



## POSITION PAPER

### Coverage of Elections by the Media

#### Executive summary

The media's performance in covering elections in Zimbabwe - in terms of professional conduct and quality reporting - has consistently fallen short of international, regional and local standards of good journalism. While the country's electoral law and media regulations guide election related content, enforcement mechanisms to ensure compliance have been weak. The structure of the media, which lacks diversity and is dominated by media with links to the ruling party, and the conduct of media personnel as they gather news has also impacted on the nature of coverage.

#### Current Electoral law and regulatory framework

Zimbabwe's electoral law and regulations provide a framework on the media's conduct during elections. The provisions seek to broadly provide for equitable and fair representation of political players in media programmes, news and advertising around elections. The Electoral Act and the Zimbabwe Electoral Commission (Media Coverage of Elections Regulations (SI 33 of 2008) provides for:

1. Election programmes to be broadcast on television and radio, as well as the equal allocation of airtime to parties and candidates
  2. Rules around election adverts where a public broadcaster is required to set aside time for election adverts, and other media are required to provide the same conditions to all parties for the publication or airing of political adverts
  3. Fair, accurate, complete and balanced programmes in both radio and television
  4. That programmes, adverts and publications must not incite violence, or advocate hatred based on race, ethnicity, sex, gender, religion or political conviction that constitutes incitement to cause harm
  5. A media monitoring committee and an appeal mechanism for aggrieved candidates and parties
- Main challenges in election coverage

Compliance with rules by media houses to ensure fairness and equitability of coverage has remained poor. Media houses either partially comply with the law,

ignore some of the provisions or blatantly violate rules. The non-compliance with the law is exacerbated by the lack of a clear enforceable mechanism by the electoral commission that ensures this compliance. The following have been observed as the main challenges in electoral coverage by the media:

1. Partisan nature of reporting by the public and private media
2. Inaccurate, unbalanced and biased reporting by media
3. Unbalanced political advertising that disadvantages political players who have limited financial resources, which includes new and smaller parties
4. State media bias in the representation of political players in contravention of constitutional provisions
5. Unequal representation of the opposition and lesser known political parties, as well as social groups that include women and youths
6. Unprofessional conduct by media personnel, including involvement as candidates in elections, while still employed by newsrooms and capture by political parties and candidates
7. Poor quality information produced on elections
8. Propaganda and hate speech in the media
9. Rampant hate speech, disinformation, propaganda and propaganda around elections online
10. Weak regulatory mechanism on elections that failed to ensure compliance to the law.

**Compliance with rules by media houses to ensure fairness and equitability of coverage has remained poor.**



## Recommendations for reform

Reform of the electoral law should focus on updating the law and regulations to address challenges noted in coverage and to align laws with the 2013 Constitution. Media law and regulations should therefore be amended to ensure the following.

1. To ensure that laws and regulations are aligned to the 2013 Constitution, particularly in terms of strengthening freedom of expression, fairness and editorial independence of the state media
2. ZEC to put in place a holistic framework for monitoring and supervising media conduct during elections including the development of two regulatory documents,
  - a) Media Regulations to replace SI 33 of 2008 - Media Regulations will have legal force and may be the best place to put in place enforceable standards for the media in terms of access, fair advertising, balance and bias in content, and hate speech, among others. The regulations can provide for sanctions against the media where there are violations. These sanctions must not be so punitive as to negatively affect citizens' access to information, but should also be effective in keeping the media in check.
  - b) Code of Conduct for Journalists, Editors and media houses - A widely accepted Code of Conduct highlighting journalism ethical and professional conduct developed under the purview of ZEC could address basic attitudes and the moral/ethical codes that guide the practice of journalism. This code would be under the purview of a voluntary/self-regulatory body with safeguards ensuring its independence.
3. Content regulations must distinguish the roles and responsibilities of the different media types including:
  - Private, Public/state and community
  - Print, broadcasting and online
  - Commercial and public service
4. Advertising space must be allocated and used with a view towards access, fairness and equitability by all political parties. A capped limit for each political party should be considered, and where a political party reaches its quota, cannot take another parties' allocation
5. Provide an adequate definition of terms such as "equal", "equitability" and "fair" to provide adequate guidance for the implementation of set regulations

## Introduction – Media and Elections in Zimbabwe

A free and independent press underpins the ability of the media to contribute to credible and democratic elections by giving political parties and candidates a platform to engage voters through debate by contestants, news and analysis on the manifestos of political parties and information on the electoral process itself, including voter education, preparations, voting and results. This role is underpinned by Zimbabwe's Constitution, legal and professional frameworks which foreground freedom of the media, and the media's professional standards of fairness and equality as important preconditions for democratic elections.

