



**Media Project for Southern Africa**

# **Long Walks to Media Freedom**

**Case studies and lessons learnt  
from countries in transition  
from authoritarian rule to democracy**

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**May 2003**

## Content

Introduction	3
Case studies in Africa:	
South Africa	4
Namibia	13
Zambia	15
Case studies in Europe:	
The former German Democratic Republic	18
The former Yugoslavia	19
Bosnia-Herzegovina	20
Kosovo	23
Montenegro	24
Lessons learnt	32
Basic regulatory requirements for a transitional phase	37
Consolidation of reforms after elections	40
Yardsticks for a democratic media policy	41
A final remark	44

## 1. Introduction

These days, 'good governance' is the buzzword all over Africa. As with all these fashionable terms its inflationary use threatens to lower its value and obscure its meaning. Essentially, 'good governance' is governance by the people in the interest of the people. 'Good governance' is democracy, nothing more and nothing less.

Some countries on the continent are well on their way to achieve this goal and many still have a long walk ahead. In some countries, governments seek to narrow the meaning of the term, i.e. to the fight against corruption, in order to deflect criticism. Others have abandoned the ideals altogether and suppress their people, often in the name of a cheap and narrow nationalism. What they forget – even though they could have learnt it from their own history – is that democracy is not a fashion. It may take different forms, but essentially it is a human right that all peoples will demand sooner or later.

Transitional societies are those which have begun the long walk or are about to (re-)gain their basic freedoms. Given their vastly different conditions and circumstances as well as the geopolitical framework in which they operate, such a process may take only a few years in some countries, while others will be struggling for many more.

An important part of any such transition is the reform of media legislation and regulation. With the media being both a tool in as well as one of the objects of the transformation process, this reform is as essential as it is difficult to achieve. Control of media is seen as vital for authoritarian governments to remain in power. Letting go of that control for them equals the beginning of the end.

This paper describes a number of attempts to reform the media dispensation against all odds, their objectives and the strategies employed to reach them. The case studies are either based on the author's own experience, on research undertaken by others or on a mix of both. All countries selected have only recently gone or are still going through a period of transition from authoritarian rule to a democratic dispensation. And this period does certainly not end with a first successful democratic election.

The case studies provide a host of lessons which may be of use for media activists in other countries about to embark on a similar transition process as well as organisations supporting them. One can and should learn from mistakes made and successes achieved elsewhere. The chapter on 'lessons learnt' is followed by a list of basic regulatory requirements for a transitional period, and some principles that will guide the consolidation of a democratic media policy. These are not to be understood as prescriptions – where applicable they should be adapted and tailored to the specific circumstances of each individual country. It is also hoped that they will provide some useful pointers for further debate.

## 2. Case studies in Africa

### 2.1. South Africa

In South Africa, the transitional period from the apartheid regime to democracy began with a watershed speech to Parliament by the then State President FW de Klerk on 2 February 1990, in which he announced the release of Nelson Mandela from prison, the unbanning of the organisations of the democratic movement and the phasing out of minority rule.

In the field of media the debate, not surprisingly, focussed first and foremost on the South African Broadcasting Corporation (SABC). The SABC had started out as a public broadcaster, replicating the BBC model. After the National Party came into power in 1948, it progressively tightened its control over the organisation. By the end of the 1950s the SABC had been turned into a government propaganda machine.

In August 1990, two thousand South Africans marched to the SABC under banners reading: “The People Shall Broadcast!” and “Democratise Radio and Television!”. “The battle of the airwaves had begun”, writes Willy Currie, one of the main proponents of the movement for broadcasting reform<sup>1</sup>. The march was in response to the setting up of a Task Group on Broadcasting by the government in March 1990. This Task Group was seen as part of de Klerk’s strategy to win – against all probability – the first non-racial elections. If that first prize was not to be won, then the new dispensation was at least to provide the white minority with the power to veto any decision unfavourable to their interests. The broadcasting industry was key to this plan, and the SABC in particular – the then president wanted to retain as much control over the broadcaster as possible.

The Film and Allied Workers Organisation (FAWO) which spearheaded the reform movement rejected the Task Group. The union criticised that the Group was not representative of South African society, comprised mainly people with significant vested interests in the industry (the Chairman of the Group, Christo Viljoen, also happened to be the Chairman of the SABC), and that it was to work behind closed doors. The emerging campaign set itself three main goals:

- The first was to ensure that the reform of broadcasting was understood as a constitutional issue and therefore needed to be included in the unfolding process of negotiations between the ‘white’ political parties, mainly the ruling party, and the organisations of the democratic movement. Consequently, it was argued that the government had no right to embark on such a reform process unilaterally.

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<sup>1</sup> Part of this case study draws on information contained in Currie’s article in Eric Louw (ed.), South African Media Policy, Bellville 1993

- Secondly, the SABC needed to be taken out of government control as soon as possible to avoid any disadvantage for the democratic movement during the negotiations and the first democratic elections.
- The third goal was to “free the airwaves”, allowing new broadcasters to go on air.

The campaign recognised that only political organisations are capable of making decisions on public political matters. Therefore it had to link itself into the transition process dominated by the two major power blocs – the African National Congress and the NP. Consequently, civil society organisations clustered around these power centres in order to influence the policy direction of ‘their’ side. In regard to broadcasting, FAWO, the Campaign for Open Media (COM) and a community radio lobby group tried to impact – successfully – on the ANC. On the other side, the SABC, Telkom, the subscription TV channel M-Net and others targeted the NP.

While the power struggle was in its first stages, the SABC – in accordance with the wider NP strategy – took practical steps. To preempt an assumed take-over of the corporation by the ANC, it restructured itself, in 1991, into separate business divisions and autonomous radio and television stations – a move seen by the campaign as a first step towards commercialisation and privatisation of the SABC.

The suspicion that the ANC wanted to replace the NP as the political master of the SABC was not too far-fetched. At that stage the ANC was still very much in a state-interventionist mood. Some leading figures argued that if the majority, “the people”, brought the ANC to power, then “the people” also had the right to control the SABC – “the people” in this case being represented by the ruling party. And the staff of the ANC’s exile broadcaster “Radio Freedom” had a particular interest in their party gaining control of the SABC: since their return from exile, they were without jobs.

It was necessary, therefore, for the campaign to pursue a two-pronged strategy. While recognising the ANC as the only partner which could successfully push for a broadcasting reform during the negotiations, it was necessary to minimise its influence on the campaign itself. In November 1992, a Campaign for Independent Broadcasting (CIB) was launched, a coalition of broad cultural and political interests: FAWO, COM, trade unions of journalists, writers and printers, the powerful Congress of South African Trade Unions (COSATU), the Council of Churches (SACC), the Democratic Party, the Communist Party – and the ANC. Thus, the ANC was integrated as one of many players, and the campaign was put on a broad foundation of organisations representing the majority of listeners and viewers.

The major channel for the input from the campaign was the multi-party Convention for a Democratic South Africa (Codesa), the central forum of negotiations on the future of the country. With broadcasting on the agenda of Codesa, it became impossible for the government of the day to introduce any changes to the broadcasting sector unilaterally. The importance this was accorded is evident from Nelson Mandela's autobiography "Long Walk to Freedom" in which he lists the main problem areas for Codesa: "the question of creating a free political climate, the future of the homelands, *the restructuring of the South African Broadcasting Corporation*, the examination of various constitutional principles such as federalism, and the creation and installation of an interim government".

Based on discussions held in various workshops since 1990, the major demands presented to Codesa were the establishment of an Interim Independent Communication Authority as a broadcast regulator during the transition period, the appointment of a new, representative SABC Board, and the formation of a Task Force to look into reforms in the print media field. The NP countered these demands by proposing a Media Ethics Complaints Tribunal to ensure the neutrality of SABC – while retaining the old SABC Board. The party also proposed to extend the powers of the existing Media Council to include broadcasting matters. This Council was essentially in the hands of the four press groups in the country which were controlled by the NP and (white) mining conglomerates. The idea, obviously, was to maintain influence over the SABC even after a change in government.

In view of the increasing mountain of demands, proposals and counter-proposals it became necessary to professionalise the work of the campaign. From mid-92 a core group of three legal experts, assisted by an international expert, spearheaded activities and developed a detailed broadcasting policy. This envisaged an independent broadcasting authority as a regulator for a three-tier broadcasting system, consisting of a truly independent public broadcaster, commercial broadcasters and a community broadcasting sector.

Many questions needed to be answered. The most urgent and crucial one, however, was the control of the SABC, which had to be transformed well before the first democratic elections. The term of the existing SABC board happened to expire at the end of March 1993 – which put time pressure on the negotiators. The NP government, though still clinging to power, began to realise that they were most likely to lose the unavoidable 'one man one vote' poll. With that in mind, they wanted to make it impossible for the new government, that of the ANC, to use the SABC in the way they had done over four decades: as its propaganda machine. The ANC, on the other side, wanted to take the SABC out of the hands of the ruling party as early as possible, so that it could not be used to their disadvantage during the election campaign. Both sides, then, though for very different reasons, saw the need for putting an end to state control over the SABC.

Several models were put up for debate. At an early stage the idea was that a board to supervise the SABC should consist of representatives of all political parties involved in the Codesa negotiation process - some 25 of them. During a short seminar on this issue - in fact, it took little over two hours - a former Director General of the biggest German public broadcasting corporation made a convincing case against going this route: he simply told the audience about his experiences over the years with delegates from political parties on his board, about their unashamed bias, their faction fighting, their permanent interference. The idea of equal party-political representation was dropped there and then and, what was more, it was suggested that office bearers of a political party or the state should not be eligible to serve on such a board. This proposal was later accepted and made into law.

