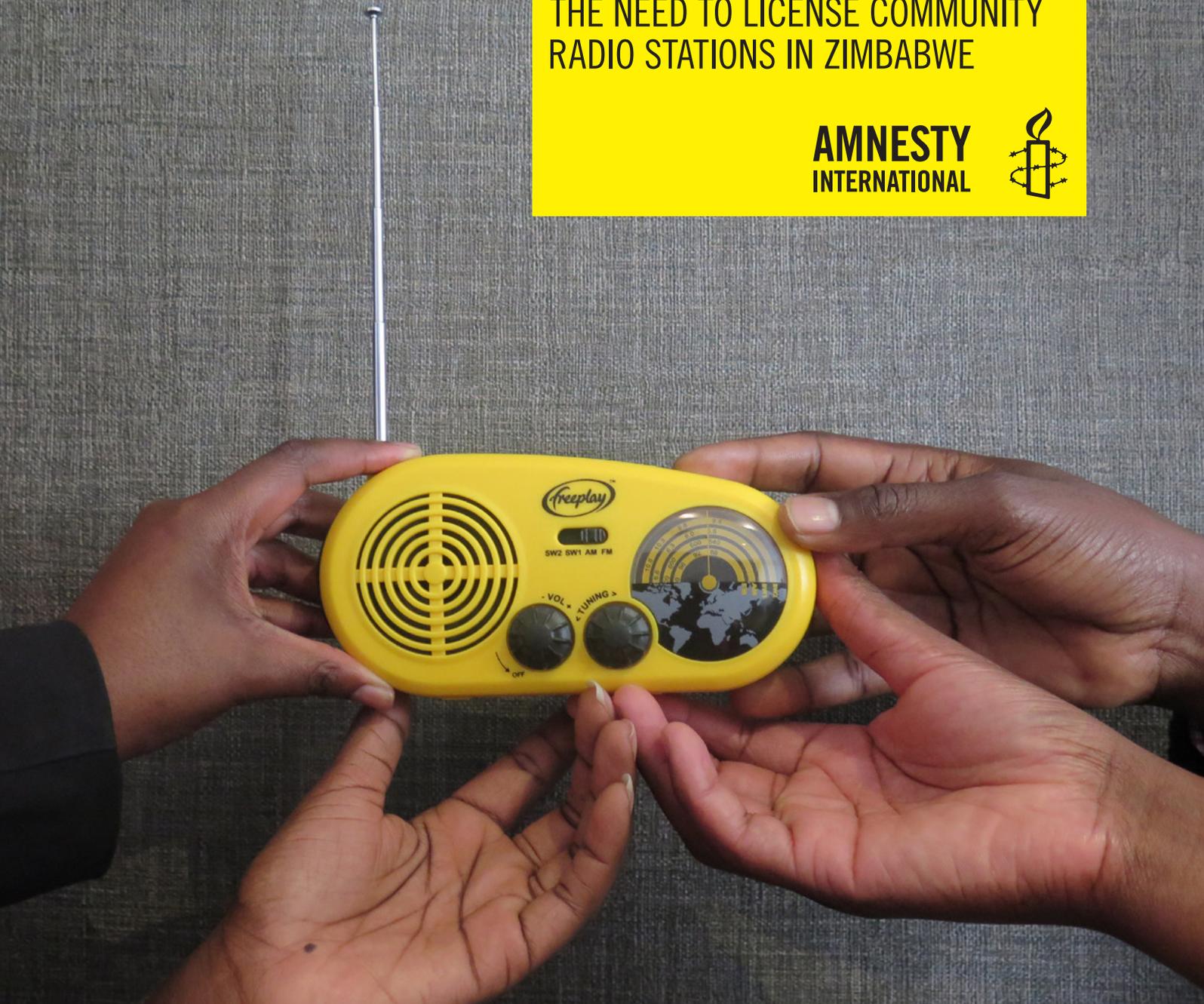


# BEYOND TOKENISM

THE NEED TO LICENSE COMMUNITY  
RADIO STATIONS IN ZIMBABWE

**AMNESTY**  
INTERNATIONAL



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**AMNESTY  
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# EXECUTIVE SUMMARY

