



So This is Democracy?

State of media freedom in Southern Africa 2003
Annual publication of the Media Institute of Southern Africa

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So this is Democracy?

Report on the state of media freedom in Southern Africa --- 2003



The Daily News and Daily News on Sunday was closed down on September 12 2003 on charges that it was publishing illegally without a state license. It published again for one day on October 25 2003 and early in 2004. In February 2004 the government appointed Media and Information Commission denied Daily News journalists accreditation to practice. The newspaper, the largest circulating daily and one of the few independent publications in Zimbabwe, has since closed its doors. Photo: AP

Acknowledgements

Each year much untiring effort is spent at MISA's national chapters and regional secretariat to ensure that this important document is published. Media freedom monitoring is MISA's core business and will continue to form the foundation of its advocacy work aimed at creating a conducive environment for a free and independent media in southern Africa.

Jeanette Minnie, author of this year's regional overview, must be singled out for her continued support to MISA's Media Freedom Monitoring programme. Her research last year of three years of MISA Alerts (2000-2002) has resulted in valuable information that continues to enhance the development of this programme. This research specifically had great bearing on the development and implementation of MISA's SADC Journalists Under Fire campaign – a campaign designed to offer practical support to victims of media freedom violations because, rightly so, in many quarters the question was asked: “You’ve issued an alert, so what?”

MISA's national chapter Information and Advocacy officers are the face of MISA at national level – most certainly to those persons who have fallen victim to media freedom and freedom of expression violations. These are staff members who go further than document violations, and in many instances offer much needed moral support to journalists. They must therefore be acknowledged in name:

- MISA Botswana - Ms. Caroline Phiri-Lubwika
- MISA Lesotho - Mr. Tom Mapesela
- MISA Malawi - Mr. Innocent Chitosi
- MISA Mozambique - Mr. Gustavo Mahoque
- MISA Namibia - Mrs. Carmen Cupido
- MISA South Africa - Mr. Jude Mathurine
- MISA Swaziland - Mrs. Phumelele F. Dlamini
- MISA Tanzania - Mr. Marco Gideon
- MISA Zambia - Mr. Sipo Kapumba
Mr. Brian Muletambo
- MISA Zimbabwe - Mr. Rashweat Mukundu

We wish to express sincere appreciation to all partner organisations and donors who have contributed to this project. A further note of thanks to the International Freedom of Expression Exchange (IFEX) in Toronto, Canada, which ensures that violations recorded by MISA in southern Africa receives maximum exposure in the international community and in so doing, allow for rapid, world-wide and coordinated response to media freedom and freedom of expression violations.

Zoé Titus

Regional Programme Manager: Media Freedom Monitoring



State of Media freedom in Southern Africa
MEDIA INSTITUTE OF SOUTHERN AFRICA

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Notes on Classification

The list and definitions of classifications in “So This Is Democracy?” - which makes up the bulk of the content of this book - are assigned to specific categories. Actual alerts issued by MISA are indicated by the ALERT in the top right hand corner of the entry. In all, there are eleven categories:



- **Beaten**



- **Threatened**



- **Legislated**



- **Expelled**



- **Bombed**



- **Victory**



- **Censored**



- **Killed**



- **Sentenced**



- **Detained**



- **Others**

As indicated above, the categories are arranged in alphabetical order. Below is a description of each category. Each category captures a fairly broad range of incidents, and more than just the single word it is represented by. Nevertheless, each category is an accurate summation of incidents that are not too dissimilar with respect to their nature and the manner in which they affect the individual media workers and/or the media in general. Except for victory, the categories make up a list of the various types of violations media workers can experience during the course of or as a result of their work:



BEATEN - This includes incidents where journalists are assaulted, attacked physically, tortured, or wounded during the course of their work. The statistic given is for the number of media workers involved.



THREATENED - This involves a threat from a public official, a death threat, various forms of harassment (such as veiled warnings, threats of action, or interference in editorial processes), or journalists being questioned or interrogated on their sources. The statistic given is for the number of media workers or media organisations involved.



LEGISLATION - This relates to all aspects of the legislative process and the application of common law. It includes instances where official proposals are made for new laws, legislation is passed, laws are amended or struck down either in parliament or by the courts, and civil litigation is instituted against media. This category is not all about violations, since there can be legislation that enhances media freedom and freedom of expression. This has been pointed out accordingly through the descriptive terms ‘threatening legislation’ and ‘positive legislation’. The statistic given is for the number of incidents reported under this category, as opposed to the number of media workers or media organisations involved.



EXPELLED - This category relates to the free movement of media workers. It involves incidents where journalists are expelled from a country, are prevented from entering a country (denying of Visas, work papers or accreditation), are prevented from leaving a country, are barred from travelling into a country or from entering certain areas, and generally inhibited from moving freely in order to perform their work. The statistic given is for the number of media workers involved.



BOMBED - This includes incidents where a home of a journalist or the office of a media house/outlet/organisation is sabotaged through bombing, arson, vandalism, theft, or is raided or occupied forcibly. The statistic given is for the number of media workers or media organisations involved.



VICTORY - This is self-explanatory in terms of its implication for the media, but involves different types of incidents. Some incidents falling under this category have immediate implications for individual media workers or media organisations (being released unconditionally, having charges dropped, winning or avoiding civil litigation, overturning gagging orders and acquittal on criminal charges), while others have broad implications that advance media freedom, access to information or freedom of expression in general (favourable policy statements from public officials, the adoption of media-friendly laws or policies, favourable and precedent-setting court judgements, and favourable procedures and decisions by statutory or other bodies dealing with matters of media content or freedom of expression). The statistics given is for the number of incidents reported under this category.



CENSORED - This is where information is suppressed or prevented from being published, or where media workers are somehow or other prevented from getting their information out. It involves straight forward censorship such as a banning, a gagging order, order for excisions, preventing the publication of information through legislative restrictions, e.g. public officials or the courts, and interdicts, court orders or civil litigation resulting in the suppression of information. It also involves a publication or broadcaster or programme being shut down or suspended, as well as incidents where equipment and/or materials are confiscated. The statistic given is for the number of media workers or media organisations involved.



KILLED - This tops the list in terms of severity, and there is no need to explain why. Included under this category, however, are incidents where journalists have been kidnapped or gone missing, and have disappeared. For the purpose of this publication, that means that any incidents involving the latter will add to the statistics of this category. The statistic given is for the number of media workers involved, as opposed to the number of incidents reported.



SENTENCED - This is when a judgement is handed down against a media worker involving either a prison term or a fine. The statistic given is for the number of media workers involved.



DETAINED - This involves a media worker being put behind bars. It can be legal or illegal and includes being sentenced to a jail term or being detained (without charge, incommunicado, preventative, arrest). The statistic given is for the number of media workers involved.



OTHER - These are incidents which do not necessarily involve the media, but which affect aspects of freedom of expression or speech in general. These can involve cases of sedition against a member of the public, a general curb on free speech, parliamentary speech or access to information (e.g. matters involving the internet, pornography, hate speech, political speech), a violation of the right to freedom of assembly and protest, or an incident relating to artistic or academic freedom. Incidents involving the media, which do fall under this category, involve that of media pluralism (a publication closing down because of financial reasons) or incidents involving access to the public media. The statistic given is for the number of incidents reported under this category.

Map of Southern Africa with MISA's eleven focus countries



List of addresses of MISA Chapters



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Regional Overview

by JEANETTE MINNIE

Jeanette Minnie is a South African citizen and an international Freedom of Expression consultant. She is a former Regional Director of MISA. She is also known as Zambezi FoX - the name of her consultancy service.

Since the turn of this century Zimbabwe has topped the list as the most repressive country in the SADC region in terms of media freedom violations. MISA has recorded 360 alerts in Zimbabwe in the four-year period from 2000 - 2003. In 2003 the alerts from Zimbabwe represented 54% of the total recorded in 10 countries and in 2002, 57% of the total in 11 countries.

The forced state closure of the *Daily News* on 12 September 2003, on charges that it was publishing illegally without a state license, was undoubtedly the worst news of the previous year. It should be recalled that this event was preceded by three bomb and arson attacks on various premises of the *Daily News* in earlier years. The biggest was the 2001 destruction of its newly acquired printing press by four massive explosions. According to the country essay in this edition, *The Daily News* enjoyed the biggest newspaper circulation in the country estimated at 59% of the market share and up to a million readers on peak days. Two other media outlets were also destroyed by bomb attacks in Zimbabwe in recent years. In 2002 the premises of the *Voice of the People* radio station in Harare were destroyed by a massive bomb blast. In the same year the premises of a commercial printing press, the Daily Press, was also destroyed in a bomb attack. Among other things, it had printed T-shirts for the official opposition 'Movement for Democratic Change' party. To date no one has been charged by the police in relation to these attacks.

The Daily News was created in 1999 as a bulwark against the unrelenting state propaganda and hate speech in the state-owned national daily newspaper, *The Herald*, and the state-owned television and radio broadcasting services, the Zimbabwe Broadcasting Corporation (ZBC). The Media Monitoring Project of Zimbabwe (MMPZ) reported that during the 2002 presidential and mayoral elections, the ZBC television news devoted 94% of its airtime to the ruling party ZANU-PF and its presidential candidate (President Robert Mugabe) and only 4% to the official opposition Movement for Democratic Change and its candidate (Morgan Tsvangirai). "But even this [4%] was subverted by ZBC, which used the time to attack, denigrate and discredit the MDC".¹

The reason for the demise of the *Daily News* is the promulgation of one of the most effective legal instruments of state control over the media and civil society communication anywhere in the world - the Access to Information and Protection of Privacy Act (AIPPA). Ironically, the misleadingly named AIPPA in significant respects substantively obstructs the release of official information to the public from the state, because the law classifies huge swathes of this information as secret.

In reality the AIPPA was purposely crafted as an instrument of state control over the privately owned media and other civil society and non-governmental publishing, Internet and broadcasting operations in the country. A major feature of this law is the requirement that all 'mass media services' must be licensed ('registered') by the state appointed Media and Information Commission (MIC). Such services also have to reapply for registration every two years, although registration can be withdrawn from them at any time. All journalists have to apply for

individual licences ('accreditation') on an annual basis and are forbidden from practising as journalists on Zimbabwean soil without this licence. This includes freelance journalists and foreign correspondents - even on short visits. No Zimbabwean 'mass media services' may employ unaccredited journalists or operate without a certificate of registration under threat of closure and forfeiture by the state of all the assets of such media. These requirements amount to nothing else than a system of state licensing of the media. It is a repressive political instrument in terms of which the state decides through the MIC which papers will be allowed to publish and exist and who may practise as a journalist.

MISA-Zimbabwe, one of the national chapters of MISA, was ordered last year to register with the state appointed Media and Information Commission. MISA-Zimbabwe has responded by applying to the courts to rule whether it falls under the definition of a 'mass media service' as defined by the AIPPA. Any organisation in Zimbabwe that distributes information to anyone beyond their own membership, through any means of publication - including by email and the Internet - is defined as a 'mass media service'. AIPPA therefore seeks to control not only the media that is commonly regarded as mass media, but also the media and information activities of any civil society organisations in the country. Newsletters and pamphlets from civic organisations to the general public also cannot be legally distributed unless a civil society organisation has been registered by the MIC as a 'mass media service'. From these illustrations it is clear that the AIPPA substantively extends its reach beyond the media, and prohibits the normal information and communication tools of democratic debate and advocacy through civil society.

There is no reason for complacency in any countries of the region, however. In research that this author conducted of MISA's action alerts during 2003 to determine the main trends of media freedom violations across the region, an important finding was that the same trends of media freedom violations that occur in Zimbabwe, also occur in many other countries of the SADC region, but not to the same extent. Vigilance is therefore required by all.

The main regional trends over three years (2000 - 2002) were:

1. The arrests of journalists
2. Restricting the freedom of movement of journalists (the expulsion of foreign correspondents and the physical obstruction of indigenous journalists from covering news events in their own countries, even press conferences, and including their forced removal from some outlying districts and provinces of their countries)
3. Threats to journalists, including death threats
4. Direct censorship including the closure of publications and the cancellation of broadcasting programmes
5. Police raids on media institutions and the seizure of recording equipment from individual journalists in the field
6. Physical attacks on journalists
7. Repressive media freedom legislation
8. Frequent verbal attacks on the media by governments and politicians
9. Governments and authorities flouting the rule of law by ignoring court orders or acting in clear violation of laws
10. Attacks on newspaper vendors and the destruction of newspapers, and
11. Pressure on journalists to reveal confidential sources of information.

Did things change in 2003? There appears to be a cautious note of optimism in Tanzania and in Swaziland that the future may hold better things, but in other countries like Zambia and Malawi, the situation remains much the same. The overall number of alerts has decreased from

208 in 2002 (and 207 in 2001) to 188 during 2003, a decrease of 9.7% since the previous year. A new feature of the alerts, however, is a gender component in terms of which media violations are broken down to show how many men and women were affected by violations of their media rights. In 2003, 15 female and 72 male practitioners were affected.

Tanzania underwent, and appears set to continue with a programme of extensive media legal reforms. During 2003 broadcasting reforms were made and the government and media fraternity are cooperating in terms of legal research to reform other media laws as well. Some of the broadcasting reforms made so far, including the promulgation of the Tanzania Communications Regulatory Authority Act, which provides for the establishment of the Tanzania Communications Regulatory Consumer Consultative Council (TCRA), is a step in the right direction. Contrary to the African Charter on Broadcasting, the government will still continue to licence broadcasters, but has created a consultative body drawn from the media industry and civil society to advise it. The government appoints the body from nominations made by the business and civil society sector.

After five long years, and a year of great political turmoil in 2002 characterised by serious clashes between the judiciary and the state on issues of the rule of law, a draft Constitution was finally produced for Swaziland last year. Some new magazines and a privately owned television channel have also been created, and although these do not focus on political issues, at least they create more diversity and, importantly, jobs. The draft Constitution guarantees freedom of expression and freedom of the press for all its citizens, except those who “consent” to be “hindered” in the enjoyment of this freedom (an extremely strange provision). It is not clear whether general clauses of limitations are included in the draft constitution, which could be invoked to unreasonably curb freedom of expression and other human rights. The King is also to retain his powers to issue Decrees, but assuming that these would have to be line with the constitution, at least a framework has been created within which to contain them. The courts have also become bolder in recent years. In 2002 the Appeal Court struck down Royal Decree no. 3, resulting in one of the incidents of confrontation between the judiciary and the state. The draft constitution falls far short of models of best practise and international standards, but it is an improvement in a country where the previous constitution was withdrawn by Royal Decree in 1973, and which has been without one, and no guarantees for human rights, ever since.

After Zimbabwe with 102 alerts for 2003, Malawi has overtaken Zambia as the country that normally takes second place in MISA’s charts of media rights infringements. Malawi recorded 18 alerts. However, in national terms, the statistics in Malawi are remaining constant, and those in Zambia have decreased. In 2000 Malawi recorded 16 alerts, 18 in 2001 and 17 in 2002. This is a sign of continuing and festering media freedom problems, and in a broader democratic context, a sign of political stagnation in the country. Journalists in Malawi continue to be beaten, censored, detained, threatened and convicted under anti-media freedom laws. The alerts, however, show that at least in one recorded instance journalists behaved unethically.

Another feature of the alerts in Malawi over the last two years, are the attempts by the state, through the Malawi Communications Regulatory Authority (MACRA) and the country’s broadcasting laws to obstruct private and community radio stations from giving a voice to opposition political parties in the country. This is despite the evidence, and like many other state broadcasters in the region, that the Malawi Broadcasting Corporation provides coverage of the ruling party and government only. In a statement that contradicted every principle of the 1991 Windhoek Declaration on the Promotion of an Independent and Pluralistic African Press, which Malawi adopted along with all other members states in the general conference of UNESCO,

MACRA Director General Evans Namanja said in June last year: "News is supposed to be for the general public and not a particular community. By broadcasting news, the community radio stations are hijacking the role of public broadcasters, such as the Malawi Broadcasting Corporation (MBC) and Television Malawi (TVM)".

Despite the decrease in alerts from Zambia, the same kinds of media freedom violations as reported over many years by MISA continue to occur. An unusual flurry of exciting media legal reform developments in 2002, however, ground to a halt in 2003. During 2002 three media bills were tabled in Parliament - the result of joint campaigns between MISA-Zambia, PAZA (the Press Association of Zambia that mainly represents state owned journalists and associations), the Association of Senior Journalists and the Zambia Media Women's Association. These media associations lobbied opposition MP's from various parties, who numerically now constitute a combined majority in the Parliament, and succeeded in forcing the Parliament to consider a Freedom of Information bill, a new broadcasting bill and an Independent Broadcasting Authority bill. In a cynical move to ride the wave of public popularity, the government appropriated these bills from the civil society and opposition MP's that had researched and crafted them, and tabled them in Parliament. Much their content, however, was culled from the bills prepared by the media civil society and opposition MP's, although important aspects of the civil society bills were also excised and replaced by content more palatable to the government. An IBA Act and a ZNBC Act were passed into law during 2003. The problem, however, is that the government is not implementing them.

The IBA Act removes the Minister of Information's regulatory powers in terms of awarding broadcasting licenses to non-state broadcasters, which will instead be performed by a publicly nominated board ratified by Parliament. Delays in the ratification of this board means that the Minister of Information so far continues to control this function. The government refused to surrender its right of licensing the ZNBC, but the new ZNBC Act does require the state broadcaster to transform into a public broadcaster serving the diversity of political views and interests across the spectrum. It also enables the government to charge the public a TV license fee. Additional funds are urgently required to refurbish the antiquated equipment and facilities of the state broadcaster. In practice, however, the IBA Act has not yet taken effect and the ZNBC has not changed and still functions as the voice of the government. The Freedom of Information bill reached the second reading stage in Parliament, but was then suddenly withdrawn by the government around concerns of its implications on 'the war against terrorism'. It will supposedly be tabled again in an amended form in the next session of Parliament.

The 'New Deal administration of laws and not men' of President Levy Mwanawasa also stands accused of not matching rhetoric with action. During October 2003 he called on the state owned media not to flatter the government and to report 'constructive criticism' objectively. He also guaranteed the jobs of editors in the state owned media should they publish and broadcast content critical of his administration. A few weeks later the television service of the state owned Zambia National Broadcasting Corporation (ZNBC) banned a live morning show reviewing the headlines of the daily and weekly media presented by two independent journalists.

To add insult to injury, recommendations emanating from the Constitution Review Commission and a national Indaba convened by the government during 2003, makes no mention of the role of the media or freedom of expression. The civil society media coalition in Zambia has nevertheless performed a sterling role and no doubt will redouble its efforts to grease the wheels of media reformation during this year.

The alerts for 2003 reveal the emergence of new themes of professional importance to journal-

ists and to MISA (or new vigour in pursuing them). These include the increase of civil defamation cases against the media and concerns about the high financial penalties being awarded to successful litigants, the emergence of more independent media councils (voluntary media complaints bodies) or attempts to do so, the establishment of national editors forums, increasing concerns about the wages and working conditions of journalists, the struggle for the appointment of statutory but independent broadcasting authorities, developments around the introduction of Access to Information legislation, and the rise of media civil society coalitions (including associations of journalists in the state owned media) for media freedom advocacy and legal reform purposes. All of these issues have a direct bearing on media freedom and the quality of journalism in the SADC region.

Underlying this is a remarkable shift in MISA from its earlier years after its establishment in 1992 when it largely contained itself to press freedom issues in the print media and focused on assisting journalists and the media in the severely oppressed privately owned media sector. The pursuit of pluralism and independence in the broadcasting sector has finally come of an age. Many more practitioners from the state owned media are now involved in MISA's affairs, some as office bearers and others through the civil society coalitions that MISA are developing with them.

¹ Media under Siege: Report on media coverage of the 2002 Presidential and Mayoral elections in Zimbabwe. Published by the Media Monitoring Project of Zimbabwe. p.111

Sumario Regional

POR JEANETTE MINNIE

Jeanette Minnie é uma cidadã Sul-Africana e consultante de liberdade dos direitos humanos. Ela é ex-directora regional da MISA. Também conhecida como Zambezi fox, seu nome de serviços de consultoria.

Desde a virada do século, o Zimbabwe, atingiu o topo da lista dos países mais repressivo da região da SADC, em termos de votações de liberdade da mídia. A MISA registrou 360 alertas no Zimbabwe num período de 4 anos 2000-2003. Em 2003, as alertas representaram 54% do total registrado em 10 países e em 2002, 57% do total em 11 países.

O estado, forçou o encerramento do “Daily News” no dia 12 de Outubro de 2003, alegando que o mesmo, fazia publicações sem a permissão do estado, que foi, sem dúvida a pior notícia do ano anterior. Importante realçar que, este acontecimento precede-se de três ataques de bombas e Arson em várias sedes da ‘Daily News’ em anos anteriores. A maior, foi a destruição de 2002, das suas mais recentes imprensas destruídas por 4 explosões massivas. De acordo com a declaração do país nesta edição, a ‘Daily News’ aproveitou a maior circulação no país, estimado em 59% da parcela do mercado e de um milhão de leitores diário. Dois outros pontos de vendas também foram destruídos, por ataques de bombas no Zimbabwe nos últimos anos. Em 2002, as sedes de estação de rádio, a voz do povo em Harare, também foram destruídas por uma estrondosa bomba. No mesmo ano, as sedes duma empresa comercial da ‘Daily News’ também foram destruídas.

Entre outras coisas, foram imprimidas t-shirts, para o opositor oficial, o partido do ‘Movimento para mudança Democrática. Até a presente data, ninguém foi acusado pela polícia no diz respeito a esses ataques. A Daily News, foi criada em 1999, como barreira contra o grande discurso de ódio da propaganda do estado, pertencente ao jornal diário nacional do estado “The Herald” e os serviços de transmissão de rádio e transmissão de televisão pertencentes também ao estado” The Zimbabwe Broadcasting Corporation’ (ZBC).

O projecto de monitor da mídia do Zimbabwe (MMPZ) noticiou, que as eleições presidenciais e maiorais durante 2002, foram pelo ar pela estação televisiva do Zimbabwe. A ZBC, concedeu, 94% de espaço de antena ao partido ZANU PF e ao seu candidato presidente (Robert Mugabe), e apenas 4% para a oposição oficial O movimento para mudança democrático, e o seu candidato (Morgan Tsvangirai). Esses 4% ainda assim foi usado pela ZBC, para atacar, denigrir, e descriditar o MDC.

A razão pela falência da Daily News, foi a promulgação de um dos mais efectivos instrumentos legais de control de estado, sob a mídia e a sociedade civil de comunicação em qualquer parte do mundo. O acesso a informação e protecção aos actos de privacidade (AIPPA). Ironicamente, a má interpretação setidos, substancialmente obsrtuidas asida de informação para o público do estado, porque q lei classifica como uma grande revelação desta informação como segredo.

Na realidade, o AIPPA foi prepositadamente,criado como instrumento de control do estado sob mídias privadas, publicações não governamentais e a sociedade civil, internet e operações de transmissão no país. A maior conjuntura dessa lei, é obrigatório que todos os serviços da mass mídia devem ser registrados pelo governo no departamento da mídia e da comissão de informação (MIC). Tais serviços, também se reinscrever de dois em dois anos, embora o registro lhes pode ser tirado a qualquer momento.

Todos os jornalistas, devem se registrar para obterem licença individual (credenciamento). Regularmente por ano estão proibidos os jornalistas Zimbabweanos exercerem seus serviços no solo sem a mesma licença. Isto inclui freelancers, e correspondentes estrangeiros até os de curta estadia. Nenhum serviço Zimbabweano da mídia deve empregar jornalistas descredenciados ou trabalharem sem um certificado de registro sob a ameaça de fechar e ser retirado pelo estado, todos os equipamentos da mídia em causa.

A mídia sob ataque: Reportagem de cobertura das eleições presidenciais e maioritárias no Zimbabwe . Publicação do projeto de monitoramento da mídia do Zimbabwe P.111

Esses requisitos, não são nada mais do que um sistema de licença do estado para a mídia é um instrumento político repressivo em termos do qual o estado decide através da MIC, os jornais que vão ser publicados e os que existem e os que devem praticar jornalismo.

O MISA-Zimbabwe, um dos capítulos nacionais da MISA, foi-lhe ordenado a se registrar no ano passado, através do departamento de estado mídia e a comissão de informação. A MISA-Zimbabwe, respondeu levando ao tribunal para ver se a regra vai de acordo com a definição dos serviços da mass mídia como define a AIPPA. Qualquer organização no Zimbabwe que distribui a quem quer que seja, para além da sua capacidade, através de qualquer forma de publicação incluindo e-mail, internet é definido como serviço da mass mídia. A AIPPA no entanto, procura controlar não só a mídia que normalmente é vista como mass mídia, mas também através da informação e da mídia de qualquer organização da sociedade civil no país. Comunicados e panfletos das organizações cívicas ao público em geral também não podem ser regularmente distribuídas a não ser que, a organização da sociedade civil tenha sido registrado pela MIC como um serviço da mass mídia. Através dessas ilustrações, esta claro que a AIPPA se estende substancialmente os seus limites para além da mídia, e proíbe os mecanismos democráticos normal de informação e comunicação debates e advocacia através da sociedade civil.

Não há motivos para complacência em qualquer país da região, no entanto. Na pesquisa em que o autor conduziu das alertas do MISA durante 2003, para determinar as principais tendências das violações de liberdade de expressão da mídia que ocorreu no Zimbabwe, ocorre também em muitos outros países da região da SADC, mas, não com a mesma envergadura. Por conseguinte, a vigilância é requerida por todos.

As maiores tendencias regionais durante três anos 2000-2002 foram:

1. Prisão dos jornalistas.
2. Restrição de liberdade do movimento dos jornalistas (expulsão dos correspondentes estrangeiros e obstrução física dos jornalistas locais por cobrirem eventos dos seus próprios países, inclusive conferência de imprensa e incluindo a expulsão forçada dos mesmos, de alguns distritos e provincias dos seus países.
3. Ameaças aos jornalistas, inclusive ameaças de morte.
4. Censura directa incluindo o encerramento de publicações e ou cancelamento de apresentação de programas
5. Invasão da polícia, em algumas instituições da mídia e a apreensão de alguns equipamentos de gravação individual dos jornalistas em zonas de cobertura.
6. Ataques físicos aos jornalistas.
7. Legislação repressiva de liberdade da mídia.
8. frequentes ataques verbais, sob a mídia por parte dos governantes e políticos.
9. Governos e autoridades infringindo a lei ao ignorar as ordens dos tribunais ou agindo em violações claras contra as leis.

10. Ataque aos vendedores de jornais e destruição dos jornais, e
11. Pressão aos jornalistas para revelarem importantes fontes de informação.

Algo mudou em 2003? parece haver algumas anotações cuidadas de optimismo na Tanzânia, e Swazilândia, de que o futuro vai melhorar, mas, em alguns países como a Zâmbia e Malawi a situação mantém-se. O número total de alertas diminuiu de 208 em 2002 (207 em 2001) para 188 durante 2003, uma baixa de 9.7% em relação ao ano anterior. Um nova retração de alertas e no entanto um género de componentes em termos de, quais as violações da mídia foram infringidas, a mostra de quantos homens e mulheres foram afectados pr essas violações. Em 2003, 72 masculinas e 15 femeninos foram afectados.

A Tanzânia suportou, e aparenta continuar com um programa de reforma legal extensa da mídia. Durante 2003, as reformas de transição foram feitas; A fraternidade entre o governo e a mídia é cooperativo em termos de pesquisa legal, com fim de reformar também outras leis para mídia.

Algumas reformas foram feitas até agora, incluindo a promulgação do acto das autoridades regulatórias com a Tanzânia, na qual dá acesso para o estabelecimento do conselho consultativo do consumo regulatório de comunicação da Tanzânia (TCRA), é um passo na direcção certa ao contrário do charter Africano de transmissão, o governo vai continuar a dar licença aos transmissores, mas, criou um corpo consultativo do seio da sociedade civil para conselhos. O governo aponta, o consultativo nomeado criado no seio do mesmo, e o sector da sociedade civil.

Após cinco longos anos, e do ano de grande tormento político 2002, caracterizado por vários choques, entre o estado e a justiça no que diz respeito as leis, foi criado finalmente uma constituição para a Swazilândia no ano passado alguns novos magazines e alguns canais privados também foram criados, embora, isso não aponta assuntos políticos, pelo menos cria-se mais diversidade e mais importante, mais trabalhos.

A constituição criada, garante liberdade de expressão, e sociedade de imprensa para todos os cidadãos, excepto aqueles que se consideram “empencilhos” desta nova constituição de liberdade (uma provisão muito estranha). Não esta claro, se as cláusulas gerais de limitações estão inclusas na constituição, no qual poderia invocar retringimento de liberdade de expressão e de outros direitos humanos. O Rei também retém os seus poderes para aplicar os decretos, mas, assume que este teria de ser o limite daa constituição; Pelo menos foi criado um quadro com o mesmo, no qual contém as normas. Os tribunais também tornaram-se íngremes nos últimos anos. Em 2002, o apelo do tribunal impediu o decreto real no. 3, resultando num dos mais incidentes de confrontação entre o governo e a justiça.

A constituição esta muito longe de ser um dos melhores modelos de prática de nível internacional, mas é uma melhoria num país onde a antiga constituição foi enquadrada pelo decreto real em 1973, sem procedimentos e sem garantias para os direitos humanos desde então.

Depois do Zimbábue com 102 alertas, em 2003 o Malawi ultrapassou a Zâmbia como país que normalmente se classificava em segundo lugar no rank dos infringimentos ds direitos da mídia da MISA. O Malawi, registrou 15 alertas, no entanto, em termos nacionais, as estatísticas em Malawi com 16 alertas, 18 em 2001 e 17, em 2002. Isto é um sinal que os problemas de liberdade de expressão da mídia continuam, e num contexto geral democrático é um sinal político de estagnação do país.

Os jornalistas em Malawi continuam a ser batidos, censurados, presos, ameaçados e convictos sob as leis de liberdade anti-mídia. As alertas mostra que pelo menos num rápido registrou os jornalistas comportaram-se com pouca ética.

A outra parceria dos alertas em Malawi, nos últimos dois anos, são as tentativas do estado, através das autoridades de regulamentos de comunicação do Malawi (MACRA) e das leis de transmissão do país, para obstruir as estações de comunicação privadas da rádio ao dar vozes aos partidos políticos da oposição do país. Não obstante as evidências, com outras sedes de transmissão da região, que a associação de transmissão do Malawi fornece cobertura apenas ao partido no poder e o governo.

Num mandato que contradiz todo princípio da declaração de Windhoek, na promoção de uma imprensa Africana pluralística e independente no qual o Malawi, adoptou juntamente com outros estados membros, na conferência geral da UNESCO, MACRA, director geral Evans Namanja disse em Junho do ano passado “ Notícias é suposto ser para o público em geral e não para uma comunidade em particular. Ao transmitir a notícia, a comunidade das estações de rádio estão a vincular o papel de transmissores públicos tais como a associação de transmissão e da televisão do Malawi (TVM).

Apesar do baixo número de alertas terem baixado, o risco de violações de liberdade da mídia, anunciada durante muitos anos pela MISA, continua a ocorrer. Uma súbita reforma de desenvolvimento fora do comum em 2002, todavia, cortada em 2003. Três anexações foram introduzidas pelo parlamento em 2002, o resultado de campanhas entre MISA-Zâmbia, o PAZA (associação de imprensa da Zâmbia que representa os jornalistas privados e associações), a associações dos jornalistas seniores e a associação da mídia das mulheres da Zâmbia.

Essas associações, conduziram muitos partidos MP's para oposição, que agora enumeram e constituem uma grande combinada maioria no parlamento e exige que o mesmo, considere um anexo de liberdade de informação; Um anexo de nova transmissão e de autoridade de transmissão independente.

Numa forma cínica para angariar popularidade, o governo apropriou-se dessas anexações da sociedade civil, foram tiradas e substituídas por contextos mais palpáveis para o governo. Um acto da IBA, foi introduzido na lei durante 2003. O problema é que até então, o governo nada implementou.

O acto da IBA, tira os plenos poderes do ministério da informação em termos de recompensa de licença para transmitir aos locutores não estaduais. Ao invés disso, o processo irá ser feito por um corpo representativo ratificado pelo parlamento. Atrasos na ratificação deste corpo significa que o ministério da informação, continua a exercer essa função. O governo recusa-se em devolver os direitos da ZNBC, mas, o acto da nova ZNBC, requer que a situação de transmissão estadual, passe para transmissão de interesse público servindo assim uma diversidade de pontos de vista político. O interesse vai ao longo do espectro. Isso também possibilita o governo de cobrar um pagamento ao público, para licença de televisão.

Fundos adicionais são adquiridos para substituir o antigo equipamento e facilidade de transmissão estadual. Na prática, todavia, o acto da IBA ainda não sotriu efeito, e a ZNBC, ainda não mudou, continua a exercer funções como voz do governo. O anexo da liberdade de informação, atingiu a segunda fase no parlamento, mas, súbitamente foi eradicado pelo governo alegando a sua implicação na “guerra contra o terrorismo”. Supostamente o assunto irá ser discutido amavelmente, numa breve sessão do parlamento.

O novo “acordo das leis e não dos homens” do presidente Levy Mwanawasa, apoia a acusação que não condiz com a prática. Durante o mês de Outubro de 2003, o presidente chamou a imprensa e pediu que não divulgassem constantes elogios ao governo mas sim, que divulgassem

críticas construtivas. Ao garantir trabalho aos editores privados, o mesmo pediu que se transmitisse e publicasse contextos de carácter críticos da sua administração. Algumas semanas depois, o serviço privado da (ZNBC) transmissão nacional da Zâmbia, que ia para o ar todas as manhãs, foi banido. O programa retrata os destaques do dia e da semana, apresentado por dois jornalistas independentes.

Para aumentar o insulto, recomendações que amanam a comissão de revisão da constituição e um indaba nacional, reunida pelo governo, durante 2003, não fez menção, do papel da mídia ou liberdade de expressão. A coalisação da sociedade civil na Zâmbia, desempenhou um papel muito importante e sem dúvida redobrar os esforços para lubrificar o processo da mídia, durante o corrente ano.

As alertas de 2003, apontam para emergência de novos temas, de importância profissional para os jornalistas e a MISA(ou um novo vigor de procedimentos), isso inclui o aumento de caso de difamação civil sendo compensado por contínuas litigancias, a emergência para mais concelhos independentes da mídia (corpos voluntários) ou tentativas de o fazer, estabelecimento de forum e editores nacionais; A preocupação acerca dos salários e as condições de trabalho de formas a dificultar para o apontamento estatutório das autoridades de transmissão independente, desenvolvida em volta da introdução ao acesso da legislação de informação, no levantamento da coalisação da sociedade civil (incluindo a associação dos jornalistas privados), para a advocacia da liberdade da mídia e os propósitos de reformas legais. Todos esses assuntos tem uma directa atenção da mídia e a qualidade do jornal na região da SADC.

Levando tudo isso em conta, isto é uma notável transição na MISA desde a sua criação em 1992, quando se relacionava exclusivamente dos assuntos de liberdade de imprensa na mídia e dedicava-se em dar assistência aos jornalistas e a mídia numa opressão no sector privado da mídia. A perseguição do pluralismo e a independencia no sector de transmissão finalmente chegou a um ponto. Muitos mais praticantes do ofício do sector privado estão mais envolvidos nos assuntos da MISA, alguns em sectores privados e outros através da coalisação da sociedade civil que a MISA esta a desenvolver com os mesmos.

Angola



BY ISMAEL MATEUS

2003 saw few developments within the media sector in Angola. This sluggish progress can be equated with the diminutive steps being taken to develop the fledgling democracy in Angola. Nonetheless, developments were noted in the previous year but it would be prudent to note that growth within the sector was irregular, and marked mainly by three characteristics:

- a) Excessive politicization of the media and excessive vulnerability to pressures from political agents.
- b) Lack of a growth strategy for the media
- c) A deepening division between state and private media based on a lack of training opportunities available to media practitioners. This has led to deepening divisions amongst the educated and less educated.

Obviously, the most critical of these situations is the lack of a strategic vision in the media, that once existing would lead to credible strategies to solve most of the problems facing journalists and journalism in Angola.

In a country that has recently emerged from civil war and where great social inequities are present, the lack of a vibrant regional and local press is blatantly evident. At present the media serves merely as a conveyor of 'state' information - no active investigative journalism is practiced and there certainly is no definitive move to review information rights.

There is an urgent need for the media to become involved in strategic national programmes. The media can play an important role in the fight against poverty, advocating for human rights and for an enabling legislative environment.

2003 did not register any effective alteration in how Government and the National Assembly (the two organs with legislative capacity) conduct itself with regard to the media. No law or executive decree directly related to the media was approved in the previous year. However, some laws that interfere with information rights and media activities - and which relate more to national development initiatives - were approved without any input from the media sector.

Among these laws proposed by the National Assembly is the State Secret law (Law 10/02) and another which deals with access to official documents (law 11/02).

Although there is general support to the State Secret law, journalists would like to see article 26 of the law altered. This law states that "anyone who (...) has access to classified information and materials (...) and proceeds to disseminate that information to the public without permission, is subject to penalties from six months to two years imprisonment'. During 2003 there was opportunity to debate this law and journalists condemned this particular clause saying that public interest reigns supreme. No extent of pressure from the media or public has impacted on the government's decision to retain this law.

Similarly law 11/02, which does not give special recognition to the need for journalists to access information, is retained on the statute books. Thus, these two laws, which in general are positive, do not increase the guarantees for greater access to information and media freedom.

An independent technical commission is currently reviewing the press law and have to date submitted a proposal to government... By middle February 2004 there was no official announcement about the direction the government intended to take. It is not clear whether the government intends to take it directly to Parliament or first have a public debate.

In terms of contents, the new draft press law results from contributions made by esteemed lawyers and the Union of Journalists. It is one of the few cases in Angola where such an arrangement was made and from the work has resulted a draft of 70 articles, fixed on four basic principles:

- Reform of state media organs to realize their public service mandate;
- Regulation (registration) of new media organisations;
- Editorial independence
- Media ownership

GOVERNMENT / MEDIA RELATIONS

As mentioned earlier, a law was passed in 2002 aimed at facilitating access to state information. This law unfortunately does not confer special privileges on journalists. Although the law provides guidelines to access information, journalists are still subject to slow and bureaucratic administrative proceedings.

At present the government does not have an official spokesperson. The Ministry of Social Communication would normally serve in this capacity. Although there is an office close to the office of the President which disseminates communiqués and press releases effectively, there is no official office where journalists can direct their queries regarding government positions. The access to government officials is therefore problematic and without a “right to answer” from the officials.

Even so, sporadically the national radio will carry comments by the Minister of Social Communication on news discussed within and outside the country. In numerous such sessions the Minister has criticized private media organisations, especially Radio Ecclesia, accusing it of supporting anti-government guerillas and of being in the service of foreign interests. Radio Ecclesia is currently awaiting government permission to extend its signal all over the country.

The situation in Angola can thus be considered as showing little progress. Deepening polarization of the media hinders all developmental attempts. In addition provincial legislatures interference in state-owned communication facilities, leading to an almost propagandist contents in favour of government and the ruler party.

Obviously this situation is not exclusive to Angola. There are several other countries worldwide that face the same dilemma, but in the case of Angola there is a great need to eliminate all obstacles that inhibit citizens from experiencing democracy in real terms.

Media standards and professionalism

As mentioned earlier, a ‘class system’ has developed in the Angolan media in terms of those who have official qualifications from tertiary institutions and those who do not. Furthermore, the absence of a code of ethics creates conflict as there are no guidelines for professionalism among practicing journalists. The only journalist statute is an old-fashioned document which does not respond to the current claims of class representative associations.

Responsibility for the development of such guidelines is shared by government and journalist associations. Government and public enterprises managers object to signing a collective agreement to improve the working conditions of journalists. In addition, tension between media associations and unions and deepening antagonism towards the government does not spell well for individual media practitioners who become more and more vulnerable to bribes to compensate low wages.

Angola



Por Ismael Mateus

Liberdade De Imprensa E Democracia Em Angola

Sendo certo de que há crescimento da imprensa em Angola, adoptamos que se trata de um crescimento irregular, marcado principalmente por três características:

- a) Excessiva politização do discurso da mídia, e excessiva vulnerabilidade a compromissos, jogos e pressões dos agentes políticos.
- b) Ausência de uma estratégia de crescimento para a comunicação social, de que resulte uma contribuição do sector, para o desenvolvimento do país e uma modernização técnica e conceptual do sector.
- c) Fragilidade da classe jornalística angolana que deriva da falta de critérios de admissão; da fraca consciência de classe, e da baixa formação académica.

Obviamente, a mais crítica destas situações é a ausência de uma visão estratégica sobre a comunicação social que, uma vez existente, levaria à definição dos caminhos para a solução dos problemas do jornalismo angolano. Num país em que não há imprensa regional e local, nem há rádios e televisão de âmbito nacional; num país saído da guerra e com todos os combates sociais ainda por travar, não faz sentido que a comunicação social continue a ser vista como um mero canal de divulgação de notícias.

É premente que a comunicação social passe a constar dos planos, não pelo modo como os deve cobrir jornalisticamente, mas pelo contributo que este sector vital para a circulação de conhecimento, pode dar para o desenvolvimento dos programas e planos estratégicos nacionais como o programa de luta contra a pobreza; o plano de combate das assimetrias geográficas ou ainda o programa de protecção dos direitos humanos.

Ambiente Legislativo

O ano de 2003 não registou qualquer alteração efectiva nos comportamentos do Governo e da Assembleia Nacional (os dois órgãos com capacidade legislativa) em relação à imprensa.

Não foi aprovada nenhuma lei ou decreto executivo directamente relacionado com a área da comunicação social. No entanto, foram aprovadas algumas leis que interferem com direitos protegidos pela liberdade de imprensa ou com o modo de desenvolvimento do país, sem que, para isso, se tivesse ouvido a opinião dos jornalistas.

Dentre as leis que interagem com a actividade jornalística, a assembleia nacional angolana aprovou sob proposta do governo, as leis do segredo do estado (lei 10/02), e do acesso aos documentos administrativos (lei 11/02.) ambas de 16 de Agosto de 2002. Esperava-se que em 2003, houvesse uma campanha de esclarecimento e sensibilização da administração do Estado, assim como se esperava que fosse criada junto do parlamento uma comissão de fiscalização. Ainda que, na generalidade, haja apoio à lei do segredo do Estado, os jornalistas gostariam de ver alterado o artigo 26º, da lei 10/02 que estabelece que “todo aquele que (...) tiver acesso a informações e materiais classificados (...) e proceder à sua divulgação pública sem autorização, fica sujeito a penas” de seis a dois anos de prisão.

Questionam os jornalistas se a sua responsabilidade ética é perante o interesse público ou perante o segredo do Estado, mas em 2003, não houve oportunidade de debate e a lei se mantém

tal como aprovada. O mesmo acontece com a lei 11/02, que não dá suficiente enquadramento do jornalista como interprete do direito à informação, ou seja, aquela lei deveria consagrar não só o acesso normal de cidadãos aos documentos administrativos mas, também um regime específico de acesso para jornalistas, enquanto interpretes de um direito à informação protegido pela constituição. Assim, estas duas leis que, na generalidade são positivas, não conseguem aumentar as garantias para um maior acesso à informação e de liberdade de imprensa. Nesta matéria o ano de 2003, não trouxe qualquer novidade, nem mesmo em relação a duas outras leis sobre as quais os jornalistas tinham expectativas, nomeadamente, a lei de bases do investimento privado (lei 11/03) e a lei dos incentivos fiscais e aduaneiros (lei 17/03).

Houve um sentimento de desilusão pelo facto do sector de comunicação social não ter sido incluído entre, os sectores de actividade aos quais, é permitido o acesso a incentivo e facilidades de operações de investimento. Ficou assim claramente definido pelo governo que o aparecimento de rádios e de jornais não é prioritário na estratégia de desenvolvimento do país.

Por fim, o ambiente legislativo foi marcado pelos trabalhos de uma comissão técnica independente que elaborou a proposta de revisão da lei de imprensa, entregue ao governo em Outubro. Até agora (meados de Fevereiro de 2004) não há oficialmente informação sobre que destino o governo pretende dar ao ante-projecto, ou seja, se o vai levar directamente para o parlamento ou se antes, o vai colocar a debate público. Em termos de conteúdo, o ante-projecto da nova lei de imprensa angolana resulta de contribuições de conceituados advogados da comissão e do sindicato dos jornalistas. É dos poucos casos em Angola, onde a concertação foi previamente feita. Do trabalho resultou um anteprojecto de 70 artigos, assentes em quatro princípios básicos:

- * O princípio da autonomia dos órgãos públicos de comunicação social;
- * O princípio do licenciamento autónomo dos novos órgãos de comunicação social;
- * O princípio da participação dos jornalistas nas decisões editoriais;
- * O princípio da quebra dos monopólios na rádio e na TV.

Toda a expectativa em torno de uma nova lei de imprensa vem morrendo pouco a pouco, sem que os jornalistas percebam porque razão se está a atrasar a discussão e aprovação do documento.

RELAÇÃO IMPRENSA/GOVERNO

Como aqui referido, foi aprovada em 2002, a lei do acesso aos documentos administrativos que, entretanto, não confere aos jornalistas uma condição diferenciada da dos restantes cidadãos, na procura e acesso à informação administrativa do Estado. Logo, oficialmente os jornalistas sujeitam-se aos lentos e burocráticos procedimentos administrativos para garantir o cumprimento do direito à informação.

Outro elemento de destaque na realidade angolana é que o governo angolano, não possui organicamente um porta-voz. O ministério da comunicação social, não tem exercido nem funcional nem organicamente, o papel de porta-voz do executivo. Apesar de existir um gabinete junto da presidência da república que faz circular com eficiência, os comunicados e press-release, não há uma entidade a quem os jornalistas possam dirigir regularmente perguntas sobre as posições do governo. O acesso aos membros do governo faz-se de modo aleatório e sem qualquer relação de “dever de resposta” da parte dos governantes.

Ainda assim, esporadicamente o ministro da comunicação social usa da palavra na rádio oficial para reagir com atraso e em comentários, a um molhe de notícias veiculadas dentro e fora do

país. Nalgumas dessas sessões, o ministro dirigiu críticas à imprensa privada, nomeadamente aos jornais privados e à rádio ecclésia, acusando-os de guerrilha informativa e de estarem ao serviço de interesses estrangeiros.

Há latente, ainda hoje, um conflito entre o governo e a imprensa privada por causa das críticas ao desempenho do governo, mas não só. A emissora católica espera pela autorização do governo para estender o seu sinal por todo o país enquanto que a imprensa privada espera pela prometida ajuda feita pelo governo.

A situação em Angola pode, assim, ser avaliada como sendo de lentos progressos, ou dito de outro modo, uma situação de progressos proporcionais aos da democracia. De resto, muitas condições que emperram avanços mais rápidos da liberdade de imprensa, dependem unicamente da solidez da democracia, nomeadamente:

- * A existência de células partidárias nos órgãos de comunicação público, que dão aval para a nomeação dos responsáveis editoriais.
- * A interferência dos governos provinciais, nos conteúdos da comunicação social do Estado e os conteúdos, quase propagandísticos, a favor do governo e partido no poder.
- * A excessiva concentração de órgãos na capital centralizando, também os critérios e os modelos de representação quer seja cultural, étnico como racial.

É óbvio, que não se trata de uma situação exclusiva de Angola. Há muitos outros países no mundo que vivem esse dilema, mas no caso angolano, por se tratar de um país com uma premente necessidade de eliminar novos focos de conflito, torna-se urgente a criação de mecanismos práticos que passem a democracia do papel para o dia a dia; que tornem a vida igual para todos, que os cidadãos, as pessoas, os partidos políticos, as ONGs tenham a mesma atitude perante a lei e tenham as mesmas oportunidades a todos os níveis.

Fraternidade na comunicação Social.

A constatação inicial que aqui fizemos referia a fraqueza e a vulnerabilidade da classe jornalística angolana. O facto de não existir uma carteira profissional nem critérios estabelecidos para admissão de jornalistas, leva a que qualquer cidadão possa ser jornalista. Não há nenhum mecanismo de auto-regulação que penalize ou censure comportamentos pouco éticos, ou seja não há nem carteira profissional nem ética profissional, cuja fidelidade se pode cobrar a um jornalista. O próprio estatuto do jornalista, é hoje um documento desactualizado e não responde às principais reclamações das associações representativas da classe.

A responsabilidade neste estado de coisas é partilhada entre o governo e as associações de jornalistas. O governo e os responsáveis das empresas públicas criam dificuldades para a assinatura de um acordo colectivo, que resolveria alguns dos problemas dos jornalistas mas entre os próprios jornalistas existem os que, para agradar o governo, criam dificuldades à sua própria classe. De resto continua a manter-se uma aparente críspação entre sindicato a União dos jornalistas angolanos, sem que exista, na verdade, qualquer antagonismo, para além da atitude perante o governo.

Desde modo, não é possível dizer-se que em Angola há já uma consciência de classe dos jornalistas. O retrato dos jornalistas em Angola está ainda demasiado marcado pela existência de baixos salários, de criação de pequenos grupos de privilegiados que recebem benesses e luxuosas ofertas ou, ainda pelo facto dos jornalistas não se conseguirem agrupar numa única organização.

Botswana



by BUGALO MARIPE

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The period October 2002 to October 2003 was characterised by significant developments, both positive and negative in the media industry. In some cases, the developments were imbued with discernible yet covert ambivalence, creating a picture of uncertainty. On the positive front, the Press Council of Botswana was established on the 28 October 2002, through a Deed of Trust registered at the Deeds Registry Office and officially launched on 28 February 2003. The Council became a legal entity with rights and responsibilities and powers to enter into legal relations. Its outstanding features are the powers of the Press Council to act as a self regulating body, regulating the affairs of media practitioners. This includes disciplinary powers over offenders of a code of ethics developed by the media profession and enforced by the Press Council as well as powers to adjudicate over complaints brought by members of the public against members of the media fraternity who subscribe to the code. This is in direct response to Government's indication of a move to control the private press, especially the printed press in its Draft Mass Media Communications Bill of 1997.

The draft has not yet become law after six years largely due to spirited resistance from the media fraternity against its draconian nature. The effect of this resistance was evident at the launch of the Press Council in February 2003, where the Minister of Science, Communications and Technology made an undertaking that the draft bill would be revised, but that the media fraternity should show a commitment to effective self-regulation. The emergence of the Press Council, based on the Deed of Trust should be seen partly as an effort demonstrating that commitment.