Other alternatives were discussed, international experiences compared, the pros and cons of several models debated. In all these models, parliament plays a decisive role. It was evidently impossible, however, to allow the apartheid parliament to appoint a new board. From January 1993, the CIB, the ANC and the government negotiated a way of establishing an independent appointment panel to select members for the new SABC board.

In April 1993 – the old board’s lifetime had been extended by two months – it was decided that the first board of a truly public broadcaster was to be selected by a panel of high judges, magistrates and lawyers. One of the leading figures in the small group behind the scenes which organised the panel was a member of the core three-person team spearheading the reform on behalf of the CIB (thus maintaining a channel of information). The panel invited the public - individuals and organisations - by way of advertisements to nominate candidates for the board. More than 700 nominations were received. The panel then drew up a shortlist of 86 people to be interviewed in public hearings – the first open hearings for public office in South African history.

All the names were published and the general public was encouraged to express their views on the candidates or suggest what questions they would like to put to them. These comments were then used in the hearings where all nominees were thoroughly grilled - the hearings took a week, broadcast live on radio and TV. The panel then decided on the final list which was – for presumably unavoidable legal reasons - forwarded to the State President for approval and formal appointment. FW de Klerk refused to accept seven out of the 25 names, claiming that they did not comply with some of the guidelines agreed upon, in particular the one that stipulated that persons with “a high political profile of a partisan nature” were not eligible. Among them were Prof. Njabulo Ndebele, suggested as Chairman and at the time vice-rector of the University of the Western Cape, as well as Allister Sparks and Raymond Louw, both former editors of the ‘Rand Daily Mail’. To be sure, all three had been outspoken opponents and a thorn in the side of the apartheid regime for many years, but they certainly could not be

seen as being aligned to a political party. To make matters worse, their rejection was not official but communicated through private channels. The selection panel gave in and proposed seven replacements which were accepted. A huge public outcry followed. Nelson Mandela in particular was furious because de Klerk had retracted from an agreement that he was only to rubber-stamp the judges' decision. After a long period of confusion, the Chairman nominated by de Klerk (van Zyl Slabbert) resigned, and thus made way for the board to elect – in August 1993 - its own chairperson (Dr Ivy Matsepe-Casaburri).

Despite the hiccups: a new SABC board was in place, nine months before the first democratic elections, and one which enjoyed the reputation of being independent from government – this, at least, was the “sufficient consensus”, a catchphrase of the times. The board appointed a new management team with Zwelake Sisulu at the helm, former publisher of the weekly “New Nation” which had been banned under apartheid, son of Walter Sisulu. Because of the fact that he belonged to one of the “royal families” of the ANC, suspicions arose that he was going to bring the SABC under strict control of the future ruling party. Instead he turned out to be fiercely independent – sometimes using a simple trick as he admits himself. Because he would have found it very difficult to decline suggestions or demands from Mandela, he regularly pretended not to be in his office whenever the old man phoned. Soon, Mandela gave up his attempts to influence the SABC.

Transformation at the corporation was tedious. A “sunset clause” agreed upon during the multi-party negotiations protected civil servants (and SABC employees were treated as such) from retrenchments. Leading figures of the “old guard” either left voluntarily (after having negotiated a generous golden handshake), or they changed tack (and some of them did so honestly), or had to be kept on board until their early retirement. At the level of journalists and producers most employees (in particular the younger ones) adapted to the new dispensation without major difficulties. The influx of new staff was slow, due to a lack of funds and a sufficient number of trained broadcasters outside the SABC.

Today, the procedure of appointing the SABC board, in essence, is still the same. After the establishment of a democratically elected parliament, the selection process is now in the hands of the parliamentary committee responsible for broadcasting policy. It advertises the posts and calls upon all relevant groups in society and individuals to nominate candidates. The committee shortlists nominees and invites them for interviews in public hearings - thus ensuring transparency of the selection process. According to a provision in the Broadcasting Act of 1999, “the members of the Board must, when viewed collectively, represent a broad cross-section of the population of the Republic”. The committee finally decides on its list of candidates which is published - so that every interested person can see for her- or himself who was dropped from the original short list. This list is then passed on to the President for approval and appointment (so far, the lists have been approved without questions asked).

At the same time, work on legislation for an Independent Broadcasting Authority (IBA) proceeded. A Technical Committee set up by the Codesa process worked on a draft bill all through 1993, relying heavily on the input from the CIB team.

The negotiations had to overcome several hurdles. In March 1993 the NP government unilaterally started to grant licences for community radios to operators of its choice without waiting for the new legislation. In ANC circles, on the other hand, there were growing doubts whether the concept of community radio was a prudent one after all: allowing for dozens or even hundreds of independent voices on the air would create an uncontrollable broadcasting environment (which was precisely what the promoters of community broadcasting had in mind). In protest against both the unilateral action of government and the growing scepticism within the ANC, a community radio initiative in Cape Town, Bush Radio, on 1<sup>st</sup> May 1993 went on air with a pirate broadcast. Transmitters were seized by police the next day and charges laid against those responsible. The resulting publicity helped the negotiations back on track.

In early September 1993, the Negotiating Council of Codesa adopted the draft legislation for an IBA – together with other essential pieces of legislation that established a Transitional Executive Council (de facto an Interim Government), and an Independent Electoral Commission. The bills were passed on to (the existing minority) parliament which (as agreed beforehand) rubber-stamped the package within a week. The interim constitution, passed at the end of 1993, and the final constitution adopted in May 1996 both guarantee the independence of the IBA. The latter says in article 192: “National legislation must establish an independent authority to regulate broadcasting in the public interest, and to ensure fairness and a diversity of views broadly representing South African society.”

The 1993 Act, which was slightly amended in early 1994, mandated the IBA to establish a three-tier broadcasting system: public, private and community. It also required the IBA to develop a national broadcasting policy framework as a vision for the future broadcasting landscape in the country. The amendment gave priority to the (temporary) licensing of community radios over commercial operators, so as to give them an edge over the commercial sector and enable them to develop meaningful roles before the business-oriented stations came in.

The first seven-member IBA Council was appointed by the State President on the advice of the Transitional Executive Council (the interim government) in March 1994 after a nomination process marked by participation of the public, transparency and openness, and which included the publication of a shortlist of candidates for appointment (to avoid any further interference by the President behind the scenes). [Today, the regulator’s council is appointed along the same lines as the SABC board.]

Before the IBA was able to licence any new players it had to undertake two processes simultaneously: to initiate applications for licences from community radio stations (75 such operators were licenced during the second half of 1995) and to hold public inquiries into the future of the SABC, the question of local content as well as the problem of cross-media ownership. During these inquiries, held in the form of public hearings in 1994 and 1995, the IBA drew heavily on the input from civil society groups which created “The Group of Thirteen Organisations”, among them the CIB – soon labelled by the press as “The Gang of 13”. The CIB core team prepared appropriate papers which were discussed and approved at workshops with representatives from the 13 organisations involved. Members of the Group had a decisive influence on the hearings held in November/December 1994 and April/May 1995. In August 1995, the report on the inquiry was completed and adopted by parliament the next year.

Not only the drawn out process of policy formulation (and thus the late consideration of applications for commercial broadcasters), but also the IBA’s mandate as such later came into question. While the Minister for Posts, Telecommunications and Broadcasting at the time of the inquiry, Dr Pallo Jordan, was deeply convinced that the state should not be allowed to intervene in broadcasting matters, his successor, Jay Naidoo, publicly criticised that the formulation of macro-policies should be left to a regulator, arguing that that was the role of government. He succeeded in bringing about the desired change in 1999 when parliament passed a new Broadcasting Act, stipulating in section 3 (2): “...the Minister is ultimately responsible to develop policy that is required from time to time”. By that stage, the attention of civil society had moved on to other matters, and the shift of power over policy formulation from the independent regulator to the minister sailed through without much noise.

So did the merger in 2000 of the IBA with the South African Telecommunications Regulatory Authority (SATRA), the body in charge of telecommunications. The new combined IBA and SATRA are now known as the Independent Communications Authority of South Africa (ICASA). The reason given for this merger was the steady convergence of broadcasting, telecommunications, information technology and other electronic media - it was felt to be better to avoid overlap of responsibilities and to have all these areas regulated by one body which would be more efficient. In fact – and not surprisingly - the opposite happened: the merger led to an even bigger and slower bureaucracy. And given the fact that the regulation of broadcasting is primarily about the different sectors of radio and TV as well as about broad programme content, while telecommunications regulation is first and foremost about purely technical and economic matters of transmission, the advantages of combining the two tasks are limited. Now there are two types of members on the board: people interested in the development of quality broadcasting on the one side and technical experts on the other - communication between the two is not always easy.

Two years later, however, civil society was more vigilant when the now Minister for Post, Telecommunications and Broadcasting, Dr Ivy Matsepe-Casaburri (the former SABC Chairperson), tabled a draft amendment to the Broadcasting Act in parliament which stipulated, among many other issues, that the editorial policy of the corporation be approved by the minister. This onslaught on the editorial independence of the public broadcaster was rejected by a broad informal front of print media, opposition parties and civil society groups. Even the ANC committee in charge of media under the chairmanship of Pallo Jordan (the first minister in charge of broadcasting ...) expressed its disquiet. The proposal had to be withdrawn.

By the way: The same Pallo Jordan was to be the first Minister of Information in an ANC government. Before the April 1994 elections, the existence of such a ministry was regarded as a matter of course, even by civil society. On this issue, it was an international organisation which took the initiative and invited - three months before the elections - the Information Department of the ANC, headed by Jordan, to a Workshop on Communications Policies of a New Government in South Africa. It was argued that such a ministry was usually the mark of authoritarian non-democratic governments, that it would not be necessary in a country without state-owned or –controlled newspapers, radio and television, and that instead a Government Informations Service as a public relations agency was sufficient. At the end of that workshop, Jordan declared that there would be no Ministry of Information in the new South Africa.

