
1 How the Media Enlightens and Sustains Democracy

Right to Freedom of Opinion and Expression

Article 19 of the Universal Declaration on Human Rights is the base upon which the media builds its role to enlighten and sustain democracy. This article provides that everyone has the right to freedom of opinion and expression, which includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

Regional organisations reaffirm this media role. The African Union, Organization of American States, Pacific Islands Forum, Association of Southeast Asian Nations and the European Union all make clear allegiances to a free media as a key ally in promoting democracy and a necessary element in the electoral process. The European Union and the Commonwealth Secretariat also list the media as one of the key areas to be examined when their election observer missions are deployed in any country.

In a 1971 declaration in Singapore, which was reaffirmed at their summit in Harare in 1991, the Commonwealth Heads of Government Meeting (CHOGM) committed to a series of principles to foster and sustain democracy. Among these was the declaration:

We believe in the liberty of the individual, in equal rights for all citizens regardless of race, colour, creed or political belief, and in their inalienable right to participate by means of free and democratic political processes in framing the society in which they live. We therefore strive to promote in each of our countries those representative institutions and guarantees for personal freedom under the law that are our common heritage.⁴

A meeting of editors convened by the Commonwealth Broadcasting Association and the Commonwealth Secretariat in Canada in 2001 and a separate seminar of political editors

convened by the Commonwealth Secretariat in Uganda in 2007 agreed that 'Free and democratic political processes' ultimately included elections whose credibility could not be doubted by any voter, candidate or observer. The editors noted that delivery of such credibility was very much in the hands of the media.⁵

In its *Handbook for European Union Election Observation* (2008), the European Commission puts this in context:

*In order to ensure the full enjoyment of rights protected by Article 25 (of the Universal Declaration of Human Rights), the free communication of information and ideas about public and political issues between citizens, candidates and elected representatives is essential. This implies a free press and other media able to comment on public issues without prior censorship or restraint that informs public opinion.*⁶

The handbook also poses significant questions for European Observer Missions in terms of the media environment:

- Does the legal framework guarantee the freedom of the media? If so, is this freedom respected in practice?
- Is the media able to work freely and operate without prior censorship (including self censorship), intimidation, obstruction and interference?
- Has there been any violence against journalists? If so, does it appear election-related?
- Have any media outlets been closed as a result of government action? If so, what were the circumstances and do these appear politically motivated?
- Have any media outlets been harassed by government agencies (e.g. tax audits)
- Is libel a criminal offence? If so, have any journalists faced any criminal sanctions for their reporting? Were any such cases election-related?⁷

In *Media and Elections: an elections reporting handbook*, Ross Howard argues that the media is the most important way people find out about an election and political choices. To do this, Howard argues that the media needs to be free to report fairly on campaigns of all political parties, so people can determine if there are differences between them. Howard argues further that

the media: needs to provide all people with the same information on how to vote; needs to have the freedom to ask tough questions and get answers about the transparency of an election; and needs to tell voters if there is something wrong so that it can be fixed.

In addition to these elements raised by Howard, is the media's traditional 'watch dog' role. For people to make good decisions on whom to vote for, they require information about the records of political parties and politicians individually. They require information on whether the party or parties in government delivered on their last election promises or whether they fell short; likewise, how did individual politicians perform? People also need to know how opposition parties have fared.

Informing Citizens

People also require information on current promises by parties in government, as well as those bidding to enter government at the next election. This is where media comes in – to inform citizens and to hold governments to account (and by extension, government agencies such as security agencies and civil servants).

Ace Encyclopaedia,⁸ part of the Ace Electoral Knowledge Network, sees the media playing a more specific part in enabling full public participation in elections, not only by reporting on the performance of government, but also in the following ways:

- Educating the voters on how to exercise their democratic rights
- Reporting on the development of an election campaign
- Providing a platform for the political parties to communicate their message to the electorate
- Allowing the parties to debate with one another
- Reporting results and monitoring vote counting
- Scrutinising the electoral process itself in order to evaluate its fairness, efficiency and probity⁹

Taking this into account, it is evident that the media plays an indispensable role in a properly functioning democracy, specifically in setting the agenda for a successful election. Having established the important place of the media in covering elec-

tions and in the general process of oiling a functional democracy, we have to reaffirm that with this role comes great responsibility. In recognising this, the *Handbook for European Union Election Observation* states that the right to freedom of expression may come with some restrictions that must be provided for by law (i.e. such restrictions cannot be arbitrary), essentially to protect the right or reputations of others or for the protection of national security, public order, public health or morals. *The Danish Democracy Canon* (2008),¹⁰ published by Denmark's Ministry of Education, summarises this discussion powerfully.

