STATE OF THE MEDIA REPORT 2016

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Introduction

In our 2015 State of the Media report we made reference to President Robert Mugabe’s closing remarks at the end of Zanu PF’s December 2015 conference as poignant to government’s commitment or lack thereof to undertake envisaged socio-economic and political reforms.

President Mugabe said then, he would not give in to the West’s demands for reforms as a pre-requisite for the removal of sanctions. More than three years after the adoption of the 2013 Constitution which ushered a universally acceptable Bill of Rights, the Zanu PF leader is apparently sticking to his guns considering that there have not been any meaningful shifts in the country’s legislation or policies to make these constitutional gains a reality.

Laws such as the discredited Access to Information and Protection of Privacy Act (AIPPA), used to license and regulate the media; the Official Secrets Act (OSA) to broadly embargo information held by public bodies and the Broadcasting Services Act (BSA), to hinder free establishment of radio stations, remained entrenched in the country’s statutes. The Censorship and Entertainment Controls Act (CECA), also continues to be used to censor free artistic expression; as well as sections of the Criminal Law (Codification and Reform) Act, to criminalise media work and citizens’ right to free expression.

The Public Order and Security Act was in 2016 used to arbitrarily ban or disrupt protests and demonstrations despite citizens’ right to freedom of assembly and association, demonstrate and petition, including the right to freedom of conscience, as provided for by Sections 58, 59 and 60 of the Constitution.

Several journalists, civic and political activists were either assaulted or arrested by the police during the 2016 nationwide demonstrations in blatant violation of constitutionally protected media rights and citizens’ enjoyment of freedom of expression and access to information.

In fact, the government appeared determined in its zeal to close the democratic space more-so in the context of free expression online (through social media platforms), as it forged ahead with its plans to introduce its cyber crimes legislation over and above the existence of the Interception of Communications Act.

Political context and key events
The year under review can easily be described as a write-off as the succession infighting within the ruling Zanu PF compounded by policy inconsistencies took centre stage at the expense of the envisaged reforms to entrench constitutional democracy.

The economy continued to decline denting Zanu PF’s pre-2013 election promises to create two million jobs in terms of its economic blueprint, ZIMASSET. Unemployment continued to hover at more than 95 percent with more than 260 companies, according to the Zimbabwe Congress of Trade Unions, reportedly closing in 2016 due to serious viability challenges exacerbated by the liquidity crisis.

Agricultural production continued to decline due to poor rains and the chaotic land reform programme with close to five million people requiring relief aid in a country with close to 14 million people. Due to the liquidity crisis, civil servants and some workers in the private sector continued to receive their salaries late.

The dire situation forced the government to revise downward its economic growth projection from 2.7 percent to 1.4 percent in 2016 as the international community insisted on fundamental reforms before unlocking much needed foreign direct investments and capital injections. The static state of affairs was summed up by the presentation of a standstill 2017 $4 billion budget by Finance Minister Patrick Chinamasa, almost the same with other African cities such as Johannesburg for example. This has been the annual budget for three consecutive years.

In fact, the Minister further revised the 1.4 percent 2016 growth projection to 0.6 percent and 0.4 percent in the 2017 outlook period. Chinamasa did not mention how government proposed to deal with its huge salary bill which devours 91 percent of revenue, other than saying this should not be repeated in 2017.

This situation should be viewed against 2016 growth projections of 8.6 percent, 7.2 percent, 6.5 percent, 5.5 percent and 5 percent for DRC, Tanzania, Mozambique, Namibia and Malawi respectively. Lesotho and Mauritius were expected to grow GDP by 2.8 percent and 3.7 percent, respectively.

Banks were forced to reduce withdrawal limits to as low as $20 dollars a day forcing people to sleep in pavements outside banks in the wake of the long queues for the increasingly scarce United States dollar. This sparked nationwide strikes in July 2016 and thereafter, in protest against the worsening economic hardship.
In the wake of the worsening cash shortages, the government introduced bond notes pegged at one-to-one with the United States dollar. This triggered jitters in the market and memories of the 2007 hyper-inflationary era.