The past role of media under the apartheid regime was examined by the Truth and Reconciliation Commission (TRC). The TRC's duty was, among others, to establish "as complete a picture as possible of the causes, nature and extent of ... gross violations of human rights (from 1960 to 1994) ..., including the antecedents, circumstances, factors and context of such violations", and to "make recommendations to the President with regard to ... the institutional, administrative and legislative measures to be taken or introduced in order to prevent the commission of violations of human rights."

In order to get to some of the root causes of these violations, the TRC held Special Hearings with institutions such as Business and Labour, the Legal Community, the Health Sector, and the Media. The hearings were well prepared by research, in particular through interviews with the main actors, in the case of media with ministers, managers, editors, producers and journalists. The research formed the basis for commissioners to select individuals which were then invited to public hearings.

The TRC found in its 1998 report that "state restrictions on the freedom of the media played an important role in facilitating gross violations of human rights", that "the management of the mainstream English language media often adopted a policy of appeasement towards the state, ensuring that a large measure of self-censorship occurred", that "the Afrikaans media chose to provide direct support

for apartheid”, and that the SABC was “a direct servant of the government of the day”. In summary, the TRC found that mainstream newspapers and the SABC “helped sustain and prolong the existence of apartheid”.

In its recommendations it said: “The Commission recommends that there be less legislation controlling the media, rather than more”, and suggested that a thorough review of all laws regarding the media be undertaken. The independence of the SABC and IBA was to be maintained, and the self-regulation of the media strengthened. And, unequivocally: “There should be no interference from government in editorial matters”.

The impact of the TRC process on the media environment was less than had been hoped for. Editors who had worked in mainstream newspapers made excuses for themselves by referring to economic pressure from owners and suppression by law, by saying that they “tried to be normal in an abnormal society” or by claiming they had sought to fight apartheid “from within the system”. The challenge for honest soul-searching was not taken up, there was no real acknowledgement of any wrongdoing (with the exception of a few journalists and editors in the Afrikaans press). Much the same went for editors and producers who had worked at the old SABC.

By and large, the media practised ‘business as usual’ before and after the TRC inquiry. And there was no push for a systematic review of all media related legislation as suggested – neither by the industry itself, by lawmakers or by civil society.

By 1998, when the TRC presented its findings and recommendations, civil society in South Africa felt the strain of almost ten years of vigorous fighting for change. But there are still watchdogs around to make sure that the achievements of media reform are not endangered, let alone eroded by an over-confident ruling party with a two-thirds majority in national parliament. The Freedom of Expression Institute, for example, or the South African chapter of the Media Institute of Southern Africa raise the alarm whenever there is such an attempt – so far successfully.

## 2.2. Namibia

It took several resolutions of the United Nations - from as early as 1966, a judgement by the International Court of Justice in 1971, and a guerilla campaign in the 1970s and 80s, for South Africa to give up its resistance to an independent Namibia by the end of 1988. UN Resolution 435 opened the way to elections for a 72-member Constituent Assembly under UN supervision in November 1989.

The South West Africa Broadcasting Corporation (SWABC) at the time was still under the control of South Africa. The UN urged the Corporation to give access to 14 competing political parties. A standing committee for consultations on election coverage policy made up of representatives from SWABC and the political parties was formed and agreed on a schedule of campaign messages to be flighted on television. There were to be five-minute slots for two parties per night during the six weeks preceding the elections, allocated on a rotating alphabetical basis. The committee, however, did not deal with the general broadcast news coverage, and this therefore remained biased in favour of South African interests, i.e. against the liberation movement SWAPO.

During 1990, the Constituent Assembly with SWAPO as the majority party developed and approved a new constitution. This says in Article 21 (1) (a): "All persons shall have the right to freedom of speech and expression, which shall include freedom of the press and other media". The Constituent Assembly transformed itself into parliament, the National Assembly. Namibia attained independence.

As there was no organised civil society to speak of at independence, the formulation of broadcasting legislation was by and large left to government which sought advice from international organisations. French advisers in particular went along with the idea of allowing government to exert strong political influence. The logic was that if the Minister of Information and Broadcasting appointed the supervisory body, control mechanisms had to be geared towards that office. The 1991 Broadcasting Act established the Namibia Broadcasting Corporation (NBC) with the minister appointing the board (Deputies to the National Assembly are not allowed to be members.). Up to this day boards are described as comprising mainly "party loyalists".

The 1992 Namibian Communications Commission (NCC) Act created the NCC which is in charge of frequency allocation and licensing private and community broadcasters, as well as (since 1995) telecommunications and postal services. Again, the minister appoints commissioners under the proviso that they must not be members of parliament, a local authority, or "actively involved in party politics as a regular organiser". The NCC is described as a de facto department of the ministry, relying on ministry funds.

The new NBC inherited an operation run as an outpost of the South African Broadcasting Corporation. This had to be undone and replaced by a new system with new strategies. The organisation had originally been set up as a relay station for SABC programming, which led to overstaffing in support areas and administration. A year after the establishment of the NBC the average budget ratio in the programming department was still 83 % for salaries and just 17 % for production. Management was thus forced to embark on a major downsizing exercise. The savings made were redirected to co-productions with independent producers in the country.

The main concern, however, was not so much the organisational structures but the mindsets of journalists and producers working at the NBC. From the start the new government put immense pressure on management to bring in people from the liberation movement to counterbalance the old guard from the colonial era. Many of the new staff were professionals, others lacked the necessary skills. Most of them later left the corporation to become PR managers and directors in government departments.

Despite the legal and other shortcomings, the first NBC board had a great vision of objectivity. The new government was also very open to that goal during its first few years in power. This 'euphoria' fizzled out over time and was replaced by the 'realpolitik' of using the NBC as a political tool. To this date journalists at the NBC exercise self-censorship for fear of possible party victimisation or losing their jobs: a very effective form of information control.

Up to quite recently, the overall regulatory framework has never really been questioned. The NBC remains a state-controlled broadcaster. The NCC has licensed a number of privately owned radio and TV stations, thus creating, on the face of it, a fairly diverse broadcasting landscape. Unfortunately, most of the bigger, more influential stations are controlled by either SWAPO's Kalahari Holdings or the opposition's Democratic Media Holdings.

In 2002 the Namibian Government started drafting a new piece of legislation to transform the present NCC into a Communication Authority of Namibia (CAN) to regulate both telecommunications and broadcasting. The government's motif is widely seen as opening up the telecommunications market for economic competition. The draft has attracted criticism from professionals mainly because it keeps the controlling powers over CAN with government and reduces broadcasting to a mere economic commodity, thus neglecting its social functions within a democratic dispensation. Other points of contention are that the NBC is to be kept outside the regulatory powers of the CAN, and that the draft legislation as a whole is out of sync with trends in the Southern African Development Community (SADC), especially with the SADC Protocol on Culture, Information and Sport which was ratified by the Namibian parliament in 2002. At present the Media Institute of Southern Africa and other organisations are making efforts to open a new round of broad public consultations on the intended legislation.

### 2.3. Zambia<sup>2</sup>

The year 1991 saw the change of Zambia's political system from a one-party state to a multi-party democracy. During the election campaign the state owned and run Zambia National Broadcasting Corporation was very much under the control of the Ministry of Information's Department for National Guidance (!). A US-sponsored Zambia Voting Observation Project (Z-Vote) which reviewed and commented on the news coverage did not make much of an impact.

The new ruling party, the Movement for Multi-Party Democracy (MMD), was keen to draw a lesson from this experience and perceived the ZNBC's lack of editorial independence as a threat to the new spirit of democracy in the country. The Minister of Information and Broadcasting Services, Dipak Patel, convened a "National Seminar on Democracy and the Media in Zambia - the way forward" in October 1992. As a result a Media Reform Committee was established with representatives from the Zambian media. A year later, among others, the Committee recommended to remove the ZNBC from government control and to place it under an independent broadcasting authority accountable to and financed by parliament.

For the following three years nothing happened. The inherited broadcasting system with the Minister in charge of both the state broadcaster and the licencing of new operators suited the purposes of the new rulers only too well. Under pressure from media organisations, the Zambia Independent Media Association in particular, as well as the international community, government needed to make a move. In 1996, it published an "Information and Media Policy" which included the creation of an IBA and the strengthening of the ZNBC as a public broadcaster.

Another three years went by. In 1999, and again under pressure, government established yet another commission, the Task Force on Media Law Reforms, which arrived at similar recommendations. In addition to the introduction of an IBA and the transformation of the ZNBC into a public broadcaster it suggested a Freedom of Information Act which would give citizens the right of access to state held information.

As before, the new recommendations remained just that. In April 2000, ZIMA initiated the formation of the Broadcasting Independent Group (BIG) which brought together various media organisations, civil society groups, academics, and legal practitioners. Its main purpose was to lobby government to agree to the establishment of an IBA.

Again, there was no response. Parliament was dominated by one political party, the MMD, which had obviously no interest in changing the status quo.

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<sup>2</sup> This study draws in part on Lingela Brian Muletambo, Reforming the broadcast legal environment in Zambia, 2002

Elections in December 2001 changed the political landscape dramatically. The new president received only 28 % of the presidential vote, and in parliament opposition groups, generally believed to be in favour of legislative reform, were now in the majority. ZIMA, the Press Association of Zambia (PAZA), and other partners joined hands to make a renewed push for changes. This was a promising development given that before the elections the state-owned media, whose journalists are organised in PAZA, had been taking a tough pro-government stance. With the new precarious balance of power all media activists in the country obviously saw a window of opportunity for swift changes.

Their optimism derived largely from the fact that civil society at large had shown the previous year that it is indeed a force to be reckoned with. The people of Zambia, in particular in Lusaka, demonstrated their grassroots power when they mounted a spirited – and successful - campaign against Frederick Chiluba's intention to stand for an (unconstitutional) third term as president.