On the one hand, mass media represent a dramatic expansion of democracy. Everyone can, from one moment to the next, inform themselves about events near and far; not just about what is happening locally, but about what is happening throughout the country and in other countries. And when politicians appear on the news and give interviews, one gets a feeling of knowing them far better than if one saw them live in person once a year – if at all. Mass media can ask pointed questions on behalf of the voters, and they can deliver effective arguments in defence of fundamental freedoms. Through its mass media, a society learns something about itself each day. Mass media are not democracy's enemy, but its best friend and guarantor.

We have made the case that media is a crucial player in electoral processes, with the twin tasks of disseminating information and keeping political and government structures accountable. We will now turn, in the next chapter, to the historical context of media in the reporting of elections.

TESTIMONY

Daniel Nyirenda – Malawi

In Malawi, covering elections poses one of the most serious challenges to journalists and is one of the most exciting times for journalists.

Elections in Malawi are governed by a 1993 constitution, framed to usher in pluralist democracy after 30 years of dictatorship. It provides for presidential, parliamentary and local government elections. The Malawi Electoral Commission (MEC) is the official body that organises elections in the country. Since 1994, when the first multiparty election was held, the country has had a total of three general elections i.e. presidential and parliamentary elections, one in May 1994, the second in May 1999 and the third in May 2004.

In terms of pre-election coverage, the practice involves covering events largely in accordance with the electoral calendar. This period starts from the day the incumbent president dissolves parliament, through the campaign period, to the actual day of polling. The period spans about four months. This period involves covering electoral candidates, both parliamentary and presidential. The media is also actively involved in covering activities of the MEC and electoral stakeholders, including donors. Some press reports also tackle registration of voters, registration of candidates, electoral malpractices, activities of electoral monitors, local and international observers and coverage of party manifestos and the candidates' campaign trail. In addition, coverage involves reporting on opinion polls by private institutions and NGOs.

In particular, there are certain issues that have pervaded all three general elections in the country – maybe with the slight exception of the 1994 general elections, which were the freest and fairest to date. For instance, in both the 1999 and 2004 general elections, the Malawi media reported on petitions by opposition presidential candidates to the MEC alleging rigging tactics and propaganda by the then ruling United Democratic Front (UDF) party and its coalition partners using public radio and television.

This election period was also characterised by coverage of the court. The most notable litigation in 2004, which was widely covered by the press, was a petition by an opposition coalition called Mgwirizano to the High Court over a shortened period between the verification of the electoral roll and polling day. Mgwirizano also lodged a complaint about abuse of resources by the ruling UDF, National Congress for Democracy



(NCD) and Alliance for Democracy (AFORD) coalition, offences which are against the country's electoral laws. In addition, the opposition queried why the MEC printed 7 million ballot papers against 5.7 million registered voters and a projection of 5 million adults (those above 18 years of age) by the National Statistical Office (NSO). Among some of the demands, the opposition wanted the courts to push forward the date for conducting the polls and for extra ballot papers to be in the custody of the court. The court shifted the date of the elections, but ruled that the ballot papers should remain in MEC custody.

During the pre-election period, the press in Malawi also reports on press briefings by and activities of observers, namely the African Union (AU), the Southern Africa Development Community (SADC), the Common Market for East and Southern Africa (COMESA) and the United Nations Development Programme (UNDP).

Election reporting

The election-reporting period covers the time between the actual polling up to the day the election results are announced. In Malawi, the constitution stipulates the polling day, unless otherwise amended by parliament. Section 67 of the constitution says:

The National Assembly shall stand dissolved on the 20th March in the fifth year after its election, and the polling day for the general elections for the next National Assembly shall be Tuesday in the third week of May after that year.