**“It is unfortunate that the politics of Zimbabwe, traditionally, does not encourage ordinary people to express themselves.”**

Interview with community activist in Harare, 12 September 2014

For the last 14 years, the Zimbabwean government has failed to license a single community radio station despite passing the Broadcasting Services Act in 2001<sup>1</sup>, which recognizes the three-tier broadcasting system and sets the criteria and licensing process. At least 28 community radio initiatives exist awaiting to be licensed. They have experienced a restrictive operational environment including violations of their rights to freedom of expression, association and assembly. The community radio initiatives have endured police raids, detention of activists and are subjected to surveillance by state security agents.

This report focuses on violations of the right to freedom of expression and the right to information in the context of consistent failure by the government to license community radio stations, and accompanying violations of the rights to freedom of association and assembly for activists campaigning to be licensed to establish community radio stations in Zimbabwe. Restrictions to the right to freedom of expression and right to information for this target group are occurring in an environment where human rights defenders, government critics and the political opposition activists are also not freely enjoying their civil and political rights. Human rights are being restricted through discriminatory practices, arbitrary application of the law and, in some instances, blatant violence is used with almost absolute impunity.

The Government of Zimbabwe’s failure to license a single community radio station since 2001 despite existence of a legal framework which allows for such licensing constitutes a violation of the right to freedom of expression which is guaranteed in the country’s constitution and enshrined in regional and international human rights treaties to which Zimbabwe is a state party.

The failure to grant licenses to community radio stations by the government undermines the ability of communities to participate in debates of public interest especially on matters that affect them be they social, economic or cultural. Opening up the airwaves in Zimbabwe, particularly to include the

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<sup>1</sup> The Broadcasting Services Act was amended in 2003 and 2007

establishment of independent community radio stations, can have a positive impact on the lives of people, especially the low income communities in urban and rural areas who have traditionally been marginalized by mainstream media, to freely exchange information and ideas on matters of public interest among themselves through a seemingly cheaper medium that is accessible to them. This will no doubt open up the space for communities to articulate issues concerning their constitutional rights and on development matters that can contribute to achieving personal development and prosperity.

The government's failure to positively respond to demands by community activists to establish community radio stations has been attributed to a polarized political environment that has existed in the country since 2000, where the media has not been allowed to operate freely. There is public demand for independent community radio stations in Zimbabwe which is evidenced by the existence of at least 28 community radio initiatives spread across the country, driven by community activists pushing the boundaries despite contemptuous attitudes of the government and the regulatory authority. The operational environment for the community radio initiatives is incompatible with the government's Constitutional and international human rights obligation to promote a diverse and pluralistic media as part of the right to expression and right to information.

Amnesty International is concerned about the apparent biased issuance of radio broadcasting licenses in Zimbabwe since the end of the monopoly of the state broadcaster, Zimbabwe Broadcasting Holdings (ZBH). To date, 10 commercial broadcasting licenses have been issued: two of these are national commercial stations and eight local commercial stations were recently licensed in March 2015 and are yet to broadcast. Notably, all ten licenses have been issued to five companies that are state-owned or controlled – Zimbabwe Newspapers Private Limited, where the government is the majority shareholder and a parastatal, Kingstons Limited – and to three companies which are either owned or run by individuals who are closely associated with the ruling party.

Zimbabwe has an obligation under international law to respect, protect and fulfil the right to freedom of expression of everyone in the country, especially those who are marginalized by the mainstream media and those whose voices are drowned in national or local debates. The government must respect community activists' right to freely assemble and associate for the purpose of asserting their Constitutional and internationally recognised right to freedom of expression and information. The government must fulfil its obligation to fully implement the rights to freedom of expression and information by allowing people to freely establish community radio stations. The government must remove all barriers that have severely delayed the licensing of community radio stations for 14 years. Community radio stations, whose editorial content is independent and who are owned by the communities, enable ordinary people to freely seek, receive and impart information and ideas of all kinds, as envisaged by the African Charter on Human and Peoples' Rights and the International Covenant on Civil and Political Rights.