The new government, again led by the MMD, did not show any sign of interest in taking the initiative. The organisations, therefore, went an unusual way. They persuaded Dipak Patel, the former Minister of Information who had meanwhile left the MMD and joined the Forum for Democracy and Development (FDD), to take up their cause and introduce the necessary reforms to parliament in the form of a private member's bills.

The newly formed Campaign for Media Law Reforms, initiated by ZIMA, took up all the previous demands: transformation of the ZNBC into a public broadcaster, creation of an IBA, and legislation on access to information. A lawyer was engaged to draft legislation accordingly.

In June and July 2002, a broadcasting bill, an IBA bill and a Freedom of Information bill were discussed during a series of consultative meetings attended by parliamentarians, journalists, lawyers, media experts from international organisations and the general public. These consultations led to a number of improvements to the drafts. The Ministry of Information, although invited, never took part in these meetings.

Members of Parliament, however, mostly from the opposition benches, as well as a few from the ruling MMD, agreed to support the three bills. It was decided to have them introduced as private members' bills by three MPs, with Dipak Patel to present the IBA bill.

As soon as the bills were drafted, ZIMA mounted a six months public awareness campaign with leaflets explaining the aims of the bills, radio and television discussions, TV and newspaper advertisements. This really turned up the heat on government. Only a week after the private members' bills had been officially submitted to the clerk of parliament on 1 August 2002, the Minister of

Information, in a letter to ZIMA, demanded that they be dropped because government was in the process of drafting similar legislation. Three weeks later, high level government officials met the three MPs concerned with the intention to persuade them to withdraw their drafts.

The MPs refused. Government insisted on its traditional responsibility of making laws for the country. Nevertheless, in October, the three bills were published in the Government Gazette and in national dailies with invitations for public input. Three weeks later came another twist: parliament rejected the private members' bills on the ground of articles in the constitution and the Standing Orders of parliament which stipulate that bills with financial implications need the consent of the President, the Vice President or the Minister of Finance, before they can be brought before Parliament. Immediately after this rejection, government gazetted and published its own bills: the Freedom of Information bill, the Independent Broadcasting Authority (IBA) bill and the Zambia National Broadcasting Corporation (Amendment) bill, 2002.

At first glance, there were no major differences between the government and the private members' versions with the exception of the ZNBC legislation. Government was obviously intent on retaining its power over the corporation, and rejected the proposed Broadcasting Bill which would have transformed the ZNBC from a state broadcaster into an independent public service. There was only one technical concession: the power to regulate broadcasting through the issuing of licences was to be transferred from the ZNBC to the IBA.

After a lot of horse trading, government finally gave in and accepted parts of the proposed Broadcasting Bill giving the ZNBC an independent supervisory board and obliging the corporation to follow public broadcasting principles. However, the Minister of Information, who was to be relieved of any responsibilities in regard to broadcasting in previous drafts, now has major powers to influence the composition of the committees that appoint the boards of the ZNBC and IBA - a major flaw in the legislation, as ZIMA admits.

The bills were passed by parliament in December and signed by the President at the end of the same month.

Not all of them, though. The Freedom of Information Bill was withdrawn by government at the last minute, just before its third reading in parliament. The events of 11<sup>th</sup> September 2001 were cited as the reason: in view of the "terrorist" threat, government wanted to review the draft.

By May 2003, the two broadcasting acts had still not been put in force by the Minister of Information as required by law. ZIMA and its partners have embarked on yet another campaign, this time to implement the legislation and not allow it to collect dust on shelves in ministerial offices. The motto of the new efforts: no legislation without implementation.

### **3. Case studies in Europe**

With the fall of the Berlin Wall in 1989, the political landscape in Middle and Eastern Europe changed dramatically – and so did the media environment. A brief look at the changes in the former German Democratic Republic and in former Yugoslavia may provide some useful experiences and lessons.

#### **3.1. The former German Democratic Republic**

On 3 October 1990, the two parts of Germany, the Federal Republic of Germany (commonly known as West Germany) and the German Democratic Republic, were officially 'reunited'. Legally and de facto, the GDR as a whole joined the Federal Republic and adopted its constitution, statute books and – consequently – media system.

The media in the GDR had been characterised by strict and direct control through the all-powerful communist party SED. The state broadcasters now needed to be transformed into public broadcasters, and the state-run news agency ADN as well as regional and country-wide newspapers - owned by the SED and other state-controlled organisations – had to be privatised.

In the case of broadcasting, the system was decentralised in 1991 by establishing two new corporations (in addition to the existing nine) in line with the federal model according to which public radio and television are the responsibility of the federal states ("Laender").

Like in former West Germany, parliaments in the founding states elected boards made up of nominees of civil society groups, governments and political parties respectively. These boards appointed Director Generals imported from West Germany, because there were no appropriate candidates without baggage from the past in the East.

The perception among the existing broadcasting staff and the broader public – not surprisingly - was that of a complete take-over by the West. Employees in particular were most concerned. It was obvious that large scale retrenchments were unavoidable: the old GDR radio and television stations were hopelessly overstaffed (state radio alone had 14.000, the news agency 1400 staff members) and many employees, especially those in the upper echelons of management, had a political past unsuitable for a public broadcaster serving a democratic pluralist society.

To facilitate the restructuring, the existing legal entities were disbanded, and new ones established simultaneously. In practical terms this meant that contracts of staff in the old structures were terminated with the offer to apply for posts in the

new organisations. Employees with a high party political profile or those formerly in the service of state secret security structures were not reemployed, many of the others found new jobs in the new organisation. Heads of departments were recruited from outside the old establishment – to enhance a new spirit of independence and professional responsibility, as against the old habit of strictly following the party line.

The major challenge for both the new management (mainly from the West) and the existing staff was the building of mutual trust. As in the broader society, this was not an easy process, given the often widely divergent views on the role of the media.

By and large, though, more than a decade after this radical surgery the new broadcasting corporations are well established. Every now and then an old spy may be uncovered, but basically the stations function in the same way as their West German counterparts. Like them they maintain a special flavour of regional culture and life style and thus help to enrich the overall broadcasting landscape.

The news agency and the newspapers were privatised by an agency set up by the federal government after re-unification with the task of facilitating the privatisation of the entire state-owned industry in the former GDR (“Treuhandanstalt”). Newspapers were sold to the highest bidder – usually West German publishing houses.

The news agency ADN had begun to transform itself even before this process started. In 1989, staff members elected a new management which changed the legal status of ADN from a state-owned to a private limited company. The “Treuhandanstalt” became its only shareholder. The new management undertook the difficult task of reducing staff from 1,400 to as few as 220 employees. At the same time it radically reorganised the structure of the agency to change it into a news company able to compete with established West German agencies on a free market. In 1992 the “Treuhandanstalt” sold the ADN shares to one of its West German competitors and thus stopped a management-buy-out process which seemed well on track. This marked the end of what might have been a promising project to create a news agency owned and run by journalists themselves.

### **3.2. The former Yugoslavia**

From 1990, the Federal Republic of Yugoslavia disintegrated amidst political turmoil, civil war, genocide, NATO sanctions and military attacks against the Milosovic regime. By now the former Yugoslavia has split up into Slovenia, Croatia, Bosnia-Herzegovina, Serbia and Montenegro (a loose federation of two republics), and Kosovo (status still unresolved).

In Bosnia-Herzegovina and Kosovo<sup>3</sup> on the one hand and in Montenegro on the other, two different approaches to media reform were applied. First, there were those who believed that to eliminate war and hate propaganda in post-conflict situations, international governmental organisations (IGO) needed to create alternative media outlets that would be, at least initially, under IGO control. These operations were meant to counter those media directly associated with the belligerents or opposing ethnic factions. Proponents of this strategy argue that broadcasters in situations of this nature must produce programmes which are neutral and peace-oriented, and that this requires a structure which is also neutral and peace-oriented.

A second approach, fostered and encouraged by NGOs rather than IGOs, focuses more on strengthening local, indigenous media outlets, particularly those that strike a new voice, in the hope of building from within a public sphere, a civil society, and a long-term infrastructure for peace, reconstruction and pluralism. The provision of diverse but non-partisan information, it is argued, will lead to the emergence of an informed electorate.

### **3.2.1 Bosnia-Herzegovina**

In Bosnia-Herzegovina, as elsewhere in former Yugoslavia, the media were a major tool of spreading terror and fanning the flames of war. The small territory, wedged between Croatia and Serbia, came 'under fire' from the airwaves of both its bigger neighbours. In 1992, Slobodan Milosevic sent paramilitary troops and technicians to take over television transmitters in the northern and eastern parts of Bosnia with a mainly Serbian population in order to broadcast propaganda from Serbia. On the other side, Croatian television started to air nationalist broadcasts, urging Croats in the territory to arm themselves. The stage was set for a fierce propaganda battle that preceded the actual fighting.

The war in Bosnia-Herzegovina ended with the 1995 Dayton Accords. These tasked the Organisation for Security and Cooperation in Europe (OSCE) to set up a Provisional Election Commission to oversee elections. Among other things, the PEC was to ensure that "open and fair electoral campaigns" could take place.

In the run-up to elections the different groups in the country – Croats, Serbs and Muslims – all prepared for a renewed propaganda war by stepping up their television facilities. Without a strong multi-ethnic voice, the population in the territory was going to be exposed to a barrage of jingoistic television programmes and the same nationalist leaders who had waged the war and still controlled the airwaves were likely to be voted back into power.

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<sup>3</sup> Analysis of events in these two territories follows in part Monroe E. Price (ed.), *Restructuring the Media in Post-Conflict Societies*, Geneva 2000

The OSCE established a Media Experts Commission which issued a set of rules and regulations the media were expected to follow. These included "providing true and accurate information," and "refraining from broadcasting incendiary programming". The commission also ordered the three television systems controlled by the respective ruling parties to provide opposition political parties with an equal amount of advertising time. A monitoring group was set up to supervise compliance.

