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Media law in the region: Where to from here?



In this chapter you will learn:

- What a bird's-eye view of the countries surveyed reveals about compliance with the:
 - Ten key principles of democratic media regulation
 - Eight key principles of democratic broadcasting regulation
- What international organisations on the continent are doing to promote media freedom
- What key challenges to media freedom remain

1 INTRODUCTION

Chapter 2 (found in Volume 1 of this handbook) examined the internationally accepted hallmarks of democratic media regulation – in other words, the legal regime that establishes a democratic media environment. It identified 11 instruments, charters, protocols or declarations adopted by international bodies (such as the United Nations, the African Union and the Southern African Development Community), civil society organisations focusing on the media (such as Article 19), and at significant conferences held under the auspices of international bodies (such as the United Nations Education, Scientific and Cultural Organisation).

The 11 instruments – many of which have a particular focus on Africa – deal with, among other things, various aspects of democratic media regulation. Ten key principles of general democratic media regulation and eight key principles of democratic broadcasting regulation have been identified from these instruments, as is set out more fully in Chapter 2. The principles can be used as a yardstick to assess an individual country's commitment to democratic media and broadcasting regulation and, more broadly, its commitment to the underlying principle of freedom of expression.

The information contained in this concluding chapter is derived from the country-specific chapters in volumes 1 and 2 of the handbook.

2 A BIRD’S-EYE VIEW OF COUNTRY COMPLIANCE WITH THE TEN KEY PRINCIPLES OF DEMOCRATIC MEDIA REGULATION

2.1 Principle 1: Freedom of the press and other media

In all the countries surveyed, the right to freedom of expression – the foundational right to a free press – is provided for in the constitution of that country. In some countries – the Democratic Republic of the Congo (DRC), Malawi, Namibia, South Africa, Swaziland and Zimbabwe – the constitutions also expressly mention and protect the right to freedom of the press or the media, in some cases generally, and in the case of Zimbabwe with a particular focus on the broadcast media.

However, there are instances where the constitution does not fully protect the right to freedom of expression because the right is effectively subject to legislation passed to regulate freedom of expression or the press. In the DRC, for example, the right to press freedom expressly states in section 24 of the Constitution that ‘legislation is to govern the exercise of these rights’.

The constitutions of other countries are less explicit about essentially subverting the right to press freedom. These constitutions contain broad limitations clauses (whether these are general limitations clauses or so-called internal limitations clauses that apply only in respect of a particular right) which give governments extensive powers to pass legislation to limit rights. Broad powers are given not only in wide grounds for restricting rights but by not having limitations requirements, such as necessity or proportionality. The DRC and Tanzania have extremely broad limitations provisions.

Botswana, Lesotho, Malawi, Namibia, South Africa, Swaziland, Zambia and Zimbabwe have fairly carefully crafted limitations clauses which, in theory, allow for appropriate limiting of rights. It is important to note, however, that certain of the internal limitations provisions to Zimbabwe’s freedom of expression right are problematic (this is discussed more fully in Chapter 13).

2.2 Principle 2: An independent media

In terms of an independent media environment, it is clear from the country chapters that practice varies considerably among the different countries surveyed. South Africa has a great deal of independent media sources, while a country such as Zimbabwe has almost no independent broadcasting media and a severely constrained independent print media landscape.

Most countries do, however, recognise the need for independent media sources and for the establishment of independent (commercial or community) print and broadcast

media houses. Only Zimbabwe has an express statutory prohibition against licensing broadcasters other than the state broadcaster, and this prohibition was overturned by the courts.

2.3 Principle 3: Diversity and pluralism in the media

Again, it is clear from the country chapters that diversity and pluralism in the media vary significantly among the countries reviewed. South Africa has a great deal of diversity and pluralism while Zimbabwe, for example, has almost no independent broadcasting media and a severely constrained independent print media landscape.

One of the biggest obstacles to the creation and growth of a diverse media is the registration requirement imposed on the print media. Botswana, the DRC, Lesotho, Malawi, Namibia, Swaziland, Tanzania, Zambia and Zimbabwe still require newspaper registration. Indeed, of the countries surveyed, only South Africa does not require the formal registration of print media publications. Even worse is that certain countries (Botswana, the DRC and Zimbabwe) also require the registration of working journalists. While not legally preventing the functioning of an independent media, these registration mechanisms discourage the development of a thriving pluralistic media environment.