However, this does not suggest that Government has abandoned the draft bill altogether. Rather, it is still proposing a statutory regulatory scheme, and has invited the media fraternity to submit counter proposals. The Press Council has commissioned a consultancy for this purpose. Thus it could be said, perhaps at the risk of expressing a premature sense of optimism, that to some extent government has opened up to views from the stakeholders in the media.

On 31 October 2003, one of the oldest weekly newspapers in the country *Mmegi* became a daily publication. This move was received with mixed feelings from different quarters. This decision means that *Mmegi* can now compete with the State owned *Daily News*, and more so since Government had taken a deliberate decision to commercialise the paper. This position has serious ramifications for the private press, in that it now places the latter at the risk of financial bankruptcy since the advertising rates for the *Daily News* are not market driven, and production of the paper is made possible through public funds, to which the other papers contribute by way of taxes. By going daily, *Mmegi* has, whether wittingly or unwittingly tried to minimize this risk. Viewed from this perspective alone, the decision by *Mmegi* is to be welcomed. The only question is whether this is sustainable. The publishers are optimistic and it is up to every person concerned with democratic values to support in every manner possible, this noble exercise.

Another development of state media, concerns the division of the Government Department of Information and Broadcasting (DIB) into two departments. The new departments, effective mid September 2003, are Broadcasting Services including Radio and Television, and Information Services encompassing printing and publishing, which includes the *Daily News* and other Government publications like *Kutlwano*.

The motivation behind the split was given that the original department had become too big, was becoming less effective in its portfolio responsibilities and less focused. As the two departments enjoy some apparent specialities in terms of focus, it is believed that the discharge of their functions and responsibilities will be more efficient and conducive to better service delivery.

On 22 October 2003 *The Botswana Guardian* celebrated its 21st anniversary. In a speech delivered at the occasion, the Minister for Presidential Affairs and Public Administration, the Honourable D.K. Kwelagobe accused the paper of sometimes being “a bit too creative with the truth”. He cited the tendency to fabricate issues with a view to good sales and of carrying headlines that are “there for no other reason than to boost circulation through the old scam and switch.” While dispelling any suggestion that Government had a desire to control and censor the private press, and dismissing such suggestions as baseless, he said:

“This does not mean that we will not criticize any newspaper or broadcaster that engaged in false or abusive reporting, or otherwise falls short of what we would consider to be the minimum ethics and standards of the profession. In this regard our concern is not a question of what topics you report on, but rather how you go about reporting them.”

This statement is quite loaded in that it suggests that Government has its own set standards and anything outside of this would constitute a violation and deserve censure and that the state is implicitly prescribing a particular manner of reportage.

This renewed concerns about the government’s position and desire to control the private press. In an effort to placate those concerned, the Minister “re affirmed” that government fully appreciates the potential of the domestic press as a key partner in development. He congratulated the paper “for playing a positive role in the development of our country. In enlightening Batswana and in providing information and, indeed, in exposing certain misdemeanours in our society, *The Guardian* has performed the function of a partner in development and the consolidation of democracy.”

While this may be standard in a democracy, it so happens that in practice state officials usually act in ways that are in conflict with this spirit, and it would be, a very naïve private press that will live in the comfort of assurances as given by the Minister and expend less energies on efforts to promote true press freedoms.

There was not much activity on the judicial front, although two cases merits specific mention. In the case of the former Deputy Attorney General, Abednego Tafa and the newspaper *Mmegi*, the former sued the latter for damages for defamation, which was settled by agreement and eventually made an order of court in May 2003. Between March and November 1999, *Mmegi* carried a number of articles in which it was alleged that Mr Tafa had been involved in corrupt dealings with a certain Nicholas Zakhem, a man who had confessed in court that he had bribed several government officials. Mr. Tafa issued summons alleging defamation. The settlement was by publication of an apology and retraction of the contents of the articles and payment of Pula 225 000. This was the second case where such a large sum of money has been paid by a private newspaper, the first being payment of Pula 225 000 to a High Court judge who had also sued *Mmegi* for damages arising from defamation. These amounts are in no way insignificant, and if this trend is maintained, papers risk closure, and this is all the more serious in an economy where turnovers are generally low. It is even more disturbing to learn that there are more cases of the same nature that are still to be decided, one of the pending ones, being the case of Mr. (Justice) Phumaphi against *The Voice*, an independent weekly.

In July 2003, *The Botswana Gazette*, another independent weekly, was slapped with a demand for payment of Pula 10 000 000 (Ten million Pula) in damages for publishing a story that quoted the Vice-President of the Botswana Confederation of Commerce, Industry and Manpower (BOCCIM), an employer's organisation, in which he allegedly cited problems faced by citizen owned construction companies in relation to tenders for government jobs. Mr. Modise allegedly attributed the problem to the prevalence of Chinese companies and further alleged that Chinese companies found favour with government because of their below market rates. He is also alleged to have accused the Botswana Government of supporting corruption by awarding tenders to Chinese construction companies when most of them, it was alleged, had been found guilty of bribery.

The Botswana Gazette refused to apologise but the matter was settled after the intervention of the Chinese Embassy in Gaborone at the instance of BOCCIM and the Chinese companies, where it was felt that litigation was not good for Sino-Botswana relations. MISA Botswana issued a statement expressing concern regarding rushing to the courts for financial settlements and suggested that the parties work through the new Press Council of Botswana in such cases.

The large sums of money in question, whether ordered by a court after trial or arising from settlement agreements, are significant enough to produce a chilling effect on the effective discharge of the responsibilities of the private media. This is cause for concern for the restricting effect it has on press freedoms.

Botswana



BUGALO MARIPE

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O período de finais de Outubro de 2003, foi caracterizado por desenvolvimentos significativos, tanto positivos como negativos, na indústria dos média. Em alguns casos, os desenvolvimentos estavam impregnados com uma ambivalência discernível mas, também dissimulada, criando um cenário de incerteza. Do lado positivo, o Conselho de Imprensa de Botswana foi fundado em 28 de Outubro de 2002, através de um Registo de Confiança registado no Escritório de Registos de Confiança e lançado em 28 de Fevereiro de 2003. Desta forma, o Conselho tornou-se uma entidade legal com direitos, responsabilidades e poderes para entrar nas relações legais.

As suas características proeminentes, de acordo com o Registo de Confiança, são os poderes do Conselho de Imprensa para actuar como um corpo auto-regulador, regulando os assuntos dos profissionais dos média, e com uso de poderes disciplinares sobre ofensões ao código de ética desenvolvido pela profissão dos média e levado a cabo pelo Conselho de Imprensa bem como, os poderes para adjudicar sobre queixas trazidas pelos membros do público contra membros da fraternidade dos média, que se subscrevem ao código. Isto era feito, em resposta a indicações de que o Governo queria controlar a imprensa privada, especialmente a Imprensa Impressa, estas indicações consistiam os assuntos principais do Plano da lei de Comunicações dos Média em Massa em 1997.

A razão pela qual este plano não se tornou lei após seis anos, é devido ao espírito de resistência da fraternidade dos média contra uma relativa ordem draconiana, esta resistência, poderia ser considerada com sucesso à medida que, no lançamento do Conselho de Imprensa em Fevereiro de 2003, o Ministro de Ciências, Comunicações e Tecnologia, fez uma nota dizendo que o plano seria revisto, mas a Fraternidade dos Média estava convidada a mostrar obrigação a uma auto-regulação efectiva. A emergência do Conselho de Imprensa, baseada no Registo de Confiança deveria ser em parte um esforço demonstrado dessa obrigação.

No entanto, isto não sugere que o Governo abandonou de todo o plano. O Governo está inclinado num esquema regulador estatutário, e convidou a Fraternidade dos Média para, submeter contra propostas e o Conselho de Imprensa efectuou uma consulta para este efeito. Logo, poderia ser dito que, talvez com um certo risco de expressar um senso de optimismo prematuro que, alguma extensão do governo abriu o caminho para os que quisessem correr riscos.

Em 31 de Outubro de 2003, um dos jornais mais antigos do país, o *Mmegi* que, até agora era semanal, tornou-se uma publicação diária. Este acto foi visto com sentimentos contraditórios de lados diferentes. Esta decisão significa que, o *Mmegi* pode agora competir com o *Daily News*, pertencente ao estado, e mais ainda que, o governo tomou a decisão de comercializar o jornal. Esta posição tem sérias ramificações na imprensa privada, porque agora coloca o último em risco de bancarota financeira já que, as taxas de publicidade do *Daily News* não são guiadas pelo governo, e a produção do jornal só é possível pelos fundos do público, pelos quais outros jornais, contribuem por meio de taxas.

Ao tornar-se diário, o *Mmegi* têm tentado, propositadamente ou não, minimizar este risco. Vista só por esta perspectiva, a decisão do *Mmegi* é bem vinda. A única questão é, saber se esta

decisão vai ser sustentável. Os editores estão optimistas que irá ser. Está nas mãos de cada indivíduo, interessado e, com valores democráticos em suportar de qualquer forma possível, este nobre exercício.

Outro desenvolvimento diz respeito ao dividir o Departamento Governamental de Informação e Radiodifusão em dois departamentos. Os novos departamentos, efectivos em meados de Setembro de 2003, são Serviços de Radiodifusão onde estão a Radio e Televisão, e Serviços de Informação no qual fica a impressão e publicação do *Daily News* e outras publicações como o *Kutlwano*. O razão que motivou esta divisão, foi o facto de que o departamento original tinha-se tornado muito grande, e tornava-se pouco eficiente nas responsabilidades da pasta ministerial, e estava menos determinado. Como ambos os departamentos gozam de especialidades aparentes em termos de concentração, acredita-se que a libertação das suas responsabilidades e funções será mais eficiente e conduzirá um serviço de entrega mais eficiente.

Em 22 de Outubro de 2003, o *Botswana Guardian* celebrou o seu 21º aniversário. Num discurso feito para a ocasião, o Ministro para os Assuntos Presidenciais e Administração Pública, o Ilustre D.K. Kwelagobe acusou o jornal de por vezes ser ‘um pouco criativo demais com a verdade’ e de ter a tendência de fabricar assuntos com vista em melhorar as vendas, bem como a tendência de fazer títulos que são ‘sem qualquer outra razão senão para aumentar a circulação por meio de do antigo ‘fazer crer numa coisa e depois alterá-la’. Enquanto afastava qualquer sugestão de que, o Governo tinha a ideia de controlar e censurar os media privados, e rejeitando tais sugestões como sem fundamento, ele disse:

“Isto não significa que nós não iremos criticar qualquer jornal ou transmissora que empreenda reportagens falsas ou abusivas, ou então ficaria sem efeito o que nós consideramos ser o mínimo de padrões e ética da profissão. Tendo isto em mente, a nossa preocupação não em questão aos tópicos da reportagem, mas como é que essa reportagem é feita”. (ênfase)

Esta declaração, é bastante pesada devido ao facto que sugere que o governo já tem os seus padrões definidos, e qualquer coisa fora deles poderá constituir uma violação e ser alvo de censura, e que o estado é implícito ao prescrever uma forma particular de reportagem.

Logo isto, renova as preocupações sobre a posição e desejo do governo em controlar os média privados, embora para apaziguar aqueles preocupados o Ministro ‘reafirmou’ aprecia totalmente o potencial que, a imprensa do país têm como elemento chave no desenvolvimento. Ele congratulou em particular os jornais “por muitas vezes terem tido um papel positivo no desenvolvimento do nosso país”. Em elucidando Botswana, providenciando informação e, de facto, em expor certos delitos leves na nossa sociedade, o *The Guardian* executou, a função de um parceiro no desenvolvimento e na consolidação da democracia”.

Embora seja algo que, deveria acontecer num meio democrático livre, o que acontece na prática é que oficiais do estado actuam de forma em conflito com este espírito, e seria, uma imprensa bastante ingénua que iria viver confortável com as promessas dadas pelo Ministro e gastar menos energia em esforços em promover verdadeira liberdade para a imprensa.

Não houve muita actividade na frente judicial. Um caso com mérito é mencionado aqui. O caso que envolveu o antigo Deputado Procurador Geral, Abednego Tafa e o jornal *Mmegi*, nos termos do qual, o primeiro processou o segundo por prejuízos por difamação, que ficou acordado em acordo comum e eventualmente feita uma ordem em tribunal em Maio de 2003. Entre Março e Novembro de 1999, o *Mmegi* conduziu um número de artigos, cerca de 13 no total, no qual era alegado que o Sr. Tafa tinha estado envolvido em negócios de corrupção com um certo

Nicholas Zakhem, um homem que confessou em tribunal que ele tinha subornado diversos oficiais do governo.

O Sr. Tafa mandou intimações alegando difamação. O acordo foi através da publicação de um pedido de desculpas e retracção do conteúdo dos artigos e pagamento de cerca de 225.000.00 pula. Este foi o segundo caso onde esta magnitude de dinheiro tinha sido paga por um jornal privado. A primeira tinha sido o pagamento da soma de 225.000.00 pula a um juiz do Tribunal Supremo que também processou o *Mmegi* danos surgidos de difamação. Os montantes não são de todo insignificantes, e se esta tendência se mantêm, os jornais arriscam-se a encerrar, e isto se torna mais sério numa economia como a do Botswana onde as mudanças de posição são escassas. É ainda mais distributivo aprender que há mais casos da mesma natureza que ainda estão por decidir, um dos que estão pendentes, é o do Sr. Phumani (da Justiça) contra um semanário independente, o *The Voice*.

Em julho de 2003, o *The Botswana Gazette*, outro semanário independente, foi esbofetado com uma intimação para pagamento de 10 000 000.00 pula (dez milhões de pulas) por danos ao publicar uma história citava o Vice-presidente da Confederação de Comércio, Indústria e Poder Laboral de Botswana (BOCCIM), uma organização de patronatos, que alegadamente citavam problemas citados por cidadãos donos de companhias de construção em relação a orçamentos para trabalhos governamentais. O Sr. Modise alegadamente disse que companhias Chinesas estavam a favor devido às suas taxas abaixo do mercado. Ele também alegou em ter acusado ao Governo de Botswana de ter favorecido a corrupção ao conceder orçamentos a companhias de construção Chinesas quando as maiorias delas, alegadamente, eram acusadas de subornos.

O *Botswana Gazette* recusou-se em pedir desculpas, mas, o assunto sossegou após a intervenção da Embaixada Chinesa em Gabarone por insistência da BOCCIM e das companhias Chinesas, ao sentirem que o litígio não era bom para as relações Sino-Botswana. Além disso, a MISA Botswana tinha entregado uma declaração expressando a sua preocupação ao precipitar-se em acordos financeiros em vez de usar o processo disponível do Novo Conselho de Imprensa de Cumprimentos de Botswana.

Os montantes em questão fossem eles ordenados após ordem de tribunal ou surgissem por acordo, são significantes o suficiente para produzir efeitos de arrepiar no cumprimento das responsabilidades dos media privados. Isto é causa de preocupação porque têm um efeito restritivo na liberdade da imprensa.

■ ALERTS

• **DATE: July 6, 2003**

PERSONS/INSTITUTIONS: Botswana Gazette

VIOLATIONS: Legislated (sued)

The *Botswana Gazette* newspaper has been sued for damages amounting to 10,000,000 Pula (approx. US\$200,000) for publishing a July 2 2003 story entitled, “Protect citizen contractors against Chinese”.

The article quoted Mogolori Modisi, vice-president of the Botswana Confederation of Commerce, Industry and Manpower (BOCCIM), addressing an annual general meeting in which he allegedly cited problems faced by citizen-owned construction companies when bidding for government contracts.

Modisi reportedly attributed the problem to competition between local and Chinese companies, saying that the Chinese companies were not subject to market forces because they received financial support from their government. The statements he made about what he termed “unfair competition” have now become the basis for a claim for damages against the newspaper. Modisi is also alleged to have accused the Botswana government of supporting corruption by continually awarding contracts to Chinese construction companies, even though most of them had been found guilty of bribery.

On July 16, Armstrongs Attorneys Notaries and Conveyancers, acting on behalf of ten Chinese construction companies, sent a letter to *Botswana Gazette* in which they said, “the article is defamatory and derogatory to all Chinese construction companies operating in Botswana.”

• **DATE: August 8, 2003**

PERSONS/INSTITUTIONS: Jacob Kamodi

VIOLATIONS: Beaten

On August 8 2003, Charles Kidega, a freelance sub-editor for *Business and Financial Times* magazine, assaulted Gabz FM radio host Jacob Kamodi in the station’s reception area. Kidega alleged that Gabz FM had failed to air the magazine’s advertisements.

• **DATE: September 6, 2003**

PERSONS/INSTITUTIONS: Booster Galesekegwe, Kagiso Sekokonyane

VIOLATIONS: Beaten, censored

On September 6 2003, the paramount chief of the Batawana tribe, Tawana Moremi, physically attacked Booster Galesekegwe, a photojournalist from the weekly *Mmegi* newspaper, and broke his camera. Moremi also attacked Kagiso Sekokonyane, acting editor of *Mmegi Monitor*, *Mmegi*’s sister newspaper.

• **DATE: November 13, 2003**

PERSONS/INSTITUTIONS: Radio Botswana

VIOLATIONS: Censored

Botswana’s government suspended a segment of Radio Botswana’s popular morning programme “Masa-a-sele” (“Morning has broken”), saying, “it is not accountable.”

On November 13 2003, *Mmegi* newspaper reported that the phone-in segment of the programme would be suspended. As a result, “Masa-a-sele” will become a predominantly “music and announcement” programme, rather than the interactive programme it formerly was.

Communications, Science and Technology Minister Boyce Sebetela said that the suspension is indefinite. Sebetela claimed that the phone-in programme had “lost direction and was out of touch with journalist etiquette.”

Lesotho



by **THABO MOTLAMELLE**

Thabo Motlamele is a lawyer turned journalist with long experience in the Lesotho, regional and international media. He has worked for the BBC, Radio France International, The Star Foreign News Service, the Times of Swaziland and Public Eye. Presently he runs a media consultancy in Lesotho.

Since the advent of democratic rule in 1993, the Lesotho media has operated under a relatively free constitutional dispensation that extends a general protection of the freedom of expression to all citizens. The legal framework however leaves much to be desired. Several media-unfriendly laws still exist on the statute books and ought to be repealed. These include the Sedition Proclamation of 1937 and the Internal Security Act of 1984 amongst others. Government has yet to actively promote a media friendly legislative and policy framework through the enactment of media friendly laws such as a Freedom of Information (FOI) law and the introduction of an all-inclusive media policy.

Towards the close of 2003, the Principal Secretary in the Ministry of Communications, T_liso 'Mokela, on the occasion of the first ever Editors' Forum, promised that the Access and Receipt of Information Bill, drafted in 2000 by the Law Review Commission, would finally see its day in Parliament at the start of 2004. The editors suggested however that they would like to put the legislation to the litmus test of the Article XIX Principles on what FOI legislation should contain before its passage to Parliament.

Despite this promise, the relationship between government and the private independent media remains uneasy. Senior government officials, especially ministers, routinely avoid interviews and radio phone-ins with the privately owned media. The media also adroitly avoids confrontation with state officials by turning a blind eye to many incidences of corruption within the state machinery for fear of reprisals through withdrawal of government advertising. Government advertising sustains most media establishments.

The result has been no "direct government harassment including threats, injury to persons, assassinations, restrictive legislation, expulsion and/or exclusion from the country or censorship" as quoted by Set_abi Set_abi in the 2001 *So This Is Democracy*?

Lesotho's financially weak media has however faced some of these threats from different quarters. They have come in the form of a litany of defamation cases instituted by private individuals and political figures, within and outside the government. Since MoAfrika radio faced closure for alleged failure to make good on a payment of ZAR167 000 owed to Moeketsi Sello MP as compensatory and punitive damages for defamation, numerous plaintiffs have instituted defamation cases against the media.

An attempt to shut down MoAfrika radio through the issue of a writ of execution on behalf of Sello came on 15 May 2003. This was despite the fact that Sello had obtained judgement against *MoAfrika* newspaper, owned by CR Communications (Pty) Ltd. and not MoAfrika radio, owned by Third World Evangelical Movement for Human Rights and Democracy, a registered NGO.

Government could only see Ratabane Ramainoane the CEO, President and Editor of both media establishments respectively behind these actions. It would be naïve to assume the writ had been issued by Sello on his own initiative at a time when MoAfrika radio was also being

very vocal about government buying its ministers expensive Mercedes Benz Compressors while simultaneously seeking food donations for the starving poor in Lesotho. *Public Eye* newspaper faced a ZAR200 000 defamation suit from 'Makhopotso Lebona MP, the President of the major opposition Basotho National Party (BNP) Women's League over an article that claimed she had set a government vehicle issued to the former BNP deputy leader on fire in a jealous rage.

The paper was also sued by Molapo Qhobela MP, leader of the opposition Basutoland African Congress (BAC) seeking ZAR750 000 for defamation over an article that said he may have misappropriated ZAR1 350 belonging to the Basutoland Congress Party (BCP), of which he was leader before being deposed through a court case.

Mopshatla Mabitle MP, former Minister of Home Affairs sued *MoAfrika* newspaper for ZAR150 000 over a report that he may have been seen depositing cheques far in excess of his ministerial salary in 2000. *MoAfrika*, ever controversial, also faced a legal suit for ZAR2 million from businessman Cowson Seipobi over a 1996 article that reported on a rape case against him.

Retired army Colonel Mohanoe Lefosa sought ZAR70 000 from MoAfrika radio over a phone-in by a Catholic nun, Sister Christenia Mosito that he had vandalized church property during the 1998 political unrest. Advocate Haae Phoofole demanded ZAR200 000 from the ruling party mouthpiece, Mololi over its claim that he was in the habit of procrastinating and then withdrawing from cases he was likely to lose.

Mohahlaula newspaper, whose proprietor and editor, Afrika Molungoa passed away in 2003, faced a ZAR200 000 defamation suit from Minister of Trade and Industry, Mpho Malie over an article that claimed he had allowed the construction of sub-standard factories in the country. It is worth noting that some of the above incidents had taken place as far back as the 1980s.

The plaintiffs were encouraged by Sello's success against *MoAfrika* to pursue litigation. A statute of limitations (time-frame) within which a plaintiff can sue for defamation from the date of publication should be introduced to dissuade people with frivolous claims from trying to enrich themselves at the expense of the media. The unreasonably high claims by plaintiffs should also be discouraged. Mopshatla Mabitle, one of the plaintiffs cited above, sought relief amounting to hundreds of thousands of Rands against *The Mirror* but backed down when he was offered ZAR10 000 in cash or payments of ZAR25 000 over 12 months in an out-of-court settlement.

MISA-Lesotho should deploy the Media Legal Defense Fund (MLDF) in these cases with a brief for the lawyer to argue that the ridiculously high sums sought by plaintiffs will throttle alternative views by crippling the independent media. Mabitle's negotiated settlement must be used as a quantum of damages a plaintiff can seek. In court, plaintiffs must be made to quantify how they arrived at the amounts being requested.

To stem the tide of these defamation claims, the media fraternity and Government must urgently engage in honest deliberations that will lead to the formation of an all-inclusive media policy. Such policy should include self-regulation mechanisms, such as a media Ombudsman and/or a media council. Aggrieved people would have to take their grievances to these bodies before they could go to court.

The policy would have to include strategies for the freeing of regulatory mechanisms such as those in the broadcast and telecommunications sector. A case in point is the Lesotho Telecommunications Authority (LTA). It should set up frameworks for converting state run broadcasters into public utilities. Strategies for the development of ICTs must be incorporated in such a policy.

There would be a Code of Ethics to which all media practitioners should be bound and appropriate sanctions meted out by the self-regulation bodies.

The policy should allow for the formation of a media workers trade union. This comes in the wake of numerous expulsions of staff from *Public Eye* and *MoAfrika* amidst claims that some of them had been involved in embezzlement of funds. Both media establishments had expelled up to 17 staff. The figure is inclusive of radio presenters, journalists and administrative staff. Though MoAfrika Editor Candi Ramainoane believes the Lesotho media to be too small to accommodate a trade union, workers' rights and those of the employers can only be protected in an environment where there are workers' unions and employers' groupings.

Government in 2003 attempted to inform the public of the functions of different ministries through a series of state run radio and television broadcasts hosted by ministers. The Minister of Finance, Dr. Timothy Thahane went to the National Convention Centre (NCC) after delivering the budget speech and asked those present to ask him any question on the speech. All ministers avoided taking their explanations to the private independent radio stations.

The scramble for places in the small Lesotho TV studio and the many questions thrown at the ministers indicated the hunger for information Basotho (people of Lesotho) have. It remains to be seen whether Dr. Thahane will make good on his promise to set up information centres with television screens and telecommunications technology to allow rural folk to participate in the inquest of the 2004 budget.

Government's misplaced belief in its Public Relations Officers will have to be reviewed. Not all government ministries have PROs and for those that do have them, these act more as buffer zones against journalists on the quest for information than as agents of information sharing. Equally, it has to be taken into consideration that people's information needs differ and cannot all be addressed by PROs.

In Lesotho, certain media are favoured with information while others are denied access. South African media, especially SABC TV journalists and Lesotho's police newspaper journalists are favoured with information against those from the local private media.

Local journalists were denied access to engagements by the British Princess Royal during her visit in 2003 and reporters of *Mopheme* newspaper were denied information surrounding the death of army Colonel, Clifford Polisa. In the case of the former, the South African media were allowed entry to the royalty events and in the latter, the police newspaper that week published a full expose of the Polisa story. Some government ministries and parastatals officials do not start events unless a Lesotho TV crew is in attendance.

An unpalatable event in 2003 was the stoning of journalist Thabo Thakalekoala and his stable-mate in Mopheme, T_episo Mcina by a marauding mob of street vendors angry at being forced to vacate city pavements where they peddled their wares.

The Lesotho media fraternity welcomed among its ranks Harvest FM radio owned by the Harvest FM Trust, an evangelical movement. The other new kid on the block was *Mosotho* newspaper, the Sesotho language sister of *Public Eye* owned by Voice Multimedia. Its formation was based purely on business considerations to produce a full-colour Sesotho language newspaper.

All in all, the Lesotho media landscape did not improve or regress much in 2003. Some promises have been made and performance on them shall have to be monitored rigorously in the years to come.

Lesotho



THABO MOTLAMELLE

Thabo Motlamele é um jurista que se tornou jornalista com longa experiência nos média de Lesotho e a nível regional e internacional. Trabalhou para a BBC, Rádio France Internacional, The Star News Service, Times of Swaziland e Public Eye. Presentemente, dirige uma firma de consultoria dos média no Lesotho.

Desde o advento da lei democrática em 1993, os órgãos de comunicação social do Lesotho têm operado sob um sistema constitucional relativamente livre, que garante uma protecção geral da liberdade de expressão a todos os cidadãos. O quadro legal deixa, contudo, muito a desejar. Existem ainda muitas leis para os média hostis nos códigos de leis dimanadas do Parlamento que clamam pela sua rejeição. Entre elas inclui-se a Proclamação de Sedição de 1937 e a Acta de Segurança Interna de 1984, entre outras. O Governo tem ainda que promover activamente um quadro legislativo e político para os média que seja amigável, através da promulgação de leis dos média amigáveis, tais como a lei de Liberdade de Informação (FOI) e a introdução de uma política dos média totalmente inclusiva.

Lá para finais de 2003, o Secretário Principal junto do Ministério das Comunicações, Tseliso Mokela, prometeu no primeiro Forum de Editores que, o Acesso e a confirmação de recepção da Proposta de Lei da Informação, elaborada em 2000, pela Comissão de Revisão da lei, poderia finalmente ver chegado o seu dia no parlamento, em princípios de 2004. Os editores gostariam, contudo, de sujeitar a legislação a uma análise dos Preceitos do Artigo XIX em que a Legislação da Liberdade de Informação deve conter, antes da sua passagem para o Parlamento.

Mau grado a promessa, o relacionamento entre o governo e os média independentes privados continua inquietante. Funcionários seniores do governo, especialmente ministros rotineiramente evitam entrevistas e comunicações telefónicas pela rádio com órgãos de informação privados. Os média também habilmente evitam a confrontação com funcionários estatais, fazendo vista grossa a muitos incidentes de corrupção dentro da máquina do Estado, com medo de represálias, através da retirada da publicidade governamental, que constitui a base de sustento da maioria dos órgãos de comunicação social.

O resultado tem sido a “não perseguição directa por parte do governo, incluindo ameaças, injúrias as pessoas, assassinatos, legislação restritiva, expulsão e/ou exclusão do país ou censura” referida no Setsabi Setsabi em 2001. Assim é a Democracia.

Os médias do Lesotho financeiramente fracos têm contudo, enfrentado algumas destas ameaças de diferentes quadrantes, que têm surgido em forma de uma litaia de casos de difamação instituída por individualidades privadas e figuras políticas, dentro e fora do governo. Desde que a rádio MoAfrika esteve quase na iminência de fechar por alegada mal sucedida resposta ao Rand 167 000-00 devida a Moeketsi Sello, como compensação por danos compensatórios e punitivos por difamação, numerosos queixosos instituíram casos de difamação contra os média.

Uma tentativa de silenciar a rádio MoAfrika, através da emissão de um mandado judicial de execução em nome de Sello apareceu em Maio de 2003, a despeito do facto de Sello ter logrado levar a julgamento o jornal MoAfrica, propriedade do CR Comunicações (Pty) Ltd, e não a rádio MoAfrika, propriedade do Movimento Evangélico do Terceiro Mundo para os Direitos Humanos e Democracia, uma ONG registrada.

O governo via apenas Ramainoane, Presidente e Editor de ambos os média como estando por detrás de todo o sarilho. Seria ingénuo assumir que o mandado judicial tinha sido emitido por Sello, por sua própria iniciativa, numa altura em que a rádio MoAfrika estava sendo muito persistente no caso de o governo estar a comprar para os seus ministros lustrosos e brilhantes Compressores Mercedes Benz, numa altura em que o Lesotho estava a solicitar donativos em bens alimentícios para os pobres esfomeados.

O Jornal *Public Eye* enfrentou um processo envolvendo ZAR 200 000.00 de indemnização por difamação, movido por Makhopotso Lebona, Presidente da Liga Feminina do maior partido da oposição, o Partido Nacional Basotho (BNP), num artigo em que se dizia que ela tinha ateado fogo a uma viatura do governo atribuída ao antigo líder-adjunto do BNP, na sequência de uma colérica cena de inveja.

O jornal foi também processado por Molao Qhobela, líder do partido oposicionista Congresso Nacional de Basutoland (BAC), pedindo uma indemnização de ZAR750 000.00 por difamação, na sequência de um artigo que dizia que ele se teria apropriado indevidamente de ZAR1 350.00 pertencentes ao Partido do Congresso de Basutoland (BCP), de que fora líder antes de ser deposto através de um caso judicial.

Mopshatla Mabitle, antigo Ministro dos Interior, processou *MoAfrika*, exigindo uma indemnização de ZAR10 000.00 devido a uma reportagem aludindo que ele teria sido visto a depositar cheques num valor de longe superior ao seu salário, em 2000. *MoAfrika*, sempre controverso, também enfrentou um processo legal na ordem de 2 milhões de randes, movido por um homem de negócios, Cowson Seipobi, na sequência de um artigo de 1996, reportando um caso de rapto contra ele.

O já reformado coronel do exército, Mohanoe Lefosa pediu ZAR70 000.00 à rádio MoAfrika, na sequência de um telefonema de uma freira católica, Irmã Chrisentia Mosito, que o acusava de ter vandalizado a propriedade da igreja durante a agitação política de 1998. O advogado Haae Phoofolo exigiu ZAR200 000.00 ao porta-voz do partido no poder, Mololi por este ter declarado que ele tinha o hábito de enganar para, se livrar de casos em que provavelmente sairia a perder.

O jornal *Mohahlaula*, cujo foi proprietário e editor, Afrika Molungoa, falecido em 2003, enfrentou uma multa de ZAR200 000.00 na sequência de um processo por difamação, movido pelo Ministro de Comércio e Indústria, Mpo Malie, devido a um artigo que aludia ao facto de ter permitido a algumas pessoas que construísem fábricas sub-padrão no país.

Vale a pena notar, que alguns dos incidentes reclamados datam da década de 80. Os queixosos, foram encorajados pelo sucesso de Sello contra *MoAfrika*. Um decreto de limitações (tempo-quadro) dentro do qual um queixoso pode processar por difamação a partir da data da publicação deve ser introduzido, para dissuadir as pessoas com reclamações fúteis de tentar enriquecer à custa dos média.

As reclamações despropositadas de queixosos devem igualmente ser desencorajadas. Opshatla Mabitle, um dos queixosos, pediu um montante de auxílio de centenas de milhares de randes contra o *Mirror* mas recuou, quando lhe foram oferecidos ZAR10 000.00 em dinheiro vivo, ou ZAR25 000.00 ao longo de 12 meses num acordo extra-judicial.

O MISA-Lesotho, deve abrir com brevidade um Fundo de Defesa Legal dos média (MLDF) para estes casos, para o jurista provar que as elevadas somas ridiculamente pedidas por queixosos

irão sufocar os aspectos alternativos, estropiando os média independentes. A decisão negociada de Mabitle, deve ser usada como padrão para aquilo que um queixoso pode solicitar. No tribunal, os queixosos devem ser obrigados a quantificar como chegaram às ridículas somas que pretendem.

Para conter a onda destas reclamações por difamação, a fraternidade dos média e o Governo devem urgentemente empenhar-se em deliberações honestas que levarão à formação de uma política dos media totalmente inclusiva. Tal política, deve incluir mecanismos de auto-regulamentação, tais como um Ombudsman e ou um conselho dos média. As pessoas ofendidas, teriam de levar as suas razões de queixa a estes corpos antes de irem ao tribunal.

A política teria que incluir estratégias para a libertação dos mecanismos regulatórios, tais como os dos sectores da radiodifusão e telecomunicações. Um exemplo concreto, é o da Autoridade de Telecomunicações do Lesotho (LTA). Devem-se encontrar fórmulas de conversão de empresas de radiodifusão estatais em serviços públicos. Estratégias para o desenvolvimento dos ICTs devem ser incorporadas numa tal política. Haveria um Código de Ética ao qual todos os profissionais dos média se devem cingir e serem determinadas sanções apropriadas pelos corpos de auto-regulamentação.

A política, deve permitir a formação de um sindicato dos trabalhadores dos média. Isso vem na sequência das numerosas expulsões do pessoal do *Public Eye* e *MoAfrika* entre reclamações de que alguns deles tinham estado envolvidos em desvios de fundos. Aqueles dois órgãos de informação expulsaram mais de 17 dos seus trabalhadores. O número inclui apresentadores da rádio, jornalistas e pessoal administrativo. Apesar de o editor do *MoAfrika*, Candi Ramainoane acreditar que os média do Lesotho são bastante pequenos para acomodar um sindicato, os direitos dos trabalhadores e dos empregadores só podem ser protegidos num ambiente em que haja sindicatos de trabalhadores e agrupamentos de empregadores.

Em 2003, o Governo tentou trazer a informação para o público através de uma série de rádios estatais e televisões, em que os ministros explicavam as funções dos seus ministérios. O ministro das Finanças, Dr. Timothy Thahane, foi ao Centro de Convenção Nacional (NCC), e depois de pronunciar o discurso orçamental pediu aos presentes para lhe colocarem qualquer questão relacionada com o dito discurso. Todos os ministros evitavam levar as suas explicações às estações de rádio privadas independentes.

A concorrência renhida por lugares no pequeno estúdio da TV do Lesotho e as várias questões colocadas aos ministros, davam sinal da fome pela informação que a população do Lesotho tem. Poderemos esperar com o coração nas mãos para ver se o Dr. Thahane, cumprirá com a sua promessa de abrir centros de informação com tecnologia de televisão e telecomunicações para permitir que o povo das zonas rurais possa participar na averiguação do orçamento do ano 2004.

A crença inoportuna do Governo nos seus oficiais de Relações Públicas, terá que ser revista. Nem todos os ministros possuem PROs, e aqueles que os possuem, tais PROs funcionam mais como zonas amortecedoras utilizadas contra jornalistas na busca de informação detida por seniores funcionários públicos. Por outro lado, a informação popular precisa de ser diferente e não pode estar de todo sob tutela dos PROs.

No Lesotho, certos média são favorecidos com informação, enquanto a outros é negado o acesso à mesma. Os média sul-africanos, em especial os jornalistas da TV SABC e jornalistas do jornal da polícia do Lesotho são favorecidos com informação, em detrimento dos órgãos de

informação privados locais.

Aos jornalistas locais foi negado o acesso a compromissos de casamento da princesa Real Britânica, durante a visita que esta efectuou em 2003, e aos repórteres do jornal *Mopheme* foi negada informação em torno da morte do coronel do exército, Clifford Polisa. Aos media sul-africanos, foi permitida a entrada em cerimónias da realeza. Nessa semana, o jornal da polícia tornou pública a estória completa de Polisa. Alguns ministros do Governo e oficiais paraestatais não dão início a cerimónias, a não ser na presença do pessoal da TV do Lesotho.

Um escandaloso incidente no jornalismo do Lesotho aconteceu em 2003, com o apedrejamento de Thabo Thakalekoala e seu fiel companheiro no *Mopheme*, Tsepiso Mcina, por uma multidão enfurecida de vendedores de rua vítima de pilhagem, ao ser forçada a sair dos passeios da cidade onde desenvolvia a actividade de venda dos seus produtos.

A fraternidade dos media do Lesotho acolheu nas suas fileiras a rádio Harvest FM, propriedade do “Harvest FM Trust”, um movimento evangélico. Outro “miúdo” na mesma esteira foi o jornal *Mosotho*, irmã de língua Sesotho do Public Eye, propriedade da Voz Multimedia. A sua formação baseou-se puramente em considerações de negócios para tapar um buraco do jornal totalmente a cores de língua Sesotho.

Considerando bem as coisas, o quadro dos media do Lesotho não melhorou nem regridiu muito em 2003. As promessas foram feitas, e a sua concretização terá que ser monitorada rigorosamente nos próximos anos.

■ ALERTS

• **DATE: February 17, 2003**

PERSONS/INSTITUTIONS: Candi Ramainoane

VIOLATIONS: Victory (positive judgement)

On February 17 2003, High Court Judge Semapo Peete ruled in favour of the weekly Sesotho tabloid newspaper *MoAfrika*. *MoAfrika* editor Candi Ratabane Ramainoane was summoned to court to explain why he should not be ordered to remove an announcement that appears in the top right-hand corner of the front page of every issue of his newspaper.

Judge Peete rejected the argument that the announcement dealt with a matter that was before the courts and therefore could not be discussed publicly.

He added that although the High Court was the bulwark of the essential freedoms of Lesotho's newly acquired democracy, the press did not have "carte blanche" to abuse the rule against commenting on cases before the courts without good cause and a true sense of responsibility. Peete ruled that the *MoAfrika* announcement was protected by Section 14 of the Constitution, which upholds freedom of expression and press freedom.

• **DATE: May 15, 2003**

PERSONS/INSTITUTIONS: Thabo Thakalekoala

VIOLATIONS: Censored

Thabo Thakalekoala, sub-editor of *Mopheme*, a weekly English-language newspaper in Lesotho, has repeatedly been denied information relating to the treatment of Katleho Malataliana, a former member of the Lesotho Defence Force (LDF). Malataliana was arrested in November 1998, along with other LDF members, and later convicted of mutiny against senior officers and the government.

Thakalekoala's investigation into the circumstances surrounding Malataliana's hospitalisation began after he received several tips from family members and other patients at the Queen Elizabeth II Hospital about the prisoner's ill-treatment. Malataliana was transferred from Maseru Central Prison, where he had been incarcerated since 1999, in early April 2003 after he suffered a stroke.

Thakalekoala has been investigating reports of possible human rights violations against Malataliana since being told that he was handcuffed and had his legs chained to his hospital bed.

• **DATE: June 16, 2003**

PERSONS/INSTITUTIONS: MoAfrika Radio

VIOLATIONS: Legislation (sued)

Late on June 16 2003, MoAfrika Radio went off the air until midday (local time) on June 17. The broadcast shutdown was intended to raise public attention and financial support to help the station pay off a civil defamation suit pending against it.

On May 15 2003, MoAfrika Radio was served with a writ of execution by agents of the High Court of Lesotho to seize all movable property from the station's premises as well as the personal property at Ramainoane's residence.

The court agents were informed that they could not continue with the seizure of property as Ramainoane was out of the country. They indicated that they would return to execute their duty at another date when the editor would be present.

MoAfrika Radio faces closure due to a High Court judgment in favour of Moeketsi Sello in a civil defamation case.

The judgment was passed on December 22 1999 and re-affirmed by the Appeals Court in October 2000.

• **DATE: July 2, 2003**

PERSONS/INSTITUTIONS: T'sepiso Mncina, Thabo Thakalekoala

VIOLATIONS: Beaten (injured)

On July 2 2003, two journalists were injured while covering protests by street vendors in the main Maseru bus-stop area. The street vendors were protesting to the police, who wore protective clothing and were armed with pump-action shotguns, and to Maseru city councillors about their eviction from the streets of Maseru.

• **DATE: July 19, 2003**

PERSONS/INSTITUTIONS: Local media

VIOLATIONS: Censored

Local media were denied access to the official visit of Britain's Princess Anne to Lesotho even though South African media were able to cover the events.

• **DATE: July 23, 2003**

PERSONS/INSTITUTIONS: Mohahlaula

VIOLATIONS: Legislation (sued)

On July 23 2003, the weekly Sesotho tabloid *Mohahlaula*, published by Makaung Printers and Publishing (Pty) Ltd in Lesotho, was served with a summons for civil defamation by the legal representatives of Minister of Trade and Industry Mpho Malie.

The summons demands that the newspaper, its editor Pofane Molungoa and the publishing company pay M200,000 (approx. US\$26,500) in damages and cover the cost of the lawsuit, as well as any alternative relief granted by the court, at an interest rate of 18.5% per annum.

Malawi



by Francis Chikunkhuzeni

• Introduction

Despite legal and policy frameworks¹ that have specific provisions to facilitate media operations, the most notable being constitutional guarantees to freedom of the press and liberalisation of airwaves, the media in Malawi continue to operate in a harsh political, legal and economic environment. The media system continues to reflect concentration of media ownership in the hands of a minority elite, who have political or religious power as well as an urban based-production/distribution infrastructure. In addition, the pervasive traditional use of the media as a tool for social control rather than a forum for effective dialogue and participation of the citizenry has accentuated the marginalisation of the majority of Malawians especially those who live in rural areas. In turn, the media have registered negligible direct impact on the welfare of the majority of Malawians. This article highlights some features of the political, legal and economic environment that affected the operations of the media in 2003.

1. Political Environment

Political culture has a profound impact on media freedom. While the Malawi political system guarantees media freedom, media practice is immersed in a prevailing political culture, in which power-holders are intolerant to criticism. The resultant animosity is evident in media-government relations and regulation of media operations.

Media-Government Relationship

In 2003, government-media relations remained substantially antagonistic amid occasional semblances of mutual co-operation. Public images of co-operation encompassed invitations of journalists to government publicity events and occasional get-together events, such as conferences, workshops and seminars involving both parties. There were no reported cases of overt conflict between the judiciary or legislature and the media. The media have enjoyed unabated access to parliamentary and judicial proceedings.

While there were no conspicuous clashes between the media and the legislature or judiciary, relations between the media (especially private and community) and the executive branch of government including its attendant political clique were a travesty to media freedom. Instead of defending and consolidating provisions of the Constitution of Malawi as regards rights to communication, the executive back-peddled. Cautioned by accumulated historical experiences on the consequences of criticising 'government', many media workers have resigned themselves to self-censorship and silent acquiescence. The trend over the past ten years has been systematic suppression of freedom of the media in order to consolidate political power through silencing of dissenting views using advertisements and sponsorship as economic control over media output, politically motivated litigations as well as physical and mental harassment of media workers. In 2003, politically motivated litigations and harassment prevailed.

Head of the executive branch of government, President Bakili Muluzi made public threats to the media and allowed his political acolytes to admonish media institutions and personnel at public meetings, especially those aired live by the Malawi Broadcasting Corporation (MBC). These public statements from politicians on the work of the media sent signals of intolerance and hostility towards the media. When *Nation Newspaper* journalist, Daniel Nyirenda, was

beaten and his equipment destroyed at a UDF mini-convention, leader of the political party, who is also Head of State issued an equivocal statement.

Such conduct and statements fanned fear among media practitioners while fuelling impunity among the perpetrators of physical and mental violence against the media. Taking a cue from the Head of State it did not come as a surprise that some government agencies were overzealous to outdo each other in attacking media freedom. The most notorious were the Malawi Police and the Malawi Communications Regulatory Authority (MACRA) as explained below.

Broadcasting

MACRA has been entrusted with a resource, namely the radio spectrum, which is key to effective participation of Malawians in public, economic, community and private spheres. It holds vast potential to change the political, economic and social welfare of every Malawian. But the conduct of the Authority was astoundingly an antithesis of democratic values and principles: MACRA threatened to revoke a broadcast licence for Capital FM radio because the station carried a public meeting held by an opposition political party. However, TV Malawi and the Malawi Broadcasting Corporation carry live broadcasts of ruling party functions, under the pretext of national events, without public service broadcasting licences². The Authority induced the chairperson of the Malawi Institute of Journalism (MIJ), Henry Chibwana, to ban political content on MIJ radio under the pretext of political bias in editorial content; and cautioned community broadcasters that airing news is illegal according to the 1998 Communications Act.

This was an openly political motive to stifle political views from the opposition. Alternative views to government were channelled through community and commercial radio stations, because MBC and TVM shut them out. Malawians are thus denied access to a diversity of views and avenues for freedom of expression. MACRA has failed to police MBC and TVM but it has victimised community and private commercial broadcasters. It is a common secret that MBC and TVM carry politically biased programmes and news, which MACRA condones. The Malawi Chapter of the Media Institute for Southern Africa (NAMISA) is lobbying parliament to amend the Communications Act so that board members are not appointed by the President.

2. Legal Environment

Another determining feature of media freedom concerns laws and how the legislature interprets them when dealing with media. Although, no amendment has been made to provisions that directly affect operations of the media, the principle behind media freedom has been tested outside the courts by the interpretations of the 1998 Communications Act by MACRA and through the conduct of the Malawi Police.

Constitution

A major test for the efficacy of the constitutional guarantees to freedom of the press came from the police. From a litany of violations, the role of the media in a democracy appears a lesson yet to be entrenched in police practice. In January a female journalist, Penelope Paliani-Kamanga, was shot with a rubber bullet while covering political demonstrations. The police also beat up and verbally assaulted journalists who stumbled over a newsworthy fracas between police and a motorist who refused to surrender bags of charcoal to forestry officials. They were also 'infamous' for lack of judiciousness in politically motivated litigations. Without interrogating their public service ethos or the Constitution, they have incarcerated media professionals. For instance they arrested a community radio journalist, Maganizo Mazeze,

for broadcasting a testimony of a victim of ‘bloodsuckers’ because President Muluzi had ordered a ban on any speech about ‘vampires’ in Malawi. They also arrested a journalist, Frank Namangale, for correctly citing in a newspaper article that a crime suspect was related to President Muluzi. In both cases media personnel were charged with conduct likely to cause fear, alarm or unrest as if media consumers were not discerning or astute enough to evaluate news items without police protection. It took a directive from the Director of Public Prosecutions, Fahad Asani, to redirect their energies to deal with crime and not to harass the media. The directive reminded the police about the supremacy of the Constitution and the need to preserve media freedom. However, such a directive is not adequate and the media continue to operate in fear because Malawi still retains a litany of laws that infringe on media freedom.

Anti-media Freedom Laws

Armouries of repressive laws that have the potential to abrogate information gathering and publication by the media remain on the statute books and have been used against the media. The list of these laws was submitted to the Law Commission for review years ago. Until these laws are amended or repealed, they pose a real threat to the operations of the media. The alternative of challenging these laws in Court as unconstitutional is costly as a private weekly, *The Chronicle* learnt.

Defamation

The Chronicle, was closed down temporarily in October 2003 because of failure to settle defamation penalties to a cabinet minister, Dumbo Lemani. Defamation cases are a cancer to media freedom not because individual reputations should not be protected, but because it is usually persons with vast power and resources, who invoke this law instead of showing restraint and tolerance.

• Other Legislation

Another serious pointer to the vulnerability of media freedom in the face of repressive laws was use of legislative and executive powers to censor the media. When the society was concerned with incidents of ‘bloodsuckers’ in Malawi, the President ordered a ban on any speech about ‘vampires’ and as noted above a journalist was arrested for defying the ban on account of the public’s right to knowledge. In August, parliament banned the screening of edited versions of a TV reality show, *Big Brother Africa* on TVM. They labelled the programme immoral. The Censorship Board condemned the ban and advised parliament to refer such matters to the Board. The High Court lifted the ban after a citizen contested it.

3. Economic Environment

Media Diversity

The economic environment in 2003 stunted media growth. The domestic economy shrunk as the World Bank, International Monetary Fund and European Union withheld financial support to Malawi. This triggered further rises in inflation and interest rates, instability in foreign exchange and government inability to fund some of its operations³. Coupled with widespread penury⁴, media operations and consumers were adversely affected as production costs rose. Public media were further squeezed to augment government subvention with commercial revenue increasing competition for scarce advertising and sponsorship revenue from a narrow industrial base. Entertainment and cheap sources of information such as phone-ins, public relations articles and drop-in news sources dominated media output as media institutions cut costs.

Access to Information

Access to means of communication is a human right and yet the majority of the ‘so-called development initiatives’ overlook this necessary condition, for sustainable development. Realising the pivotal role the media can play in development, NAMISA has proposed enactment of a law on freedom of information. During these consultations it was evident that public officials and institutions do not provide timely, quality, and relevant information when media workers make requests. Access to data-bases remains restricted and procedures to obtain authority for access are shrouded in bureaucracy. Internet-based resources were hardly updated. The media have therefore relied on whistle-blowers and shock tactics to compel public officials to release information. Diligence and resilience in investigations, especially among private (print) and community media, have exposed high levels of abuse of power, corruption and social and economic injustices in Malawi. This calibre of investigative journalism should be nurtured and encouraged.

The flip side of access to public information is access to information by and from the majority of Malawians. Due to poverty, illiteracy and urban-centred media structures, the majority of Malawians have no access to information in the media. In addition, information, knowledge, and opinions from this rural majority were rarely available in mainstream media. A top-down communications approach is dominant at the expense of more effective participatory (down-top, horizontal and lateral) communications approaches. Public media institutions such as MBC, Television Malawi (TVM), and Information Department⁵ which are constituted for public service have no structures to facilitate dialogue among the citizenry because of a lack of public service ethos, centralised media production systems and unreliable financing systems⁶.