In addition, the OSCE helped finance a special broadcast network, the Free Elections Radio Network ("FERN"), to provide "objective and timely information on the elections" to the people of Bosnia-Herzegovina. Due to resistance from the Serbian section of the territory, FERN was not able to cover that region and had no impact on a population which was most in need of alternative sources of information. Its effectiveness in the other sectors was limited because FERN went on air only two months before the elections.

Despite the negligible impact of FERN and other efforts (even NATO started its own radio station), OSCE went ahead with the September 1996 national elections. Not surprisingly, the same nationalist leaders who had led their peoples into four years of war were re-elected.

After the elections the international community tried to set up an Open Broadcast Network, to be financed by American and European funders. Other agencies also came in and set up more media outlets. The USAID backed Office of Transition Initiatives alone handed out US \$4 million in media grants to 19 newspapers, 27 radio stations and 8 television stations – all of them supporting moderate politicians.

Despite all these efforts, the party-controlled television stations remained the most influential media outlets and the main source of news for each of Bosnia's ethnic groups. In May 1997, therefore, the Peace Implementation Council - responsible for the implementation of the Dayton Accords - concluded that more needed to be done to "encourage independent publishers and broadcasters", and that the High Representative (the de facto administrator installed by NATO) had "the right to curtail or suspend any media network or programme whose output is in persistent and blatant contravention of either the spirit or letter of the Peace Agreement." This led to NATO forces controlling transmitters, seizing them from time to time and even interrupting transmission.

It took a while for the 'peacekeepers' to realise that such military actions were not going to produce the desired result. Therefore, from December 1997 the High Representative embarked on a comprehensive reform of the entire regulatory media regime in Bosnia with the aim of a media system no longer "ethnically based and directly or indirectly associated to the main mono-ethnic political parties." An "Independent Media Commission" was set up which required all broadcasters to meet a set of internationally recognised standards of

broadcasting in order to obtain a license. The idea was to staff the commission with members from Bosnia-Herzegovina and the international community.

From the start the commission faced great difficulties in getting cooperation from Bosniaks to nominate their delegates. Stations were shut down for refusing to obtain temporary licenses, and the IMC has been accused of strong-arm tactics inconsistent with its ultimate goals.

The approach of imposing an elaborate legal structure to regulate media and expecting that it would in time be supported by the community and thus gain legitimacy was bound to fail.

In October 1999 the IMC reported that the large number of stations funded by municipalities were still under partisan political control, and that the private broadcasting sector was also controlled by political groupings through direct or indirect funding.

This dependency on municipal or political support could only be overcome with the emergence of a market economy and the resulting generation of advertising revenue. Bosnia-Herzegovina, however, attracts essentially no foreign investment in any sector which could stimulate the economy. The few more professional television stations depend on a diminishing flow of donations from international donors with all the implications attached.

Despite all this the number of media outlets rose steadily. By the year 2000, the IMC had given temporary licenses to no less than 272 broadcast organisations using more than 750 radio and television transmitters, or one for every 4,700 people. Numbers however do not reflect chances for economic survival or their contribution to pluralism.

The achievement of real pluralism was hampered by conflicting interests of international governmental and non-governmental institutions. NATO, OSCE and the High Representative wanted to engage in "peace broadcasting", i.e. the promotion of a unified public space to overcome ethnical divisions. Their requirements, however, conflicted with the interest of radio and TV stations to demonstrate independence and gain audience loyalty. This might mean emphasising genres not related to news, or recognising the value of sharp points of view to secure a loyal following – a school of thought followed by NGOs.

Both approaches were not always in line with the overall aim to facilitate an indigenous media sector that would maintain itself in the long run, that could make itself, ultimately, independent of the international community, and that would contribute to a renewed civil society.

### 3.2.2 Kosovo

In contrast to Bosnia-Herzegovina where administrations survived the war largely intact and could interact with the international community, in Kosovo there were virtually no functioning institutions left after the war of 1999. Close to a million Albanians, roughly half of Kosovo's population, had either fled or been expelled from the province and those who remained in Kosovo during the NATO bombing had gone into hiding. Two-thirds of the province lay in ruins, and there was essentially no existing media in the territory.

The United Nations and NATO created what was essentially an international protectorate, and the UN became the *de facto* government. The Organisation for Security and Cooperation in Europe (OSCE) was mandated to organise elections and build democratic institutions. Media reform fell under the OSCE's mandate, and the foremost objective was to avoid mistakes made in Bosnia-Herzegovina.

The OSCE almost immediately developed a plan that would enable it to take temporary responsibility for licensing of television and radio stations. It announced that state broadcasting previously controlled by Belgrade would be transformed into a public service broadcaster.

The OSCE's plan to regulate the media included the creation of a Media Regulatory Commission. This commission was supposed to draw up and administer a "Broadcasting Code of Practice" and a "Temporary Press Code" for print journalists, as well as to monitor compliance and instigate enforcement mechanisms. The Regulatory Commission would have the power to censor material judged dangerous or incendiary, fine stations and/or newspapers for violations, and order certain journalists or stations off the air.

This plan drew the ire of international media watchdog groups who claimed that the organisation's plan to regulate the Kosovar press was a violation of press freedom. The World Press Freedom Committee issued a strong protest to UN Secretary General Kofi Annan and urged him to revoke the OSCE's mandate.

UN headquarters agreed that the organisation should not have so explicit and punitive a mandate to regulate Kosovo's media. The OSCE was vested with the authority only to "encourage journalists to voluntarily establish an ethical code." This did not yield results, and almost all of the newspapers in Kosovo continued to have a nationalistic bent and to print incendiary and misleading reports.

Faced with the prospect of the nationalistic and sometimes hostile media undermining its mission, the UN promulgated a regulation prohibiting hate speech in February 2000. The regulation allows the possibility of a multi-year prison sentence or a fine for anyone who publicly incites or spreads hatred, discord or intolerance between national, racial, religious, ethnic or other such groups in Kosovo.

Most media establishments in Kosovo condemned the new hate speech regulation. Kosovar journalists formed a professional association in which most news outlets have a representative and which developed its own code of conduct.

The creation of a public broadcasting service (Radio Television Kosovo) proved to be even more difficult. There were problems with staff. Almost all the Albanians who had worked at the station prior to 1989 (when the Serbs took over the province) wanted their jobs back. At the time the station had been a large state bureaucracy employing some 1,700 people. Many former employees - journalists, technicians, camera operators - had not worked in radio and television in the intervening decade and were unfamiliar with processes and facilities in a modern, European broadcasting network. OSCE employed a Swiss national and internationally-recognised broadcaster as interim General Director and tasked him with hiring a staff of competent journalists from among Kosovar Albanians who had gone into exile before 1989 and had had training in the West. The appointment of internationals as managers and exiles as journalists created tremendous resentment in Kosovo.

Long before the international administration could get RTK on air, local radio stations began broadcasting. They are not under effective regulation by the international community or any other official body. In Kosovo's post-war atmosphere, where relations between the region's Serbs and Albanians are still tense, these unregulated radio and television broadcasts have at times fuelled inter-ethnic tensions. By early 2003, there was still no effective regulator in place.

Progress has been hampered by an ideological conflict and turf fights between Americans and Europeans in the international administration. The Americans prefer a strong private broadcasting sector with only a small public broadcaster, the Europeans argue for a more balanced system. As long as this conflict is not solved, anarchy on the airwaves will continue.

### **3.2.3 Montenegro<sup>4</sup>**

In contrast to the attempts at media reform in Bosnia-Herzegovina and Kosovo, Montenegro can boast a success story – and certainly not because historical conditions there were any easier. The former independent Kingdom was annexed to the Serb kingdom after the First World War, partitioned between Italy and Albania during the Second World War, before becoming part of the Socialist Republic of Yugoslavia. The Balkan Wars in the 1990s divided the population of Montenegro sharply into those who preferred an independent Republic and those who wanted to remain united with Serbia. Since 2003, the two unequal territories

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<sup>4</sup> This chapter draws on a study first written by this author for IREX Independent Media Program Montenegro

(Montenegro has a population of 650.000 against Serbia's 8 million) are bound together in a loose Union of Serbia and Montenegro, a status which is to be reexamined in three years time.

The question uppermost in the minds of rulers and ruled alike and hotly debated in the past few years has been the overarching matter of future statehood. Little energy was left for tackling urgently needed reforms in a systematic manner.

In the field of media, as in many others, developments came about in fits and starts and without much of a plan or public involvement. Its main purpose, the government claimed, was to act in defence against almighty "Belgrade". In 1996/97, the Montenegrin government felt threatened by the Yugoslavian state monopoly on the media under then-President Milosevic, and encouraged the launch of private newspapers and broadcasting services. By 2000, Montenegro had 15 private radio stations (plus 12 government and municipality stations) and 4 private TV services (plus 4 government and municipality channels, and a TV station run by the Yugoslav army). In addition, scores of dailies, weeklies and monthlies competed for readers.

The 1998 Public Information Law provided a legal base for the new information order which had developed, allowing for private sector operators but at the same time keeping the licencing procedure for independent broadcasting services, the state run TV and radio stations as well as a number of print media under government control. A 2000 Telecommunications Act provided for a – government-appointed – agency to allocate and assign broadcasting frequencies and licences.

It was an alliance of private broadcasters, the Association of Independent Broadcast Media in Montenegro (UNEM), set up at the end of 1999, that tried to turn the tide of government-imposed ad hoc regulations. Obviously, its members had a vital interest in not being subject to haphazard decisions by state authorities in the granting of frequencies and licences for their operations (or having them withdrawn). They demanded a democratic dispensation for the broadcasting sector, without knowing precisely what such an animal should look like.

