



MID-TERM STATE OF THE MEDIA REPORT: JANUARY – JUNE 2020

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Introduction

The push by the Zimbabwean government to amend its Constitution prior to the alignment of several laws that are not in sync with the country’s supreme law enacted in 2013, casts aspersions on the government’s sincerity in implementing fundamental law and policy reforms.

This comes in the wake of the conclusion of the public hearings on the Constitution Amendment No.2 Bill. The Bill gazetted on 17 January 2020, is made up of 27 sections that propose to amend no less than 30 sections of the Constitution.

The proposed amendments follow the first amendment to the 2013 Constitution which gave the President powers to unilaterally appoint the Chief Justice, Deputy Chief Justice and Judge President of the High Court.

This tampering with the Constitution at a time when several laws which have an impact on the enjoyment of the rights enshrined in Zimbabwe’s Bill of Rights, is widely viewed as being aimed at centralising the President’s powers, which vitiates against the principle of separation of power to allow for democratic checks and balances in the spirit of good governance and accountability.

In the meantime, the harassment, arrests and assaults of journalists, human rights activists and members of opposition political parties, at the slightest whiff of dissent, by state security agents in several cases, continues with impunity, despite promises by the new Zanu PF government to break with the ills of the era of former President Robert Mugabe.

United Nations Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association, Clement Nyaletsossi Voule, in his recent report, aptly captures the sad reality of the obtaining situation in Zimbabwe.

Voule notes that Zimbabwe was suffering from political polarisation and poor governance at a time when the worsening economic environment has added to people's discontent with President Emmerson Mnangagwa's government.

Civic space continues to deteriorate, re-establishing an environment of fear and persecution, he further noted.

Political context and key events

As highlighted in our 2019 State of the Media Report, the above scenario comes at a time when the country continues on its socio-economic and political meltdown bringing into question the government's commitment to undertake fundamental legislative and economic reforms.

Prices of basic goods continue to spiral with inflation pegged above 700% while the perennial fuel and cash shortages persist in an economy that is already hurting and is likely to be worsened by the global COVID-19 pandemic which has seen the country imposing its own lockdown measures since 30 March 2020.

Several journalists were caught in the crossfire of the implementation of the 21-day national lockdown, with several of them being harassed assaulted or detained by the police and soldiers despite the media being declared an essential service in terms of the COVID-19 regulations.

In February this year Reserve Bank Governor, Dr John Mangudya, said foreign direct investment had fallen from US\$717,1 million in 2018 to US\$259 million in 2019. According to the World Economic Outlook Report issued by the International Monetary Fund (IMF), Zimbabwe's economy will shrink by -7.4% in 2020 on the impact of the COVID-19 pandemic. Before the pandemic, IMF had forecast GDP growth of 0.8 percent. Post the pandemic, IMF projects 2.5 percent growth for 2021.

Zimbabwe's humanitarian and economic crises comes at a time when the impasse over the working conditions and salaries of health workers spilled into 2020 unresolved as witnessed by the continuous strikes by nurses and doctors in addition to similar actions by the country's teachers.

In the meantime, the government forged ahead with its plans to amend the Constitution following completion of the public hearings on the Constitution Amendment No.2 Bill. Contentious sections proposed for amendment, among others, include removal of the presidential running mate clause, tenure (extension of) office of judges, delimitation of constituencies, appointment of the Prosecutor General without public interviews and selection of judges without public interviews.

These proposals were generally rejected during the public hearings. It therefore remains to be seen whether the will of the people will be respected given that the 2013 Constitution was endorsed by an overwhelming 94.5% of voters when it was subjected to a referendum.

While the Freedom of Information Act has since been signed into law, the government has since gazetted the Cybersecurity and Data Protection Bill, which is strong on surveillance of citizens and weak on balancing cyber security with the enjoyment of fundamental rights such as free expression online, privacy and protection of personal data.

Meanwhile, the recent report by the UN Special Rapporteur, came on the backdrop of his visit to Zimbabwe on 17 - 27 September 2019 at the invitation of the Government. The purpose of the visit was to assess the exercise, promotion and protection of the rights under his mandate in a moment of transition following the adoption of the new Constitution in 2013 and the recent change of leadership in Zimbabwe.

It is trite to note that the Special Rapporteur, in his report, urges the government to take action to end corruption, and tellingly, to improve the human rights situation and ensure accountability and rule of law to encourage the lifting of “measures” imposed on Zimbabwe.