4. Media Solidity

While the media are not a homogenous group, they are expected to show professional unity of purpose. While they have formed organisations and associations, these entities are too loose and weak to be sustainable without donor support. Membership to these organisations is low and so is a sense of ownership. Most media associations exist on paper and have been ridiculed as “briefcase organisations”, which exist as contact points for training or ‘per diem’ opportunities. However, a few media groups have shown resilience. These include Media Women Association of Malawi (MAMWA), Lilongwe Press Club, Nyika Press Club and NAMISA. Apart from advocacy for media freedom, these groups have participated in public affairs such as HIV/AIDS behaviour change initiatives.

• Conclusion

Media freedom in Malawi continues to deteriorate as the operating environment is littered with legal traps, economic quicksand and political landmines. Major challenges for Malawi should include decentralisation of media production and distribution systems, reviewing repressive laws and re-orientation of public media towards a public service ethos. To unleash the potential of the majority of Malawians to live in full human dignity, there is need for a revolution to unshackle the social, economic and political structures that marginalise the majority. Such a revolution is impossible without empowering information and avenues for effective participation of the citizenry. The media have an immense potential to provide these avenues for effective dialogue and participation.

This calls for reconstituting the grassroots from masses who are recipients of information to originators of knowledge. Structures and operational routines of the media would therefore have to change so that the oxen (grassroots) come before the cart (media). These changes should be

informed and supported primarily by local, regional and global perspectives on the media. Given that six out of every ten Malawians live in a state of destitution and that the life expectancy of a Malawian is 39 years, it is treason to restrain any media initiative aimed at providing empowering information or avenues for effective dialogue or participation of the citizenry.

¹ The Malawi Constitution guarantees freedoms of expression and of the press. Malawi also has a statutory body responsible for the regulation of Communications, the Malawi Communications Authority, following the enactment of the 1998 Communications Act, and the Ministry of Information has published Communication Policy Statements. In principle, Government also strongly emphasises the role of the media in public affairs although in practice it has systematically stifled media freedom.

² MACRA has openly admitted that it has not licensed MBC and TVM as public broadcasters. Thus MACRA cannot enforce public service broadcasting obligations as stipulated in the 1998 Communications Act. MBC claims the Act does not compel it to get a licence from MACRA because MBC is granted authority to broadcast through another section, which reconstitutes MBC under the same Act.

³ Economic viability of most media is dependent on 'government business'. Malawi has a very narrow industrial base and the economy is agriculture-based. Government is the single major source of commercial revenue to the media. Government has already used this financial muscle to censor anti-establishment sentiments in the media.

⁴ Sixty two percent of a population of 11 million live on less than one United States Dollar a day.

⁵ Information Department produces films, conducts research and publishes magazines and newspapers.

⁶ Government uses a cash-budget system of remitting subvention to departments and parastatal organisation, in which treasury remits money on a month-to-month basis. While the system does not offer room for long term financial planning, it also renders public media prone to political manipulation as taps of financial resources may be turned on and off at will by government.

Malawi



Francis Chikunkhuzeni

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A pesar da organização ter clausulas¹ legais e policiais específicas que facilitam as operações dos média sendo a mais notável as garantias constitucionais para liberdade de imprensa e liberalização de bandas aéreas, os média em Malawi continuam a operar sob um ambiente político, legal e económico muito duro. Os sistemas dos média continuam a reflectir concentrações de posse sob uma minoria elitista, que detêm o poder político e religiosa bem como uma infra-estrutura urbana base para produção e distribuição. Em adição, são usados meios subtis tradicionais dos média, para controlo social em alternativa a forums com dialogo eficiente e participação da cidadania, o que têm provocado uma marginalização acentuada da maioria de Malawianos, em especial aos que vivem em zonas rurais. Por outro lado, os média têm registado um impacto directo negligível no bem estar da maioria dos Malawianos. Este artigo acentua alguns aspectos no campo político, legal e económico que afectaram os média em 2003.

A cultura política, tem um impacto profundo na liberdade dos média. Enquanto os sistemas políticos Malawianos garantem a liberdade dos média, a prática do média esta imersa numa cultura política persistente, no qual os donos do poder são intolerantes à crítica. A animosidade resultante é evidente nas relações entre os média e o governo e na regulação das operações dos média.

Em 2003, as relações entre média e governo manteve-se substancialmente antagonistas caracterizada por embaraços ocasionais e cooperação mútua. A imagem pública de cooperação incluía convites de jornalistas para eventos publicitários do governo e ocasionais eventos sociais, como conferências, workshops, e seminários envolvendo ambas as partes. Não havia casos reportados de conflitos judiciais ou legislativos com os média. O média gozava de acesso ilimitado aos processos parlamentares e judiciais.

Enquanto não houve choques conspícuos entre os média e a legislação e os meios judiciais as relações entre os média (em especial o privado e comunitário) e os ramos executivos do governo incluindo seus conventículos subordinados políticos, a farsa de liberdade de expressão continuava. Em vez de defender e consolidar as provisões da Constituição do Malawi em consideração à comunicação, o executivo deu um passo atrás. Acautelado por acumuladas experiências históricas de consequências por criticar o governo, muitos trabalhadores dos media resignaram-se à auto-censura e concordância silenciosa. A tendência ao longo dos últimos dez anos têm sido de uma supressão sistemática da liberdade dos média de forma a consolidar o poder político através do silenciamento dos pontos de vista discordantes usando patrocínios e publicidade para controlar economicamente a saída de informação dos media, motivada por litígios políticos e das agressões físicas e psicológicas dos trabalhadores do média. Em 2003, litígios políticos e as agressões mantiveram-se.

O Chefe do ramo Executivo do governo, o Presidente Bakili Muluzi, fez ameaças públicas ao média e permitiu que seus acólitos políticos a admoestassem instituições dos média e do seu pessoal em reuniões públicas, especialmente as que eram transmitidas em directo pela Corporação de Radiodifusão de Malawi (MBC). Estas declarações públicas de políticos sobre o trabalho dos média, enviou sinais de intolerância e hostilidade para os média. Por exemplo, quando um jornalista do *Nation Newspaper*, Daniel Nyrenda, foi agradido e seu equipamento

destruído numa mini-convenção da UDF, o líder do partido político, que é também Chefe do Estado, condenou o acto e enviou uma declaração que tudo foi um equívoco. Estas condutas e declarações espalharam medo entre os profissionais dos média enquanto incentivavam a impunidade entre os perpetradores de violência física e psicológica contra os média. As agências governamentais estavam demasiado preocupadas em ultrapassar umas às outras em vez de atacar a liberdade dos média. O mais notável foi o que a Polícia de Malawi e a Autoridade de Regulação de Comunicações (MACRA), explicou abaixo.

Foram confiados recursos a MACRA, que é a líder para uma participação efectiva dos Malawianos no meio público, na comunidade, economia e organizações privadas. O espectro do rádio sustenta um vasto potencial para mudar o bem estar dos Malawianos a nível económico, político e social. Mas a conduta da Autoridade era confusa e uma antítese dos valores e princípios democráticos: a MACRA ameaçou por revogar a licença de transmissão para a Rádio Capital porque a estação organizava encontros públicos levados a cabo pelo partido da oposição. No entanto, TVM e MBC fazem transmissões em directo dos partidos reinantes em função, sob pretexto de eventos nacionais, sem a licença de licenças de transmissão².

A Autoridade induziu o responsável do instituto de Jornalismo do Malawi (MIJ), Henry Chibwana, a banir o conteúdo da rádio do MIJ com o pretexto de preconceito político dentro do conteúdo editorial; e acautelou a comunidade de radiodifusão que a transmissão de notícias é ilegal de acordo com o Acto das Comunicações de 1998. Subjacente à conduta da Autoridade estava um motivo político, aberto para abafar os pontos de vista da oposição. Pontos de vista alternativos ao do governo eram canalizados pelas comunidades e pelas estações de rádio comerciais, porque o MBC e a TVM os fechava. O efeito desta rede era negar aos Malawianos acesso a pontos de vista diferentes e avenidas para a liberdade de expressão. A MACRA, falhou no policiamento à MBC e à TVM mas vitimou a comunidade e transmissoras privadas. É um segredo comum que a MBC e a TVM têm uma política de apresentar programas e notícias com preconceito, que a MACRA condena. A NAMISA, esta a espalhar intrigas no parlamento para melhorar o Acto das Comunicações para que os membros da administração não sejam nomeados pelo presidente.

Outro aspecto determinante da liberdade dos média têm a ver com as leis e como a legislação às interpreta quando está a lidar com os média. Embora, nenhum melhoramento tenha sido feito para se precaver de provisões que afectam directamente as operações dos média, o princípio por detrás da liberdade dos média já foi testado fora dos tribunais pelas interpretações no Acto de Comunicações de 1998 pela MACRA e conduta da polícia do Malawi.

Um grande teste à eficácia das garantias constitucionais para liberdade da imprensa veio da parte da polícia, com uma litania de violações, o papel dos media numa democracia aprece ser uma lição ainda não muito bem aprendida pela polícia. Em Janeiro, uma mulher jornalista, Penelope Paliani-Kamanga, foi atingida por uma bala de borracha quanto a fazia cobertura de uma demonstração política. A polícia também agrediu e assaltou verbalmente a jornalistas durante um conflito actual entre a polícia e um motorista que se recusou a entregar sacos de carvão a oficiais florestais. Eles também foram “infames” na falta discernimento em litígios de motivo político. Sem interrogar os etos ou a constituição do serviço público, eles prenderam profissionais do media. por exemplo, eles prenderam um jornalista da rádio da comunidade, Maganizo Mazeze, por transmitir o testemunho de uma vítima de “sanguessugas” porque o Presidente Muluzi ordenou um banir a todos os discursos sobre os “vampiros” em Malawi.

Eles também prenderam um jornalista, Frank Namangale, por citar correctamente um artigo dum jornal sobre um suspeito de crime que estava relacionado com o Presidente Muluzi. Em ambos os casos, o pessoal dos média foram acusados com conduta capaz de causar medo,

alarme, inquietação como se os consumidores do média não fossem discerníveis ou astutos suficientes para avaliar os temas das notícias, sem a protecção da policia. Foi necessária uma directiva do Director de Relações Públicas, Fahad Asani, para redireccionar as energias dos policias para lidar com crimes e não incomodar os média. A directiva lembrou à policia sobre a supremacia da Constituição e a necessidade de preservar a liberdade dos média. No entanto, tal directiva não é adequada e o media continua a operar com medo porque o Malawi, ainda mantém uma litania de leis que infringem a liberdade dos média.

Armadas de leis repressivas que têm um potencial de revogar a recolha e publicação pelos média permanecem nos livros estatutários e têm sido usados contra os média. As listas destas leis, foram submetidas à Comissão de Leis para revisão anos atrás. Até que estas leis sejam emendadas ou repelidas, elas posam um grande perigo para as operações dos média. A alternativa de protesto a estas leis no tribunal como inconstitucionais é bastante cara, como o jornal privado semanal *The Chronicle* aprendeu.

The Chronicle fechou, temporariamente em Outubro por falha em resolver penalidades de difamação ao Ministro do Gabinete, Dumbo Lemani. Casos de difamação são um cancro para a liberdade dos média não só porque as reputações de indivíduos não deviam ser protegidas, mas porque normalmente são pessoas com vasto poder e recursos que invocam esta lei em vez de mostrar restrição e tolerância.

Outro ponto importante referente à vulnerabilidade dos média face às leis repressivas é o uso de poderes executivos e legislativos para censurar os média. Quando a sociedade estava preocupada com os incidentes dos “sanguessugas” em Malawi, o Presidente ordenou um banir para qualquer discurso sobre “vampiros” e como foi descrito acima, um jornalista foi detido por desafiar o banir por defender o direito do público ao direito ao conhecimento. Em Agosto, o parlamento banuiu a transmissão de versões editadas de programa ao vivo, *O Big Brother Africa*, na TVM. Eles rotularam o programa de imoral. O Comité de Censura condenou o manter do banir por parte do parlamento tribunal Supremo e levantou o banir depois de contestações do povo.

O ambiente económico em 2003, atordoou o crescimento dos média. A economia local diminuiu com a suspensão dos financiamentos do Banco Mundial, do Fundo Monetário internacional e da União Europeia ao Malawi. Isto despoletou aumentos sucessivos na inflação e na taxa de juros, instabilidade no câmbio da moeda e da inadaptabilidade do governo em fundar algumas das suas operações³. Associada a penúria generalizada, as operações dos média e dos consumidores eram afectados de forma adversa à medida que os custos de produção aumentavam. O média público estava ainda mais pressionado a aumentar o subsídio do governo devido ao aumento da competição pelas receitas comerciais com o diminuir da publicidade e patrocínios da uma industria base fraca. O entretenimento e fontes baratas de informação como informação por telefone, artigos de relações públicas e fontes de notícias a conta-gotas dominaram a saída de informação dos média devido aos cortes monetários das instituições.

O acesso ao meio de comunicação é um direito humano, no entanto, iniciativas do dito “desenvolvimento” não tiveram em conta esta condição necessária, para o desenvolvimento sustentável. Tendo em conta o papel fulcral que os media podem ter no desenvolvimento, a Secção do Malawi de Instituto de Mídia da África do Sul (NAMISA), propôs um decreto de lei para a liberdade de informação. Durante estas consultas foi evidente que os oficiais públicos e as instituições não providenciavam informação a tempo e com qualidade enquanto os trabalhadores dos média faziam pedidos destas. Acesso a bases de dados mantinha-se restritas e os processos para obter autorização para os acessos estavam envolvidos em burocracia. Os recursos baseados na internet raramente eram actualizados. Os média tinham então, que confiar em informadores e

tácticas de choque para compelir os oficiais públicos a revelar informação. Diligência e resiliência em investigações, especialmente entre os média privados e comunitários, expuseram grandes níveis de abuso de poder, corrupção e injustiças sociais e económicas em Malawi. Jornalistas investigadores deste calibre deveriam ser estimados e encorajados.

O lado inverso do acesso à informação é o acesso a informação por e da maioria dos Malawianos. Devido à pobreza, analfabetismo e estruturas do média concentradas nos centros urbanos, a maioria dos Malawianos, não tem acesso a informação dos média. Em adição a isto, a informação, conhecimentos e opiniões desta maioria rural raramente estava disponível para os média. O acesso à comunicação com abertura de todos os ângulos, só é possível com um acesso de comunicações mais partilhado. As instituições dos média público como a MBC, a Televisão de Malawi (TVM), e o Departamento de Informação⁴, que são constituídos para o serviço público não têm estruturas, para facilitar o dialogo entre os cidadãos devido à falta de etos de serviço público, sistemas centralizados de produção dos média e sistemas de financiamento dúbios⁵.

Embora os média não sejam um grupo homogéneo, e deles esperado mostrar um de unidade profissional objectiva. Enquanto eles têm associações e organizações formadas, estas entidades são muitas relaxadas e fracas para serem sustentáveis sem doadores que os suportem. O número de associados destas organizações é muito baixo bem como o sentido de propriedade. Maioria das associações dos média, existem somente no papel e têm sido ridicularizadas como “organizações de pasta”, que ‘só existem para obtenção de contactos de treino ou para oportunidade de um salário. No entanto, alguns grupos dos média mostraram alguma resiliência. Destes, pode-se incluir A Associação dos Média Feminina de Malawi (MAMWA), O Clube de Imprensa Lilongwe, O Clube de Imprensa Nyika e NAMISA.

À parte da advocacia para a liberdade dos média, estes grupos têm participado em assuntos públicos, como iniciativas para mudança de comportamento em relação ao HIV/SIDA.

A liberdade dos média no Malawi, continua a deteriorar-se porque o ambiente em que operam está cheio de armadilhas legais, areias movediças económicas e minas políticas. Os maiores desafios para o Malawi, deviam ser a descentralização da produção e sistemas de distribuição dos média, revisão de leis repressivas e uma re-orientação dos média públicos, em relação aos etos de serviço público. Para libertar o potencial da maioria dos Malawianos e viver com uma dignidade humana completa, é necessária uma revolução para desaccorrentar as estruturas sociais, económicas e políticas que marginalizam esta maioria.

Tal revolução é impossível sem a concessão da informação e avenidas para uma participação efectiva dos cidadãos. Os média têm um potencial imenso para providenciar estas avenidas para um diálogo e participação efectivas. Isto pede uma reconstituição das raízes das massas que são o recipiente de informação que irá originar o conhecimento. Rotinas estruturais e operacionais dos média teriam então que mudar para que os bois (raízes) venham primeiro que a carroça (o média). Estas mudanças deverão ser primariamente informadas e suportadas por perspectivas locais, regionais e globais ao nível dos média.

Dado que seis em cada dez Malawianos, vivem num estado de pobreza[6] e esperança de vida de um Malawiano é de 39 anos, é uma traição restringir qualquer iniciativa dos média com o objectivo de providenciar o fornecimento de informação ou avenidas para um diálogo ou participação efectiva de cada cidadão.

¹ A constituição do Malawi, garante a liberdade de expressão e da imprensa. O Malawi, têm um corpo legal responsável pela regulação das Comunicações, a Autoridade de Comunicações de

Malawi, seguindo o Acto de Comunicações decretado em 1998, e o Ministro de Informações publicou uma Declaração de Política de Comunicação. Em princípio, o governo também enfatizava o papel dos média em assuntos públicos embora na prática tenha abafado sistematicamente a liberdade dos média

² O MACRA admitiu abertamente que não licenciou a MBC e a TVM como Radiodifusoras públicas. Logo, o MACRA não pose forçar obrigações de Radiodifusão aos serviços públicos como esta estipulado no Acto de Comunicações de 1998. A MBC afirma que o Acto não os obriga a obter a licença da MACRA, porque é dado à MBC a autoridade para transmitir através de qualquer secção, o que reconstitui a MBC sob o mesmo Acto.

³ A viabilidade económica da maioria dos média esta dependente do “negócio do governo”. O Malawi têm uma industria base muito pequena e a sua economia é baseada na agricultura. O governo é a única grande fonte de receitas comerciais para os média. O governo já usou este músculo financeiro para censurar o anti estabelecimento de sentimentos nos média.

⁴ O Departamento de Informação produz filmes, conduz pesquisas e publica revistas e jornais.

⁵ O governo usa um sistema de orçamento em dinheiro de subsídios remetentes a departamentos e organizações paraestatais, no qual a tesouraria remete dinheiro todos os meses. Enquanto o sistema não oferece espaço para planeamentos financeiros a longo termo, deixa os média públicos propensos a manipulação política à medida que as torneiras de recursos financeiros podem ser abertas e fechadas de acordo com a vontade do governo.

⁶ Sessenta e dois por cento da população, vive com menos de um dólar americano por dia.

■ ALERTS

• **DATE: January 8, 2003**

PERSONS/INSTITUTIONS: MIJ 90.3 FM

VIOLATIONS: Censored

The chairperson of the Malawi Institute of Journalism's (MIJ) radio station has accused it of bias and ordered that it not air any political programmes until the board reviews the station's code of conduct.

In a January 8 2003 letter to MIJ Executive Director James Ngombe, Henry Chibwana alleged that the radio station acts as a mouthpiece for one political party.

"Since reason does not seem to prevail, I ask you to desist from broadcasting any political message, news or advertisements until the code of ethics and/or the broadcasting licence is reviewed," Chibwana states in his letter.

• **DATE: January 19, 2003**

PERSONS/INSTITUTIONS: Maganizo Mazeze

VIOLATIONS: Detained

On January 19 2003, police in Blantyre detained Maganizo Mazeze, an announcer from the Malawi Institute of Journalism's radio station, MIJ 90.3 FM, on charges of "broadcasting material likely to cause public alarm and unrest".

On January 18, Mazeze interviewed a man from southern Malawi who claimed to have been a victim of "bloodsuckers."

The interview came a few days after President Bakili Muluzi ordered the police to arrest anyone who spoke of "vampires" in Malawi. The president was incensed after the Blantyre city governor was beaten up and his car was vandalised following allegations that he was "harbouring blood suckers."

The police refused to release Mazeze on bail on January 19, in the afternoon. He was expected to appear before a court on the morning of January 20.

• **DATE: January 27, 2003**

PERSONS/INSTITUTIONS: Penelope Paliani-Kamanga

VIOLATIONS: Beaten (shot, injured)

On January 27 2003, Penelope Paliani-Kamanga, deputy chief reporter for the *Daily Times*, Malawi's oldest daily, was shot in the knee by a rubber bullet. The shot was fired by Blantyre anti-riot police, who fired shots to disperse demonstrators.

Members of civil society were demonstrating against the tabling of a bill in Parliament aimed at allowing President Bakili Muluzi to serve a third term in office.

• **DATE: February 14, 2003**

PERSONS/INSTITUTIONS: Newspaper vendors

VIOLATIONS: Beaten

On February 14 2003, suspected members of the ruling United Democratic Front (UDF) party's youth wing beat up vendors who were selling the *Daily Times* newspaper in the capital, Lilongwe.

The *Daily Times*' February 10 edition reported that the Young Democrats, as members of the UDF's youth wing are known, allegedly responded to a call by a UDF Women's Desk official and praise singer for President Bakili Muluzi, who was incensed by a *Daily Times* headline that read that the president would not push for another term in office.

• **DATE: June 2, 2003**

PERSONS/INSTITUTIONS: Radio stations

VIOLATIONS: Censored

On June 2 2003, the Malawi Communications Regulatory Authority (Macra) ordered community radio stations to stop airing news bulletins, saying the Communications Act forbade such stations from running news programmes. Macra Director General Evans Namanja spoke at a two-day international workshop on the promotion of community radio stations. "News is supposed to be for the general public and not a particular community. By broadcasting news, the community radio stations are hijacking the role of public broadcasters, such as the Malawi Broadcasting Corporation (MBC) and Television Malawi (TVM)," said Namanja. Macra's statement is based on Section 51(3) c, which bars community radio stations from "broadcasting news services and factual programmes." However, Sections 35 and 36 of the Malawi Constitution provide for freedom of expression and the press.

• **DATE: July 11, 2003**

PERSONS/INSTITUTIONS: Malawian journalists

VIOLATIONS: Threatened

On June 24 2003, President Bakili Muluzi threatened to deal with media outlets that probe into the way he distributes maize to his supporters during political rallies. President Muluzi was apparently incensed by a lead article in the *Weekend Nation* of June 21-22 that questioned the source of the food the president doles out at his rallies. The president warned that he would be forced to act if the media does not stop "rubbing its nose" in his business.

• **DATE: July 11, 2003**

PERSONS/INSTITUTIONS: Daniel Nyirenda

VIOLATIONS: Beaten , equipment confiscated

On July 7 2003, Daniel Nyirenda, a photojournalist with the daily newspaper *The Nation*, was severely beaten by suspected members of the ruling United Democratic Front (UDF) youth wing at the party's mini-convention in the city of Blantyre. According to another *Nation* journalist, Gedion Munthali, who escaped unhurt, the youths attacked Nyirenda when he tried to take pictures of a fight among delegates over control of the main gates to the convention hall. Munthali said the youths, who accused *The Nation* of writing negatively about President Bakili Muluzi's government, beat up Nyirenda before rolling him in mud. The youths also smashed a digital camera and stole a professional camera belonging to *The Nation*. Nyirenda also lost his cell phone in the fracas.

• **DATE: July 11, 2003**

PERSONS/INSTITUTIONS: Ken Ndanga, Chikumbutso Mtumodzi, Thom Chiumia

VIOLATIONS: Sentenced

Three journalists have been ordered to pay a fine of K450,000 (approx. US\$5,000) to Stanbic Bank Malawi Managing Director Victor Mbewe, his wife and Stanbic Bank as compensation for a defamatory story the newspaper published in December 2002. The three journalists - Ken Ndanga, Chikumbutso Mtumodzi and Thom Chiumia - are owners of *The New Sun* newspaper. The journalists are well-known for their attacks on perceived enemies of President Muluzi and the ruling United Democratic Front political party. In an article published on December 23 2002, *The New Sun* alleged that Mbewe was involved in a love affair with his bank's public relations officer.

High Court Assistant Registrar Michael Tembo said in his ruling that he was convinced that defamatory information had been published in *The New Sun* on December 23 2002. The court observed that Ndanga, Mtumodzi and Chiumia failed to show any remorse over the publication of the alleged defamatory article and did not attend the hearing for assessment of damages. Mbewe and his wife were awarded K200,000 (approx. US\$2,200) each for aggravated damages. The journalists were also ordered to pay K50,000 (approx. US\$556) to Stanbic Bank for defamation.

• **DATE: September 16, 2003**

PERSONS/INSTITUTIONS: Frank Namangale

VIOLATIONS: Detained

On September 16 2003, police in Blantyre arrested Frank Namangale, a reporter with the *Daily Times* newspaper, on charges of “publishing false information likely to cause fear and alarm to the public”. Namangale was released on bail later the same day.

Police publicist George Chikowi told MISA’s Malawi chapter, Namisa, that Namangale was arrested following his September 12 article, published in the *Daily Times*, in which he alleged that police had arrested President Bakili Muluzi’s son, Evance Muluzi, his nephew and three others in connection with an armed robbery. The article quoted Senior Police Commissioner for the South Often Thyolani as confirming the arrests and that some of the suspects answered to the name Muluzi.

On September 15, however, the newspaper published a follow-up story in which Chikowi said Evance Muluzi was an adopted son of President Muluzi’s late brother.

He added that police recovered an AK-47 assault rifle and two rounds of ammunition from Evance Muluzi.

• **DATE: September 18, 2003**

PERSONS/INSTITUTIONS: Capital Radio

VIOLATIONS: Threatened

On September 4 2003, the Malawi Communications Regulatory Authority (MACRA) threatened to shut down privately-owned radio station Capital Radio, accusing it of carrying out an Outside Broadcasting (OB), contrary to the provisions of its licence. Capital Radio had invited political parties to air their rallies live.

MACRA Director of Broadcasting James Chimera warned that if MACRA established that the licence did not allow the station to air live OBs, the authority would withdraw the station’s licence.

• **DATE: October 9, 2003**

PERSONS/INSTITUTIONS: McDonald Chapalapata

VIOLATIONS: Victory (positive judgement)

The High Court of Malawi has awarded a total of K48,000 (approximately US\$457) in damages for “assault and trespass to goods” to *The Nation* newspaper senior reporter McDonald Chapalapata. In 2002, Chapalapata was assaulted by National Food Reserve Agency (NFRA) Financial Controller Paul Chimenya.

• **DATE: October 18, 2003**

PERSONS/INSTITUTIONS: George Ntonya, Chikondi Phikiso

VIOLATIONS: Beaten

On October 18 2003, officers of the Malawi Police Service beat up journalists George Ntonya and Chikondi Phikiso for attempting to take photographs of a scuffle between

police and a motorist at a police roadblock on Zalewa road, between Blantyre and Mwanza districts.

The journalists were returning from a field visit organised by the Technical, Entrepreneurial, Vocational Education and Training Authority (TEVETA).

• **DATE: October 28, 2003**

PERSONS/INSTITUTIONS: Frank Namangale

VIOLATIONS: Victory (Legal action)

Director of Public Prosecution (DPP) Fahad Assani has instructed police to drop a case against Frank Namangale, a reporter for *Daily Times* newspaper. Namangale had been charged with authoring an article likely to cause “breach of public peace”.

*See alert of September 16 2003.

The DPP said the story the reporter wrote was credible, the only error being that it made reference to Muluzi’s son when it should, in fact, have made reference to his nephew.

• **DATE: November 7, 2003**

PERSONS/INSTITUTIONS: Frank Namangale

VIOLATIONS: Victory (Legal action)

Director of Public Prosecutions (DPP) Fahad Assani has written to the Malawi Police, ordering it to discontinue arbitrary arrests of journalists, and warning that such acts are unconstitutional.

Assani’s letter closely followed his statement in late October 2003 in which he said he would not prosecute *Daily Times* reporter Frank Namangale, whom the police arrested for authoring an article in which he quoted police sources as saying President Bakili Muluzi’s son had been arrested for armed robbery.

The DPP advised the police not to attack the wrong people if they are to be called professional. “If the state wants to take up issues, then the people to be taken to task are not the press persons but those that offend the law. Do not shoot the messenger; go and deal with the sender of the messenger,” he said.

Mozambique



by **Julieta Machimuassana Langa**

Julieta Machimuassana Langa is a senior lecturer in the Department of Linguistics and Literature at the Eduardo Mondlane University. She is also the chairperson of the High Council for Social Communication and Vice-Chairperson of the African Communication Regulatory Bodies Network

In Mozambique the media operates in a democratic environment, as favoured by the 1990 Constitution. The Press Law defines media activity, the rights and duties of its profession and ownership issues. The law also establishes mandates, compositions, competency and attributions to the High Council for Social Communication (CSCS), a state body delegated by the Constitution, to assure independence of the media, freedom of press, right to information, as well as broadcast rights, among other issues.

Examining the Constitution, the Press Law and the performance of the media and considering the nature and social and political dimensions of the many media cases reported in 2003, it is fair to say that the political and legal environment has been conducive to the exercising of freedom of speech. However, it is necessary to call attention to the fact that this law has never been regulated, which brings as many constraints to media practitioners as it does to the general public.

In Mozambique, the law praises the diversity and plurality of information, which encourages citizens to establish media enterprises. The new publications and broadcasters that appeared in 2003 are relatively few when compared with the “boom” which occurred between 1990 and 2002. In this context, we have to point out the ascent of a new via-fax newspaper, the *Diário de Notícias* (The News Diary), composed of staff that formerly worked in the *Zambeze*, *Mediafax*, *Vertical* and *Correio da Manhã* newspapers.

This new title doesn't seem to really add significant value to media diversity in Mozambique since, their origin, selection and style seem to be merely an extension of the newspapers cited above. In terms of readership, it also continues to target the same elite who have access to telefax or e-mail. *The Africa Mais* (Africa More) magazine, born in late December, is a ‘prestige’ publication. Although it does not constitute new media, we must take into account that 2003 was a consolidation year for community radio stations who operate in all provinces, and also the year when the state broadcaster saw greater territorial expansion.

Relationship between Media and Government

Throughout the year relations between Government and the media were characterized by greater openness aimed at improving crucial issues, such as access to official information sources, which have been debated since 2000. In fact, it was observed that: (i) for the first time, in 2003, the government, through the State Minister on Presidential Parliamentary affairs and representing the Prime Minister, pronounced publicly and favourably on the legislative need for access to information; (ii) The Prime Minister Information Cabinet, promoted debates with media practitioners for a better relationship and also worked on training and creating spokesman positions in ministries, province governments and other state institutions seeking to improve the flow of information on government activities to the media and society in general; (iii) the highest legislative body in the country, the Republic Assembly, entered into debate with journalists on access information and news coverage; and (iv) the Prime Minister maintained weekly meetings with the press in which he supplied information regarding government activities and answered questions from journalists.

During 2003, the Mozambican Government didn't assume any overt posture that could be seen as a direct confrontation or concealment against the media and there is no record of a publication or journalist having been taken to court for supposed offences. Certain sectors of public opinion however did consider that there were indeed violations on freedom of the press.

The High Court, on 2003 judicial opening, on the CSCS summoning on the weekly *Zambeze* editor, concerning the publication of a text, which was proved to be a false sentence of the "Carlos Cardoso" case.

The ensuing dialogue between the media and the High Court brought into the public domain the conflict between the institutions. The *Zambeze* brought into question the mandate and competence of the CSCS thereby justifying its non-attendance to appear before the Commission and in so doing, averting much-needed discussion of professionalism and ethical conduct in the media in Mozambique.

Worrying aspects during this period were acts of aggression against and the detention of media practitioners while performing their duties, perpetrated by the ruling party's militants in the election campaign and, in other circumstances, the obstruction of coverage of public interest events, as well as intimidation and persecution against journalists following "hot cases".

However, these cases should not be confused with the consequences faced by journalists for having clearly offended and defamed individuals and institutions, under cover of professionalism. In the latter category of offences, a *Savana* journalist was assaulted and a *Imparcial* journalist was detained at Maputo Airport and later sued (see 2003 alert).

Reviewing this year's alerts, it can be said that democracy is being enacted within reasonable standards where the media is concerned, because, any intimidations, violations of journalist's rights or abuse of freedom of the press have been taken to appropriate proceedings. The ruling press laws in Mozambique didn't permit any closure or withdrawal of an operating licence.

Legislative Environment

In 2003, there were no changes on the legislation related to the media. The gaps identified in the Press Law, concerning the need to have specific laws and regulations for broadcasters, advertising and community broadcasters continued being subject to debate, and there are no apparent disagreements between government entities, and professional organisations on the subject. Of more interest in the relationship between the media and Government is freedom of speech and the continuing dialogue between media practitioners and the constituted powers, which will lead to a more informed public opinion capable of applying pressure for citizen interests.

The term "legal threat" to the media does not characterize the conflicts that occurred in 2003. This is due to the interventions on the part of the media themselves, on one hand and, on the other, to growing recognition and public opinion, that media practitioners are part of the democratic process and have the task of being alert to social problems and human rights violations with the purpose to inform the public.

Constitutional Liberties

Freedom of speech and of the press achieved unprecedented growth, and enhanced the demand and enjoyment of other rights and fundamental liberties of the citizenry. This in turn contributed to the emergence of a more informed public opinion. The media performed a

remarkable function as mediator between the public and the constituted powers through debates, reports, letters from readers and interactive programmes on radio and television. More than any other year, 2003 was very productive in terms of the questioning of the judicial system, corruption, organized crime, discrimination and increased social inequalities by the media and the public.

It's important, however, to refer to cases where media rights were violated and forced to appeal to regulating bodies or the courts. In one such case, *Mediafax* was prosecuted for disobeying a CSCS deliberation. The claims of defamation or insufficient investigation of the facts didn't matter much in the case. Many of the arguments were resolved between the editors and the aggrieved parties, ending with the latter giving up initiating judicial proceedings.

The slowness with which the regulating instances deal with judicial lawsuits concerning abuse of freedom of the press and defamation discourage any judicial action against the media. On the other hand, the common citizen doesn't usually take any precautions to protect him/herself due to ignorance of their rights. It is important to note that an eventual need to revise the related defamation legislation has not been seriously considered.

Access to Information

In 2003, recognition for the need to update current legislation, produced a lively debate around access to information. Draft legislation in this regard already exists. It has been criticised however for concentrating more on access to information by journalists and not taking into consideration the people's right to information that facilitates their human rights and basic needs.

Broadcasting

Efforts are being made to restructure radio and television in the public sector. A preliminary report proposes to establish an independent authority to regulate broadcasting. MISA promoted a debate on this issue in which the current regulating body, the CSCS, in spite of its being a state body and yet independent from the government, was considered to be responsible for all media. Arguments against the CSCS were that they only deal with media products and do not have a mandate nor the capacity to regulate frequencies or licences, which are the jurisdiction of other Government regulating authorities.

In spite of this discussion, it was generally agreed that editorial and operational autonomy of public, private and community broadcasting, must be ensured and, if there were an alteration of the press law, the liberal character may be lost in prejudice of the media themselves.

Class Fraternity

The meaning of class, among IO's practitioners can be measured in terms of organizations and partnerships. In 2003, an association of journalistic companies emerged, in a time where the immediate interest was to legitimate the CSCS stability. The advances expected on this year, concerning the establishment of a professional wallet, did not occur, just as last year ended without an "editors association", in spite of being discussed their existence for a long time.

In November, a code of conduct was agreed for electoral coverage. While this was a commendable initiative it unfortunately didn't produce the desired results. Firstly, because the code was launched in the middle of the electoral campaign after editorial offices had already formed their own agendas and secondly, because some of the subscribers of the code didn't adhere to its contents in their stories on the elections.

Conclusion

2003 was of great importance for the media in their relationship with several public institutions and society. An important leap was made in raising awareness of other issues of public interest other than the ones focusing on political and government leaders such as coverage on the impact and education against malaria and HIV/AIDS, land conflicts and the pre electoral campaign.

The obstacles faced by the media are attributed to a fragile financial and technical situation within the respective media companies, which determines to what extent they are able to execute their public function. Another obstacle but also a challenge is, the need to invest in new information and communication technologies as well as the formation of professional associations of media practitioners.

Moçambique



Julieta Machimuassana Langa

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Na República de Moçambique, os órgãos de informação (OI's), operam num ambiente de democracia, pluralismo de ideias, de opinião e ausência de censura, favorecidos pela Constituição de 1990 e pela lei 18/91 de 10 de Agosto, lei de imprensa, a qual define os princípios que regem a actividade dos OI's, os direitos e deveres dos seus profissionais e respectivos regimes de propriedade.

Esta lei estabelece, também, as atribuições, competências, composição e mandato do Conselho Superior da Comunicação Social (CSCS), órgão do Estado delegado pela Constituição para assegurar a independência dos OI's, a liberdade de imprensa, o direito à informação, bem como os direitos de antena e de resposta, dentre outros aspectos.

Vistos o conteúdo da Constituição, da lei de imprensa e o desempenho dos OI's, e consideradas a natureza, protagonistas e dimensão social e política de muitos dos casos mediáticos registados em 2003, podemos dizer que o ambiente legal e político para o exercício da liberdade de expressão e de imprensa foi muito bom. Contudo, é preciso chamar a atenção para o facto de esta lei nunca ter sido regulamentada o que traz constrangimentos tanto para os profissionais, os órgãos reguladores como para o público em geral.

Em Moçambique, a lei preconiza a diversidade e pluralismo informativo o que encoraja os cidadãos a criar OI's. As novas publicações e órgãos audio-visuais nascidos em 2003, são muito poucas se comparadas com o “boom” verificado entre 1990-2002. Neste contexto há a salientar o surgimento de um novo jornal via-fax, o *Diário de Notícias*, cujo pessoal editorial é composto por jornalistas que trabalharam no jornais *Zambeze*, *MediaFax*, *Vertical* e *Correio da Manhã*.

Este novo título não parece ter acrescentado valor à diversidade mediática e à ampliação do campo democrático já que, pela origem dos seus profissionais e selecção e estilo de abordagem de assuntos, parece ser uma extensão dos jornais onde trabalharam anteriormente. Também, o seu público é a mesma elite que tem acesso a telefax e a e-mail. A revista *Africa Mais*, surgida nos finais de Dezembro, uma publicação de “prestígio” ainda vai no seu primeiro número.

Embora não constitua novos órgãos de informação é de reter que 2003, foi um ano de consolidação das Rádios Comunitárias que operam em todas as províncias, assim como foi o ano em que a televisão pública conheceu maior expansão territorial.

Relações Governo-Órgãos de Informação

Ao longo do ano 2003, as relações entre o Governo e os OI's, caracterizaram-se por uma maior abertura visando melhorar aspectos cruciais desta área, como é a questão do acesso às fontes oficiais de informação que vem sendo debatida desde o ano 2000.

Na realidade, observou-se que (i) pela primeira vez, em 2003, o Governo, através do Ministro do Estado na Presidência para os Assuntos Parlamentares e representando o Primeiro Ministro, pronunciou-se pública e favoravelmente sobre a necessidade de legislação sobre o livre acesso

às fontes de informação; (ii) o Gabinete de Informação do Primeiro Ministro, nas suas actividades de 2003, promoveu debates com os profissionais dos OI's para um melhor relacionamento e, trabalhou na formação e criação de posições de porta-vozes nos ministérios, governos provinciais e outras instituições do Estado, visando facilitar os fluxos de informação sobre as actividades governamentais aos OI's e à sociedade em geral; (iii) o órgão legislativo mais alto do País, a Assembleia da República, debateu com os jornalistas o acesso à informação sobre as suas actividades e respectiva cobertura jornalística; e (iv) o Primeiro Ministro, continuou a manter os encontros semanais com a imprensa nos quais fornece informações sobre a actividade do Governo e responde a questões colocados pelos jornalistas.

Enquanto instituição, o Governo moçambicano não assumiu posicionamentos que pudessem ser vistos como ataques directos ou velados contra os OI's, durante o ano 2003 e não há registo de algum jornal ou jornalista que tenha sido levado a tribunal por supostas ofensas, embora certos sectores da opinião pública considerem ter havido abusos da liberdade de imprensa afectando o Governo. Contudo, certos sectores do Estado foram mencionados nos “alerta” de 2003, como tendo ameaçado a liberdade de imprensa, nomeadamente, o Tribunal Supremo, por ocasião da abertura do ano judicial de 2003, e o CSCS por ter convocado o director do Semanário *Zambeze* a fim de ouvi-lo sobre a publicação de um texto que se veio a provar com sendo um falso acórdão sobre a sentença do caso “Carlos Cardoso”.

O diálogo entre representantes dos OI's e do Tribunal Supremo trouxe ao domínio público a verdade sobre as desinteligências e mal-entendidos. Mas, no diferendo *Zambeze*-CSCS, o que o público consumiu, foi a posição negativa de se querer ignorar atribuições e competências das instituições, fazendo crer às pessoas menos informadas que o CSCS não tinha competência técnica ou jurídica para agir e, daí, justificar a recusa de comparência perante o CSCS, bem como a publicação de um texto que se veio a se comprovar como sendo de falsa origem.

Os aspectos a assinalar como perigosos, em 2003, são as agressões e detenções ilegais de profissionais dos OI's, no exercício das suas funções, perpetradas por militantes de partidos políticos, em campanha eleitoral e noutros momentos e circunstâncias, impedindo a livre cobertura de acontecimentos de interesse público, bem como as perseguições e intimidações que os jornalistas sofreram por estar a seguir “casos quentes”.

Porém, não se pode misturar, na mesma categoria, outro tipo de agressões, detenções e outros impedimentos sofridos pelos jornalistas por terem, claramente, ofendido e difamado pessoas singulares e instituições, usando a “capa” profissional. Nesta última categoria de ofensas, sabe-se que um jornalista do *Savana* foi agredido e um jornalista do *Imparcial* foi detido no Aeroporto de Maputo e, posteriormente, processado (*vide alerta 2003*).

Apreciando os “alerta” deste ano, pode dizer-se que a democracia está sendo exercida, dentro de parâmetros aceitáveis no plano mediático, pois, quaisquer intimidações e violações dos direitos dos jornalistas ou acusações de abuso de liberdade de imprensa têm sido levados às instâncias apropriadas. Sobretudo, as leis vigentes, em Moçambique, não permitiram que se encerrassem redacções e se retirassem licenças de operação de OI's.

Ambiente Legislativo

Em 2003, não houve mudanças na legislação relacionada com os OI's. As lacunas identificadas na lei de imprensa, no tocante à necessidade de haver leis e regulamentos específicos para a radiodifusão, teledifusão, publicidade e rádio televisão comunitária continuaram sendo objecto de debate e, até ao momento, não parece haver divergências de pontos de vista entre as entidades

do Estado, do Governo e organizações sócio-profissionais sobre esta matéria.

A opinião dominante, em 2003, foi a de que, mais do que mudanças formais na legislação o maior capital nas relações entre OI's e o Governo reside na livre expressão e na prática do diálogo esclarecedor, entre os profissionais dos OI's e os poderes constituídos, do qual pode resultar material informativo de qualidade, contribuindo para uma opinião pública mais informada e capaz de exercer pressão para que os gestores dos interesses do cidadão sejam cada vez mais actuantes e transparentes.

O termo “ameaça legal” aos OI's e seus profissionais pode não ser o mais adequado para caracterizar conflitos que possam ter ocorrido ao longo de 2003, uma vez que a legalidade acabou sendo resposta graças à capacidade interventiva dos próprios OI's, por um lado e, por outro, pelo reconhecimento crescente, pela opinião pública, de que os profissionais dos OI's, são parte do xadrez democrático e, entre outras, têm a tarefa de estarem atentos aos problemas da sociedade e às violações da legalidade e da democracia a fim de se impor a sua correcção.

Liberdades Constitucionais

Em 2003, o exercício das liberdades de expressão e de imprensa ganhou maiores níveis de crescimento, desencadeou a exigência e o gozo de outros direitos e liberdades fundamentais dos cidadãos, contribuindo para a emergência de uma massa crítica nacional e de uma opinião pública mais informada. Os OI's realizaram de maneira notável o seu papel mediador entre o público e os poderes constituídos através de debates, as reportagens, as cartas de leitores e os programas interactivos nos OI's audiovisuais versando sobre assuntos cada vez mais profundos que afectam a satisfação das necessidades básicas do cidadão e o direito à palavra sobre a performance governativa. Mais do que em qualquer outro ano, 2003 foi bastante produtivo no questionamento que os cidadãos e os OI's fizeram em relação ao sistema de justiça, o combate à corrupção, ao crime organizado, à discriminação e às crescentes desigualdades sociais.

Os cidadãos e instituições, ao abrigo da lei, gozaram do direito de resposta em termos de reposição da verdade, do seu bom nome e imagem sempre que se sentiram difamados ou mal reportados nos OI's, como pessoas ou membros de organizações. Importa, porém, referir casos OI's que não permitiram o gozo deste direito, obrigando os lesados a recorrer à instância reguladora ou aos tribunais. Tal foi o caso do *MediaFax* que foi processado por ter desobedecido a uma deliberação do CSCS.

De qualquer modo, as reclamações e processos judiciais sobre difamação ou investigação insuficiente de factos não foram de grande monta. Muitos dos diferendos foram resolvidos entre os editores e os lesados, acabando estes últimos por desistir de iniciar ou de continuar processos por abuso da liberdade de imprensa.

A lentidão com que as instâncias judiciais, lidam com processos de abuso da liberdade de imprensa e de difamação desencorajam acções judiciais contra OI's, por um a lado e, por outro, o cidadão comum por razões económicas, linguísticas e ignorância sobre os direitos que o assistem a si e à sua comunidade não toma nenhuma providência para se proteger. De referir que uma eventual necessidade de revisão da legislação relativa à difamação ainda não chegou a ser posta com seriedade.

Acesso à Informação

Em 2003, a abertura da lei, o cometimento por um estado de direito e o consenso de que a legislação actual precisa de ser actualizada desenvolveu um clima de debate, socialmente

abrangente, em torno do acesso à informação, havendo já um anteprojecto de legislação sobre o acesso à informação do Estado. Porém, o espírito do texto é criticado por se concentrar mais no acesso dos jornalistas à informação, como suporte das suas histórias, e não abordar o direito do povo à informação que facilite o usufruto dos seus direitos e necessidades básicos.

Radiodifusão e Teledifusão

Em 2003, continuaram os esforços para a reestruturação da rádio e televisão do sector público, em cujo relatório preliminar consta a proposta de estabelecimento de uma autoridade independente de regulação dos OI's audio-visuais. O MISA promoveu, também, um debate no qual o estabelecimento de uma autoridade desta natureza foi equacionado incluído, numa perspectiva de que o actual órgão regulador, o CSCS, apesar de ser órgão do Estado e independente do Governo, foi concebido para dar conta de todos os OI's. Outro argumento foi o de que o CSCS apenas lida com o produto mediático, e numa função, meramente moralizadora, não tendo, por isso mandato e capacidade para regular a atribuição de frequências e de licenças que são competências de outras autoridades reguladoras sob a alçada do Governo.

Apesar desta discussão, as posições que continuaram a vigorar, em 2003, foram as de que a autonomia editorial e operacional da rádio e televisão nos sectores público, privado e comunitário está garantida e, se se alterar a actual lei de imprensa, neste domínio, o seu carácter liberal poder-se-á perder em prejuízo dos próprios OI's.

Fraternidade de Classe

O sentido de classe, entre os profissionais dos OI's pode ser medido em termos de organizações profissionais e parcerias. Em 2003, surgiu a associação das empresas jornalísticas num momento em que o interesse imediato era legitimar o assento no CSCS. Avanços esperados, neste ano, em relação ao estabelecimento de carteira profissional não se verificaram, bem como o ano passou sem que uma “associação de editores”, de que se fala, há muito tempo, tenha sido discutida.

Em Novembro, foi acordado um código de conduta para a cobertura eleitoral, uma iniciativa louvável mas que não surtiu, plenamente, os efeitos desejados. Primeiro, porque tal acordo apareceu a meio da campanha eleitoral às autárquicas, depois de as redacções terem as suas agendas definidas; segundo, porque alguns dos subscritores deste código de conduta não o assumiram, devidamente, nas histórias eleitorais que publicaram.

Do ponto de vista material, provavelmente, a subscrição deste código deve ter trazido vantagens de acesso aos fundos disponibilizados pelos seus facilitadores, mas não parece ter sido um acto genuíno de compromisso com a ética e deontologia profissionais.

Conclusão

O ano 2003, foi muito importante para a afirmação dos OI's e progressos no seu relacionamento com várias instituições públicas e a sociedade. Neste ano, verificou-se um salto importante na valorização de outros assuntos de interesse público que não, apenas a concentração na pessoa de líderes políticos e governamentais. Foram pontos marcantes a cobertura acerca do impacto e educação contra a malária e o HIV/SIDA; conflitos de terras; a cobertura da pré-campanha e da campanha eleitoral dando voz aos munícipes, questionando e investigando de maneira mais profissional os programas dos partidos e candidatos a fim de facilitar as escolhas eleitorais; a intervenção de alguns parlamentares e a abertura do Governo para o desenvolvimento do ambiente midiático.

Os obstáculos que os profissionais dos órgãos de informação enfrentaram têm muito a ver com a fraca sustentabilidade financeira e técnica das respectivas empresas que, por sua vez se relacionam com a não definição de subsídios para melhor cumprirem a sua função pública. Outro obstáculo mas, também, desafio é o investimento nas novas tecnologias de informação e de comunicação de que muitos OI's precisam, bem como a formação académica profissional e cultural para os profissionais.

Ao longo de 2003, foram vários os sinais e gritos clamando por ajuda dada a situação grave de tráfico de pessoas e de órgãos humanos. Muitas crianças e mesmo adultos desapareceram sem que muitos dos OI's moçambicanos tivessem dado a devida mediatização como mereceram certos casos mencionados neste artigo e nos “alerta” do MISA-Moçambique. Esta é uma falta grave de todos os profissionais que não se dignaram juntar a sua voz à da imprensa internacional, em defesa do mais básico dos direitos humanos, o direito à vida.

■ ALERTS

• **DATE: January 31, 2003**

PERSONS/INSTITUTIONS: Carlos Cardoso

VIOLATIONS: Victory

Six men accused of killing Mozambican journalist Carlos Cardoso were convicted on January 31 and sentenced to lengthy prison terms.

Meanwhile, fugitive suspect Anibal dos Santos Junior, commonly known as Anibalzhino, who escaped from pretrial detention, was captured yesterday in South Africa and extradited to Mozambique, Interpol-South Africa announced.

Anibalzhino was tried in absentia for leading the death squad that murdered Cardoso in November 2000 and was sentenced to 28 years and six months in jail. The other five suspects were sentenced to at least 23 years in jail each.