# METHODOLOGY

This report is a qualitative study focussing on Zimbabwe's failure and/or refusal to license community radio stations since 2001, despite existing legal frameworks providing for such. It looks at the Constitution of Zimbabwe and the Broadcasting Services Act, the two key pieces of legislation which provide the legal framework for the licensing of broadcasting services. The report also looks at the country's obligations under international human rights law, experiences of people attempting to obtain community licenses and identifies the gaps that exist between policy and practice.

The report is based on field visits to Zimbabwe by Amnesty International delegates conducted in August, September and October 2014 and in March 2015. A total of 29 activists involved in advocacy for establishment of community radio stations were interviewed in Bulawayo, Gweru, Harare, Kariba, Kwekwe, Lupane and Masvingo. In February and March, formal requests for meetings were sent to the Minister of Information, Media and Broadcasting Services, Prof Jonathan Moyo, and the Chairperson of the Broadcasting Authority of Zimbabwe, Dr Tafataona Mahoso. On 13 March 2015, Amnesty International received an email from Dr Mahoso's office stating that: "Regrettably, the Broadcasting Authority of Zimbabwe will not be able to facilitate the requested meeting due to on-going internal engagements and consultations on the very same matters during and beyond the period of the proposed visit." Follow up was made with the office of the Minister of Information, Media and Broadcasting Services by way of numerous phone calls and visits to the Minister's office by the delegates when they were in Zimbabwe. Letters requesting a meeting with the minister were also resent, but by the end of the mission to Zimbabwe no response had been received. On 27 March, Amnesty International sent emails to the Minister and Dr Mahoso requesting the government's response to a set of questions in line with their mandates regarding delays or refusal to register community radio stations. By the time of going to print no response had been received.

During the time of the research the Broadcasting Authority of Zimbabwe was in the process of considering applications for local commercial radio stations (these are not community radio stations). A number of public hearings were held across the country where the Broadcasting Authority of Zimbabwe interviewed shortlisted companies giving the opportunity to members of the public to raise pertinent questions with applicants. On 3 March 2015, the Authority awarded eight licenses to five companies.

Also, during the course of the research the Information Media Panel Inquiry (IMPI) committee submitted its report to the Minister of Information, Media and Broadcasting Services. The IMPI was a 28 member committee set up in 2013 by the government through the Ministry of Information, Media and Broadcasting Services to enquire into the state of the media in Zimbabwe. It was chaired by veteran journalist Geoffrey Nyarota and it conducted countrywide and regional consultations as part of evidence gathering.



# BACKGROUND AND CONTEXT

The campaign for licensing of community radio stations in Zimbabwe is taking place in a highly polarized political context where selective application and abuse of the law has been used as a tool to deny real or perceived political opponents, human rights defenders, journalists and civil society their human rights.

Since 2000, Zimbabwe has seen a bitter political rivalry between President Robert Mugabe's Zimbabwe African National Union – Patriotic Front (ZANU-PF) and the Morgan Tsvangirai led Movement for Democratic Change (MDC). Some state institutions, including bodies seemingly independent on paper, operate in a partisan manner and have been populated by people who publicly state their allegiance to ZANU-PF.