UNEM asked for international assistance, and with the help of a professional broadcaster and consultant in transitional societies for media legislation and strategic planning a process got under way which astounded not only the government but the initiators as well. For the first time in the history of Montenegro, citizens themselves took their fate in their own hands, rather than waiting for the authorities to think and act for them. Democracy was being practised.

In February 2001, UNEM members debated various options for the democratic regulation of broadcasting, taking into account international experience and their

own specific circumstances. Having had strong indications that the government was planning to retain for itself and political parties in general a major role in broadcasting, they quickly reached consensus on keeping those very players out of the game. It was not the state's task to run or control any media – it had done so for far too long in the country's history. And political parties, with their legitimate goal being to remain in or gain power, should not have any influence on the core vehicle for the realisation of free expression and speech, the media.

Consequently UNEM, in a first policy paper, demanded an Independent Broadcasting Council for the regulation of the industry and the transformation of state broadcasters into truly public broadcasters without any influence from government or political parties. Members also agreed that they would need the support of the broad interested public for their aims if they were to succeed against a government still thinking along old fashioned lines of control.

When the organisation invited the public to a Round Table to discuss the principles of a broadcasting reform, the government reacted nervously and summoned leading private broadcasters with the obvious aim to regain the upper hand: the Round Table was to be cancelled or at least limited to a small select group. Government preferred to discuss matters in a Working Group it had set up a few months earlier with – as it turned out – token participation from non-government interests.

Nevertheless, the Round Table with participants from all interested sectors (including government) took place as planned in March 2001. Representatives from UNEM and a number of other civil society organisations fiercely criticised the Telecommunications Act, both its content and the secretive manner in which it had been passed, forcing state representatives to defend themselves. Such an encounter had never happened before. As a subtext, relationships between state authorities and civil society in general were debated, the overwhelming power of political parties (“partitocracy”) was attacked, and the way in which different interests in a democracy can play themselves out and be accommodated came under scrutiny.

Within just three weeks – from the first tentative debates around different options for broadcasting legislation up to the Round Table – a process unfolded which is a necessary step in every transitional society on its way to democracy: Civil society – empowered by professional expertise – became aware of its potential strength, and government of its limits.

To maintain momentum and its role as the driving force, UNEM developed a Zero Draft Broadcasting Bill which met with immediate general approval from international media institutes and legal experts. The Bill was not and was not meant to be perfect, many details still remained unsolved, but it was used as an advocacy tool and as proof that UNEM meant business.

While this Bill was being drafted, parliamentary elections took place at the end of April 2001. The results had a major impact on future developments. No political party won an outright majority, forcing the government to seek broader consensus, and thus giving civil society groups a chance to gain more influence. Even more importantly, the results proved that neither the pro- nor the anti-independence forces in Montenegro were going to gain the upper hand in the near future, putting the question of statehood on the back burner. Policymakers started to prepare themselves for a future within a looser federation with Serbia, with the right of member states to legislate on issues such as media independently. Thus, the situation became more conducive to rational debate and to putting more effort into reforming the political environment.

As a result, UNEM was able to broaden the basis of support for its struggle. The Association, at that stage comprising mainly pro-independence broadcasters, managed to bring stations with a unitarian stance on board. For the first time, entrepreneurs from both sides of the deep political divide united on one specific issue of vital importance to all – their professional and business interest.

This newly found unity was demonstrated during a Round Table held at the end of May 2001, when representatives from nearly all private broadcasters in the Republic, municipal radios, university faculties, human rights groups, government, and the international community gathered to discuss UNEM's draft bill on broadcasting (which had been published earlier in a mass circulation paper).

During the debate a new – and useful – line of argument took centre stage: “European standards”. Montenegro, like the entire South-East European region, sees its long term future within the European community as a member of the European Union (EU). As a first step, membership of the Council of Europe was to be gained. This council had issued ministerial recommendations on independent bodies to regulate broadcasting in December 2000, a timely and handy yardstick for the reform process in Montenegro.

The recommendations include, among other things, the setting up of “specially appointed independent regulatory authorities for the broadcasting sector” whose members “may not receive any mandate or take any instructions from any person or body”, and are “protected against any interference, in particular by political forces or economic interests”. (Ironically, there is hardly any country in Europe which really fulfills these criteria at present. Nevertheless, in Montenegro they were used to good effect by UNEM to make their points.)

The Round Table agreed on the need for an independent regulator, a public and transparent licencing procedure, and the transformation of the state broadcaster. Government, however, still tried to mount a rearguard defence. It insisted, among many other things, on the Telecommunications Agency being in charge of licencing, and on political party representation in the supervising council for the

public broadcaster. As a sign of good will, it later described UNEM's draft as "a basis" for further work. Government promised to present a draft of its own soon.

Months later, the UNEM draft was still the only one on the table. It was time then to broaden the debate beyond the borders of the Republic and to include neighbours from the region in a similar situation to exchange experiences and learn from them, as well as to further raise the government of Montenegro's awareness of democratic broadcasting principles. With this aim in mind, UNEM initiated a Conference on Broadcasting in South East Europe, held in October 2001 in the coastal town of Budva with some 70 participants from all over the region, broadly representative in geographical and institutional terms. Delegates from the Council of Europe, the lobby group Article 19, and a number of international organisations based in Montenegro also attended.

The meeting agreed on a Budva Declaration on Broadcasting in South-East Europe which – in its first sentence – demanded that the states in the region "put in place an open, democratic process to reform broadcasting, with the full participation of civil society". On the pivotal points under debate in Montenegro, the Declaration was equally clear. It used and built on the Council of Europe recommendations by requiring that not only the broadcasting regulator, but also the supervisory bodies of the public broadcaster and the signal distributor "be protected against interference, particularly by government, or of a political or economic nature".

The development of the declaration over two days of intensive debate was an educational experience for all involved. All major radio and television stations, both privately and state owned, UNEM- and non-UNEM members alike were represented, took an active part and became aware of the importance of lobbying for their own interests. There was also a change of attitude on the side of government. Confronted with the professional solidarity of broadcasters from all over South-East Europe for the first time, its representatives cooperated fully and constructively and, at the end of the conference, endorsed the declaration. The Working Group on Media Legislation was revived, now as a body of representatives of all stakeholders on an equal footing, and adopted the Budva Declaration as the basis for broadcasting legislation in Montenegro.

Government finally presented a model which follows the principles contained in that declaration and espoused from the start by UNEM: Public broadcasting services will be supervised by civil society and not by government and/or political parties. The supervisory council of the national broadcaster will have members nominated by civil society groups or clusters of NGOs working in the same fields. Parliament will only ratify these nominations with no right to change or add names. A comprehensive list of groups of people who do not qualify for membership of the council expressly names office bearers with the state and political parties. After their appointment, no one – including the nominating groups – has the right to influence council members.

The broadcasting regulator will be governed by a council appointed in a similar manner. The Broadcasting Agency can develop a frequency allocation plan independently from the Telecommunications Agency, and will grant licences and frequencies as a one-stop shop – supervised by the council.

While the cooperative work on fleshing out the new broadcasting legislation was going on, government opened a new front by presenting a draft Media Law to replace the 1998 Public Information Law. The draft attempted to regulate every single aspect of media activities in the Republic – including state registration of media and journalists, stringent provisions on professional journalistic standards, and a statutory Media Council to supervise the performance of the media.

At first, this did not meet much resistance. Quite a number of journalists and other civil society groups accepted the need for the state to play a powerful role in regulating the media in view of the at times unprofessional performance of mainly the print media, in particular during election campaigns. Rumours were published unchecked, personalities attacked without any factual base – the yardstick for news too often being not newsworthiness but political expediency.

A comprehensive set of comments from an international perspective, commissioned by UNEM, had one clear message: the draft was unacceptable by democratic standards. An assessment by the Council of Europe, sought by government, came to the same conclusion.

In December 2001, UNEM organised another Round Table, this time on self-regulation of the media. The aim was to raise awareness amongst the media fraternity that it should be up to the profession itself to regulate its own matters, professional standards in particular. The outcome was inconclusive, participants were not sure about the way forward: on the one hand there was a healthy distrust of the state regulating professional standards, on the other hand there were equally strong doubts about whether the profession would be able to 'police' itself.

Eventually a deal was struck: The state agreed to refrain from dealing with ethical issues in the legislation (apart from clauses on hate speech and protection of minors), provided that the media themselves develop self regulatory structures and procedures to promote professional standards. During January 2002, the six media and journalists' associations in Montenegro agreed on a set of principles for a code of ethics and started debate on a structure for self regulation. The state reciprocated by dropping the controversial clauses in the draft Media Law.

The following months saw the fine-tuning of the set of laws to reform the media. Drafts were commented upon, rewritten, reviewed again and again amended, all regularly published on a special website giving the public a chance for continuous comment. As a result of this intensive and time-consuming work, a

new sense of understanding and common purpose grew between all sides at the negotiation table. By the end of May 2002, the work was done and the final blessing for the media reform package from the Council of Europe achieved.

With the drafting process in its last stages, UNEM and the government's Secretariat of Information started a campaign to raise public (and politicians') awareness of the need for media reform with the slogan: "Media Reform in Montenegro – the precondition for free citizens". This slogan was later changed to a less educational: "One, two, three – Media Reform".

In June 2002, government tabled the drafts in parliament – where the power balance had changed just a few weeks earlier. The ruling coalition had lost its majority with the break-away of one of its partners, and parliamentary elections were called for later in the year. The opposition – now with the majority of seats in parliament – used the old laws and made sure that a person of their choice was made editor-in-chief of the state broadcaster. With this key position in their hands, they had no pressing interest in passing the new media legislation. During August and September, the media reform bills featured on the agenda of parliament nine times – only to be postponed on each and every occasion.