• **DATE: October 7, 2003**

PERSONS/INSTITUTIONS: Hermínio Nhanombe, Ruben Jossai

VIOLATIONS: Threatened, censored

On October 7 2003, TVM (Mozambique Television) journalist Hermínio Nhanombe and Ruben Jossai, of *Savana* newspaper, were threatened and harassed by the bodyguard of Afonso Dlakhamu, leader of the opposition Resistência Nacional Mocambicana (RENAMO). The journalists were covering a political gathering in the Vilankulos district, in southern Mozambique.

The journalists were covering a political gathering in the Vilankulos district, in southern Mozambique. The journalists were also denied an opportunity to take photographs or notes relative to the event.

• **DATE: October 8, 2003**

PERSONS/INSTITUTIONS: Luis Dionisio

VIOLATIONS: Beaten

On October 8 2003, Anteje Buanar, chairperson of the União Desportiva de Sanjala football club, attacked Luis Dionisio, a sports journalist with the provincial station Radio Mozambique (RM-EP), in the northwestern province of Niassa. Buanar also attempted to confiscate the journalist's equipment.

The incident took place at the end of a football match between União Desportiva de Sanjala and São Paulo de Cuamba, during the first leg of the Niassa provincial tournament.

• **DATE: November 3, 2003**

PERSONS/INSTITUTIONS: Fritz Stark

VIOLATIONS: Beaten, equipment confiscated

On November 3 2003, freelance German journalist Fritz Stark was threatened, assaulted and had his equipment confiscated by unknown assailants in Quelimane, the capital of Zambézia province, in Mozambique's central region.

Stark, aged 38, has been working in Mozambique for about two years. Shortly before the assault, he was taking photographs of a march of the Madgermanes, former Mozambican migrant workers in the now-defunct German Democratic Republic (GDR).

• **DATE: November 9, 2003**

PERSONS/INSTITUTIONS: Salvador Januario

VIOLATIONS: Detained

During the weekend of November 8 to 9 2003, Radio Mozambique journalist Salvador Januario was detained by members and sympathisers of Mozambique's former rebel movement, the Resistencia Nacional Mocambicana (RENAMO). Januario was held captive for several hours at the local RENAMO offices in the northern province of Cabo Delgado. The incident took place in the town of Montepuez, where Januario had reported on illegal activities by RENAMO supporters who had been seen tearing down other political parties' election propaganda flyers.

Namibia



by **Graham Hopwood**

Graham Hopwood is an independent media consultant. He has worked as a journalist in Namibia since 1992.

The year under review, 2003, was in many ways a year of stasis for the Namibian media, but the apparent calm belied a number of worrying trends. The State media remained mired in obsequiousness to the government despite promises of a new image and even 'revolution'. The independent media's relationship with the government continued to be problematic, but did not markedly deteriorate.

For the Namibian Broadcasting Corporation (NBC) it was a case of 'the more things change the more they stay the same'. The state-owned broadcaster completed a painful restructuring process with over 100 staff taking voluntary retrenchment in the first three months of the year. In addition there was much talk of the need for new indigenous programming. A 'new image' was eventually launched in September 2003, but despite the fanfare the mix of programmes and the sycophantic nature of news broadcasts remained largely the same - although broadcasting hours did increase to include a breakfast television programme.

The 'new image' followed an order from President Sam Nujoma in October 2002 that the NBC must reduce foreign programming content, some of which he said was corrupting the youth.

Targeting specific programming, the President, in August 2003 urged the NBC "to stop showing this so-called *Big Brother Africa* and to start showing the history of Namibia." Ironically, *Big Brother Africa* (BBA) was one of the most popular programmes on the NBC in 2003. The daily BBA highlights survived September's 'new image' overhaul. The reality show was almost at an end and there would have been little point in hauling it off the airwaves just days before its climax.

Public pressure (mainly in the form of calls to radio phone-in programmes) also forced the NBC to reverse a decision to switch the popular soap opera 'Passions' from its 20h30 starting time to a late night slot. The NBC has set itself a target of introducing a quota of 80 per cent indigenous TV programmes within three years. At the moment it would appear its main strategy for achieving this is to show programmes featuring unedited footage of dignitaries visiting the President, rather than making any obvious effort to improve the quality and credibility of local programming.

Ironically, towards the end of the year the NBC announced it would be producing programmes in collaboration with Endemol (the Dutch company behind *Big Brother*) - much to the chagrin of local independent filmmakers who were hopeful of getting a share of the NBC's programming cake. In the light of the NBC's unwavering commitment to State propaganda, the launch of the Media Institute of Southern Africa (MISA) Namibia's campaign for an independently regulated public broadcaster was timely.

The new Information Minister Nangolo Mbumba expressed Government's disdain for such notions of independence when he told a workshop on a draft communications bill in July: "If the State no longer has a say in the mandate of the public broadcaster, funding to the public broadcaster from State coffers will have to be reconsidered. It does not make business sense to fund an institution and not be able to reprimand the institution if it no longer serves the needs

and aspirations of the nation.”

Mbumba succeeded Nujoma as Information Minister in May 2003. Despite fears that the President might use his eight-month stint in charge of the Information and Broadcasting portfolio to interfere more widely in the media, he mainly focussed his attentions on the restructuring at the NBC.

Although 2003 was a relatively low-key year in Namibian politics, it was not surprising that opposition political parties felt left out by the NBC’s assumption that news largely consists of ‘what the President and other leading Swapo figures did today’ (or even yesterday). In April the Democratic Turnhalle Alliance (DTA) complained that the NBC was ignoring its rallies while covering numerous Swapo-organised events. At a public discussion organised by Misa Namibia in July, Natji Tjirera of the Congress of Democrats (COD) said that the national broadcaster had deliberately sidelined his party.

Government’s relations with the independent media were blighted by the continuing advertising ban on *The Namibian* newspaper. The ban on Government advertising in *The Namibian* and the attendant ban on the purchasing of copies with State funds passed into its third year. President Sam Nujoma’s verbal attack on *The Namibian*’s Editor, Gwen Lister, in August (when he accused *The Namibian* and MISA of being “reactionary” apparently because of their stances on the Zimbabwean situation) put paid to any hope that this blemish on Namibia’s press freedom record would be removed in the near future.

During the year MISA Namibia submitted recommendations for the draft Communications Bill which was issued for public consultation. The recommendations included a call for the NBC to be regulated by the Communications Authority of Namibia envisaged in the bill, rather than through the NBC Act. At present the Act gives the Minister of Information power to appoint the broadcaster’s board without any form of public consultation.

A final version of the bill had not appeared by the end of the year and it was not clear if MISA Namibia’s suggestions would be accepted, although the prospects were not good. There were no major threats to Namibia’s constitutional commitment to the freedom of the press during 2003. While government kept quiet on the attacks on media freedom in other countries in SADC, such as Zimbabwe, journalists were, by and large, able to go about their work freely in Namibia.

However, hopes that 2003 would pass without any physical attacks on journalists were dashed in November. Two employees of the *Republikein* newspaper, journalist Paulus Sackarias and driver Simon Haimbodi, were assaulted and arrested by a paramilitary unit of the police. The two men were on their way to report on a memorial service at Onaame in the far north of the country. Not far from their destination they were stopped by members of the Special Field Force, taken to a police base, detained for four hours and assaulted. They were released on the same day, but their vehicle was confiscated and only returned to the newspaper several days later.

Fortunately libel cases remained few and far between on the media landscape. A case against the *Allgemeine Zeitung* concerning an alleged assault reported by the newspaper may open the way for changes to the way defamation cases are handled in Namibia. Lawyers for the newspaper intend to use, as a defence, the precedent set in South Africa recently, whereby a defendant can avoid liability by proving it had acted reasonably and had not been negligent by publishing the report. If successful the argument would shift the interpretation of the law away from the defendant having to prove that an allegedly defamatory was correct. The case has been post-

poned with no date fixed for the trial.

During the year the fledgling community radio movement was boosted by two developments - the creation of the Namibia Community Radio Network (NCRN) and the return to air of Katutura Community Radio (KCR). At its founding meeting in February 2003 NCRN vowed to lobby for greater recognition of community radio stations. In October KCR resumed broadcasting after a two-year silence following a staff walkout. The station was revived by a group of NGOs that will contribute to the station's broadcasting content.

As part of its new image, launched in September, the NBC also announced plans to introduce a radio station broadcasting in San languages - marking a step forward for one of Namibia's most marginalised communities. Namibia's private terrestrial TV stations experienced problems during 2003. Desert TV spent much of the year off air while it looked for suitable partners. TV Africa was left in limbo when its parent company in South Africa, Africa Media Group, went into liquidation in August. However, One Africa Television was launched in November from the ashes of TV Africa. While vowing to produce local content in the future, its initial programming schedule was dominated by programmes made by the South African Broadcasting Corporation.

MISA Namibia's attempts to install a Media Ombudsman and set up a new code of ethics fell flat, and the organisation was left trying to revitalise the project towards the end of the year. However, the launch of the Namibia Media Awards was largely successful and attracted a range of entries from across the media spectrum.

Perhaps the biggest challenge facing MISA Namibia is the task of uniting a still divided media and drawing support from a broad range of journalists. With the Journalists Association of Namibia remaining defunct, it is the only organisation that could achieve this. The Media Awards ceremony in November, which brought together the most diverse group of journalists seen at any media event for several years, raised hopes that the different organisations could find significantly more common ground in 2004.

Namíbia



Graham Hopwood

O Sr. Hopwood é um consultor independente dos media. Ele trabalhou como jornalista na Namíbia desde 1992.

Sob vários aspectos, 2003 foi um ano de estagnação para os média da Namíbia, mas a aparente calma avizinhava numerosos caminhos inquietantes. O média estatal permanecia atolado em servilismo ao governo apesar de promessas de uma nova imagem e até de ‘revolução’. As relações dos média independentes com o governo continuava a ser problemática, mas não se deteriorou de uma forma acentuada.

Para a Corporação de Radiodifusão da Namíbia (NBC), 2003 foi um caso de que, quanto mais as coisas mudavam mais elas permaneciam iguais. A Radiodifusora pertencente ao estado completou o doloroso processo de reestruturação com cerca de 100 empregados, aceitando reduções de salário voluntárias no primeiro trimestre do ano. Em adição a isto, havia muita discussão na introdução de uma nova programação indígena (natural do país). Uma ‘nova imagem’ foi eventualmente lançada em Setembro, mas apesar do toque das trombetas, a mistura de programas e a natureza sincrofónica das notícias as transmissões permaneceram no geral iguais - embora as horas de transmissão tivessem aumentado para incluir um programa televisivo de pequeno almoço.

A ‘nova imagem’ seguiu com a ordem do Presidente Sam Nujoma, em Outubro de 2002, em reduzir o conteúdo de programas estrangeiros, dizendo que alguns dos quais estavam a corromper a juventude.

Em Agosto, o Presidente pediu insistentemente à NBC “para parar de mostrar o programa denominado de Big Brother Africa e começar a mostrar a história da Namíbia”. Ironicamente, o Big Brother Africa (BBA) era um dos programas mais populares da NBC em 2003. Os diários mais importantes do BBA sobreviveram à ‘nova imagem’ de Setembro, embora o programa estivesse quase a acabar, e não faria muito sentido em cortar o programa a poucos dias do seu clímax.

As pressões do público (principalmente na forma de chamadas feitas a estações de rádio), também forçaram a NBC a voltar atrás na sua decisão em mudar de horário a popular telenovela Passions da sua hora inicial de 20h30m para uma abertura fora de horas (para um horário muito mais tarde).

A NBC, propôs a si própria o objectivo de introduzir uma quota de 80% de programas indígenas (naturais do país) no espaço de três anos. De momento, parece que a sua principal estratégia para este objectivo é apresentar programas mostrando filmagens não editadas de dignatários a visitar o Presidente, em vez de fazer um esforço em melhorar a qualidade e a credibilidade dos programas locais.

Para os finais do ano, a NBC anunciou que iria produzir programas em colaboração com a Endemol (a companhia Alemã por detrás do Big Brother) - para desagrado dos realizadores locais independentes que estavam esperançados em receber uma parte do pacote de programas da NBC.

No que diz respeito ao compromisso firme da NBC à organização do Estado, o lançamento da campanha do Instituto dos Média da África do Sul (MISA) na Namíbia por uma transmissora pública regulada independentemente foi oportuno.

O Ministro da Nova Informação, Nangolo Mbumba, expressou o desdém do Governo em relação às ideias de independência quando ele disse num workshop para o plano da lei de comunicações, em julho:

“Se o Estado já não têm uma opinião em relação ao mandato das transmissoras públicas, terá que se considerar o disponibilizar de fundos dos cofres do Estado. Não faz sentido, em termos de negócios em custear uma instituição e não ser capaz de repreender a instituição se ela já não cumpre a necessidades e aspirações da nação”

Mbumba, sucedeu Nujoma, como Ministro de Informação em Maio. Apesar dos temores de que o presidente pudesse usar os seus oito meses de cargo em poder dos assuntos de Radiodifusão e Informação para interferir de forma mais expansiva nos media, ele focou principalmente a sua atenção na reestruturação da NBC.

Embora 2003, fosse um ano de poucos acontecimentos chave na política da Namíbia, não foi de espantar que os partidos da oposição se sentissem deixados de parte das pretensões da NBC de que as notícias consistem em grande parte “do que o Presidente ou qualquer figura líder do Swapo fizesse hoje (ou até no dia anterior). Em Abril, a Aliança Democrática Turnhalle queixou-se de que a NBC, estava a ignorar as suas reuniões enquanto fazia a cobertura de numerosos eventos organizados pelo Swapo. Em discussão pública organizada pelo MISA-Namíbia em Julho, Natji Tijera, do Congresso Democrata disse que, transmissora nacional ignorou o seu partido de forma deliberada.

As relações do governo com os média independentes foram ofuscadas pelos anúncios contínuos de banir o jornal *The Namibian*. O banir de anúncios do governo no jornal *The Namibian*, a compra de cópias com fundos do Estado passou para o seu terceiro ano. O Presidente Sam Nujoma, atacou verbalmente o editor do *The Namibian*, Gwen Lister em Agosto (quando ele acusou o *The Namibian* e o MISA de serem ‘reaccionários’ aparentemente devido às suas posições na situação Zimbabweana) pôs de parte qualquer esperança que esta mancha na liberdade dos media na Namíbia, pudesse ser retirada num futuro próximo.

Durante o ano o MISA-Namíbia, submeteu recomendações para o plano da lei de Comunicações que tinha sido emitida para consulta pública. As recomendações incluíram uma menção para a NBC, ser regulada pela Autoridade de Comunicações da Namíbia, como estava encarado na lei, do que pelo Acto da NBC. No presente momento o Acto dá ao Ministro de Informação poderes para indicar a direcção da Radiodifusora sem que seja necessário qualquer consulta do público.

Uma versão final da lei não surgiu no final do ano e não era claro se as sugestões do MISA Namíbia seriam aceites, embora as perspectivas fossem boas.

Não houve ameaças de grande importância aos compromissos da constituição da Namíbia para a liberdade da imprensa durante o ano de 2003. Enquanto os governos mantinham silenciosos os seus ataques à liberdade dos média nos outros países da SADC, como no Zimbabwe, os jornalistas eram, de forma geral, capazes de trabalhar com certa liberdade na Namíbia.

No entanto, as esperanças de que o ano de 2003, passasse sem ataques físicos aos jornalistas caíram em terra em Novembro. Dois empregados do jornal *The Republikein*, os jornalistas Paulus Sackarias e o condutor Simon Haimbodi, foram agredidos e presos por uma unidade para-militar da polícia. Os dois estavam a caminho de um serviço fúnebre em Onaame no lado mais a norte do país. Não muito longe do seu destino, eles foram detidos por membros da Força de Campo Especial, levados até à base policial, detidos por quatro horas e agredidos.

Eles foram libertos no mesmo dia, mas o seu veículo foi confiscado e só foi devolvido ao jornal vários dias depois.

Felizmente, os casos de difamação foram escassos e espaçados na paisagem dos média. Um caso contra o *Allgemeine Zeitung*, dizendo respeito a uma agressão reportada pelo jornal pode abrir caminho a mudanças na forma como os casos de difamação são levados a cabo na Namíbia. Os advogados dos jornais têm intenção de usar, como precedentes da defesa, postos em funcionamento na África do Sul, onde o arguido pode evitar a responsabilidade ao provar que ele agiu de forma sensata e que não foi negligente ao publicar o relatório. Se for bem sucedido este argumento, pode mudar a interpretação da lei a favor do arguido pois terá que ser provado que a alegada difamação seria correcta. O caso foi adiado sem data fixa para julgamento.

Durante o ano, a inexperiente comunidade do movimento da rádio foi impulsionada por dois desenvolvimentos - a criação da Rede Comunitária da Rádio (NCRN) e o regresso da transmissão da Katutura Community Radio (KCR) (Radio Comunitária de Katutura). No momento em que foi fundada em Fevereiro, a NCRN comprometeu-se em criar influências para um reconhecimento maior na comunidade das rádios. Em Outubro a KCR voltou a transmitir depois de dois anos de silêncio por abandono de pessoal. A estação foi reanimada por um grupo de ONGs (organizações Não Governamentais), que irão contribuir no conteúdo a transmitir pela rádio.

Como parte da sua nova imagem, lançada em Setembro, a NBC também anunciou planos para introduzir uma estação de rádio a transmitir em língua San - dando um passo em frente e distinguindo uma das comunidades mais marginalizadas da Namíbia.

As estações de Televisão privadas terrestres da Namíbia experimentaram alguns problemas durante o ano de 2003. A Desert TV, passou maior parte do ano fora do ar enquanto encontrava parceiros adequados. A TV Africa foi deixada num limbo quando a sua companhia associada na África do Sul, a Africa Media Group (Grupo dos Média de África) foi a liquidação em Agosto. No entanto, One Africa Television (Televisão Uma África), foi lançada em Novembro das cinzas da TV África. Enquanto prometiam produzir programas de conteúdo local, a sua programação inicial estava dominada por programas feitos pela Corporação de Radiodifusão da África do Sul.

As tentativas do MISA da Namíbia, em instalar um média Ombudsman, preparar um novo código de ética caiu por terra, e a organização foi deixada a tentar revitalizar o projecto perto do final do ano. No entanto, o lançamento dos Prémios dos Média da Namíbia, ocorreu com grande sucesso e atraiu uma série de acessos no espectro dos média.

Mas talvez o maior desafio que o MISA da Namíbia, terá que enfrentar é a tarefa de unificar um média ainda dividido e trair apoios série maior de jornalistas. Com a Associação de Jornalistas da Namíbia, permanecendo falecida, ela é a única que é capaz de realizar estas tarefas. A cerimónia de Prémios dos Média em Novembro, que juntou os mais diversos grupos de jornalistas alguma vez vistos em qualquer evento dos média nos últimos anos e levantou esperanças que diferentes organizações pudessem encontrar de forma significativa um terreno comum em 2004.

■ ALERTS

• **DATE: August 14, 2003**

PERSONS/INSTITUTIONS: Gwen Lister, Andreas Frai, MISA

VIOLATIONS: Threatened

On August 14 2003, President Sam Nujoma launched a verbal attack against Gwen Lister, editor of *The Namibian* newspaper, *The Namibian* itself and MISA. The president also instructed reporter Andreas Frai of the Namibia Broadcasting Corporation (NBC) not to work with MISA.

The president criticised the media's lack of participation in the international Smart Partnership. He also condemned MISA, which he said was only out to insult him and other heads of state, and accused *The Namibian* and MISA of being "unprofessional" and "reactionary."

• **DATE: August 20, 2003**

PERSONS/INSTITUTIONS: MISA

VIOLATIONS: Threatened

On August 20 2003, Zimbabwean Minister of State for Information and Publicity Jonathan Moyo attacked MISA (regional body, with a secretariat hosted in Windhoek, Namibia) for what he called "promotion of misunderstanding" between the Zimbabwean government and the private media.

Speaking in Dar es Salaam, Tanzania, Moyo alleged that MISA is being used by the donor community to promote reports that the private media in the southern African country were operating in a hostile environment.

• **DATE: August 21, 2003**

PERSONS/INSTITUTIONS: Allgemeine Zeitung

VIOLATIONS: Legislation (sued)

The Buschschule Namibia, a European juvenile welfare service project, has sued *Allgemeine Zeitung*, a German daily newspaper, for publishing alleged defamatory and slanderous articles.

In a series of articles that appeared in the newspaper's February 21 2003 edition, the newspaper stated that a former staff member of Buschschule Namibia had filed a complaint against the youth aid organisation with the Foreign Office in Germany (the source of most its funding).

• **DATE: November 8, 2003**

PERSONS/INSTITUTIONS: Paulus Sackaria, Simon Haimbodi

VIOLATIONS: Beaten, threatened, detained, equipment confiscated

On November 8 2003, journalist Paulus Sackarias and driver Simon Haimbodi, of the Afrikaans language daily *Republikein*, were threatened, assaulted and arrested by Namibian Special Field Force (SFF) members. The company vehicle was also confiscated by the SFF members.

A young boy, who was acting as their guide, was also in the vehicle at the time. The incident occurred as Sackarias and Haimbodi were on their way to Onaame, 85 kilometres northwest of Oshakati, in the Omusati region, to attend a memorial service in honour of police constable Jakob Urbanus.

South Africa



by Guy Berger

Guy Berger is Professor and Head of Department of Journalism and Media Studies, Rhodes University, South Africa.

South African media operate in a relatively free legal environment, but 2003 still saw numerous challenges to journalists' ability to play a truly democratic role. Starting with politics, alleged top-level corruption in South Africa's arms deals saw much coverage around these matters. In a climate of continuous leaks and smears, President Thabo Mbeki subsequently appointed the Hefer Commission which in turn yielded fascinating insights into political agendas and their relation to the media. In a context where the ruling establishment was factionalised, a pluralistic media ensured that diverse voices - both within and without power - found places to be published freely, even if too often without professional scrutiny. Such robust coverage continued despite many angry complaints by the politicians receiving a bad press.

National government-media relations, however, were cordial, although media bodies upbraided the Department of Foreign Affairs for its deafening silence on the banning of the *Daily News* in Zimbabwe. Between the legislature and the press, a compromise was eventually brokered over contested attempts by the Speaker to relocate parliamentary correspondents to offices further away from the debating chambers.

President Mbeki critically engaged journalists at the "All-Africa Editors Conference" convened in Johannesburg by the SA National Editors Forum (SANEF). Delegates accepted his attacks on reporters' ignorance of Africa and the African Union. They responded, however, that he could do a lot more himself, and not only put the onus on them to hold their governments to commitments to free speech as entailed by membership of the African Union.

The Presidential Press Corps was constituted in April, aiming to improve information flows between the presidency and the media. Mbeki said at the time his administration was not trying to embed journalists with the state. Journalists assigned to the Corps have expressed awareness of potential pitfalls of the body.

SANEF held meetings between editors and three provincial governments in order to improve regional understanding and interaction, but the forum rejected a proposal by Limpopo Province for a government-media press club. In September, the Mpumalanga government paid for an advertisement in *City Press* stating "freedom of the press has become a licence to kill." The text accused journalists of having hidden agendas, and claimed the media was trying to "send every black official to jail, including the President himself." In the province itself, only continued pressure by the African Eye News Service eventually revived a police investigation into intimidation of their reporters.

At local government level, a Kimberley city councilor threatened to bar the media from council meetings after publication of details of staff debt described in a council agenda. However, an encouraging development in Kwazulu-Natal saw a government official fined ZAR1000 for intimidating a journalist on the *Vryheid Herald*.

As regards the general legislative environment, the Interception and Monitoring Act of 2002 was still not put into force, although when it does it could enable monitoring of journalists' communications by state or employers under certain conditions. Media advocacy and human

rights groups raised concerns, however, over Government's promotion in 2003 of an "Anti-Terrorism" bill whose vagueness lent it to abuse against legitimate media activities. In particular, the bill would restrict coverage and therefore the public's right to know, and also put unprecedented legal pressure on journalists to reveal sources. The draft law was subsequently revised.

In short, an uneasy and mixed situation prevailed between politicians and the press.

Similar complexities existed in other arenas. Thus, the vexed question of the Fourth Estate being compelled to testify in judicial process by the Third Estate was a major issue in 2003 and may reach the Constitutional Court in 2004. Former journalist Ranjeni Munusamy initiated this trajectory following two unsuccessful attempts to persuade the Hefer Commission to drop a subpoena requiring her to testify about her journalistic work. The Commission rejected Munusamy's claims of receiving death threats from some sources and her professional concern to protect the identity of her sources.

Munusamy unsuccessfully appealed to the High Court, which in effect declared her a primary source of evidence. Shortly before her application to take her appeal to the next level was postponed to 2004, Hefer formally excused her from testifying on the basis that the appeal would delay proceedings, and he was satisfied that her evidence would only be of peripheral value. This decision vindicated the argument of media organisations MISA-SA, Freedom of Expression Institute, SA National Editors Forum, and the Media Workers Association of South Africa, which had joined forces to launch *amicus curiae* (friends of the court) actions alongside Munusamy's individual appeals. The organisations had argued that journalists should not generally be called to testify, and that if they were, this should only be as a last resort - by which time, an informed decision could be made as to how essential their (usually second-hand) testimony would really be. Several journalists were subpoenaed or invited to give evidence at the Commission during 2003. Fortunately, those who refused were not pursued.

In a civil case, however, two *Sunday Times* journalists were served South African legal subpoenas to testify in Cape Town as part of a case in a foreign jurisdiction between author Wilbur Smith and his stepson Dieter Schmidt.

Privacy concerns, with judicial and ethical implications, arose during the year with the exploitation of the image of a parentless young man, Happy Sindane, by Radio Tuks and by a paint company. Similar concerns resurfaced when prior to any appearance in court, some media identified a group of youths related to a former cabinet minister who were alleged to have gang-raped a woman. *Nosweek* magazine identified the son of a leading politician who allegedly had rape-charges against him dropped after the complainant was apparently offered a lucrative job by a friend of the family.

Journalists' right to refuse pre-publication sight of an article to outsiders was upheld by Justice Essop Patel who turned down an application by a company seeking to interdict and access a draft of a news story from the *Mail and Guardian* newspaper before the article was published. But pre-publication preview was also raised in a separate case where a businessman brought an action against the *Cape Argus* in terms of the Promotion of Access to Information Act (PAIA). The outcome of this case will be highly significant for the media. Public awareness of PAIA remains low, and the media lag in using its provisions.

In a set-back for media access, the Cape High Court rejected an application by the SABC to broadcast the hearings of an enquiry into internal racism by the SA Rugby Football Union.

Problems of access were a controversial issue during the visit of US president George Bush in July, prompting complaints to both the US Embassy and the SA Department of Foreign Affairs about the exclusion of South African journalists from parts of Bush's itinerary.

The Media Development and Diversity Agency, legislated into existence in 2002, appointed a Chief Executive Officer and also published its funding guidelines for comment. Its activities are expected to commence in earnest in 2004. Meanwhile, a range of new commercial print titles, largely tabloid in tone, continued to grow and flourish. However, content diversity as regards gender and racial representation was shown to be extremely problematic in a study by Genderlinks, MISA and the Media Monitoring Project. The results revealed that only 19 percent of news sources were women, and even worse, that black women (who constitute 45 percent of the population) made up only 7 percent of the total. Black men made up 27 percent of news sources, and white men 32 percent.

On the other hand, SABC began afternoon television news in Tshivenda and Xitsonga, two of the country's most marginalised indigenous languages, but closed down loss-making Bop Broadcasting TV and radio stations. Meanwhile, slow steps began towards SABC implementing legislation that requires it to set up two new TV channels to carry only African languages.

Regulator ICASA called for comment on possible amendments to the pro-diversity legal requirement that restricts cross-ownership to 20% shareholdings between print and broadcast operations. The result is likely to be a more lenient approach by the regulator, and possibly even legislative change. The movement by ICASA came in the aftermath of New Africa Investments Ltd (NAIL) being refused permission by the regulator to acquire Kagiso Media's radio stations.

The effect was for NAIL to throw in the towel as a media player, and put its own assets up for sale.

The regulator stands to benefit from the Convergence Bill released in December that proposes a new funding formula that would substantially strengthen ICASA's ability to hire skilled staff and to function expeditiously. However, there are concerns that its provisions to licence content services and applications could be interpreted to include web-site publishers and not just broadcasters.

Internal issues within the media during 2003 included fears raised that the South African Broadcasting Corporation (SABC) was seeking to centralise editorial control through a proposed new "upward referral" system that would render the CEO as the Editor-in-Chief, thereby merging business and editorial responsibilities in one post. This was criticised for threatening to inhibit independence and initiative at the reporter level and for facilitating easier political control from on high. In response, SABC argued that its journalists had to be accountable, and that the Broadcast Act, the SABC's licence and its internal draft code of conduct guaranteed the independence of editorial both from political and commercial interests.

The "upward referral" system was part of a wider set of editorial policies put forward for public comment by the SABC, after MPs last year overruled draft legislation that the Minister of Communications should determine SABC policies.

Later, a mini-furore erupted in regard to how SABC was responding to controversy about politicians appearing in its programmes in the run-up to the 2004 elections. Some commentators identified a "gagging" attempt in a secretive memorandum that party political discussions

should be restricted to airtime slots controlled by the news and current affairs division. SABC defended the memo saying that only its journalists, rather than other programming staff, were in a professional position to provide balance and to ask informed questions of politicians.

Near year-end, concerns were expressed when a predominantly ANC-aligned SABC Board was appointed by the President on recommendation of parliament. Other commentators said that political affiliations did not necessarily mean individuals would not act independently on the Board.

Journalism received sharp jolts during the year as a result of grossly unprofessional conduct. Freelance columnist Darryl Bristow-Bovey and *Elle* magazine editor Cynthia Vongai were each exposed as plagiarists. *Sunday World* reporter Simon Nare allegedly fabricated a front-page story. *City Press* editor, Vusi Mona, resigned his job after his company investigated his conflict of interests arising from co-ownership of a public relations company. Subsequently, at the Hefer Commission, Mona admitted to being “reckless” in his prior publication of spy allegations about the National Director of Public Prosecutions (NDPP). He further admitted to giving incorrect answers during evidence, concerning amongst other things, the publication of minutes of an off-the-record briefing by the NDPP. Mona’s breaking of the cardinal principle of confidentiality in regard to the briefing provoked debate on such briefings. The whole spy story brought sharply to the fore the issue of journalists, wittingly or unwittingly, playing a part in broader political struggles that compromise their independence.

The issue of management and staff expectations of editors also came under the spotlight with the firing of *Sunday Times* editor Mathatha Tsedu after his attempted “Africanisation” of the KwaZulu-Natal edition lost mid-market Indian readers and a group of staffers rebelled against his leadership.

Media not only covered many stories during 2003, it was frequently part of them. While government criticisms and threats hovered in the background alongside dialogue and discussion, the most dramatic problems and in particular the lack of diversity and ethics, seemed to be internal to the media itself. The legacy of the year is likely to be heightened awareness of the democratic role and professional responsibilities of journalists.

África do Sul



Guy Berger

Guy Berger é Professor e Chefe do Departamento de Jornalismo e Estudos dos Mídia, na Universidade de Rhodes.

Os mídia de África do Sul, operam num ambiente relativamente livre de pressões legais, mas em 2003, ainda foram vistos numerosos ataques à capacidade dos jornalistas em jogar um papel democrático.

Começando pela política, foi dada muita cobertura aos alegados casos, de corrupção de alto nível. Num clima de constantes fugas e contornos, o Presidente Thabo Mbeki, apontou subseqüentemente, a Comissão Hefer que por sua vez citou conhecimentos fascinantes, às agendas políticas e à sua relação para com os mídia. Num contexto onde as leis estabelecidas estavam baseadas em factos, um Mídia pluralista garantiu que diversas vozes, - tanto dentro como fora do poder - encontrassem lugares para publicarem livremente, mesmo apesar, de muitas vezes sem pesquisa minuciosa. Estes tipos de coberturas robustas continuaram apesar, de queixas furiosas por parte dos políticos que recebiam más reportagens sobre eles.

As relações entre o governo e os mídia, a nível nacional eram no entanto, cordiais, embora o corpo dos mídia falassem muito sobre, o silêncio ensurdecedor, do Departamento de Negócios Estrangeiros sobre o banir do *Daily News* de Zimbabwe. Entre a legislação e a imprensa, um compromisso era eventualmente quebrado, por tentativas do Porta-voz recolocar correspondentes parlamentares, em escritórios mais afastados das câmaras de debate.

O Presidente Mbeki, empreendeu críticas aos jornalistas, na “Conferência de Editores de toda África”, que se deu em Johannesburg, organizada pelo Forum de Editores Nacionais da África do Sul (SANEF). Os delegados aceitaram o seu ataque à “ignorância”, dos repórteres da União Africana e de África. Eles responderam, no entanto, que ele próprio poderia fazer muito mais, e não só pôs a responsabilidade do lado deles, para que garantissem os seus compromissos de livre discurso, como estava vinculado na Associação da União Africana.

A Corporação de Imprensa Presidencial, foi constituída em Abril, com o objectivo de melhorar a passagem de informações, entre o Presidente e os mídia. Mbeki, disse na altura que a sua administração não estava, a tentar aglutinar a imprensa ao estado. Os jornalistas que se associaram à Corporação, mostraram ter consciência dos riscos, de falha que este corpo tinha.

A SANEF, organizou encontros entre editores e três governos provinciais de forma a melhorar a compreensão e interacção regional, mas o forum rejeitou uma proposta da Limpopo para formar um clube entre governo e os mídia. Em Setembro, o governo de Mpumalanga pagou por um anuncio no *City Press*, que relatava “a liberdade da imprensa tornou-se uma licença para matar”. O texto acusava jornalistas de terem agendas escondidas, e afirmava que os mídia estavam a tentar “mandar todos os oficiais negros para cadeia, incluindo o próprio Presidente”. Na própria província, somente a pressão contínua do African News Service, é que eventualmente reviveu a investigação às intimidações aos repórteres.

Ao nível do governo local, o conselheiro da cidade de Kimberly, ameaçou em impedir a entrada dos mídia das reuniões do conselho, depois das publicações detalhadas de dívidas do pessoal descritas em agenda do conselho. No entanto, desenvolvimentos encorajantes em Kwazulu-Natal fez com que, um oficial do governo multasse, com 1000 ZAR (rands) por intimidar um

jornalista do *Vryheid Herald*.

Em relação ao ambiente legislativo em geral, o acto de Intercepção e Monitoramento de 2002, ainda não tinha sido posto em acção, embora quando fosse posto poderia permitir o monitoramento de comunicações, de jornalistas pelo estado ou trabalhadores mediante certas condições. Os grupos de Direitos Humanos e Advocacia dos Mídia levantou preocupações, que no entanto, sobre promoções do Governo em 2003, de nota de “Anti-Terrorismo” que por ser muito vago, permitiu que fosse abusado contra actividades legítimas dos mídia. Em particular, restringia a cobertura e logo, também os direitos do público ao conhecimento, e também colocou uma pressão sem precedentes aos jornalistas em revelar as suas fontes. O plano dessa lei foi subseqüentemente revisto.

Em resumo, uma situação constrangedora e confusa prevaleceu entre os políticos e a imprensa. Complexidades similares existiram noutras arenas. Logo, a questão controversa do Quarto Estado compeliu o Terceiro Estado a testemunhar em processo judicial, foi um assunto de grande importância em 2003 e pode chegar ao Tribunal Constitucional em 2004. A ex-jornalista Ranjeni Munusamy, iniciaram este trajecto depois de duas tentativas falhadas em persuadir A Comissão de Hefer em desistir de uma citação que requisitava a presença dela para testemunhar sobre os seus trabalhos jornalísticos. A Comissão rejeitou a reclamação de Munusamy de que ela recebia ameaças de morte de algumas fontes e a sua preocupação como profissional consistia em proteger a identidade das suas fontes. Munusamy apelou sem sucesso ao Tribunal Supremo que resultou e declarou-a uma fonte primária de provas. Pouco tempo antes de o seu requerimento levar o seu apelo ao nível seguinte, ele foi adiado para 2004, Hefer dispensou formalmente o seu testemunho com base de que o seu apelo iria atrasar os procedimentos, e que ele estava satisfeito de que o seu testemunho só teria um valor periférico.

Esta decisão, vindicou o argumento das organizações dos mídia MISA-AS, Instituto de Liberdade de Expressão, do Forum Nacional de Editores de África do Sul e da Associação de Trabalhadores do Mídia de África do Sul que, Munusamy, apela individualmente. As organizações argumentaram que os jornalistas não deveriam ser geralmente chamados a testemunhar, mas se eles fossem, isto deveria acontecer como último recurso - e nessa altura, poderia ser feita uma decisão informada (normalmente em segunda mão) em como o testemunho deveria ser. Vários jornalistas, foram citados ou convidados a mostrar evidências na Comissão durante 2003. Felizmente, os que recusaram não foram persuadidos a mudar.

No entanto, num caso civil, dois jornalistas do *Sunday Times*, foram chamados pelo sistema jurídicos Sul Africano, para testemunhar em Cape Town (Cidade do Cabo) em parte de um caso de jurisdição estrangeira entre Wilbur Smith e o seu enteado Dieter Schmidt.

Assuntos privados, com implicações éticas e judiciais, surgiram durante o ano com a exploração de imagem de um jovem sem parentes, Happy Sindane, na Rádio Tucks e numa empresa de tintas. Assuntos similares ressurgiram quando, antes de qualquer aparição em tribunal, alguns mídia identificaram um grupo de jovens de uma gang relacionada com um Ministro de Gabinete que alegadamente violou uma jovem. A revista *Noseweek*, reconheceu o filho de um político conhecido que alegadamente era acusado de violação retirada depois de ter sido oferecido à queixosa um emprego lucrativo por um amigo da família.

O direito dos jornalistas, em não deixar ver a pré-publicação de um artigo a pessoas de fora foi negado pelo Justice Essop Patel que negou a aplicação de uma empresa que queria a interdição e acesso de um rascunho de uma notícia do jornal *The Mail and Guardian*, antes que, ele fosse publicado. Mas a leitura de uma pré-publicação também levantou questões noutro caso separado

onde um homem de negócios levou uma acção contra o *The Cape Argus*, nos termos do acto do Acesso à Informação e Promoção (PAIA). O resultado deste caso vai ter grande significado para os média. O conhecimento público do PAIA é escasso, bem como o atraso dos média em usar as suas provisões.

Em um contratempo ao acesso aos média, o Tribunal de Cape rejeitou uma aplicação da SABC para a transmissão dos questionários de um inquérito, sobre o racismo interno na União de Futebol de Rugby Sul Africano. Problemas de acesso, eram assuntos controversos durante a visita do Presidente George Bush, em Julho, os média promoveram queixas tanto à Embaixada dos Estados Unidos como Departamento de Negócios Estrangeiros sobre a exclusão de jornalistas Sul Africanos em parte dos itinerários do Presidente Bush.

A Agência de Diversidade e Desenvolvimento dos Média, legislada até ao presente 2002, nomeou um Chefe executivo Oficial e também publicou orientações fundamentais para comentários. Eram esperadas as suas actividades em pleno em 2004. Entretanto, uma gama de títulos imprimidos num tom bastante sensacionalista começou a crescer. No entanto, a diversidade de conteúdo no que dizia respeito a representação de género e de raça, o cenário mostrava-se bastante problemático em estudos feitos pelo Genderlink, o MISA e o Projecto de Monitoramento dos média. Os resultados mostraram que apenas 19% (por cento) das fontes das notícias eram mulheres, e para piorar, as mulheres negras (que constituem 45 por cento da população) só faziam 7% (por cento) do total da população. Homens negros tinham 27% (por cento) de fontes de notícias, enquanto homens brancos 32% (por cento).

Por outro lado, a SABC começou ter notícias informativas à tarde em Tshivenda e em Xitsonga, duas das línguas indígenas mais marginalizadas do país, mas encerrou a transmissão da TV Bop e estações de rádio por baixo rendimento. Entretanto, começaram a dar lentos passos em direcção à implementação da legislação necessária da SABC, para iniciar dois novos programas em linguagens Africanas.

Os reguladores da ICASA, foram chamados para comentar possíveis emendas necessárias para as leis pró-diversidade que restringem a posse conjunta de 20% de acções entre os operadores de transmissão de impressão. O resultado será mais provavelmente um aproximar mais suave pelo regulador, e possivelmente até mudanças na legislação. O movimento por parte da ICASA veio depois de ser negada permissão da parte da Investimentos Nova África, Ltd (NAIL) em adquirir as estações de rádio Kagiso Média. O efeito disto levou que a NAIL desistisse da possibilidade de entrar nos negócios dos média, e pôr os seus próprios bens à venda.

O regulador, tem como finalidade beneficiar da Conta Convergente lançada em Dezembro, que propõe uma fórmula fundamental que irá reforçar substancialmente a capacidade da ICASA em contratar pessoal especializado e funcionar de forma expedita. No entanto, existem dúvidas se o conteúdo dos serviços e aplicações da licença possam ser interpretados como forma de incluir publicações em sites de internet (web-sites), para além das transmissões convencionais.

Assuntos internos dentro dos media durante 2003, incluiu um receio aumentado de que a Corporação Radiodifusão da África do Sul (SABC), procurava centralizar o controle editorial através da proposta de um novo sistema de “referência ascendente” que iria capitular o CEO (Chefe de Organização Empresarial), como o Chefe Editor, desta forma, fazendo a fusão das responsabilidades editoriais e dos negócios a um só posto. Isto foi criticado por ameaçar inibir a independência e as iniciativas ao nível dos repórteres e facilitando um controle político sem dificuldades por parte da direcção. Em resposta, a SABC, argumentou que os seus jornalistas teriam que ser responsáveis, e que o Acto de Radiodifusão, a licença da SABC e que o seu plano

de códigos de conduta garantiria a independência editorial tanto de interesses políticos como comerciais.

O sistema de “referência crescente” era parte de um largo conjunto de políticas editoriais expostas ao comentário público pela SABC, depois dos MP’s (Ministros do Parlamento) rejeitarem o plano de legislação que o Ministro das Comunicações deveria determinar a política da SABC.

Mais tarde, ocorreu uma pequena erupção no que dizia respeito em como estaria a SABC, a reagir à controvérsia sobre políticos aparecendo em programas na corrida às eleições de 2004. Alguns comentadores disseram haver uma tentativa em os “amordaçar” num memorando secreto que dizia que as discussões entre partidos deveriam ser restritas a tempos de antena pequenos controlados pela divisão de assuntos actuais e notícias. A SABC, defendeu o memorando dizendo que apenas os seus jornalistas, em vez de qualquer outro tipo de pessoal, estavam numa posição profissional para providenciar o balanço e perguntar perguntas informativas aos políticos.

Perto do final do ano, foram expressas preocupações quando foi nomeados uma comissão da SABC, em alinhamento com o ANC, pelo Presidente com recomendação do parlamento. Outros comentadores disseram que as afiliações políticas não queriam dizer que indivíduos não conseguissem agir de forma independente na Comissão.

O jornalismo sofreu grandes solavancos durante o ano, como resultado de uma conduta muito pouco profissional. O jornalista independente Bristow-Bovey e a editora da revista *Elle*, Cynthia Vongai foram ambos expostos como plagiadores. O repórter do *Sunday World*, Simon Nare alegadamente fabricou uma história de primeira página. O editor da *City Press*, Vusi Mona despediu-se do seu cargo depois da companhia investigar a subida do seu conflito de interesses com a sua co-propriedade de uma companhia de relações públicas. Subsequentemente, na Comissão Hefer, Mona admitiu em ter sido “irreflectida” na sua publicação anterior nas alegações de espionagem sobre o Director Nacional de Perseguições Públicas (NDPP). Ele ainda admitiu em ter dado respostas incorrectas durante a audiência, no que dizia respeito a outros assuntos, como a publicação de um resumo de uma gravação para informação particular do NDPP. O quebrar do princípio cardinal de confidencialidade no que respeito ao resumo provocou um debate sobre estes tipos de resumos. Toda esta história, de espionagem concentrou, de forma deliberada ou não, o foro de assuntos dos jornalistas, tendo um importante papel nas lutas políticas de uma forma geral, que comprometiam as sua independência. O assunto das expectativas da direcção e do pessoal também veio à ribalta, com o acusar do editor do *Sunday Times*, Mathatha Tsedu de tentar de “Africanizar” a edição de Kwazulu-Natal e perder o seu mercado intermediário de leitores indianos e um grupo do pessoal rebelar-se contra a direcção.

Os Mídia não só cobria muitas histórias durante o ano de 2003, como frequentemente fazia parte delas. Enquanto o criticismo e ameaças do governo choviam nos bastidores juntamente com diálogos e discussões, os problemas mais dramáticos eram em particular, a falta de diversidade e de ética, que parecia estar dentro do próprio mídia. O legado do ano é provavelmente elevar a consciência do papel democrático e as responsabilidades profissionais dos jornalistas.

■ ALERTS

• **DATE: January 23, 2003**

PERSONS/INSTITUTIONS: Lexi Herholdt, Nthabiseng Makhongoana

VIOLATIONS: Beaten

On January 23 2003, two South African Broadcasting Corporation (SABC) journalists were allegedly assaulted and held captive by teachers at a school near Lomanyaneng, North West Province. Radio reporters Lexi Herholdt and Nthabiseng Makhongoana told MISA's South African chapter (MISA-SA) that they were investigating a story about a school principal who refused to give students their report cards because of non-payments of school fees.

• **DATE: March 17, 2003**

PERSONS/INSTITUTIONS: newspaper(s), radio station(s), television station(s)

VIOLATIONS: Threatened

On March 17 2003, Eastern Cape Member of Executive Council (MEC) for Provincial Safety, Liaison and Transport Dennis Neer launched an attack on the press for its allegedly "biased" reporting on police transfers.

Addressing the legislature, Neer said, "recently our biased media, which is clearly being fed by those who benefited from apartheid and are not prepared or willing to accept change, reported on the impact of reconstruction of the Public Service, with a focus on the SAPS (South African Police Service)."

• **DATE: August 22, 2003**

PERSONS/INSTITUTIONS: newspaper(s), radio station(s), television station(s)

VIOLATIONS: Censored

On August 18 2003, at the opening of the Nthabiseng Thutuzela Care Centre at Baragwanath Hospital in Soweto, South Africa, Justice Minister Penuell Maduna said the South African government would not comment on continuing allegations that Deputy President Jacob Zuma tried to solicit a bribe from a French defence contractor linked to South Africa's multi-billion rand arms deal. Maduna also instructed government agencies and persons involved in the investigation not to comment on the issue.

"With the support of President Thabo Mbeki, we have decided not to comment on this matter. No one must comment. We are not in the business of running investigations through the media," Maduna said. The justice minister was accompanied by Public Prosecutor Bulelani Ngcuka, who is also in charge of the Scorpions Investigative Unit.

• **DATE: October 8, 2003**

PERSONS/INSTITUTIONS: Ranjeni Munusamy

VIOLATIONS: Legislation (legal action)

On October 8 2003, former *Sunday Times* journalist Ranjeni Munusamy was subpoenaed to appear before the Hefer Commission as its first witness, forcing her to testify before the presidential commission of enquiry.

The Hefer Commission is seeking information on the source of documents and a story that Munusamy leaked to the rival Sunday newspaper *City Press* on September 7. The story alleged that National Director of Public Prosecutions Bulelani Ngcuka had been investigated by the ruling African National Congress (ANC) on suspicion that he was an apartheid spy. Due to the broad-ranging nature of the subpoena, it is inevitable that Munusamy will be asked to reveal

her source while on the witness stand.

• **DATE: November 18, 2003**

PERSONS/INSTITUTIONS: SA media

VIOLATIONS: Legislation (legal action)

Lawyers for a Cape businessman have applied for an urgent interdict and have brought an Access to Information challenge against the *Cape Argus* newspaper to prevent it from publishing an article, which they allege is “defamatory” and “injures [their] client’s dignity.” George Hadjidakis, a major shareholder in the South African 7-Eleven chain and chairperson of the Premier Soccer League club Hellenic, plans to use the Promotion of Access to Information Act (PAIA) to try to force the paper to hand over a draft of an article for his personal perusal before it is published.

• **DATE: November 13, 2003**

PERSONS/INSTITUTIONS: Mail & Guardian

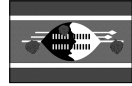
VIOLATIONS: Victory (positive judgement)

On November 13 2003, Judge Essop Patel delivered a ruling that should give some relief to media operations and journalists who are harassed by sources and others threatening litigation to obtain copies of news articles before they are published, MISA said.

Judge Patel ruled in the Pretoria High Court that it would be an unnecessary burden for newspapers to hand over copies of articles and reports for public preview.

In a case involving the *Mail and Guardian* newspaper and Positioning Corporate Underwriters and Insurance Consultants (PCUIC), Justice Patel found that if he allowed an application for an interdict for PCUIC to preview an unpublished story, he would create a precedent for a “pattern of repeatedly restraining the media.” In other words, granting of previews could constitute unnecessary restraint of media freedom by allowing prior censorship.

Swaziland



by **Ronnie Mamba**

Ronnie Mamba is an independent media consultant and trainer based in Mbabane, Swaziland

Swaziland's media landscape is slowly changing. Emerging from three years of what analysts believe were the worst years of Swazi journalism, Swaziland's media practitioners can be excused for being more optimistic today than they have been in recent history.

The years 2000 to the end of 2002 were characterised by a random closure of news organisations, sacking at will of government journalists who were seen to challenge authority, closing down of newspapers such as the *Swazi Observer*, a newspaper with Royal connections whose editorial direction was becoming increasingly liberal and the closure of two independent publications, *The Guardian* newspaper and *The Nation* magazine which altogether earned Swaziland the rather dubious honour of worst abuser of press freedom in the region, alongside Zimbabwe.

Today the mood in media circles is slightly more positive and the journalists themselves are slowly becoming more upbeat, not only about the future of journalism but also that justice will now prevail in the media industry since the departure of the former government. While they still regard authority with a lot of scepticism, paranoia and cynicism, their increased confidence that a fruitful coexistence with government is possible, is a starting point. Organisations such as the Editors' Forum took a conciliatory attitude towards the state agreeing to hold regular meetings with the then Prime Minister Sibusiso Dlamini to raise issues of national importance and register their concerns where necessary.

The Swaziland National Association of Journalists (SNAJ) finished drafting the ICT (Information and Communications Technology) policy in August. Again this exercise was held with not only the blessings of government, but also its participation, together with other stakeholders such as unions, employers and NGOs. Even the Media Institute of Southern Africa-Swaziland Chapter (MISWA) has been decidedly proactive in their attempt to engage government in their activities.

