

NAMIBIA 2005

AFRICAN MEDIA BAROMETER NAMIBIA 2005 REPORT

Sector 1: Freedom of expression, including freedom of the media, are effectively protected and promoted.

1.1 *Freedom of expression, including freedom of the media, is guaranteed in the constitution and protected by other pieces of legislation.*

ANALYSIS:

It was found that freedom of expression and freedom of the media are guaranteed in the constitution but not sufficiently protected by other pieces of legislation.

Article 21 of the Constitution states: "All persons shall have the right to freedom of speech and expression, which shall include freedom of the press and other media".

Article 22 of the Constitution states: "Whenever or wherever in terms of this Constitutions the limitation of any fundamental rights or freedoms contemplated by this Chapter is authorised, any law providing for such limitation shall:

(a) be of general application, shall not negate the essential content thereof, and shall not be aimed at a particular individual;

(b) specify the ascertainable extent of such limitation and identify the Article or Articles hereof on which authority to enact such limitation is claimed to rest."

Apart from this article and article 144 of the constitution that acknowledges international conventions (such as the Universal Declaration of Human Rights with its article 19 guaranteeing freedom of opinion and expression) there is no other proactive legislation that protects and provides an environment for freedom of expression and freedom of media.

The principle that the constitution takes precedence over legislation has been successfully tested in court, for example in the Hustler sex shop case. When the shop was opened in mid 1990's, and police immediately confiscated all the material and closed the shop down. The owners went to court and the court found that even though there was legislation on the statute book at the time (the immorality act) upon on the police was acting, this was overridden by the constitutionally

guaranteed right to freedom of expression. The police had to return the items, the shop had to be allowed to operate - and is still operating today.

1.2 *The right to freedom of expression is enforced and citizens, including journalists, are not prejudiced when using this right.*

ANALYSIS:

The general notion was that people are free to express themselves but that citizens do not necessarily know about this right. And – apart from the Hustler case – it has not really been put to the test so far.

In Namibia, people are freely expressing themselves. Every now and then there are threatening voices and noises, for example from the former president, but these do not really curtail freedom of expression. Callers to radio chat shows are not scared to voice their opinions, they give their names and speak openly.

The *Namibian Broadcasting Corporation* started a radio chat show in 1992, a few years after the end of a military dictatorship in the country where one could not say the word “SWAPO” without fear of going to prison, certainly not on the radio or in letters to the editor. The then host of the show “was scared that nobody would call and at the beginning nobody did, but over the years things have changed and I think we are now quite free to express ourselves.”

The concern, however, remains that people must know their right to express themselves freely – if they do not they can not practice it. The panel also noted a growing tendency to silence on sensitive issues, intolerance towards criticism, and an increase in hate speech, especially from the side of government officials.

1.3 *There are no laws restricting freedom of expression such as excessive official secret or libel acts, or laws that unreasonably interfere with the responsibilities of the media.*

ANALYSIS:

There are some laws that restrict freedom of expression in Namibia, but the question remains whether they are excessive. These are mainly acts in place since the pre-independence era and a study should be conducted on how many of these laws might restrict freedom of expression or freedom of the media.

Such pieces of legislation include the official secrets act and the defence law which limits the publication of information in regard to military installations, etc. A criminal libel act is also on the statute books but there are no reported cases in Namibia. A point of concern is that the constitution provides for all legislation to remain in place until expressly changed. Still existing restrictive laws may not be evoked, but they remain as a possible threat and thus “create indirect fear.”

1.4 *Entry into and practice of the journalistic profession is unrestricted.*

ANALYSIS:

Generally, entry into the profession and practice of journalism is unrestricted.

1.5 *Protection of confidential sources of information is guaranteed by law.*

ANALYSIS:

There are laws in place such as the Magistrate Court Act that could compel journalists to appear in court as witnesses by way of subpoenas. They could then be forced to give information or reveal sources of information. Refusing to do so would mean contempt of court.

1.6 *Public information is easily accessible, guaranteed by law, to all citizens, including journalists.*

ANALYSIS:

There is no Access to Information Act. People have access to certain public information like court documents but there is no law forcing the government or companies to divulge information of public interest. Government officials often make it difficult for journalists to get information in the public interest.

Permanent Secretaries in the various ministries, the only persons assigned to give information to the media, do not regard this as their duty but rather as a favour they can either grant or withhold.

They key to understanding this state of affairs is again the pre-independence history of Namibia. At the time restrictions on access to information were not only imposed by the South African government but also within the liberation movement which needed to maintain certain levels of confidentiality. Such old habits seem to die hard. Namibia has a “background of obsessive secrecy”.

1.7 *Civil society in general and media lobby groups actively advance the cause of media freedom.*

ANALYSIS:

Lobby groups such as the Namibia chapter of the Media Institute of Southern Africa and the National Society for Human Rights are making active efforts to advance the cause of media freedom but civil society in general seems to be rather passive in this regard.