Meanwhile, in a brazen violation of citizens’ right to freely express themselves and access information through communication platforms of their choice as guaranteed in the constitution, the WhatsApp platform was disabled on the morning of the nationwide strikes on 6 July 2016. The platform had become the main communication tool Zimbabweans were using to mobilise and share information on the protests.

Earlier, the state-run Chronicle newspaper in its edition of the same day had reported Information Communication Technology, Postal and Courier Services Minister, Supa Mandiwanzira, warning citizens against sending subversive messages on social media.

Mandiwanzira warned that government can track origins of messages on Over the Top services and that ‘those found on the wrong side of the law would be brought to book”. Similar threats had been issued by President Mugabe and Mandiwanzira a few weeks earlier against the use of social media to communicate what government deems unpalatable.

The police’s heavy-handedness in dealing with the demonstrators compounded by pronouncements on the demonstrations by President Mugabe, point to a government that is determined to scuttle citizens’ constitutionally guaranteed rights more-so with scant regard for the principle of separation of powers.

Following a High Court challenge mounted by the National Electoral Reform Agenda (NERA), against the police’s arbitrary ban on demonstrations in Harare by opposition parties and civic groups, President Mugabe attacked the country’s judges.

“Our courts and judges should understand it even better. They dare not be negligent in their decisions as requests are made by people who would want to demonstrate.

“Surely, they can take note of the fact that the mission (of the demonstrations) is clear and deliberate towards causing violence,” said President Mugabe. His remarks coming ahead of a ruling by High Court judge Justice Priscilla Chigumba were widely condemned as timed to intimidate the judiciary.

Justice Priscilla Chigumba subsequently ruled that Statutory Instrument 101 which the police had on 1 September 2016 used to ban the demonstrations was unconstitutional.
Meanwhile, corruption, mismanagement and abuse of public funds and the nation’s resources continued unabated as captured in the Auditor-General’s reports with President Mugabe himself revealing that $15 billion dollars in diamond revenue could not be accounted for.

In his State of the Nation Address on 6 December 2016, the president painted what can only be described as a discordant picture of an economy that is on the recovery path. The irony of that could not have been missed as the president went on to commend Zimbabweans for enduring the economic hardships since the land reforms in 2000.

Beyond mentioning the need to escalate policy reforms, the nation expected a progress update on the very same reforms as envisaged not only in terms of turning around the economy, but entrenching constitutional democracy. Instead, the Ministry of Justice, revealed its plans to amend Section 180 of the Constitution to expunge the public selection process of judges by the Judicial Services Commission to allow the president to appoint the Chief Justice, Deputy Chief Justice and Judge President of the High Court.

This is barely three years after the coming into being of the 2013 Constitution and without an iota of respect for the democratic will of the three million voters who approved the new supreme law. Political commentators and analysts have condemned this blatant determination to subvert constitutional democracy and the will of the majority as arising from the intractable Zanu PF factional fights to secure strategic positions in the battle to succeed President Mugabe.

The fact that the president himself skirted issues pertaining to the deteriorating socio-economic and political environment and measures being taken to resuscitate the economy underpinned by the envisaged reforms, is illustrative of a government keen on maintaining the status quo for political expediency.

**media environment**

Zimbabwe’s 2013 Constitution imposes on the State, among other obligations, to ensure practical measures are taken to protect and promote fundamental rights and freedoms enshrined in the Bill of Rights for their realisation and fulfillment.

While the Bill of Rights has widely been acclaimed as meeting international benchmarks on fundamental human rights, events on the ground speak to a government that is not too keen on respecting citizens’ enjoyment of their constitutionally protected freedoms.
This is evidenced by the clampdowns witnessed in 2016 against journalists and citizens exercising their right to media freedom, freedom of expression, free artistic expression and freedom to demonstrate and petition.

Further evidence of this untenable situation is drawn from the fact that more than three years after the coming into being of the 2013 Constitution, the country is still to align a raft of laws that infringe on media freedom, freedom of expression and the right to access to information. For instance, the media stakeholders retreat that had been scheduled for January 2016 as promised by the Ministry of Media, Information and Broadcasting Services for purposes of debating and framing a new media policy did not take off.

