

## **THE MEDIA AND POLITICS IN ZIMBABWE: OPERATING ENVIRONMENT AND REFORM CONSTRAINTS**

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**ABSTRACT:** *The article examines how the media is exploited for political leverage in Zimbabwe. Being interpretive in approach, qualitative methodology was preferred where key informant interviews and secondary sources were employed. Research findings indicate that a comprehensive understanding of the interaction between the internal and external political environment is critical in accounting for the existence of the unfavourable media frameworks. This is contrary to pervasive perceptions in existing literature which attribute the problem solely to internal political dynamics. The major conclusion is that the slow pace of media reform under the inclusive government is motivated by both necessity and logic as the political elites in power since independence are seeking survival against a formidable tide of internal and external political antagonism.*

**KEYWORDS:** Media, Politics, Environment, Reform, Operating constraints

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### **INTRODUCTION**

The media and politics is a question that seeks to comprehend the intertwined, yet complex, relationship between the media and politics. Of particular interest is how the media is exploited by both the governing authorities, to preserve their rule, and the shadow governments aspiring to gain political power. The role of the media is critical in enhancing the chances of political contestants. The political parties need the media to constantly disseminate their programmes and ‘sell’ their policy agendas to maintain or expand their political support base. This is the reality of political life at any given time in democracies. It is therefore out of necessity that any serious political party should aspire to control or at least influence the media, especially the mass media.

Media freedom is a fundamental foundation for a sustainable democratic political edifice. The growth and sustenance of democratic practice in a political system is heavily dependent on the formulation of media laws that allow for the efficient utilization of the media as a conduit for both the exchange of divergent political views and effective information dissemination between the governing authorities and the governed. The outcome is an improved policy environment. The need for media freedom cannot be overemphasised as it is compelling in a democracy such as Zimbabwe. This justifies the inclusion of the right to freedom of expression in Section 20 of the Constitution of Zimbabwe, the supreme law of the land, where media freedom is embedded.

While the Constitution guarantees such a fundamental right, the paradox has been that the right has become a preserve of the public media. The extent of the regulation epitomised by the Access to Information and Protection of Privacy Act (AIPPA) and the Broadcasting Services Act (BSA) among other legal and institutional controls and the resultant selective application of the law became a subject of violent debate among key political players in Zimbabwe. With the formation of the inclusive government, there was hope that the media

landscape will change for the better. Although some movement has been witnessed with positive reforms evident in some institutions, a balance sheet of the reforms undertaken so far, however, suggests that the impact of the reforms is minimal. It emerged that the perpetuation of the status-quo is a result of the political necessity for regime survival in the face of a combination of internal and external political dynamics. Thus, the Zimbabwe African National Union (Patriotic Front) (ZANU PF), with its unmatched experience in the governance of the country and its strong control of the mass media machinery has managed to keep the reforms under check in order to remain in the game.

## **METHODOLOGY**

The researcher utilised the qualitative methodology. Qualitative methodology was suitable for the study because it captured the competing perspectives about the contested subject. The researcher purposively selected respondents that were well informed in the field of media operations. Key informants at the parliament of Zimbabwe, in particular the members of parliament who sit on the portfolio committee on media, information and communication technology, Civil Society Organisations (CSOs) involved in media reform advocacy and academics at the University of Zimbabwe were interviewed in Harare, the capital City of Zimbabwe. Interviews were used to complement secondary sources such as books, newspapers, magazines, policy documents and reports on the media and politics in Zimbabwe. Secondary sources became handy in the research as they laid a firm foundation for further exploration of the subject.

## **THEORETICAL FRAMEWORK**

### **The Free Press Theory**

The free press theory, also known as the libertarian theory rests on the idea that the individual should be free to publish what they like. In the libertarian system, information is knowledge and knowledge is power as it enables people to realise their potential. The theory was put forward by John Milton, an English poet who lived between 1608 and 1674, who believed that people should have unlimited access to their reasoning power.