In May 2013, Zimbabwe adopted a new constitution with an expanded Bill of Rights, after a four year Government of National Unity which was brought about under a mediation process facilitated by the Southern Africa Development Community (SADC). However, two years on, the government is yet to align the country's laws with the constitution. Police and other state institutions continue to enforce old laws, including the Public Order and Security Act (POSA) and sections of the Criminal Law (Reform and Codification) Act which were rendered unconstitutional by the new constitution. Human rights violations continue to be fuelled by a culture of impunity enjoyed by those who violate the rights of real or perceived opponents of the ruling party. Some people whose rights have been violated have had to resort to undertaking costly litigation by approaching the Constitutional Court for relief.<sup>2</sup>

## WHAT IS COMMUNITY BROADCASTING?

Community broadcasting refers to a service, not-for-profit, owned and controlled by a particular community under an association, trust, or foundation. In some instances, it can be owned by nongovernmental organizations working with communities<sup>3</sup>. Community radio is not about doing something for the community but about the community doing something for itself, that is, owning and controlling its own means of communication.<sup>4</sup>

The World Association of Community Radio Broadcasters (AMARC)<sup>5</sup> and Panos Institute of Southern Africa (PISA), two leading organizations that work with community radio initiatives, note that: *“Community radio signifies a two-way process, which entails the exchange of views from various*

<sup>2</sup> See Amnesty International, 2013, *Zimbabwe: Human rights agenda for the government, 2013 – 2018*, AI Index: 46/017/2013

<sup>3</sup> Olorunnisola A.A., 2002, *Community Radio: Participatory Communication in Postapartheid South Africa* in *Journal of Radio Studies*/Volume9, No. 1.

<sup>4</sup> AMARC Africa, PISA, 1998, *What is Community Radio? A Resource Guide*

<sup>5</sup> AMARC is an international non-governmental organization serving the community radio movement, with almost 4 000 members and associates in 130 countries, <http://www.amarc.org/?q=node/10> [accessed on 11 May 2015].

*sources and is the adaptation of media for use by communities. In an ideal world community radio allows members of a community to gain access to information, education and entertainment. In its purest sense, it is media in which the communities participate as planners, producers and performers and it is the means of expression of the community, rather than for the community.”<sup>6</sup>*

The Broadcasting Services Act sets the requirements for community broadcasters as being to provide a distinct broadcasting service dealing specifically with community issues which are not normally dealt with by the public broadcaster or commercial broadcasters whose services cover the same area.<sup>7</sup> They shall be informational, educational and entertaining; and concentrate on providing programmes that highlight community issues such as developmental issues, health care, basic information and general education, environmental affairs and the promotion of local culture. They are also meant to promote a sense of common purpose within the community.

For Zimbabwe with strong oral traditions, community radio stations can be a medium of choice for people marginalized by mainstream media. Community radio can be a vehicle through which the government can fulfil its international obligation to ensure the effective enjoyment of the right to freedom of expression under both the African Charter on Human and Peoples’ Rights and the International Covenant on Civil and Political Rights. Zimbabwe has ratified both treaties. Community radio stations can also be effective facilitators for local development.

Community radio can be a medium through which communities can preserve their cultural identity, countering the globalization of information and the advent of satellite communications.<sup>8</sup> It can offer communities an affordable, but vital, way of protecting their language and heritage. For the state and other development actors, community radio can offer the platform to engage wide members of a community beyond workshops and public gatherings. With the advent of mobile phone technology, the impact of community radio to development and human rights can be huge, as people whose voices are often ignored use their readily available tools to engage on issues that matter to them.

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<sup>6</sup> AMARC Africa, PANOS Southern Africa, 1998, *What is Community Radio? A Resource Guide*

<sup>7</sup> Part III(c) Seventh Schedule (Section 11(1)(b1) of the Broadcasting Services Act

<sup>8</sup> AMARC Africa, PANOS Southern Africa, 1998, *What is Community Radio? A Resource Guide*