The retreat would have been held in the context of the findings and recommendations of the government-sanctioned Information and Media Panel of Inquiry (IMPI) report which was released on 18 March 2015.

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

The report notes that:

“The orientation of laws affecting the information sector has been one of control, and not one of viewing this sector anew as a growth pole in the national economy. Legally, the information revolution has thrown up new issues to do with growth promotion, regulation, standards and protection of society from negative, harmful material.

“The main recommendation is the need for review of existing media laws in line with the Constitution, including media regulation and removal of all penal measures and criminalisation.”

While repeated commitments to media law reforms by the Ministry of Media, Information and Broadcasting Services, are commendable, this cannot continue to be the case given that three years have since lapsed following adoption of the 2013 Constitution.

The government thus continued to mix its commitment to reforming the media with threats to introduce harsh measures to deal with the independent media. The government’s threats against media freedom also
has a chilling effect on citizens right to free expression and access to information online as evidenced by its plans to enact laws that will hinder online activity under the guise of preventing cyber crimes.

This flies in the face of tenets of constitutional democracy, enjoyment and enforcement of fundamental human rights as enshrined in Zimbabwe’s Bill of Rights.

Government should demonstrate its commitment by coming up with exact timelines as to when it will implement the envisaged media reforms in line with the recommendations and findings of its own-sanctioned Information and Media Panel of Inquiry.

Further, government should spearhead public awareness campaigns on the Constitution by translating it into all the 16 official languages as stated in terms of Section 7 of the supreme law to enable citizens to assert their fundamental rights and freedoms.

This it should prioritise more-so within government institutions themselves to curb the unlawful arrests and harassment of journalists conducting their lawful and constitutionally guaranteed professional responsibilities.

**Arrests, threats and harassment of journalists**

During the period under review, there was an upsurge in cases pertaining to media violations. A total of 23 journalists (refer to 2016 Media Violations Statics Table), were unlawfully arrested or detained in 2016 compared to 10 cases recorded in 2015.

A total of 12 were assaulted by the police and supporters of Zanu PF while conducting their lawful professional duties of covering events such as the afore-mentioned protests and demonstrations, as they unfolded. In 2015, MISA-Zimbabwe recorded seven (7) assault cases. In other words, the year under review saw a shocking 130% and 71% increase in the number of journalists arrested and assaulted, respectively, while on duty.

These wanton acts of lawlessness and impunity on the part of the police, undoubtedly posed serious threats to the safety and security of journalists in Zimbabwe. Freelance photojournalist Crispen Ndlovu was on 1 September 2016 admitted at a private hospital in Bulawayo after he was reportedly assaulted and arrested by members of the riot police on 31 August 2016.
According to media reports, Ndlovu was arrested while taking pictures of the police as they allegedly assaulted Alfred Dzirutwe, spokesperson of the Bulawayo Youths Arise during protests against President Mugabe’s leadership and rising unemployment.

At the same time, photojournalist James Jemwa, clocked almost a week in custody at Chikurubi Maximum Prison in Harare following his arrest on 26 August 2016 while covering demonstrations in Harare.

In June, five journalists Garikai Chaunza, Edgar Gweshe, Chris Mahove, James Jemwa and Khumbulani Zamchiya, were arrested and detained for six hours at Harare Central Police Station. They were later released without charges. They were arrested while covering a demonstration against Vice President Phelekezela Mphoko’s stay at the Rainbow Towers.

On 6 July 2016, Alpha Media Holdings journalists Elias Mambo, Tafadzwa Ufumeli, Richard Chidza and freelance journalist Godwin Mangudya, were briefly detained at Marimba Police Station while covering protests in Mufakose.

Journalists Lawrence Chimunhu, Haru Mutasa, Tsvangirai Mukwazhi, Christopher Mahove, Tendai Musiya, Bridget Mananavire and Imelda Mhetu on 3 August 2016 were also assaulted by members of the riot police.

petition against police harassment of journalists

Shocked by the escalation in the number of cases involving the unlawful assaults and arrests of journalists by the police, MISA-Zimbabwe led a delegation of journalists, representatives of the Zimbabwe Union of Journalists and Media Alliance of Zimbabwe and met with police chiefs in Harare on 16 September 2016.