All media has an obligation to maintain high ethical and professional conduct in the manner they report on elections according to international best practices. However, there is acknowledgement of the distinct role played by different sections on the media in covering elections. Special attention is placed on broadcast media

and the 2002 Declaration of Principles on Freedom of Expression in Africa by the African Commission on Human and People's Rights (ACHPR) notes the *"particular importance of the broadcast media in Africa, given its capacity to reach a wide audience due to the comparatively low cost of receiving transmissions and its ability to overcome barriers of illiteracy"*.

The media's performance in covering elections in Zimbabwe - in terms of professional conduct and quality reporting - has consistently fallen short of international, regional and local standards of good journalism. While the country's electoral law and media regulations guide election related content, enforcement mechanisms to ensure compliance have been weak. The structure of the media, which lacks diversity and is dominated by media with links to the ruling party, and the conduct of media personnel as they gather news has also impacted on the nature of coverage.



While the media monitoring group Media Monitors noted a marginal improvement in the conduct of the media in reporting elections in 2018, this was not sufficient to address concerns on the media's performance. Media Monitors' assessment of the media's performance in 2018 concluded that there was a failure by the media to adhere to election regulations, pointing to the need "for the electoral commission to pro-actively ensure that the media adhere to the country's election reporting regulations so that election coverage is fair, balanced and equitable". (Media Monitors, 2018)

The state-owned media was observed to have flouted their constitutional mandate to be "impartial" and afford opportunities for divergent views. Because of lack of diversity in the ownership of media platforms, with most platforms owned by individuals and companies allied to ZANU PF, Media Monitors noted that content largely disadvantaged opposition political parties.

A worrying trend also saw the lack of inclusivity in election reporting where women were featured in just 9% of the media's coverage on elections.

## Structure of the Media in Zimbabwe and Impact on the Media's Conduct

The media in Zimbabwe is structured along a dichotomy of state-owned/controlled and private media, with state owned and controlled media dominating the media market. This impacts on the nature of elections coverage in Zimbabwe. The government has 100% ownership of the sole television station ZTV as well as 6 radio stations. The remaining privately owned stations are either partly owned by a government-controlled public trust or individuals with some links to either the government or ruling party. Print media is structured the same way, with the government owning a controlling stake in the largest print media publisher Zimpapers and alongside two private print media publishers dominate the market.

Print media has had relative ease of registration through the Zimbabwe Media Commission (ZMC), however the threat of closure of media houses who fail to register with the Commission remains in law. The financial and administrative burden of dual accreditation for journalists has also been a cause of concern during elections. AIPPA sets out an annual accreditation fee for journalists under the ZMC, and during elections ZEC requires the media to be accredited in order to observe election processes. Media practitioners not accredited with the ZMC cannot be accredited by ZEC.

The newspaper industry is dominated by state controlled publications under the Zimbabwe Newspapers Group (Zimpapers). The company has a shareholding structure that sees 51% of the company owned by the Zimbabwe Mass Media Trust (ZMMT), a body created to hold shares on behalf of the Zimbabwean public. This structure has however seen the government controlling the company through the Ministry of Information. Private print media is dominated by Alpha Media Holdings (AMH), publishers of the Newsday, The Standard and the Zimbabwe Independent, and Associated Newspapers of Zimbabwe (ANZ),

publishers of the Daily News and Financial Gazette, in addition to other regional and community based publishers.

