



Africa Media Review, Volume 12, Number 1, 2004, pp. 13–26
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(ISSN 0258-4913)

The Media Struggles in Zambia: The Need for a Unified Policy on Press Freedom

Kenny Makungu*

Abstract

This paper traces the evolution of the struggles for press freedom in Zambia since the country's independence. While progress has been made in various fronts, the paper notes that sustaining the gains of the struggles requires continuing pressure on the government from the citizenry and on the political will of government.

Résumé

Cette présentation retrace l'évolution des luttes pour la liberté de la presse en Zambie depuis l'indépendance de ce pays. Même si des progrès ont été réalisés sur divers plans, cette contribution soutient que pour conserver les acquis de ces luttes, il faut que l'ensemble des citoyens maintienne la pression sur le gouvernement et sur sa volonté politique.

Introduction

The Zambia people have always known how they have wanted the media in the country to operate – freely and independent of political interference. Unfortunately, this has been at variance with those in power. As a result, the country has never had a media policy that takes into account the interests of all stakeholders.

In Zambia, like in many other developing countries, the media has functioned as a tool of the ruling class to help it mobilise people allegedly for the economic and social development of the country, but in reality, to promote the interests of the ruling class. This has mainly been due to the Government ownership and control of the major means of communication in the country, which include two national daily newspapers (the *Times*

* Kenny Makungu is lecturer in journalism and mass communication in the Department of Mass Communication at the University of Zambia, Lusaka, Zambia.

of *Zambia* and its sister *Sunday Times*; and the *Zambia Daily Mail* and its sister *Sunday Mail*; and the main national radio and television broadcaster, the Zambia National Broadcasting Corporation.

In addition to the above, a historical perspective of the media in Zambia, even before independence in 1964, shows that the press in the country has been one of either building-up or destroying politicians. For example, early publishers such as Moore, Scott and Welensky, all effectively used their newspapers as stepping-stones to political power. And during the African Freedom Struggle, the African press greatly helped African nationalist leaders to unseat the white colonialists from power. These newspapers were the only mass media available to the African nationalists for the mobilisation of their people for the struggle.

After Zambia became a Republic on 24 October 1964, the new African Government simply continued to see and use the mass media as tools for the mobilisation of the people to achieve whatever goals it thought were good for the country. At another level, the history of the Zambian press, especially after independence from British colonial rule, also reveals that the media had been shaped and moulded to pander to the whims of the United National Independence Party (UNIP) and its Government under President Kenneth Kaunda. UNIP was in power from independence until the end of October 1991, when Fredrick Chiluba's Movement for Multi-party Democracy (MMD), won the first multi-party elections after 17 years of single party rule.

The blame for the state of the country's media should fall on the shoulders of Zambia's first President, Kaunda, and his Party and Government leaders who turned the country to the socialist principles of the former Soviet Union and the other Eastern Bloc countries whose economic and political organisation they tried to emulate. Political pluralism and an independent press were shunned and regarded as luxuries, which a country, whose priority was first and foremost, social and economic development, could not afford to enjoy. All institutions in the country were therefore subordinate to the state, especially to UNIP and its Government.

Press freedom under single-party rule

In 1975, just two years into single-party rule, President Kaunda defined the role that the media was supposed to play in the country's social and economic development. It (the media), was expected to promote 'human morals' in line with Zambia's 'Philosophy of Humanism,' and also to promote 'cultural values.'

The President, in his speech to the UNIP National Council, set forth conditions for the operation of the media, which were until the end of UNIP rule in 1991, still largely applied:

Times of Zambia reflects official Party and Government thinking.

The *Sunday Times of Zambia* must carry analysis in depth on the Party and Government and the nation in general.

Zambia News Agency (ZANA) must collect news about the whole nation.

Television Zambia (TVZ) must, apart from disseminating information, express in depth the various cultural aspects of this nation, apart from entertainment. [TVZ has now been renamed The Zambia National Broadcasting Corporation (ZNBC)].

Radio is to continue disseminating information, providing entertainment and education in all its important aspects. (Kaunda, The Watershed Speech, as reproduced by Moore, 1991, p. 68).

While there remained no unified media policy in the country, journalists, in the view of President Kaunda:

...were expected to be committed to the philosophy of the country's revolution. They were regarded as its vanguard. They were required to always remember that their task was to promote the interests of the revolutionary and struggling masses of Zambia and those of the rest of the world. [Kaunda, as paraphrased by Moore (1991: 68–69)].

The result of all these measures, as Moore (1991) observed, was that the practice of journalism gradually degenerated into uncritical coverage of politicians and political statements. There was (and still is) little investigative reporting done in the country.