Pressure from civil society mounted again, in particular from the media fraternity, spearheaded by UNEM. It now turned out that, thanks to the transparent process with sometimes seemingly endless and tiring Round Tables, the new legislation had really become 'owned' by civil society. Citizens identified with it and fought for it. Independent radio and television stations organised 'blackouts' by not broadcasting for certain periods of the day. The controversy made headlines every week, commentators urged lawmakers to fulfill their duty, discussions took place on all radio and TV stations. The 'summer war' turned out to be the best possible public awareness campaign to highlight the relevance of the reforms.

In mid-September, a compromise of sorts was found: the bills were passed with the proviso that implementation should begin in May 2003 only. Obviously, the opposition hoped to win the upcoming elections which would enable it to change the laws as it saw fit – meanwhile continuing to use the power of the media as the ruling party had done before. The minority ruling party, on the other hand, promised to implement the reform – in the case of an election victory. In the event, it did indeed form the new government, and had to keep its promise.

The passing of progressive legislation, however, could not be the end of the matter. The new dispensation goes to the very core of monopoly constellations and vested interests that developed during the communist and post-communist era. There are bound to be attempts at undermining it or lessening its impact once the full meaning and practical implications of the new relationship between the media and the powers that be have become apparent to all.

For this reason, it was decided not to leave the process of implementation in government's hands alone, but to create a Joint Initiative with representatives of the state and civil society (formed even before the final passing of the reform bills) and spearheaded by a Working Group with two UNEM and two government representatives. An Action Plan for the Implementation of the Media Reform was drawn up and presented to the international community for possible funding.

By now, the process of constituting supervisory bodies for both the (former) state broadcaster RTCG and the Broadcasting Agency according to the new legislation is complete. Both bodies are in the process of organising themselves – adopting statutes, appointing directors and other staff, developing policies and regulations.

Work at grassroots level has also begun. From February to May 2003, the Joint Initiative visited all municipalities in the Republic to discuss the necessary reforms within radio and TV stations as well as other media operated so far by local authorities, and which have to be brought under public control. Again, Round Tables were the preferred *modus operandi*: all stakeholders discussed the way forward together, mostly late into the night, with lively public interest.

Crucial acid tests still lie ahead. The national broadcaster has to be restructured in order to be able to fulfill its public mandate and to become self-sustainable. This will entail not just organisational change in a huge, overstaffed institution, but, perhaps more importantly, change in mindsets, in attitudes, in ethos. The Broadcasting Agency will soon have to decide on the renewal of existing and the issuing of new licences for broadcasting services – and there are many businesses hoping to enter the market with only a limited number of frequencies available.

More legislative work is also under way, as demanded by the Media Law. Special legislation will enable citizens to gain access to information held by the state, and an anti-trust law will seek to ensure appropriate competition in the media market of Montenegro. The era of Round Tables in Montenegro is not over yet.

#### **4. Lessons learnt**

The above case studies offer quite a number of lessons that could be useful for other countries and societies about to embark on the process of transition from authoritarian rule to democracy.

##### **1.**

The major lesson is perhaps the most obvious: 'top down' approaches - by whoever and however well meant - do not work.

Any strong-arm tactics subvert the ultimate goal of creating a democratic society. The approach of imposing a legal structure to regulate media and expecting it in time to be supported by the community and thus gain legitimacy is bound to fail.

'Top down' strategies do not help to facilitate the development of local media that will be able to maintain themselves in the long run, independently of the international community or donor funding, and that will contribute to the creation of a vibrant civil society.

It is certainly correct that in post-conflict situations the media should be peace-oriented. Such an orientation, however, cannot be forced upon them or spoon fed – it must arise out of conviction (which is not to say that incitement to renewed violent conflict should be tolerated). Where international (governmental) organisations engage in 'peace broadcasting' to overcome ethnic or political divisions, for example, they often end up producing or encouraging bland or overly educational material largely unrelated to the reality experienced by people on the ground, and which will be perceived and dismissed as 'propaganda'.

All too often, major international organisations have also been known to fall out amongst themselves along ideological lines, waste time and hamper progress towards media reforms.

##### **2.**

A media reform process which is to be credible and accepted by society must be driven by society itself.

Where there are no non-governmental organisations in place, the help of the international community should begin with assistance to emerging groups in order to strengthen and empower them to start the reform process. If there is not enough time for such an approach, the international community must involve local representatives in a meaningful way in all interim bodies being set up. If these are perceived as token representatives only, it will be difficult to achieve

participation from local communities, and decisions by these bodies will be met with resistance.

The media reform process, driven by civil society, should be spearheaded by media associations themselves. They have the most vital interest in its success and the clearest insight into the deficiencies and dangers of the existing dispensation. Their vested interests – being able to work freely to deliver the best possible product – mostly coincide with the interests of society at large. Both are pitted in equal measure against the interest of the authorities to retain control over the media and the free flow of information.

### **3.**

In order to engage civil society at large and its organisations, the reform process should be accompanied by continuous public awareness campaigns. These could comprise advertisements in newspapers, radio and television as well as leaflets to explain the goals of the media reform, public meetings (Round Tables), debates in radio and television, demonstrations. To add pressure on governments and to increase the public interest, blackout periods in existing broadcasting operations or blank pages in newspapers could be considered.

### **4.**

A Campaign for Media Reforms must be based on a coalition of broad cultural and political interests: media organisations, trade unions of journalists, writers and printers, other national trade unions, law associations, religious groups and, where applicable, political parties.

The Campaign should acknowledge that strategic partnerships with those engaged in the political decision making processes (political parties, parliament) are needed to succeed. It should seek to lobby and impact on such partner(s). As a partner might be tempted to turn the tables and gain undue influence on the Campaign, the coalition backing it must be as broad as possible to ensure that the voice of any partner is just one among many.

### **5.**

Reform processes are most likely to get off the ground when the balance of power is shifting. Where ruling political parties feel safe (and even though they may have indicated their preparedness for media reform before they gained power) they will hardly be willing to voluntarily let go of their influence over broadcasting and state print media. Where power hangs in the balance (with no party having a clear majority), government will be forced to seek broader consensus. If a ruling party expects to lose power through elections and be about to become the future opposition, its interests will for once coincide with those of the aspirant new rulers: a level playing field during the campaign, and fair and

balanced news and current affairs coverage by the media and especially the national broadcaster.

Such a window of opportunity should be used for thorough media reforms. After an election when powers are confirmed or newly assigned, that window may close all too quickly.

## **6.**

In formulating the goals and objectives of necessary media reforms, the Campaign should refer to international conventions and declarations. Such documents are for example the Banjul Declaration of Principles on Freedom of Expression in Africa (2002), the Windhoek Declaration on Independent Press (1991) and the African Charter on Broadcasting (2001).

Of particular importance for the SADC region are the SADC Protocol on Culture, Information and Sport as well as the SADC Declaration on Information and Communications Technology, both adopted in 2001 by heads of member states and to date ratified by parliaments in a number of countries. The Protocol, e.g., obliges member states "to create a political and economic environment conducive to the growth of pluralistic media", and commits them to the "promotion, establishment and growth of independent media, as well as free flow of information" and to "take necessary measures to ensure the freedom and independence of the media". "Media independence" is defined as "editorial independence, whereby editorial Policy and decisions are made by the media without interference".

## **7.**

Given the impact and pervasiveness of the electronic media, the reform of state controlled broadcasting is a high priority in the transition process. As soon as this topic is included in the agenda it will be difficult or even impossible for one side to take unilateral steps.

Basic legislation for the transformation of state controlled broadcasters into truly public broadcasters should be in place before elections even if this means a delay of voting dates.

A minimum requirement is that before any election the national broadcaster be put under the supervision of a non-partisan independent board which will shield the broadcaster against any undue influence from outside.

## **8.**

A democratic broadcasting dispensation will include opening up the airwaves to new players by placing broadcasting as a whole under the authority of an

independent regulatory body. As it may not be possible to set up such an authority before elections take place, its establishment must be guaranteed through an amendment to the constitution or in a new basic law.

**9.**

The playing field for free and fair elections is not level as long as other media - news agencies and newspapers – continue to be controlled by government or the ruling party. The Campaign should demand that they be put under the supervision of an independent media commission.

**10.**

The Campaign should insist that all media related laws on the statute books be reviewed and those with the most negative impact on freedom of the media be deleted as a priority. For the purpose of a thorough review of such laws, a Media Task Force should be established to prepare new or amended legislation.

**11.**

The Campaign should aim to get an undertaking from all parties involved in the transitional process that access to information legislation will be developed and implemented immediately after the elections. This undertaking could take the form of an act or be part of general transformation legislation which obliges parliament to pass such legislation within a stipulated period after elections.

**12.**

The Campaign should aim at getting an understanding from political parties that in the new, democratic dispensation there will be no need and no place for any kind of state authority in charge of media.

**13.**

To achieve the above goals, the Campaign should start working even before an official transition process gets off the ground. It should always be a step ahead of other forces in the country and the first to draw up an elaborate media policy and drafts for appropriate legislation. These must be developed in an open and transparent process with public debate and involvement at all stages to make sure that the result will be 'owned' by civil society.

**14.**

The Campaign must make sure that its work is as professional as possible. A small Steering Committee should decide on broad policies, and an even smaller

core group including legal experts be set up to develop draft policies and legislation and negotiate with the strategic partner(s) and others. Continuous support from international media and strategy consultants should be sought to complement domestic expertise with international experience and standards. The fresh look that outside observers will bring may also help to untie knots when deliberations become bogged down in too much detail and those involved cannot see the wood for the trees anymore.

At some stage, an international/regional conference on issues under discussion can be a useful means to exchange experiences and gain international attention.