Broadcast media registration is more constrained and controlled by the Broadcasting Authority of Zimbabwe (BAZ). As a result, Zimbabwe Broadcasting Corporation (ZBC) the government controlled public broadcaster maintains a monopoly of terrestrial television. ZBC also runs six radio stations. The remaining 10 broadcasters are licensed commercial radio stations; two operating nationally and eight in the same number of towns (Harare, Bulawayo, Gweru, Masvingo, Mutare, Kariba, Victoria Falls and Zvishavane) and broadcast within a 40km radius. Zimpapers owns/controls four of these stations; while three are owned by a company (AB Communications) whose majority shareholder Supa Mandiwanzira is a former government minister and ZANU PF member of Parliament.

No community broadcasters are licensed in Zimbabwe. Radio remains the medium with the highest reach of all media in the country, estimated at 72%. Licensing of community radio will therefore mean that more citizens will receive information that is relevant to their needs.

Ownership patterns overwhelmingly guide the nature of media reportage in Zimbabwe with state-controlled media supporting government programmes and those aligned to the ruling ZANU PF party, and private media supporting the opposition. A publication on the Zimbabwe transition from 2017 - 2018 by Media Monitors stated in the run-up to the elections that, "*It was common to see state media journalists and support staff clad in the campaign regalia of...ZANU PF front man Emmerson Mnangagwa, clearly casting doubt on the professionalism of Zimbabwe's public media.*" (Media Monitors, Change of Guard, 2018)



## International and Regional Policy and Regulation on the media and elections

International and regional instruments provide best practice and guidance on the law regarding media and elections which focus on freedom of expression, freedom of the media, access to and conduct of the media and access to information. Zimbabwe's Constitution meets the basic standards outlines in regional policy instruments in promoting freedom of expression and access to information.

Treaties	Details	Status
<b>International Standards – United Nations</b>		
United Nations Universal Declaration on Human Rights (1948)	Provides for the right to freedom of opinion and expression (Article 19)	Ratified
UN International Covenant on Civil and Political Rights (1976)	Provides for the right to hold opinions without interference; and the right to freedom of expression (Article 19)	Ratified
<b>African Union Protocols and Declarations</b>		
African Charter on Human and Peoples Rights (1981)	Provides for freedom of expression and the right to receive information (Article 9)	Signed and ratified
AU Declaration of Principles on Freedom of Expression in Africa	Provides for: -freedom of expression and information -that state broadcasters be transformed to public broadcasters with an obligation to ensure that the public receive adequate, politically balanced information, particularly during election periods (Principle VI) -that there is a need for a three-tier system in broadcasting (public, private and community) -States that effective self-regulation is ideal for promoting high standards in the media (IX)	
African Charter on Democracy, Elections and Governance (2007)	-Highlights the importance of access to information, freedom of the press in elections (Article 2(10)) -State parties are supposed to ensure fair and equitable access by contesting parties to state controlled media during elections (Article 17 (3))	Signed
<b>SADC Protocols and Declarations</b>		
SADC Protocol on Culture, Information and Sport (2000)	Outlines key objectives to -Promote the establishment of independent media and the free flow of information -Narrow the information gap between rural and urban areas -Encourage use of indigenous languages in the media -Promote gender equality and equity in information dissemination	Signed
SADC Principles and Guidelines Governing Democratic Elections	Member states to ensure equal opportunities for all candidates and political parties to use the state media.	Signed



## Media and Elections Legislative framework

Zimbabwe's legislative framework provides for the media's role in elections. Standards of media performance in an election in Zimbabwe are guided by the Constitution, Electoral Act, 2008 regulations, as well as local, regional and international standards on professional journalism.

### The Constitution;

- Entrenches freedom of expression, freedom of the media and access to information (Section 61 and 62)
- States that State media have freedom to determine editorial content; have to be impartial and fair in representing dissenting opinions and diverse views
- Contains reasonable exceptions such as incitement to violence; advocacy of hatred or hate speech; malicious injury to a person's reputation and dignity, and breach of a person's right to privacy

The conduct of the media during the elections is specifically guided by the Electoral Act and Statutory Instrument 33 of 2008. Sections 160 E - K of the Electoral Act set out the parameters of the media's coverage of elections. Specifically, the Act provides for:

1. Access to the public broadcast media - The public media should treat political parties and candidates fairly and time needs to be allocated in a balanced manner
2. Political advertising - Similar terms and conditions should be given to political parties and candidates in the publication of political adverts

3. Conduct of news media in elections - The media should treat all political parties and candidates equitably in terms of timing, extent and prominence of coverage, and reports should be professionally written

The Electoral Act sets out a monitoring mechanism during the elections. ZEC is required under the law to monitor news media during an election with assistance from two statutory bodies, the Zimbabwe Media Commission (ZMC) and the Broadcasting Authority of Zimbabwe (BAZ).