Under Kaunda and UNIP, all political and economic life was centrally planned and the culture of speaking with one voice was institutionalised. This culture called for only one official press to 'parrot' the utterances of the President and other officials in his Party and the Government. This situation has changed very little under the MMD Government, which is in its 12th year in power.

The Government has always been cognizant of Article 20 of the Constitution of Zambia which protects an individual's right to expression and is very explicit about the individual's right not only to impart his or her ideas to others, but also the right to receive ideas. So in theory at least, the press in Zambia has always had the freedom to publish what it wants although

throughout its history, especially after attaining independence, state officials have dictated, and in the majority of cases, have succeeded in telling the newsmen and women what they should and should not publish. This was the case because the country had no official unified policy on press freedom until the end of the 1990s, though even with this, little has changed.

In 1980, the State did try to pass legislation to formally regulate the press through the abortive Press Council Bill, which would have completely muzzled the country's media.

Since independence, Zambia has publicly claimed the existence of a free press. But the reality of the situation is that

the media are owned by the Government, to serve the Government. There are no guarantees of press freedom in the Constitution and, generally, individual provisions of freedom of expression do not seem to apply to the press (Moore 1991:xxvi).

Moore (1991) has correctly argued that Zambia (before 1991), was a one party state, and the party, so to speak, "owned" the Government and therefore, the press. UNIP had elevated itself to a supreme position above elected Members of Parliament, and above the elected or appointed Government, hence the phrases, "The Party and its Government" and "the Party is supreme" to describe the governing structure of the country. The UNIP General Conference was the highest authority of both the Party and the Government. The Party's Central Committee issued all instructions to be carried out by Government ministries.

In such an environment, media practitioners have had to 'toe the line' on purely political issues or governmental concerns, or they have risked facing the wrath of those in power.

While this Constitution which dates from early 1973 includes guarantees of fundamental rights, the 2nd Republican Constitution also created new political and governmental arrangements which impacted negatively on operations of the media. To start with, it recognised UNIP as the only political party and made provisions to ensure that no other political party could be legally constituted or supported, and no one in the country could lawfully express an opinion in support of any alternative political organisation or claim a Constitutional right to do so. These restrictions extended to the press covering any person involved or engaged in any way in such 'illegal' activity.

As already noted, this Constitution did embody a "Bill of Rights" from Article 13 to 19, and the Judiciary could hold laws and administrative acts invalid if they violated the provisions in the Bill of Rights. These provi-

sions included the right to life, liberty, privacy and a fair trial. Article 21 protected freedom of conscience and belief; Article 22 protected freedom of expression, and Article 23 protected freedom of assembly and association. But all of these provisions, were, however, (until the birth of the 3rd Republic in 1991 when Article 4 was repealed), subject to Article 4 and its provisions concerning the sole political party in the country.

In addition to these restrictions, Article 53 of the Penal Code of Zambia, empowers the President at his absolute discretion to prohibit publications which, in his opinion, 'are contrary to the public interest.' This law is still in existence today.

A prohibition order can apply to any periodical, publication or newspaper foreign or local, and may extend to all publications published by a specified person or association of persons whether published before the date of the order or after.

The Presidential powers to ban publications are supported by penal sanctions provided in Section 54 of the Code which makes it an offence to import, publish, sell, offer for sale, distribute or reproduce in whole or in part, any prohibited publication. The penalty for this offence is imprisonment for two years, or a fine upon conviction. The prohibited publication also has to be forfeited to the President on behalf of the Government.

But after experiencing earthquake-like changes to its political, social and economic structures after June 1991, similar to those experienced in Eastern Europe, Zambia reverted back to political pluralism abandoned at the end of 1972, and also embarked on a market-driven economy.

However, the amendment to Article 17 of the Constitution which allowed the reversion to political pluralism, and the relaxing of some political restrictions had not until the year 2003, by and large, extended to the press. Although members of the press and their organisations have always resisted the control exerted on them by both Party and Government officials, the officials, both UNIP and MMD, have come out on top, more so in the first Republic mainly because of the position that UNIP had placed itself on in the governing structure of the country. As indicated previously, UNIP was supreme.

Press freedom and the new government

Article 22, paragraph 1 of the Constitution of Zambia states that

Except with his own consent, no person shall be hindered in the enjoyment of his freedom of expression, that is to say, freedom to hold opinions without interference, freedom to receive ideas and information without interference, freedom to impart and communicate ideas and information

without interference (whether the communication be to the public generally or to any one person or class of persons) and freedom from interference with his correspondence. (Constitution of the Republic of Zambia, Article 22, Para. 1).