Members of the public do speak out in radio talk shows. These are a very effective means of expression with people enquiring about and asking for reasons for certain decisions by the authorities. The quality and incisiveness of questions by listeners nowadays has improved greatly compared to when the chat shows first started.

However, when media freedom has been eroded, e.g. when programmes like *Press Review* and the *Prime Minister's Question Hour* on NBC were stopped and chat shows taken off air in the Oshiwambo and Lozi services, there was no public outcry or a protest from civil society. “The thing is that a public outcry must be organised, and it wasn't. This is an indicator that civil society and media groups are not that active.” When government departments were banned from buying the *Namibian* and government stopped placing any advertisements in the paper, there was no public reaction at all.

Sector 2: The media landscape is characterised by diversity, independence and sustainability.

2.1 *A wide range of sources of information (print, broadcasting, internet) is available and affordable to citizens.*

ANALYSIS:

There are four national daily newspapers (two in English, one in Afrikaans and one in German), three weekly newspapers, approximately four magazines. According to the latest NAMPS (Namibian All Media Product Survey), done in 2000 or 2001 and commissioned by the NBC, there are approximately ten readers per copy of the *Namibian* and approximately seven to eight for the other newspapers. Presently the *Namibian* says it prints and circulates 24 500 copies from

Monday to Thursday and 34 000 copies on Fridays.

There are nine commercial or community radio stations. The national broadcaster *NBC* has nine local language services in addition to the (English language) national radio and TV.

In urban areas there is a relatively wide choice of media, but in rural areas the access to media is severely limited, both in terms of availability and affordability.

In effect this means that in some areas Namibians have just the *NBC* as their only source of information and no access to the print or the Internet at all. Language is another factor that limits access to print media published in other than local languages. A third factor is the cost of dailies at a price between two and three Namibian dollars which is not affordable to most people. Even the *NBC*, a free to air medium, comes at a cost in rural areas where people have to buy batteries and travel to the nearest farm stall to buy them. This can easily add up to 50 Namibian dollars a month.

Internet is extremely expensive, as is the subscription service DSTV at a rate of N\$ 400 per month.

2.2 *Citizens' access to domestic and international media sources is not restricted by state authorities.*

ANALYSIS:

Access either to domestic or international media sources is not restricted. The ban on government departments buying the *Namibian* was not really regarded as a restriction because individual civil servants are still free to purchase the paper. Ironically, the sales figures of the *Namibian* went up after the ban, because while in the past one copy was bought for the entire ministry, now employees have to buy their own copies.

2.3 *Efforts are undertaken to increase the scope of circulation of the print media, particularly to rural communities.*

ANALYSIS:

Generally, it is still very difficult to get newspapers in rural areas such as Kamanjab or Kavango. In some parts (e.g. in Opuwo), circulation has improved as publications like the *Namibian*, the monthly *Big Issue* and *New Era* have made efforts to expand their circulation to different parts of the country and thus increase their sales figures.

2.4 *Broadcasting legislation has been passed and is implemented that provides for a conducive environment for public, commercial and community broadcasting.*

ANALYSIS:

Legislation which established the Namibian Communications Commission (NCC) theoretically allows for the granting of licences to new broadcasting operators. In practice the NCC argues that there are no frequencies available any more, in particular in Windhoek. Although the commercial and community sectors have grown in the past ten years, there are some question marks over the way the NCC is operating. *Katutura Community Radio*, for example, originally had a good frequency, which was taken away by the NCC only to be given to a commercial radio station, *Energy*.

The existing legislation regarding the NCC and its powers does not cover the public broadcaster and is very vague about community broadcasting. Commercial and community radio stations are not compelled to broadcast local news, with the result that they mostly play attractive music but do not provide Namibians with information about their country.

2.5 *Community broadcasting enjoys special promotion given its potential to broaden access by poor and rural communities.*

ANALYSIS:

The NCC act stipulates that community radios should enjoy special support but this has never been put into practice except for the fact that NCC licence fees for community broadcasters are considerably lower than those for commercial broadcasters. There is no publicly funded agency or fund dedicated to support community broadcasting such as the Media Diversity Development Agency (MDDA) in South Africa.

When government once tried to come to the rescue of a struggling community radio station in Eenhana the effort backfired. Everybody at the station then wanted to become civil servants instead of community broadcasters, and this caused even more trouble.

The Namibian Community Radio Network (NCRN) is the only organisation that provides support, training and networking for community radio stations. It was initiated by MISA Namibia.

2.6 *The editorial independence of print media published by a public authority is protected adequately against undue political interference.*

ANALYSIS:

There is interference in the editorial independence of the state funded *New Era* and *Namibian Press Agency (NAMPA)*, given the fact that both their boards are appointed solely by the minister of information and broadcasting.

This and other factors lead to self-censorship by journalists in state print media with the result that *New Era* “is propagating the issues of the government.”