SI 33 of 2008 sets out regulations for what election programmes will be broadcast; equal allocation of airtime by the public broadcaster; times in which programmes are to be broadcast; how much time is set aside for election adverts and the media's conduct during elections. The regulations also set out an appeal mechanism for aggrieved parties on the manner the media will have conducted itself.

Media laws that impose statutory regulation, criminalize certain forms of speech, such as defamation are yet to be removed from the statute books, posing a threat to freedom of expression and the media and their ability to report critical events.

Compliance with rules by media houses to ensure fairness and equitability of coverage has remained poor. Media houses either partially comply with the law, ignore some of the provisions or blatantly violate rules. The non-compliance with the law is exacerbated by the lack of a clear enforceable mechanism by the electoral commission that ensures this compliance.

## Media performance in the 2018 elections and the imperative for reform

The 2018 election was held in an environment where the media had relative freedom to conduct their work in the pre-election and election period with ease of access by political parties, low levels of harassment and arrests by the police and some independence in programming that allowed them to present diverse election programming.

Overall however, the challenges in the media outweighed the positive steps the media took in the 2018 elections.

Some of the major challenges included the following:



## Unfair and unbalanced coverage of media players

Overall, coverage of political players in the media was biased in favour of ZANU PF and the President, Emmerson Mnangagwa and unfair towards newer political parties and women candidates. Statistics by Media Monitors indicate that of the 55 political parties registered to participate in the elections, 49 were covered by the media from proclamation of the election to voting day.

While commercial radio stations covered ZANU PF more than any other party these stations were relatively fairer with a diversity of voices including independent candidates.

On national commercial radio stations (Star FM and ZIFM) ZANU PF received 29% of the coverage, while MDC T received 22% of the coverage, and independent candidates were covered 15% of the time. (Media Monitors, 2018)

Print media, particularly state-controlled media under Zimpapers were by far the most biased of all media. Statistics from Media Monitors showed that ZANU PF dominated coverage with 76% of all coverage and Emmerson Mnangagwa took up 80% of space in the state media.

Sentiment on ZANU PF was predominantly positive and that of the main opposition MDC Alliance was predominantly negative. ZANU PF, particularly Emmerson Mnangagwa also dominated all advertising in the state-controlled print media.

Statistics noted that ZANU PF also dominated coverage in the private print media as the party was covered 50% of the time, compared to 33% of the MDC Alliance.

Both private and state controlled print media dedicated very little space to smaller political parties.

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The representation of women in the 2018 electoral period was very low. Women political actors were covered just 11% of the time as compared to 89% men.

National commercial radio stations had the highest percentage representation of women, with 28% and local commercial stations had the lowest with just two percent.

The main challenges in fair and equal representation were noted:

1. In the coverage of political players in state-controlled print media - This is especially problematic because while Zimpapers publications actively support ZANU PF, 51% shareholding is owned by the Zimbabwe Mass Media Trust (ZMMT), a public trust whose status has remained opaque, and therefore accountability is difficult.

2. Lack of diversity of media players, particularly in the broadcast sector. National media is overwhelmingly biased in favor of ZANU PF.

ZANU PF leaning media dominate the airwaves at both national and local level, therefore the only voice that is given prominence is of this party. One of the challenges is the structural dominance of the party in licensed media where independent voices have been edged out

3. In the representation of women as voices and players in the media - The law is silent on the need for fairer representation of women as fairness and equality are discussed in generic terms

4. The law - While the Electoral Act, Section 160 J states the need for the media to treat all parties and candidates "equitably" in the news media in regard to the extent, timing and prominence of coverage accorded to them, there is no clear definition of what equitability means and how this is determined. SI 33 of 2008 states that "equitable" does not mean equal but falls short on how the media is to determine what would be equitable coverage when there is a multiplicity of players.