“While being mindful of the impact of these restrictive measures, the Special Rapporteur believes that, irrespective of such measures, the government has a duty to fulfill its human rights obligations,” reads the report.

He also urges the government to implement recommendations of the commission of enquiry chaired by former South African President Kgalema Motlanthe into the August 2018 killings of six civilians by soldiers in Harare.

In addition, the Special Rapporteur recommends that the government should refrain from introducing restrictions on access to and use of the Internet, including shutdowns.

Voule recommended that Zimbabwe should ensure that Section 210 of the Constitution is operationalised through a consultative process to ensure accountability of law enforcement officials who violate the right to freedom of assembly and of association through an independent oversight body.

His recommendations in that regard are poignant given that the number of cases involving the assault of journalists conducting their lawful professional duties in terms of their right to media freedom, continue with impunity without the culprits being brought to account.

Media environment

The media operating environment during the period under review is contextualised against developments on the media law reform process, in terms of progress or lack thereof, as well as the enjoyment of the right to media freedom, freedom of expression, and ultimately citizens’ right to access to information.

Regrettably the situation is still far from the ideal in terms of respect for media freedom which is a critical component in fostering unhindered citizens’ participation in democratic process for accountable and transparency governance.

According to the Reporters Without Borders 2020 World Press Freedom Day Index, Zimbabwe is positioned at 126 out of 180 countries ranked globally. This ranking should be a sobering and reflective moment for the Zimbabwe government considering that other Southern Africa

Development Community countries such as Namibia, South Africa and Botswana are ranked at 23, 31 and 39, respectively.

Between March and June 2020 following the COVID-19 national regulations, a total of 25 journalists (of which three cases were not recorded), and media workers (newspaper vendors), were either arrested, assaulted or harassed, while conducting their lawful professional duties notwithstanding the fact that the media was declared an essential service in terms of the COVID-19 regulations. (*Refer to media violations statistics table beneath for further details*).

These violations resulted in MISA Zimbabwe successfully filing for a High Court order barring the police and any other state security agents from arresting, detaining or interfering with the work of journalists.

In a related development, and back-to-back with that application, MISA Zimbabwe, filed yet another successful application with the High Court compelling the Ministry of Health and Child Care and the Ministry of Information, Publicity and Broadcasting Services, to promote citizens' access to information pertaining to the Covid-19 pandemic.

Having to resort to court applications to enforce constitutionally guaranteed rights, therefore speaks volumes about the government's sincerity in entrenching the pillars of democracy and commitment to uphold the rights to media freedom, freedom of expression and access to information as provided for by Sections 61 and 62 of the Constitution, let alone other rights in the Bill of Rights.

In the meantime, the media policy and law reform process continues to move at a slow pace, considering that the Freedom of Information Act, which is part of the three laws aimed at unbundling the widely discredited Access to Information and Protection of Privacy Act (AIPPA), was only signed into law on 1 July 2020, seven years after the coming into being of the 2013 Constitution.

At the time of writing of this report, the Zimbabwe Media Commission Bill was still at the Second Reading Stage in Parliament while the proposed Broadcasting Services Amendment Bill and Protection of Personal Information Bill, were still to be gazetted.

Media sustainability

Regrettably, this is coming at a time when the future of the media in Zimbabwe is precariously hanging by the thread and on the verge of bankruptcy. This is in terms of the media's sustainability and viability due to the untenable socio-economic situation, which are hurting businesses in the wake of declining revenue streams and incomes.

This is ominous given the role the media plays in providing critical information to the public that assists in making informed decisions. This is even more critical at a time when the country has put in place measures to combat the COVID-19 pandemic.

Suffice to say, the nation would be plunged into darkness if the media collapses, dealing a severe blow to government's efforts in combating the COVID-19 pandemic and the country's socio-economic wellbeing and democratic aspirations.

It is with this view in mind that the Chairperson of MISA Zimbabwe, Golden Maunganidze, wrote to the Minister of Information, Publicity and Broadcasting Services, Senator Monica Mutsvangwa, pleading with government to seriously consider coming up with a Media Sustainability Bailout Rescue Package.

This can be in the form of tax/duty exemptions and moratoriums (over a realistically determined period), on newsprint and other mass media production and distribution equipment.