The attitude of the media, especially at organisational level seems to be one of acceptance that government is a stakeholder on national issues and that in spite of weaknesses apparent in both sides, coexistence and mutual co-operation is possible. When a South African newspaper published what was in essence a royal scandal, Swazi newspaper refused to publish it and in fact condemned the source of the story and decried what they saw as an attempt to embarrass the Kingdom by their bigger neighbours in the region. This attitude showed a lot of maturity on the part of the media, bearing in mind the hardships they endured under the government of Dr Sibusiso Dlamini, an economist turned politician whose government was voted out almost in toto in the October elections held under Swaziland's Tinkhundla system of government.

However during the year under review, what can be viewed as having been a major milestone in Swazi politics was the launch of the Draft Constitution by King Mswati III, a document that has been five years in the making. The Kingdom of Swaziland has been operating without a constitution since 12 April 1973. Initially viewed with a lot of scepticism, the draft has at least two provisions of interest to the media in Swaziland:

(1) The constitution will be the supreme law of Swaziland and if any law is inconsistent with this constitution, that law shall, to the extent of its inconsistency, be void.

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

For now the document has been referred to the public for debate and deliberation. Many have been very critical of it while some have acknowledged it to be a starting point. Dr. Moses Anafo a local government expert said in his presentation to the drafting committee: "We appreciate your work. Some of us are not fully satisfied with it but we appreciate that this is the nature of constitutions. They are compromise documents and we realise that there is no constitution that will ever satisfy everyone in a country". Since May 31, the media has led the way in the debate on the draft constitution.

The media industry has also experienced some impressive growth in terms of new titles coming into stream. The country saw the introduction of two magazine titles, a youth magazine called *Youth Connexion* and a sports magazine, *Siyavena*. A terrestrial television channel Channel Swazi, previously operating on the South African satellite platform, Sentech, was finally allowed to begin operating from eZulwini, a town mid-way between Mbabane and Manzini. The pro democracy *Nation* magazine also seems to have turned the corner in terms of attracting both advertisements and readership. Preparations are also underway to establish community radio stations to operate from each of the four political regions of the country. This initiative though still in the pipeline, is owned and driven by the United Nations (UN).

Much as the developments in Swaziland are positive and admirable, there is a genuine concern as to whether they represent a real change of heart or merely meant to abate the pressure that international organisations and western governments are piling on the continent's last absolute monarchy. Critics say the constitution is aimed at preserving Royal dictatorship and will not usher in much substantial change. Concern especially emanates from the constitutional provision that defines the King's powers as still extensive and largely unquestionable. Media scholars and practitioners are asking whether the King in fact overturns certain laws and if so what would the constitution do about it.

Another concern is the time frame. The constitution has been five years in the making. The constitutional debate has already taken six months and by all accounts the end is not in sight. Does this indicate some reluctance or unwillingness on the part of the Swazi authorities?

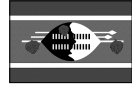
The emergence of a vibrant and divergent press is welcome and in fact useful for a democracy, however the reality in Swaziland is that all three new media organisations: *Youth Connexion*, *Siyavena* and Channel Swazi are not particularly critical of the state. The youth magazine aims mainly at addressing social issues affecting the youth such as HIV/AIDS and crime. While it offers brilliant social commentary, it does not however address politics and media freedom.

Channel Swazi is also a pro-establishment medium which offers very little in terms of progressive and dynamic points of view. The strong royal connection has resulted in many people viewing it with a lot of suspicion and cynicism. When government agreed to grant Channel Swazi a broadcasting licence, the general belief in media circles was that it was granted not in the name of media diversity and freedom but because it was cow-towing to royalty. The fact is that for a country the size of Swaziland with its attendant short comings such as extreme scarcity of spectrum, the government has never shown any willingness to liberalise the airwaves. They are still as much a reserve of the state as they have always been. The radio industry remains largely immature and unrepresentative. Rather it represents establishment in the name of the Church and the state. Radio Swaziland's two channels are government owned and Trans-World Radio is a Christian station with American origins and continental coverage.

Siyavena is a sports publication without much critical content. Apart from adding its name to the media landscape, it has no new voice on behalf of media freedom in the Kingdom. It is nevertheless a viable product that reflects the growing maturity of the media as an industry rather than the socio-political realities of Swaziland. Media ownership remains in the hands of the two principal players who have been in control for the past 35 years, namely the Loffler family which owns African Echo, the holding company of *The Times* (and its additional four publications) and the government, which owns Radio Swaziland, the biggest radio station, Swaziland Today, a newspaper with very little credibility and Swazi TV a channel that can at best be described as sub-standard. As a result of this, opinion leadership rests with just a handful of people. This is a perilous situation in a country that thinks of itself as a country in transition.

What makes matters worse is the reluctance on the part of *The Times* to recruit trained staff. As the biggest, most prestigious and oldest media house in Swaziland, this newspaper should be the trailblazer in issues of media freedom and the general advancement of professional standards. The standard of professionalism and the general direction of growth are directly linked to this highly popular publication. If *The Times* had insisted from the day of its inception (105 years ago), that journalism is a profession and needed professionally trained personnel, a different standard of journalism would exist today.

Swaziland



Ronnie Mamba

Ronnie Mamba é um consultor independente dos média e instrutor em Mbanane, Swaziland.

O escarpamento dos média em Swazilândia, está aos poucos a mudar de face. Emergindo de três anos dos quais muitos analistas acreditavam ser os piores do jornalismo de Swazilândia, os profissionais do média em Swazilândia, podem ser desculpados por estarem mais optimistas hoje em relação ao que estavam na história recente. Os anos de 2000 até finais de 2002, foram caracterizados por encerramentos ao acaso de organizações noticiosas, despedimentos arbitrários de jornalistas do governo que pareciam desafiar a autoridade, encerramento de jornais como o *Swazi Observer*, um jornal com conexões Reais, cuja direcção editorial estava a tornar-se cada vez mais liberal bem como o encerramento de dois publicadores independentes, os jornais *The Guardian* e o *The Nation Magazine* que, conjuntamente receberam a honra duvidosa de pior violador da liberdade da imprensa, juntamente com o Zimbabwe.

Hoje em dia, as disposições dos círculos dos média estão ligeiramente mais positivas e os próprios jornalistas estão aos poucos mais esperançados, não só em relação ao futuro do jornalismo, mas também de que a justiça irá prevalecer na indústria dos média desde a saída do último governo. Enquanto eles encaram a autoridade com muito cepticismo, paranóia e cinismo, têm uma confiança aumentada de que uma coexistência frutuosa é um bom início. Organizações como o Forum de Editores tomou uma atitude conciliadora em relação ao concordar do estado em marcar reuniões regulares com o então Primeiro Ministro Sibuso Dlamini, para levantar questões de importância nacional e registar as suas preocupações nos pontos necessários. A Associação Nacional de Jornalistas da Swazilândia, acabou de escrever o plano da política do ICT em Agosto. De novo este exercício ocorreu não só com a benção do governo, mas também com a participação de outros detentores de capital como uniões, empregados e ONGs (Organizações Não Governamentais).

Até o Instituto de dos Média de África do Sul, secção da Swazilândia (MISWA), também foram decisivos nas suas acções em empreender o governo nas suas actividades. A atitude dos média, especialmente ao nível organizacional parecia estar de acordo de que o governo é um detentor de capital, no que diz respeito aos assuntos nacionais mesmo apesar da aparente fraqueza de ambos os lados, coexistência a cooperação mútua é possível. Quando um jornal Sul Africano, publicou uma história de um escândalo real, o jornal Swazi, recusou-se a publicar esta história, tendo de facto ido mais longe ao condenar a fonte da história e descreveram o sucedido como uma forma de embaraçar o Reinado por parte dos seus vizinhos. Esta atitude mostrou bastante maturidade por parte dos media tendo em conta as dificuldades que eles suportaram no governo de Dr. Sibusso Dlamini, um economista tornado político cujo foi rejeitado do governo quase na totalidade nas eleições de Outubro, sobre o sistema de governo de Tinkhundla.

No entanto, durante o ano em revisão, o que pode ser visto como um marco de grande importância na política da Swazilândia, foi quando o rei Mswati III, lançou o Plano da Constituição, um documento que demorou cinco anos a ser realizado. O Reinado da Swazilândia, estava a funcionar sem uma Constituição desde 12 de Abril de 1973. Inicialmente visto com muito cepticismo, o plano têm pelo menos duas provisões que interessam aos media da Swazilândia:

- 1) A constituição vai ser uma lei suprema na Swazilândia, e se qualquer lei é inconsistente com esta constituição, esta lei deverá, destituída na sua totalidade.
- 2) Uma pessoa não deverá, excepto com o consentimento desta pessoa, ser impedida de gozar a sua liberdade de expressão, o que inclui a liberdade da imprensa ou qualquer outro média.

Por agora o documento, foi entregue ao povo para debate e deliberação. Muitos têm sido críticos a ele enquanto alguns reconheceram o documento como um ponto de partida. O Dr. Moses Anafo, um especialista do governo local, disse numa apresentação ao comité do Plano: “Nós apreciamos o vosso trabalho. Alguns de nós não estamos completamente satisfeitos com ele mas, levamos em consideração que essa é a natureza das constituições. Estes são documentos comprometedores e nós sabemos que não haverá nenhuma constituição que satisfaça todo o país”.

Desde 31 de Maio, o média liderou o caminho em debates sobre o Plano da Constituição. Também viveu crescimento impressionante em relação ao fluxo de títulos. O país viu a introdução de duas novas revistas, uma revista juvenil chamada *Youth Connexion* e uma revista de desporto chamada *Siyavena*. Uma televisão terrestre o Channel Swazi, anteriormente a operar com uma plataforma de satélite, a Sentech, na África do Sul, foi finalmente permitida a operar numa estação terrestre em Zuluwini, uma cidade entre Mbanane e Manzini. A revista *Nation pro democracy*, também parecia ter virado o monopólio em termos de atrair tanto leitores como publicidade. Estão também preparações a caminho para estabelecer operações de estações de rádio comunitárias em cada uma das regiões políticas do país. Esta iniciativa, esteja ainda em canalização, é reconhecida e conduzida pela N.U. (Nações Unidas). Por muito que os desenvolvimentos na Swazilândia, sejam positivos e admiráveis, existe uma genuína preocupação se eles representam uma mudança real de sentimento ou se são um meio para diminuir a pressão que as organizações internacionais e os governos Ocidentais estão a amontoar na última monarquia absoluta do continente. As críticas dizem que a constituição tem como objectivo preservar a Ditadura Real sem apresentar mudanças substanciais. As preocupações emanam especialmente das provisões que definem os poderes do Rei como extensos e amplamente inquestionáveis. Eruditos e profissionais, perguntam se o Rei realmente de facto derrubar certas leis e se assim for o que fará a constituição em relação a isso.

Outra preocupação é o espaço de tempo. A Constituição, já demorou cinco anos a ser feita. O debate constitucional já leva seis meses e pelas contas ainda não é vislumbra o seu final. Será isto uma indicação de alguma relutância ou falta de vontade da parte das autoridades da Swazilândia?

A aparecimento de uma imprensa vibrante e divergente é bem vinda e útil para uma democracia. No entanto, a realidade é que na Swazilândia, as três novas organizações de média: a *Youth Connexion*, a *Siyavena* e o Channel Swazi não são particularmente críticas ao estado. A revista juvenil visa essencialmente falar sobre assuntos sociais que afectam a juventude tal como o HIV-SIDA, criminalidade, etc. É, no entanto, um brilhante comentário social que não se dirige à política e à liberdade dos media.

O Channel Swazi também é um média pró-fundamentos, oferecendo muito pouco em termos de pontos de vista progressivos e dinâmicos. A sua forte ligação Real, resultou em muitas pessoas o verem com muito cinismo e suspeita. Quando o governo concordou em conceder ao Channel Swazi, uma licença de transmissão houve uma convicção geral nos círculos do média que não fora dado em nome da diversidade dos média, mas porque era um burro de carga da Realeza. O facto é que mesmo para um país do tamanho da Swazilândia, com os poucos ganhos dos seus servidores e com um espectro de penúria, o governo nunca mostrou qualquer vontade em liberalizar as ondas de rádio. Eles continuam o mesmo estado reservado que sempre foram. Para além de alguns dias por ano em que o único rádio comunitário da Swazilândia tem direito a funcionar, a indústria do rádio permanece imatura e sem representantes, representando em grande parte fundações em nome da Igreja e do estado. Os dois canais da rádio de Swazilândia pertencem ao governo e a Trans-World é uma rádio Cristã de origens Americanas e cobertura continental.

Por outro lado, a *Siyavena* é uma revista de futebol, uma publicação desportiva sem grande conteúdo crítico. À parte de acrescentar um nome na paisagem dos média não trás nenhuma voz nova a favor da liberdade dos média no Reino. É de facto, um produto viável que reflecte mais a maturidade dos média como uma industria do que as realidades sócio-políticas da Swazilândia. Em esclarecimento ao supra citado, torna-se claro que os proprietários dos média estão ainda nas mãos de dois grandes representantes que lá têm estado nos últimos 35 anos, nomeadamente a família Loffler, que detém a African Echo, companhia que controla o *The Times* (e as suas quatro publicações) e o governo que detém a Radio Swaziland, a maior estação de rádio, o *Swaziland Today*, um jornal com muito pouca credibilidade e a Swazi TV, um canal que no máximo pode ser descrito como abaixo do padrão. Como resultado de tudo isto, as opiniões de liderança estão nas mãos de um punhado de pessoas. Isto é perigoso num país que se considera como um país em transição.

O que torna tudo isto pior é a relutância por parte do *The Times*, em recrutar pessoal especializado. Como o maior, o mais prestigiado e mais antigo média da Swaziland, este jornal deveria desbravar caminho em assuntos da liberdade dos média e avanços em geral dos padrões profissionais. Os padrões de Profissionalismo e a direcção de crescimento em geral estão directamente ligados a este popular jornal. É a discórdia deste documento de que se o *The Times*, tivesse insistido desde o primeiro dia que o jornalismo é uma profissão e precisa de pessoal profissional treinado, nós estaríamos a falar hoje de diferentes padrões de jornalismo, por um lado mostrando desprezo por uma profissão é acreditar que se pode trabalhar com eficiência nela sem sequer ao menos estudá-la.

■ ALERTS

• **DATE: January 19, 2003**

PERSONS/INSTITUTIONS: Phiwokwakhe Ngidi

VIOLATIONS: Beaten

On January 19 2003, Phiwokwakhe Ngidi, a reporter from the *Times of Swaziland* news paper, was attacked and severely beaten by Bongani Mamba, chairman of Ligcabho Lebuhle Eswatini, an organisation that organises beauty pageants in Swaziland. On January 20, the *Swazi Observer* newspaper reported that Mamba was angered by an article written by Ngidi that appeared in the *Times of Swaziland*'s January 14 edition.

• **DATE: April 8, 2003**

PERSONS/INSTITUTIONS: Radio station(s), television station(s)

VIOLATIONS: Legislation (negative)

Minister of Information Abednego Ntshangase announced on Tuesday, April 8, a new censorship policy for state media in the southern African kingdom of Swaziland. Speaking at his first official appearance under his new portfolio before the House of Assembly, Ntshangase told parliamentarians, "The national television and radio stations are not going to cover anything that has a negative bearing on government." Ntshangase warned that those who do not support government policies will be barred from broadcasting their views, the Integrated Regional Information Networks, a U.N. news service, reported. The ban on negative content will apply to Swaziland Broadcasting and Information Services, which operates the only news-carrying radio channels in the country, and to Swazi TV, the country's only television station. Both outlets are state run.

• **DATE: July 29, 2003**

PERSONS/INSTITUTIONS: Media in Swaziland

VIOLATIONS: Threatened

On July 29 2003, the Swaziland government moved toward imposing five-year jail terms on journalists found guilty of contravening the country's proposed Secrecy Act. The proposed act bars journalists from publishing information regarded by the government as top secret. Civil servants found guilty of disclosing such information face the same punishment.

Tanzania



by **Lawrence Kilimwiko**

Lawrence Kilimwiko is a Media Consultant and Chairman of the Association of Journalists and Media Workers (AJM).

Not a day goes by in Tanzania without sensational headlines about death splashed across the front page of its tabloid newspapers. Colour photographs of grisly accidents or violent crimes also feature prominently. And if there is no violence at home, editors head to the Internet and search for horror news from abroad. The formula seems to sell newspapers. Those who do not subscribe to this method, resort to sensationalism, pornography, falsehood, malicious rumouring and intrusion into privacy to the same end. While this grisly formula and sensational journalism brings rising sales to the tabloids, leaders, lawmakers and individuals are up in arms against the media. The volume of libel suits pending in the courts of law and the hefty damages being imposed on the media is horrifying.

Defamation and political intimidation

Currently, there are over 80 libel suits pending in high courts with damages demanded ranging between 50 million to 10 billion Tanzania Shillings.

In Zanzibar, on October 27, 2003, the High Court ordered the publisher of *Dira*, the only private weekly paper on the island, to pay 660million Tanzania Shillings in damages for defaming a son and daughter of the Zanzibar President.

In February this year, in a record breaking libel suit, Dr Salim Ahmed Salim, former OAU Secretary General was awarded damages worth 1,000,000,000 Tanzania Shillings by the High Court. Dr Salim filed a libel suit against the *East African* weekly paper owned by the Nairobi based Nation Group claiming that the paper defamed him in an article titled “Can Dr Salim be serious?” published in September 2002.

In another case, a plaintiff who sued *Shaba* newspaper for defamation walked away with 40 million Tanzania Shillings in damages. Newspapers have been accused of publishing allegations; many of them based on unnamed and dubious sources. Much as there are recalcitrant journalists that have pushed everybody to the wall, there is serious concern that the hefty penalties being imposed by the courts is politically motivated and geared to cripple the fragile media industry.

Dira and its editor in trouble

On November 25th 2002 the Zanzibar government banned *Dira*, the only privately owned weekly tabloid in the isles, ending the life of the most read newspaper in Zanzibar after only 51 issues. *Dira* is accused of fomenting chaos, incitement and of creating hatred between the people and their government.

Management has since gone to court to challenge the Zanzibar Newspapers, News Agency and Books Act of 1988 which empowers the Minister responsible for information to ban any publication with impunity.

Even before the closure of *Dira*, its editor, Ali Nabwa, had his nationality stripped on allegation that he is from the Comores even though the Comoro authorities deny this. Nabwa is the second journalist to be stripped his nationality in recent years. Jenerali Ulimwengu, chairman

of Habari Corporation was in 2001 stripped of his citizenship on allegation that he is a Rwandese even though the Rwanda government said he was not. He is yet to regain his citizenship even after applying.

The parliament on its part has continued to harass through interrogations all those who dare criticize some of its decisions and the behavior of some MPs. Joyce Mhaviye, Director of Radio One and Independent Television (ITV) was grilled for two hours by the Parliamentary Immunities, Powers and Privileges Committee for allowing an activist to attack the moral behavior of some MPs through the radio she manages. In Zanzibar, members of the House of Representatives questioned Sarah Mosi, a correspondent for *Majira* newspaper for over two hours and later banned her from reporting parliamentary sessions for one year allegedly for “misreporting parliamentary sessions”.

There were however, generally few cases of harassment and intimidation of journalists recorded last year compared to previous years.

Media diversity and pluralism

The growth of journalism in Tanzania in the past decade is truly phenomenal. From only five state-owned newspapers and one radio station in 1992, the industry has now broadened to include 18 daily papers, 53 weeklies and 42 other regular titles. There are also 26 radio stations, 15 television stations and 20 cable operators scattered throughout the country.

The number of journalists has also increased from 230 in 1990 to around 3,000 today, while the total labor force in the booming industry is now estimated at 10,000.

The proliferation of private media and the resultant competition has expanded consumer choices for news and information. Equally important, recent studies indicate wide reliance of citizens on the media for news and information on public affairs. A study by Liviga (2001) and MISA (2003) indicates that the majority of Tanzanians depend on the radio (81.5%) for news and information on public affairs, 63.1% depend on the newspapers, while only 5.3 % get political news and information through television.

While the important role played by the media in the current political dispensation cannot be underestimated, there is also increasing awareness that the media are not necessarily objective or correct in their portrayal of reality. Readers, viewers and listeners are concerned that journalists get too much too wrong too often; that they are not factually accurate and often perceived to be unfair. The public respects the professional and technical skills press women and men bring to their craft, but fears that their reliance on the old concept of news that they have adopted and follow blindly, causes an imbalance in reporting. Vital issues like the debt burden, rising poverty, foreignization of public properties, the agony of education, the energy crisis, state brutality, the environment and the AIDS/HIV pandemic are neglected in favour of sensationalism and scandal.

The problem appears to be that radio and television stations are run on the whims of whoever is the boss at the time. Lack of policy has allowed major advertisers and other players in big business to influence the nature of products in the media regardless of the effects it might have locally. Media owners have been allowed to commercialize news in order to make money at the expense of social utility of information. The Government on its part, has also continued to heavily tax newsprint and other media products in the same way that it taxes raw materials for the beer industry, in disregard of the fact that media enterprises are primarily social service institutions.

Policy and media legal framework.

Development in the media in Tanzania has been buoyed by the release of a new information and broadcasting policy by the Government, in October 2003.

The new policy is based on collective recommendations of all media stakeholders and paves the way for the existence of conditions conducive to the full enjoyment of all democratic rights, including the right to freedom of information and expression.

The Government has expressed its commitment to review, amend or repeal all laws that undermine freedom of expression and press freedom and to that effect has invited stakeholders to contribute to the media law reform process. The aim is to have a single law guiding the operations of the media in the country. Presently the media industry is guided by over six different pieces of legislation.

In April 2003, the Parliament enacted the Tanzania Communications Regulatory Authority Act, 2003 for the purpose of regulating the telecommunications, broadcasting, post services and other ICT applications.

The Act will lead to the establishment of the Tanzania Communications Regulatory Consumer Consultative Council (TCRA), which will replace and harmonize the duties of the Tanzania Communication Commission (TCC) and the Tanzania Broadcasting Commission (TBC). Hitherto, TCC was responsible for the planning and management of frequency spectrum, while TBC was responsible for the issuance of broadcasting licenses and supervision of broadcasting activities.

Unlike in the TBC where the Minister had the sole authority to appoint members of the Board, under section 37(1) and (2), a 10 member council to be known as the TCRA Consumer Consultative Council is to be appointed. Nominations to the Council are to be provided by members of the business community and/ or organizations legally recognized as being representatives of private sector interests, including Non-Governmental Organizations and civil society.

Professional incompetence.

The pursuit of a free and independent press in Tanzania, however, is challenged by professional mediocrity on the part of journalists and the appalling conditions under which they work. This is attested by the fact that 63% of working journalists in the country are mere certificate holders obtained after attending courses whose duration ranges from one week to three months.

Journalists on their part have not been very enthusiastic to recognize themselves as belonging to the same corps. They do not hesitate to exaggerate the differences between the trained and untrained, those who work in the official media and those in the private press. While journalists of the government media are fighting one another for administrative positions and sinecures, those of the private media are battling for survival through blackmail and slander. The tendency to discredit certain units of the profession and to undercut one another has led to unnecessary rivalry among journalists.

Media proprietors take advantage of the situation to exploit, subjugate and use journalists in their business and political battles. The shunting of editors like locomotive engines in some newsrooms, is just one example. The other, is misuse of freelance reporters. Like casual laborers on a construction site, they provide an endless pool of cheap labour. Through blackmail and intimidation they remain loyal to newspapers that pay for their efforts, and dare not expand

their horizon beyond this point as they are not free to freelance elsewhere.

Working conditions and envelope journalism

Findings from a recent study by MISA (2003) highlights the high level of unemployment within the media industry. A sample of 198 journalists in 14 regions indicates that 68% are unemployed, surviving as freelance reporters. 93% of these work under unknown terms of contract. With regard to payment, 82.83% of freelance reporters say they are paid on an irregular basis.

Matters are not much better for those in permanent employment either. Because of unclear terms of employment, many of them do not even know their grade and salary scales within their respective organizations (9.37%). The remaining 90.62% work on unknown terms of employment. While the monthly salary for an average employed journalist ranges from 72000 to 90000 shillings, freelancers are paid an average of Sh 1 000 per story or photograph used. This is equivalent to Sh 30000 per month, which is less than the official minimum wage of Sh 45000. This partly explains why it is very common for journalists attending training workshops to be more interested in the sitting allowance that the funding agency provides, than in the training itself. This has also led to the flourish of 'envelope journalism'.

There is total agreement among journalists in Tanzania that lack of job security, low pay, and appalling working conditions are levying a cruel tax on professional excellence, and that ethical standards set out by various professional bodies will remain dead letters, unless the environment in which journalists work and live is understood.

In terms of working hours, while under the Employment Ordinance Cap 366, an employee other than a domestic worker should not work for more than 45 hours per week or eight hours per day, without payment of overtime, the majority of journalists in Tanzania (45.45%), work more than 12 hours a day. This is equivalent to over 84 hours per week. Interestingly, only 18.68% in the study area said they received overtime payment. Ethical problems in the media are linked to labor and working conditions which has fostered bribery, freebies and payola, blackmail, deception, sycophancy, intellectual theft, intrusion into privacy and above all corruption.

While journalists single out trade unions as a very useful avenue for workers to aggregate and articulate their interests, only 9.09% of journalists belong to trade unions. Even these are disillusioned with the Tanzania Union of Journalists (TUIJ) describing it as completely useless. Part of the problem is the fragile nature of trade unions, which are still emerging after 40 years of demobilization and disorganization of workers.

In conclusion, a concerted effort in the institutionalization of the media into a Fourth Estate is recommended. Increased focus should be placed on the constitutional guarantee of media freedom and freedom of expression, improved working environments, professional training and media accountability to the people.

Tanzania



LAWRENCE KILIMWIKO

Lawrence Kilimwiko, Consultor dos Mídia, Presidente da Associação dos Trabalhadores dos Jornalistas e Mídia (AJM).

Não há um dia na Tanzânia, em que não apareçam nas manchetes dos jornais, acompanhadas por fotos coloridas, notícias sensacionais sobre acidentes horríveis ou crimes violentos. E quando não encontram notícias sobre violência a nível nacional, os editores recorrem à Internet e procuram notícias de horror a partir do estrangeiro. É uma fórmula que parece dar resultado, para vender jornais. Os que não publicam fotografias violentas, optam pelo sensacionalismo, pornografia, falsidade, malícia e intromissão em vida privada.

Mas enquanto a terrível e sensacional fórmula jornalística traz lucros provenientes da venda de tabloides, os líderes, fazedores da lei e indivíduos estão de armas apontadas aos mídia. É desolador, o número de processos relativos a casos de danos por difamação e calúnia abertos contra os órgãos de informação.

Difamação e intimidação política

Um boato lançado pelo correspondente da rádio BBC, na voz de Mariam Shamte, colocou uma firma britânica de informação em que o queixoso, após uma apelação ao tribunal, foi indemnizado em 800.000 Libras Esterlinas.

Em 1994, Shamte deu falsas informações a uma Rádio, segundo as quais James Mapalala, então líder do partido da oposição Frente Cívica Unida (CUF), tinha agredido um Guarda Oficial Executivo em Tabora. Mapalala recorreu com sucesso ao tribunal Supremo da Tanzânia contra a BBC, que lhe indemnizou em 31 mil Libras Esterlinas. Não satisfeito com isso, Mapalala recorreu à mais alta instância judiciária do país, tendo arrecadado, no início deste ano, 800.000 Libras Esterlinas, o equivalente a mais de 800 milhões de Shillings Tanzanianos. Em Zanzibar, a 27 de Outubro de 2003, o Tribunal Supremo condenou o único semanário privado, da ilha, o *Dira*, a um pagamento de 660 milhões de Shillings Tanzanianos, por danos de difamação a um filho e filha do presidente do Zanzibar.

Mas na esteira das violações às normas sobre violações, o Dr. Salim Ahmed, antigo Secretário-Geral da OUA, recebeu do Tribunal Supremo, por ofensas à sua pessoa, em Fevereiro deste ano, uma indemnização na ordem de 1,000,000,000 Shillings. Tal facto resultou de um processo em que Salim acusava o semanário *East African*, propriedade do Group Nation, baseado em Nairobi, de o ter difamado num artigo intitulado “Dr. Salim pode ser sério?”, publicado em Setembro de 2002.

Num outro caso, um queixoso que havia processado o jornal *Shaba* por difamação, apanhou uma multa de 40 milhões de Shillings Tanzanianos por “danos”. Actualmente, existem mais de 80 mil processos pendentes relacionados com casos de danos por difamação, rondando entre os 50 milhões a 10 mil milhões de Shillings Tanzanianos.

Os jornais têm sido acusados de publicar alegações, muitas delas baseadas em fontes anónimas e duvidosas, sendo, consequentemente, as vítimas deixadas permanentemente feridas e sem nova imagem. Mas assim como há muitos jornalistas recalcitrantes, que encostam toda a gente à parede, também há a lamentar o facto de as leis impostas pelos tribunais serem motivadas por questões políticas tendentes a fragilizar a indústria dos media.

***Dira* e seu editor em problemas**

No dia 25 de Novembro, o Governo de Zanzibar baniu o *Dira*, único semanário privado na ilha, pondo assim fim à vida a um dos mais lidos jornais de Zanzibar, após 51 acusações de estar a fomentar caos, incitar e criar ódio entre o povo e seu Governo.

Desde então, a Administração do *Dira* tem recorrido ao tribunal para desafiar os Jornais do Zanzibar, Agência de Notícias e a Acta de 1988, que confere ao Ministro de Informação o poder de banir qualquer publicação com impunidade.

Mesmo antes do fecho do *Dira*, o seu editor, Ali Nabwa, viu a sua nacionalidade retirada, sob alegação de que era dos Comores, mesmo depois de as autoridades deste país terem negado tal facto. Nabwa é o segundo jornalista a quem é retirada a nacionalidade nos últimos anos. A Generali Ulimwengu, presidente da Corporação Habari, foi retirada a nacionalidade, em 2001, sob alegação de ser ruandês, apesar de o Governo de Ruanda ter dito que não o era. Ulimwengu continua à espera de readquirir a nacionalidade, mesmo depois de ter requerido para o efeito.

Por seu turno, o parlamento tem continuado a ameaçar, através de interrogações, a todos os que se atrevem a criticar algumas das suas decisões e o comportamento de alguns MPs. Joyce Nhaville, Director da Rádio UM e Televisão Independente (ITV) foi atormentado durante duas horas pelo Comité de Imunidades parlamentares, Poderes e Privilégios, por ter permitido que uma activista atacasse o comportamento moral de alguns MPs, através da Rádio que dirigia. Em Zanzibar, membros da Casa dos Representantes atormentaram Sarah Mosi, uma correspondente do jornal *Majira*, por mais de duas horas, e mais tarde interditarão-na por um ano de fazer reportagens sobre sessões parlamentares, alegadamente por “deturpar as sessões parlamentares”. De ma forma geral houve, contudo, poucos casos de ameaça e intimidação de jornalistas registados no ano passado, comparativamente aos anos anteriores.

Diversidade e Pluralismo dos Mídia

A forma como o jornalismo, cresceu na Tânzania na última década é verdadeiramente fenomenal. A partir de apenas cinco jornais, propriedade do partido no poder, e uma Rádio, em 1992, á indústria de informação subiu agora para 18 jornais diários, 53 semanários, e outras 42 edições regulares. Existem também 26 estações de rádio, 15 de televisão e 20 operadores de cabo espalhados pelo país. O número de jornalistas também cresceu de 230, em 1990, para cerca de 3000 hoje, enquanto á força laboral na indústria informativa está agora estimada em 10.000.

A proliferação dos mídia privados e a consequente competição expandiu as escolhas do consumidor de notícias e informação. De sublinhar também que os recentes estudos indicam uma grande ligação dos cidadãos em matéria de notícias e informação sobre assuntos públicos. Um estudo feito pela LIVIGA (2001) e MISA (2003), indica que a maioria dos tanzanianos depende da Rádio (1.5%) em matéria de notícias e informação sobre assuntos públicos, enquanto 63.1% depende de jornais, e 5.3% recorrem à televisão para ter informação política, entre outros assuntos.

Enquanto o importante papel desempenhado pelos mídia na actual arena política não pode ser subestimado, há também um cada vez mais crescente conhecimento de que os mídia não são necessariamente objectivos ou correctos no tratamento da verdade. Os leitores, telespectadores e ouvintes lamentam o facto de os jornalistas errarem muito em várias ocasiões, e de não serem de facto seguros, sendo muitas vezes desonestos. Concentra-se demasiado no que é errado e no que é conflito, não se prestando atenção suficiente à divulgação e explicação do que é trabalho

bem sucedido. O público respeita as habilidades técnicas e profissionais de imprensa que mulheres e homens evidenciam, mas receios de que a sua ligação com o antigo conceito de notícias que adoptaram e seguem cegamente causa, um desequilíbrio estrutural com um pequeno impacto sobre assuntos vitais como fardo da dívida, aumento da pobreza, alienação de propriedade pública, agonia da educação, crise energética, brutalidade estatal, pandemia do meio-ambiente e HIV/SIDA

O problema com o jornalismo na Tânzania é que estações da Rádio e Televisão são geridas ao sabor de quem na altura é o gestor. A falta de política permitiu que a maioria dos publicitadores e outros intervenientes em grandes negócios influenciassem a natureza dos produtos nos média, em detrimento dos efeitos que deveriam ter localmente. Proprietários dos média viram-se na contingência de comercializar notícias para fazer dinheiro, em prejuízo da utilidade social da informação. Por seu turno, o Governo continuou a aplicar taxas na produção de jornais e outros produtos dos média, da mesma forma que aplica taxas em matérias-primas inerentes à indústria cervejeira, sem ter em conta o facto de as empresas jornalísticas serem primariamente instituições de serviço social, como instituições de educação ou saúde.

Ordenamento político e legal dos média

A actual maior notícia na Tânzania é, contudo, a libertação da política da nova informação e radiodifusão pelo Governo. A política de informação baseia-se em recomendações colectivas de todos os magnatas dos média, e abre caminho para a existência de condições conducentes a um pleno exercício de todos os direitos democráticos, incluindo o direito à liberdade de informação e expressão.

O Governo expressou a sua vontade em rever, emendar ou rejeitar todas as leis que minam a liberdade de expressão e de imprensa, tendo, para o efeito, convidado os magnatas a contribuir no processo da reforma da lei dos média. O objectivo é ter uma lei simples que oriente as operações dos média no país. Actualmente, a indústria dos média é orientada por mais de seis diferentes tipos de legislação.

Em Abril de 2003, o Parlamento decretou a Acta da Autoridade Tanzaniana Regulatória das Comunicações, 2003, com o propósito de regular as telecomunicações, radiodifusão, serviços postais, alocação e gestão do espectro da rádio, cobrindo tecnologias electrónicas e outras aplicações do ICT.

A Acta levará à aplicação do Conselho Consultivo do Consumidor da Reguladora das Comunicações da Tânzania (TCRA), que irá substituir e harmonizar os deveres da Comissão de Comunicação da Tânzania, (TCC) e a Comissão de radiodifusão da Tânzania (TBC). Até agora, a TCC era responsável pelo plano e gestão do espectro da frequência, enquanto a TBC era responsável pela entrega de licenças de transmissão e supervisão de actividades de radiodifusão.

Contrariamente ao que acontece na TBC, em que o Ministro tinha a única autoridade de nomear membros do corpo directivo, ao abrigo da secção 37 (1) e (2), o Ministro tem o poder de nomear um conselho de 10 membros designado por Conselho Consultivo do Consumidor, TCRA. O Ministro poderá fazer isto a partir de uma lista e nomes fornecidos pelos membros da comunidade de negócio e/ou organizações legalmente reconhecidas como sendo representantes dos interesses do sector privado, incluindo Organizações Não Governamentais e sociedade civil. As funções do conselho consultivo dos consumidores incluem: representar o interesse dos consumidores, submetendo-lhe propostas, fornecendo-lhe pontos de vista e informação e consulta com autoridade, Ministro e Conselho de Ministros.

Receber e disseminar a informação e pontos de vista em matéria de interesse dos consumidores do bens e serviços regulamentados; estabelecer comités locais, regionais e sectoriais dos consumidores, bem como garantir a consulta entre os mesmos.

Finalmente, o conselho consultivo tem o poder de proceder à consulta com a indústria, governo e outros grupos do consumidor em matérias de interesse dos consumidores de bens e serviços regulamentados.

Imcompetência profissional

O prosseguimento da imprensa livre e independente na Tânzania é, contudo, desafiado pela mediocridade profissional por parte dos jornalistas e as aterradoras condições em que trabalham, o que é justificado pelo facto de 63% dos jornalistas no activo no país possuírem meros certificados obtidos, após cursos cuja duração vai de uma semana a três meses de duração. (MISA 2003).

Por seu turno, os jornalistas não se sentem bem por serem colocados ao mesmo nível. Não hesitam em evidenciar as diferenças entre os formados e não formados, os que trabalham em órgãos de comunicação social oficiais e os da imprensa privada.

Enquanto os jornalistas do sector estatal se guerreiam pela ocupação de postos administrativos e síncuras, os do sector privado batalham pela sobrevivência, através da chantagem e difamação. A tendência para desacreditar certos segmentos a profissão e de eliminar um ao outro levou a uma desnecessária rivalidade entre jornalistas.

Os proprietários dos média aproveitam-se disso para explorar, subjugar e utilizá-los em suas batalhas de negócios e de política. O acantonamento de editores em algumas salas de leitura de jornais é disso um exemplo. O outro, é o abuso do regime freelance. Como trabalhadores eventuais de uma construção, eles facultam um ilimitado poço de trabalho barato. Através da chantagem e intimidação permanecem leais aos jornais que pagam o esforço deles, e não se atrevem a expandir o seu horizonte para além deste ponto, isto é, não estão livres de freelance onde quer que seja.

Condições de trabalho e jornalismo de envelope

Resultados de um recente estudo do MISA (2003), apontam para a magnitude do desemprego na indústria jornalística. Uma amostra de 198 jornalistas em 14 regiões indica que 68% são desempregados, sobrevivendo como freelancers. 93% destes trabalham em regime de contrato de duração desconhecida. No tocante ao pagamento, 82.83% deles dizem que são pagos de forma irregular. A situação dos que trabalham em regime de emprego permanente não é das melhores, já que devido à posição pouco clara dos respectivos contratos, a maior parte deles não sabe sequer o seu grau profissional e o seu salário nas respectivas organizações.

Enquanto apenas 9.37% de empregados a tempo inteiro conhecem o respectivo grau profissional e salário, os restantes 90.62% trabalham em condições desconhecidas de emprego. Enquanto o salário médio mensal de um jornalista efectivo varia entre 72,000 e 90,000 shillings, o freelancer ganha em média 1000 shillings por cada estória ou fotografia publicada, o equivalente a 30,000 shillings por mês, menos de um salário mínimo oficial, que é de 45,000 shillings. Isto explica, em parte, o porquê é muito comum entre jornalistas participar em workshops de formação, como forma de aproveitar as vantagens que a agência promotora fornece, mais do que o workshop em si. Foi isto que levou ao surgimento do “jornalismo de envelope”.

Há uma total concordância entre jornalistas na Tanzânia, de que a falta de segurança laboral, baixo salário e as deploráveis condições de trabalho levaram a uma cruel cobrança de impostos, e assim, os padrões éticos determinados pelos vários segmentos profissionais permanecerão letra morta, a não ser que seja compreendido o ambiente em que os jornalistas vivem e trabalham. No tocante a horas de trabalho, enquanto ao abrigo do Capítulo 366 do Decreto Laboral um empregado que não seja doméstico não pode trabalhar mais do que 45 horas semanais, ou oito diárias, sem pagamento de horas extras, a maioria de jornalistas na Tanzânia (45.45%) trabalha acima de 12 horas por dia, o que equivale a mais de 84 horas por semana.

Curiosamente, apenas 18.68% de jornalistas inquiridos disse receber horas-extras. Comparando com horas de trabalho em outros países: Austrália (38), Suécia (40), EUA (37.5), Perú (40) França (39) África do Sul (40-45) e Portugal (30), fica claro que os jornalistas na Tanzânia trabalham mais horas do que os seus colegas em qualquer outro lado, ao sol, e ainda por cima são os menos pagos. Todavia, convém realçar a ligação entre os problemas mais éticos dos media e as condições de trabalho. O suborno, chantagem, decepção, roubo intelectual, intrusão na vida privada e, acima de tudo, a corrupção, são as consequências imediatas.

Enquanto os pequenos sindicatos são um instrumento muito útil para os trabalhadores com vista à sua agregação e articulação dos seus interesses, apenas 9.09% de jornalistas fazem parte de sindicatos, e mesmo estes estão desiludidos com o Sindicato de Jornalistas da Tanzânia (TJ), descrevendo-o como totalmente inútil. Uma parte do problema é a frágil natureza dos sindicatos, ainda emergentes, após 40 anos de desmobilização e desorganização de trabalhadores.

Convém, todavia, concluir recomendando para esforços concertados na institucionalização dos média dentro de um Quarto Estado de domínio. Ênfase deve ser dada à garantia constitucional da liberdade dos média e liberdade de expressão, melhoramento do ambiente de trabalho, formação profissional e credibilidade dos media junto do povo.

■ ALERTS

• **DATE: January 25, 2003**

PERSONS/INSTITUTIONS: Hamis Hamad

VIOLATIONS: Beaten (injured)

On January 25 2003, photojournalist Hamis Hamad, who works for the daily *Uhuru* and weekly *Mzalendo* newspapers in Dar es Salaam, was reportedly assaulted by Kinondoni Municipal Council askaris (security guards). Hamad suffered minor injuries when he was beaten up while on assignment at Ubungo Bus Terminal in Dar es Salaam.

• **DATE: February 14, 2003**

PERSONS/INSTITUTIONS: Tegemea Mwanhandisa

VIOLATIONS: Beaten, censored

On February 14 2003, freelance photojournalist Tegemea Mwanhandisa, who works for the daily *Majira* and the evening newspaper *Dar Leo* in Tanzania's Morogoro region, was reportedly assaulted by security guards of the New Boy Entertainment Company, based in the town of Morogoro. The photojournalist suffered minor injuries and the loss of his camera and other equipment worth 695,000 Tanzania shillings (approximately US\$700).

• **DATE: March 19, 2003**

PERSONS/INSTITUTIONS: Ali Nabwa

VIOLATIONS: Expelled

Ali Nabwa, editor of the weekly newspaper *Dira*, published in the semi-autonomous state of Zanzibar, was stripped of his Tanzanian citizenship on March 19 and directed to reapply for it if he wished to do so. Nabwa vehemently denied government charges that he is not a citizen of Tanzania and that he has been living illegally in the country since 1993. At a 25 March 2003 press conference, Nabwa told journalists the Zanzibar government's accusation was a malicious response to his newspaper's attempts to hold public leaders accountable. He said the decision to strip him of citizenship could be attributed largely to his newspaper's continuous criticism of Zanzibar's government (Serikali ya Mapinduzi Zanzibar, SMZ), which he claimed was "failing to adhere to principles of good governance."

• **DATE: April 8, 2003**

PERSONS/INSTITUTIONS: Emmanuel Muga

VIOLATIONS: Beaten

On April 8 2003, the chairperson of the Tanzania Football Association (FAT), Muhidin Ndolanga, assaulted Emmanuel Muga, a reporter from the weekly newspaper *The Express*, for allegedly photographing him illegally.

UPDATE

• **DATE: June 24, 2003**

PERSONS/INSTITUTIONS: Ali Nabwa

VIOLATIONS: Expelled (update)

On June 24 2003, Ali Nabwa's passport was confiscated by the Immigration Department on the semi-autonomous island of Zanzibar. Nabwa is the editor of the weekly independent newspaper *Dira*.

UPDATE

• **DATE: June 26, 2003**

PERSONS/INSTITUTIONS: Ali Nabwa

VIOLATIONS: Expelled (update)

On June 25 2003, one day after his passport was confiscated, Ali Nabwa reached an agreement with the Immigration Department on the semi-autonomous island of Zanzibar. Nabwa, editor of the weekly independent newspaper *Dira*, agreed to surrender his Tanzanian citizenship and reapply for it as the Immigration Department had demanded in March.

• **DATE: September 14, 2003**

PERSONS/INSTITUTIONS: Media in Tanzania

VIOLATIONS: Legislation (positive)

On September 14 2003, the Tanzanian government announced a new Media Policy that creates more space for freedom of expression and calls for an ethical, professional and socially responsible press. The Policy unveiled by the Minister of State in the Prime Minister's Office (Information and Political Affairs), Hon. Mohammed Seif Khatib, shows that the government has incorporated about 80 per cent of stakeholders proposals, but holds the need to continue having state-run media in the country working alongside privately owned print and electronic media, together with public media.'

UPDATE

• **DATE: September 16, 2003**

PERSONS/INSTITUTIONS: Ali Nabwa

VIOLATIONS: Expelled (update)

On September 16 2003, senior journalist Ali Nabwa was banned from working on the semi-autonomous island of Zanzibar. In a letter signed by Commissioner of Labour Ameir A. Ameir, the journalist was informed that he was not working in accordance with Section 26 (2) of the 1997 Labour Act.

• **DATE: October 10, 2003**

PERSONS/INSTITUTIONS: Huvert Sauper, Richard Mgamba, Shndor

VIOLATIONS: Expelled, Victory

On October 10 2003, the Kome Kichangani village authority expelled a group of local and foreign journalists from the Lake Victoria island of Kome, in Tanzania's Mwanza region. The foreign journalists, who are from the United States and France, and a local reporter from the *East African* newspaper were undertaking research on fisheries in the lake region for documentaries and feature articles. In addition to being expelled, the journalists' passports and accreditation cards, which they had obtained from the Department of Information Services (MAELEZO), were also confiscated.

• **DATE: November 24, 2003**

PERSONS/INSTITUTIONS: *Dira*

VIOLATIONS: Banned

The government of Zanzibar, a semiautonomous island off the coast of Tanzania, has ordered the indefinite suspension of the independent weekly *Dira*, according to local journalists and international press reports. *Dira*, the island's most popular newspaper, has been

highly critical of the government.

• **DATE: December 4, 2003**

PERSONS/INSTITUTIONS: *Dira*

VIOLATIONS: Threatened

The Zanzibar government has threatened to take legal action against the editorial board of the banned weekly *Dira* if it attempts to publish the newspaper on the Internet.

Zambia



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by **Herbert Macha**

Herbert Macha is a lecturer in journalism at Evelyn Hone College and author of a book called "Introduction to Media Law and Ethics for Journalists".

The political openness and legal reforms heralding a more independent media, expected with the coming into power of Levy Mwanawasa, State Counsel, have not materialised. Mwanawasa's New Deal Administration of 'laws and not men' has largely maintained the status quo on the media front and laws against the media are still intact. The promise to have them repealed has continued with no action taken so far. Threats, harassments and interference continued to be the order of the day in Zambia for this period.

President Levy Mwanawasa, on closing the sixth National Convention (Indaba) on October 20, 2003 called on the public media to discontinue flattering his New Deal Administration and appealed for constructive criticism and objective reporting. He also assured the public media heads of job security even if they criticised the New Deal Administration. A few weeks after these pronouncements, in unexplained circumstances, the government owned and controlled Zambia National Broadcasting Corporation (ZNBC) TV banned a live programme that was reviewing the front pages of all national daily newspapers on the Kwacha Good Morning Zambia programme presented by two independent journalists, Edem Djokotoe and Anthony Mukwita. The programme was perceived as being critical to government. The banning clearly contradicted Mwanawasa's pronouncements that constructive criticism and objective reporting from the public media was healthy and welcome.

Another setback to Mwanawasa's declaration occurred on 18 October 2003, when journalists from both private and state-owned media outlets were barred from reporting on the deliberations of various committees at a government-organised Indaba that took place in Lusaka. The journalists, who were duly accredited to cover the four-day meeting, were told that, in order to avoid 'intimidating' the delegates, they would not be allowed to cover the deliberations of the 12 committees formed at the convention to deliberate and make recommendations on multi-sectoral issues. This decision to bar media coverage of the Indaba was only rescinded after widespread protests from various media organisations. The Media Institute of Southern Africa (MISA)-Zambia Chairperson Kellys Kaunda said the convention was discussing matters of public interest which were not secret and the press needed to be allowed to cover all the deliberations. His counterpart Andrew Sakala, the Press Association of Zambia (PAZA) president, said his organisation was disappointed with the decision of the organisers.

What was more astonishing at this national Indaba was the omission of the final resolutions on media reforms, which again attracted sharp criticism from media associations. MISA-Zambia and PAZA both accused government of trivialising the importance of press freedom. Despite having had a committee sitting at this national Indaba to look at media legal reforms and other concerns by the media, nothing concerning the media was mentioned in the final resolutions.

In 2003, President Mwanawasa appointed a Constitution Review Commission (CRC) representing broad-based sections of society, including media institutions. Despite the inclusion of media institutions, the Commission's 24 terms of reference made no mention of press freedom.

The year ended without the Freedom of Information (FOI) Bill being passed into law except for the assurance by government on December 30, 2003 that it would be tabled in the next

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session of Parliament. The Bill was earlier on presented to Parliament and had passed through the crucial second reading without much difficulty on 28 November 2002. However, at the last minute, former Information and Broadcasting Services Minister Newstead Zimba withdrew the bill without giving reasons. Then Vice-President Enock Kavindele said the Bill had serious national security implications in view of 'global security concerns after the 11 September 2001 terrorist attacks in the United States.'

Both MISA-Zambia and PAZA expressed disappointment over the apparent lack of political will to pass FOI Bill into law. This piece of legislation is critical to media freedom as it could facilitate access to important information and events, thereby allowing citizen participation in the democratic governance of Zambia.

Government policy remained unchanged on the privatisation of the public media, which remained under state ownership and control. The then Minister of Information and Broadcasting, Newstead Zimba told the nation in March 2003 that government had no intention of privatising the *Zambia Daily Mail* and the *Times of Zambia* but that those willing to offer competition to the two dailies were free to establish their own newspapers.

The independent media in Zambia continued to operate against the backdrop of a poor economy. The public media is heavily indebted. This is evident in inadequate and obsolete equipment in these institutions. Media organisations are calling for the recapitalisation of the public media with a view to eventually privatising them. Government seems to deliberately exacerbate these economic problems in an effort to squeeze the independent press out of business. It is still an undeclared policy for instance, for all government institutions to not advertise in certain sections of the media.