On the polling day, the press covers the polling by all presidential candidates at their polling stations. Coverage also involves reporting on electoral irregularities, vote counting and analysis of unofficial results, and general observance of electoral rules by participating candidates. Issues that dominate this period in Malawi are usually delays in opening polling centres in some areas, ensuring that voters whose names do not appear on the register are barred from voting in what is known as 'ghost voting', electoral violence, forms of ballot rigging such as illegally stuffing ballot boxes and voting patterns across the country. An example of coverage during this period is a story that *The Daily Times* carried on 21 May 2004, in which marked ballot papers were found in MEC vehicles at Area 24 in the country's capital, Lilongwe. There were also cases of violence reported after the Mgwirizano coalition presidential candidate declared himself winner of the polls. To date this has been the most tasking period for journalists in Malawi.

Post-election period

The post-election period is another interesting and dramatic period in coverage of elections, as it is characterised by reactions to the poll results by winners and losers.

In Malawi, the media reports on the official election results, continues to report on any electoral irregularities during the elections and covers reactions by political parties to the poll outcome. It also reports on election results by international and local observers, litigation by losers challenging poll results, analyses of poll results by political analysts and other independent academics, views from citizens and electoral violence. In addition, this period is interesting as the media covers political deals made by the opposition and winning parties and manoeuvres among parties for key positions in the National Assembly, including that of speaker.

In between elections, the press covers, for example, by-elections, reforms and strategic plans at the MEC. Some of the processes that have taken place in the MEC since the last election are re-demarcation of constituency boundaries, restructuring of the organisation, whereby some senior officials were fired due to financial fraud during elections, and capacity building of staff.

One of the main challenges for journalists in Malawi in covering elections is intimidation and violence by political parties. Much as most politicians look for unlimited coverage during this period, those same politicians (and their supporters) are also at their weakest point, psychologically, during this time and may intimidate or become violent with reporters for doing their work.

Another serious challenge for journalists is lack of resources. The majority of journalists in Malawi live in the country's three cities, which are headquarters of the country's three regions. Because of inadequate resources they are unable to travel independently to rural areas to investigate not only stories to do with elections, but other stories as well. As a result, some journalists travel to rural areas in vehicles belonging to politicians or political parties, which obviously influences them in their writing. At the same time, communication facilities for use by reporters are usually lacking or absent in rural areas (few are able to carry laptop computers with them), so they are unable to file stories to their newsrooms while travelling in rural locations. Another challenge is that the MEC and government officials are often elusive when it comes to giving out information on elections during this period.¹¹

Commonwealth Observer Group report

Zimbabwe Election,¹² 2000

Note: *The 2000 Zimbabwe election pitted the ruling Zimbabwe African National Union (ZANU-PF) of incumbent President Robert Mugabe against the opposition Movement for Democratic Change (MDC) of former trade unionist Morgan Tsvangirai. The MDC's was the first serious challenge in an election to ZANU-PF since the southern African country gained independence from Britain in 1980. The election came only a few months after the MDC successfully led opposition to a move by President Mugabe to change Zimbabwe's constitution to entrench more power in the presidency.*

The broadcast media

This is dominated by the state-owned Zimbabwe Broadcasting Corporation (ZBC) which, by law, is the sole radio and television broadcaster in the country. Under the terms of the Broadcasting Act 1996, the ZBC is a corporate body controlled by a Board appointed by the Minister of Information, Posts and Telecommunications. The mission statement of Zimbabwe Broadcasting Corporation states that it is to provide its audience with reliable information on television, radio and new media. There is no independent broadcasting regulatory authority. ...

Under the Radio Communications Act, the Posts and Telecommunications Corporation regulates, controls and supervises radio stations and radio communication services in Zimbabwe. There are an estimated one million radio sets in the country and radio is the main source of news, particularly in the rural areas. All ZBC's radio channels are broadcast to the whole country. Radio 1 is an FM station broadcasting in English. Radio 2 carries programming on FM and short wave in Shona and Ndebele. Radio 3 is an FM station broadcasting mainly music. It also has hourly news summaries and a recent survey indicated that it has an exceptionally large audience. Radio 4 is an FM and short-wave station which carries mainly educational and development programmes.

The observer group found the radio and television broadcasts of Zimbabwe Broadcasting Corporation, particularly the news bulletins, to be heavily biased in favour of the ruling party. It has been instrumental in getting the party's message to the rural areas and in denouncing the opposition. Numerous bulletins on ZBC during the election campaign started with lengthy reports of speeches by ZANU PF ministers and candidates. Sometimes such reports comprised half of the entire bulletin, which also contained no mention of any opposition parties.