## **15.**

Where special commissions are set up to investigate human rights violations committed under the old regime, the performance of the media should be included in their terms of reference. More often than not, broadcast and print media were used to sustain and prolong authoritarian rule, and were thus part of the root causes for such violations. Civil society must make sure that any recommendations made by such commissions to avoid a repetition of past mistakes are considered seriously and implemented.

## **5. Basic regulatory requirements for a transitional phase**

A transitional phase leading from authoritarian rule and/or a conflict situation to a democratic dispensation and stability, usually includes negotiations between various political players. For these to succeed, there must be a level playing field. The political force in power with its total or substantial control over the media must not be allowed to continue to enjoy an undue advantage over the other side.

The ultimate goal of negotiations being the creation of a democratic state and an open society, the process itself should be as democratic and open as possible.

Negotiations are meant to culminate in the holding of democratic elections. Such elections must be free and fair.

Only a free media can provide a level playing field, a democratic and open forum for debate, and contribute to free and fair elections. From the outset, the political force in power must give up its control over state-owned or state-controlled media.

The following basic regulatory requirements need to be met to achieve these objectives:

### **1.**

The state controlled broadcasting corporation must be transformed into a truly public broadcaster, controlled by and accountable to the public at large. Party-political agreements on equal air time on radio/TV, balanced news and/or monitoring procedures alone will not achieve the goal of non-partisan broadcasting. Other programming could still be used in a multitude of ways to provide one-sided information.

For this reason, concrete steps to be taken towards the transformation of the state broadcaster need to be part of the early phases of negotiations. These will include the establishment of an independent board to supervise the activities of the broadcaster and, at the same time, shield it from undue outside influence.

Ideally, an independent panel (e.g. judges, magistrates, lawyers) should appoint members of such a board in a process which must be transparent throughout: with an invitation for nominations or applications of candidates in advertisements, publication of a shortlist drawn up by the panel, publication of shortlisted names and a call on the public to comment, as well as public hearings.

An alternative approach is to ask civil society organisations and/or clusters of NGOs to nominate members of the board, e.g. universities, media institutes, chambers of commerce and other employers' associations, trade unions, cultural institutions, associations of journalists, NGOs working in the fields of human rights, sports, tourism, ecology, children, youth and family rights, education, health and social care, or the promotion of rights of minority groups.

Whichever option is chosen, the state authority which needs to officially sanction the appointments must only ratify the names forwarded by the selection panel or institutions, without having the right to change or reject them.

The first task of the independent board will be to develop editorial and programming policies, including rules for election coverage, which will give journalists and producers editorial independence and oblige them at the same time to report in a balanced and fair manner.

If and where necessary, top management posts need to be filled in the interim by people with no political baggage. The same goes for journalists, producers and presenters with a highly partisan party political profile.

If it is not possible to pass a Public Broadcasting Act before elections, negotiators must at least agree on some basic principles. These will include the mandate of the Public Broadcaster (PB), the composition and method of appointment of an independent board representative of society at large (excluding office bearers with the state and political parties), a list of rights and duties of the board, the obligations of the PB in regard to basic professional standards (e.g. balanced and impartial news and current affairs coverage), the funding of the PB in a way that does not restrict its independence.

It should be agreed that such an Act will be passed by parliament according to the consensus achieved at the negotiation table regardless of the balance of power in the new legislature.

## **2.**

State-owned and/or controlled print media and news services must be put under a supervisory mechanism which ensures non-partisan editing. For this purpose, an independent media commission should be established along the lines of the PB board. Agreement must be reached that this commission will later be in charge of privatising these publications under an appropriate act.

## **3.**

Where there is a state authority in place in charge of information, media policies, broadcasting and the control of print media and news services (a ministry, the office of a state secretary in the Presidency or the like), this should be abolished.

With its task taken over by independent bodies, such an authority is no longer necessary. Government (including any form of transitional government) should restrict itself to a public relations department which will disseminate information on its activities to the media. Such information must not be of a party political nature.

## 6. Consolidation of reforms after elections

To keep up the momentum of reforms after elections, those pieces of legislation that were not finalised during the transitional period should be brought before parliament immediately.

Implementation of acts passed should start without delay. Civil society must be prepared for opposition to the reforms. Attempts to derail them will not just fade away with time but perhaps even increase once the full meaning and practical implications of the new relationship between the media and the powers that be have become apparent to all.

For this reason, the process of implementation should not be left in the hands of government alone. A joint initiative with representatives of the state and civil society should be set up to drive and oversee it, or – if there is not enough mutual trust – the Campaign itself should now take on the role of watchdog over the process. In any case, an action plan for the implementation of the media reform needs to be drawn up.

Major activities during the phase after elections will include

- the passing of an independent broadcasting regulatory act, the establishment of the board and authority, training for board members, drafting of policies, regulations and frequency plan;
- the passing and implementation of a transformation of state-controlled print media and news services act which should include the option of companies run by journalists themselves;
- the passing of access to information legislation and subsequent implementation;
- a thorough review and, where necessary, amendments to legislation which has a negative impact on the media;
- implementation of the new public broadcasting act with the necessary training for board members, restructuring of the broadcaster and training of remaining/new staff.

## **7. Yardsticks for a democratic media policy**

The following will provide some broad pointers to indicate the scope of work lying ahead in respect of the underlying principles of a democratic media reform.

### **1.**

Some democratic constitutions only provide for a general guarantee of freedom of expression, without making express mention of the freedom of the media. This can lend itself to restrictive interpretation to the detriment of media freedom and lead to potential conflict. The right to freedom of expression and freedom of the media should not extend to propaganda for war, incitement of violence or advocacy of hatred which could cause harm.

The general right of access to information held by the state, as well as the provision for an independent broadcasting regulatory authority should be part of the constitution itself, rather than be left to individual legislation.

### **2.**

“Public bodies hold information not for themselves but as custodians of the public good and everyone has a right to access this information”, says the Banjul Declaration of 2002. Freedom of information legislation should:

- acknowledge that every public authority is responsible to the citizens who have a right to participate in the processes by which these authorities take action on their behalf or in their name;
- recognise that information in the control of public authorities is a valuable public resource, and that public access to such information promotes greater transparency and accountability of those authorities and is thus essential to the democratic process;
- establish that every person has a right to access this information to the greatest extent possible consistent with the public interest, and that public authorities have a corresponding obligation to disclose information; and
- enable every person to request the amendment of, and to comment on, his or her personal information in the control of a public authority.

### **3.**

The state has no role to play in the control of the media, be they broadcast or print. These are either privately or publicly controlled. State controlled

broadcasting needs to be transformed into a public broadcasting service. State controlled print media need to be privatised or otherwise transformed.

The state does, however, have a role to play in facilitating an environment favourable for the development of a pluralistic media landscape. It needs to be safeguarded that in doing so, the state does not overstep its mark.

#### **4.**

There is a need for legislation to protect competition in the media market and to regulate media concentration with the aim to promote media pluralism.

#### **5.**

A Media Act should restrict itself to basic provisions such as the guarantee of freedom of the media, an assurance that no measures which adversely affect freedom of the media will be allowed, the requirement to publish an imprint, the right to reply, and the clear distinction between editorial and advertising content. It should also spell out the principle that culpability for criminal offences perpetrated by means of published material will be determined by the provisions of general criminal law (journalists are to be treated like any other citizen).

#### **6.**

Matters of professional standards and journalistic ethics should be regulated by the media themselves through a code of professional standards and a procedure to promote such standards. Such codes and procedures should be firmly established and scrupulously observed, so as not to invite 'benevolent' interference from the state on behalf of aggrieved citizens.

#### **7.**

A new, democratic broadcasting policy should be the result of a broad public debate. These are some of the goals and objectives of such a policy as currently discussed in Botswana:

Goal A: Develop a diverse broadcasting system which serves the needs of the public's diverse shades of opinions, beliefs, views, interests and tastes, regardless of their social or geographical status.

To achieve this:

- Establish a variety of broadcasting services regulated by an independent body.
- Foster diversity in broadcasting and media in general by introducing regulations on cross-media ownership and control.

- Advance universal access to broadcasting services by establishing an effective signal distribution system, taking into consideration new information technologies.

Goal B: Develop a diverse broadcasting system which promotes freedom of expression and public participation in the decision making process.

To achieve this:

- Create a public broadcasting service that is accountable to the public.
- Encourage the establishment of private broadcasting services which contribute to a diverse and pluralistic broadcasting landscape.
- Promote community broadcasting services which are operated for and by communities on a non profit base.

Goal C: Develop a diverse broadcasting system which reflects, safeguards, enriches and strengthens the identity, culture and character of the nation.

To achieve this:

- Promote a high degree of locally originated content in programming and thus allow for the widest possible range of national expression, with regard not only to the quantity of local content, but also to its quality.
- Encourage broadcasting services to use languages which serve the needs of their audiences and thus give an equal chance to all to participate in the national discourse.
- Ensure that all sectors of broadcasting fulfill their responsibilities guided by high professional standards agreed upon in a common code of ethics and to encourage self-regulation in the broadcasting industry.

Goal D: Develop a diverse broadcasting system which contributes to the growth of the economy in general and the communication industry in particular while enhancing citizen empowerment.

To achieve this:

- Strengthen the economic viability of all sectors of broadcasting by ensuring fair competition.
- Empower citizens by regulating ownership.
- Contribute to job creation and human resource development in the broadcasting and related industries, as well as to innovation in technology.

## **8. A final remark**

Do not expect the task of establishing a democratic media dispensation ever to be complete. Like democracy itself, it is work in progress. As such, it needs constant vigilance and constant defending. Be prepared to do that whenever the need arises and to keep civil society on your side.

It is in the nature of those in power anywhere in the world to seek ways of guarding against uncomfortable professional curiosity of the media. It is up to the citizens not to allow them to get away with it, because they have the right to know.

**Comments are welcome under [bussiek@iafrica.com](mailto:bussiek@iafrica.com)**