In the libertarian system, attacks on the government's policies are accepted and encouraged. There are no restrictions on import or export of views across national frontiers. Boaz notes that 'journalists and media professionals ought to have full autonomy within media organisations and the state.'<sup>1</sup> The theory suggests that every individual has the right to access and publish information and assumes that the media is a watchdog of society and a defence against misrule. The central principles of the theory include the freedom of the press to publish information without any restrictions and a government that accepts criticism of its policies. Its aim is to uncover and present the truth at all times. The press must serve as the informational link between a government and its citizens; hence there should be media freedom.

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<sup>1</sup> D. Boaz, 1997. *Libertarianism: a Primer* (New York: Free Press), p.34.

In line with the theory, freedom of information is considered a fundamental human right hence it is guaranteed under the Zimbabwe Constitution which states that ‘no person shall be hindered in the enjoyment of freedom of expression and the freedom to hold opinions and to receive and impart ideas and information without interference’.<sup>2</sup> Media freedom is therefore embodied under this provision. The broader interpretation of the provision entail that the media in Zimbabwe should have the ability to disseminate information freely without unreasonable interference. It should be recognised that the tenets of the theory depicts a desirable scenario which does not reflect some of the realities of modern day political dynamics. The exercise of the right to freedom of expression including media freedom is not immune from regulation; it is therefore not an absolute right even in the most acclaimed liberal democracies located in the North. It is often observed that ‘the right to access to information is not absolute if it conflicts with such interests such as national security, law enforcement, public safety and international relations’<sup>3</sup>. However, such limitations in the exercise of media freedom, though permissible, should be done to the extent that the right or rights being limited are not obliterated altogether. ‘Limitations may be imposed but restrictions imposed however must not exceed those which are reasonably justifiable in a democratic society, as section 20(4) of the Zimbabwean Constitution points out. As a result, it is necessary to some extent to regulate the operations of the private press’.<sup>4</sup>

### **The Key Legal and Institutional Frameworks for the Media in Zimbabwe**

The management of the media in Zimbabwe is achieved through an assortment of legal and institutional frameworks which control and determine the space within which media activities can occur. This part therefore attempts to outline the constitutional and legal provisions that govern media operations including the related state institutions whose mandate involves interface with the media.

### **The Constitution of Zimbabwe**

The Constitution of Zimbabwe states that the document is the supreme law of the land and any enactment which is inconsistent with the provisions of the same shall be invalid. This also implies that any person and even the parliament itself are precluded from promulgating laws that contradict the provisions of the supreme law.<sup>5</sup>

Zimbabwe as a legal person of the international system has always strove to incorporate customary international law that has a bearing on the enjoyment of fundamental rights that are accorded to humanity.<sup>6</sup> Such Fundamental human rights are guaranteed by the

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<sup>2</sup> See section 20 of the Zimbabwe Constitution.

<sup>3</sup> N. Ndlela, 2003. *Critical Analysis of Media Law in Zimbabwe* (Harare: Konrad Adenauer Foundations), p.15.

<sup>4</sup> T. Hondora, 2003. *Media Laws in Zimbabwe: a Comparative Analysis of Zimbabwean Laws that Infringe Media Freedom* (Harare: Konrad Adenauer Foundation), p. 15.

<sup>5</sup> See Section 3 of the constitution of the Republic of Zimbabwe. However, the parliament of Zimbabwe has legal powers to amend any portion of the constitution and this should be done in line with the ‘essential features doctrine’ which emphasises on amendment rather than abrogation of the key features of the constitution.

<sup>6</sup> Article 19 of the Universal Declaration of Human Rights (1948), which states that ‘everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any medium and

Constitution under Chapter 3 which provides for a justiciable bill of rights.<sup>7</sup> Under this chapter, all Zimbabwe citizens are entitled to enjoy and enforce their rights in cases of unreasonable violations. At the centre of Chapter 3 is every citizen's entitlement to freedom of expression. Section 20(1) of the Constitution, which does not expressly guarantee but intrinsically embraces the idea of media freedom, describes freedom of expression as the '...freedom to hold opinions and to receive and impart ideas and information without interference, and freedom from interference with correspondence.'<sup>8</sup> The Constitution acknowledges the importance of the right in as far as it enhances personal development by not only making it possible for expressing one's views but also through the individual's exposure to divergent views. Ideally, the freedom to seek, obtain and disseminate views and opinions without undue hindrance is guaranteed in Zimbabwe by virtue of being a constitutional democracy. In this way, freedom of expression including media freedom is an important ingredient without which the whole notion of democracy becomes unpalatable. 'Democracy, both as a concept and way of life is incapable of germinating without knowledge dissemination with full participation of the community.'<sup>9</sup> The participation of the individual and the greater community at large provides rich ground for the growth and nourishment of democracy. The exercise of the right is however not absolute; it is subject to limitations provided for in Section 20(2) of the Constitution. The grounds for limiting this right are wide which may offer space that can be abused for political motives. The guiding principle in such circumstances is that any limitations on the enjoyment of the right should be reasonably justifiable within a democratic society.<sup>10</sup>