Upon forming the new Government in the 3rd Republic towards the end of 1991, the new MMD Government under President Chiluba pledged to ensure that the media also fully benefited from the 'new' democracy, which was growing in the country. As a result, many Zambians expected rapid changes with regard to the press, to bring them in line with the emerging democracy in the country, as promised by the MMD in its 1991 Manifesto.

Having made promises to free the press, most people, especially media personnel, expected the new Government to put into practice almost immediately what the Party had promised when it was in opposition. And to the delight of many, the MMD Government started to take measures, which appeared to pave the way for the implementation of Manifesto promises.

In keeping with its Manifesto, the Government in 1993 organised a conference on the Zambian media and the way forward. At that conference, a Media Reform Committee was formed consisting of representatives from the Ministry of Information and Broadcasting Services (MIBS), the University of Zambia (UNZA), the Zambia Institute of Mass Communication (ZAMCOM), the Press Association of Zambia (PAZA), the Zambia Privatisation Agency (ZPA), the Law Association of Zambia (LAZ), and other stakeholders. This committee identified five critical priorities, which required Government attention. These priorities were:

- a) Comprehensive constitutional and legal reform;
- b) Privatization of state-run press and addressing the economic and financial constraints to the development of an independent and plural press;
- c) Strengthening media associations, including the training of journalists;
- d) Placing the state-owned broadcasting corporation under public control, rather than under the control of the Government and allowing private participation in broadcasting;
- e) Establishing a media resource centre.

The re-emergence of private-owned newspapers at the start of the 1990s saw the birth of the *Weekly Post*, which later became a daily newspaper and changed its name to *The Post newspaper*. Others, which followed,

were *The Sun*, *Crime News* (later renamed *The Confidential*), and *The Chronicle*. However, all these have discontinued publication for various reasons, including the lack of resource capacity. Other newspapers such as *The Monitor*, took off in 1996.

In its Information and Media Policy published in 1996, Government stated that the principal goals of its policy were:

To increase media outreach throughout the country, promote and safeguard press freedom, encourage private investment and diversify media ownership. (p. 2).

Government also noted that the role of the media was to provide checks and balances for Zambia's democratic governance, saying:

In the liberalised media climate, it is the government's responsibility to lay down basic communication infrastructure. This will not only encourage private investment into the media, but also provide an environment for checks and balances while promoting community participation in the democratic governance of Zambia. The media should, therefore, continue to play a watchdog role in society, while creating awareness and respect for Human Rights. (p. 2).

The public, as already pointed out, generally accepted the MMD's policy of liberalising the media industry. However, despite the efforts made to liberalize the media sector during MMD's first term in office, Government ownership of the mainstream media organizations continued. These organisations include the Zambia National Broadcasting Corporation (ZNBC), the *Times of Zambia*, and the *Zambia Daily Mail* and their sister Sunday papers. On the electronic side of the media, private broadcasting also received a surge of life in the newly liberalised economy. In this area, Radio Christian Voice became the first privately-owned radio station in the country when it began operations in 1994, two years before the end of the MMD's first term in office.

Unfortunately, by the end of its first term in office in 1996, the MMD Government had validated the words of Canadian Information Commissioner, John Grace (1993), who observed that a Freedom of Information Law could be irksome and a cause of political embarrassment to a government. He explained that:

Political parties are much more supportive of access to information when they are in opposition than when they are in power. There is something self-flagellating in a government proposing such legislation. That is why only some dozen countries, all in the West, have taken the brave step.

Unusual self-confidence or a sense of inevitability—more likely the latter—is required to adopt an access regime. (Grace 1993:11).

Reversing its position

By the start of its second term, the MMD Government had reviewed its policy on the extent of the liberalisation of the public media. This move entailed a reversal on the earlier position on the sale of ZNBC, and the two Government-owned daily newspapers, the *Times of Zambia* and the *Zambia Daily Mail* and their sister Sunday papers. Government decided that these media would continue under Government ownership and control in order for them to be able to explain Government policies and development programmes to the public. In the new policy direction, Government instead undertook to facilitate the development of the private media, to operate alongside the State-owned ones. As a result of this development, new radio stations were registered. The radio stations that have been set up include:

Ichengelo, Radio Maria, Yatsani Radio, Radio Chikuni, Mazabuka Community Radio Station, Radio Lyambai, UNZA Radio, Radio Phoenix, and Radio Chikaya among others. These radio stations are providing a diversity of information to the public alongside the State-run Zambia National Broadcasting Corporation.