2.7 *Independent news agencies gather and distribute information for all media.*

ANALYSIS:

The *Namibian Press Agency (NAMPA)* is state funded and controlled and not independent. There are no fully operational independent news agencies in Namibia. The Polytechnic of Namibia has launched a student news service by the name of *Echoes News Service*, but this has yet to become a fully operational, registered business entity.

2.8 *Media diversity is promoted through adequate competition regulation/legislation.*

ANALYSIS:

Some limitations set by the communications act and the competition laws have not really been put to the test. However, the legislation is not specific as is the case in South Africa where the act limits the number of radio or TV stations one individual or company is allowed to own.

There have been a lot of developments in competition law up to a certain stage and then it was just abandoned. The reason: the strength of some of the present monopolies. SWAPO-owned Kalahari Holdings, for example, is a majority share-holder of *Multichoice* and *Radio Energy*.

Monopolies are not yet a problem in Namibia but could become one in the future.

2.9 *Government promotes a political and economic environment which allows for a diverse media landscape.*

ANALYSIS:

Government does not actively promote a conducive environment for a diverse media but does not put any impediments in the way either. If an individual or a company has the money to start a radio station or a newspaper, there is no government interference.

The fact that all but one commercial radio stations in Namibia are run by middle-aged white men leads to the question why those who were previously disadvantaged should not enjoy special promotion by introducing a system of black economic empowerment.

2.10 *Private media outlets operate as efficient and professional businesses.*

ANALYSIS:

The fact that the existing private media outlets have all been on the market for a considerable period of time indicates that they operate as efficient and professional businesses.

2.11 *State print media are not subsidised with taxpayers money.*

ANALYSIS:

Although New Era is increasing its income from advertisements, it still receives the bulk of its funds from the public purse.

2.12 *Government does not use its power over the placement of advertisement as a means to interfere with media content.*

ANALYSIS:

The government's ban on state advertising in the *Namibian* has been in place since 2001 after cabinet complained that the paper was too critical of government. The *Windhoek Observer* does not attract any government advertisements either, but this is not based on a formal decision.

2.13 *The advertising market is large enough to maintain a diversity of media outlets.*

ANALYSIS:

The Namibian magazine market has seen many products come and go. This is mainly due to the fact that South African retail companies with big advertising budgets generally shy away from Namibian publications and prefer to advertise in South African magazines like *You*, *Drum*, etc. that are also circulated in Namibia.

Sector 3: Broadcasting regulation is transparent and independent, the state broadcaster is transformed into a truly public broadcaster

3.1 *Broadcasting is regulated by an independent body adequately protected against interference particularly of a political and economic nature.*

ANALYSIS:

In theory, the Namibian Communications Commission (NCC) is independent, but its board is appointed by the Minister of Information and Broadcasting.

The example of *Katutura Community Radio* which had to give up its frequency in favour of *Radio Energy* (see indicator 2.4) shows that there is room for economic interference: “If you’ve got money as commercial station, we give you what you want, if you are a community station you must make do with what we give you.”

The NCC does not regulate the *Namibian Broadcasting Corporation*.

3.2 *The appointments procedure for members of the regulatory body is open and transparent and involves civil society.*

ANALYSIS:

The appointments procedure is not open and does not involve civil society. The board members of the Namibian Communications Commission are appointed by the Minister of Information and Broadcasting.

3.3 *The body regulates broadcasting in the public interest and ensures fairness and a diversity of views broadly representing society at large.*

ANALYSIS:

There is no question that there is a diversity of views, with stations like *KCR*, Catholic radio stations, radio stations for young people and for old people. What is unclear, though, is, but it is not sure whether this is because of any proactive involvement on the part of the NCC or whether it just happened that way. The NCC does not seem to promote diversity because it does not stipulate that radio stations play different types of music, for instance. The last available frequency in Windhoek was recently given to Radio France International.

3.4 *The body’s decisions on licensing in particular are informed by a broadcasting policy developed in a transparent and inclusive manner.*

ANALYSIS:

The NCC has a policy that requires it to take into account the public interest and public opinion,

but there have never been any public meetings to actively involve the public in any way.

3.5 *The public broadcaster is accountable to the public through a board representative of society at large and selected in an independent, open and transparent manner.*

ANALYSIS:

The NBC Act of 1991 is based on the old South African legislation and places the public broadcaster under the supervision of a board appointed by the minister of information and broadcasting. The first board of the *NBC* after independence was appointed in a more independent manner, but somewhere along the way this changed. Civil society has been passive about this change in policy and allowed it to happen, therefore it has to take part of the blame.

3.6 *Persons who have vested interests of a political or commercial nature are excluded from possible membership in the board, i.e. office bearers with state and political parties as well as those with a financial interest in the broadcasting industry.*

ANALYSIS:

The board of *NBC* does not include any members with commercial interests. It is not known whether there are any office bearers with the state or political parties on the board but the mere fact that the minister appoints the board members is an indicator that the board is not free from political influence.