### **The Access to Information and Protection of Privacy Act (AIPPA) [Chapter 12:01]**

This is one instrument that the government uses to regulate the mass media, in addition to the Radio Communication Services Act [Chapter 12:04]. The AIPPA was formulated against the long-standing desire to control both the journalists and the print mass media organisations.<sup>11</sup> It also established the Media and Information Commission (MIC), which was later replaced by the Zimbabwe Media Commission (ZMC) under constitutional amendment No.19. The justification for the framework was the need to facilitate the public access to information, put an end to media excesses and to ensure Zimbabwean ownership of the print mass media. 'This was notwithstanding that Section 20 of the Constitution already guaranteed access to information; that Zimbabwe's civil and criminal laws on defamation already protect reputations; and that Zimbabwe's investment rules already require foreign investors to enter

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regardless of frontiers.' Also see Article 19 of the International Covenant on Civil and Political Rights (1966) which emphasises the importance of the same.

<sup>7</sup> A justiciable bill of rights is one which provides for enforcement of a right in a court of law whenever a violation occurs.

<sup>8</sup> See Section 201 (1) of the Constitution.

<sup>9</sup> Hondora, 2003. *Media Laws in Zimbabwe: A Comparative Analysis of Zimbabwean Laws that Infringe Media Freedom*, p.13.

<sup>10</sup> The criteria for determining what is 'reasonably justifiable in a democratic society' in Supreme Court Case; *Tawanda Nyambirai v National Social Security Authority*, 1995, Zimbabwe Law Reports vol. 2. The criteria emphasises that a new law should not be arbitrary and should not impose any limitation that curtail the enjoyment of an existing right.

<sup>11</sup> The print media are the primary targets of AIPPA but a dissection of the law indicates that it targets the broader mass media including the electronic sector specifically in issues related to the registration of journalists and registration of mass media organisations.

into joint ventures with Zimbabweans.<sup>12</sup> On the basis of this observation, the justification for AIPPA is untenable.

One of the visible sources of discontent about this law relates to provisions that make it mandatory for the registration of mass media operations without which any such operations will be illegal.<sup>13</sup> The benefits that will accrue out of acts of delinquency are clearly spelt out in various sections of the Act.<sup>14</sup> The instrument also criminalises false news. Punitive measures against journalists who are accused of falsehood were considered to be too harsh as editors felt that retraction of the story by the editor correcting the position and admitting that they lied is more damaging and adequate punishment than sending journalists to jail.<sup>15</sup> Through AIPPA, the government not only imposes restrictions on actual content but also controls journalists and the public's access to information. This prompted some stakeholders to argue that the main motive for the AIPPA was government's gripe with the private press criticism of its operations.<sup>16</sup>

### **The Public Order and Security Act (POSA) [Chapter 11:17]**

The POSA contains particularly oppressive provisions which adversely affect the practice and operations of journalists and mass media service providers. Section 5 of the Act lists offences categorised under the general title of subversion of constitutional government. The provisions create offences relevant to journalists and mass media providers.<sup>17</sup>

Section 15 also targets the media and makes it an offence to publish or communicate statements prejudicial to the state. 'The publication or communication of statements which is wholly or partly false and which is likely to incite or cause public disorder, public violence or endangers public safety, or that adversely affects the economic or defence interests of Zimbabwe, or that undermines public confidence in the law enforcement agency, the police, the army or interrupts an essential service, commits an offence.'<sup>18</sup> This provision reinforces AIPPA provisions related to the same. The effect of Section 15 is identical to that of Law and Order Maintenance Act in as far as it significantly circumvents the right to freedom of expression. Transgressions of the provisions attract punitive measures including a prison sentence of up to 5 years.