2.4 Principle 4: Professional media

There is little doubt that the development of a professional corps of reporters, investigative journalists and editors has been slow in most of the countries surveyed. Until recently, many of the countries lacked tertiary educational courses or training facilities dedicated to journalism and the media, and which were able to develop and equip journalism as a genuine profession. This is slowly changing; however, development is far from uniform.

While South Africa, for example, has a number of excellent training courses and facilities run by various institutions, ranging from universities and colleges to in-house cadet courses operated by media houses, some countries battle to provide even basic training in journalism skills and ethics. On a positive note, the establishment of self-regulatory bodies, such as media councils, in most of the countries reviewed has had an impact on the professionalisation of the media in those countries.

2.5 Principle 5: Protecting confidentiality of sources

It is interesting to note that certain of the constitutional limitations provisions of the countries surveyed allow for limitations on the right to freedom of expression to be

limited to ‘protect information received in confidence’. Botswana, Lesotho, Swaziland and Zambia have these kinds of provisions. It is unclear though whether such a provision can be used by the media, or only by government when protecting its own confidential sources.

All ten countries included in the handbook have laws that could be used to compel a journalist or media house to reveal confidential sources of information. However, it is not possible to state that the law is inherently problematic. This is because each case has to be determined on its own merits when considering whether or not forcing a journalist to reveal a source will, in the particular circumstance concerned, violate international standards for such compulsion.

2.6 Principle 6: Access to information

Sadly, only a few of the countries under review – the DRC, Malawi, South Africa and Zimbabwe – explicitly protect the right of access to information (as a right separate from the right to freedom of expression) in the constitution.

These rights are formulated in different ways:

- The DRC has a general right of access to information.
- South Africa has a general right of access to government-held information.
- Malawi and Zimbabwe have a right of access to government-held information, where this is required for the exercise and protection of rights.
- Zimbabwe has a right of access to government-held information, where this is in the interests of public accountability.
- South Africa has a right of access to privately-held information, where this is required for the exercise and protection of rights.

However, all of the countries surveyed (with the notable exception of Namibia) include the right to receive and impart information and ideas as part of the constitutional right to freedom of expression.

Besides the constitutional provisions, only South Africa, Tanzania and Zimbabwe have passed some form of access to information legislation. Of these, in our view, only South Africa’s legislation would meet international standards for access to information legislation.

2.7 Principle 7: Commitment to transparency and accountability

Transparency and accountability are very difficult to measure as these issues are more often than not reflected in a political culture rather than in specific legal provisions. There are, however, a number of legal mechanisms which infer a commitment to accountability and transparency, some of which are dealt with below.

It is important to note that the mere fact that a country has constitutional or even legal provisions regarding an accountability measure is not in itself indicative of a genuine political commitment to transparency and/or accountability.

- A clear way that a commitment to transparency can be determined is from a country's commitment to access to information, as discussed above.
- Only the constitutions of Malawi, South Africa, Swaziland and Tanzania contain general provisions stating a commitment to transparency and/or accountability.
- The constitutions of Malawi, Swaziland and South Africa also contain a right to administrative justice, which is a critical right for holding public power accountable. In this regard, at least one country – South Africa – has enacted administrative justice legislation. This legislation is extremely effective in forcing the government to engage in decision-making in a transparent and accountable manner.
- South Africa and Zambia have passed whistleblower protection legislation, which is also effective in combatting corruption and other crimes that hinder transparent and accountable government.

2.8 Principle 8: Commitment to public debate and discussion

A commitment to public debate and discussion is also difficult to measure as these issues are more often than not reflected in a political culture rather than in specific legal provisions. However, legal provisions dealing with freedom of expression, a free press, access to information and the establishment of a genuine public broadcaster, as opposed to a state broadcaster (all issues dealt with elsewhere in the chapter), indicate at least an ostensible commitment to public debate and discussion.