The MISA-Zimbabwe delegation headed by the organisation's Trustees Chairperson, Cris Chinaka, handed over a petition expressing media practitioners' displeasure over their treatment by the police to Commissioner-General Chihuri’s delegated representative, Senior Assistant Commissioner Charity Charamba. The petition was signed by more than 150 journalists drawn from both the state and private media as well as freelancers.

While acknowledging the journalists’ concerns and expressing the police’s commitment to ensuring the safety of journalists, Charamba also expressed the police’s misgivings on some journalists’ unprofessional conduct in covering events, especially those that involved the police.
The meeting came up with and pledged to implement its resolutions on how to bridge the gap and eliminate suspicion between the police and journalists.

(Refer to 2016 Media Violations Statistics table for details).

Access to information/freedom of expression

Public institutions in Zimbabwe largely remain closed and averse to placing information in the public domain, according to the findings of the September 2017 MISA Transparency Assessment Survey on open and secretive public institutions in Southern Africa.

While the Tobacco Industry Marketing Board was the most open among the institutions surveyed, most of the public institutions still have a long way in achieving a modicum of transparency and opening themselves to public scrutiny. For instance the worst institution was the Ministry of Primary Education followed by the Zimbabwe Republic Police. The ministry did not respond to written electronic or printed requests for information.

Generally, public institutions’ websites are poorly managed as content is not regularly updated while some of them lack critical information on procedures on how to obtain information. In fact, this points to the deficiencies in AIPPA and its limiting effect on citizen participation in governance issues.

AIPPA’s misnomer is traceable to its limited promotion of the right to information and claw back clauses on the very same right it seeks to promote, hence the incessant calls for its repeal. These pleas have largely been ignored despite the progressive constitutional provisions that render some of the law’s provisions unconstitutional.

This comes at a time when the Computer and Cybercrimes Bill is at an advanced consultative stage. Of concern in the Bill, are some of its widely couched provisions which pose a serious threat to access and dissemination of information.

This development is likely to further curtail access to information as evidenced by the increase in the arbitrary arrests, detention and assault of journalists and citizens exercising their right to media freedom, freedom of expression, association, free artistic expression and freedom to demonstrate and petition. It is feared that the government is determined to curb free expression online following the 2016 nationwide
protests against President Mugabe’ leadership, unemployment and corruption, among other issues. Social media platforms such as WhatsApp, are seen as having played a critical role in mobilising members of the public to participate in the protests and marches as well as keeping them abreast with developments thereof. The arrest of playwright Sylvanos Mudzvova at the Parliament of Zimbabwe on 13 April 2016, is evidence of a government that is reluctant to uphold and protect citizens’ constitutionally guaranteed rights.

Mudzvova had planned to stage a one-man play titled: Bring Back the $15 billion, and had invited parliamentarians to come and watch his play. He scripted the play following President Mugabe’s revelations that $15 billion in diamonds revenue had gone missing from mining activities in the Marange district of Manicaland Province.

War veterans leaders Douglas Mahiya and Victor Matemadanda, were arrested in July 2016 on charges of insulting the Office of the President. They were arrested after allegedly issuing an unsigned communiqué accusing the president of running down the country, making genocidal remarks and dictatorial statements.

On June 10 2016, police questioned Evangelical Fellowship of Zimbabwe leader Shingi Munyeza following his comments on social media on the proposed introduction of bond notes by the Reserve Bank of Zimbabwe.

➤ Print media

The worsening economic environment continues to pose serious viability and sustainability challenges to newspaper companies in Zimbabwe with both the private and public media being forced to lay off workers including journalists. This has seen some of the publishing houses converging their newsrooms whereby individual journalists have to come up with diaries for the respective stables’ various publications including the online versions to cut on costs.