Other notable provisions which are subject of dissatisfaction are sections 16 and 21 which outlaw journalistic activities related to undermining authority of or insulting the president and undermining police authority respectively. The enactment of laws such as AIPPA and POSA can be viewed as a strategy to compromise the independence and effectiveness of the private media service providers and also influence mass public opinion. The discontent has been

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<sup>12</sup> Hondora, 2003, *Media Laws in Zimbabwe: a Comparative Analysis of Zimbabwean Laws that Infringe Media Freedom*, p. 25.

<sup>13</sup> See Section 66 of Access to Information and Protection of Privacy Act.

<sup>14</sup> See Sections 71, 72 and 80 of Access to Information and Protection of Privacy Act.

<sup>15</sup> Report of the Parliamentary Portfolio Committee on Media, Information and Communication Technology 2011, p.7.

<sup>16</sup> Authors' interview with an advocacy officer with Zimbabwe Lawyers for Human Rights on 5 August 2012 in Harare.

<sup>17</sup> See Section 5 of the Public Order and Security Act.

<sup>18</sup> Hondora, 2003. *Media Laws in Zimbabwe: a Comparative Analysis of Zimbabwean Laws that Infringe Media Freedom*, p.117.

furthered by the fact that these laws have been selectively applied on journalists employed by the private mass media and no single journalist employed by government-controlled Zimpapers has been arrested or detained.<sup>19</sup>

### **The Minister of Information and Publicity**

The Minister is empowered by AIPPA to directly or indirectly influence the day-to-day running of the regulatory authorities. This effectively designates the office the minister as the most powerful authority in the regulation of both the print and electronic media after the president. Through the ZMC and the BAZ, the minister exercises a significant degree of influence in the licensing of aspiring mass media service providers. This gives the minister the authority to influence the nature and apparatus of broadcasting by all mass media. Although the transition from the MIC to ZMC, under amendments to AIPPA, tempered with the minister's appointment powers, it has done little to diminish the impact of exercising such powers on mass media operations. The minister can give policy directives to the BAZ which dilutes the independence of the outfit.<sup>20</sup>

The Minister is appointed by the president and come from the same political party. The implications for this scenario are obvious; the appointee is likely to serve the interest of his party and that of his appointer. The public media is thus under siege from the minister to advance party positions at the expense of balanced coverage expected of a public media in a democratic society.

### **The Zimbabwe Media Commission (ZMC) and the Broadcasting Services Authority of Zimbabwe (BAZ)**

The ZMC was established under constitutional Amendment No. 19, Section 100N. It is also provided for under the amended Section 38 of AIPPA. The Commission consists of 9 members appointed by the President from a list of not fewer than 12 nominees submitted by the Parliamentary Committee on Standing Rules and Orders.<sup>21</sup> The Commissioners are chosen on the basis of their knowledge and experience in mass media.<sup>22</sup> Similarly, the BAZ was established by the Broadcasting Services Act (Chapter 12:06), Section 3, with the intent and purpose to regulate the operations of the electronic mass media.<sup>23</sup> Simply put, the BAZ implements the provisions of the BSA in the same manner that the ZMC implements the provisions of AIPPA. The functions of the ZMC are varied but of note is the responsibility to advance media freedom, promote professionalism among practicing journalists, accreditation of journalists and licensing media service providers.<sup>24</sup> The same functions are performed by the BAZ with differences being the subject of regulation.<sup>25</sup> It is not possible to guard against the possibility of abuse of the licensing function for political considerations because of the manner in which these institutions relate with the minister and the president. The misuse of

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<sup>19</sup> Authors' interview with a lecturer in the Department of Political and Administrative Studies at the University of Zimbabwe on 7 August 2012.

<sup>20</sup> See Section 4B of the Broadcasting Services Act.

<sup>21</sup> See Section 38(1) of Access to Information and Protection of Privacy Act.