The Media is still polarized, with state publications or those serving the interest of the ruling MMD on one side and the severely repressed independent press on the other. The relationship between the news media and the government has continued to be hostile, and this hostility has been directed mainly at the privately owned media and specifically the *Monitor* newspaper. For once, *The Post* newspaper, which set the national agenda for zero tolerance on corruption was enjoying lukewarm relations with Mwanawasa's government, which is pursuing those suspected of corruption under the Chiluba administration.

Government continued to maintain that ZNBC is a national broadcaster as opposed to public broadcaster. Government has amended the ZNBC Act of 1987 to allow the Corporation to collect TV license fees in order to strengthen its financial base. The ZNBC has started collecting license fees with a campaign slogan that 'when you pay it will show' amid controversy and confusion. In October, former MMD Party National Secretary, Michael Sata, sued the ZNBC and Zambia Electricity Supply Corporation (ZESCO) for 'illegally' collecting license fees from his electricity bill without permission. The case was thrown out. Regulatory powers have been removed from the Minister of Information and Broadcasting to the Independent Broadcasting Authority (IBA) which is yet to be set up. The new board, despite having been appointed, has not been ratified by the last sitting of parliament that ended on 28 November 2003.

Although there are major changes in the new ZNBC Act, where ZNBC is expected to operate as a 'truly' public service broadcaster representing a diversity of opinions and a wider range of programmes, there is still too much political interference and abuse by those holding political power. Biased TV news coverage is a clear indication that ZNBC is far from fulfilling the obligations of a public service broadcaster.

Unlike the independent press, which burst onto the scene during political transition in the early 1990, independent broadcasting was born out of struggle and controversy. Today scores of community radio stations are widespread in both urban and rural areas. Unfortunately, many of these are shoestring operations that broadcast predominantly music, while transmission radius is highly restricted. Generally, there has been a steady decline in the development of the private media sector. Financial problems have caused many newspapers to operate below capacity. In June 2003, the *Monitor* newspaper reduced its frequency from a bi-weekly to a weekly while the weekly *Today* newspaper's circulation has not been consistent, coming out once every fortnight or not coming out at all. Independent media free from government and monopolistic control is critical if the country is to achieve the greatest possible diversity and a key to the sustainability of democratic systems. The independent media in its present form does not contribute much to the democratic process, as it is not able to act as a courier of alternative viewpoints nor to question government policies and expose abuse of power and corruption.

The current high concentration of ownership of the mainstream media by government has grossly undermined media diversity, thereby significantly contributing to the media's failure to reflect the full spectrum of multi-party and pluralistic views which are critical to press freedom and democracy. The excessive damages and costs awarded by courts in cases involving the media are beginning to be a source of concern and most of these are coming from government officials and politicians. These fines and damages create the impression that the courts are out to gag the private media. The High Court in Zambia early this year awarded K80 million (US \$18 000) to two Commissioners of the Permanent Human Rights Commission for libel. The Court passed a ruling in absentia in favour of the commissioners following an article in the *Monitor* newspaper that alleged that the commissioners had accepted a 'bribe' from relatives of a young man who had inherited estates from the deceased's father. The commissioners subsequently engaged court bailiffs and expropriated the *Monitor*'s editorial vehicle, a Land Rover station wagon, thereby paralysing the operations of the newsroom.

MISA-Zambia and PAZA continue to work together in the fight for greater press freedom in Zambia. The two organisations fought many 'battles' together during the year especially on the call for legal reforms. Both MISA-Zambia and PAZA on various fora urged government to scrap 13 bad pieces of law including the Official Secrets Act that inhibits press freedom.

On a positive note, government scored successes towards the end of the year when on December 23, 2003 it unveiled the long awaited Information and Communications Technology (ICT) draft policy. Until then, Zambia was among a few countries in the SADC region that had no ICT policy.

It is clear that a greater struggle lies ahead in Zambia's fight for media freedom. There is an urgent need to convince the New Deal Administration to undertake legal media reforms that will guarantee press freedom and foster democracy for the Zambian people.

Zâmbia



Herbert Macha

Herbert Macha é licenciado em jornalismo no Colégio de Evelyn Hone e autor de um livro chamado “Introdução à Lei e Ética para Jornalistas”.

Com a abertura política e das reformas legais, durante a qual era esperado um média mais independente com a subida ao poder do Conselheiro de Estado, Levy Mwanawasa, já teve o seu dia. Com a Administração do Novo Acordo, de “leis e não de homens” conseguiu manter de forma importante, o modo de vida dos média. As leis prejudiciais aos média ainda estão intactas. A canção que fala de as repelir ainda continua sem efeito até hoje. Ameaças, hostilizações e interferências continuaram a ser a ordem do dia.

Em 20 de Outubro de 2003, o Presidente Levy Mwanawasa, ao encerrar a Sexta convenção Nacional (O Indaba), pediu ao media público para parar de elogiar a sua Administração de Novos Negócios e apelou a uma crítica construtiva e reportagens objectivas. Ele assegurou aos média públicos importantes segurança de emprego mesmo se eles criticassem a Administração de Novos Negócios. Uma semana depois destas declarações, em circunstâncias inexplicáveis, o governo adquiriu e controlou a Corporação de Radiodifusão Nacional da Zâmbia (ZNBC), a televisão banuiu um programa em directo que estava a rever as páginas principais do jornal nacional independente Kwacha Good Morning Zambia, programa apresentado por dois jornalistas independentes, Edem Djokotoe e Anthony Mukwita. Este programa, era visto como sendo crítico ao governo. O banir deste programa, contradisse as declarações de Mwanawasa, de que a crítica construtiva e a reportagem objectiva dos média públicas eram saudáveis e bem vindas.

Outro revés da declaração de Mwanawasa, foi em 18 de Outubro de 2003, quando jornalistas tanto dos média privados como pertencentes ao estado foram impedidos de fazer a reportagem às deliberações de vários comités do Indaba organizados pelo governo, que teve lugar em Lusaka. Os jornalistas, que eram devidamente creditados para fazer a reportagem do encontro de quatro dias, foram ditos no dia 18 de Outubro que, de forma a evitarem “intimidar” os delegados, não devia ser permitido a cobertura dos 12 comités formados na convenção que ia fazer recomendações e deliberações em assuntos multi-sectoriais.

Esta decisão de barrar a cobertura dos média do Indaba, só foi rescindida após protestos gerais de várias organizações dos média. O Director Instituto dos Média de África do Sul (MISA)-Zâmbia, Kellys Kaunda, disse que a convenção estava a discutir assuntos de interesse público, que não eram segredos e a que devia ser permitida à imprensa fazer a cobertura destas deliberações. O seu parceiro Andrew Sakala, Presidente da Associação da Imprensa da Zâmbia (PAZA), disse que a sua organização estava desapontada com a decisão dos organizadores.

O que foi mais surpreendente neste Indaba nacional, foi a omissão das resoluções finais nas reformas dos média, que de novo levantaram fortes críticas das associações dos média. Ambas a MISA-Zâmbia e a PAZA acusaram o governo de banalizar a importância da liberdade de imprensa. Apesar de ter tido um comité presente neste comité do Indaba para avaliar as reformas legais dos média e outros assuntos que dissessem respeito aos média, nada foi mencionado nas resoluções finais que dissesse respeito aos média.

Em 2003, o Presidente Mwanawasa nomeou uma Comissão de Revisão Constitucional (CRC) de diferentes secções da sociedade, incluindo instituições dos média. Apesar da inclusão de instituições dos média, os 24 termos de referência feitos pela Comissão não fizeram menção

nenhuma da liberdade de imprensa. Isto exibiu que não havia seriedade no desenvolvimento dos média. Embora isto pudesse ser implicado num dos termos de referência, o facto de que não ter sido feito de forma clara seria banalizar e enganar por parte dos peticionários.

O ano chegou ao fim, sem o plano de lei da Liberdade de Informação (FOI) ser aprovado como lei, mas com a promessa do governo em 30 de Dezembro de 2003, de que seria posto em mesa na próxima sessão do parlamento. O plano tinha antes sido apresentado ao parlamento em 28 de Novembro de 2002, e foi aprovada à segunda leitura sem grandes dificuldades. No entanto, no último minuto, o antigo Ministro de Serviços de Radiodifusão e Informação, Enock Kavindele, disse que o plano tinha sérias implicações de segurança do ponto de vista de segurança “global depois do ataque terrorista de 11 de Setembro aos Estados Unidos”.

Tanto a MISA como a PAZA, demonstraram desapontamento sobre a aparente falta de vontade política em passar o plano a lei. Este pedaço da legislação, é crítico à liberdade dos média e poderia facilitar o acesso a eventos e informações importantes, permitindo desta forma a participação dos cidadãos no governar da democracia da Zâmbia.

Ameaças, ataques físicos, interferências e hostilizações estavam na ordem do dia.

A política do governo ainda permanecia inalterada em relação à privatização dos média, que permanecia sobre o controle e propriedade do estado. O então Ministro de Radiodifusão e Informação, Newstead Zimba disse à nação em Março de 2003, que o governo não tinha qualquer intenção em privatizar o *Daily Mail*, da Zâmbia e o *Times of Zambia*, mas aqueles que quisessem competir com estes dois matutinos estavam livres em iniciar os seus próprios jornais. Os média independentes da Zâmbia continuaram a operar contra a tendência de uma economia pobre. Os média públicos estavam bastante endividados. Isto é evidente na obtenção de equipamento inadequado e obsoleto nestas instituições. As organizações dos média estão a fazer o pedido para uma recapitalização dos média públicos tendo em vista uma eventual privatização. O governo parece exacerbar de forma deliberada estes problemas económicos como forma de tirar a imprensa privada do mercado. Por exemplo, ainda é uma política não declarada, para todas as instituições do governo não fazer publicidade em certas secções dos média. Os média estão dividido com duas opções; por um lado publicações estatais ou os que servem os interesses do MMD governante, ou por outro, a imprensa independente bastante reprimida. A relações entre os média e o governo tem continuado a ser hostil, e esta hostilidade de forma mais directa aos jornais de donos privados, especialmente o jornal *The Monitor*. Por uma vez, o jornal *The Post*, que deixou uma postura de tolerância zero à corrupção na sua agenda nacional gozava de relações menos tensas como o governo de Mwanawasa, que está a perseguir todos aqueles que são suspeitos de corrupção sob a administração de Chiluba.

O governo continuou a manter que a ZNBC, era uma Radiodifusora nacional, contrapondo as Radiodifusoras públicas. O governo emendou o Acto da ZNBC de 1987, para permitir que a Corporação colectasse as taxas de licença de televisão, de modo a reforçar a sua base financeira. A ZNBC, começou a colectar as suas taxas de licença de televisão sob o slogan que “quando pagar vai-se notar” no meio de confusão e controvérsia. Em Outubro, o antigo Secretário do Partido Nacional MMD, Michael Sata, processou a ZNBC e a Corporação de Fornecimento de Electricidade da Zâmbia (ZESCO), por “colectarem” ilegalmente taxas de licença das suas contas de electricidade sem autorização. O caso foi posto de lado. Os poderes reguladores foram retirados do Ministro para a Autoridade de Radiodifusão independente (IBA), estando até agora para serem repostos. A nova Comissão, apesar de ter sido nomeada ainda não rectificada pelo último conselho de parlamento que cessou em 28 de Novembro de 2003. O estabelecimento da IBA, pode ser atrasado até que a ratificação das duas comissões do parlamento sejam feitas.

Isto significa que o Ministro continua a gozar de poderes reguladores.

Embora haja acentuadas mudanças do novo Acto da ZNBC, onde é esperado que opere como uma “verdadeira” radiodifusora ao serviço do público representando a diversidade de opiniões e um amplo espectro de programas, ainda existem muitos preconceitos, interferências políticas e abuso daqueles que detêm o poder político. Cobertura de notícias da televisão com preconceito é um claro sinal que a ZNBC, esta longe de preencher todas as obrigações como radiodifusora de serviço público.

Ao contrário da imprensa independente, que irrompeu em cena durante a transição política nos inícios de 1990, a radiodifusão independente nasceu com muita luta e controvérsia. A marcha actual das estações de rádio comunitárias está bem espalhada tanto nas áreas rurais como urbanas. Infelizmente, muitos destes programas apenas operam providenciando musica, enquanto que as transmissões de rádio são altamente restringidas. De uma forma geral, tem havido um declínio acentuado no desenvolvimento do sector dos media privados. Muitos problemas financeiros causaram a redução de capacidade de operações de muitos jornais. Em Junho de 2003, o jornal *The Monitor* reduziu a sua distribuição de bissemanal para semanal, enquanto que a circulação do jornal semanário *Today* não foi consistente, aparecendo quinzenalmente ou então nem era lançado. Um média independente livre do controlo do monopólio do governo é crítico se um país quer atingir a maior diversidade possível e a chave para sustentar um sistema democrático. Os média independentes na sua presente forma não contribuem muito no processo democrático, já que eles não funcionam como mensageiros para pontos de vista diferentes, nem questionam as políticas do governo ou os abusos do poder e corrupção.

A actual concentração de propriedade do governo no meio dos média, enfraqueceu de grande forma a diversidade dos média, contribuindo desta forma na falha dos média para reflectir-se no espectro multi partidário total e pontos de vista pluralistas que são críticos para a liberdade de imprensa e para a democracia. Os danos excessivos e os custos arbitrados pelos tribunais já começam a ser uma fonte de preocupação e a maioria destas vem da parte de oficiais e políticos do governo. Estas multas e danos criam a impressão de que os tribunais desejam amordçar os média privados. O Tribunal Supremo já no princípio deste ano multou por calúnia a dois Comissários da Comissão de Direitos Humanos Permanentes. O Tribunal, passou uma abstenção no parecer à favor de que os Comissários tinham recebido um ‘suborno’ de parentes de um jovem que herdou bens do seu falecido pai. Os Comissários empreenderam cauções que levaram o carro do jornal *The Monitor*, uma carrinha canadiana paralisando desta forma as operações dos jornais.

A MISA-Zâmbia e a PAZA, continuam a trabalhar juntas na luta para uma liberdade de imprensa na Zâmbia. As duas organizações lutaram muitas ‘batalhas’ durante este ano especialmente na convocação de reformas legais. Tanto a MISA como a PAZA, suplicaram ao governo em vários forums para retirar 13 excertos de lei desagradáveis incluindo o Acto de Segredos Oficiais que inibe a liberdade de imprensa.

Numa nota positiva, o governo marcou sucessos para o final do ano quando em 23 de Dezembro de 2003, revelou o tão esperado plano de acção do projecto de Informação e Tecnologia de Comunicação (ICT). Até essa altura, Zâmbia, estava entre os poucos países na região da SADC que tinham uma política de ICT .

Daqui para frente, é claro que batalhas maiores esperam na luta da Zâmbia, para a liberdade dos média. É necessário convencer a Administração de Novos Negócios para garantir urgentemente reformas legais para os média que possam garantir a liberdade dos média e nutrir a democracia para o povo da Zâmbia.

■ ALERTS

• **DATE: January 21, 2003**

PERSONS/INSTITUTIONS: Arthur Simuchoba, Calvin Kaleyi, Chali Nondo

VIOLATIONS: Threatened

On January 21 2003, police picked up three journalists from the privately-owned *The Monitor* newspaper for questioning, in connection with a story it published in its October 18 to 21 2002 edition. The report linked Harry Mwanawasa, President Levy Mwanawasa's brother, to a corruption case.

• **DATE: February 5, 2003**

PERSONS/INSTITUTIONS: Chali Nondo

VIOLATIONS: Detained (charged)

On February 5 2003, police arrested Chali Nondo, chief reporter of *The Monitor* newspaper, and charged him with “publishing false news with intent to cause fear and alarm to the public”. The journalist is being held at Woodlands police station in Lusaka and has been denied bond.

The offence, which is contrary to Section 67 of the Penal Code, carries a maximum jail sentence of three years upon conviction.

Nondo's arrest follows a story published in the February 4 to 6 edition of *The Monitor*, which alleged that President Levy Mwanawasa had authorised police to hire a witchdoctor in order to help them capture a fugitive former finance minister who was wanted by police to face charges of “theft of public funds”.

UPDATE

• **DATE: February 10, 2003**

PERSONS/INSTITUTIONS: Chali Nondo

VIOLATIONS: Detained (charged - update)

Chali Nondo, a journalist from *The Monitor* newspaper, was released on police bond on February 10 2003, at approximately 19h00, after spending about three hours in police custody. On February 5, Nondo was detained on a charge of “publishing false news with intent to cause fear and alarm to the public”.

The reporter described his experience in police custody as “rough.” “The cell was a dump, smelly and crowded,” he said.

• **DATE: February 24, 2003**

PERSONS/INSTITUTIONS: Dickson Jere, Penny Dale, Shapi Shacinda, Amos Malupenga, Wendy Mpolokoso

VIOLATIONS: Censored

On February 24 2003, police prevented five journalists from covering court proceedings involving former president Frederick Chiluba.

Reuters correspondent Shapi Shacinda, Agence France-Presse (AFP) correspondent and Zambia Independent Media Association (ZIMA) Chairperson Dickson Jere, BBC correspondent Penny Dale, *Post* newspaper assistant news editor Amos Malupenga and Radio Phoenix reporter Wendy Mpolokoso were prevented from entering the Lusaka Chikwa Magistrate's court to cover Chiluba's court appearance on charges of “theft by a public servant”.

• **DATE: February 24, 2003**

PERSONS/INSTITUTIONS: Radio Icengelo

VIOLATIONS: Threatened

On February 24 2003, Information and Broadcasting Services Deputy Minister Webster Chipili threatened Radio Icengelo, a Catholic-owned station in Kitwe, with closure, saying it risks losing its broadcast licence if it continues to be used as a mouthpiece for opposition political parties.

Speaking on the state-owned Zambia National Broadcasting Corporation (ZNBC) television news, Chipili accused the station of being a mouthpiece for opposition Patriotic Front (PF) leader Michael Sata and called on the station to desist or risk losing its licence.

• **DATE: June 24, 2003**

PERSONS/INSTITUTIONS: Masautso Phiri

VIOLATIONS: Threatened

On June 24 2003, police in Lusaka asked Masautso Phiri, editor of the privately-owned weekly newspaper *Today*, to report to police headquarters at 14h00 for questioning. Phiri told the Zambia Independent Media Association (ZIMA), MISA's Zambian chapter, that although the subject of the questioning was not specified in the summons, he suspected that it might be linked to a series of stories his newspaper published between June 3 and 24.

Two of the stories are related to an alleged sex scandal at the State House, the president's official residence, and detail the attempts to cover it up. The latest story is related to President Mwanawasa's alleged poor health.

• **DATE: July 2, 2003**

PERSONS/INSTITUTIONS: Masautso Phiri

VIOLATIONS: Detained

On July 2 2003, police recorded a "warn and caution" statement from Masautso Phiri, editor of *Today* newspaper, who voluntarily presented himself for questioning at police headquarters one week after he was initially summoned.

Phiri, who was accompanied to the police station by his lawyer, Sakwiba Sikota, told the Zambia Independent Media Association (ZIMA), MISA's Zambian chapter, that police questioned him about a story entitled "Mwanawasa paves way for coup?" in the newspaper's June 3 to 10 edition.

The article said that President Levy Mwanawasa's leadership style had brought about political instability in the country, leading some people to express fears of a possible military coup.

• **DATE: September 17, 2003**

PERSONS/INSTITUTIONS: Alfaron Sinalungu

VIOLATIONS: Threatened

On September 17 2003, four prison wardens confronted Alfaron Sinalungu, a freelance journalist who writes for the privately-owned *Post* newspaper, over an interview he conducted with convicted coup plotter Captain Jack Chiti. Chiti, who is on death row, is currently in Kabwe general hospital.

Sinalungu told MISA-Zambia that the wardens accosted him at the hospital and accused him of being the author of a profile of Chiti that appeared in the September 7 edition of *The Sunday Post*. In the article, Chiti explained in detail his involvement in the failed October 27 1997 coup d'état against former president Frederick Chiluba, his subsequent torture, the harassment

of his family and his views on Zambia's current political situation.

Sinalungu said the officers led him to their "command post" within the hospital and questioned him for about 30 minutes.

• **DATE: October 18, 2003**

PERSONS/INSTITUTIONS: Journalist(s)

VIOLATIONS: Censored

On October 18 2003, journalists from both private and state-owned media outlets were barred from reporting on the deliberations of various committees at a government-organised national convention (Indaba) taking place in Lusaka, Zambia.

The journalists, who had been accredited to cover the four-day meeting, were told on October 18 that, in order to avoid intimidating the delegates, they would not be allowed to cover the deliberations of the 12 committees formed at the convention.

• **DATE: November 1, 2003**

PERSONS/INSTITUTIONS: Omega TV

VIOLATIONS: Censored

On November 1 2003, a team of two plainclothes and two armed and uniformed police officers raided the privately-owned Omega TV station, based in Lusaka, and ordered staff to immediately cease test broadcasts. The officers referred to "orders from above" as the reason for their actions. The station closed until November 3, when the order was reversed by Lusaka Province Police Commanding Officer Chendela Musonda.

The station's closure followed an October 27 letter by Solicitor General Sunday Nkonde to Minister of Information and Broadcasting Services Mutale Nalumango, which said the station was operating illegally and should be shut down by police.

• **DATE: November 11, 2003**

PERSONS/INSTITUTIONS: Omega TV

VIOLATIONS: Closed

On November 11 2003, Omega TV, a privately-owned, free-to-air television station based in Lusaka, was ordered closed following the reversal of a High Court order allowing it to continue its test broadcasts.

The closure of the station followed a successful appeal by Solicitor General Sunday Nkonde against a "stay of execution" granted to Omega TV on September 19, which had allowed it to continue its test broadcasts.

Nkonde argued that there was no legal basis for the stay of execution because the "construction permit", or temporary licence, that Omega TV was trying to protect had expired.

Omega TV had applied to the High Court for a judicial review of the cancellation by former minister of information and broadcasting services Newstead Zimba of its 18-month "construction permit", which was valid until July. The minister had cited "public interest" when cancelling the licence.

Zimbabwe



by Davison S Maruziva

Davison S. Maruziva is a Media Consultant. He was the founding Deputy-Editor-in-Chief of The Daily News in Zimbabwe.

“Freedom of expression constitutes one of the essential foundations of a democratic society and it is applicable not only to information and ideas that are favourably received or regarded as inoffensive or as a matter of indifference, but also to those that offend, shock or disturb the state or any sector of the population...” - Supreme Court (Zimbabwe 21 May 2000)

Violations of media freedom and freedom of expression in Zimbabwe rose almost eleven-fold during 2003, compared to those recorded in the previous year. The period under review saw the government declaring the private media “weapons of mass deception” and in its view, therefore, “weapons of mass destruction”. But it was the last quarter of 2003 that was dominated by a bruising fight to get *The Daily News* and its sister Sunday paper, *The Daily News on Sunday* back on the streets, while the government demonstrated its determination to silence alternative voices deemed critical of it.

Associated Newspapers of Zimbabwe (ANZ), the publishers of the two newspapers sought legal opinion during the early part of 2003 on whether or not it should register with the Media and Information Commission in order to continue to operate as a media organization. The legal advice given the newspaper group was not to register. Instead, it was recommended that it should mount a constitutional challenge.

While this was done, the Supreme Court, however, ruled on 11 September 2003 that ANZ was acting outside the law. The group hastily filed its papers for registration, but the Media and Information Commission (MIC) said that these were not in order. The MIC ordered the group to cease publishing its two titles until it was issued with a registration certificate. Armed police moved in and occupied the offices of ANZ. They also confiscated some of the company’s equipment, ensuring that staff would not be allowed to enter the premises, or if they did, that they would not have the resources to produce their newspapers.

The dramatic events of the last quarter of 2003 appear to portray in sharp focus, an escalation in the arrests, beatings, harassments, threats and torture of journalists, in a development that appears widely designed to panel-beat media practitioners and their organizations into subservient compliance. Repressive laws, such as the Access to Information and Protection of Privacy Act (AIPPA) were routinely applied against the private press in general, but in particular against titles from the Associated Newspapers of Zimbabwe (ANZ) stable.

An example is the arrest and assault of Philemon Bulawayo, a photojournalist with *The Daily News*, and Gugulethu Moyo, ANZ’s legal adviser, in March 2003. Another was that of Andrew Meldrum, a correspondent for *The Guardian* (UK), who was arrested, released, detained and later deported illegally despite a High Court ruling against such conduct.

The government used the Public Order and Security Act (POSA) to arrest three of *The Daily News* editors in June 2003. The State also used POSA to arrest members of the National Constitutional Assembly (NCA), who were holding a peaceful demonstration on 17 September 2003 to protest the forced closure of *The Daily News* and *The Daily News on Sunday* and also

for constitutional reforms.

Five ANZ directors were arrested on 26 and 27 October 2003 and charged with publishing a newspaper without a licence. A day earlier, 19 staffers from the company were arrested but later released after questioning by police. The argument was that they were employed by an unregistered media house, while the workers themselves were not accredited with the MIC.

After the Administrative Court ruled that the ANZ titles could resume operations, following closure of their offices on 12 September 2003, the government was infuriated. The Minister of State for Information and Publicity, Professor Jonathan Moyo, vowed, “to use all available legal means to resist the backdoor approach being used in the case...”. Professor Moyo described the court’s ruling as “outrageously political”.

However, if ever evidence was needed to confirm the state’s direct interest in the forced closure of the two ANZ titles, the Minister’s outburst seemed to provide proof. Yet up to this stage, the state had fought hard to portray this as purely a matter between the licensing authority, the Media and Information Commission (MIC), and Associated Newspapers of Zimbabwe.

Police besieged the offices and printing press of ANZ on 12 September 2003, determined to ensure the publications would not be printed or come out. The government reportedly instructed its officials to use whatever means necessary to ensure that publication would not happen. Plain clothes security police, accompanied by some 20 armed paramilitary officers took occupation of the ANZ premises, despite a High Court order instructing them to leave the premises and return all equipment seized, as well as to refrain from further seizure of the company’s equipment.

The threat to other private media organizations also deemed by the government critical to it continued to lurk in the wings.

In December 2003, two senior officials from the ruling Zanu (PF) instituted a Z\$600million lawsuit against *The Independent*. Similar litigation has previously drained the coffers of private media houses making editors think twice before publishing a controversial story that involves the government and/or its officers. The lawsuits are but one of the many impediments placed in the way of the private media. Since 2000, unruly ruling party supporters have emerged as one of the serious threats to freedom of choice, media freedom and freedom of expression. Journalists, newspaper vendors and distribution staff were regularly assaulted; newspapers were confiscated illegally and distribution of newspapers was banned in several of the country’s eight administrative provinces.

In early September 2003, the chairman of the Media and Information Commission (MIC), Dr Tafataona Mahoso, ominously remarked to a reporter from *The Independent*’s sister paper: “Oh, you are from *The Standard*, we will be coming to you. We will be writing to you soon. You are writing lies, carrying stories with initials as by-lines...”

With the ANZ titles torpedoed, the Media Institute of Southern Africa (MISA)-Zimbabwe chapter looked to be the next target appearing on the radar screen of the government-controlled media. While MISA was kept within striking range, it is only the protracted legal hearings over the ANZ titles that appear to have kept them from bearing the brunt of the government’s displeasure.

The MIC contends that MISA-Zimbabwe is subverting Zimbabwe’s laws by, “inciting law-abiding citizens to defy the law” and that it must register as a “media service provider”.

This however is a broader strategy by the government to harass and intimidate journalists and media organizations in order to determine the content of their reportage and news and curtail the work of media watchdog organisations.

The government's handling of the case involving ANZ mirrors that of the *The Guardian* newspaper by authorities in Swaziland during 2001. Any decision by the courts that went against the government came under intense fire, with the government immediately appealing against the court's ruling.

In the case of Zimbabwe, the effect of the appeals is that ANZ publications were forced off the streets for four months. *The Daily News* was being read by nearly one million people a day or 59 percent of the market share at the time of its forced closure. As a result of the forced closure, more than 300 workers and their families have been plunged into purgatory, their future uncertain.

The Daily News' competitor, the state-run *Herald* enjoyed 44 percent of the market, while its sister weekly, *The Sunday Mail*, had 792 439 readers, or 32 percent of the market. *The Daily News on Sunday* was fast catching up with 25 percent or 600 505 readers.

The impetus in shutting down alternative voices deemed critical of the government seems to have shifted a gear after the 30 and 31 August 2003 urban council elections during which the ruling party lost control of six key towns - Gwanda, Gweru, Kariba, Mutare, Redcliff and Victoria Falls. Previously the government had seen the loss of the major cities of Bulawayo (the second largest city), Chegutu, Chitungwiza (the third largest urban settlement), and Harare, the capital, and Masvingo.

These defeats were unprecedented and the government has neither forgotten nor forgiven the embarrassing losses. The opposition now controls 12 major cities in the country and 54 of the 120 contested constituencies in the country.

The government attributes its misfortunes to the private media. Attacks against the private media need to be seen against this background and in the context of preparations for the 2005 parliamentary elections, during which the government hopes to reverse the trouncing it suffered in 2000, when 58 seats went to opposition parties.

Another threat to operations of the media and the free flow of information during the period under review was the cost of newsprint. It became almost impossible to predict the cost of newspapers and magazines. Over the years, the pattern in Zimbabwe has been that with the introduction of a price increase in the cost of newspapers, causes demand to drop off by 10 percent. Information/knowledge, therefore, became the immediate casualty. Undemocratic governments thrive in circumstances where their citizens are deliberately kept uninformed.

The question is raised about the prospects that exist, in the long-term, for the papers in the ANZ stable to be allowed back onto the streets. While a decision was pending in the courts early in 2004 and the company was benefiting in the interim, at the time of writing it was difficult to make an informed forecast. Developments during the recent past confound attempts at guessing with any degree of certainty.

The Broadcasting Services Act (BSA) has continued to affect electronic media plurality in that despite assurances on at least three separate occasions by the Minister of State for Information and Publicity, that there would be new radio stations by the end of 2003, no such development has taken place. BSA has become the instrument through which the government exercises full

and overall control over the electronic media.

Aspiring radio station, Capital Radio partly won its constitutional challenge against the Minister of Information in its challenge of the BSA. The Supreme Court ruled in September 2003 that the Minister had too much power granted in the Act and also that no reasons were given as to why the law stipulates that only one license for another free-to-air radio and television station will be issued. Aspiring TV station, Munhumutapa African Broadcasting Corporation lost its Administrative Court case to have the Broadcasting Authority of Zimbabwe (BAZ) reverse its decision to deny it a license. The court ruled that BAZ had acted within the provisions of the law as the aspirant had failed to provide sufficient information in its application. The Zimbabwe Broadcasting Corporation also banned without reasons, an anti HIV-AIDS radio programme, Mopani Junction.

The ZBC like all newspapers controlled by the state has remained closed to any other voices apart from the government and ruling party, ZANU PF.

The government also appeared to signal a crack down against the free flow of information with the arrest of more than a dozen citizens in November 2003 for “circulating a subversive e-mail inciting the public to hold violent demonstrations”, allegedly to oust President Mugabe from office.

In this particular instance, the Public Order and Security Act (POSA) was evoked and they faced charges of spreading false information. The 14 people were arrested while writing e-mail messages to colleagues on the worsening economic and political situation in Zimbabwe.

This assault on the people’s privacy and their right to receive and impart information was confirmed with the revelation in *The Daily Mirror* of 9 December 2003 that the government intended to acquire Z\$4 billion worth of state-of-the-art eavesdropping equipment to monitor e-mail and internet traffic.

There were, however, indications of some light at the end of the long tunnel: Lower courts especially the High Court and the Administrative Court have shown some degree of consistency in defending media and freedom of expression rights. On 17 September High Court judge, Yunus Omerjee ruled that the police action in forcibly occupying ANZ premises and seizing the company’s equipment was illegal.

On 24 October Administrative Court judge, Michael Majuru, ruled that ANZ should be issued with a certificate of registration.

Judge Selo Nare allowed ANZ to carry into effect the judgement of Judge Majuru. He ruled the order should remain in effect despite the noting of an appeal against it by the MIC.

AIPPA has become a weapon in the arsenal of the government. It is used to exercise control over journalists and media houses in a bid to prevent or forestall critical reporting. This is done through licensing of mass media institutions and media practitioners.

The forced closure of *The Daily News* and *The Daily News on Sunday* leaves readers all the poorer in their freedom of choice and freedom to access information.

Zimbabwe



Por Davison S. Maruziva

Davison S. Maruziva é um consultor do media. Ele foi o Sub-Chefe editor do Daily News.

*Reclamo (anúncio feito pelo editor): “liberdade de expressão constitui um dos fundamentos essenciais de uma sociedade democrata e é aplicável não só na informação e em ideias que são favoravelmente aceites ou tidas em consideração como inofensivas ou questões de indiferença, mas também naquelas que ofendem, chocam, incomodam o estado ou qualquer outro sector da população... Tribunal Supremo (Zimbabwe 21 de Maio de 2000)**

Violações da liberdade dos media e da liberdade de expressão cresceram quase 11 vezes mais durante 2003, quando comparadas com os registos do ano anterior. O período em estudo viu o governo declarar ao media privado “armas de decepção em massa” e deste ponto de vista, logo, “armas de destruição em massa”.

Mas só no ultimo quarto de 2003 é que houve uma luta violenta para pôr o *Daily News* e a sua irmã de Domingo, o *Daily News on Sunday* de volta às ruas, enquanto o governo demonstrava a sua determinação em silenciar as vozes alternativa consideradas para que tal acontecesse.

A Associação de Jornais de Zimbabwe (ANZ), os editores dos dois jornais procuraram opiniões legais no princípio de 2003 para saber se deviam registar-se na Comissão de Informação dos Media para continuar a funcionar como uma organização dos media. O conselho legal dado ao grupo de jornais foi para não se registar. No entanto, foi recomendado que se devia montar um reconhecimento constitucional.

No entanto, enquanto isto era feito, o Tribunal Supremo decidiu a 11 de Setembro de 2003 que a ANZ estava a agir à margem da lei. O grupo rapidamente preencheu seus papeis para registar-se, mas a Comissão de Informação dos media (MIC) disse que estes não estavam em ordem. A MIC ordenou que o grupo cessasse a publicação dos seus dois títulos até que publicado com o certificado de registo. Forças da policia armada agiram e ocuparam os escritórios da ANZ. Eles também confiscaram alguns equipamentos da companhia, assegurando assim, a não entrada do pessoal nas instalações, e caso entrassem, não teriam os recursos para a edição dos seus jornais.

Eventos dramáticos ocorreram no último quarto de 2003 mostraram em retracto detalhado, um aumento de prisões, brutalidade, perseguições, ameaças e torturas de jornalistas, que parecia ser um muro criado para levar os profissionais do media e suas organizações a uma concordância servil.

Leis repressivas, como O Acto de Protecção de Acesso a Informação (AIPPA) eram constantemente aplicadas contra à imprensa privada em geral, mais particularmente contra títulos do núcleo da Associação de Jornalistas de Zimbabwe (ANZ).

Um exemplo é a agressão e prisão de Philemon Bulawayo, um jornalista fotógrafo da *Daily News*, e Gugulethu Moyo, um conselheiro legal da ANZ, em Março de 2003. Outro acto foi de Andrew Meldrum, um correpondente para o *The Guardian* (U.K.), que foi preso, liberto, detido e mais tarde deportado ilegalmente apesar do Supremo Tribunal decidir-se contra este tipo de conduta.

O Governo usou a O Acto de Segurança e Ordem Pública (POSA) para prender três editores do *Daily News* em Junho de 2003. O estado também usou o POSA para prender os membros da Assembleia de Constituição Nacional (NCA), quando estavam a realizar uma manifestação pacífica a 17 de Setembro de 2003 para protestar contra o encerramento forçado do *Daily News* e do *Daily News on Sunday* e das suas reformas constitucionais.

Cinco directores da ANZ foram presos a 26 e 27 de Outubro de 2003 e acusados de publicar o jornal sem licença. Um dia antes, 19 empregados da empresa foram presos e mais tarde libertos após questionamento pela polícia. A justificação foi que eles foram empregues por uma casa dos media não registada, enquanto os empregados não estavam representados pela MIC.

Depois do Tribunal Administrativo decidir que as propriedades da ANZ podiam resumir as suas operações, após o encerramento dos seus escritórios em 12 de Setembro de 2003, o Governo ficou enfurecido. O Ministro do Estado de Informação e Publicidade, Professor Jonathan Moyo jurou, “usar todos os meios legais disponíveis para resistir a todos os confrontos que estão a ser usados pela porta do cavalo neste caso.....”. O professor Moyo descreveu a decisão do tribunal como “escandalosamente política”.

No entanto, se provas eram necessárias para confirmar o interesse directo do estado no encerramento forçado das duas propriedades da ANZ, o acesso de ataque pareceu fornecer provas. Mas até esta altura, o estado tinha lutado para retractar tudo isto como um simples assunto autorização de licença entre o media, a Comissão de Informação dos media (MIC) e a Associação de Jornais de Zimbabwe.

A polícia cercou os escritórios e os locais de impressão da ANZ em 12 de Setembro de 2003, determinada em garantir que as publicações não seriam impressas ou lançadas. O governo instruiu aos seus oficiais para usar todos os meios necessários para assegurar que os dois jornais da ANZ não fossem distribuídos. Polícias de segurança normais, acompanhados por cerca de 20 oficiais paramilitares ocuparam as instalações da ANZ, apesar da ordem do Tribunal Supremo para abandonar as instalações e devolver todo o material apreendido, bem como restringir futuras apreensões do equipamento da empresa.

Mas as ameaças a outras organizações privadas do media feita pelo governo às que considerava ameaça a eles continuavam à espreita.

Em Dezembro de 2003, dois oficiais seniores do dirigente Zanu (PF) instituíram um processo legal de Z\$600m contra o *The Independent*. Este litígio esvaziou os cofres das casas do media privado fazendo os editores pensarem duas vezes antes de publicarem uma história controversa que envolvesse o governo e/ou os seus oficiais. O processo legal é, portanto um dos muitos impedimentos colocados no caminho dos media privados. Desde o ano 2000, grupos defensores de dirigentes rebeldes tornaram-se sérias ameaças à liberdade, liberdade do media e liberdade de expressão. Jornalistas, vendedores de jornais e pessoal de distribuição eram regularmente assaltados; jornais eram ilegalmente confiscados, enquanto a distribuição de jornais era banida em muitas das oito províncias administrativas.

No início de Setembro de 2003, o presidente da Comissão de Informação do Media (MIC), Dr. Tafataona Mahoso, ominosamente comentou a um repórter do jornal *The Independent* “Oh, vocês são do *The Standart*, nós iremos atrás de vocês. Nós iremos escrever-vos em breve. Vocês estão a escrever mentiras, a lançar histórias com siglas nas entrelinhas ...”

Com as propriedades da ANZ torpedeadas O Instituto do Media de África do Sul (MISA) -

casa de Zimbabwe olhou para o alvo seguinte que surgia no radar de mísseis do governo para os media. O MISA estava dentro da distância de ataque. Somente as audiências prolongadas às propriedades da ANZ pareciam ser a salvação do MISA.

Mas isto é, no entanto uma grande estratégia do governo para hostilizar e intimidar jornalistas e organizações do media de forma a determinar o conteúdo das suas reportagens e notícias e encurtar o trabalho dos ‘cães de guarda’ das organizações dos media.

A forma como o governo orientou o caso envolvendo o caso dos espelhos da ANZ do jornal do *The Guardian* pelas autoridades em Swazilândia durante 2001. Qualquer decisão dos tribunais que foi contra o governo aconteceu com sob intensos ataques, com o governo apelando de imediato contra a decisão do tribunal.

No caso de Zimbabwe, o efeito dos apelos foi o de as tiragens da ANZ serem forçadas a serem retiradas da rua por quatro meses. O *The Daily News* era lido por quase um milhão de pessoas por dia ou 59 por cento da quota do mercado na altura do seu encerramento. Mais de 300 trabalhadores e suas famílias foram lançados para o purgatório, com o seu futuro incerto.

O competidor do *The Daily News*, o *Herald*, dirigido pelo estado, gozava de 44 por cento, enquanto que a sua irmã semanal, o *The Sunday Mail* estava bastante próximo com 25 por cento ou 600 505 leitores.

O ímpeto em calar as vozes alternativas credíveis por parte do governo pareceu diminuir de velocidade depois das eleições do conselho urbano de 30 e 31 de Agosto, durante a qual o partido governante perdeu o controle de mais cidades chave – Gwanda, Gweru, Kariba, Mutare, Redcliff, e Victoria Falls. Anteriormente o governo já tinha visto a perda das cidades importantes como Bulawayo (a sua segunda maior cidade), Chegutu, Chitungwiza (a terceira maior residência urbana), e Harare, a capital, e Masvingo.

As derrotas nunca antes tinham sido vistas. Mas o governo não se esquecia nem perdoava estas derrotas embaraçosas. A oposição controla agora 12 cidades importantes do país e 54 dos 120 eleitorados contestados do país.

O governo atribui os seus infortúnios ao media privado. Ataques contra o media privado têm que ser vistos contra este fundo e em contexto com as preparações com as eleições parlamentares de 2005, durante a qual o governo espera em reverter o trucidamento que sofreu em 200, quando 58 lugares foram para partidos da oposição.

Outra ameaça às operações do media e à livre circulação de informação durante o período em revisão era o custo da impressão. Tornou-se praticamente difícil de prever o custo de jornais e revistas. Ao longo dos anos, o padrão em Zimbabwe era que, cada vez que houvesse um aumento de preço dos jornais, a procura baixava em cerca de 10 por cento. Informação/ conhecimento, portanto, tornou-se uma casualidade imediata. Governos não democráticos prosperam em circunstâncias em que os seus cidadãos são deliberadamente mantidos ignorantes.

A questão é levantada sobre que perspectivas existem, a longo termo, aos jornais da ANZ serem permitidos de novo voltar às ruas. Enquanto uma decisão estava pendente nos tribunais no início de 2004 e a companhia beneficiava no espaço de tempo intermediário, no entanto, na altura da escrita era difícil de fazer um serviço informativo correcto. Desenvolvimentos durante o passado recente confundiram as tentativas em adivinhar o futuro com um certo grau de certeza.

O Acto de Serviços de Radiodifusão (BSA) continuou a afectar a pluralidade dos media electrónicos, apesar de por três ocasiões separadas, o Ministro do Estado de Informação e Publicidade, assegurar de que haveriam novas estações de rádio até ao final de 2003, nenhum desenvolvimento ocorreu. O BSA tornou-se o instrumento com qual o governo exercitava controlo total e completos obre os media electrónicos.

A ascendente estação de rádio, a Rádio Capital ganhou de forma parcial o seu desafio constitucional contra o Ministro de Informação no seu desafio ao BSA. O Tribunal Supremo decidiu em Setembro de 2003 que eram concedidos muitos poderes ao Ministro no Acto não havendo razões para que tal Acto fosse emitido. A ascendente estação de televisão, A Corporação de Radiodifusão Africana Munhumutapapa perdeu a sua causa jurídica para ver a Autoridade de Radiodifusão de Zimbabwe (BAZ) reverter a sua decisão e a negar a sua licença. O tribunal decidiu que a BAZ agiu dentro das provisões da lei já que a aspirante falhou em providenciar informação nas suas aplicações. A Corporação de Radiodifusão de Zimbabwe também baniu sem razão o Mopani Junction, um programa de rádio contra o HIV-SIDA.

O ZBC tal como todos os jornais controlados pelo estado mantiveram caladas todas as vozes que não fossem do partido dirigente, o ZANU PF. O governo também aparentou mandar um quebrar do livre trânsito de informação com a prisão de mais de uma dúzia de cidadãos em Novembro de 2003 por “circular um e-mail subversivo incitando o publico a demonstrações violentas”, alegadamente por destituir Mugabe do seu cargo.

Neste particular instante, O Acto de Ordem Publica e Segurança (POSA) foi revogado e sofreu acusações de espalhar informações de falsa informação. As 14 pessoas que foram presas enquanto escreviam mensagens por e-mail para os seus colegas sobre o agravamento económico e a situação política em Zimbabwe.

Este assalto à privacidade das pessoas e aos seus direitos de receber informação imparcial foi confirmado com a revelação no *The Daily Mirror* de 9 de Dezembro de 2003 que o governo tencionava adquirir um equipamento topo de gama de escuta para monitoramento de e-mails e tráfico de internet no valor de Z\$4 bilhões (4 bilhões de Rands).

Houve, no entanto, indicações de alguma luz no fundo do longo túnel: Tribunais Inferiores, especialmente o Tribunal Supremo e o Tribunal Administrativo mostraram certos graus de consistência na defesa dos media e dos direitos da liberdade de expressão.

Em 17 de Setembro, o juiz do Tribunal Supremo, Yunus Omerjee decidiu que as acções da polícia na ocupação forçada às instalações da ANZ e apreensão dos equipamentos ilegal.

Em 24 de Outubro o juiz do Tribunal Administrativo, Michael Majuru, decidiu que devia ser emitido um certificado de registo à ANZ .

O juiz Selo Nare permitiu a ANZ dar seguimento da decisão de juiz Majuru. Ele decidiu que a ordem deveria tomar efeito apesar saber de um recurso contra isso por parte da MIC.

O AIPPA tornou-se uma arma no arsenal do governo. Ele é usado para exercer controle sobre jornalistas e empresas dos media numa tentativa de dispersar reportagens de informação crítica. Isto é feito pelo licenciamento das instituições dos media em massa e profissionais dos media.

O encerramento forçado do *The Daily News* e do *The Daily News Sunday* deixa os leitores em geral mais pobres na sua liberdade de escolha e liberdade de acesso a informação.

■ ALERTS

• **DATE:** January 3, 2003

PERSONS/INSTITUTIONS: Kennedy Murwira, Norna Edwards

VIOLATIONS: Detained (charged)

On January 3 2003, Norna Edwards, editor of *The Mirror*, a Masvingo-based weekly news paper, was arrested and charged with contravening section 80 of the Access to Information and Protection of Privacy Act. The police are also reportedly looking for reporter Kennedy Murwira, who wrote the story. MISA-Zimbabwe was made to understand that Murwira was planning to hand himself over to the police on January 6.

• **DATE:** January 10, 2003

PERSONS/INSTITUTIONS: Lewis Machipisa

VIOLATIONS: Threatened

The state media and the government have accused Zimbabwean journalist Lewis Machipisa of spying for the BBC and SW Radio Africa, a London-based community radio station. In a front-page lead story that appeared in the state-owned weekly *The Sunday Mail* on December 22 2002, the paper said that Machipisa is now working for the BBC and SW Radio Africa “despite the fact that the government banned the BBC from operating in Zimbabwe after accusations that the station was peddling falsehoods.” The government has also labelled SW Radio Africa as a hostile station, which officials accuse of peddling “anti-Zimbabwe propaganda.”

• **DATE:** January 13, 2003

PERSONS/INSTITUTIONS: *Daily News*

VIOLATIONS: Legislation (negative)

Beatrice Moyo, the wife of Minister of Information and Publicity Jonathan Moyo, has instructed her lawyers to sue *The Daily News* newspaper for 10 million Zimbabwe dollars (US\$182,000), for damages allegedly caused by an article that appeared in the paper on January 13 2003. Beatrice Moyo is also demanding that the paper retract the story and issue an apology. According to reports broadcast by the Zimbabwe Broadcasting Corporation (ZBC), Beatrice Moyo contends that the article entitled ‘Moyo Beats Up Wife’, is “untrue, malicious, and has caused suffering and damage to (her) dignity and social standing.”

• **DATE:** January 14, 2003

PERSONS/INSTITUTIONS: Brian Mangwende

VIOLATIONS: Threatened

Ernest Mungwari, who runs one of Zimbabwe’s largest transport companies, Tenda Transport Private Limited, is reported to have hired thugs to beat up Brian Mangwende, *The Daily News* bureau chief in the eastern border city of Mutare.

• **DATE:** January 24, 2003

PERSONS/INSTITUTIONS: Fanuel Jongwe

VIOLATIONS: Charged, detained, equipment confiscated, released

Fanuel Jongwe, a senior journalist with *The Daily News* newspaper, was arrested with five foreigners on January 24 2003, in the mining town of Zvishavane. The group was charged with “practicing journalism without a licence” under Section 72 (1) of the Access to Informa-

tion and Protection of Privacy Act. Section 72 prohibits the practice of journalism or operating a media service without a licence granted by the government-appointed Media and Information Commission.

• **DATE:** January 29, 2003

PERSONS/INSTITUTIONS: Dina Kraft, Jason Beaubien, Tsvangirayi Mukwazhi

VIOLATIONS: Detained, released

On January 29 2003, police detained Tsvangirayi Mukwazhi, chief photographer of *The Daily News* newspaper, and two American reporters for almost seven hours in Bulawayo, Zimbabwe's second largest city. The journalists were covering Zimbabwe's food crisis when they were accused of unlawful entry into the Grain Marketing Board's premises. They were not charged with any offence.

Mukwazhi was arrested with Dina Kraft of the Associated Press and Jason Beaubien, Africa correspondent for National Public Radio. The two Americans came to Zimbabwe with a fact-finding mission led by James Morris, head of the World Food Programme. The reporters are believed to have asked for - and received - a one-week extension of their visas and accreditation. The three were arrested together with Bulawayo Movement for Democratic Change (opposition) Councillor Charles Mpofu and his driver. The journalists were reportedly denied access to their lawyer and were barred from communicating with anyone.

• **DATE:** January 29, 2003

PERSONS/INSTITUTIONS: *Daily News* newspaper, staff

VIOLATIONS: Threatened

Minister of Information and Publicity Jonathan Moyo has said that *The Daily News* newspaper and all its journalists are operating illegally because they are not registered with the Media and Information Commission. Moyo's statements are contained in his founding affidavit to the Supreme Court, defending the "legality" of the Access to Information and Protection of Privacy Act (AIPPA). Moyo, the Media and Information Commission and the Attorney General are respondents in a Supreme Court challenge brought by the Associated Newspapers Group (ANZ), the publishers of *The Daily News*. The ANZ is challenging the constitutionality of the registration of media houses clause in the AIPPA.

• **DATE:** February 3, 2003

PERSONS/INSTITUTIONS: Ishmael Mafundikwa, Pedzisayi Ruhanya

VIOLATIONS: Detained, beaten

On February 3 2003, Pedzisayi Ruhanya, deputy news editor of *The Daily News* newspaper, and freelance journalist Ishmael Mafundikwa were arrested for allegedly obstructing police duties. Ruhanya was manhandled by three baton-wielding policemen and dragged into a police vehicle. It is not clear when Mafundikwa was picked up. The journalists two are currently being held at the Harare central police station.