While it is difficult to get the exact circulation figures, it is generally agreed that most of the mainstream national publications are not printing beyond 50 000 copies daily due to dwindling advertising and sales revenues. The situation is even worse for the weekly provincial publications, both public and privately owned, with most of them printing no more than 1 000 copies weekly.
Dumisani Muleya, editor of the weekly *Zimbabwe Independent*, captures the dire print media situation when he alludes to what he terms the “current media upheavals”. In a commemorative article to mark the 20th anniversary of his publication, Muleya attributed the upheavals to the harsh operating environment and the revolution in technology (digital age and advent of the internet), as having a bearing on journalism and its ethics.

“Due to technological advances and innovation in the digital space, media organisations are now struggling as audiences migrate online, while advertisers lag behind – creating a disequilibrium which brings instability in relation to the supply, demand and prices of media products,” says Muleya. The convergence of media and entertainment on cyberspace … and the world of telecoms has triggered far reaching disruptions and accelerated changes in consumer and advertising distribution patterns.

Inadvertently, readership reach and access to information is compromised as newspapers reduce printing, sales and circulation costs. Media and civil society panellists who met in Nyanga in November 2015 for the sitting of the Africa Media Barometer (Zimbabwe session), lamented the restriction of news coverage to major urban areas such as Harare, Bulawayo and Mutare. As a result, not all voices are fairly represented with the elite enjoying greater representation while ordinary citizens are covered mostly in terms of crime stories.

While the media battles for solutions to the unfolding technological advances in an unfavourable economic environment, the highly politicised environment, more-so in the context of the Zanu PF succession fights, posed serious challenges to media editorial independence, journalism ethics and professionalism. The Zanu PF succession story dominated the headlines in most of the mainstream media. This is not to say the media should not report on the goings-on in Zanu PF. Reportage should be factual and non-partisan, as opposed to the trashing of ethics of the profession as witnessed during the course of 2016.

During professional peer review and newspaper content review meetings convened by MISA-Zimbabwe, editors and journalists generally acknowledged the need to improve the quality of stories as some of them lacked the basic news values and elements and that headlines tended to be sensational and misleading.
The generally held view is that editorial independence is being compromised by state interference at public owned media in breach of Section 61 of the Constitution which stipulates that all state-owned media of communication should be free to determine independently the editorial content of their broadcasts or other communications. Corruption was highlighted as one of the issues compromising the quality of stories and inherently media professionalism and ethics amid allegations some editors were in the pockets of politicians and certain businesspersons.

Thus, politicisation of the media landscape compounded by the state’s stranglehold on the public media poses a serious challenge to media professionalism and stands in the way of depolarising the media in Zimbabwe. Some journalists said they were not too keen on investigative stories as they suspected colleagues of being the moles of powerful politicians, senior government officials and businesspersons.

This situation somehow resulted in threadbare stories, biased and partisan reportage. This was a serious handicap especially for journalists working for the public media in the wake of the intense factional politics within the governing Zanu PF.

It is trite to note, however, that despite the gloomy socio-economic political and restrictive media legislative environment, the media, both private and public, still managed to report on corruption, mismanagement and abuse of public funds in government institutions and parastatals. In fact, the media (private media in particular), demonstrated greater resolve to defend its democratic space as provided for in the constitution. Evidence of this resolve was in the upsurge of stories, interviews, editorials and opinion pieces pertaining to media freedom and citizens’ right to free speech and access to information, thus keeping the need for media legislative reforms on the agenda.

Further evidence of this determination was demonstrated when Daily News journalist Mugove Tafirenyika was assaulted by Zanu PF supporters at the party’s headquarters in Harare on 27 July 2016. Colleagues from both the private and public media threatened a walk-out from the event resulting in the intervention and rescue of Tafirenyika by Media, Information and Broadcasting Services Permanent Secretary George Charamba.

And as mentioned earlier in this report, journalists from both the private and public media including freelance journalists, signed the petition that was presented to senior police officers at Police General Headquarters against the unlawful arrests and assault of journalists by members of the police.
Broadcasting/Telecommunications/ICTs

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

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

The Zimbabwean government has conceded that AIPPA and the BSA should be replaced as they are not in sync with the new constitutional dispensation.