## Unbalanced representation of political players on ZBC

State media has a specific constitutional and legal mandate to report fairly and be impartial. Section 160G of the Electoral Act states that coverage of political parties and candidates are to be treated fairly and time allocated in a balanced manner. Election regulations (SI 33 of 2008) also state that the public broadcaster should allocate airtime equitably among contesting political parties.

Performance of ZBC in the 2018 elections was way below the required legislative mandate. 48% of all coverage on ZBC was dedicated to ZANU PF during the election period, and of all the 23 presidential candidates, Emmerson Mnangagwa received 40% of coverage on ZBC.

No other party received more than 6% of time on ZBC. The MDC Alliance, Alliance for Peoples Agenda (APA) and the National Constitutional Assembly (NCA) all had 6% coverage.

Of the presidential candidates, Lovemore Madhuku of the NCA received 11% coverage, Nkosana Moyo of APA received 8% and Nelson Chamisa of the MDC Alliance was tied at 5% with 3 other presidential candidates<sup>1</sup>.

In addition to time given to Mnangagwa and ZANU PF in the media, coverage was predominantly positive with very little that would have been considered negative. On the contrary, the main opposition party MDC Alliance received more negative publicity on ZBC than any other party, despite that the party did not have a significant amount of coverage on the stations. While it is expected that the incumbent will receive more coverage because of their role in government, during an election it is expected that media should consider the unfair advantage offered to the incumbent because of excessive coverage. The ZBC did not seem to consider this factor.

### Unbalanced political advertising

There was an overwhelming predominance of ZANU PF adverts on ZBC. According to the 2008 regulations, a public broadcaster is required to carry election adverts upon payment of a special fee.

Advertising space is also to be distributed equitably among political parties and candidates, taking into consideration the number of constituencies being contested by respective political parties.

This provision evidently did not fulfil the purpose to which it was drafted given that ZANU PF dominated all advertising on ZBC with 98-99% of all adverts on ZANU PF or Emmerson Mnangagwa. The presumption is that political parties did not take up allocated advertising space given that adverts were offered to parties and candidates at a cost.

Where one party overly dominates the advertising space, this poses challenges in ensuring fairness in use of available advertising space.

### Weak regulatory mechanism on elections that ensures compliance to set laws

While ZEC is supposed to set up a media monitoring committee that regulates media conduct, the body did not have a clear mechanism of dealing with electoral violations. The delay in setting up the media monitoring committee was a cause of concern as the establishment and training of the technical team according to the ZEC roadmap was set for the 10th of June less than two months ahead of elections, and 10 days after proclamation; giving it insufficient time to deal with complaints that could have happened prior to the set-up date.

The African Union Election Observer Mission (AUEOM) 2018 concluded that ZEC had failed to operationalize the media monitoring committee, "leading to a media environment that has operated without any systematic regulation during the 2018 election period"<sup>2</sup>

<sup>1</sup> Statistics on monitoring in this section are drawn from Media Monitors, Assessment of the Media's Coverage of the Electoral period 31 May - 22 July, Harare, 2018

<sup>2</sup> African Union Election Observation Mission preliminary statement



## Online media: Dealing with hate speech, propaganda and disinformation

The internet is increasingly playing a key role as a platform for information and citizen engagement around elections and Zimbabwe is no different. Internet penetration in the first quarter of 2018 was placed at just over 50% and mobile phone penetration at just over 100%. Online platforms were used for campaigning, provision of information to citizens in real time and citizen engagement with electoral issues.

Open Society Foundations research around the world has shown how domestic, international, state and non-state actors manipulate information online in order to influence voters' choices and in some instances to confuse and disorient citizens, paralyze democratic debate and undermine confidence in electoral processes. Digital campaigning using bots and paid trolls to engineer false debates and narratives and misuse personal data is common. Much of these actions are unregulated, however, the researchers noted that "freedom from manipulative interference of any kind is a core element of the right to vote and participate in political life, and enshrined in the International Covenant on Civil and Political Rights." (Open Society European Policy Institute, 2019)

Ahead of the elections in Zimbabwe in 2018, University of Johannesburg professor Dumisani Moyo conducted a research that noted that "A vicious online propaganda war that includes fake news is being waged in Zimbabwe". He noted that the two main political parties, ZANU PF and MDC,