It was suggested that civil society should get more involved in the appointment of the *NBC* board. When the term of the current board is about to end, civil society should start lobbying and come up with some names, "the people's board." "It is like people don't know that the public broadcaster should not be state controlled. Civil society should compile and submit a list of names for the next *NBC* board. Maybe it is rejected, maybe not, but our views will have been made known, we will have made a statement."

3.7 *The editorial independence of the public broadcaster is guaranteed by law and practiced.*

ANALYSIS:

The NBC Act does not make any reference to an editorial policy. There are many examples for interference in the editorial independence of the *NBC*, for example the demotion of a controller of news and current affairs. "This interference has sent a very clear message to others in the organisation lower than her on what happens if you cross the line even a little."

There seems to be a difference in the amount of control exercised over the newsroom and the language services with the latter being editorially independent, allowing people to come on air and say whatever they want without any pressure from outside on the host of these programmes.

There seems to be a general tendency in TV and radio news to give priority coverage to the activities of the president and ministers and those of civil society organisations only if there is any time left. The editorial policy is that the president should always come first, ministers come

second and so on further down the line. "I would like to see Women's Action for Development being first on the news one night." Instead, the chairperson of the *NBC* board regularly appears on the TV talk show *Talk of the Nation* as a "community activist".

3.8 *The public broadcaster is adequately funded in a manner that protects it from arbitrary interference with its budget.*

ANALYSIS:

Approximately 8% of *NBC*'s revenue comes from license fees, 10% from advertising and the rest from the state. Despite the fact that *NBC* gets over 80 million Namibian dollars every year from government, the corporation is always facing financial difficulties.

This may be due to the fact that the *NBC* is not run efficiently and that bad management decisions have been made: "They spent 4 million dollars to build a main entrance to the facilities at the *NBC* premises."

A reason for the poor advertising income could be that the white business community does not want to support something they see as government propaganda and anti-white sentiments. Besides that there is a perception of corruption in *NBC*.

Audience figures likely to attract advertisers may be lower than expected for a national broadcaster, judging by the fact that even poor people subscribe to DSTV: "This is an indication of what people think about the public broadcaster."

3.9 *The public broadcaster is accessible in the entire country.*

ANALYSIS:

According to the *NBC*, in late 2004 its radio services reached 99% of the country, and TV 42%. *NBC* has thus made considerable efforts to increase its reach to the entire population with a lot of its budget being spent on increasing the power of transmitters and building new ones. In addition, *NBC* is trying to make all radio services available to all. A few years ago, listeners in Katima could only pick up the Lozi Service, now they have more choice. Four years ago Lozi, Setswana or Rukwangali services could not be received in Windhoek.

3.10 *The public broadcaster offers diverse programming for all interests as well as balanced and fair information reflecting the full spectrum of diverse views and opinions.*

ANALYSIS:

The *NBC* does make an effort to offer diverse programming, catering for women, for people with disabilities in terms of sign language interpreters, and trying to incorporate different interests. But because the quality of programming is mediocre the programmes do not really serve everybody's interests. "The issue of mediocrity is important. The programmes may be diverse but if they are so boring that nobody watches or listens to them, what's the point?"

There is not much room for different perspectives and reluctance to involve people in discussions for example. Some individual journalists make the effort to get diverse views for their stories and

programmes but sometimes their decisions are overturned by editors.

3.11 *The public broadcaster offers as much local content as economically achievable.*

ANALYSIS:

NBC dedicates approximately 50 to 60% of its prime time in television to local content, including news which altogether make up about 2 hours per day in the different languages.

Again, the quality of these programmes is questionable. “You can have as much local content as you wish but if it is all as dull as dishwater - what I call the talking heads – who is going to watch it?” Creativity is rare and technical quality poor.

On radio, in all languages services 80 to 90% of the music played is foreign. Presenters argue that this is what the people request, but “as a public broadcaster, you should be setting the agenda and playing more local music than what people request, in order to create a demand, so to speak.”

There seem to be differences between the various language services. Last year the Herero service, for example, took to the road and broadcast from the different areas where the Hereros live. This has not been done by any other station.

Sector 4: The media practice high levels of professional standards.

4.1 *The media follow voluntary codes of professional standards which are enforced by self-regulatory bodies.*

ANALYSIS:

In the mid-nineties of the last century there were some efforts to establish a media council but this became dormant very soon. In 2002 MISA Namibia gave it another try: it developed a new code of conduct and created the position of a media ombudsman. The code of conduct, however, was not accepted and followed by the entire media fraternity and it is not being enforced by a self-regulatory body. The office of the media ombudsman is defunct and has in fact never been active. Media owners and editors did not buy into the process from the beginning and claimed there was not sufficient consultation. The fact that MISA Namibia was pushing the process was seen by some as the problem. Differences of opinion came up not just between government and private media but also between the *Namibian* and the *Republikein*, two private newspapers, over their opposing roles before independence – “which means it is not possible for them to be part of a same process or initiative”. Now MISA Namibia seems to have lost the momentum.

