws.

In a country with high voice-call rates, coupled with a political environment where freedom of association is sometimes restricted, social media provided affordable and relatively safe platforms for Zimbabweans with similar interests to "meet and share their views". This has significantly improved the flow and accessibility of information in the country.

Unfortunately some of the information shared by citizens also impacts governance issues, including important ones such as management of the current economic crisis.

For example, towards the end of September 2017, Zimbabwe experienced sporadic price increases, which citizens documented and shared on social media. The statements released by government after that spell of price increases blamed inaccurate social media posts for causing panic buying which had in turn led to opportunistic retailers hiking their retail prices.

MEDIA AND ELECTIONS

Envisaged reforms became even more critical ahead of the 2018 elections to entrench citizens rights to freedom of assembly, association, access to information and free expression.

“We fully reaffirm our membership to the family of nations and express our commitment to playing our part in regional and international organisations and arrangements in order to make our modest contribution towards a prosperous and peaceful world order,” said President Mnangagwa in his inauguration speech.



While there was a marked decline in the number of cases involving media violations during the period under review compared to the previous year, the severity of the nature of the violations was cause of great concern.

The first step towards commitment to regional and international organisations and arrangements, should be through

the ratification of instruments such as the African Charter on Democracy, Elections and Governance (ACDEG)¹, which came into force on 15 February 2012.

Five years after, Zimbabwe was still to sign, let alone ratify this Charter. A total of 45 African countries had signed the Charter, of which 30 had since deposited their accession/ratification instruments, but not Zimbabwe.

Southern Africa Development Countries (SADC) countries that had either signed or ratified the instrument include, among others, Zambia, Swaziland, Namibia, South Africa, Mozambique, Malawi, Mauritius and Lesotho. In fact, Zimbabwe, Botswana and Tanzania were the only three countries that were still to sign or ratify the Charter as of November 2017.

The pillars of democracy cannot be strengthened through failure to comply and domesticate regional and continental instruments such as the ACDEG, added to the continued existence of repressive laws such as the Access to Information and Protection of Privacy Act (AIPPA) and Broadcasting Services Act (BSA), among others.

These laws impinge on citizens' right to freedom of expression and free flow of information which is critical in shaping a new democratic dispensation.

As the 2018 elections draw closer, transformation of the Zimbabwe Broadcasting Corporation (ZBC) to ensure equal and equitable access by political parties and the majority of Zimbabweans regardless of their political affiliations, is of imperative urgency.

¹ At the time of writing, Zimbabwe had not signed the ACDEG. President Mnangagwa signed the Charter on 21 March 2018

Transformation of ZBC from a state-controlled entity into a truly independent public broadcaster is urgent given its strong bias and partisanship towards Zanu PF, which is afforded more airtime when compared to other political parties. This would also entail the repeal of the Broadcasting Services Act.

President Mnangagwa should also ensure the safety and security of journalists conducting their lawful professional duties. Above all, he should be accessible to the media as it fulfills its watchdog role and to ensure that he fosters transparency and accountability.

JOURNALIST SAFETY

While there was a marked decline in the number of cases involving media violations during the period under review compared to the previous year, the severity of the nature of the violations was cause of great concern.

A total of 6 journalists were unlawfully arrested or detained in 2017 compared to 23 journalists the previous year. This marked a decline of almost 74% (73.9%).

In 2017, MISA Zimbabwe recorded the specific assault of 8 journalists during the course of their duties compared to the 12 recorded in 2016.

The majority of the assaults on journalists on duty were perpetrated by the police, apart from three cases which involved army personnel and ruling Zanu PF youth. This was indeed worrying as this came against the backdrop of the September 2016 meeting between the police and a media delegation led by MISA Zimbabwe when police undertook to ensure the security and safety of journalists.

Worried by these wanton acts of lawlessness on the part of the police, Harare-based journalists led by MISA Zimbabwe Chairperson, Kumbirai Mafunda, on 28 July 2017 marched to Harare Central Police Station protesting the assault by the police of three colleagues employed by the privately-owned *NewsDay* daily newspaper.

The Harare-based journalists marched to the police station from the Ambassador Hotel through the central business district following the assault on 27 July 2017 of journalists Obey Manayiti, Shepherd Tozvireva, Abigail Mutsikidze, and their driver, Raphael Phiri. Manayiti sustained a bruised lip and swollen eye while Tozvireva and Phiri were also roughed up by the plain clothes police.

Upon arrival at the police station, the journalists requested to meet the officer-in-charge. Journalists Blessed Mhlanga and Philemon Jambaya, representing their colleagues, then held a meeting with Inspector Ziburubudu in the presence of MISA Zimbabwe Legal Officer, Farai Nhende. They expressed their joint concern about cases of continued harassment and assault of journalists on duty by the police.

On 29 September 2017, journalists Mugove Tafirenyika and Brighton Goko who work for the privately owned *Daily News*, sustained serious injuries after being assaulted by the police while covering demonstrations in Harare's central business district.