Appearing before the Parliamentary Portfolio Committee on Media, Information and Broadcasting Services in Harare on 18 February 2016, George Charamba, conceded as much when he said AIPPA and BSA should be replaced as they were not in sync with the new constitutional dispensation, macro technological changes and changing societal tastes.

“…we have a new Constitution which we embraced in 2013. It’s the new rules book to which everything else must cohere to,” he said. “Developments in the broadcasting sector have made the laws inadequate or inappropriate or simply odd, that’s compelling reason enough to make a second look at those pieces of legislation.

The appointment of an independent ZBC board answerable to Parliament is thus long overdue given the new constitutional dispensation as it will go a long way in securing the editorial and programming independence of ZBC through a binding Editorial Charter to foster accountability on its envisaged public service mandate.

This is also buttressed in the findings and recommendations of the government-sanctioned Information and Media Panel of Inquiry (IMPI) and also underscored as critical in terms of the SADC Principles and Guidelines on the Conduct of Democratic Elections.

In addition, Section 61 (4) of the Constitution on freedom of expression and freedom of the press, clearly states: All state-owned media of communication must:

- be free to determine independently the editorial content of their broadcasts or other communication
• be impartial
• afford fair opportunity for the presentation of divergent views and dissenting opinions

Over the years, the monitoring of the public broadcaster by media lobby groups has indicated its lack of editorial independence. Furthermore, ZBC lacks credibility as evidenced by the preference of a majority of Zimbabweans who watch foreign television broadcasts via satellite and/or rely on social media or alternative broadcasts for news and current affairs.

ZBC continues to report in a biased manner or totally blacks out critical national developments in the country as seen recently in its reporting of the nationwide stay away on 6 June 2016 and the communiqué issued by the war veterans.

To proceed to the 2018 elections without transforming ZBC, would be a travesty of the country’s constitutional obligations, the SADC Principles and Guidelines and the very pertinent observations by the Supreme Court.

Otherwise, the broadcasting sector largely remained constricted despite the licensing of eight provincial urban-based commercial radio stations by the Broadcasting Authority of Zimbabwe (BAZ) in March 2015. This was in addition to the licensing of the first ever national commercial stations, Star FM and ZiFM Stereo.

The licenses were issued to five successful companies notably AB Communications, billed to broadcast as Gogogo FM in Masvingo and Faya FM in Gweru, Kingstons, as Nyaminyami FM in Kariba and KE100.4 in Harare. Fairtalk Communications, as Skyz Metro FM in Bulawayo and Breeze FM in Victoria Falls. Zimpapers’s Diamond FM in Mutare and Kingstons’ Capitalk, now being run by Zimpapers, and Ray of Hope, as YA FM in Zvishavane.

However, it should be noted that the licensing of the commercial radio station (national and provincial), was mired in controversy as they were deemed to be owned by those linked to the governing party, betraying the authorities’ drive to dominate and monopolise the broadcast media space under the guise of private ownership.

This widely held view was given credence by the Minister of Information Christopher Mushowe himself, when he said the government had no intention of calling for additional license applications for private radios following the failure by six of the eight licensed provincial commercial radio stations to go on air as of July
2016. At that time, only two months remained before the lapse of the 18 months timeframe within which they were required to broadcast after being licensed.

Appearing before the Parliamentary Portfolio Committee on Media, Information and Broadcasting Services on 21 July 2016, Mushowe said while government wanted to see as many players as possible competing in the broadcasting sector, the market was depressed. He said only one radio station among the newly licensed ones is making profit.

This situation, he noted, is set to worsen with the rise of social media and the entry of new television broadcasters on completion of the digital migration process. He said the scenario may necessitate the taking of a deliberate policy decision not to license more players to sustain those that are already in the market.

While MISA-Zimbabwe acknowledges the current economic challenges bedeviling the country, this should not be used as an excuse to stall democratisation of the media sector. Government should allow those that have resources and the capacity to establish and run broadcasting stations to do so. Failure by those that were licensed to go on air does not necessarily point to the harsh economic conditions, but a flawed licensing regime and processes which are vulnerable to political manipulation.