The government should also consider reducing the registration and licensing fees for media houses, as well as doing away with some of the punitive duplicitous levies and fees charged in terms of the country's regulatory framework.

These inhibitive fees are paid to the Zimbabwe Media Commission, Broadcasting Authority of Zimbabwe, Transmedia Corporation, Zimbabwe Music Rights Association and National Arts Council, over and above the taxes due to the Zimbabwe Revenue Authority.

A Revolving Fund, which is administered independently, can also be established in that regard.

Arrests, threats and harassment of journalists

Following the declaration of Zimbabwe's COVID-19 Regulations on 30 March 2020, the country witnessed an upsurge in the number of journalists that were harassed, intimidated, assaulted and detained by members of the police and the army while covering their lawful professional duties.

The fact that we recorded media violations involving 25 journalists and media workers (newspaper vendors), during these first six months is frightening.

Some of the notable cases involve the assault of freelance journalist, Terence Sipuma, who was reportedly assaulted by members of the army and the police at the Kuwadzana roundabout in Harare while on his way to Chegutu to report on the COVID-19 lockdown.

Munashe Chokodza and Leopold Munhende, journalists with 263Chat and NewZimbabwe.com, respectively, were assaulted with military whips by soldiers at Warren Park shopping centre in Harare while returning home from work.

When the journalists dropped off at the shopping centre, the army was apparently dispersing people from the shopping centre. They stopped the two and questioned them as to why they were not observing the lockdown regulations. Both Munhende and Chokodza produced their press cards and explained that they were coming from work, as they are part of the essential service workers.

The soldiers apparently remarked: "You journalists think you are special in this country", before ordering them to roll on the ground and assaulting them. They both sustained injuries in the process.

In all these cases, the perpetrators, as has been the case over the years, have never been brought to account.

It is with this in mind that MISA Zimbabwe, under the umbrella of the Media Alliance of Zimbabwe (MAZ), riding on the universal 2020 theme: *Journalism without Fear or Favour*, commemorated this year's event under the theme: *Free, independent & safe media key to access to information for all*.

Internet governance/freedom of expression/access to information

While the enactment of the Freedom of Information Act, gives the impression that the archaic AIPPA, has been repealed, there are still outstanding Bills, that deal with regulation of the media and citizens' right to privacy that are still outstanding, such as the proposed Broadcasting Services Amendment Bill and Protection of Personal Information Bill.

The other Bill is the Zimbabwe Media Commission Bill, which was at the Second Reading Stage in Parliament at the writing of this mid-term report. However, there are a myriad of other laws that are in violation of the Constitution, notably, Censorship and Entertainment Controls Act, Official Secrets Act, sections of the Criminal Law (Codification and Reform) Act, Interception of Communications Act, among others.

These laws which have a bearing on citizens' right to free expression and media freedom, continue to exist at a time when the government has since gazetted the Cybersecurity and Data Protection Bill. The Bill has been widely criticised, locally, regionally and internationally, for leaning heavily on mass surveillance of citizens as opposed to balancing cyber security with the enjoyment of fundamental rights.

If passed in its currently defective state, it is feared that the proposed law will pose the greatest threat to the enjoyment of fundamental rights such as free expression, access to information and citizens right to privacy as provided for in Zimbabwe's Bill of Rights.

Remarks by Zimbabwe National Army Commander Lieutenant-General Edzai Chimonyo in March this year while addressing senior military commissioned officers at the Zimbabwe Military Academy in Gweru, that the military would soon start snooping into private communications between citizens to "guard against subversion" as social media has become a threat to national security, are telling in that regard.

Among its contentious provisions is the proposed use of forensic tools such as the key stroke logger without being clear on how and under what circumstances the method would be applied as well as its failure to provide for judicial oversight or other accountability measures for monitoring and reviewing the potential abuse of the use of such intrusive technologies.

It also does not have specific safeguards for whistleblowers, which exposes individuals providing information in the public interest.

The Bill should also be split into two separate laws, to deal with cyber security and data protection respectively. This will make it easy to strike a strategic balance between security concerns and digital rights.

It is MISA Zimbabwe's well-considered view that the Bill in its current state, entrenches a securocratic approach towards internet governance as opposed to a pro-human rights approach in the regulation of the Internet as provided for by the revised African Charter on Human and Peoples' Rights' Declaration of Freedom of Expression and Access to Information.