• **DATE:** February 3, 2003

PERSONS/INSTITUTIONS: Ishmael Mafundikwa, Pedzisayi Ruhanya

VIOLATIONS: Victory

The two Zimbabwean journalists who were arrested on February 3 2003 have been released after the Attorney General refused to prosecute them. The Attorney General's Office said *The Daily News* deputy news editor Pedzisayi Ruhanya and freelance journalist Ish Mafundikwa

have no case to answer as they did nothing wrong. The office advised the police to go by way of summons should new evidence arise against the two reporters.

• **DATE: February 19, 2003**

PERSONS/INSTITUTIONS: Simon Briggs

VIOLATIONS: Expelled

On February 19 2003, immigration officers at Harare International Airport barred a reporter for the British newspaper *Daily Telegraph* from entering Zimbabwe. Cricket writer Simon Briggs, who was due to cover the match between Zimbabwe and India on February 19, was stopped upon arrival in Harare and told to return to Johannesburg.

• **DATE: February 19, 2003**

PERSONS/INSTITUTIONS: Philimon Bulawayo

VIOLATIONS: Detained, beaten, censored

On February 19 2003, soldiers manning queues at a supermarket in the capital, Harare, assaulted photographer Philimon Bulawayo, of *The Daily News* newspaper, as he prepared to take pictures of the long winding queues.

Bulawayo was standing opposite Batanai Supermarket, preparing to take photographs, when two soldiers approached him. The soldiers proceeded to beat him up, saying he was “likely to take pictures.” After the assault, the soldiers handed him over to police, who confiscated his camera. The police then handcuffed Bulawayo and took him to the Harare central police station, where he was made to sit on the floor while police officers beat him up.

• **DATE: February 26, 2003**

PERSONS/INSTITUTIONS: Daily News journalists

VIOLATIONS: Censored

Journalists with the private daily newspaper *The Daily News* were barred from covering Parliament and sitting in the public gallery on February 26 2003. As justification for the move, Parliament officials said the daily’s journalists are not accredited and the paper is not registered with the Media and Information Commission.

• **DATE: March 18, 2003**

PERSONS/INSTITUTIONS: Gugulethu Moyo, Philemon Bulawayo,

VIOLATIONS: Detained, beaten

Daily News photographer Philemon Bulawayo and the newspaper’s legal advisor, Gugulethu Moyo, were arrested in Harare’s Glen View suburb and released from police custody that same day. No charges were laid.

Bulawayo was arrested while taking pictures of police officers beating people in Harare’s Glen View suburb. Zimbabwe was at a standstill on March 18 and 19, due to a stay-away called by the opposition Movement for Democratic Change (MDC). Moyo and *Daily News* lawyer Alec Muchadehama were arrested and beaten when they visited the police station seeking Bulawayo’s release. Muchadehama was released soon after his arrival at the police station.

Moyo and Bulawayo were released the evening of their detention after the High Court ruled that their arrests were illegal. Bulawayo and Moyo have since gone to the Avenues Clinic for treatment. Reports indicate that the two were badly injured. A Zimbabwe Broadcasting Corporation (ZBC) news crew was also reportedly attacked by a mob in Glen View suburb during the demonstrations. A ZBC car was stoned, but the crew managed to escape uninjured.

• **DATE: March 19, 2003**

PERSONS/INSTITUTIONS: Stanley Karombo

VIOLATIONS: Detained, beaten, censored

On March 19 2003, freelance journalist Stanley Karombo was arrested and charged under the Access to Information and Protection of Privacy Act (AIPPA) for allegedly practicing journalism without accreditation. Karombo says police beat him and searched his home after arresting him on March 19. He was released March 24 on Z\$5 000 (approximately US\$6) bail.

• **DATE: May 6, 2003**

PERSONS/INSTITUTIONS: Lloyd Mudiwa, Geoff Nyarota

VIOLATIONS: Victory (positive judgement)

The Supreme Court has passed a landmark judgment against the Access to Information and Protection of Privacy Act (AIPPA) by declaring Section 80 unconstitutional. The full bench of the Supreme Court ruled in favour of *Daily News* reporter Lloyd Mudiwa and the paper's former editor-in-chief, Geoff Nyarota.

• **DATE: May 7, 2003**

PERSONS/INSTITUTIONS: *Daily News*, media in Zimbabwe

VIOLATIONS: Threatened

Tafataona Mahoso, chairman of the Media and Information Commission (MIC), has demanded that journalists recruited by the privately-owned newspaper *The Daily News* two weeks ago surrender accreditation cards issued to them by the MIC.

• **DATE: May 16, 2003**

PERSONS/INSTITUTIONS: Andrew Meldrum

VIOLATIONS: Expelled

On May 16 2004, Zimbabwean immigration officials deported Meldrum. Officials at Harare Airport forced Meldrum onto a London-bound Air Zimbabwe flight, ignoring a High Court order staying the reporter's deportation and instructing authorities to produce Meldrum for a court hearing on his expulsion. Meldrum was accused of being an "undesirable inhabitant" of Zimbabwe, in reprisal for his critical reporting on the government.

• **DATE: May 21, 2003**

PERSONS/INSTITUTIONS: Andrew Meldrum

VIOLATIONS: Expelled (update)

Beatrice Mtetwa, the lawyer representing Andrew Meldrum, a correspondent for the United Kingdom-based *Guardian* who was deported on May 16 2003, has filed an application at the High Court seeking her client's return. Mtetwa filed the application on May 21. In it, she says that Minister of Home Affairs Kembo Mohadi, Chief Immigration Officer Elasto Mugwadi and Evan Siziba, a senior immigration officer, should ensure Meldrum's return or face jail.

• **DATE: May 20, 2003**

PERSONS/INSTITUTIONS: Stanley Karombo

VIOLATIONS: Victory (positive judgement)

On May 20 2003, Stanley Karombo, a freelance journalist based in the city of Mutare, was removed from remand by the Magistrates' Court. Karombo was arrested on March 19 on

charges of violating Section 83 of the Access to Information and Protection of Privacy Act (AIPPA), which prohibits anyone from practicing as a journalist without accreditation. Karombo's lawyer argued that the section under which the journalist was being charged was already being challenged at the Supreme Court.

The court was provided with copies of the application by the Independent Journalists Association of Zimbabwe (IJAZ), whose case challenges a number of the AIPPA sections, including Section 83.

• **DATE: May 22, 2003**

PERSONS/INSTITUTIONS: Nqobile Nyathi, Sydney Masamvu, Luke Tamborinyoka and Abel Mutsakani

VIOLATIONS: Threatened

The government appointed Media and Information Commission is demanding accreditation cards it issued to four journalists be returned.

According to the commission, the journalists have changed jobs and need to apply again as they cannot work for their new employer who is not licensed. Commission Chairperson Tafataona Mahoso wrote to the Associated Newspapers Group (ANZ), publishers of *The Daily News*, demanding that Nqobile Nyathi, Sydney Masamvu, Luke Tamborinyoka and Abel Mutsakani return accreditation cards issued when they were employed by the *Financial Gazette*. The four have since joined the *The Daily News*.

Mahoso said that it is fraudulent for journalists accredited while employed by one newspaper company to work for another.

• **DATE: June 2 and 3, 2003**

PERSONS/INSTITUTIONS: *Daily News*

VIOLATIONS: Censored, beaten

Supporters of the ruling Zimbabwe African National Union-Patriotic Front (Zanu-PF) have destroyed thousands of copies of the privately-owned *Daily News* newspaper since the beginning of a nation-wide strike called for by the main opposition party, the Movement for Democratic Change (MDC), on June 2 2003.

MISA's Zimbabwe chapter, witnessed hundreds of copies of *The Daily News*, *Financial Gazette*, *The Standard* and the *Zimbabwe Independent* being destroyed. Similar incidents were recorded in other towns such as Kwekwe, Bulawayo and Gweru.

The destruction of independent papers, especially *The Daily News*, continued on June 3 in central Harare. People found reading or carrying a copy of *The Daily News* were reported to have been beaten by Zanu-PF supporters.

The ruling party accused *The Daily News* of supporting the five-day strike. Ongoing harassment and beating of newspaper vendors has also occurred.

• **DATE: June 2 and 3, 2003**

PERSONS/INSTITUTIONS: *Daily News*

VIOLATIONS: Threatened

On June 2 2004, Information Minister Jonathan Moyo launched an attack on *The Daily News*, accusing the paper of writing a false story over a High Court judgment stopping the strike. The minister accused the newspaper of working with the MDC and not verifying facts when writing stories.

The Daily News extensively quoted the MDC leadership's objections to the court order, which they said had many anomalies.

• **DATE: June 2 and 3, 2003**

PERSONS/INSTITUTIONS: Shorai Katiwa, Martin Chimenya, John Masuku

VIOLATIONS: Bombed (raided), detained, censored, beaten

On June 2 2003, two journalists from the Voice of the People Communications Trust (VOP) were detained, interrogated, beaten and had their mobile phones and recorders confiscated by ruling party Zimbabwe African National Union-Patriotic Front (Zanu-PF) youths and war veterans. In a related incident, the home of VOP Coordinator John Masuku was searched and VOP administrative files and a computer used in programme production were confiscated. The journalists were taken to Borrowdale police station for further interrogation. From Borrowdale, they were taken to Zanu-PF headquarters in the Harare city centre, where they were beaten and further interrogated.

On June 3, Masuku, Katiwa and Chimenya returned to the Central police station in the company of their lawyer, Jacob Mafume. The police informed them that they had not found anything suspicious in the computer or the files. These were immediately returned to them. However, the police said they had been unable to recover their mobile phones and minidisks and advised them to report the items as stolen. Masuku confirmed that they have since filed a report with police.

• **DATE: June 6, 2003**

PERSONS/INSTITUTIONS: Edwina Spicer

VIOLATIONS: Beaten, bombed (raided), censored

At midnight on June 6 2003, eight men wearing police uniforms and driving four police cars raided the home of film and documentary producer Edwina Spicer in the capital, Harare. They took away video cameras, recording equipment, a fax machine and Z\$50,000 (approx. US\$62), an undisclosed source told MISA Zimbabwe.

Spicer and her family were away on holiday in England at the time of the raid. The men, who said they were police officers, beat the gardener, domestic worker and guards at Spicer's home. The gardener received treatment for a dislocated bone at the Avenues Clinic in Harare. The men said they were looking for guns.

• **DATE: June 11, 2003**

PERSONS/INSTITUTIONS: Francis Mdlongwa

VIOLATIONS: Charged, legislation

On June 11 2003, Francis Mdlongwa, editor-in-chief of the Associated Newspapers of Zimbabwe Group (ANZ), was charged with publishing a false advertisement when he was still in the employment of the *Financial Gazette* newspaper in 2002. He was charged under Section 15 (1a) or, alternatively, Section 16 (2a) of the Public Order and Security Act (POSA).

• **DATE: June 11, 2003**

PERSONS/INSTITUTIONS: Andrew Meldrum, Dolores Cortes Meldrum

VIOLATIONS: Expelled, threatened (update)

In what can be described as the continued victimisation of the family of Andrew Meldrum, the deported Zimbabwe correspondent for the United Kingdom-based newspaper *The Guardian*, his wife Dolores Cortes Meldrum has fled Zimbabwe after being ordered to report to the Immigration Department. Dolores Cortes Meldrum, whose husband was illegally expelled from Zimbabwe in May 2003, fled the country on June 11, fearing she would face the same fate as her husband. She was due to arrive in London on June 12.

• **DATE: June 11, 2003**

PERSONS/INSTITUTIONS: Media in Zimbabwe

VIOLATIONS: Legislation

On June 11 2003, the Zimbabwean Parliament passed into law amendments to the Access to Information and Protection of Privacy Act (AIPPA). The government said the amendments are intended to correct anomalies and errors that became apparent after the law was signed by President Robert Mugabe in March 2002.

• **DATE: June 19, 2003**

PERSONS/INSTITUTIONS: Munyaradzi Huni

VIOLATIONS: Threatened

The Sunday Mail, a weekly newspaper in which the Zimbabwean government is the majority shareholder, has put its political editor, Munyaradzi Huni, under 24-hour guard. Huni has been receiving threats from unknown persons.

• **DATE: June 24, 2003**

PERSONS/INSTITUTIONS: Bill Saidi

VIOLATIONS: Detained (charged)

On June 24 2003, Bill Saidi, editor of *The Daily News on Sunday*, a sister paper of *The Daily News*, was charged under the Public Order and Security Act (POSA) for allegedly publishing a false story in 2002.

• **DATE: June 26, 2003**

PERSONS/INSTITUTIONS: Nqobile Nyathi

VIOLATIONS: Detained (charged)

On June 26 2003, *The Daily News* editor Nqobile Nyathi was arrested and charged under the Public Order and Security Act (POSA) for allegedly publishing advertisements insulting the president. Nyathi confirmed that she had been summoned to Harare Central Police Station. "I was summoned to the public order and security section at the Central Police Station," said Nyathi.

• **DATE: June 30, 2003**

PERSONS/INSTITUTIONS: Sam Nkomo, Moreblessing Mpofu, Gugulethu Moyo, Philemon Bulawayo

VIOLATIONS: Detained (charged)

Sam Nkomo, chief executive officer of the Associated Newspapers of Zimbabwe (ANZ), publishers of *The Daily News*, Moreblessing Mpofu, the newspaper's commercial director, and Gugulethu Moyo, the ANZ's legal advisor, were charged under the Public Order and Security Act (POSA) on June 30 2003.

Moyo told MISA-Zimbabwe that Nkomo and Mpofu were charged under Section 16 of the POSA for allegedly running advertisements in *The Daily News* that "denigrated President Robert Mugabe".

• **DATE: August 9, 2003**

PERSONS/INSTITUTIONS: Flata Kavinga

VIOLATIONS: Beaten

On August 9 2003, Flata Kavinga, a journalist with *The Midlands Observer*, a weekly provincial newspaper, was attacked by suspected ruling party Zimbabwe African National Union Patriotic Front (Zanu-PF) youths. The incident occurred at the Mbizo Inn, a nightclub in the city of Kwekwe, in the Midlands province.

• **DATE: August 9, 2003**

PERSONS/INSTITUTIONS: Flata Kavinga

VIOLATIONS: Censored

On September 11, the Supreme Court dismissed ANZ's (publishers of *The Daily News*) application challenging the constitutionality of certain sections of the Access to Information and Protection of Privacy Act (AIPPA). The application was dismissed on the basis of the "Clean Hands" doctrine in that the company had failed to comply with the Act that requires all newspaper companies to be registered by the Media and Information Commission (MIC).

• **DATE: September 12, 2003**

PERSONS/INSTITUTIONS: Daily News

VIOLATIONS: Censored (closed)

On the evening of September 12, armed riot police and intelligence officers took over the eight-story Associated Newspapers Group (ANZ) offices in the city centre and its printing factory in the industrial areas of Harare and ordered all employees out. ANZ publishes the *Daily News* and *Daily News on Sunday*. *The Daily News* was accused of operating illegally because it did not register with the MIC. Under Zimbabwe's strict media laws, all news organisations, newspapers and journalists must register with the MIC. *The Daily News* had refused to register, saying mandatory registration with the commission is unconstitutional. The paper subsequently applied to register with the commission.

• **DATE: September 17, 2003**

PERSONS/INSTITUTIONS: Tsvangirai Mukwazhi, Aaron Ufumeli, Syrus Nhara

VIOLATIONS: Detained, other

On September 17 three freelance photojournalists Tsvangirai Mukwazhi, Aaron Ufumeli, Syrus Nhara were arrested at a pro-democracy protest march in the capital, Harare, and charged with "interfering with police activity". They spent the night in a holding cell at Harare's Central Police Station, and were released the following day after paying a small fine. According to news reports, protesters at the march called for the reopening of *The Daily News*. Police arrested more than 100 demonstrators before breaking up the rally.

UPDATE

• **DATE: September 18, 2003**

PERSONS/INSTITUTIONS: Daily News

VIOLATIONS: Censored (update)

Zimbabwean police have defied a High Court ruling granted on September 18 2003, which ordered that *The Daily News* newspaper be allowed to reopen.

Armed police officers have remained inside *The Daily News* premises and prevented staff from accessing the offices.

The police have also defied the High Court by refusing to return *The Daily News'* computers and other equipment they confiscated, allegedly to use as exhibits in court to show that the paper was operating illegally.

UPDATE

• **DATE: September 19, 2003**

PERSONS/INSTITUTIONS: *Daily News*

VIOLATIONS: Censored (update)

On September 19 2003, the MIC unanimously decided not to grant a licence to the ANZ, arguing that the group had been publishing illegally. In its ruling, the MIC said the ANZ filed its application for registration eight and a half months after expiry of the December 31 2002 registration deadline. The commission further said that the ANZ openly announced that it would not register, as it considered the AIPPA to be unconstitutional.

UPDATE

• **DATE: September 19, 2003**

PERSONS/INSTITUTIONS: *Daily News*

VIOLATIONS: Censored (update)

The banned independent newspaper *The Daily News* will appeal to the Administrative Court to overturn the Media and Information Commission's (MIC) decision not to grant it a licence. Gugulethu Moyo, director of corporate affairs of the Associated Newspapers Group (ANZ), which publishes *The Daily News*, said the group would file an appeal with the Administrative Court.

Moyo said the ANZ will also argue that the MIC is improperly constituted, as no media houses or journalists' associations were consulted when it was appointed. Media houses and journalist's associations are supposed to nominate three people to sit on the MIC, according to provisions of the Access to Information and Protection of Privacy Act (AIPPA).

• **DATE: September 19, 2003**

PERSONS/INSTITUTIONS: Media in Zimbabwe

VIOLATIONS: Victory (positive judgement)

On September 19 2003, the Supreme Court of Zimbabwe declared unconstitutional certain sections of the Broadcasting Services Act (BSA) that gave the Minister of Information and Publicity the power to licence would-be broadcasters. The Supreme Court struck down Section 6 of the BSA, which made the minister the licencing authority.

• **DATE: September 23, 2003**

PERSONS/INSTITUTIONS: *Daily News*, MISA-Zimbabwe

VIOLATIONS: Censored (update)

On September 23 2003, the Associated Newspapers Group (ANZ), publishers of *The Daily News* and *The Daily News on Sunday* newspapers, filed an application with the Administrative Court challenging the Media and Information Commission's (MIC) refusal to grant them an operating licence.

• **DATE: September 23, 2003**

PERSONS/INSTITUTIONS: *Daily News*, MISA-Zimbabwe

VIOLATIONS: Censored

On September 23, MISA-Zimbabwe filed an application with the High Court, challenging certain sections of the AIPPA. The director of the Attorney General's Office's Civil Division, Loyce Matanda-Moyo, confirmed that MISA-Zimbabwe had filed the application.

Matanda-Moyo said MISA-Zimbabwe claimed that it was not covered by the AIPPA and was therefore not compelled to register with the MIC. MIC Chairman Mahoso, however, described the court action by MISA-Zimbabwe as hostile.

In MISA-Zimbabwe's application to the High Court it requested a "declarator", thereby asking the High Court to determine whether it is a mass media house and whether it qualifies for registration with the MIC.

• **DATE: October 1, 2003**

PERSONS/INSTITUTIONS: Philemon Bulawayo, Margaret Chinowaita, Kelvin Jakachira, Sydney Saize, George Muzimba, Lawrence Chikuvira, Luke Tamborinyoka, Pedzisai Ruhanya, Fanuel Jongwe, Precious Shumba, Chengetai Zvauya, Conelias Mabasa, Conway Tutani, Gladwin Muparutsa, Darlington Makoni, Francis Mdlongwa
VIOLATIONS: Detained (charged)

On October 1 2003, Zimbabwean police charged six journalists from *The Daily News* and *The Daily News on Sunday* for practicing without Media and Information Commission (MIC) accreditation.

The six journalists are Philemon Bulawayo, Margaret Chinowaita, Kelvin Jakachira, Sydney Saize, George Muzimba and Lawrence Chikuvira.

The six new charges brought to 15 the number of journalists from the Associated Newspapers of Zimbabwe who have been charged for breaching the Access to Information and Protection of Privacy Act (AIPPA).

UPDATE

• **DATE: October 1, 2003**

PERSONS/INSTITUTIONS: *Daily News*

VIOLATIONS: Censored (legislation)

On October 1 2003, High Court Judge Tendai Uchena ordered the police to continue holding equipment they had confiscated from *The Daily News*. The judgement followed a September 17 *The Daily News* appeal to have its seized equipment returned.

Judge Uchena did not give any reasons as to why the 160 computers can not be released by the police. Under the law, the equipment could eventually be forfeited to the state.

• **DATE: October 3, 2003**

PERSONS/INSTITUTIONS: Cyril Zenda

VIOLATIONS: Beaten

On October 3 2003, a vigilante group attacked Cyril Zenda, a senior journalist with the *Financial Gazette* newspaper, robbing him of 5000 Zimbabwe dollars (approx. US\$6) and his mobile phone.

Zenda told MISA-Zimbabwe that he was spotted by a vigilante group known as Chipangano began interrogating him about the message on a MISA-Zimbabwe t-shirt he was wearing. The t-shirt bore the message "Free My Voice: Free the Airwaves".

• **DATE: October 13, 2003**

PERSONS/INSTITUTIONS: Media in Zimbabwe

VIOLATIONS: Legislation

Zimbabwean President Robert Mugabe has signed into law the Access to Information and Protection of Privacy Amendment Act (AIPPA Amendment), which seeks to correct certain anomalies that came to light after the law was promulgated in 2002.

• **DATE: October 16, 2003**

PERSONS/INSTITUTIONS: Chris Gande, Oscar Nkala, Saul Gwakuba Ndlovu, Grey Chitika

VIOLATIONS: Detained (charged)

Four journalists from *The Daily News* have been charged by police for practicing without accreditation, as required by the Access to Information and Protection of Privacy Act (AIPPA). MISA has confirmed that Bulawayo-based journalists Chris Gande, Oscar Nkala, Saul Gwakuba Ndlovu and Grey Chitika are the latest to be charged under the AIPPA. The four new charges bring to 20 the total number of Associated Newspapers of Zimbabwe (ANZ) journalists arrested under the AIPPA.

• **DATE: October 22, 2003**

PERSONS/INSTITUTIONS: Blessing Zulu, Newton Spicer

VIOLATIONS: Detained

On October 22 2003, journalist Blessing Zulu of the *Zimbabwe Independent* newspaper and freelancer Newton Spicer were arrested while covering a demonstration organised by the National Constitutional Assembly (NCA). Lawyers representing the detained journalists have been denied access to their clients and have also been threatened with incarceration. Photographer Simon Sithole and trainee journalist Takunda Mawodza, both from the state-controlled *Herald* newspaper, were also allegedly detained for a brief period for covering the demonstration.

• **DATE: October 22, 2003**

PERSONS/INSTITUTIONS: NCA demonstrators

VIOLATIONS: Other

On October 22 2003, more than 300 NCA members were also arrested, including NCA leaders who were lobbying for a new democratic people's constitution. The NCA was demonstrating, among other things, against the government's failure to deal with the collapse of the economy and the hardships caused by bad governance. Heavily armed riot police put an end to the demonstration. The journalists were detained at the Harare Central police station, together with the 300 demonstrators.

UPDATE

• **DATE: October 24, 2003**

PERSONS/INSTITUTIONS: *Daily News*

VIOLATIONS: Victory (positive judgement)

On October 24 2003, Zimbabwe's Administrative Court ordered that *The Daily News*, which was shut down by the government in September, be granted an operating licence. The Administrative Court made the ruling following the newspaper's appeal for review of a decision by the Media and Information Commission (MIC) to deny it an operating licence. The judge ruled that the government-appointed MIC had wrongly denied *The Daily News* a licence.

MISA has confirmed that the judge ordered the licence to be issued as soon as possible. If a licence has not been issued by November 31, then a licence will be deemed to have been issued. In addition, the judge said the commission had not been properly constituted, invalidating all its actions to date.

• **DATE: October 25, 2003**

PERSONS/INSTITUTIONS: *Daily News*, staff

VIOLATIONS: Censored, detained, bombed (raided), threatened

On October 25 2003, police occupied the offices of Zimbabwe's only independent daily newspaper, halting operations and detaining staff one day after a court order blocked government efforts to shut it down. Officials at *The Daily News* said armed police raided the newspaper's offices in central Harare and detained 18 journalists and administrators. The employees were released after about four hours, but were required to sign statements saying they worked for the Associated Newspapers of Zimbabwe (ANZ), the newspaper's publisher. They also received a verbal warning not to return to work, newspaper staff said.

• **DATE: October 26, 2003**

PERSONS/INSTITUTIONS: Washington Sansole

VIOLATIONS: Detained

The following day, police arrested Washington Sansole, a director of *The Daily News*, on charges of operating without a licence. According to *Daily News* legal adviser Gugulethu Moyo, authorities told the ANZ that they would not release Sansole until the ANZ's other directors presented themselves to the police. Sansole was released after lawyers for the newspaper obtained a High Court order for his release.

• **DATE: October 27, 2003**

PERSONS/INSTITUTIONS: Samuel Sipepa Nkomo, Michael Stuart Mattinson, Brian Mutsau, Rachel Kuapara, Washington Sansole

VIOLATIONS: Detained (charged)

On October 27, four directors of the Associated Newspapers of Zimbabwe (ANZ), the company that owns *The Daily News*, were arrested and will spend the night in police custody in the capital, Harare. The four directors - ANZ CEO Samuel Sipepa Nkomo, Michael Stuart Mattinson, Brian Mutsau, and Rachel Kuapara - were arrested after presenting themselves to police in Harare. They were charged with publishing a newspaper without a license under Zimbabwe's repressive Access to Information and Protection of Privacy Act (AIPPA). If convicted, the directors each face a large fine or a two-year jail term.

• **DATE: October 28, 2003**

PERSONS/INSTITUTIONS: Frank Chikowore, Stanley Karombo

VIOLATIONS: Censored, threatened

On October 28 2003, freelance journalists Frank Chikowore and Stanley Karombo were barred from covering proceedings at the nomination courts in Kadoma, approximately 30 kilometres west of Harare, where political party candidates were expected to hand over their nomination papers before the end of the day. The journalists told MISA-Zimbabwe that supporters of the ruling Zimbabwe African National Union Patriotic Front (ZANU-PF) party were chanting party slogans outside the courts and threatened them with incarceration for covering the event.

UPDATE

• **DATE: November 12, 2003**

PERSONS/INSTITUTIONS: *Daily News*

VIOLATIONS: Censored (update)

On November 12 2003, the Associated Newspapers of Zimbabwe (ANZ), publishers of *The Daily News* and *The Daily News on Sunday*, filed a High Court application seeking an order to resume operations. The ANZ asked the court to order the Media and Information Commission (MIC) to allow the newspaper group to resume publishing pending the outcome of the MIC's appeal of an Administrative Court ruling.

• **DATE: November 18, 2003**

PERSONS/INSTITUTIONS: Samuel Sipepa Nkomo, Stuart Mattinson, Brian Mutsau, Rachel Kupara (targets: media worker(s) , newspaper(s) , organisation(s) , publisher(s)
VIOLATIONS: Detained (charged)

On November 14 2003, the Magistrate Court dismissed an application by four Associated Newspapers of Zimbabwe (ANZ) directors, in which they asked the court to drop the charges laid against them.

The four directors - Samuel Sipepa Nkomo, Stuart Mattinson, Brian Mutsau and Rachel Kupara - are to appear in court on February 6 2004 for a routine hearing pending a trial date.

Harare Magistrate Mishrod Guvamombe dismissed their application, saying there was "reasonable suspicion" that the directors had committed an offence. Guvamombe also rejected the four directors' argument that they could not be charged in their capacity as directors.

• **DATE: November 18, 2003**

PERSONS/INSTITUTIONS: Shadreck Pongo
VIOLATIONS: Beaten, censored

On November 18 2003, Shadreck Pongo, a photojournalist with *The Standard* newspaper, was severely beaten and injured by police officers in Harare while covering a nation-wide demonstration organised by the Zimbabwe Congress of Trade Unions (ZCTU).

Riot police apprehended Pongo while he was taking photographs of demonstrators. They pulled him into a police truck, where they assaulted him with police batons.

The police seized the photojournalist's camera and destroyed it before dumping Pongo at the city centre's periphery. He was rushed to Harare's Avenues Hospital, where he is receiving medical attention.

• **DATE: November 18, 2003**

PERSONS/INSTITUTIONS: Andrew Moyse
VIOLATIONS: Other

On November 19 2004, Andrew Moyse, director of the Media Monitoring Project of Zimbabwe, and seven other civic leaders were arrested during a nation-wide demonstration organised by the Zimbabwe Congress of Trade Unions (ZCTU).

They were detained at Harare's central police station and are expected to appear in court on November 20.

• **DATE: December 8, 2003**

PERSONS/INSTITUTIONS: Bright Chibvuri
VIOLATIONS: Beaten, censored

On November 30 2003, Bright Chibvuri, an editor for *The Worker* newspaper, was kidnapped by alleged Zimbabwe African National Union Patriotic Front (ZANU-PF) youths and state security agents in Kadoma, approximately 292 kilometres from the capital, Harare.

The incident occurred while Chibvuri was covering a parliamentary by-election.

• **DATE: December 8, 2003**

PERSONS/INSTITUTIONS: Martin Chimenya

VIOLATIONS: Detained (charged), censored

Martin Chimenya, a journalist for the Voice of the People Communications Trust (VOP), was arrested on December 8 2003 in the city of Masvingo, 293 kilometres south of the capital, Harare. His tape recorder and tapes were confiscated. He was charged under Section 79 (1) of the Access to Information and Protection of Privacy Act (AIPPA) for allegedly practicing as a journalist without accreditation. The Magistrate's Court released Chimenya on Z\$15,000 bail (approx. US\$19) on December 10. He was ordered to appear in court on December 23. His tape recorder and tapes have yet to be returned.

• **DATE: December 9, 2003**

PERSONS/INSTITUTIONS: Internet/website(s)

VIOLATIONS: Legislation (censorship)

The Zimbabwean government is planning to introduce new measures to police all broadcast and Internet-based information circulation in a bid to control the flow of information in the country, *The Daily Mirror* reported on December 9 2003. According to the newspaper, this move, if successfully completed, would mean that the government will be able to monitor individual information, messages and letters, which could lead to the arrest of all those involved in circulating information that the government says "undermines the sovereignty of the country."

Selected press statements issued by MISA Secretariat and chapters during 2003

■ INTERNATIONAL

Letter of Appeal

January 28, 2003

TOPIC: Deterioration of the media freedom situation in Ethiopia

His Excellency Ato Meles Zenawi
Prime Minister of the Federal Democratic Republic of Ethiopia
Addis Ababa, Ethiopia
C/o Permanent Representative to UN
Email: ethiopia@un.int

Dear Prime Minister,

The Media Institute of Southern Africa (MISA) is greatly perturbed by the unhealthy media environment in Ethiopia. We are concerned by the government's attempt to pass media legislation without consulting relevant stakeholders, including the independent media.

MISA believes in the protection of freedom of expression including media freedom. We regard unbridled media as vital for the protection and safeguarding of the people's right to free expression. MISA has, since its establishment in 1992, campaigned against harassment, intimidation and imprisonment of journalists and we condemn such actions wherever they occur.

The Ethiopian Free Journalists' Association (EFJA) is an important player in promoting media freedom in Ethiopia, a key stakeholder in media issues and has played a vanguard role in creating an environment in which journalists may exercise their right to freedom of expression. We further support the stance of EFJA that the matters of a journalists' professional code of ethics and a press council should be addressed by those parties that are directly concerned, and not by the government.

MISA therefore condemns the marginalisation of local media organisations, including EFJA, in matters that affect the regulation of the media in Ethiopia and appeal to the government of Ethiopia to consult widely in this vital process of media law reform.

Luckson Chipare, MISA Regional Director

cc The Right Honourable Ato Bereket Simon
Minister of Information of the Federal Democratic Republic of Ethiopia
Addis Ababa, Ethiopia
E-mail: Minoi@telecom.net.et

■ SOUTHERN AFRICAN DEVELOPMENT COMMUNITY (SADC)

BOTSWANA

Press Statement

July 25, 2003

Statement on defamation in Botswana

The Botswana chapter of the Media Institute of Southern Africa (MISA-Botswana) would like to express its concern over the staggering amounts of money being demanded by parties that feel they have been defamed by publications. There can be no sustainable democracy without a strong media industry. The media's role as a watchdog needs to be protected within our democratic dispensation.

MISA-Botswana is particularly alarmed by the recent amount of Pula 10 million in damages that the *Botswana Gazette* has been asked to pay for publishing a story headlined "Protect citizen contractors against Chinese" that appeared in its July 2, 2003 edition. It is in this vein that MISA Botswana is calling upon the public to make use of the avenue of the Press Council of Botswana through the Complaints Committee that will hear complaints, adjudicate and recommend corrective measures appropriately.

The Complaints Committee will be backed by the Appeals Committee that is empowered to hear appeals and decisions of the Complaints Committee that are consistent with relevant laws and legal precedents and norms. This will help promote an atmosphere of mutual trust and respect between the press and the public.

MISA Botswana, therefore, strongly calls upon all parties aggrieved in reportage within our media to use the above stated Press Council conflict resolution mechanism.

For more information, contact MISA-Botswana office at Private Bag BO 86 Gaborone. Plot 398 Ext. 4 Kgasa Close Tel: 3971972 Fax 3161196 Email misa@info.bw

LESOTHO

Press Statement

August 6, 2003

TOPIC: Interactive dialogue

The Lesotho Chapter of the Media Institute of Southern Africa (MISA-Lesotho) wishes to commend the Government of Lesotho for its current initiative of empowering the nation through the interactive dialogue aired on "Lesotho TV" and "Radio Lesotho" involving government ministers and other officials on the one hand, and members of the public on the other. This initiative which enables television and radio audiences to participate telephonically in live panel debates is an excellent vehicle for ensuring that the people have access to information and that their right to freedom of expression is guaranteed.

Above all, it serves to reinforce the right of every citizen living in a democracy to hold to account those to whom the Nation has delegated the responsibility to manage its affairs. It is also an attestation of the government's commitment to transparency and good governance.

MISA-Lesotho (also known as Miles) is dedicated to the free flow of information, the right of access to information and the freedom of journalists and media houses to disseminate information and news truthfully, objectively and without fear or favour. To this end the regional MISA body launched an intensive campaign this year to promote the adoption of access to information legislation in the SADC region. The campaign aims to raise people's awareness of their right to access information. Armed with this knowledge, they would then be in a position to exercise that right by demanding information from government and State institutions in order to participate more meaningfully in the democratic process.

MISA-Lesotho is also heartened to learn from the statement made by Lesotho's Attorney-General, Fine Maema, at one of these programmes on July 5 2003, that the Government of Lesotho is now actively pursuing the finalisation of processes leading up to the tabling of the Access and Receipt of Information Bill 2000 in Parliament. Earlier this year, MISA-Lesotho called on the Government to consider seriously the passage of this bill, which would put Lesotho amongst the more advanced countries in the region in matters of public access to information. This is a laudable initiative which MISA-Lesotho unreservedly endorses and supports.

Press Statement

October 17, 2003

TOPIC: Hefer Commission's decision to subpoena journalists

The Lesotho chapter of the Media Institute of Southern Africa (MISA-Lesotho) notes with great concern the decision by the South African Hefer Commission of Inquiry to subpoena and/or summon journalists to appear before that establishment, and to reveal their sources of information with regard to news reports indicating that the South African Director of Public Prosecutions, Bulelani Ngcuka, was an apartheid era spy.

MISA-Lesotho regards this as a direct undermining of the role of the media in any society and an unacceptable threat to press freedom, freedom of expression and the people's right to information. MISA-Lesotho wishes to reiterate the sentiments of our counterparts, MISA-South Africa, that media practitioners are watchdogs in the public interest and not police dogs. Furthermore, we echo our counterparts' clarion call that "the targeting of the fourth estate as an easy one-stop shop for information in respect of civil and criminal cases must be vigorously discouraged".

We reiterate the call of MISA-South Africa on Justice Hefer to refrain forthwith from allowing his commission to be used to throttle freedom of expression by harassing and threatening journalists by way of subpoenas and summons. The media is the eye, ear and voice of the voiceless. Therefore: "what, in the end, could be more central to free speech, than that every segment of society should have a voice?" The media represents every segment of society and press freedom is a pillar of the development of any democratic dispensation.

The South African media has the constitutional right not to remain silent on issues of national concern. MISA-Lesotho therefore appeals to the South African authorities to support, and not to impair press freedom.

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NAMIBIA

Press Statement

August 7, 2003

TOPIC: Draft Communications Bill

The Namibia Chapter of the Media Institute of Southern Africa (MISA Namibia) wishes to express its concern at the government's reluctance to transform the Namibian Broadcasting Corporation (NBC) into a Public Service Broadcaster (PSB).

These reservations were expressed by the Information and Broadcasting Minister Nangolo Mbumba at a workshop about the Draft Communications Bill in Windhoek on Thursday, July 24, 2003. The NBC is currently regulated by the NBC Act which contains remnants of the previous SWABC Act that facilitated the operation of a propaganda machine by the previous regime. Under the current Act the Minister of Information and Broadcasting has virtually unrestrained power to appoint the NBC's board. This at best compromises the independence of the NBC and at worst could lead to unacceptable levels of executive interference in the editorial content and programming of the state broadcaster.

The Minister cited widespread corruption at parastatals and government's significant financial contribution to the broadcaster as reasons for not relinquishing control of the NBC. We submit, however, that the appointment of an independent regulator through a transparent and participatory process is the surest way to prevent corruption from taking further root. Furthermore, the money which the minister refers to as government money is, in fact, money entrusted to it by the public.

MISA-Namibia has made a submission to the National Communications Commission and the Ministry of Information and Broadcasting to include the regulation of the NBC under the Communications Authority of Namibia (CAN) which will be established when the Draft Communications Bill is enacted.

The African Charter on Broadcasting that is the key policy blueprint to guide broadcasting and regulation, and it provides that the Public Broadcaster is governed by an Independent Board, protecting it from political and economic interference, and we call on the Namibian Government to take these principles into account when deciding on the regulation of the NBC.

It also provides for the three tiers of broadcasting: community, commercial and public. Government has committed itself to accepting and implementing this principle in terms of recognizing community broadcasting as a distinct and equally important component of the industry. Its lack of foresight regarding public broadcasting, however, is cause for concern and will undermine the promotion of a diverse and plural Namibian media.

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Letter of Appeal

November 14, 2003

TOPIC: Call for public demonstration against human rights and media freedom violations in Zimbabwe

The Regional Secretariat of the Media Institute of Southern Africa (MISA) and its Namibian chapter (MISA Namibia) supports the call of the coalition of Human Rights organisations to join in a public demonstration against the ongoing human rights violations in Zimbabwe. MISA reiterates this urgent call to action to all media workers in Namibia to use this opportunity to show solidarity with their counterparts in Zimbabwe.

The coalition, led by the Namibia Society for Human Rights (NSHR), intends to use the opportunity of Zimbabwean President Robert Mugabe's current visit to Namibia, to express its condemnation of that government's ongoing practice of violating the basic human rights of its citizens. Furthermore the protest action, according to the coalition, is also intended to question the Namibian government's deafening silence on the issue.

MISA, a regional organisation committed to the promotion of media freedom and freedom of expression, will therefore use this opportunity to reiterate its objection against the enactment of the Access to Information and Protection of Privacy Act (AIPPA), the Public Order and Security Act (POSA) which makes it virtually impossible for free and independent media to operate in Zimbabwe and for Zimbabweans to freely associate and express themselves.

MISA therefore calls on all media practitioners to join it, along with the Human Rights coalition, students, workers and concerned Namibians, to:

- protest the silence of the Namibian government on the ongoing reports of human rights violations committed by Zimbabwean Government;
- sign a petition against the ongoing human rights and media freedom abuses and violations in Zimbabwe, for presentation to the Zimbabwean High Commission, Namibia's Ministry of Foreign Affairs, the SADC Secretariat Botswana, the SADC Parliamentary Forum and the Nepad Secretariat in South Africa. MISA further intends to raise the concerns of Namibians at the upcoming People's Forum which runs alongside the Commonwealth Head of Government meeting in Abuja, Nigeria, in December.

■ DETAILS OF PUBLIC PROTEST:

Date: Saturday, November 15, 2003

Venue: Zoo Park, Independence Avenue

Time: 10h00

All protestors are kindly requested to bring placards displaying bold messages of solidarity with the citizens of Zimbabwe. The protest action will be accompanied by a press conference, at which members of the Human Rights coalition and MISA will make public statements on the ongoing human rights and media freedom violations in Zimbabwe. A press conference is scheduled at the same venue for 11h00 and all media organisations are kindly invited to attend.

**Enquiries: MISA Namibia
Carmen Cupido
Cell: 081 272 9764**

**MISA Regional Secretariat
Zoé Titus
Cell: 081 128 3919**

• Please visit www.misa.org for information on media freedom violations in Zimbabwe. The website includes extensive information on the closure of *The Daily News* and *Daily News on Sunday*, an action which MISA continues to protest.

The Media Institute of Southern Africa (MISA) is a regional non governmental organisation, committed to the promotion of free, independent, diverse and pluralistic media in the Southern Africa Development Community (SADC). MISA is a membership-based organisation with national offices in 11 SADC countries, including Namibia.

Press Statement

November 15, 2003

TOPIC: Human rights violations in Zimbabwe

The Media Institute of Southern Africa (MISA) and its Namibian chapter (MISA Namibia) on Saturday, November 15, 2003, supported the call of a coalition of Human Rights organisations in Namibia to join in a public demonstration against the ongoing human rights violations in Zimbabwe. MISA reiterated this urgent call to action to all media workers in Namibia to use the opportunity to show solidarity with their counterparts in Zimbabwe.

Following is a press statement, delivered at the public demonstration in the Zoo Park, central Windhoek, by Ms. Dorinda Mwarania, the national director of MISA Namibia.

PRESS STATEMENT

November 15, 2003

On May 30, 1986, the government of Zimbabwe ratified the African Charter of Human and Peoples' Rights whose Article 9 (1) provides that "Every individual shall have the right to receive information".

Today the people of Zimbabwe are denied this right, following the closure of *The Daily News* and *Daily News on Sunday* more than two months ago on September 12, 2003, by the government. These are the largest independent newspapers in Zimbabwe, with a readership of over one million Zimbabweans. In addition, over 300 employees of these newspapers, and hundreds others benefiting from downstream and upstream activities from these publications, are today denied their jobs and a means of exercising their right to employment and a decent livelihood.

Since the enactment of the Access to Information and Protection of Privacy Act (AIPPA), the Public Order and Security Act (POSA) in early 2002, over 100 media practitioners from the private media sector have been arbitrarily arrested and/or detained under these draconian laws, which make it virtually impossible for free and independent media to operate in Zimbabwe and for Zimbabweans to freely associate and express themselves.

MISA therefore calls on the government of Zimbabwe to abolish the Media and Information Commission, appointed by the Minister of State and Information, Jonathan Moyo, to enforce a repressive licensing system for media organisations and individual journalists. Furthermore, MISA calls on the government of Zimbabwe to allow the Zimbabwean media to set up a self-regulatory mechanism, as agreed among themselves more than two years ago.

In solidarity with all Zimbabweans, MISA appeals to all media practitioners, human rights activists and other Namibian citizens concerned about the human rights situation in Zimba-

bwe, to join it in a campaign for an improved human rights environment in Zimbabwe by signing the petition here today. MISA undertakes to raise the concerns of Namibians – as expressed through this protest action - at the upcoming People’s Forum which runs alongside the Commonwealth Heads of Government meeting in Abuja, Nigeria, in December 2003.

• Please visit the MISA website at www.misa.org for information on media freedom violations in Zimbabwe. The website includes extensive information on the closure of *The Daily News* and *Daily News on Sunday*, and other media freedom and freedom of expression violations so far reported by MISA on Zimbabwe. You can also get information on other human rights reports on Zimbabwe at www.zwnews.com.

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	Carmen Cupido	Zoé Titus
	Cell: 081 272 9764	Cell: 081 128 3919

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SOUTH AFRICA

Press Statement

August 22, 2003

TOPIC: The South African government’s news black-out on corruption investigations

The South African Chapter of the Media Institute of Southern Africa (MISA-SA) condemns the latest move by government to censor public discourse on a burning issue of national interest. The South African government’s intent to black-out information from agencies and persons involved in investigations into allegations of corruption against Deputy President, Jacob Zuma and former Minister of Transport, Mac Maharaj does neither the nation nor government itself any favors. Later claims by the Government Communication and Information System that there is no information blackout does little to instill confidence in a government that seems to be inconsistent on issues of transparency.

An embargo on news and official statements on such a highly topical and sensitive issue, that involves our foremost political and business leaders will threaten the public perception of the legitimacy of the investigation as this suggests that government has something to hide. The ban obstructs media freedom by stifling the free flow of information from government to the citizenry and is damaging to transparency in government and the conduct of justice. South Africans have a right to be kept informed of matters that affect the general public and national interest.

MISA-SA acknowledges that constitutionally all persons are entitled to a fair trial. However, we find no truth in the claims by government spokespersons that media are subjecting a public official and a former public official to a “trial by media”. Such statements undermine the intelligence of ordinary South Africans who understand that everyone is innocent until proven guilty in a court of law. The media alone cannot prove guilt or innocence. Furthermore, MISA-SA finds in both cases, the newspapers involved have not reflected a one-sided or biased view of the realities of the case. Indeed, every attempt was made to ensure the audi alterem partem rule and balanced comment in order to be fair in the presentation of the allegations to the public.

This negates any government justification for this kind of censorship. Restricting information from the public domain is a sure-fire way to allow rumors and innuendo to surface that may be more damaging to reputations than openly allowing ongoing discourse on the issue.

MISA-SA urges government to ensure the free flow of information in these cases, to inform public discourse on the issue and show to the nation and the world that justice is taking its course and that government has nothing to hide.

Press Statement

October 16, 2003

TOPIC: Media defence groups condemn Hefer ruling

Following is a joint statement of the SA National Editors Forum (Sanef), South Africa chapter of the Media Institute of Southern Africa (MISA-SA) and the Freedom of Expression Institute (FXI)

BLOEMFONTEIN: The South African National Editors' Forum (Sanef), the Freedom of Expression Institute (FXI) and the South Africa Chapter of the Media Institute of Southern Africa (MISA-SA) have expressed disappointment at Hefer Commission chairman Justice Joos Hefer's ruling that former *Sunday Times* reporter Ranjeni Munusamy would have to testify before the commission.

She was subpoenaed to give evidence to the commission about her story that the African National Congress (ANC) investigated National Director of Public Prosecutions Bulelani Ngcuka as an apartheid government spy. The judge's ignored a substantive argument from the three organizations this morning which argued that media freedom and journalists' lives would be in danger if they were forced to testify and identify their sources. The group's submission spelled out how informants in the public and private sector who wanted to blow the whistle on crime, corruption and misdemeanor, but who did not want to report to the authorities, preferring the media, would refrain from doing so. This type of information, which generally requires journalists to maintain the confidentiality of their sources, would dry up if they were perceived to be informers of the police and the authorities. This would cut off essential information channels for the media.

The organisations were shocked that the judge had ignored an affidavit presented by Munusamy to the commission in which she claimed that her life had been threatened by some of her sources. Munusamy's lawyers are taking the judge's decision on review to the High Court. MISA-SA, FXI and Sanef who support that decision in principle, will meet to discuss methods of putting that support into practice. The decision is a serious blow to media freedom because it places journalists at risk and erodes media freedom.

Issued by: SANEF/MISA-SA/FXI
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Jude Mathurine
South Africa Chapter of Media Institute of Southern Africa
083 7991701

Raymond Louw, 082 4465155

Press Statement

November 12, 2003

TOPIC: Ranjeni ruling (Hefer Commission)

Joint statement of the Freedom of Expression Institute, Media Institute of Southern Africa-SA Chapter, the Media Workers Association of Southern Africa and South African National Editors' Forum

Media bodies to fight Ranjeni ruling

The SA Chapter of the Media Institute of Southern Africa (MISA-SA), The Freedom of Expression Institute (FXI), the SA National Editors' Forum (SANEF) and the Media Workers Association of Southern Africa (MWASA) are deeply disappointed with the judgment of the Bloemfontein High Court this morning (November 11, 2003) in which the court dismissed with costs the application of former *Sunday Times* senior political journalist, Ranjeni Munusamy. The bodies plan to join Munusamy as amici curiae if she chooses to appeal to the Constitutional Court later this month.

Munusamy had applied to the court for review of a ruling by Judge Joos Hefer that she must give evidence to the commission about her story that the African National Congress investigated National Director of Public Prosecutions Bulelani Ngcuka as an apartheid government spy.

The judgment disregarded substantive arguments and legal authority presented by the four organisations that journalists should only be required to testify as a matter of last resort and only after all sources of information have been sought and exhausted. Furthermore, the four organisations had in their submission emphasised to the court the essential role that media plays in our democracy and the danger of restricting their activities unless there is a reasonable and justifiable basis for doing so.

We are particularly alarmed by the judges' argument that nowhere in local jurisprudence is there a clear statement that a journalist has the right to be called as a witness only as a last resort. It is important to point out that all the existing cases relating to the subpoenaing of journalists in our country were decided before the final 1996 Constitution. The supreme law of the land now sanctions the right of the media to operate freely without unreasonable restraints.

Furthermore the court's argument fails to acknowledge the injunction prescribed by our Constitution that when interpreting the Bill of Rights, a tribunal must promote the values that underlie an open and democratic society based on human dignity, equality and freedom. One of the values that underlie such a society is the existence of a vibrant media and the protection against compelling journalists to testify - except as a matter of last resort - is a core pillar of media freedom.

We view with concern the court's motivation that because Ranjeni's article to *City Press* constituted the "beginning of the story", she is therefore "the primary source of information" and the Hefer Commission "is entitled to know how she conducted her investigations".

This judgment would set a frightening precedent where in future, journalists - as the most easily identifiable sources of stories - would become by definition "the primary sources" of information and hence obligated to testify or reveal their sources to prosecuting authorities, courts of law or other judicial forums at whim.

The judgment has largely ignored the persuasive wisdom of international tribunals such as the European Court of Human Rights and the International Criminal Tribunal for the Former Yugoslavia which have held the “last resort principle” to be an important pillar of media freedom. This principle may only be violated in the strictest of circumstances. The judgment also takes no notice of the argument by these two international bodies that by compelling journalists to testify before all other avenues of information have been exhausted, the work of journalists will become much more difficult and as a consequence, the right of the public to be informed about matters of public interest will be impermissibly truncated.

The four organisations are meanwhile considering further avenues of legal recourse including joining in Munusamy’s case as *amici curiae* when her counsel appeals to the Constitutional Court.