Although there is an urgent need for the media to regulate themselves - both to prevent government stepping in to enforce a state controlled regulatory body and to provide a channel for readers, listeners and viewers to lodge complaints - the media themselves do not see this as a priority. “It is either politics or empire building or bad blood, but the main issue is that they don’t see the need for it at all.”

There was consensus that reviving the self-regulatory body should be a priority.

4.2 *The standard of reporting follows the basic principles of accuracy and fairness.*

ANALYSIS:

Although many panel members cited negative experiences with the media, there was agreement that in general the media do try to be accurate and fair.

Journalists do try to get the facts, but sometimes they are not able to. Newspapers compete with each other and journalists have to meet deadlines. Sometimes newsmakers who refuse to comment or do not return calls have to be blamed for the lack of balance. Another issue is the level of skills of journalists, which also impedes on their work. In addition, many newsrooms are understaffed and journalists often have too many stories to finish in one day.

4.3 *The media cover the full spectrum of events and issues, including business/economics, cultural, local and investigative stories.*

ANALYSIS:

People with money and living in Windhoek can get the full spectrum of news but the larger the distance from the centre, the less choice people have. There is also a lack of investigative

reporting and certain issues are not followed through. One reason might be that media houses are not prepared to invest in their journalists and one and the same person has to cover different sections like business, arts, etc.

The Namibian media display a certain degree of what was termed cultural ethnocentrism, because the owners belong to the white culture: "Stories that should have made the headline are somewhere on page four or five, but if something happens to a white person it is on the front page". "When our own kings are inaugurated it is not covered but Prince Charles is covered extensively."

4.4 *Journalists and editors do not practice self-censorship.*

ANALYSIS:

Journalists do practice self-censorship mostly in state controlled media but also in private media.

One of the reasons could be that journalists do not have the skills to do a proper investigation. There is also a lack of mentorship and guidance in newsrooms.

4.5 *Owners do not interfere with editorial independence.*

ANALYSIS:

The *Namibian* is owned by a trust, as is the monthly *Big Issue*. At the *Namibian* the trustees do not have much say in the production or content of the newspaper.

The *Republikein* was started by the Republican Party before it joined the Democratic Turnhalle Alliance. Later the daily became part of Democratic Media Holdings (also the owner of *Allgemeine Zeitung*) which, until four or five years ago, was still very close to DTA structures. At that time DMH was approaching bankruptcy and a manager with a professional administrative background was hired to rescue the company. Although DMH is still owned by a group of DTA members, the *Republikein* is now de-party-politicised to a certain extent and has become a much more professional newspaper.

In the case of the state controlled *New Era*, ministers regard themselves as owners and therefore call the editors regularly.

4.6 *Salary levels and general working conditions for journalists and other media practitioners are adequate to discourage corruption.*

ANALYSIS:

Generally, Namibian journalists working in private media are earning good salaries compared to many neighbouring countries, with senior journalists getting about N\$ 12 000 a month.

Junior journalists and those working in state controlled media, however, receive much less. Journalists on the payroll of the Ministry of Information and Broadcasting earn between N\$ 4000 and N\$ 4500, with *NBC* staff receiving generous fringe benefits in addition

Freelance journalists sometimes get exploited. The honorarium for reading the news at the *NBC*, for instance, is N\$ 100 to 150 before tax deduction.

Despite this mixed picture and apart from a few exceptions, “brown envelope journalism” as it is practiced in other countries where journalists get paid for covering – or not covering – a story is unknown in Namibia.

4.7 *Training facilities provide programmes for journalists to upgrade their skills or acquire new skills.*

ANALYSIS:

The University of Namibia offers a four year full-time journalism course. At the Polytechnic of Namibia journalists can study towards a diploma part-time while working.

NBC used to have the best funded training programme in the region after independence. *Deutsche Welle* and *BBC* provided courses at *NBC* on a regular basis. Journalists were sent overseas to get qualifications. But most of these programmes failed because the best trained people then tended to move swiftly to other employment outside the corporation. Now the training department has been closed. As a result young broadcasters, among them graduates from UNAM and the Polytechnic, entering the *NBC* have no guide, mentorship or in-house training and thus no chance to develop in the profession other than through on the job experience.

Several organisations are offering opportunities for journalists to upgrade their skills but there is no systematic approach, resulting in the phenomenon of “workshop journalists who go to ten workshops a year”.

Young black professionals – 15 years after independence – still come up against a glass ceiling, not being allowed to move up to management levels in media houses. They are getting trained, but often leave the media for public relations careers because their aspirations are frustrated.

4.8 *Journalists and other media practitioners are organised in professional unions.*

ANALYSIS:

Some journalists are members of MISA Namibia and/or the Editors’ Forum and/or the very informal Windhoek Press Club, where they get together on a recreational level. There is a noticeable divide in membership. The Editors’ Forum has members from the *NBC* and *Allgemeine Zeitung* but not from the *Namibian* while MISA Namibia has members from the *Namibian* and the *New Era* but not from the *NBC*.