In crafting this Bill, Zimbabwe should thus be guided by African regional and continental instruments that include the SADC Model Law on Computer Crime and Cybercrime, SADC Model Law on Data Protection, the African Convention on Cyber Security and Data Protection, and African Declaration on Internet Rights and Freedoms.

Meanwhile, if implemented, some of the provisions of the Freedom of Information Act, will go a long way in giving effect to Sections 61 and 62 of the Constitution which provide for freedom of expression, media freedom and access to information.

Of concern though, among other contentious issues, is the fact that the new law ignores overwhelming submissions by citizens during public hearings into the Freedom of Information Bill before its passage in Parliament, pertaining to the roles of the Zimbabwe Human Rights Commission (ZHRC) and Zimbabwe Media Commission (ZMC).

Overwhelming submissions were made on the need for appeals relating to denial of information requests to be lodged with the ZHRC, or a competent court of law, and not with the ZMC as its constitutional mandate is on media regulation.

More still needs to be done though as the country is still littered and polluted by a plethora of restrictive laws such as the Official Secrets Act, Censorship and Entertainment Controls Act, Interception of Communications Act and certain sections of the Criminal Law (Codification and Reform) Act, which have a bearing on the exercise and enjoyment of the right to freedom of expression, media freedom and access to information.

Broadcasting

Six months into 2020, the government's promise to licence six new television stations, was still to materialise, thereby perpetuating the Zimbabwe Broadcasting Corporation's monopoly and ownership of the country's sole television station, Zimbabwe Television (ZTV).

Minister of Information, Publicity and Broadcasting, Monica Mutsvangwa in 2019, in a question and answer session in the Senate then, said the television stations would be in place in the first three months of 2020.

While the country now has 'private' commercial radio stations, it was still to licence community radio stations during the first six months of this year, despite the government's commitment to further free the airwaves and increase access to information.

Commendably, in May this year, Great Zimbabwe University in Masvingo Province, became the first university in Zimbabwe to get a campus radio broadcasting licence.

However, the country's airwaves are still far from being liberalised notwithstanding the attendant exorbitant fees imposed in the context of the application procedures. For instance the proposed Broadcasting Services Amendment Bill, outlaws donations for the establishment of community radios.

In Zambia, next door, they do not outlaw donations towards establishment and sustenance of community media. In fact, they ensure that their Broadcasting Services Fund services the development of the community radio stations.

It also limits foreign direct investment to 20%. Given the capital-intensive nature of the industry, and the exorbitant licensing fees, the elites with their deep pockets, will most likely continue to dominate the sector.

Given the current economic environment, it will be very difficult to raise investment capital without stimulus support from the investment markets. It is, therefore, very likely that the very same voices dominating national and provincial radio stations, are going to diversify into the television broadcasting sector.

Conclusion

While MISA Zimbabwe welcomes the Ministry of Information's open door policy and engagements with media stakeholders in its quest to break with the past, the ultimate objective and outcome should be that of entrenching the pillars of democracy as pledged by President Emmerson Mnangangwa.

The government should thus live up to the letter and spirit of the Constitution through genuine and democratic media law and policy reforms in line with regional and international instruments it is state party to.

In addition, the government should ensure that its proposed cyber security regulations are informed by the Constitution, the revised principles of the ACHPR Declaration on Freedom of Expression and Access to Information and the African Declaration on Internet Rights and Freedoms, among other regional and continental instruments.

The government should unequivocally condemn media freedom violations and take all necessary steps to ensure the safety and security of journalists by bringing the culprits to book in defence of media freedom and ultimately citizens' right to free expression and access to information.

MEDIA VIOLATIONS STATISTICS – JANUARY – JUNE 2020

Assaulted / Charged		
Victim /Concerned Party	Issue	Date
Zimbabwe Broadcasting Corporation (ZBC) cameraperson, Providence Maranelli.	Maranelli was assaulted by an MDC-Alliance security details in Gwanda, Matabeleland South Province, moments after party leader Nelson Chamisa had addressed a meeting.	10 February 2020
Freelance journalist Panashe Makufa.	Makufa was assaulted by the police in the Harare suburb of Kuwadzana while undertaking his professional duties.	04 April 2020
Freelance journalist Terence Sipuma.	Sipuma was reportedly assaulted by members of the police and the army at the Kuwadzana roundabout in Harare while on his way to Chegutu to report on Zimbabwe's 21-day COVID-19 lockdown.	11 April 2020
Munashe Chokodza and Leopold Munhende 263Chat and NewZimbabwe.com journalists, respectively.	Chokodza and Munhende who were returning home from work, were assaulted with military whips by soldiers who were dispersing people at the Warren Park shopping centre in Harare, despite producing their journalism accreditation cards.	24 June 2020