2.9 Principle 9: Availability of local content

Local content is available in the countries surveyed. In addition, Botswana, the DRC, Namibia, South Africa, Tanzania and Zimbabwe have specific local content requirements for broadcasting services.

2.10 Principle 10: Ensuring that states do not use their advertising power to influence content

This principle is not respected in the countries under review and no statutory mechanisms have been enacted to deal with the problem. Interestingly, this practice has been successfully challenged in the courts of at least one country, Botswana, where a directive banning government advertising in two newspapers was ruled to contravene the right to freedom of expression of the newspapers.

3 A BIRD'S-EYE VIEW OF COUNTRY COMPLIANCE WITH THE EIGHT KEY PRINCIPLES OF DEMOCRATIC BROADCASTING REGULATION

3.1 Principle 1: National frameworks for the regulation of broadcasting must be set down in law

All the countries studied have enacted national frameworks in the form of legislation to regulate broadcasting. However, as discussed in Chapter 8, Zambia's broadcasting legislation has yet to become operational.

3.2 Principle 2: Independent regulation of broadcasting

Given the increasing levels of convergence between traditional broadcast and telecommunications infrastructure and services, in terms of which content is available to audiences over a range of platforms, it is not unusual to find 'converged regulators' – that is, regulators who are responsible for electronic communications (and in some instances postal regulation) as a whole. This is not contrary to international requirements. What is required, however, is that these converged regulators are independent in terms of appointments and removals processes. Converged regulators should not be beholden to the executive branch of government. They should have the authority to regulate the sector, including granting licences and making regulations, without commercial or government interference.

Few of the countries surveyed have an independent broadcasting or communications sector regulator. Only the DRC, South Africa and Zimbabwe provide for a level of constitutional protection for a broadcasting regulator. However, one should be aware that there is a clear distinction between what is provided for in legislation or in a constitution and the actual practice thereof. The cases of Zambia and Zimbabwe are instructive in this regard.

Swaziland's regulator position is extremely poor as the regulator is also an operator, namely the state broadcaster, the Swaziland Television Authority.

Indeed, of the countries reviewed, only South Africa has independent regulation of broadcasting. The Independent Communications Authority of South Africa is:

- Actually appointed in accordance with international best practice, namely, a public nominations process, short-listing by a multi-party body such as parliament, appointment by the president
- Generally able to regulate the sector without ministerial involvement in licensing and/or making regulations

3.3 Principle 3: Pluralistic broadcasting environment with a three-tier system for broadcasting: public, commercial and community

Most of the countries surveyed have a legislative and/or regulatory environment that specifically provides for community, commercial and public broadcasting as three separate tiers of available broadcasting services: however, implementation thereof is uneven.

The DRC, Namibia and Swaziland do not provide specifically for the three tiers in law, although both the DRC and Namibia have licensed broadcasters on all three tiers.

3.4 Principle 4: Public as opposed to state broadcasting services

Most of the countries reviewed do not have ‘public’ as opposed to ‘state’ broadcasting services, and do not provide for genuine public broadcasting in legislation.

- Botswana does not have legislation establishing a public broadcaster. The state broadcaster operates as an arm of the Department of Broadcasting Services in the Office of the President.
- The DRC’s Congolese National Radio and Television Broadcaster is not stated to be a public broadcaster and clearly operates as a state broadcaster.
- Lesotho has yet to pass legislation establishing a public broadcaster. The Lesotho National Broadcasting Service operates as an arm of the Ministry.
- The Board of the Namibian Broadcasting Corporation is appointed entirely by the minister.
- The Swaziland Television Authority is also clearly a state broadcaster and its members are appointed by various ministers.

- Tanzania has clearly recognised the need to move towards having a public as opposed to a state broadcaster, but the minister’s critical role in board appointments means that the Tanzania Broadcasting Corporation remains a state broadcaster.
- The Zimbabwe Broadcasting Corporation is also clearly a state broadcaster as all of its board members are appointed by the minister.
- While Zambia has enacted public broadcasting legislation, it has yet to implement the provisions, meaning that the Zambia National Broadcasting Corporation remains a state broadcaster.