Due to relatively high initial operating costs, private television transmission has been growing slowly. As a result, only one new private broadcasting station – Trinity Broadcasting Network (TBN), has been set up in the country. In addition, two television companies have been able to beam programmes from foreign-based stations into the country. These companies are Multi-choice Zambia Limited, and Cable and Satellite Technologies Limited (CASAT), which are both pay channels.

The period between 1996 and 2001, which also marked the MMD's 2nd term in office, witnessed increased pressure from ZIMA and PAZA on Government to move on the issues of media reforms. There was also a lot of pressure from backbenchers and members of opposition parties in Parliament. For example, according to a policy document initiated by ZIMA and PAZA (2002), the Parliamentary Committee on Information and Broadcasting Services has so far issued two reports on this subject. In its 1999 report, the Committee recommended, among other things, that:

- a. The Ministry of Information and Broadcasting Services must start to implement the reforms recommended by the 1993 Media Reforms and the Coopers and Lybrand Report, adding that there was need for political will in the implementation of the reforms;

- b. A time-frame should be set to which Government should implement the recommendations from the Media Reforms Committee;
- c. ZNBC should cease sitting on the Licensing Committee forthwith;
- d. ZNBC should be turned into a national public broadcaster and legislation to make it so should be passed accordingly;
- e. An Independent Media Regulatory Authority should be set up which will have no interference from Government in its decisions. Government's role would be to make media policy, while an independent regulatory body would licence and monitor media institutions, control frequency allocations and enforce rules and regulations; and
- f. While recognising that there is no absolute freedom, the Committee recommended that Government should go a step further to enshrine freedom of the press in the Constitution.

In its second report issued in 2000, the Committee reiterated some of its earlier recommendations and made fresh recommendations as follows:

- a. The Government through the Ministry of Information and Broadcasting Services should consider putting in place a timeframe to implement the recommendations of the June 1999 Media Task Force which is a follow-up to the Media Legal Reforms Committee of 1993 to demonstrate its seriousness in amending laws that affect the media;
- b. The Printed Publications Act CAP 161 be amended in order to provide for penalty fines;
- c. The Government should consider establishing a single Independent Communications and Media Authority with one wing that deals with the media while the other wing deals with communication matters. This is more so with the already existing Communication Authority. Also recommended was the amendment of the Communications Authority Act to enable the creation of an Independent Communications and Media Authority;
- d. The Government was urged to implement some of the 1993, 1996, and 1999 Media Reforms recommendations to demonstrate its seriousness in amending laws that affect the media;
- e. The Constitution be amended to enshrine press freedom and the Government be urged to repeal all laws that affect the media. In addition, the Freedom of Information Act be enacted in order to compel public leaders/figures to release the information in the interest of the public;

- f. The Government should amend all laws that impede press freedom as soon as possible;
- g. Government was urged to urgently amend the Zambia National Broadcasting Corporation Act in order to remove licensing powers from the Zambia National Broadcasting Corporation (ZNBC); and
- h. Government was also urged to implement Media Reforms in Zambia at the shortest possible time.

The seminars and workshops held by other stakeholders have also focussed on suggesting legislation that would result in the media in Zambia being a truly independent means of public communication, which would:

- a. Enable the people of Zambia to communicate and receive ideas freely;
- b. Serve as a watchdog on Government;
- c. Make people in Government responsible and accountable for what they do or do not do; and
- d. Make the actions or lack of actions of people in Government transparent.

Specifically, the seminars and workshops have been centred on reform of media legislation, which would make the media achieve the above objectives. A new legislation being proposed has included the setting-up of an Independent Broadcasting Authority (IBA), the reconstitution of the ZNBC into a public broadcaster, and the passing of a Freedom of Information Act.

In its response, Government, according to the Draft Revised National Media Policy (2000:25), has accepted to institute the following policy measures with regard to freedom of the press and good governance:

- a. Ensure that Article 20 of the Constitution enshrines the freedom of the press as a fundamental human right distinct from that of freedom of expression;
- b. Repeal and/or amend existing laws which will be identified as inhibiting freedom of the press;
- c. Enact new enabling laws such as Freedom of Information Act, to ensure freedom of the press, free flow of information, accountability and transparency;
- d. Enhance the information capabilities of the ZNBC through the improvement of its infrastructure;

- e. Devise a funding mechanism for ZNBC which is directly derived from the public to complement Parliamentary appropriations;
- f. Retain ownership of the Times-Printpak and Zambia Daily Mail in competition with private media as State-owned newspapers to advance freedom of the press and good governance, and to effectively explain Government policies and programmes to the Zambian people and the world;
- g. Ensure the media abide by provisions of Electoral (Conduct) Regulations 1996;
- h. Encourage the media to carry out civic education campaigns on rights, obligations and duties of citizens as well as the mass media in democratic governance;
- i. Increase access to information for all as a human right;
- j. Review and harmonise laws that limit media practice; and
- k. Encourage debate, workshops and seminars on media practices and relations through the broadcast and print media.

