



**SUBMISSION TO
NATIONAL ASSEMBLY OF ZAMBIA:
PARLIAMENTARY COMMITTEE ON MEDIA,
INFORMATION AND COMMUNICATION TECHNOLOGIES**

REVIEW OF THE MEDIA SPACE IN ZAMBIA

08 February 2022

ABOUT BLOGGERS OF ZAMBIA

Bloggers of Zambia is an independent organisation and our work is based on five themes;

- Internet Governance (Digital Rights, Internet law & policy etc)
- Media Rights and Freedoms
- Online Creative Content and Platform Management

Our organization does this work through advocacy and lobbying, campaigning, research and capacity building programmes.

Projects: German Embassy, GIZ, National Endowment for Democracy, DRL US Department of State, Counterpart International, Open Society Initiative, Swedish Institute- Creative Force and **Internews- Open Spaces Zambia**

Background

- ✓ The media is the engine of democracy
- ✓ The media plays a crucial role in strengthening democracy
- ✓ The media facilitates for citizen's access to information, participation and inclusion in governance through information and education
- ✓ A free and unfettered press is a prerequisite to a functional society, democracy and the attainment of critical human rights such as digital rights, freedom of expression and access to information
- ✓ Therefore, it is imperative that the media rights of journalists are guaranteed, respected and protected

Media Law & Policy Landscape

- The Contemporary media landscape is characterized by TV, radio, print and the internet- the most preferred, journalists and citizens alike find the Internet space more open and free to access information, speak freely and share information without fear, censorship and because of the power of self-publishing.
- The **Zambian Constitution 2016** under **Article 20** guarantees access to information and freedom of expression
- Regionally and internationally, Freedom of Expression and media rights are guaranteed under the **UN International Covenant on Civil and Political Rights, African Charter on Human and People's Rights, Windhoek Declaration, African Platform on Access to Information and the Declaration of Principles on Freedom of Expression.**

Adequacy of legal and policy framework governing operations of the media in Zambia

Bloggers of Zambia is of the view that the current policy and legal framework governing the media space in Zambia is not necessarily adequate and contributes to weakening the media environment and in turn impact on democracy negatively.

Applicable legal and policy frameworks:

- **Constitution-** While the Constitution guarantees freedom of expression and access to information, Article 20 must explicitly spell-out, protect and guarantee for press freedom in Zambia
- **Media Development Policy 2020-** The media Development Policy under the Ministry of Information and Media must be reviewed timely and expanded to take into consideration the digital transformation in order to remain in tandem with regional and global norms and trends in media development, press freedom, safety and security of journalists and freedom of expression.

Adequacy of legal and policy framework governing operations of the media in Zambia

- **ZAMEC Bill** - a statutory self-regulation mechanism to be hosted by the media bodies was drafted revised and submitted to the current Minister of Information and Media for possible submission to Parliament to enact into law.
- there is a need for a media regulation framework in order to address issues of ethics and professionalism among journalists. A self-regulation mechanism is appropriate for Zambia- liberal democracy.
- there is a need to have a media self-regulation framework that regulates all media- including Zambia National Broadcasting Corporation
- **ZNBC Act-** provides for the establishment of the Zambia National Broadcasting Corporation and the Act has been seen to be causing problems in the media regulation sphere because it does not allow for the ZNBC as a broadcaster in Zambia to be regulated by the Independent Broadcasting Authority. The ZNBC regulates itself and this has caused a lot of consternation among stakeholders about its independence.

Adequacy of legal and policy framework governing operations of the media in Zambia

- **Independent Broadcasting (IBA) Act**- This Act regulates the broadcast media sector in Zambia but it does not regulate the ZNBC. The ZNBC Act should be harmonised to ensure that the ZNBC is also regulated by the IBA Act.
- We propose to expand the scope of the IBA Act to cover online broadcasting by journalists.
- The IBA Act is viewed as an instrument to silence critical broadcast media - Prime Television, Itezhi-Tezhi Radio, Komboni, Muvi TV and others.

Adequacy of legal and policy framework governing operations of the media in Zambia

- **Access to Information Bill-** This bill has existed since 2002. Subsequent governments have been postponing the enactment of this law, citing various reasons including state security interests. Now under review with the current Minister of Information and Media, the current review comes 19 years after the bill was first introduced.
- **Other legislation-** There are other pieces of legislation that have the potential to impact the media sector and these need to be revised, reviewed, repealed or even harmonized- Cybersecurity and Cybercrimes Act 2021, State Security Act Cap 111, Printed Publications Act Cap 161, Public Order Act, Contempt Laws, Criminal Defamation, seditious laws and the Penal Code Cap 87

How the existing legal framework impacts media freedom and the practice of journalism in Zambia.