Indeed, of the countries surveyed, only the South African Broadcasting Corporation is:

- Actually appointed in accordance with international best practice, namely, a public nominations process, short-listing by a multi-party body such as parliament, appointment by the president
- Required to broadcast in the public interest in accordance with a statutory mandate

Although the Malawi Broadcasting Corporation (MBC) also meets most of the above requirements, there is no public nominations process and the secretary for information sits on the MBC Board as an *ex officio* member, which is not in accordance with good practice.

3.5 Principle 5: Availability of community broadcasting services

Most of the countries reviewed have a legislative and/or regulatory environment that specifically provides for community broadcasting as a separate tier of available broadcasting services, although implementation thereof is uneven. Countries that do not provide specifically for community broadcasting in law are the DRC, Namibia and Swaziland, although both the DRC and Namibia have licensed community broadcasters.

3.6 Principle 6: Equitable, fair, transparent and participatory licensing processes, including of frequencies

International best practice requires that broadcasting services and, where these use frequencies, associated frequencies be licensed by an independent regulatory

authority. As already discussed, few of the countries surveyed have genuinely independent broadcasting regulatory authorities. Furthermore, the legal environment in many of the countries studied is problematic. For example:

- In Botswana, spectrum or frequency licences associated with the provision of a broadcasting service are granted by the minister not the regulator
- In the DRC, licences are granted by the minister or by regional governmental entities, and the Regulatory Authority licences spectrum after consulting with the minister
- In Lesotho, the minister has to approve all licensing decisions (both in respect of broadcasting services and spectrum) of the regulator
- In Swaziland, the Swaziland Television Authority (which also operates a state broadcaster) is responsible for issuing licences to other competitor broadcasters
- In Zambia, the regulator has yet to be established and so regulatory functions continue to be performed by the executive

Of the countries surveyed, South Africa has the most transparent and independent licensing system in respect of both services and frequencies. However, no invitations to apply for an individual infrastructure licence (required to provide broadcasting signal distribution) can be issued by the South African regulator in the absence of a ministerial policy direction. Theoretically, this undermines the independence of the licensing process in respect of the broader landscape even though it is limited to signal distribution.

3.7 Principle 7: Universal access to broadcasting services, and equitable access to signal distribution and other infrastructure

Most of the countries included in the handbook have provisions promoting universal access to broadcasting services and equitable access to signal distribution, but the actual realisation of universal access is still far from achieved.

One of the biggest reasons for the lack of universal access to broadcasting services is the poor quality of electricity infrastructure. Africa has experienced falling electricity access rates since the 1970s.¹ Indeed, only 24% of the population of sub-Saharan Africa has access to electricity.²

Given that people do not have access to reliable electricity, radio (which can easily be

accessed on battery-operated devices) still plays a critical role in meeting the communication needs of the populations of the countries surveyed.

3.8 Principle 8: Regulating broadcasting content in the public interest

All the countries surveyed regulate broadcasting-specific content, and many of the restrictions or requirements are in accordance with international norms and standards. However, only a few countries have a commitment to self-regulation of broadcasting content by the broadcasters themselves. Indeed, South Africa is the only country reviewed where a commitment to self-regulation is enshrined in the governing broadcasting legislation. In addition, many of the countries studied regulate all content (including broadcasting content) in terms of extremely outdated colonial-era legislation, which does not comply with international standards for limiting or prohibiting the right to freedom of expression. These are dealt with in the general content prohibitions below.

4 WHAT ARE INTERNATIONAL ORGANISATIONS ON THE CONTINENT DOING TO PROMOTE MEDIA FREEDOM?

In 2001, the African Commission on Human and People's Rights (ACHPR) passed Resolution 54 on Freedom of Expression.³ The resolution expressed the ACHPR's concern at the widespread violation of the right to freedom of expression by state parties to the African Charter on Human and People's Rights, including through:

- The harassment of journalists
- The victimisation of media houses deemed critical of the establishment
- Inadequate legal frameworks for regulating electronic media, especially broadcasting
- Criminal and civil laws that inhibit the right to freedom of expression

The ACHPR, in Resolution 54, decided to develop a Declaration on Principles of Freedom of Expression, which it duly adopted⁴ and which is dealt with in detail in Chapter 2 of this handbook.