<sup>22</sup> See Section 38(3) of Access to Information and Protection of Privacy Act.

<sup>23</sup> See Section 2A of the Broadcasting Services Act which spells out the purpose and objectives of the Act.

<sup>24</sup> See Section 39(1) of Access to Information and Protection of Privacy Act.

<sup>25</sup> See Section 3(2) (a-q) of the Broadcasting Services Act.

licensing and regulatory frameworks has emerged as a key method of control in a number of semi-democratic and authoritarian settings; Zimbabwe included.

The bodies are political in that the appointees occupy their offices at the will of the president who approves such appointments. The fact that the appointees are agreed on by political parties represented in the committee that is mandated to select the potential candidates imply that the body is politically compromised: It reflects a political parties' commission rather than a national commission because of the absence of public participation procedures in the process of constituting the body. The three political parties therefore control the organ and, by extension, the dissemination of information and content much to the exclusion of other legitimate, though unelected, political voices including the broader civil society organisations. The use of commissions or authorities influenced by political parties in the control of the mass media is undesirable and predicated on the shared desire among the political parties in the coalition arrangement to regulate the mass media for political leverage.

On the other hand, the Media Council, appointed by the ZMC, is well represented with councillors coming from diverse backgrounds that are representative of the broader political society in Zimbabwe.<sup>26</sup> Together with the ZMC, the Council is responsible for the development of a code of conduct and ethics governing the rules of conduct to be observed by journalists and mass media service providers. The Council has the responsibility to investigate cases of misconduct by journalists brought by citizens and organisations dissatisfied with the respective acts. It will then recommend appropriate remedial action to the ZMC in respect of the breaches of the code.<sup>27</sup> Even if the Council is representative, it is important to note that it is yet to be operational. More still, suppose the Council is functional, it will become an appendage of the ZMC and will be subservient to that institution and its recommendations may simply be ignored since it is not armed with implementation powers; it only exists to investigate and merely recommend.

### **The Parliament**

The parliament of Zimbabwe is an integral element of the media regulatory environment by mere fact of being the institution responsible for the legislative function of the government machinery. For any bill to become law, it must be passed by parliament. The parliament has a mandate to oversee the implementation of the AIPPA, POSA and BSA and monitoring the functions of the ZMC, BAZ and the Minister of Information and Publicity. Through enacting the relevant legislation, the Parliament ensures that the media operates within a legal framework. The exercise of oversight functions, through the Parliamentary Portfolio Committee on Media, Information and Communication Technology enables the parliament to ensure that the actions of the implementing institutions are not acting outside the law; it ensures that the implementing authorities observe their purpose and mandate without going off the rail.<sup>28</sup>

The parliament is important in ensuring amendments to the existing media laws. For instance, in 2009, parliament amended the Constitution through Amendment No. 19 which provided the legal basis for the transition from the MIC to the ZMC. Notwithstanding the parliament's

<sup>26</sup> See Section 42A of Information and Protection of Privacy Act.

<sup>27</sup> See Section 42B of Information and Protection of Privacy Act.

<sup>28</sup> Report of the Portfolio Committee on Media, Information and Communication Technology Report 2011, p.8.

role in legislating and monitoring institutions related to media operations in Zimbabwe, the political verve and zeal to instigate a complete make-over of the legal and institutional framework has assumed a snail pace despite the commanding presence of the Movement for Democratic Change (MDC) parties in parliament. The MDC parties went into government against a long-standing 'struggle' to 'free' media operations that have been under siege for many years. Thus, the MDCs assumed their positions in the inclusive government against a desire to implement significant reforms if given a chance to govern. The complicated legislative process may also partly explain the absence of visible movement towards meaningful media reforms under the inclusive government. In this regard, it is important to comprehend the fact that the person of the president is also part of the legislature. The role of the president in the legislative process explains some of the difficulties that the inclusive government is facing in its desire to amend or abrogate AIPPA and BSA in conformity with Article 19 of the GPA. The president is the ultimate authority in the legislative process by virtue of his power of assent to bills passed by parliament. The exercise of this discretion is subject to political considerations of the president and the party. Assenting to bills or amendments that have the potential to cause the president and his party to concede political ground to its political rivalries is the last political blunder any logical person wielding such a constitutional power will commit. The hostile international environment coupled with the realities of domestic politics in Zimbabwe determines the nature and pace of the media reforms in Zimbabwe. Nevertheless, the situation may change under the new supreme law which is currently in the final stages of its gestation.