Some of the existing legal frameworks that limit the practice of journalism and media freedoms.

A number of the laws in the country had existed since **pre-independence days**, having been introduced by the colonial regime in order to keep tight control over the aspirations of the people and the growing independence movements of those times.

- ***Prohibited Publications Act***- This law prescribes that it is a criminal offence to publish content that the President or the republic prohibits,
- **Section 53 states**- a Republican President may declare that a particular publication or series of publications be prohibited if he is of the opinion that the said publications are contrary to the public interest.
- **Section 54 states**- any person who imports, publishes, sells, offers for sale, distributes or produced any prohibited publication or any extract therefrom is guilty of an offence and is liable for a first offence to imprisonment for two years or to a fine not exceeding three thousand units or to both.

How the existing legal framework impacts media freedom and the practice of journalism in Zambia.

Penal Code Act

- ***Defamation of the President***- under **section 69 of the Penal Code** and it is meant to bring honour and dignity to the office of the president through criminalising any content that can be deemed defamatory to the head of state.
- The clause states that any person who with intent to bring the president into hatred, ridicule or contempt, publishes any defamatory or insulting matter, whether by writing, print, word of mouth or in any other manner is guilty of the offence is liable upon conviction to imprisonment for a period not exceeding three years.
- ***Seditious Practices***- - Under this clause, it is a criminal offence in Zambia for any person to print, publish, sell, offer for sale, distribute or produce any seditious publication. The offence carries a sentence of up to seven years or a fine or both.

Review of problematic laws and the provisions in subsidiary laws that make journalism practice very difficult

- ***Contempt of Court***- This law under section 116 (1) of the Penal Code refers to the administration of justice in Zambia's legal system. It carries upon conviction a jail term of six months or a fine or both.
- ***Obscene matters or things***- This is a law in the Penal Code under section 177 that criminalises possession, production, circulation of content that has the potential to corrupt morals. It carries upon conviction, a jail term of five years.
- ***Criminal defamation***- Under section 191 of the Penal Code, the law of libel provides that any person who by print, writing, painting, effigy or by any means otherwise than solely by gestures, spoken words or other sounds, unlawfully publishes any defamatory matter concerning another person with intent to defame the other person is guilty of the misdemeanour termed, 'libel'.

Public Order Act (Chapter 113 of the Laws of Zambia)

- This piece of legislation emanates from the colonial era, 1955 to be specific, and it was meant to regulate public assemblies, processions and meetings.
- Under sections four (4) and five (5), any person who intends to convene a public gathering or to assemble shall give the police a minimum of seven (7) working days' notice of that person's intention to assemble. The police have the right to either approve or reject the notification. It indirectly affects media practice since it restricts access to spaces for news gathering (journalistic work) as well as freedom of expression.

Review of problematic laws and the provisions in subsidiary laws that make journalism practice very difficult

State Security Act (Chapter 111 of the Laws of Zambia)

- The State Security Act is one of the major pieces of legislation that continues to affect media practice in Zambia. This law relates to state security, sabotage, espionage and all other activities meant to compromise interests of the country.

Cybersecurity and Cybercrimes Act 2021

- ***Publication of information***- Section 54 of the Cybersecurity and Cybercrimes Act criminalizes publishing of information or data presented in a picture, image, text or symbol that compromises the safety and security of any other person. This is overly broad, vague and can be used to stifle journalistic work. This section needs revision to exclude journalistic work.

The extent of domestication of international and regional legal instruments that promote media freedoms.