Enquiries

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Media Workers Association of South Africa
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Press Statement

December 4, 2003

TOPIC: Conduct of former *City Press* editor

PRESS STATEMENT: “Disgraced” editor an embarrassment to journalism

The Media Institute of Southern Africa (MISA)-South Africa is deeply shocked by the appearance before the Hefer Commission of former *City Press* editor Vusi Mona and by his testimony last week. Mona has disgraced journalism by breaking several cardinal rules of ethical and professional conduct.

Mona attended a confidential briefing by National Director of Public Prosecutions Bulelani Ngcuka in July, at the end of which he expressed his satisfaction with the briefing and requested that more meetings of that nature should be held. A few days later, in an article that made no reference to the off-the-record briefing, Mona praised the work of Ngcuka’s office. But, several weeks later, apparently after hearing that Ngcuka’s elite police unit, the Scorpions, were investigating him, Mona compiled a dossier of complaints about Ngcuka’s conduct at the briefing that he claimed to be illegal and unconstitutional. He sent his grievances to the Chief Justice, the SA Human Rights Commission, the Public Protector and the Minister of Justice and then reiterated the contents of this dossier in testimony before the Hefer Commission.

He claimed he was appearing as “a citizen” and that he was carrying out his duty as a citizen. Mona’s acceptance of an invitation to testify before the Hefer Commission compromised his professional obligation to keep the content and source of the briefing a secret. Journalism’s codes

of practice hold that reporters shall not reveal confidential sources unless the source gives the journalist permission to do so.

While there is no defense in South African law which allows journalists to dodge testifying on confidential communication, protect the identity of sources or avoid handing over documents obtained during the course of their work, journalistic codes of professional practice are crystal clear on the inviolability and the importance of these values. Confidential briefings are part and parcel of journalistic practice that ensures that journalists are able to report on unfolding events with understanding, credibility and context.

While Mona destroyed his own credibility by first stating satisfaction with Ngcuka's conduct and then branding it criminal, he has also cast doubt on the veracity of journalists. Equally shocking was his use in furtherance of his own personal agenda of his position as editor to launch an unfounded vitriolic attack on a person whom only a few weeks earlier he had praised.

Mona's appearance before the Commission placed him in the invidious position of being interrogated about the sources of former *Sunday Times* writer, Ranjeni Munusamy's article. Justice Hefer made a prudent ruling that attorneys should not try to discover Munusamy's sources through "roundabout" methods while her lawyers were seeking leave to appeal to the Constitutional Court. Mona's revelations could have seriously compromised the Munusamy's security and the safety of her sources due to his own reckless disregard for the rules of journalism.

MISA-SA regards Mona's conduct as professionally corrupt and a flagrant abuse of media freedom that has undermined the role of journalists and their standing in the community. It has also seriously damaged the principled case that journalists have maintained against attempts to force them to disclose their confidential sources of information.

■ BACKGROUND

South African President Thabo Mbeki set up the Hefer Commission under retired Appeal Court Judge President, Josephus Hefer to investigate allegations that the country's national director of public prosecutions, Bulelani Ngcuka was a registered spy with the apartheid security forces working under code name RS452, prior to 1994 and that he had abused his mandate.

President Mbeki wanted to verify allegations made by senior members of the liberation struggle in a *City Press* report and on e-tv who claimed that the African National Congress had investigated Ngcuka in the '80s for being a spy. The story was broken by former *Sunday Times* journalist Ranjeni Munusamy who leaked the report to rival Sunday paper, *City Press* after her own paper would not run the article on the grounds that the editor believed the report to be incorrect.

Munusamy was subpoenaed to testify before the Hefer Commission and applied for leave to appeal against a ruling that she take the stand on the grounds that it would endanger her life and that she may reveal her sources or details of her sources under rigorous cross-examination.

MISA-SA, the Freedom of Expression Institute, the South African National Editors Forum and the Media Workers Association of South Africa joined Munusamy's application at the High Court as *amicus curiae* in support of the right of journalists to protect their confidential sources, and to seek clarity on the depth of freedom of the press under the South African Constitution. The coalition believes that where journalists are called before judicial and administrative bodies, they should only be called as a last resort and should not be called at all if

the situation is not humanly tolerable (for example when it can be proved that such testimony may endanger their life or cause injury or imperil a source).

MISA-SA rejects the subpoena of journalists and editors to testify to the veracity of information that they received in an off-the-record briefing by Ngcuka in July, on the grounds that the contents of the briefing were confidential. The coalition plans to join Munusamy's application as *amici curiae* if she is granted leave to appeal to the Constitutional Court based on the importance that a constitutional court ruling will have in deepening or clarifying the liberties of journalists.

A favorable constitutional court ruling in respect of the rights of the journalist would establish an African precedent which should assist South Africa's neighbour states should similar action be taken against their journalists in the Southern African Development Community and the African Union.

A victory in this case will provide a remedy to the challenge of laws similar to the Commissions Act of 1947, like Section 205 of the Criminal Procedures Act that requires journalists to testify (often as the court's first witness) and provide "just" or "reasonable" cause as to why they should be allowed not to answer questions on the stand or hand over confidential documentation. This will provide some measure of protection to ensure that investigative bodies not abuse media freedom by forcing journalists to become extensions of the law and police informants.

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TANZANIA

Press Statement

December 1, 2003

Statement on the closure of *Dira* newspaper

The Media Institute of Southern Africa (MISA) – Tanzania is gravely concerned by the directive to suspend the publication of *Dira* newspaper, issued by Salum Juma Othman, Minister of State, in the Chief Minister's Office on Monday, November 24, 2003. The notice of suspension was addressed to *Dira* Managing Editor, Ali Nabwa, for allegedly violating professional ethics.

MISA-Tanzania challenges this action as being against the spirit of the progress made in recent days with the announcement of a new Media Policy for Tanzania. This policy lays the foundation for conducive conditions to ensure the full enjoyment by citizens of the Republic of Tanzania, of their democratic rights, including the right to freedom of information and expression.

We therefore challenge the move as harsh, unacceptable and a violation of media freedom in our Republic, where all stakeholders have to date endeavoured to create a diverse, accountable and independent media. In view of this, we anticipate for further constructive discussions through the Media Council of Tanzania, and not arbitrary action against the newspaper that led to the suspension.

Salva Rweyemamu
Chairperson
MISA-Tanzania

ZIMBABWE

Press Statement

May 7, 2003

TOPIC: Repealing of Section 80 of AIPPA.

Following is a statement on the repeal of Section 80 of the Access to Information and Protection of Privacy Act (AIPPA).

The Zimbabwe chapter of the Media Institute of Southern Africa (MISA-Zimbabwe) welcomes the striking down of section 80 of the Access to Information and Protection of Privacy Act (AIPPA). We regard this as a victory for all those who believe and are fighting for freedom of expression and the rights of media workers.

We note that since the enactment of the AIPPA Bill, MISA-Zimbabwe and other media stakeholders have been calling for the repealing of not only section 80, but the entire Act which we believe does not hold any ingredients that promote access to information.

Since the enactment of AIPPA in March 2002, over 34 charges have been brought against journalists and other media persons under section 80. It was also clear that the section was being abused to target private media journalists only. Section 80 rendered the practice of journalism criminal and impossible.

To date all efforts to commence dialogue with the concerned Ministry have proven unsuccessful. It is therefore with great relief and vindication that the courts have seen it prudent to strike this section off the statutes books. Section 80 was in many aspects similar to some sections of the repealed Law and Order Maintenance Act (LOMA). There is no doubt that the government simply re-introduced legislation that it knows was declared unconstitutional by the Supreme Court a few years ago. MISA-Zimbabwe hails the consistency that has been shown by the Supreme Court so far.

The striking of section 80 gives us hope that the courts will find many of the sections in AIPPA that negatively affect the work of journalists as equally unconstitutional.

Press Statement

May 21, 2003

TOPIC: Deportation of *Guardian* correspondent Andrew Meldrum from Zimbabwe

The summary illegal deportation in defiance of Supreme Court orders of the London *Guardian* correspondent Andrew Meldrum from Zimbabwe on May 16 raises several serious issues which impact on the treatment of journalists, the rule of law and the conduct of the President and his officials, states the South African Chapter of the Media Institute of Southern Africa.

The South African chapter of the Media Institute of Southern Africa (MISA-South Africa) condemns the deportation as an unwarranted attack on the freedom and independence of the media and an abrogation of the rights of a journalist to pursue legal redress against the authoritarian conduct of officials.

He is the sixth foreign correspondent to be deported from Zimbabwe, a clear indication that the government seeks to prevent information about the political and economic disaster that it has visited on the country to be reported on.

Coming immediately after the Supreme Court had declared unconstitutional clauses in one of the numerous laws intended to clamp down on reporting on conditions in Zimbabwe, Meldrum's deportation represents yet another desperate attempt by the authorities to resort to illegal means to suppress independent journalism. Other journalists have been detained with no charges being brought against them or what charges there were being thrown out by the courts.

Meldrum, an American citizen who has lived in Zimbabwe for 23 years and has permanent residence, has been the subject of a year-long campaign of vilification by the state media. Last year when a deportation order was served on him, a High Court judge ordered that it be suspended pending his appeal to the Supreme Court.

A court on May 16 issued two further orders forbidding his deportation and demanding that he be produced in court. Despite this, the immigration authorities and the police manhandled him into a car, placed a jacket over his head so that he should not know his destination, ignored the court order, legal requests by American diplomats and his lawyer to see him and bundled him on to a late night flight to London.

These numerous illegal acts mean that the rule of law no longer has force and effect in Zimbabwe and that the government is in breach of African Union and other protocols promoting good governance, the rule of law and freedom of the media.

The third important area of concern is that South Africa's President Thabo Mbeki has stated that he had been assured by President Robert Mugabe that restrictions on the media were to be eased and human rights abuses eliminated. These events give the lie to these undertakings and provide yet another instance of Mugabe breaking his word to his peers.

MISA-South Africa therefore calls on the African Union and the Southern African Development Community to investigate these unlawful acts and impose sanctions on Zimbabwe in terms of their protocols. It also calls on President Mbeki publicly to renounce his policy of "quiet diplomacy" and take firm action against Mugabe and his top officials by refusing them entrance to SA.

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SOUTH AFRICA

Press Statement

June 3, 2003

TOPIC: Demonstrations in Zimbabwe demonstrations

The South African Chapter of the Media Institute of Southern Africa (MISA-South Africa) is deeply concerned about the safety of journalists in Zimbabwe during the current period of anti-government demonstrations in the light of the threat by the authorities to crush any demonstrations that turn violent.

It has come to our attention that certain elements in the security forces intend using the demonstrations as an excuse for launching attacks on journalists employed by the independent press.

In the past independent journalists have been physically attacked, jailed or harassed by the police while carrying out their professional duties and these illegal activities have been universally condemned. MISA-South Africa warns the government of Zimbabwe that journalists have a duty to report on the conduct of the demonstrations, the responses of the authorities and on the activities of supporters of the government who have signalled their intention violently to oppose the demonstrators.

MISA-South Africa reminds the government that it has a duty to protect journalists. Should any journalists be harmed by the security forces the government will be held responsible.

Press Statement

September 18, 2003

TOPIC: Attacks and closure of media organisations in Zimbabwe

The Media Caucus formed at the World Summit on the Information Society in Geneva condemns the closure of the Harare newspaper, *The Daily News*, by the Zimbabwe police. The caucus noted that *The Daily News* entered a challenge in the Supreme Court to provisions of Zimbabwe's Access to Information and Protection of Privacy Act which requires newspapers and their journalists to register with the Media and Information Commission.

Instead of considering the constitutionality of the law, the Supreme Court refused to hear the matter on the grounds that *The Daily News* was acting illegally by failing to register. However, customary practice in such circumstances is for the merits of the challenge and the legality of the law to be examined before the requirement to comply is invoked. This is done so that the Supreme Court would not be seen to be implementing a law that could be unconstitutional. By its action the court provided an incentive for the authorities to close the paper, the only independent daily showing opposition to President Robert Mugabe's repressive government.

The action conflicts with the laudable aims of the World Summit on the Information Society which Zimbabwe government representatives are attending. The aims of the summit are to expand communications so that they reach as many of the world's people as possible. By closing the paper and thus a means of communication the government of Zimbabwe has negated these principles of freedom of expression.

The caucus is well aware of the many major Press Freedom violations and closures of papers and other media in many countries - including recent assaults on journalists in Geneva itself - but it has raised a protest against the incidents in Zimbabwe because of the extraordinary coincidence with Prepcom3's discussions on media freedom and the expansion of communication throughout the world. Equally unacceptable is the government's clamping down on the Zimbabwe Chapter of the Media Institute of Southern Africa which it has classified as an unregistered media organisation. It should be noted that if the Act is applied to MISA-Zimbabwe's operations it could then be applied to every large commercial operation in the country that has a public relations department and issues public statements on behalf of its company.

The Media Caucus calls on the Zimbabwe government to restore the equipment to *The Daily News*, remove its armed police and allow the paper to continue publishing. In addition it calls on the Zimbabwe Supreme Court to hear the appeal of the newspaper against the Act on the grounds of its constitutionality as a matter of urgency.

Media Caucus

WSIS 17-9-2003

Press Statement

September 23, 2003

TOPIC: Closure of *Daily News* in Zimbabwe

The Media Institute of Southern Africa (MISA), a regional non-governmental organisation that promotes freedom of expression and media freedom in the SADC region, is deeply concerned about the critical and pernicious media situation in Zimbabwe. MISA views in a serious light the recent closure of the *Daily News*, the only daily independent newspaper in Zimbabwe, as well as the continued arrest and harassment of journalists by the Zimbabwean police. We regard these actions as a gross violation of media freedom and freedom of expression.

Since the enactment of the Access to Information and Protection of Privacy Act (AIPPA) and the Public Order and Security Act in 2002, 62 journalists and media workers have been arrested. None of them have to date been convicted by the courts. In fact, the Supreme Court has nullified sections of AIPPA as unconstitutional. The restrictive AIPPA which forces all media organisations to register or risk being shut down, is unjustifiable and a pretext for the Zimbabwean government's pursuit to silence the media and control the flow of information.

Although the registration of newspapers for administrative purposes is standard practice in southern African countries, the process is administered mostly under the Companies Act and through the Ministries of Trades, Commerce and/ or Industries. In Zimbabwe, however, the media is required to register with the relevant ministries as well as the Media and Information Commission (MIC). Furthermore, the penalties prescribed under AIPPA and the powers afforded to the MIC are not a feature of the law in any of the other SADC countries. In Zimbabwe, for example, the MIC has discretionary powers to deny registration to newspapers and other media organisations. In other words, the MIC decides who speaks, when and how.

MISA believes this is a violation of freedom of expression as enshrined in Section 20 of the Zimbabwe Constitution. MISA is further concerned that by declaring some journalists non-accreditable hence unemployable as journalists, the MIC is standing in the way of persons who wish to earn a livelihood through legitimate, professional and non criminal means. This is a serious violation of fundamental human rights that are enshrined in Universal Declaration of Human Rights.

MISA calls on the Police and the MIC to allow *The Daily News* to resume full operation. We note that the Supreme Court in its ruling said that *The Daily News* must register first before challenging the law. The denial of a license by the MIC is an arbitrary decision that has serious implications for freedom of expression and media operations in Zimbabwe.

MISA was among a host of national, regional and international freedom of expression organisations which condemned the passing of AIPPA. We renew our call for the repeal of this oppressive legislation and urge all media organisations, civil society and the international community to intensify their campaign against this unjust and draconian law by vigorously calling for the immediate granting of a license to enable *The Daily News* to resume publishing.

Issued by: **Luckson Chipare: Regional Director, Media Institute of Southern Africa**
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Letter of Appeal
September 25, 2003

TOPIC: MISA appeals to Media Information Commission to grant a licence to *The Daily News* newspaper and to register journalists.

The Chairperson, Dr Tafataona Mahoso
Media and Information Commission
P O Box CY 7700, Causeway, Harare
ZIMBABWE
Tel: +263 4 703 416

Dear Sir

RE: Appeal to the Media and Information Commission (MIC) to grant a licence to *The Daily News* newspaper and to register journalists.

The Media Institute of Southern Africa (MISA) appeals to you, Dr Mahoso, to reconsider your decision to deny *The Daily News* a licence to operate as a mass media institution in Zimbabwe as required by the Access to Information and Protection of Privacy Act of 2002.

On September 19, 2003, the Daily News applied for registration with the MIC, thereby showing its willingness to comply with the ruling of the Supreme Court of Zimbabwe. The statement by the MIC last week that Associated Newspapers of Zimbabwe (ANZ) which publishes *The Daily News* has been denied a licence on the basis that it had been publishing illegally, is most unfortunate.

We further appeal to you to approve all applications for registration from journalists working for *The Daily News* as their applications should not be linked to that of their employer. Failure to register these journalists is in violation of their rights to freedom of association. Journalists should be able to obtain their licences separately from that of their employer as they should be able to work for any employer, or even freelance.

The International Labour Organisation provides for the right of all workers to freely associate, as well as a worker's right to choose his or her employer. More recently Article 14 of the Charter of Fundamental Social Rights in SADC, states that every individual shall be free to choose and engage in an occupation of that person's choice. For that reason all media practitioners have a right to work, to pursue productive endeavour, to engage in voluntary contracts, and to the proceeds of their labour. No individual, and by extension - no government, has the right to restrict an individual's freedom to choose his or her employer, given that they are not impinging on the rights of others.

MISA will therefore welcome the licencing of the ANZ and all its journalist as a goodwill gesture from your office and a sign of your commitment to uphold media freedom and promote plurality of voices in Zimbabwe.

We therefore appeal to you to ensure that an enabling environment exists within Zimbabwe to realise the universal goals of freedom of expression and association.

Yours sincerely

Luckson A Chipare, Regional Director

CC Minister of Information and Publicity
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Press Statement

November 7, 2003

Statement by Zimbabwean civil society and media organisations

‘Let the People Speak’

Effective Civil Society Lobbying for Zimbabwe Workshop

Harare October 30-31, 2003

At a landmark solidarity meeting in Harare on 30-31 October, Zimbabwean, African and international human rights organizations pledged to alert Africa and the SADC region to the full extent of the Zimbabwe Government’s continued gross human rights abuses and its relentless persecution of the media. The group agreed to launch a vigorous and coordinated campaign to petition fellow Africans and the international community about the oppression of the Zimbabwean people.

The meeting agreed the time had come for African governments to recognise the reality of tyranny in Zimbabwe and to move away from the diplomatic paralysis over the worsening human rights crisis in the country.

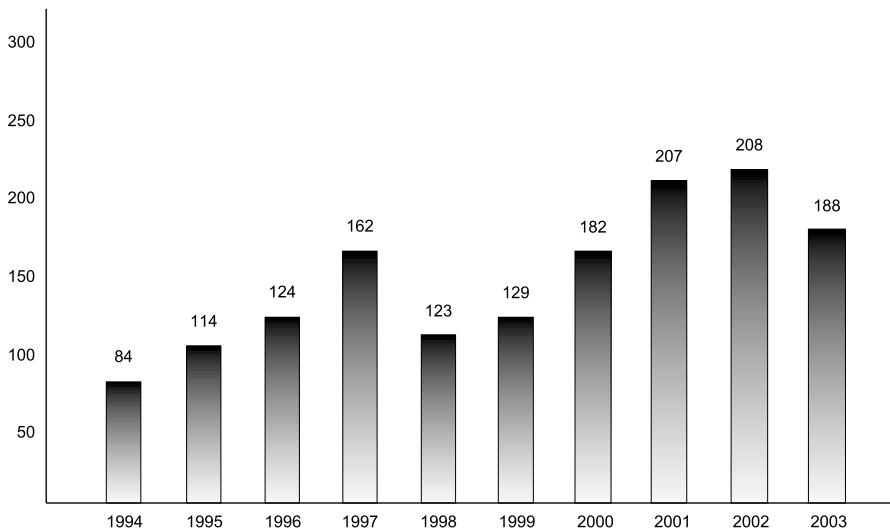
The immediate focus of this campaign will be the upcoming meeting of the African Commission in The Gambia and the Commonwealth Heads of Government Meeting in Abuja, Nigeria.

Among those joining the Zimbabwean media and human rights groups were representatives from organizations such as Journalistes en Danger (JED), Media Rights Agenda, West African Media Foundation, COSATU, Amnesty International, Article XIX, the International Bar Association, Zimbabwe Watch and the International Media Support group.

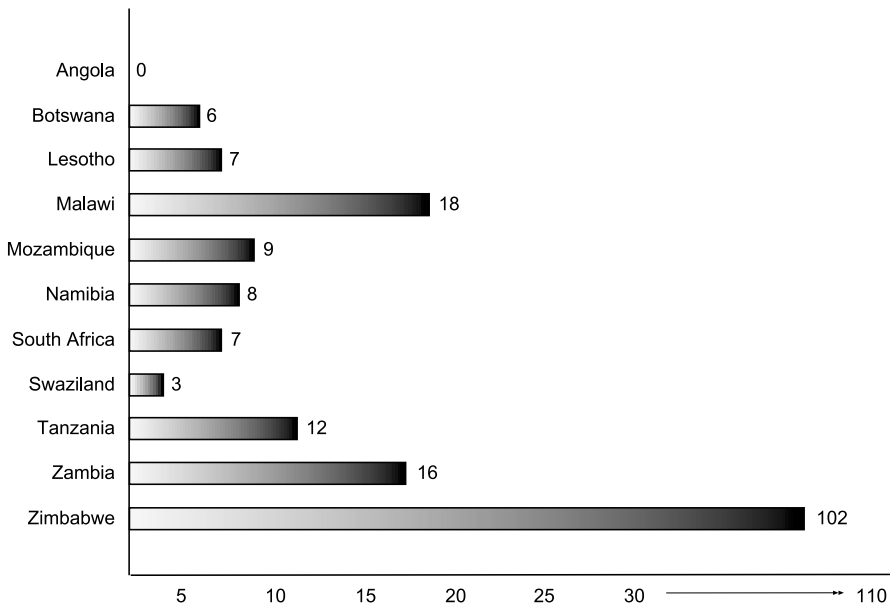
Issued by: Media Monitoring Project Zimbabwe
15 Duthie Avenue, Alexandra Park, Harare,
Tel: 00 (263 4) 703702
E-mail: monitors@mmpz.org.zw
Website: <http://www.mmpz.org.zw/>

Media Institute of Southern Africa (MISA)-Zimbabwe
84 McChlery Drive, Eastlea, Harare
Tel and fax: 00 (263 4) 776165
Misa@mweb.co.zw
Misazim@mweb.co.zw

Total alerts issued in 2003



Number of alerts by country: 2003



Number of alerts by country/violations: 2003

	Beaten	Bombed	Censored	Detained	Expelled	Killed	Legislated	Sentenced	Threatened	Victory	Others	TOTAL
Angola	0	0	0	0	0	0	0	0	0	0	0	0
Botswana	3	0	2	0	0	0	1	0	0	0	0	6
Lesotho	2	0	2	0	0	0	2	0	0	1	0	7
Malawi	5	0	3	0	0	0	0	3	2	3	0	18
Mozambique	2	0	3	1	0	0	0	0	2	1	0	9
Namibia	1	0	1	0	0	0	1	0	5	0	0	8
South Africa	2	0	1	0	0	0	2	0	1	1	0	7
Swaziland	1	0	0	0	0	0	2	0	0	0	0	3
Tanzania	3	0	2	0	4	0	1	0	1	1	0	12
Zambia	0	0	8	2	0	0	0	0	6	0	0	16
Zimbabwe	14	2	15	48	2	0	6	0	12	1	2	102

Gender disaggregated alerts by country/violation

	Beaten		Bombed		Censored		Detained		Expelled		Killed		Legislated		Others		Sentenced		Threatened		Victory	
	M	F	M	F	M	F	M	F	M	F	M	F	M	F	M	F	M	F	M	F	M	F
GENDER																						
Angola	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Botswana	3	-	-	-	-	2	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Lesotho	2	-	-	-	-	1	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Malawi	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Mozambique	2	-	-	-	-	3	-	1	-	-	-	-	-	-	-	-	-	-	2	-	1	-
Namibia	2	-	-	-	-	2	-	2	-	-	-	-	-	-	-	-	-	-	1	3	-	-
South Africa	-	2	-	-	-	-	-	-	-	-	-	-	-	1	-	-	-	-	-	-	-	-
Swaziland	1	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Tanzania	3	-	-	-	-	1	-	-	4	-	-	-	-	-	-	-	-	-	-	-	-	-
Zambia	-	-	-	-	-	3	2	2	-	-	-	-	-	-	-	-	-	-	5	-	-	-
Zimbabwe	12	2	1	1	9	1	37	11	2	-	-	-	2	-	1	-	-	6	1	1	2	-

MISA's Annual Press Freedom Award

The Media Institute of Southern Africa (MISA) presents an annual Press Freedom Award with a cash prize of US\$1000 to honour excellence in journalism.

Excellence in journalism may be described as the upholding of the ethics of the profession at all costs, and the relentless pursuit of the truth. The award is also in recognition of the work of an individual or institution contributing significantly to the promotion of media freedom in the region. The excellence which the award acknowledges, can be achieved either through reportage or in other ways such as media reform, lobbying or training.

ELIGIBILITY: The MISA Press Freedom Award is open to all forms of media e.g. photography, print, producers, radio, video, film, Internet, or media associations and institutions. Eligible individuals or institutions should be based in the southern African region (SADC region).

NOMINATIONS: NOMINATIONS FOR THE 2004 AWARD ARE NOW OPEN. All Nominations should be accompanied by a motivation not exceeding 1 500 words and the CV of the nominee. Where applicable, a copy of the work, or a portfolio of work, should be included with the nomination. Nominations should be sent to the MISA Secretariat, for the attention of the Regional Director, to:

Postal: **Private Bag 13386**
 Windhoek
 Namibia
 Fax: +264-61-248016
 E-mail: director@misa.org

Deadline: June 30, 2004

For further information, please contact the Regional Director at +264-61-232975

The 2003 winner of the MISA Press Freedom Award

Judge Augusto Raul Paulino



Judge Augusto Raul Paulino was born in southern Mozambique in 1961. In 1975, after his father's imprisonment, his family moved to Maputo City where he embarked on his studies in Education. Three years later he was placed as a teacher in Chóckwe village in the province of Gaza, also in the south region of Mozambique.

In his role as an educator and nurturer Paulino became more and more aware of the social injustices faced by the Mozambican people. His interest in legal studies developed from his quest for justice for all and respect for humanity in Mozambique, and on a continental scale.

At the age of 31 he was appointed Judge and was stationed at the judicial tribunal in the city of Maputo. Nine years later, in 2000, he presided over one of the most controversial and historical cases in Mozambique, i.e. the murder of Carlos Cardoso, a well known and internationally acclaimed journalist. Judge Paulino was quoted as saying that Cardoso's murder was among the worst in Mozambican history and set out to prove the credibility of the judicial system in that country.

Judge Paulino made judicial history in Mozambique and internationally by allowing a full media coverage of the court proceedings of the Cardoso case. This was the first ever case in Mozambican history where the media was allowed to bring cameras and all forms of recording equipment into court proceedings, a freedom that surprised even the media itself.

He won respect nationally and internationally for the fearless manner in which he conducted the trial. On Friday, January 31 2003, the world watched as he sentenced six men to over 20 years imprisonment respectively.

In this sweeping judgement Judge Paulino invariably restored the confidence in the Mozambican judiciary. He has since become a public figure and force to reckon with in the struggle for peace, justice and media freedom in Mozambique.

The 42-year-old Judge is married with three sons. He continues to teach Law at the University of ISPU in Mozambique.

Previous winners of the MISA Press Freedom Award

§ 1993 - Onesimo Makani Kabweza

The late Onesimo Makani Kabweza, as editor of *Moto* in Zimbabwe, was one of the first Zimbabwean journalists to break the “culture of silence” which followed the country’s independence in 1980. Onesimo dared to take a critical stand against the new Zimbabwean government under Robert Mugabe at a time when others were too scared to criticise or speak out against any government wrongdoing. He was very enthusiastic about the need for southern African media workers to unify and thus shared the dreams and aspirations of MISA. At the time of his death in 1993, Onesimo was on his way back from a trip to Harare on MISA business.

§ 1994 - Basildon Peta

By the time the young Basildon Peta was awarded MISA’s Press Freedom Award, he had already come up against the full might of the Zimbabwean police. The senior reporter at the *Daily Gazette*, Basildon was incarcerated in 1994 for a week, enduring long sessions of interrogation by the police, who failed to break his determination to stand by the truth. Basildon was also not cowered into silence and he went on to expose further incidents of corruption and abuse of power in government.

§ 1995 - Fred M’membe

Fred M’membe, probably one of the most persecuted journalist in his country and the rest of the region, is a qualified accountant who, along with colleagues John Mukela, Masautso Phiri and Mike Hall, founded *The Post* newspaper in Zambia in 1991. Since its founding as a weekly paper and its swift progress to a daily paper, *The Post* under the helm of Fred, tirelessly kept a watch on the government, exposing numerous incidents of corruption, illegal activities, bad governance, human rights abuses and lack of respect for the rule of law. In the process, and despite enormous efforts on the part of the government to harass *The Post* and Fred in particular, Fred has distinguished himself as a consistent and fearless journalist, committed to the ideals of media freedom.

§ 1996 - Allister Sparks

Allister Haddon Sparks has played a phenomenal role in the media in South Africa. Starting out as a reporter on the *Queenstown Daily Representative* in 1951, Allister rose to become a sub-editor under the renowned Donald Woods at the *East London Daily Dispatch*, the editor of the *Sunday Express*, and then the editor of the great *Rand Daily Mail*. It was during his tenure at the *Rand Daily Mail* in the late 1970’s that Allister distinguished himself as a journalist of great valour and strength, willing to stick his neck out for a story even though it might have reached into the deep echelons of government. In 1992, a decade after being dismissed from the *Rand Daily Mail*, Allister was instrumental in setting up the Institute for the Advancement of Journalism (IAJ), based in Johannesburg, South Africa. At the time of receiving the MISA Press Freedom Award, Allister was serving on the Board of the South African Broadcasting Corporation (SABC).

§ 1997 - Gwen Lister

Gwen Lister, as editor of *The Namibian*, almost single-handedly kept up the mantle of press freedom in Namibia, both before and after independence. Starting out as a journalist at the Windhoek Advertiser in 1975, she eventually went on to establish *The Namibian*,

which hit the streets for the first time in August 1985. From the outset, *The Namibian* was the only newspaper in Namibia that was brave enough to expose ongoing atrocities and human rights abuses being committed by the South African occupation forces. Gwen's determination to uncover and report the truth never wavered, despite concerted attempts to harass and intimidate her and the rest of *The Namibian* staff. Gwen's commitment to a free press remained steadfast after Namibia's independence in 1990, and her paper continued to adopt a watchdog role, this time over the new government of the South West African People's Organisation (Swapo).

8 1998 - African Eye News Service (AENS)

African Eye News Service was the first media institution to be honoured with the MISA award. Based in the first South African province of Mpumalanga, AENS had established itself as one of the sub-region's truly investigative news services. In its three years of existence, AENS, under the editorship of Justin Arenstein, had either halted or uncovered a series of corrupt practices in the public sector - some of which had led to public commissions of inquiry, or resignations of the affected officials. Its bold and extremely courageous reporting earned it several enemies in both the public and private sectors of the South African community. The agency attracted numerous multimillion rand defamation suits, and to date it had won every case. Its team of journalists, especially Mr. Arenstein, had also been the targets of physical and verbal harassment, including death threats and threats of assault, while also being personally maligned. Despite this harassment and hostility, the AENS team carried on its mission with excellence, exhibiting mature and professional journalism with depth and carefully verified detail.

8 1999 - Bright Chola Mwape

The late Bright Chola Mwape was still a young man when he tragically died as a result of injuries sustained in a car accident in August 1999. In 1994 Bright was Managing Editor of *The Post*, Zambia's leading and only independent daily newspaper. An article in 1996, in which he criticised a Zambian politician for attacking a Supreme Court judge who had earlier struck an important victory for the Right to Protest and Freedom of Assembly, saw him being condemned to indefinite imprisonment. Along with his editor-in-chief Fred M'membe and fellow columnist, Lucy Shichone, Bright went into hiding to avoid being hauled off to prison. Later on Bright and Fred handed themselves over to the police in an act of defiance and bravery that challenged the Zambian Parliament to take their unjust decree to its logical conclusion. They were freed after 24 days. In 1997, Bright joined MISA's regional secretariat to head the Media Information Unit. His disdain for the hypocrisy of the SADC governments was evident on the occasion of May 3 1999 in a dynamic speech he delivered in Windhoek, Namibia. In his speech, Bright angrily dismissed a proposed Media Award the SADC governments were considering, questioning their moral right to confer such an award amid their obvious reluctance to refrain from or condemn government infringements on the rights of the media.

8 2000 - Geoffrey Nyarota

Geoffrey Nyarota, as editor-in-chief of *The Daily News* in Zimbabwe has displayed skill and vision in keeping afloat the spirit and voice of independent media in a country where independent media exist in a minefield of treacherous laws and intolerant authorities. Geoff has come a long way since his days as a reporter at the *Zimbabwe Herald* newspaper. In the process he has also ploughed a lonely furrow which is unavoidable for people like him who fail to seek shelter in the ever convenient shade of complacency, silence or political cover-ups. As editor of the *Chronicle*, he exposed corruption in high places in what was to become known as the "Willowgate scandal". The resilience of Geoff came of age in a sense, with the launch-

ing of *The Daily News* in March 1999. It was a magnanimous dream that had as its roots - service to the Zimbabwean citizenry. The newspaper has grown from strength to strength almost solely due to Geoff's skill in assembling a team of some of Zimbabwe's most skilled and professional newspaper practitioners in every field. The trail that *The Daily News* blazes has come at a price - the paper's journalists have been harassed and attacked; in some parts of the country people can only read the paper in secret for fear of reprisals. The application of the Access to Information and Protection of Privacy Acts in Zimbabwe has led to the closure of *The Daily News* and its sister paper, *The Daily News on Sunday*.

8 2001 – Carlos Alberto Cardoso

The late Carlos Alberto Cardoso, editor of *Metical*, was murdered on 22 November 2000. He studied in South Africa, where he became involved in radical, anti-apartheid student politics, which earned him expulsion from the country.

Back in Maputo, he identified with the revolution against Portuguese colonial rule, although he never became a member of the Mozambique Liberation Front (Frelimo).

His exceptional talents as a writer ensured a rapid rise in the world of journalism. He worked first on the weekly magazine *Tempo*, then briefly on Radio Mozambique, before he was appointed chief news editor of the Mozambique News Agency (AIM) in 1980.

There were often tensions between the open and outspoken brand of journalism practiced by Cardoso, and the altogether more cautious approach followed by the Frelimo leadership and by the Ministry of Information.

In 1982, this clash resulted in the sudden imprisonment of Cardoso, apparently because an opinion article he wrote in the daily paper *Noticias* violated an obscure government guideline on covering the war. Six days after his arrest he was released and he was fully reinstated at the head of AIM.

Cardoso was deeply affected by the death of Machel in a plane crash just inside South Africa, on 19 October 1986. He followed the story of the plane crash with tenacity, and built up a picture of the likely causes of the crash - deliberate electronic interference by the Apartheid military.

In the late 1980s, Cardoso found himself in conflict with Information Minister Teodato Hunguana, leading to his resignation.

In 1990, Cardoso was among a group of journalists campaigning for the inclusion of a specific commitment to press freedom in the new constitution. The clauses on the media in the 1990 constitution, and the follow-up press law of 1991, are among the most liberal in Africa. In 1992, Cardoso and a dozen others founded a journalists' cooperative, Mediacoop, launching *Mediafax*. A dispute in Mediacoop in 1997 led to Cardoso leaving the cooperative to set up *Metical*.

Cardoso campaigned tirelessly against what he regarded as the disastrous recipes for the economy imposed by the World Bank and the IMF, championing the fight of the cashew processing industry and later of the sugar industry, against liberalisation measures.

In 1998 Cardoso stood as an independent candidate for the Maputo municipal assembly. The independent grouping, known as "Juntos pela Cidade" won 26 per cent of the vote, and became the opposition in the city assembly. Cardoso then threw himself into municipal politics.

Among the scandals Cardoso had been investigating in the last months of his life, one stands out above all others. This was the largest banking fraud in the country's history.

In 1996, a well-organised criminal network stole the equivalent of \$14 million out of Mozambique's largest bank, BCM. Although the names of the main suspects were known there was no prosecution and no trial.

That this was dangerous territory became clear in November 1999, when the BCM's lawyer, Albano Silva, narrowly escaped an assassination attempt.

§ 2002 – No award was presented in 2002. MISA celebrated its 10th anniversary in Maputo, Mozambique

§ 2003 - Dr. Augusto Raul Paulino

Through the award MISA recognizes the incalculable contribution made by Judge Paulino to the judicial process in Mozambique, as well as access to information and freedom of expression in the region. Judge Paulino presided over the celebrated trial and conviction of six men accused of murdering Carlos Cardoso, one of Mozambique's top investigative journalists. The trial was hailed widely as both a triumph of the openness of the court proceedings and an indictment of the corruption among the country's rich and powerful. By allowing the electronic media to cover the case live Judge Paulino gave the public an opportunity to form its own opinion and that has been a major step and a positive example for the whole continent to emulate. Although many Mozambicans may not be satisfied by the outcome, they have witnessed that the judicial system can work.

How to report an attack on the media

The Media Institute of Southern Africa (MISA) needs your assistance to compile accurate and detailed alerts on abuses of press freedom in the Southern African region. Alerts serve a very important function in the advocacy work of MISA. The ultimate aim of the alert is to spur people on to take action in the light of a particular violation. Apart from that, the alert serves the purpose of reporting and recording a specific event or incident, which either amounts to a violation of media freedom or freedom of expression, or significantly advances it. The alert is thus part of one of the most essential tools of advocacy - information.

What to report:

• Journalists who are:

- | | |
|--------------|---|
| • Assaulted | • Arrested |
| • Censored | • Denied credentials |
| • Harassed | • Kidnapped |
| • Killed | • Missing |
| • Threatened | • Wrongfully expelled |
| • Wounded | • Wrongfully sued for libel or defamation |

News organisations that are:

- Attacked or illegally searched
- Censored
- Closed by force
- Raided, where editions are confiscated or transmissions are jammed. Materials confiscated or damaged
- Wrongfully sued for libel or defamation

What to include in your report

MISA needs accurate and detailed information about:

- Names of journalists and news organisations involved
- Date and circumstances of the incident
- Detailed background information

Anyone with information about an attack on the media should call the Researcher at MISA by dialling +264 61 232975 or by sending e-mail to research@misa.org.na

Contact information for MISA country offices: See page 6-9

What happens with your information?

Depending on the case, MISA will:

- Investigate and confirm the report
- Pressure authorities to respond
- Notify human right groups and press organisations around the world, including IFEX, Article 19, Amnesty International, Reporters San Frontiers, Human Rights Watch and the International Federation of Journalists and
- Increase public awareness through the press
- Publish advisories to warn other journalists about potential dangers
- Send a fact-finding mission to investigate

■ MORE ABOUT MISA ALERTS

The alert is different to a media statement that the latter is more a reaction and comment on an incident, while an alert is simply a report about it. Where comment is included in an alert it is best reported as a quote.

Action alerts also educate people about the nature of media freedom violations, leading to greater sensitivity to threats and violations, thus ensuring that more and more violations do not go unreported. MISA alerts are used as a source of information by media freedom organisations around the world and serve to augment important international reports and publications which in turn are used as advocacy tools or research documents.

What types of incidents are reported in an action alert?

1. Direct violations against journalists' right to operate or report freely - these include physical or verbal attacks or threats against journalists during the course of their work or as a result of their work; journalists being barred illegally from observing events or incidents or inspecting areas, journalists evicted or deported from a country because of their work, journalists imprisoned or detained and, journalists killed during the course of or as a result of their work.

2. Censorship - this is where media workers, institutions or activities are banned or blocked. Where this does happen always indicate who issued the ban, why and in terms of which laws the ban was issued (sometimes countries have more than one law which could be used to censor media).

3. Court cases - these are court cases involving the media or concerning issues which affect the media (e.g. a 1995 case in Zimbabwe involving cell phone company Retrofit did not include the media but significantly advanced freedom of expression and required to be reported). Alerts are not normally issued for trials or cases which are in progress (unless something significant happens), the commencement and conclusion (judgement) are the most important to report (it requires however that the entire trial be monitored). Background information is very important in alerts relating to court cases e.g. where a newspaper is being sued over an article, find out when the contentious article was published and give a brief idea of what the article said or reported. This helps to assess whether a trial is reasonable and fair. In the case of a criminal trial, indicate exactly which law and sections thereof the journalist or media is being charged under.

4. Legislation - This refers to the introduction, amendment or repealing of all legislation affecting media in some way or the other. Very draconian legislation is usually monitored and reported from the stage at which it is mooted. When issuing an alert around legislation, we make sure to explain precisely which parts of the law affect the media and how.

5. Policies and statements by elected government officials - these are monitored and reported in so far as they have a direct bearing on the workings and operations of the media. Verbal threats or attacks on the media are crucial to report, as well as statements advancing new policies or clarifying, government policies with respect to the media.

About MISA

MISA's Mission, Vision and Values

The **mission** of MISA is to play a leading role in creating an environment of media freedom that promotes independence, pluralism and diversity of views and opinions, sustainability and competency. In dealing with these elements, MISA will ensure that gender-specific needs form an integral part of all activities. MISA aims to create an environment in which civil society is empowered to claim information and access to it as unalienable rights and in which - the resultant freer information flow strengthens democracy by enabling more informed citizen participation.

MISA will work:

- To create and maintain a media environment in which there is transparency, accountability, independence, pluralism and diversity;
- To improve the skills base and professionalism among media workers;
- To promote and facilitate more effective use of and access to the media by all sectors of society;
- To develop and maintain an environment conducive to relevant and effective advocacy campaigns on media freedom issues and media violations on an international, regional, national and local basis;
- To deliver timely, comprehensive and accurate information on media freedom issues and violations; and
- To exercise its functions in an efficient, cost effective and transparent manner, with full participation of all stakeholders.

MISA's **vision** is of a Southern African region in which the media enjoys freedom of expression, independence from political, economic and commercial interests, pluralism of views and opinions. Our vision is of a region where members of society, individually or collectively are free to express themselves through any media of their choice without hindrance of any kind. Access to information must be unhindered

This environment will be characterised by:

- A media that is free, independent, diverse and pluralistic.
- Access to the media and information by all sectors of society.
- Media workers who are competent, critical, accountable, sensitive to gender issues and aware of their responsibility to society.
- Legislation, regulations and policy environments that support media independence, diversity and pluralism.
- Citizens in the SADC region are empowered to claim information as a basic right.

The mission and vision of MISA are based on **values** that seek to:

- Advance the aims and objectives of the Windhoek Declaration of 1991 and the African Charter on Broadcasting of 2001;

- Promote a self reliant, non-partisan and independent media that informs, empowers, educates and entertains;
- Nurture media freedom in an ethical, competent and professional media environment;
- Strengthen and support the development of a vibrant and participatory media sector;
- Lobby for access to information in order to enhance transparency and citizen participation in government, judiciary and legislative issues; and
- Promote democracy, human rights and the advancement of equality, human dignity, freedom and non-discrimination.
- Advocate and advance gender equality to redress imbalances in the media and society.

MISA History and legal status

MISA was established in 1992 as a non-governmental organisation (NGO) and registered as a Trust in Windhoek, Namibia following the adoption of the 1991 Windhoek Declaration on Promoting an Independent and Pluralistic African Press. MISA seeks to contribute to the implementation of this declaration in the SADC region. MISA operations are conducted by its Regional Secretariat based in Windhoek, Namibia which is guided by the Regional Governing Council made up of the Regional Council Chairperson and the chairpersons of the national chapters. The MISA Trust Funds Board, which is autonomous, has oversight over the financial and objectives of the organisation.

MISA currently has national chapters in 10 SADC countries – Botswana, Lesotho, Malawi, Mozambique, Namibia, South Africa, Swaziland, Tanzania, Zambia and Zimbabwe, while it has a representative to run its operations in Angola. Each national chapter is serviced by a national secretariat under the guidance of the National Governing Council. Membership in MISA is open to individual media practitioners, media houses and associations who join MISA at national level.

MISA's main achievements are in the areas of media freedom monitoring and the issuing of action alerts highlighting violations of this right in the southern African region. It has campaigned for an enabling environment for media to operate freely as part of a democratic system. During the last ten years, MISA has provided skills training opportunities for many media workers in the region.

Over 600 journalists and media practitioners and managers have received training in computer aided and internet research, editorial and circulation management, financial and strategic management, project, marketing and business management, community radio management, thematic reporting skills training (financial, economic, elections and gender). During this period over 80 journalists and media practitioners and managers took part in the MISA exchange programme, allowing them the opportunity to learn new skills or improve on existing ones outside their place of employment and mostly in another southern African country.

MISA has sponsored over 20 journalists and media managers to attend Highway Africa, the premier ICT annual event hosted by Rhodes University for the last 5 years.

In line with the 1991 Windhoek Declaration, MISA established the Southern Africa Media Development Fund (SAMDEF) which provides media businesses with loan and venture capital and the Southern Africa Institute of Media Entrepreneurial Development (SAIMED) which offers media management training and development services.

MISA Activities and programmes

From April 2002, MISA work has been centred around Five programme areas as identified by its members and elaborated in its Strategic Partnership Programme April 1, 2002 to March 31, 2005. These are:

1. **Freedom of Expression and Right to Information Campaign:** which seeks to campaign for citizens to embrace their right to be informed through unhindered access to information. Laws and policies that militate against these rights will be challenged and grassroots campaigns on the concept of information as a basic right and need will be done. The basis of this programme area is founded on the principle that informed citizens will make the best decisions for their wellbeing and in so doing empower themselves. This will ensure that they can hold their governors accountable and in so doing lead to the reduction of poverty and disease.
2. **Media Freedom Monitoring** programme which seeks to continue the work MISA is renowned for: monitoring and reporting media freedom violations in the region. Through this programme, reports of incidents of media freedom violations, mostly by state authorities are made and campaigns against such violations intensified. MISA is a member of the International Freedom of Expression network (IFEX) since 1994 and has published an annual year book on the state of media freedom in the region (So this is Democracy?) every year from 1994.
3. **The Campaign for Broadcasting Diversity** programme seeks to continue the work on broadcasting policy MISA started in 1995 which laid the foundation for the role of broadcasting in the region to enable this major source of news and opinions to operate effectively. The three tier system of public, commercial and community broadcasting, if operated in the correct manner, can provide services that assist in the development and maintenance of democracy. These have since been adopted as a part of the African Charter on Broadcasting adopted by media practitioners and media freedom activists who gathered in Windhoek under the auspices of UNESCO and MISA in May 2001 to commemorate the 10th Anniversary of the Windhoek Declaration of 1991. The African Commission on Human and Peoples' Rights adopted similar principles in their Declaration on Freedom of Expression in Africa in October 2002 .
4. **Media Support Activities** which form the basis of the fourth programme area seeks to enhance Media Accountability and Professionalism, Community Broadcasting and The MISA News Exchange. The first programme area of media accountability and professionalism seeks to assist the media in ensuring that media products are professionally provided and the media is accountable to the general citizenry and consumers of media products. It is the aim of this programme area to ensure that code of ethics and a self-regulatory system are established for each of the eleven countries in which MISA operates. The Community Broadcasting programme is an initiative to assist in the establishment of community broadcasting stations in the region. The News Exchange which started in 1994, will continue and be extended to include a Portuguese language exchange and a 'rip and read' service for broadcasting stations most of which do not have resources to gather news.
5. **Over the years**, MISA has assisted media practitioners and houses with legal fees to enable them to engage lawyers for their defence in courts of law, mostly brought against them by the State. The majority of cases concern criminal defamation, which is still quite prevalent in the region. The **Legal Support** programme area is the subject of assistance MISA plans to continue to give to media houses and practitioners who may find themselves under such situations. The major element of this programme area is the plan to establish a Legal Defence Fund in each of the countries where MISA operates.

Two strategies will assist MISA in reaching its objectives outlined in its five programme areas. These are respectively the strategies for Communication, Dissemination and Publications and the Implementation and Monitoring. The first strategy recognises that an effective communication and information dissemination system is essential to an advocacy organisation. Furthermore, the fact that the organisation is spread across eleven countries requires an efficient exchange of information to allow for frequent interaction.

The second strategy is concerned with the management of the Strategic Partnership Programme for 2002 to 2005. This includes systematic planning and monitoring, a transparent and accountable financial system, new criteria for budget allocations, a dynamic and cohesive organisation and strong governance structures. It also underlines that gender sensitivity and networking efforts permeate all five of MISA's programme areas.

Finances

MISA has received funding from many donors over the years with its major source being Danida, Sida, Norad, Hivos, USAID, EU, Open Society Foundation, Heinrich Böll Stiftung, Friedrich Ebert Stiftung, Netherlands Institute for Southern Africa and Communication Assistance Foundation.

So This Is Democracy?

State of media freedom in Southern Africa 2003

This tenth installment of *So This Is Democracy?* documents the numerous media freedom and freedom of expression violations that MISA recorded in the Southern African region in 2003. The documentation and exposure of these media freedom alerts help turn the spotlights from around the world squarely on those responsible for human rights violations and this can make a significant difference, as those who violate human rights often rely on the cover of darkness.

In the period between January and December 2003 MISA recorded a total of 188 media freedom and freedom of expression violations against individual journalists and institution in the SADC region. Although this figure marks a decrease of 9,7 percent from the previous year, the nature of alerts and their bearing on the psyche of journalists have culminated into an environment in which journalists practice self-censorship, where media organisations are either closed down by governments through the application of repressive legislation or as a result of degenerating economic conditions and where the pursuit of independent journalism is often labeled as unpatriotic.

In Zimbabwe the forced state closure of the *Daily News* on September 12 2003, on charges that it was publishing illegally without a state license, was undoubtedly the worst media freedom violation recorded in 2003. The application of the repressive Access to Information and Protection of Privacy Act in that country has translated into Zimbabwe accounting for 54 percent of all media freedom and freedom of expression violations recorded in the previous year.

In the same vein, it must be noted that those countries where the media freedom situation has not overtly deteriorated, there remains a need for media law reform as the environment is still littered with legal hurdles that stifle media freedom.

In all, this book remains an important historical document detailing events affecting media workers in most of Southern Africa during 2003. It should prove valuable not only to media activists but also to scholars and others interested in plotting the trends and identifying the various devices used to undermine media freedom and the free flow of information.