In 2004, the ACHPR established the Special Rapporteur on Freedom of Expression with a mandate to:⁵

- Analyse national media legislation, policies and practices within member states

- Monitor their compliance with freedom of expression standards and advise member states accordingly
- Undertake investigative missions to member states, where reports of massive violations of the right to freedom of expression are made, and make appropriate recommendations to the African Commission
- Undertake country missions and any other promotional activity that would strengthen the full enjoyment of the right to freedom of expression in Africa
- Make public interventions, where violations of the right to freedom of expression have been brought to his or her attention
- Keep a proper record of violations of the right to freedom of expression and publish this in his or her reports submitted to the African Commission
- Submit reports at each ordinary session of the African Commission on the status of the enjoyment of the right to freedom of expression in Africa

In 2010, the ACHPR adopted Resolution 169 on Repealing Criminal Defamation Laws in Africa.⁶ The resolution calls on state parties to, among other things:

- Repeal criminal defamation laws or insult laws which impede freedom of speech, and to adhere to the provisions of freedom of expression articulated in the African Charter, the Declaration, and other regional and international instruments
- Refrain from imposing general restrictions that are in violation of the right to freedom of expression

At the time of writing, no country had yet responded directly to the call to repeal criminal defamation or insult laws, which are extremely common on the continent. Of the countries surveyed only Lesotho, Namibia and South Africa do not have such laws.

In May 2013, the Pan-African Parliament (PAP) adopted the Midrand Declaration on Press Freedom in Africa,⁷ by which the PAP resolved to, among other things:

- Launch a campaign entitled ‘Press Freedom for Development and Governance: Need for Reform’ in all five regions of Africa
- Establish an annual PAP Award on Media Freedom in Africa for individuals, organisations and member states

- Establish an annual PAP Index on Media Freedom in Africa
- Call upon African Union member states to use the ACHPR Model Law on Access to Information in adopting or reviewing access to information laws

These are exciting developments and are likely to have far greater impact than declarations on press freedom from countries or organisations outside of Africa.

However, the initiatives are new and it will take years, if not decades, to rid a country of laws and practices that are contrary to the right to freedom of expression.

5 WHAT KEY CHALLENGES REMAIN TO MEDIA FREEDOM?

5.1 Introduction – the censorship legacy of colonialism

The PAP, in a statement on its Press Freedom for Development and Governance: Need for Reform campaign, believes that:

The right to freedom of the press is one of the most important human rights. It is indeed an integral part of the right to freedom of expression. It is also seen as one of the cornerstones of democracy. Unfortunately, Africa does not fare very well when it comes to press freedom. In many African countries, authorities have little or no tolerance for press freedom. The media legislation which is in place in many African countries is either inherited from the colonial times, or was instituted by former military and civilian dictatorships to clamp down on criticism and dissenting voices.⁸

This is harsh criticism, but it is not unfair. The *Media Handbook for Southern Africa* focuses on media law rather than general governmental practice towards journalists and media houses. Such practice has included instances of repression, threats, intimidation, arrest, torture and even murder, as numerous indices on press freedom and alerts from non-governmental organisations that support journalists indicate.

Governments and intergovernmental organisations must begin (as indeed some are starting to) the hard work of creating a genuinely free press across the continent – a press that can and does champion good governance, development and the inherent dignity of African people, as well as the importance of protecting the human rights of each individual African person. But this cannot happen without a wholesale updating of the continent's media laws in every country.

Seven types of media laws are dealt with below, almost all of which are colonial era

laws that need to be repealed, amended or updated to enable a professional free African press to flourish for the benefit of all.

5.2 Media registration laws

As has been set out elsewhere in this chapter, media registration laws (whether applicable to publications or journalists) discourage the development of a thriving pluralistic media environment and ought to be abolished. They are purely mechanisms for government control and are not necessary in a democratic country.

Botswana, the DRC, Lesotho, Malawi, Namibia, Swaziland, Tanzania, Zambia and Zimbabwe still require such publication registration. Furthermore, Botswana, the DRC and Zimbabwe also require the registration of working journalists.