*"have teams of spin-doctors and "online warriors" (a combination of bots, paid or volunteering youths) to manufacture and disseminate party propaganda on Twitter, Facebook and WhatsApp.*

*Known as "Varakashi", (Shona for "destroyers") Zanu-PF's "online warriors" are pitted against the MDC's "Nerrorists" (after Chamisa's nickname, "Nero") in the unprecedented online propaganda war to discredit each other. (Moyo, D, 2018)*

This distortion of narratives by paid propagandists online has impacted online election narratives in Zimbabwe. While little has been done in terms of regulating the online space to curb these challenges, more research will need to be done and measures put in place to curb the abuse of social media to subvert democratic processes. The absence of adequate mechanisms to monitor and curb hate speech and fake news on social media was noted to be a major concern during this election.

## Recommendations for reform

### Electoral law and regulations

Reform of the electoral law should focus on updating the law and regulations to address challenges noted in coverage and to align laws with the 2013 Constitution. Media law and regulations should therefore be amended to ensure the following.

6. To ensure that laws and regulations are aligned to the 2013 Constitution, particularly in terms of strengthening freedom of expression, fairness and editorial independence of the state media
7. ZEC to put in place a holistic framework for monitoring and supervising media conduct during elections including the development of two regulatory documents,
  - c) Media Regulations to replace SI 33 of 2008 - Media Regulations will have legal force and may be the best place to put in place enforceable standards for the media in terms of access, fair advertising, balance and bias in content, and hate speech, among others. The regulations can provide for sanctions against the media where there are violations. These sanctions must not be so punitive as to negatively affect citizens' access to information, but should also be effective in keeping the media in check.
  - d) Code of Conduct for Journalists, Editors and media houses - A widely accepted Code of Conduct highlighting journalism ethical and professional conduct developed under the purview of ZEC could address basic attitudes and the moral/ethical codes that guide the practice of journalism. This code would be under the purview of a voluntary/self-regulatory body with safeguards ensuring its independence.
8. Content regulations must distinguish the roles and responsibilities of the different media types including:
  - Private, Public/state and community
  - Print, broadcasting and online
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9. Advertising space must be allocated and used with a view towards access, fairness and equitability by all political parties. A capped limit for each political party should be considered, and where a political party reaches its quota, cannot take another parties' allocation
10. Provide an adequate definition of terms such as "equal", "equitability" and "fair" to provide adequate guidance for the implementation of set regulations





## Media law and regulation that impacts on elections

Reporting trends are reflective of broader structural problems within the media sector in Zimbabwe, which if not addressed will continue to result in biased and unfair media coverage.

In terms of the law, specific provisions of law should be amended to allow for greater diversity (not just plurality). These include

1. Amendment of provisions of the Broadcasting Services Act to include an independent regulatory authority appointed through a public process.

Board appointments in the Act are made by government and the body is accountable to the responsible Minister in government with no public hearings or nominations made in appointing the board.

2. The elections reflected the difference that local radio stations have made in presenting greater diversity of voices. The licensing of community radio stations should be expedited to give communities a greater voice on issues that affect them

3. Licensing of a diverse range of players especially in the broadcast sector is imperative to enable a fairer playing field for all players
4. Align media laws to the Constitution, particularly provisions calling on all state media freedom to determine editorial content; has to be impartial and fair in representing dissenting opinions and diverse views
5. Transform the ZBC into a true public broadcaster that serves the public. There is need to repeal or amend laws governing the public broadcaster, including the Broadcasting Services Act and the ZBC Commercialization Act to ensure that the board of governors are not directly appointed by the government but are subject to close scrutiny by the public and legislature
6. Strengthen provisions in law that promote freedom of expression online
7. Strengthen research and experimental technology and tools to monitor social media abuse, and develop mechanisms

## Conclusion

While the law can be strengthened to enhance professional and credible coverage of elections by the media, the biggest challenge in the performance of the media in the last election has been adherence to the Constitution and legislation.

A clear mechanism that ensures adherence to set standards is important. Where media behave in an unprofessional manner with impunity and little accountability, and no mechanism to enforce good behaviour, there will remain challenges in election coverage by the media in Zimbabwe.



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