Other cases involve the manhandling of *NewsDay* senior reporter Richard Chidza by ruling Zanu PF youths who shoved and slapped him at the end of a press conference in Harare on 19 October 2017 demanding that he reveal the source of a story regarding analleged

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fallout within the youth league's leadership ranks.

On 1 September 2016, freelance photojournalist Crispin Ndlovu was admitted to a private hospital in Zimbabwe's second city of Bulawayo after he was reportedly attacked and arrested by members of the anti-riot police on 31 August 2016. According to media reports, Ndlovu was arrested while taking pictures of the police as they allegedly assaulted Alfred Dzirutwe, spokesperson of the Bulawayo Youths Arise during protests against President Mugabe's leadership and rising unemployment.

Meanwhile, MISA Zimbabwe agreed to work with the police and other security arms of the state to secure a safe media environment ahead of the 2018 elections following yet another meeting with the police in December 2017. The first such meeting was held in September 2016.

The Zimbabwe Republic Police and representatives of media organisations led by MISA Zimbabwe Trustee, Cris Chinkanda, on 20 December 2017 met in Harare and agreed on a raft of actions to secure a safe and conducive working environment for journalists. The police delegation was led by Police Spokesperson Senior Assistant Commissioner Charity Charamba.

The proposed resolutions and action plans were aimed at improving the professional working relationship between the media and the police through agreed-upon work plans and timeframes for ease of monitoring of progress.

FREEDOM OF EXPRESSION ONLINE

In his address during the opening of the 5th Session of the 8th Parliament, Presi-

dent Robert Mugabe, before his removal from office, expressed hope that Parliament would debate and finalise the three cyber law related Bills, Zimbabwe had been working on since mid-2013.

With that in mind, the government created the Ministry of Cybersecurity, Mitigation and Threat Detection. At face value, such actions give the impression that the Zimbabwean government was taking serious measures to combat potential cyber threats.



If past trends were anything to go by, there was high probability that the proposed cyber crimes and cyber security laws would be selectively applied through various state institutions to persecute any dissenting voices in online spaces.

Government efforts in combating online criminal activity had resulted in the passing of the National ICT Policy, the National Cyber Security Policy (both in 2016), and the updating of the draft Cy-

bercrimes and Cybersecurity Bill, which is currently in its third draft. On paper, these policies are aimed at fighting cybercrime in Zimbabwe in a manner which also purports to promote fundamental rights enshrined in the Constitution.

For example, the main focus of the Cybercrime and Cybersecurity Bill was to consolidate cyber-related offences with due regard to the Constitution's Declaration of Rights as well as the public and national interest. Furthermore, the Cybersecurity Committee to be established once this draft Bill was gazetted into law, was mandated to produce annual reports on how national cybersecurity initiatives/activities impact on fundamental rights such as the right to privacy and freedom of expression.

However, as Zimbabwe inched closer to the 2018 general elections, a gap was emerging between the proposed cybersecurity policies and the government's actual intentions. One example of this discrepancy came in the wake of remarks by presidential spokesperson George Charamba in clarifying the role of the ministry on 10 October 2017.

Charamba was quoted saying:

... ndiyo riva redu kubata makonzo aya anoita mischief using cyber space [this is the trap to catch mischievous mice]...This is coming against the background of the abuse that we saw not too far back on social media, where the social media then causes some kind of excitement to the country, not on the basis of fact, but generation of copy which is in fact calculated to trigger a sense of panic in the economy, and that in itself suggests that it is indeed a major threat to State security.

Charamba also revealed how former president Mugabe had drawn lessons on controlling cyberspace from countries such as Russia, China and "the Koreans." This was a chilling admission given the notoriety of the three countries for clamping down on online rights and freedoms, with China going as far as setting up its own parallel internet network separate from that of the rest of the globe.

While officially opening the Nkulumane Community Information Centre in Bulawayo on 4 November 2017 President Mugabe said:

We have set up the Cyber Security Ministry to build our own cyber systems to defend ourselves from cybercrime. We are aware that there are some people who use the internet to fight us and implement what they say is regime change.

This is not a first, actually some nations are at an advanced stage in controlling this social media, which is why we thought that Minister Chinamasa as a lawyer can help in controlling our cyber space.

In revealing the dual purpose of the Ministry of Cybersecurity in preventing abuse of social media and protecting the State's interests, there was no reference to the actual cyber crimes or cyber security threats faced by Zimbabwe.

Summarily, these remarks escalated free expression on social media to a cybersecurity threat which government took seriously enough to warrant the creation of the responsible ministry.

Martha O'Donovan, an American citizen working with Magamba Network Trust, a social media network, was in

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November 2017 arrested and charged with subversion and insulting the president through a tweet in which she allegedly called then president Mugabe a “sick man”.

Martha’s arrest served as a warning on how closely state authorities were monitoring statements made through social media. She was charged under Section 33 (2) of the existing Criminal Law (Codification and Reform) Act [Chapter 9:23] which criminalised statements which undermined the authority of the president.

During the same month, members of the Criminal Investigations Department raided the Magamba offices and confiscated desktops and laptops.