There is no trade union for journalists.

4.9 *Gender mainstreaming is promoted, in terms of equal participation of both sexes in the production process.*

ANALYSIS:

Some newsrooms, like those of *NBC* and *New Era*, have almost equal numbers of male and female journalists. Others such as *Allgemeine Zeitung, Republikein* and *Windhoek Observer* are still very male dominated, as are all commercial radio stations whose staff is mainly white male.

There seems to be no policy promoting gender mainstreaming in place at media houses ensuring equal participation at all levels.

4.10 *Gender mainstreaming is reflected in the editorial content.*

ANALYSIS:

There was some discussion about what exactly gender mainstreaming entails and the emphasis was put on the representation of women's voices as opposed to their male counterparts.

According to the Gender and Media Baseline Study, in Namibia 19% of sources were women. The Media Monitoring Project Namibia (which monitored the media for eight months as opposed to one month in the case of GMBS), found that only 14 % of sources were women.

Most of the newsmakers are men and it is much easier to practise "conference journalism": a journalist goes to a news conference where the minister speaks about water problems, for example, and the story is done. Sending a journalist to Okakarara to assess the actual situation on the ground, to actually talk to the women and men, takes time and money. The lack of investigative and thorough journalism was seen as the main reason for the fact that so few women are reported as sources.

The panel meeting took place at the GocheGanas Lodge, 13 to 15 May 2005.

The Panel:

Ms. Rachel Cloete, Civil Society Activist; Mr. Clement Daniels, Lawyer; Mr. Paul Helmuth, Civil Society Activist; Mr. Phil ya Nangolo, Human Rights Activist; Ms. Catherine Sasman, Journalist; Mr. Andre Strauss, Social Worker, Cultural Activist; Ms. Zoe Titus, Journalist; Mr. Robin Tyson, Lecturer University of Namibia

The Rapporteur:

Ms. Pauliina Shilongo

The Facilitator:

Mr. Hendrik Bussiek

SCORING SHEETS

Sector 1 Freedom of expression, including freedom of the media, are effectively protected and promoted

1.1 Freedom of expression, including freedom of the media, is guaranteed in the constitution and protected by other pieces of legislation.	
1.2 The right to freedom of expression is practised and citizens, including journalists, are asserting their rights without fear.	
1.3 There are no laws restricting freedom of expression such as excessive official secret or libel acts, or laws that unreasonably interfere with the responsibilities of media.	
1.4 Entry into and practise of the journalistic profession is legally unrestricted.	
1.5 Protection of confidential sources of information is guaranteed by law.	
1.6 Public information is easily accessible, guaranteed by law, to all citizens, including journalists.	
1.7 Civil society in general and media lobby groups actively advance the cause of media freedom.	

Sector 2 The media landscape is characterized by diversity, independence and sustainability

2.1 A wide range of sources of information (print, broadcasting, internet) is available and affordable to citizens.	
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2.2	Citizens' access to domestic and international media sources is not restricted by state authorities.	
2.3	Efforts are undertaken to increase the scope of circulation of the print media, particularly to rural communities.	
2.4	Broadcasting legislation has been passed and is implemented that provides for a conducive environment for public, commercial and community broadcasting.	
2.5	Community broadcasting enjoys special promotion given its potential to broaden access by poor and rural communities.	
2.6	The editorial independence of print media published by a public authority is protected adequately against undue political interference.	
2.7	Local or regional independent news agencies gather and distribute information for all media	
2.8	Media diversity is promoted through adequate competition regulation/legislation.	
2.9	Government promotes a political and economic environment which allows a diverse media landscape.	
2.10	Private media outlets operate as efficient and professional businesses.	
2.11	State print media are not subsidised with tax payers' money	
2.12	Government does not use its power over the placement of advertisements as a means to interfere with media content.	
2.13	The advertising market is large enough to maintain a diversity of media outlets.	

Sector 3 Broadcasting regulation is transparent and independent, the state broadcaster is transformed into a truly public broadcaster

3.1	Broadcasting is regulated by an independent body adequately protected against interference, particularly of a political and economic nature.	
3.2	The appointments procedure for members of the regulatory body is open and transparent and involves civil society.	
3.3	The body regulates broadcasting in the public interest and ensures fairness and a diversity of views broadly representing society at large.	
3.4	The body's decisions on licensing in particular are informed by a broadcasting policy developed in a transparent and inclusive manner.	
3.5	The public broadcaster is accountable to the public through a board representative of society at large and selected in an independent, open and transparent manner.	
3.6	Persons who have vested interests of a political or commercial nature are excluded from possible membership in the board, i.e. office bearers with the state and political parties as well as those with a financial interest in the broadcasting industry.	