The controversy that surrounded the licensing of all the private radio stations, which are either run by government-controlled entities or proxies of the ruling elite, underscores this view. It is only through democratic, open, fair and independent licensing frameworks and processes that most of the challenges facing the broadcasting can be addressed.

**community radio stations**

Despite the critical role played by community radio stations in filling the information gap in marginalised communities and socio-economic development, the government is still (as of December 2016), to license a single station, 15 odd years after enactment of the BSA, which provides for community radios.

Even if the licenses were to be issued, there is doubt that the process will be insulated from government manipulation and control to ensure only those communities deemed to be supportive of the ruling elite get the licenses. These doubts are predicated on repeated government pronouncements, betraying their partisan and narrow perspective on what constitutes a community radio and how they should be regulated, structured and operated.
Mushowe is on record saying no community radio stations would be licensed until completion of the digital migration process. Once completed, Mushowe revealed, priority in the licensing of community radio stations would be given to rural communities.

Lack of clarity and transparency on allocated community radio frequencies is another cause for concern. This is particularly so given the ministry’s attempts to narrowly define a community radio using geographic location and structural configurations that include traditional leadership.

digitisation

 Appearing before the Parliamentary Portfolio Committee on Media, Information and Broadcasting Services in July 2016, Chinamasa highlighted the challenges facing completion of digitisation. He said completion of Zimbabwe’s migration from analogue to digital was at that time indefinite as the Finance Ministry embarked on discussions and consultations on resale of the digital dividend spectrum.

He said his ministry had made available a bridging fund of US$ 30.5 million to the country’s digital migration following the ‘collapse’ of a US$200 million agreement on the sale of the digital dividend spectrum to mobile network operator, Net-One. He noted that the bridge fund, which was not in the annual budget was necessitated by the fact that a contract had been signed by the contractor, Huwaei.

“Clearly given my current fiscal challenges, I am not in a position to give any indication as to when we can find more resources to deploy to this project. Already, we have outstanding payments to the contractor of US$19 million,” he said.

Chinamasa noted that the sale of the spectrum was the only alternative available for continuation of the project.

Later in September, during his presentation of the mid-term fiscal policy, the minister said funds would be ‘borrowed’ from and reimbursed to the Universal Services Fund. Mobile Network Operators contribute a 1.5% levied tax of their total annual income to the fund, which is aimed at increasing access to their services.

This came after the country missed the 17 June 2015 International Telecommunications Union’s deadline for migration from analogue to digital broadcasting. Thereafter, Zimbabwe said it would, however, be on course to meet the Southern Africa Development Community (SADC) June 2016 deadline.
Government should ensure that all aspects of digital migration are conducted transparently and those driving the process are accountable to the public. It is shocking to hear that lack of funds is hampering completion of digitisation when the impression all along was that $200 million had been secured and set aside for the programme.

The government owes the nation an explanation as to what exactly happened to the $200 million agreement. Zimbabweans deserve to know in the spirit of transparency and accountability. There is need for a wider and much more structured public awareness campaign that uses people-centric platforms to ensure that citizens know what exactly will be at stake including the benefits of digital migration.

Mobile penetration/telecommunications

In 2016, the country recorded significant growth in mobile subscriptions and internet penetration. This development not only had a bearing on the telecommunications sector, but also, significantly impacted on the broadcasting sector.

According to the Postal and Telecommunications Regulatory Authority of Zimbabwe (POTRAZ), mobile subscribers stand at more than 18.9 million, while the internet penetration rate stands at 49.8%. Mobile internet makes up about 95.6% of total internet accessed in the country with over the top (OTT) services making up the bulk of this use.