## TIMELINE OF BROADCASTING IN ZIMBABWE

- 1932** Southern Rhodesia establishes radio broadcasting (Public radio)
- 1960** Television introduced in Zimbabwe (then known as Rhodesia) (Public television)
- 1976 March, Voice of Zimbabwe, a Zimbabwe African National Union broadcasting service, beams on six Shortwave bands and medium wave into Rhodesia on Radio Mozambique. <sup>9</sup>
- 1997** Independent Joy TV and Munhumutapa African Broadcasting Corporation (MABC) start broadcasting renting airtime from the state-owned Zimbabwe Broadcasting Corporation's (ZBC) TV2 channel
- 1998** MABC is switched off by ZBC for allegedly failing to pay rental fees
- 2000** On 22 September Zimbabwe's Supreme Court strikes down Section 25 of the Broadcasting Act guaranteeing ZBC monopoly on broadcasting, and Section 14 of the Radio Communications Services Act preventing anyone from owning a transmitter.
- 2000** October, Zimbabwe's first independent radio station, Capital Radio, goes on air briefly before being raided by armed police and taken off air
- 2002** Joy TV goes offline after allegedly failing to pay fees to ZBC
- 2012** ZiFM<sup>10</sup> and StarFM<sup>11</sup> private commercial radio stations are issued with licenses.
- 2013** In October, the Broadcasting Authority of Zimbabwe invites applications for 25 private local commercial radio licenses for regional areas
- 2015, 3 March** BAZ announces granting of eight local commercial radio stations.

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<sup>9</sup> Mosia L, Riddle C, Zaffiro J, From revolutionary to regime radio: Three decades of nationalist broadcasting in southern Africa, <http://www.musicinafrica.net/sites/default/files/jamr008001002.pdf> [accessed on 9 May 2015]

<sup>10</sup> ZiFM is owned by AB Communications

<sup>11</sup> StarFM is owned by Zimpapers, a publicly listed company where government is the majority shareholder

## COMMUNITY RADIO INITIATIVES IN ZIMBABWE

*"There is need to uphold [the right to] freedom of expression because the Constitution says so."*

Interview with community activist in Kariba, 6 September 2014



*A public meeting in Harare on 13 February 2015 to commemorate World Radio Day. © Amnesty International*

Although no community radio station has been issued a license in Zimbabwe since the enactment of the Broadcasting Services Act in 2001, community based activists have been demanding their establishment and, over the years, this demand has been growing. The push for community radio licenses has been driven by community-based organizations (CBOs) in rural and urban areas. Most of these community radio initiatives focus on development issues in their local areas including sharing information on HIV/AIDS, farming and local views on national debates.

The most visible and coordinated campaign for licensing of community radio stations in Zimbabwe is by a network of community-based organizations under the umbrella of the Zimbabwe Association of Community Radio Stations (ZACRAS). ZACRAS is a membership-based non-profit organization that was founded in 2003. ZACRAS has 17 active members and 11 new entrants across the country who are engaged in lobbying the government for licenses as well as capacitating community actors to be ready in the event government issues them with broadcasting licenses. ZACRAS's mission is to *"empower communities in Zimbabwe through building and sustaining strong, vibrant, autonomous community driven radio stations."* Its primary objective being to *"assist communities in the establishment of community radio [stations] across Zimbabwe. Upon establishment of community radio [stations] ZACRAS seeks to capacitate the stations through conceptual and technical training, while regulating their conduct so that they conform to standards of community radio [stations]."*

ZACRAS's work covers three core areas: capacity building, lobby and advocacy and promotion of access to information and freedom of expression.

The community radio initiatives of ZACRAS members are run by volunteers and are composed of a diversity of community members including traditional leaders, women, young people, farmers, teachers, lawyers, and others who have a passion for broadcasting and who see it as a tool to address a wide range of community developmental challenges. The initiatives work through a network of stringers, known as citizen journalists, who gather information on developments within their communities.<sup>12</sup>

### EARLIER USE OF RADIO IN DEVELOPMENT IN ZIMBABWE- FARM RADIO NETWORK<sup>13</sup>

The use of radio in development programmes is not new in Zimbabwe. One of the earlier examples of the use of radio in community development is the Farm Community Network (East and Southern Africa) which started in July 1992. It had participants including broadcasters, agricultural advisors, extension workers, agricultural teachers, village health workers, missionaries and librarians. Using a simple broadcast style, they recorded programmes about simple technologies to improve agricultural production, nutrition and health of rural families.