### **Media Reform under the Inclusive Government**

The three political parties that were represented in parliament after the harmonized election of 28 March 2008 were exhorted by SADC to negotiate for a political solution to Zimbabwe's web of challenges. The negotiations, brokered by successive South African presidents, culminated in the Global Political Agreement (GPA), signed by the leaders of the 3 political parties on 15 September 2008, where the respective leaders collectively committed themselves to resolve the challenges that were confronting the country.<sup>29</sup> The GPA was followed by the establishment of the inclusive government, on 13 February 2009, which was mandated with the transition from the contested political atmosphere to a new democratic dispensation.

The GPA had two discernible parts, *viz*; the policy schema and the framework for the new government. It is within the policy agenda that one can identify that Articles 10 and 19 are relevant to this paper. Article 10 emphasises on free political activity. The parties recognised that 'the right to canvass and freely mobilise for political support is the cornerstone of any multiparty democratic system.'<sup>30</sup> The conviction of the author is that possible if minimum democratic rights are guaranteed under the new political dispensation. This then explains the recognition of the right to freedom of expression and media freedom under Article 19 of the GPA. Article 19 of the GPA was guided by the desire to break the monopoly of the public media and the wish for a balanced and fair coverage to all political parties for their legitimate

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<sup>29</sup> Note that the two MDCs and ZANU PF garnered the most votes in the harmonised elections in that order and were the only parties that were represented in parliament. Representation in parliament was used as the basis for the negotiations that culminated in the inclusive government; See preamble to the Global Political Agreement.

<sup>30</sup> See Article 10 Global Political Agreement.



activities. Under this article, the parties involved recognised the importance of freedom of expression and the critical role of the media in a democracy. By this posture, Zimbabwe's key political parties acknowledged the distressing state of the country's media. Thus, the signing of the GPA in 2008 and the subsequent formation of the inclusive government in February 2009 brought optimism that the media operating environment would improve but three years down the line, the media is still under relative siege with the same problems related to the media laws before the consummation of the inclusive government still haunting Zimbabwe's political transition. The implication of Article 19 is that an acceptable election outcome was not attainable without the free press; a multiplicity of mass media service providers who would provide a platform for exchange of divergent views upon which the electorate would then make informed choices.

Yet little substantive progress has been made since that agreement was signed. In May 2010, the ZMC restored the waning civil society confidence in its role as a transitional vehicle for media reform by licensing four newspapers; the Daily News, the Daily Gazette, News Day and the Mail. Two months later, the Commission also added two more news agencies, Cable News Agency and African Open Media Initiative. On this basis, the author strongly feels that although the civil society is unmoved with such gestures, the licensing of some private newspapers has to some extent improved media diversity. With the coming in of the inclusive government, there has been some sort of relaxation of repressive laws as the government has become more tolerant of criticism than before.<sup>31</sup> This is a positive development registered under the transitional government although the privately-owned newspapers continue to operate in an unfavourable environment compared to the public press. Hitherto, most of the legitimate calls for reform such as the licensing of private electronic broadcasters that are not aligned to the ruling party have not been given the serious attention that they deserve. Although dissatisfied with the reluctance of the inclusive government to open-up the air waves, some civil society organisations have expressed relief with the opening of the print media sector. In November 2011, the BAZ granted radio operating licenses to Star FM and ZiFM commenced operations on 1 June and 15 August 2012 respectively, and are also owned by Zimpapers and Supa Mandiwanzira respectively. Zimpapers is government owned company which publishes the Herald and the Sunday Mail among other papers which are the ruling party's official propaganda instruments. These will complement rather than compete with the existing electronic broadcaster, the Zimbabwe Broadcasting Corporation (ZBC).<sup>32</sup>

Hardest hit has been the private press which has had to operate under a hostile environment. The private press is independent from the government and includes publications such as The Standard and The Independent. Private media journalists in Zimbabwe are usually accused of tarnishing the country's image.<sup>33</sup> Due to its critique of the government, the private press has since been labelled enemies of the state by the ZANU PF led coalition government. The period after the formation of the inclusive government has remained difficult for the private media in the country. Laws such as AIPPA have continued to be used to stifle the freedom of the private media. This is in stark contrast to journalists from government owned media.