3.7	The editorial independence of the public broadcaster from commercial pressure and political influence is guaranteed by law and practised.	
3.8	The public broadcaster is adequately funded in a manner that protects it from arbitrary interference with its budget.	
3.9	The public broadcaster is technically accessible in the entire country.	
3.10	The public broadcaster offers diverse programming for all interests.	
3.11	The public broadcaster offers balanced and fair information reflecting the full spectrum of diverse views and opinions.	
3.12	The public broadcaster offers as much diverse and creative local content as economically achievable.	

Sector 4 The media practice high levels of professional standards

4.1	The media follow voluntary codes of professional standards which are enforced by self-regulatory bodies	
4.2	The standard of reporting follows the basic principles of accuracy and fairness.	
4.3	The media cover the full spectrum of events, issues and cultures, including business/economics, cultural, local and investigative stories	
4.4	Gender mainstreaming is promoted in terms of equal participation of both sexes in the production process.	
4.5	Gender mainstreaming is reflected in the editorial content.	
4.6	Journalists and editors do not practise self-censorship	
4.7	Owners of private media do not interfere with editorial independence	
4.8	Salary levels and general working conditions for journalists and other media practitioners are adequate to discourage corruption	
4.9	Training facilities offer formal qualification programmes for journalists as well as opportunities to upgrade their skills.	
4.10	Journalists and other media practitioners are organised in trade unions and/or professional associations.	

Declaration of Principles on Freedom of Expression in Africa, African Commission on Human and Peoples' Rights, 32nd Session, 17 - 23 October, 2002: Banjul, The Gambia.

Preamble

Reaffirming the fundamental importance of freedom of expression as an individual human right, as a cornerstone of democracy and as a means of ensuring respect for all human rights and freedoms;

Reaffirming Article 9 of the African Charter on Human and Peoples' Rights;

Desiring to promote the free flow of information and ideas and greater respect for freedom of expression;

Convinced that respect for freedom of expression, as well as the right of access to information held by public bodies and companies, will lead to greater public transparency and accountability, as well as to good governance and the strengthening of democracy;

Convinced that laws and customs that repress freedom of expression are a disservice to society;

Recalling that freedom of expression is a fundamental human right guaranteed by the African Charter on Human and Peoples' Rights, the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights, as well as other international documents and national constitutions;

Considering the key role of the media and other means of communication in ensuring full respect for freedom of expression, in promoting the free flow of information and ideas, in assisting people to make informed decisions and in facilitating and strengthening democracy;

Aware of 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;

Noting that oral traditions, which are rooted in African cultures, lend themselves particularly well to radio broadcasting;

Noting the important contribution that can be made to the realisation of the right to freedom of expression by new information and communication technologies;

Mindful of the evolving human rights and human development environment in Africa, especially in light of the adoption of the Protocol to the African Charter on Human and Peoples' Rights on the establishment of an African Court on Human and Peoples' Rights, the principles of the Constitutive Act of the African Union, 2000, as well as the significance of the human rights and good governance provisions in the New Partnership for Africa's Development (NEPAD); and

Recognising the need to ensure the right to freedom of expression in Africa, the African Commission on Human and Peoples' Rights declares that:

I

The Guarantee of Freedom of Expression

1. Freedom of expression and information, including the right to seek, receive and impart information and ideas, either orally, in writing or in print, in the form of art, or through any other form of communication, including across frontiers, is a fundamental and inalienable human right and an indispensable component of democracy.
2. Everyone shall have an equal opportunity to exercise the right to freedom of expression and to access information without discrimination.

II

Interference with Freedom of Expression

1. No one shall be subject to arbitrary interference with his or her freedom of expression.
2. Any restrictions on freedom of expression shall be provided by law, serve a legitimate interest and be necessary and in a democratic society.

III

Diversity

Freedom of expression imposes an obligation on the authorities to take positive measures to promote diversity, which include among other things:-

- availability and promotion of a range of information and ideas to the public;
- pluralistic access to the media and other means of communication, including by vulnerable or marginalised groups, such as women, children and refugees, as well as linguistic and cultural groups;
- the promotion and protection of African voices, including through media in local languages; and
- the promotion of the use of local languages in public affairs, including in the courts.

IV

Freedom of Information

1. Public bodies hold information not for themselves but as custodians of the public good and everyone has a right to access this information, subject only to clearly defined rules established by law.
2. The right to information shall be guaranteed by law in accordance with the following principles:
 - everyone has the right to access information held by public bodies;
 - everyone has the right to access information held by private bodies which is necessary for the exercise or protection of any right;
 - any refusal to disclose information shall be subject to appeal to an independent body and/or the courts;
 - public bodies shall be required, even in the absence of a request, actively to publish important information of significant public interest;
 - no one shall be subject to any sanction for releasing in good faith information on wrongdoing, or that which would disclose a serious threat to health, safety or the environment save where the imposition of sanctions serves a legitimate interest and is necessary in a democratic society; and
 - secrecy laws shall be amended as necessary to comply with freedom of information principles.
3. Everyone has the right to access and update or otherwise correct their personal information,

whether it is held by public or by private bodies.