Every morning, after the 7am bulletin, ZBC ran a programme presented by a police officer who detailed police reports on campaign incidents and violence. We investigated one report

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Commonwealth Observer Group report, Zimbabwe, 2000

presented on this programme in which the officer had stated that a farmer had sustained injuries from falling off his motorcycle. The police claimed that the war veterans on his farm had assisted him after this fall. However, the farmer said the injuries, which were serious, were the result of a heavy beating from the war veterans following an exchange of words. This was also the report carried by the independent media. This investigation cast doubt on the credibility of this daily report presented by the police to the nation.

Shortly after the arrival of the group, ZBC sent us a copy of a letter which they had sent to political parties inviting them to come to their studios and record programmes. This programming was to consist of:

- Free five-minute radio and television addresses to the nation in Shona, Ndebele and English. In these addresses the parties would explain their election manifestos. The broadcast times of these addresses was to be at ZBC's discretion.
- Free ten-minute radio interviews in which the parties would be interviewed in their election manifestos.
- Free 30-minute television interviews on the party's manifesto.

The station ran half-hour television interviews with seven party leaders in the fortnight prior to the election and provided a five-minute slot to each party to describe its manifesto. There was no code of conduct for the interviews and discussion programmes. Some observers noted that during discussion programmes the interviewers tended to allow the ruling party more time to explain their views than the opposition and to interject while the opposition participants were talking.

There were no guidelines for political party advertising and ZBC did not broadcast advertisements by the main opposition parties. The MDC had submitted some but these were not broadcast because ZBC said they needed clearance. In such cases there is no method for recourse.

Moves to end ZBC's monopoly in the media

A private company, Capitol Radio Pvt, has been trying to get a licence to start an adult contemporary music based radio station for four years. In the run up to the election, it applied to the Supreme Court to try to hear its application on an urgent basis. This was rejected and the application will possibly be heard in September.

Two weeks before the elections a new radio station, Voice of the People, started broadcasting for two hours a day in Shona, Ndebele and English on short wave across the country. Voice of the People describes itself as a community station that aims to cover contemporary issues for the average man on the street. It broadcast programmes about the elections and aimed to provide voter education and highlight issues facing the electorate.

In the run up to the election and shortly after results were out, the Voice of America set up a special service to broadcast a daily 30-minute radio programme in English during the week across Zimbabwe on medium wave. This had interviews with government and opposition politicians.

Supreme Court judgment on the state-owned media

The opposition Movement for Democratic Change took the ZBC, the Mass Media Trust, Zimbabwe Newspapers (see below) and the Minister of Information, Posts and Telecommunications to court to try and correct the bias of the state-owned media. Under the terms of a Provisional Order issued on 13 June the Supreme Court ruled that with immediate effect:

Zimbabwe Broadcasting Corporation and each and every person employed by it are required to perform its functions to carry on television and radio broadcasting services impartially, without discrimination on the basis of political opinion, and without hindering persons in their right to impart and receive ideas and information.

The Supreme Court granted 15 working days to ZBC to show it why a Final Order confirming the Provisional Order should not be made. The Court's ruling also gave the Mass Media Trust and Zimbabwe Newspapers 15 days to show why a similar order should not be issued in respect to them. This term expired after the election.

The print media

The government-controlled Zimbabwe Newspapers was bought from the South African Argus Group shortly after independence in 1980. It is a listed company and publishes six papers. Although the company is quoted on the Zimbabwe Stock Exchange its shareholding is dominated by the government's Mass Media Trust, which owns 51 per cent. The editorial policy of Zimbabwe Newspapers is to support the government.

During the week, Zimbabwe Newspapers publishes two papers in English: the Harare-based *The Herald* is a daily with a circulation of 90,000 and the Bulawayo-based title, *The Chronicle*, also a daily, has a circulation of 40,000. Its weekly papers, published on Friday, are the English title, the *Manica Post* with a circulation of 19,000 and the Shona title, *Kwayedza*, with a circulation of 14,000.