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<sup>31</sup> Authors' interview with a member of the Portfolio Committee on Media, Information and Communication Technology on 8 August 2012 at Parliament Building in Harare.

<sup>32</sup> Authors' interview with an advocacy officer with the Media Institute of Southern Africa (MISA)-Zimbabwe on 5 August 2012 in Harare.

<sup>33</sup> Reporters without Borders, 2009, p.54.

Although there have been calls for the repealing of repressive laws, not much has changed as the private press is still operating under a hostile environment. More than 20 foreign and local media workers were subjected to harassment, assault, censure and arrest by the security services and ruling party supporters.<sup>34</sup> Further to that, between November 2011 and 3 May 2012, six media violations have been recorded as journalists from the private media have continued to be harassed under the AIPPA and the Criminal Law (Codification and Reform) Act.<sup>35</sup>

Disappointed by the continued arrests of journalists, the owner of one of the independent dailies castigated the two MDC formations in the inclusive government for failing to condemn the arrest, adding that the silence of the MDCs seemed to mean that they condoned what the police were doing instead of ensuring that freedom of the press is protected as agreed under Article 19 of the GPA.<sup>36</sup> The biggest disappointment has not been ZANU PF since its thinking has long been clear, but the two MDC formations in the coalition. Instead of pushing for greater media freedom, the MDCs settled for equity in political coverage as well as an agenda that lacked an appreciation of the fundamental principles of media freedom and freedom of expression. The MDC parties failed to appreciate the importance of media freedom and instead focused on trying to secure equitable coverage of their political activists and leaders. While there has been a decline in the number of arrests and harassment of journalists following the inauguration of the coalition government, there is a strong feeling among civil society organisations that the situation will not be sustained due to a combination of two factors, namely the continued existence of unfriendly laws such as AIPPA and the promulgation of the election dates which is likely to be followed by the reactivation of the pre-inclusive government epoch of uncertainty.<sup>37</sup>

Overall, indications are that the transitional authority is moving slowly towards the realisation of their commitment under Article 19 of the GPA. In most cases, the failure to implement the envisaged reforms is regarded as indicative of the internal political situation. By and large, the current media regulatory environment is largely interpreted as an attempt to muzzle alternative political voices which are necessary for the political transition in the country. Even the Prime Minister of Zimbabwe has strongly laid this belief bare when he blamed ZANU PF for being the fatal obstacle of media reform in the inclusive government.<sup>38</sup>

The article established that the 'harsh' laws governing media practice in Zimbabwe is a result of the formidable combination of the internal and the external political environment. The argument is that when a sitting government becomes a target of 'regime change' by major powers in the international system who appear to work with political rivals of the incumbents, it resorts to all means at its disposal, including the enactment of laws which may

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<sup>34</sup>A. Moyses, 2009. 'The Media Environment Leading up to Zimbabwe's 2008 Elections.' In Eldred, V. Masunungure (ed.), *Defying the Winds of Change: Zimbabwe's 2008 Elections* (Harare: Weaver Press), pp.43-60.

<sup>35</sup> Amnesty International, 2009, p. 28.

<sup>36</sup> Authors' interview with a member of the Portfolio Committee on Media, Information and Communication Technology on 8 August 2012 at Parliament Building in Harare.

<sup>37</sup> Authors' interview with the director of Media Monitoring Project in Zimbabwe on 7 August 2012 in Harare civil society leader.

<sup>38</sup> See The Prime Minister of Zimbabwe's statement on World Press Freedom Day, Morgan Tsvangirai, 'ZANU PF has killed Press Freedom for Power', available at <http://www.changezimbabwe.com/index.php>, retrieved on 14 August 2012.