V

Private Broadcasting

1. States shall encourage a diverse, independent private broadcasting sector. A State monopoly over broadcasting is not compatible with the right to freedom of expression.
2. The broadcast regulatory system shall encourage private and community broadcasting in accordance with the following principles:
 - there shall be equitable allocation of frequencies between private broadcasting uses, both commercial and community;
 - an independent regulatory body shall be responsible for issuing broadcasting licences and for ensuring observance of licence conditions;
 - licensing processes shall be fair and transparent, and shall seek to promote diversity in broadcasting; and
 - community broadcasting shall be promoted given its potential to broaden access by poor and rural communities to the airwaves.

VI

Public Broadcasting

State and government controlled broadcasters should be transformed into public service broadcasters, accountable to the public through the legislature rather than the government, in accordance with the following principles:

- public broadcasters should be governed by a board which is protected against interference, particularly of a political or economic nature;
- the editorial independence of public service broadcasters should be guaranteed;
- public broadcasters should be adequately funded in a manner that protects them from arbitrary interference with their budgets;
- public broadcasters should strive to ensure that their transmission system covers the whole territory of the country; and
- the public service ambit of public broadcasters should be clearly defined and include an obligation to ensure that the public receive adequate, politically balanced information, particularly during election periods.

VII

Regulatory Bodies for Broadcast and Telecommunications

1. Any public authority that exercises powers in the areas of broadcast or telecommunications regulation should be independent and adequately protected against interference, particularly of a political or economic nature.
2. The appointments process for members of a regulatory body should be open and transparent, involve the participation of civil society, and shall not be controlled by any particular political party.

3. Any public authority that exercises powers in the areas of broadcast or telecommunications should be formally accountable to the public through a multi-party body.

VIII

Print Media

1. Any registration system for the print media shall not impose substantive restrictions on the right to freedom of expression.
2. Any print media published by a public authority should be protected adequately against undue political interference.
3. Efforts should be made to increase the scope of circulation of the print media, particularly to rural communities.
4. Media owners and media professionals shall be encouraged to reach agreements to guarantee editorial independence and to prevent commercial considerations from unduly influencing media content.

IX

Complaints

1. A public complaints system for print or broadcasting should be available in accordance with the following principles:
 - complaints shall be determined in accordance with established rules and codes of conduct agreed between all stakeholders; and
 - the complaints system shall be widely accessible.
2. Any regulatory body established to hear complaints about media content, including media councils, shall be protected against political, economic or any other undue interference. Its powers shall be administrative in nature and it shall not seek to usurp the role of the courts.
3. Effective self-regulation is the best system for promoting high standards in the media.

X

Promoting Professionalism

1. Media practitioners shall be free to organise themselves into unions and associations.
2. The right to express oneself through the media by practising journalism shall not be subject to undue legal restrictions.

XI

Attacks on Media Practitioners

1. Attacks such as the murder, kidnapping, intimidation of and threats to media practitioners and others exercising their right to freedom of expression, as well as the material destruction of communications facilities, undermines independent journalism, freedom of expression and the free flow of information to the public.
2. States are under an obligation to take effective measures to prevent such attacks and,

when they do occur, to investigate them, to punish perpetrators and to ensure that victims have access to effective remedies.

3. In times of conflict, States shall respect the status of media practitioners as non-combatants.

XII

Protecting Reputations

1. States should ensure that their laws relating to defamation conform to the following standards:

- no one shall be found liable for true statements, opinions or statements regarding public figures which it was reasonable to make in the circumstances;
- public figures shall be required to tolerate a greater degree of criticism; and
- sanctions shall never be so severe as to inhibit the right to freedom of expression, including by others.

2. Privacy laws shall not inhibit the dissemination of information of public interest.

XIII

Criminal Measures

1. States shall review all criminal restrictions on content to ensure that they serve a legitimate interest in a democratic society.

2. Freedom of expression should not be restricted on public order or national security grounds unless there is a real risk of harm to a legitimate interest and there is a close causal link between the risk of harm and the expression.

XIV

Economic Measures

1. States shall promote a general economic environment in which the media can flourish.

2. States shall not use their power over the placement of public advertising as a means to interfere with media content.

3. States should adopt effective measures to avoid undue concentration of media ownership, although such measures shall not be so stringent that they inhibit the development of the media sector as a whole.

XV

Protection of Sources and other journalistic material

Media practitioners shall not be required to reveal confidential sources of information or to disclose other material held for journalistic purposes except in accordance with the following principles:

- the identity of the source is necessary for the investigation or prosecution of a serious crime, or the defence of a person accused of a criminal offence;

- the information or similar information leading to the same result cannot be obtained elsewhere;
- the public interest in disclosure outweighs the harm to freedom of expression; and
- disclosure has been ordered by a court, after a full hearing.

XVI

Implementation

States Parties to the African Charter on Human and Peoples' Rights should make every effort to give practical effect to these principles.