Arrested		
Victim /Concerned Party	Issue	Date
Freelance journalist Kudzanai Musengi.	Musengi was arrested in the central business district of Gweru in the Midlands province and accused of practicing without valid accreditation.	30 March 2020
Tatenda Julius, student journalist on attachment with Pungwe News (New Ziana).	In the afternoon Police Arrested a student journalist in the city's residential suburb for taking pictures. He was accused of practicing without a press card.	30 March 2020
Newspaper vendors : Three female and one male.	Police in Masvingo dispersed several newspaper vendors in the southern border town of Masvingo and arrested four of them for violating the COVID-19 regulations.	31 March 2020
Nunurai Jena, journalist with Newsday.	Jena was arrested in the Mashonaland West provincial capital of Chinhoyi while taking pictures of a police checkpoint and charged with disorderly conduct.	2 April 2020
Beatific Ngumbwanda, journalist with TellZim weekly newspaper.	Ngumbwanda was arrested by the police in Chiredzi who accused him of violating the COVID-19 lockdown regulations as stipulated in terms of Statutory Instrument (SI) 82 of 2020.	8 April 2020

NewsDay journalist Rex Mphisa, and Zimpapers sales representative, Charles Marerwa	Mphisa and Marerwa were arrested in Dulivhadzimu, in Zimbabwe's southern border town of Beitbridge and charged with contravening COVID-19 regulations.	15 May 2020
Journalists Frank Chikowore and Samuel Takawira	Chikowore and Takawira were arrested at Parktown Clinic in Harare's Waterfalls suburb on 22 May 2020, where three female opposition MDC Alliance officials, that include Member of Parliament for Harare West Joanna Mamombe, were being treated following their alleged abduction and torture after staging a demonstration in Warren Park, Harare.	22 May 2020
Freelance journalist Godfrey Mtimba	Mtimba who is based in Zimbabwe's southern town of Masvingo was charged with undermining the authority of or insulting the President in terms of Section 33 (2) (a) of the Criminal Law (Codification and Reform) Act.	29 June 2020

Banned/Censored/Barred		
Victim /Concerned Party	Issue	Date
Alois Vinga, journalist with New Zimbabwe.com.	Vinga was forced to vacate the central business district in Harare by police officers despite journalists being declared an essential service in terms of the COVID-19 lockdown measures.	10 April 2020
Freelance photojournalist James Jemwa.	Jemwa was forced by two soldiers to delete footage he had taken after interviewing some residents in Harare's suburb of Mufakose. The soldiers also reportedly threatened to beat him up if he continued with his interviews and filming.	13 April 2020

Harassed		
Victim /Concerned Party	Issue	Date

Robert Tapfumaneyi, journalist with Zimbabwe-based <i>Sly Media Productions</i> .	Tapfumaneyi was harassed by opposition MDC-Alliance security details while covering the opposition party's meeting in Harare's high-density suburb of Mbare.	21 January 2020
Freelance journalist Nyasha Majoni	Police in the Midlands town of Kwekwe, who accused him of sending pictures, reportedly manhandled Majoni and video clips of police arresting illegal moneychangers.	27 January 2020
Simbarashe Sithole, journalist with NewsDay.	Sithole was reportedly arraigned before ruling Zanu PF politicians by the party's provincial chairperson at a meeting in Mvurwi, Mashonaland Central province, to explain a story about an alleged rift between MPs and war veterans in the province.	6 March 2020
Mary Taruvinga, journalist with <i>NewZimbabwe.com</i> ,	Members of the army and police officers, while on her way to work in Harare's central business district harassed Taruvinga.	10 April 2020

Threatened		
Victim /Concerned Party	Issue	Date
Journalist Hopewell Chin'ono.	Chin'ono said he feared for his life following a ruling Zanu PF press conference, during which he was named as attacking the integrity of the First Family by exposing its alleged corruption.	4 June 2020

End