‘kill’ the immune system of its political rivals, real and perceived, to ensure its survival. This paper submits that because of the continued threat of the external powers on the political survival of the incumbent president and his party, the media is likely to continue to operate under a strict regulatory environment simply because the threat has not been eliminated. The argument is buttressed by the absence of such laws in the first 21 years of independence. The situation has insignificantly changed under the inclusive government despite relentless attempts to depart from the status-quo through various amendments. Worse still, in some instances, the authorities ignore the amendments and scores of journalists from the private press may be harassed and arrested using the same provisions that had been repealed by the amendments.<sup>39</sup>

The argument is that the policy thrust of the post-9/11 dispensation pursued by the West, particularly the US and the UK with the complicity of the majority of Western European countries, towards selected countries has, in combination with Zimbabwe’s own internal political dynamics, contributed to the current media environment and the subsequent difficulties towards reform. The need for survival against a background of a hostile international media such as the Cable News network (CNN), British Broadcasting Corporation (BBC), Al-Jazeera, Short Wave radio and Studio 7 directed at ZANU PF even when the political party is in a coalition government account for the lack of movement towards the desired reform.<sup>40</sup> This naturally forced the ruling government to literally turn the state media into a party media as a counter-measure in the quest for survival. The connection between the ZANU PF’s internal and external political opponents is being used as a convenient excuse to further close the already opaque state media. Therefore, the reluctance to significantly reform the media laws and the perpetuation of the pre-inclusive government editorial policy in the public media can be theorised as a logical outcome of the policy aimed at replacing the ZANU PF, which the external opponents have branded an ‘outpost of tyranny’, with a pro-Western government.

## CONCLUDING REMARKS

Freedom of expression, and by extension media freedom, is a fundamental human right and is guaranteed and enshrined in the country’s Section 20 of the Constitution. As such, the government should protect the exercise and enjoyment of this right by ensuring that every Zimbabwean has the right to impart and disseminate information without undue limitations. Media freedom is vital in keeping a democracy alive based on the understanding that free dissemination of information is the basis for informed political choice by the public. The importance of media freedom in a democracy cannot be overemphasised as a result. It has become evident in modern day practice that the politics of any democratic country can hardly be adequately comprehended outside the legal and constitutional framework governing the media. The legal instruments and the institutions highlighted herein provide the context for the regulation and control of both the private and public media.

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<sup>39</sup> Moyse, ‘The Media Environment Leading up to Zimbabwe’s 2008 Elections.’ 2009, p. 48.

<sup>40</sup> Authors’ interview with a member of the Portfolio Committee on Media, Information and Communication Technology on 7 August 2012 at Parliament Building in Harare.

While the media operating environment for the private media is relatively curtailed, the opposite is equally true for the public media which enjoys relative freedom. The recognition by the three political parties in the inclusive government that media freedom is an integral part of a functioning democracy re-ignited hope among the civil society organisations that significant reforms were within reach. Nonetheless, the envisaged reforms have been retarded by political considerations. The interaction of the internal and the external political environment helps one to understand the resistance for visible reform by the ZANU PF party which is still in control of the apparatus of governance in Zimbabwe. The president and his party, ZANU PF, are still the targets of 'regime change' by powerful external powers despite the fact that the political situation has significantly changed under the inclusive government. The perception that the proponents of regime change have cordial relations with the MDC parties also complicates the reform matrix. The need for political survival for the president and his party is thus a logical outcome of the political realities facing Zimbabwe. The status quo is likely to persist as long as the identified combination of threats to ZANU PF's survival is still discernible.

However, it is still possible to witness further reform provided that all stakeholders are patient but insisting on the set agenda. Political reforms are always twisty, painful and uneasy but mostly achievable provided the following is immediately granted: Firstly, there is need for further amendment of the key media laws such as AIPPA to enable unfettered media freedom. Any such amendments should pass the test of reasonably justifiable in a democratic society and should be consistent with international best practice. Secondly, the coalition government should ensure that the Media Council is constituted as required by law to enable the ZMC to deal with public complaints about the mass media conduct. It should also review the cumbersome licensing procedures to allow the entry of more players especially in the electronic mass media section. Additionally, the political parties in the coalition government through their representatives in the constitution making management committee should ensure that media freedom is explicitly recognised and guaranteed under the envisaged new constitution, currently under construction.