- Zambia has signed a number of media related treaties and agreements- In an effort to keep in tandem with regional and international norms standards. However, these are not automatically enforceable or applicable until they have been domesticated and ratified.
- Zambia is party to- UN International Covenant on Civil and Political Rights, African Charter on Human and People's Rights, Windhoek Declaration for the Development of a Free, Independent and Pluralistic Press, African Platform on Access to Information and the Declaration of Principles on Freedom of Expression, 2005 Guidelines and Principles for Broadcasting, Coverage of Elections in the SADC Region and 2012 SADC Guidelines on Media Coverage of Elections.
- **While effort has been made to adopt these instruments, domestication has been the major challenge.**

Challenges faced in the practice of journalism under the current laws

- **Lack of Access to Information laws for journalistic work-** The lack of a comprehensive access to information law stifles the quality of journalism in the country. Journalists lack the access to vital public information that would strengthen independent and investigative journalism that would in turn enhance democracy through citizens' participation and inclusion in governance processes and transparency and accountability.
- **Suppressed media freedoms/ environment-** The existence of laws that are vague and criminalise the journalism conduct, the media environment remains unfavourable especially for independent and investigative journalism because the laws cited in the submission are to interfere in journalism work. Journalists continue to face threats, harassment, beatings and even media shutdowns because of laws like the IBA Act and some parts of the Penal Code that do not protect the media.
- **Stunted media growth-** Laws such as the IBA Act that have been used to suspend and shutdown media have contributed to the stunt development of quality media in Zambia. This is because investment and support in infrastructure, training and equipment is limited because of the flux environment.

Challenges faced in the practice of journalism under the current laws

- **Statutory media regulation under IBA Act-** The IBA Act is considered a form of statutory media regulation, which is not preferable in a democratic environment and it is only applicable to private broadcasting in Zambia. The IBA Act does not regulate the ZNBC. In view of this, the IBA Act has contributed to removing independence and fanning suppression of journalism rights especially in broadcasting because it is used to interfere in media houses.
- **Lack of professionalism and accountability-** The challenges described in this submission have contributed to the dwindling standards and ethics of journalism both in the public and private media because there is no regulation mechanism to make erring journalists accountable for their actions.
- **Subsidiary laws and policies-** The media landscape lacks clear and specific laws that would protect journalism practice in Zambia and this has contributed to the status quo, including lack of safety and security standards for media workers. For instance, the lack of a self-regulation mechanism has impacted the media to the extent of falling ethics and standards and lack of ombudsman to arbitrate public complaints against erring media houses

Recommendations

1. **Media law reforms-** there's need to revise, repeal and harmonise all laws that have provisions which are inimical to the media work. In particular provisions such as those cited in the Penal Code, Public Order Act, States Security Act, Printed Publications Act, ZNBC, and **Cybersecurity and Cybercrimes Act**, etc.
2. **Expand Scope of Independent Broadcasting (IBA) Act-** We propose to expand the scope of the IBA Act to cover online broadcasting which is a complicated undertaking owing to the open and unrestricted nature of the internet
3. **Expand Scope of Media Development Policy 2020-** must be reviewed timely and expanded to take into consideration the digital transformation in order to remain in tandem with regional and global norms and trends in media development, press freedom, safety and security of journalists and freedom of expression.
4. **Enact ZAMEC Bill, 2020-** a comprehensive media self-regulation mechanism to ameliorate the current challenges of ethics being faced in the sector and the process of developing the self-regulation mechanism be owned and driven the media bodies without interference from the state to ensure an independent process that will be inclusive and transparent.
5. **Domesticate international and regional legal instruments-** domesticate all regional and international agreements that Zambia is party to in all existing and upcoming media laws in order to be in tandem with regional and international norms and standards.
6. **Curriculum review-** The current training curriculum, especially under colleges needs regular review and update to accommodate emerging trends in the digital revolution and there should be one central regulatory body for journalism training to maintain quality and standards.

Recommendations

6. **Advertising Regulator-** establishment of a body to regulate the distribution of advertising space among media houses in order to distribute income and ensure all media houses benefit from both private and public advertising revenue.
7. **Media orientation on laws-** partnerships to enhance the media practitioner's own understanding and familiarity with pieces of legislation that regulate/ affect their conduct. This can be in the form of training and other forms of capacity building programmes.
8. **Sensitisation on media regulation-** massive capacity building of journalists on media regulation and specifically on the proposed statutory self-regulation in order to gain wide understanding and acceptance of the ZAMEC.
9. **Support to media bodies-** There is need for support to reform and transform existing media bodies, unions and associations and also towards the birth of new entities into truly independent organisations in the advocacy for media and digital rights, and media and cyber law reforms.
10. **Mentorship, refresher courses and capacity building programmes-** increased mentorship programmes especially for emerging and young journalists in the industry. In addition to this, we are recommending refresher courses and trainings in specific topics and other emerging issues such as elections reporting, mobile journalism, social media and journalism in order to enhance the competences, capacity and skill sets of journalists

Zikomo!!