5.3 Broadcasting laws

As already discussed, almost every country surveyed ought to review its broadcasting laws to provide for a:

- Genuinely independent broadcasting regulator (whether or not this regulator also regulates other communications services too), whose members are appointed and removed in accordance with international best practices, and who are free to regulate the sector without commercial or political interference
- Broadcasting regulator who regulates in the public interest
- Broadcasting sector that is made up of three distinct tiers of broadcasting: public, community and commercial broadcasting services
- Genuinely independent public broadcaster whose board members are appointed and removed in accordance with international best practice
- Public broadcaster that provides radio and television broadcasting services in the public interest and which does so without commercial or political interference
- Public broadcaster that provides public broadcasting services in accordance with a public mandate developed by parliament

5.4 Criminal defamation laws

The issue of criminal defamation has been taken up by the ACHPR. The Commission,

in Resolution 169, has requested member states to repeal all criminal defamation laws.

Defamation is an issue that can and should be dealt with as a civil matter. In other words, damages, or in extreme cases prior restraints on publication, can be obtained to deal with the unlawful publication of defamatory material. To criminalise speech – that is, to make defamation a crime punishable by, potentially, stiff prison sentences – has an unjustifiable chilling effect on journalists and media houses across the continent.

Criminal defamation laws should be repealed in their entirety and replaced with a civil action in which the rights to free speech and to dignity and reputation are appropriately balanced.

Botswana, Malawi, Swaziland, Tanzania, Zambia and Zimbabwe still have criminal defamation on the statute books.

5.5 Insult laws

The issue of insult laws is another that the ACHPR has taken up. In Resolution 169, it has requested member states to repeal all insult laws.

Insult laws are a particular type of law aimed not at defamation in general but at insults levelled at particular people, usually the head of state, such as the president, but also foreign dignitaries. The publication of material which insults these types of people is criminalised. These laws fundamentally undermine the concept of equality before the law, placing a person, due to his or her political position, above criticism. While there is no doubt that politicians have a right not to be defamed, they have access to ordinary civil remedies to defamation. Furthermore, insult laws are often abused by governments to silence legitimate criticism of political leaders in relation to corruption, cronyism and other barriers to development.

Unfortunately, these laws are extremely common on the continent. Of the countries surveyed only Lesotho, Namibia and South Africa do not have such laws.

5.6 Obscenity laws

With the notable exception of South Africa, all the countries surveyed have obscenity laws that are extremely outdated and problematic from a freedom of expression point of view. In this regard:

- Obscenity laws are often framed subjectively. In other words, they are dependent

on the viewpoint of a particular official rather than on any objective grounds that can be tested in a court of law

- Control of obscene publications are often simple prohibitions rather than so-called time, manner and place restrictions, which would make certain content available to adults only but during times, and in a manner (opaque packaging for publications, for example) and in particular places (adult shops, for example) that does not impact unduly on the general public
- The grounds for prohibiting publications are often far too wide, allowing for the prohibition of an extremely broad range of material when in fact adults have a right to receive publications of their choice other than those that are clearly harmful, such as child pornography and degrading or inhumane portrayals of explicit sex accompanied by extreme violence

A revision of these laws is long overdue given that many countries' obscenity laws date from the early decades of the last century and predate even the Universal Declaration of Human Rights.

5.7 Seditious laws

International norms on security legislation allow for restrictions on freedom of the press where a country's existence or territorial integrity is actually threatened. However, many of the countries surveyed have seditious laws that are overbroad and which do not relate to clear threats to the country itself. Furthermore, overbroad seditious laws have a chilling effect: they silence legitimate comment or reporting on maladministration, corruption and the like.

Botswana, Lesotho, Malawi, Swaziland, Tanzania and Zambia have overbroad seditious laws.

It is important to note that many countries' seditious laws are a holdover of their colonial pasts, and a revision of these laws, in line with democratic norms and standards, is long overdue.