O’Donovan spent seven days at Chikurubi Maximum Prison in Harare before being granted bail by the High Court. The offence carried a maximum sentence of 20 years imprisonment. If past trends were anything to go by, there was high probability that the proposed cyber crimes and cyber security laws would be selectively applied through various state institutions to persecute any dissenting voices in online spaces.

This happened against the background of constitutional guarantees that citizens have the right to freely express themselves online and offline while the media has the right to truthfully report and inform the nation on events as they unfold without fear and undue hindrances.

LOOKING FORWARD TO 2018

The government should urgently implement the long overdue media reforms by aligning restrictive laws such as AIPPA, BSA, POSA and sections of the Criminal Law (Codification and Reform) Act (CODE) as provided for in terms of the

Constitution’s Chapter 4 Bill of Rights as well as the findings and recommendations of the Information and Media Panel of Inquiry (IMPI) report.

The 666-page report released on 18 March 2015, recommended the repeal of laws such as the Access to Information and Protection of Privacy Act (AIPPA), Criminal Law (Codification and Reform) Act, Broadcasting Services Act (BSA), Censorship and Entertainment Controls Act (CECA), Official Secrets Act (OSA) and Copyright and Neighbouring Rights Act.

Fundamentally, Zimbabwe should sign and ratify the ACDEG which promotes the consolidation of democratic governance and human rights in Africa through adoption of the Charter’s relevant clauses into domestic law and policies ahead of the 2018 elections

ZIMBABWE MEDIA FREEDOM VIOLATIONS AND VICTORIES



3 March 2017

ARRESTED

News Day editor Wisdom Mdzungairi and reporter Richard Chidza, charged with insulting or undermining the president following publication of a story pertaining to President Robert Mugabe's health.



24 March 2017

THREATENED

Then Zanu PF political commissar and Minister of Local Government, Saviour Kasukuwere, charged at a reporter from *The Herald*, accusing the paper of pursuing a factional agenda during a field day at Mount Darwin in Mashonaland Central Province.



20 June 2017

ARRESTED

News Day editor Wisdom Mdzungairi and reporter Everson Mushava, questioned by police in Harare following publication of a story arising from a press conference held by former Zanu PF Mashonaland Central youth leader where he allegedly urged war veterans to push President Robert Mugabe out of office.



22 June 2017

ARRESTED

Freelance journalists Garikai Chaunza and Frank Chikowore, arrested by the police while covering the invasion of Lesbury Farm in Manicaland Province.



27 July 2017

ARRESTED

News Day journalists Obey Manayiti, Shepherd Tozvireva and their driver Raphael Phiri, were assaulted by police on their way to Harare Central Police Station after taking pictures of skirmishes between police and members of the public in Harare's central business district.



24 September 2017

THREATENED

Then Home Affairs Minister Ignatius Chombo, threatened "decisive action to deal a telling blow" against the press and social media for spreading alarm and despondency about the socio-economic and political environment.



27 September 2017

THREATENED

Ministers Chinamasa, Mike Bimha and Chris Mushowe threatened to tighten control on social media, claiming it was the cause of shortages of basic commodities and bank notes in Zimbabwe.



29 September 2017

ASSAULTED

Daily News journalists Mugove Tafirenyika and Brighton Goko sustained serious injuries after being assaulted by the police while covering demonstrations in Harare's central business district.





2 October 2017

ARRESTED

News Day reporter Kenneth Nyangani; arrested in the eastern border town of Mutare and charged with criminal nuisance after writing a story which alleged that First Lady Grace Mugabe donated second-hand underwear.



5 October 2017

CENSORED

Then Vice President Emmerson Mnangagwa's security detail barred the private media from covering a briefing he had convened at his Ministry of Justice offices in Harare.



19 October 2017

ASSAULTED

News Day senior reporter Richard Chidza, assaulted and threatened by Zanu PF youths who demanded he reveal the source of a story regarding an alleged fallout within the youth league's leadership ranks.



3 November 2017

**VIOLATION OF PUBLIC
FREEDOM OF EXPRESSION**

Martha O'Donovan of Magamba Network social media outlet; arrested in Harare for allegedly insulting President Robert Mugabe as a "selfish and sick man" in a tweet that allegedly included a photo illustration of him with a catheter.



14 November 2017

ASSAULTED

Journalists Columbus Mavhunga and Garikai Fadzai, severely assaulted at Army Headquarters in Harare where they turned up for what was supposed to have been a scheduled conference. The two were treated and discharged from a private hospital after sustaining serious injuries.



14 November 2017

**VIOLATION OF PUBLIC
FREEDOM OF EXPRESSION**

Members of the Criminal Investigations Department seized computers belonging to the social media outlet in connection with a case against its employee, Martha O'Donovan, arrested for insulting then President Mugabe.



15 November 2017

ASSAULTED

Some ZBC staffers were reportedly assaulted at ZBC Pockets Hill headquarters in Harare when army personnel stormed the station to announce the military intervention which subsequently led to President Robert Mugabe's resignation.