Writing in the Information Centre for Low External Input and Sustainable Agriculture (ILEIA) Newsletter, Livai Matarirano notes: *"We realised that the small [scale] farmer is ingenious and there are many working technologies in the villages. Many of these technologies are not documented or publicised. Farmers from other villages could have a use for these tips if only they could get to know about them. The problem is to get this information documented, to present it in a form that is easily understood and to distribute it to the right people."*<sup>14</sup>

Although the Farm Radio Network was not a community radio station and was not advocating for a licensing of community radio stations, it is a good example of how radio can improve rural communication and take the right to freedom of opinion and expression to a new level and have positive impact on the lives of rural communities. Farm Radio Network recorded programmes on cassette discs which were distributed to rural farmers who would listen in groups and provide written feedback on issues that they wanted to hear for future scripts.

### A CASE FOR LICENSING COMMUNITY RADIO IN ZIMBABWE

*"Their transmitters may reach only a few miles, but community radio stations are enabling isolated communities across Africa to voice their own concerns. On air, ordinary citizens discuss issues that*

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<sup>12</sup> The concept of citizen journalism, also known as "public", "participatory" or "street" journalism, is based upon members of the public playing an active role in collecting, reporting, analysing, and disseminating news and information.

<sup>13</sup> Matarirano L, 1994, *Farm Community Radio* in ILEIA Newsletter, March 1994

<sup>14</sup> Ibid

*are central to them, such as gender relations and combatting HIV/AIDS. They share farming tips and income generation ideas and explore ways to improve education.”*<sup>15</sup>

The Declaration of Principles on Freedom of Expression in Africa adopted by the African Commission on Human and Peoples' Rights in 2002 recognizes *“the importance of broadcast media in Africa, given its capacity to reach a wide audience due to the comparatively low cost of receiving transmissions and its ability to overcome barriers of illiteracy.”* The Declaration specifically urges the promotion of community broadcasting *“given its potential to broaden access by poor and rural communities to the airwaves.”*<sup>16</sup> The UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression has stressed the importance of promoting diversity in the media, in particular, *“diversity of content, allowing for different communities and vulnerable groups to have access to media outlets and find ways to effectively disseminate their voice.”*<sup>17</sup>

In the Zimbabwe situation, licencing of community radio stations should be viewed in the context of promoting media diversity and pluralism and empowering the urban poor and rural communities marginalized by the mainstream media. Unfortunately, the attitude of the government towards those campaigning for licencing of community radio stations has been informed by the fear of landing radio broadcasting in the hands of their political opponents.

Community radio stations can be seen as tools for development, extending the people's right to freedom of expression. They can become the voice of the poor and the voiceless, the landless peasants, the urban shack dwellers, the impoverished indigenous nations and the trade unions.<sup>18</sup> In Zimbabwe, national coverage by the public broadcaster is limited, with the state-owned Zimbabwe Broadcasting Holding's (ZBH) radio and television stations' reception being poor in most parts of the country. Content from ZBH and that of the two national commercial radio stations, Star FM and ZiFM, by virtue of being national, rarely covers local issues and there is very little direct interaction with the communities. It is still to be seen whether the eight local commercial radio stations<sup>19</sup> licensed by the Broadcasting Authority of Zimbabwe (BAZ) in March 2015 will be any different. Experience with national broadcasters is that some of the programmes aired nationally have limited reference to people living outside Harare and Bulawayo, for example, airing of Harare's traffic updates may be irrelevant to people in other parts of the country.

The Zimbabwean government must give priority to licencing of community radio stations and see them as equally important tools to address some of the human rights and developmental challenges

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<sup>15</sup> Madamombe I, 2005, *Community Radio: A Voice for the Poor – Better local communications can boost development, democracy*, <http://www.un.org/africarenewal/magazine/july-2005/community-radio-voice-poor> [Accessed 11 February 2015]

<sup>16</sup> Principle V(2), Declaration of Principles on Freedom of Expression in Africa, African Commission on Human and Peoples' Rights, adopted at the 32<sup>nd</sup> Session, 17-23 October, 2002: Banjul, The Gambia

<sup>17</sup> <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G08/112/10/PDF/G0811210.pdf>

<sup>18</sup> Olorunnisola A.A, 2002, *Community Radio: Participatory Communication in Postapartheid South Africa* in *Journal of Radio Studies*/Volume9, No. 1.