In 1998, the privately-owned Associated Newspapers of Zimbabwe was started. Its flagship title is the *Daily News*, which is published Monday to Friday and has a circulation of 100,000. The other titles in this group are published on Friday. These are the Mutare-based *Eastern Star*, with a circulation of 15,000 and the Bulawayo-based *Despatch*, with a circulation of 20,000. ...

In contrast to the monopoly of the broadcast media, the newspapers in Zimbabwe publish a wide range of views. Senior staff at Zimbabwe Newspapers say that they tend to accentuate the positive sides of the government. They admit that in order to get a balanced picture of the news it is necessary to read the independent press. On the whole, the private press supported the opposition. ZANU PF rallies were covered prominently in *The Herald*, with attendance figures published being substantially higher than we saw.

During the period we were in Zimbabwe, the newspapers published robust editorials supporting either the governing party or the opposition. Many of the editorials in the government papers concentrated on government policy on land while those in the independent press reported that there was a desire for change in leadership and economic policy. Whilst both sectors of the print media reported incidents of campaign violence, reports of violence against opposition supporters tended to be carried by only the independent media.

During the election period, most print media did not attempt to educate voters until a few days before the polls. A notable exception to this was the *Financial Gazette*, which ten days before polling published a supplement titled 'Election 2000, Your Vote is Your Secret'. This carried policy statements of six different political parties in Shona, Ndebele and English, thereby widening the number of people who would read it. On the eve of voting, other papers carried similar supplements.

The Internet

This was used extensively by the opposition and its allies to spread their views within Zimbabwe and around the world. Some sites on the World Wide Web, which supported the opposition, were used as a repository of information for their sympathisers. Articles, particularly those from the international media which highlighted the difficulties faced by opposition supporters, were posted on these sites. Electronic mail was used by opposition allies to send information to their supporters and international observers. Many of these sites made no attempt to present balanced news.

The Media Monitoring Project

This was established in January 1999 and is a joint initiative of three organisations, the Zimbabwe Chapter of the Media Institute of Southern Africa (MISA), the Civic Education Network Trust (CENT) and Article 19, the international centre against censorship. The Media Monitoring Project Zimbabwe (MMPZ) is funded by the Norwegian International Development Agency (NORAD) and the Open Society Initiative for Southern Africa. It monitors the Zimbabwe media to determine how far they adhere to international and constitutionally guaranteed standards of freedom of expression, as well as generally accepted professional and ethical standards of journalism. The project has a particular interest in those sections of the media that are financed by public funds; however private media are also subject to scrutiny.

MMPZ issued weekly monitoring reports detailing the balance of coverage in the broadcast and print media. Ten days before the voting these became daily reports. These reports clearly indicate that ZBC and *The Herald* and other newspapers in the Zimbabwe papers stable were heavily biased in favour of the ruling party and the government. The opposition acknowledged this with a senior member of the MDC stating, 'We have written off the press for all practical purposes'.

Commonwealth Observer Group report

Sri Lanka Election, 2005

Note: *There were 13 candidates for the 2005 presidential election. Two emerged as the leading candidates – these were the incumbent Prime Minister Mahindra Rajapakse and opposition leader Ranil Wickremesinghe.*

Media

The [Commonwealth Observer Group] team noted that there are five companies spanning newspaper ownership, including eight Sinhalese, four Tamil and nine English language newspapers. There are five radio broadcasters and seven TV station owners.

One of the five large newspaper companies is a nationalised asset whose newspapers carry the bulk of government notifications and advertising. Significant sections of the private media are owned by relatives of key political figures in the country.

The team noted the highly partisan nature of media coverage of this Presidential election. The government-owned media appeared to show bias towards the candidacy of Mahindra Rajapakse, then Prime Minister, whilst the privately owned media showed a distinct bias towards the opposition leader, Ranil Wickremesinghe. These observations were supported by the domestic observer group PAFREL.

During the time available to us, the team only monitored three daily English language newspapers and their sister publications on Sunday.

This perception of the media coverage appears to have persisted throughout the campaign and on polling day. Restrictions came into force at midnight on 14 November 2005 prohibiting public rallies and other forms of overt campaigning by the candidates.

Regulation of the media

The Commissioner of Elections has the power to appoint a competent authority in order to regulate the state media, if he considers it necessary. The team notes that the regulatory framework governing the scope, nature and timing of media coverage during political campaigns does not appear to be comprehensive.