5.8 Other security laws

International norms on security legislation allow for restrictions on freedom of the press where a country's existence or territorial integrity is actually threatened. However, many of the countries reviewed have security, public order and related security laws that are overbroad and which do not relate to clear threats to the

country itself. Furthermore, overbroad security laws have a chilling effect: they silence legitimate comment or reporting on maladministration, corruption and the like.

Every country researched for the handbook has such overbroad security laws. It is also important to note that many countries' security laws are a holdover of their colonial pasts, and a revision of these laws, in line with democratic norms and standards, is long overdue.

But updating security laws is not an easy or a smooth process. An example is South Africa. Its Protection of Information Act, 1982, is a height-of-apartheid statute that is clearly unconstitutional. The government is obviously aware of this and of the need to bring it in line with the South African Constitution. However, the Protection of State Information Bill, which is meant to repeal and replace the Protection of Information Act, has been subject to significant political protest and criticism because of draconian provisions that could be used to silence legitimate reporting. It has yet to be passed into law.

6 CONCLUSION

There is no doubt that democracy is taking root in post-independence Africa, and that more and more countries are at least paying lip service to a free press, a pluralistic media environment and the independent regulation of broadcasting; however, much remains to be done.

Media owners, editors and journalists as well as media activists must use the opportunities that have arisen as a result of the PAP's and the ACHPR's campaigns for media freedom and for the removal of insult and criminal defamation laws. They must challenge these and other laws in court, as well as push for wholesale amendments to pernicious censorship laws that still exist across Africa.

It is perhaps instructive to consider the 2012 Freedom House media freedom ratings for the ten countries included in the handbook. Not a single country surveyed had a media freedom rating of 'free'. Most countries were 'partly free' while some were 'not free':

- Botswana – 'partly free'⁹
- DRC – 'not free'¹⁰
- Lesotho – 'partly free'¹¹
- Malawi – 'partly free'¹²
- Namibia – 'partly free'¹³

- South Africa – ‘partly free’¹⁴
- Swaziland – ‘not free’¹⁵
- Tanzania – ‘partly free’¹⁶
- Zambia – ‘partly free’¹⁷
- Zimbabwe – ‘not free’¹⁸

Notes

- 1 Martin Zhuwakinyu, Falling African Electricity-Access Levels Could Undermine Growth. Available at: <http://www.engineeringnews.co.za/article/falling-african-electricityaccess-levels-could-undermine-growth-2004-02-13> [Accessed 22 June 2013]
- 2 Fact Sheet: The World Bank and Energy in Africa. Available at: <http://web.worldbank.org/WBSITE/EXTERNAL/COUNTRIES/AFRICAEXT/,,contentMDK:21935594~pagePK:146736~piPK:146830~theSitePK:258644,00.html> [Accessed 22 June 2013]
- 3 <http://www.achpr.org/sessions/29th/resolutions/54/> [Accessed 22 June 2013]
- 4 <http://www.achpr.org/sessions/32nd/resolutions/62/> [Accessed 22 June 2013]
- 5 <http://www.achpr.org/mechanisms/freedom-of-expression/> [Accessed 22 June 2013]
- 6 <http://www.achpr.org/sessions/48th/resolutions/169/> [Accessed 22 June 2013]
- 7 http://blog.pan-africanparliament.org/wp-content/uploads/2013/05/Midrand-Declaration-on-Press-Freedom_FINAL_En.pdf [Accessed 22 June 2013].
- 8 <http://blog.pan-africanparliament.org/wp-content/uploads/2013/05/MISA-PAP-statement.pdf> [Accessed 22 June 2013]
- 9 <http://www.freedomhouse.org/report/freedom-press/2012/botswana> [Accessed 24 June 2013]
- 10 <http://www.freedomhouse.org/report/freedom-press/2012/congo-democratic-republic-kinshasa> [Accessed 24 June 2013]
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- 12 <http://www.freedomhouse.org/report/freedom-press/2012/malawi> [Accessed 24 June 2013]
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- 17 <http://www.freedomhouse.org/report/freedom-press/2012/zambia> [Accessed 24 June 2013]
- 18 <http://www.freedomhouse.org/report/freedom-press/2012/zimbabwe> [Accessed 24 June 2013]