There was an increase in citizens producing and sharing audio and visual productions broadcast online via over the top (OTT) services, Whatsapp and Facebook. These platforms were more accessible to the citizenry owing to ‘special’ subsidised data costs charged by the Mobile Network Operators. These developments assisted in providing citizens with alternative sources and platforms for accessing information which is often not reported or covered by the state-controlled ZBC, in a country that is still to license community radio stations and privately owned television stations.

cyber crime laws vis-a-vis free expression online

These somehow positive developments as evidenced by the increased utilisation and access to social media platforms by citizens sharing information on the declining socio-economic and political situation, put the Zimbabwean government on edge more so in the context of the incessant protests that rocked the country in 2016.
During the course of the year, warnings were issued, among others, by POTRAZ, the Commander of the Zimbabwe Defence Forces General Constantino Chiwenga, Police Commissioner General Augustine Chihuri and Army Commander Lieutenant General Valerio Sibanda, against citizens ‘abusing’ social media to share information and organise protests.

The state media, notably *The Herald*, *The Sunday Mail* and ZBC unquestioningly reported on the warnings issued by government and senior security officials against the risk of cyber terrorism and terrorists. The state media went to the extent of naming and exposing some of the alleged ‘cyber terrorists’.

These reports gave the impression that the production of subversive, inflammatory and inciting messages shared via social media is cyber terrorism. This definition is misleading and clearly meant to criminalise expression online. In fact, what the state media referred to was expression of critical views that reflected badly on government.

The deliberate distortion of what is meant by cyber terrorism is aimed at instilling fear and self-censorship among citizens when exercising their rights to free expression, access to information and freedom of conscience.

In its unadulterated definition, cyber terrorism refers to crimes that are committed through the facilitation of a computer or online by sending computer viruses with the intention to destroy, damage disrupt or harm vital computer systems, critical infrastructure and innocent civilians.

For instance, expressing one’s intentions to shoot or cause a war through a computer is simply terrorism and not cyber terrorism. That disjunction and contradistinction should be made very clear at law. This is of imperative importance particularly now when the government through its proposed Computer and Cyber Crime law is widely perceived as keen on curbing freedom of expression and access to information online.

Following her visit to Zimbabwe in May 2016, in her capacity as the African Commission on Human and Peoples Rights, Advocate Pansy Tlakula, said she had discussed these issues extensively with the relevant parliamentary portfolio committees to safeguard citizens’ right to free expression and access to information.

“I also suggested that the Data Protection Bill which is currently being developed by government, should be adopted simultaneously with the adoption of an Access to Information law to ensure coherence and avoid conflict on the two closely related rights of access to information and the right to privacy.”
Commissioner Tlakula said she discussed “extensively” the role of POTRAZ in ensuring the enjoyment of the right to access to information through various forms of technology in the wake of the proposed Data Protection, Cyber Security and Electronic Transaction bills.

**Way forward in 2017**

- Zimbabweans should not relent in demanding the entrenchment of constitutional democracy as provided for in the Constitution more so as it pertains to the exercise of their right to freedom of expression, access to information and privacy of communication.
- Government should urgently implement law reforms to entrench constitutional democracy and retain foreign direct investment critical to halting the worsening economic crisis that has negatively affected media operations.
- Government must give due consideration to recommendations of the IMPI report, as enunciated by civil society at the April 2016 Media Law Reform Indaba, in undertaking the envisaged media law and policy reforms.
- Authorities should refrain from threatening the media as that has potential to trigger extra-legal violation of media freedom by political activists and other non-state actors.
- Government should formulate the cyber security framework in sync with national and regional principles that protect privacy of communication, private property and the right of all citizens to freedom of expression, media freedom and access to information.
- Government should initiate a much more structured digitisation public awareness campaign that uses people-centric platforms to ensure citizens know what exactly will be at stake including the benefits of digital migration.
- Authorities must ensure citizen participation in the transparent and democratic appointment process for the ZBC board, while securing and guaranteeing its independence and accountability in carrying out its public service mandate.
- Government should ensure a safe working environment for the media and provide leadership within and outside government in raising awareness on the need to ensure the safety of journalists and media workers.
- Government should address the sustainability challenges within the media industry by reviewing the multiple tax regimes to facilitate the viability of the media industry.
Conclusion

Zimbabwe's socio-economic and political reforms are long overdue and should not continue to be sacrificed at the altar of political shenanigans to retain or assume power for its sake at the expense of the wellbeing of the nation.

End

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