<sup>19</sup> The Broadcasting Authority of Zimbabwe announced the licencing of eight local commercial radio stations on 3 March 2015. These are not community radio stations.

facing the country. Community radio stations can give isolated and marginalized communities a means of education, self-expression and communication, while also promoting the community's history, music and oral traditions.<sup>20</sup> This applies both in rural and urban settlements where people have been marginalized by mainstream media.

Allowing community broadcasting in Zimbabwe will undoubtedly benefit communities, such as people settled under the country's land reform programme, with the ability to share information and ideas on farming and markets. This will go beyond the once or twice-a-week programmes broadcast by the public broadcaster or commercial radio stations that have a national focus. Community radio can be a vehicle to pass on public awareness on public health campaigns availing localized content and allowing direct feedback as the community has direct access to shape and frame content that suits their needs.

During the 2014/2015 rain season, Zimbabwe and other southern African countries were affected by flooding. In Zimbabwe, the worst affected provinces included Manicaland, Mashonaland Central, Mashonaland East, Mashonaland West and Midlands. At least 10 people reportedly lost their lives, while thousands lost their homes.<sup>21</sup> During such disasters it is critical to provide up-to-date and localized information to communities as part of disaster management. Community radio stations would therefore have been effective to keep the affected populations fully informed in order to make life-saving decisions.

The Zimbabwean government must see advocacy by community activists for sufficient access to licensing of the community broadcasting through the sector's potential to empower marginalized communities to freely receive and impart information between and among themselves about their human rights and development challenges. Zimbabwe must fulfil its legal obligation to extend the enjoyment of the right to freedom of expression and the right to information of marginalized communities.

Community radio stations can collaborate with various government departments and organizations to produce content that is critical for community empowerment. They can cover issues ranging from health to gender relations and market information for local farmers.

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<sup>20</sup> Madamombe I, 2005, *Community Radio: A Voice for the Poor – Better local communications can boost development, democracy*, <http://www.un.org/africarenewal/magazine/july-2005/community-radio-voice-poor> [Accessed 11 February 2015]

<sup>21</sup> The Herald, *Government fights worst floods in years*, 9 January 2015, [Accessed on 4 March 2015]



# LEGAL FRAMEWORK

**“I can’t say the law is a barrier [to community radio licensing in Zimbabwe], but the overzealous people in authority... Some of these people are not aware that it is our constitutional right. They think that by virtue of being in authority they can do as they please.”**

Interview with community activist in Kariba, 6 September, 2014

The right to freedom of expression is defined as the “*freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.*” The right is also provided for in Zimbabwe’s own constitution adopted in May 2013.

The International Covenant on Civil and Political Rights provides for the right to freedom of expression and it further elaborates this right. Article 19 of the International Covenant on Civil and Political Rights provides that:

1. *Everyone shall have the right to hold opinions without interference.*
2. *Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice*
3. *The exercise of the rights provided for in paragraph 2 of this article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:*
  - a. *For respect of the rights or reputations of others;*
  - b. *For the protection of national security or of public order (order public), or of public health or morals.*

The Human Rights Committee (HRC) has explained the content of the right to freedom of opinion and expression. In General Comment No. 34 on Article 19 of the ICCPR, the HRC stated that freedom of opinion and freedom of expression are indispensable conditions for the full development

of the person. The HRC went on to say that these rights are essential for any society.<sup>22</sup> The HRC in General Comment No. 34 explained freedom of expression and the media. It said that “a free, uncensored and unhindered press or other media is essential in any society to ensure freedom of opinion and expression and the enjoyment of other Covenant rights.”<sup>23</sup> It is imperative therefore in order for persons in a given society to fully enjoy their freedom of opinion and expression that there exist a free media. This includes the fact that broadcast media is also essential and that this should be allowed to exist in all its formations including community based broadcasting.