In its Manifesto (MMD Manifesto 2001:29), the ruling party in Zambia recognizes that as a democratic nation, Zambia must uphold freedom of expression and that of the media, and that the government has a responsibility to ensure free flow of ideas as well as provide a means of feedback from the public to the Government and vice versa. In touting its achievements since assuming power more than ten years now, the ruling party says it has:

- * developed and adopted a National Media Policy for the first time since independence;
- * liberalised the media industry;
- * encouraged private investment in the media industry leading to proliferation of privately owned newspapers, radio and television stations;
- * reduced duty on newsprint to enable enough private participation in newspaper production;
- * promoted media freedom leading to diversity of views and opinions in both private and public media;

- * identified media laws that impede press freedom with a view of having them repealed or amended;
- * promoted editorial independence in public;
- * improved radio reception through the installation of FM transmitters in all provinces;
- * ensured acquisition of modern information communication technologies; and
- * ensured collaboration between the Ministry of information and broadcasting Services and journalists' bodies.

Beyond 2001, (MMD Manifesto 2001), the MMD Government also undertook to:

- * develop a sustainable media industry and fully liberalise the airwaves;
- * ensure a wider media outreach and accessibility by a majority of Zambians;
- * enact the Freedom of Information Act and initiate more media reforms;
- * improve the Information Communication Technology;
- * encourage the establishment of more community radio stations;
- * continue to create an enabling environment for media development and a free flow of information to encourage informed public debate; and
- * advocate for more public awareness and participation in issues of gender, poverty reduction and the fight against HIV/AIDS.

At the end of 2001 when President Mwanawasa become Zambia's 3rd Republican President, he took over a Government that had been under intense lobbying by civil society, in particular, media associations such as ZIMA and PAZA, as well as the Oasis Forum, forcing it to take some actions and make certain pronouncements regarding press freedom in Zambia. These pressure groups were concerned with the poor quality of the contribution to good governance of the public media in Zambia, in particular, broadcasting.

The work of the pressure groups finally started to yield dividends after the December 27, 2001 elections which ushered in President Levy Mwanawasa as Zambia's third president. A number of media reform meetings were held which put across fresh calls for comprehensive media law

reforms, especially with reference to the Freedom of Information Bill, The Independent Broadcasting Authority and the repeal of the ZNBC Act of 1987, and the introduction of the Broadcasting Amendment Act.

Specific members of parliament such as Mr. Dipak Patel, Mr. Sakwiba Sikota and Mr. John Ng'uni, among others, have also been very instrumental in the passage of the Independent Broadcasting Authority Act No. 17 of 2002 and The Zambia Broadcasting Corporation (Amendment) Act No. 20 of 2002. President Mwanawasa signed both bills into law on 31st December 2002. Although the two Acts have been enacted, they have not yet become operational because a number of things still need to be done, such as the appointment of members of the IBA. And the ZNBC Act shall come into operation when the Minister (of Information) issues the necessary Statutory Instrument. The Independent Broadcasting Authority (IBA) is intended to promote a pluralistic and diverse broadcasting industry, and is expected to operate without political interference. The Zambia National Broadcasting Corporation (ZNBC) Bill is intended to transform the ZNBC from a propaganda mouthpiece of the ruling party to a publicly owned institution.

The Freedom of Information Bill, yet to be passed, is intended to establish a Public Information Commission that will ensure access to information, and to set out the scope of public information under the control of public authorities to be made available to the public. The Bill is also intended to facilitate more effective participation of the citizens in the good governance of Zambia.

Conclusion

Although for a long time media has been recognised as a pivotal tool for the building of and mobilization of a nation's development efforts, the role it has and continues to play in Zambia, is one of safeguarding the interests of the ruling elite. In spite of the success discussed in this paper, the Zambian Government still has a strong hold on the media and still uses it sometimes to peddle hate propaganda against perceived opponents. What is unfortunate is that although the country has gone back to democracy, the people's minds, especially the politicians, have not been democratised. There is therefore more work to be done in democratizing not just the institutions of governance, but also more importantly in democratizing the minds and attitudes of individuals who manage these institutions. While current efforts in the country from pressure groups and stakeholders have helped to introduce media reforms, the public should know that the

introduction of reforms is not enough. Efforts must also be made to ensure that the reforms are implemented in the interest of good governance.

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