Article 9 of the African Charter also provides for the right to freedom of information provides as follows:

1. *Every individual shall have the right to receive information.*
2. *Every individual shall have the right to express and disseminate his opinions within the law.*

The rights contained in the African Charter were clarified by the African Commission on Human and Peoples' Rights in the Declaration of Principles on Freedom of Expression in Africa (Principles of Freedom of Expression) which were adopted during the 32nd Session held between 17 – 23 October 2002 in Banjul, The Gambia. In the preamble to the Declaration, the African Commission reaffirmed the fundamental importance of freedom of expression as an individual human right, as a means of ensuring respect for all human rights and freedoms.<sup>24</sup> Article V of the Declaration deals with the item of Private Broadcasting and provides in part as follows:

2. *The broadcast regulatory system shall encourage private and community broadcasting in accordance with the following principles:*

- *There shall be equitable allocation of frequencies between private broadcasting uses, both commercial and **community** (our emphasis);*
- *An independent regulatory body shall be responsible for issuing broadcasting licences and for ensuring observance of licence conditions;*
- *Licensing processes shall be fair and transparent, and shall seek to promote diversity in broadcasting; and*
- ***Community broadcasting shall be promoted given its potential to broaden access by poor and rural communities to the airwaves** (our emphasis).*

The United Nations Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression has stated that: “Community broadcasting should be explicitly recognised in law as a distinct form of broadcasting, should benefit from fair and simple licensing procedures,

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<sup>22</sup> Paragraph 2 of General Comment No. 34, Human Rights Committee 102 Session, Geneva 11 – 29 July 2011.

<sup>23</sup> Ibid

<sup>24</sup> Paragraph 1 of the Preamble to the Declaration of Principles on Freedom of Expression in Africa, African Commission on Human and Peoples' Rights, 32<sup>nd</sup> Session, 17 – 23 October, 2002: Banjul, The Gambia.

should not have to meet stringent technological or other licence criteria, should benefit from concessionary license fees and should have access to advertising.”<sup>25</sup>

In terms of domestic law, Zimbabwe adopted a new constitution in May 2013 with a stronger Bill of Rights. Section 61 of the Constitution of Zimbabwe provides for freedom of expression and freedom of the media. Section 61 provides as follows:

- 1) *Every person has the right to freedom of expression, which includes –*
  - a. *Freedom to seek, receive and communicate ideas and other information.*
  - b. *Freedom of artistic expression and scientific research and creativity, and*
  - c. *Academic freedom.*
- 2) *Every person is entitled to freedom of the media, which freedom includes protection of the confidentiality of journalists' sources of information.*
- 3) *Broadcasting and other electronic media of communication have freedom of establishment, subject only to State licensing procedures that –*
  - a. *Are necessary to regulate the airwaves and other forms of signal distribution; and*
  - b. *Are independent of control by government or by political or commercial interests.*

The law regulating broadcasting services in Zimbabwe is the Broadcasting Services Act [Chapter 12:06]<sup>26</sup>. It provides for the appointment of the Broadcasting Authority of Zimbabwe and licensing of broadcasting services and systems in Zimbabwe. The Broadcasting Services Act (BSA) provides for licensing of public, commercial and community broadcasting services. The purpose and objectives of the BSA are set in Section 2A as:

*“to regulate broadcasting services and provide control of the broadcasting services bands in order to attain the following objectives-*

- (a) to ensure efficient use of the broadcasting service bands; and*
- (b) to encourage the establishment of a modern and effective broadcasting infrastructure, taking into account the convergence of information technology, news media, telecommunications and consumer electronics; and*
- (c) to promote the provision of a wide range of broadcasting services in Zimbabwe which, taken as a whole, are of high quality and calculated to appeal to a wide variety of tastes and interests, providing education, information and entertainment; and*
- (d) to ensure that the broadcasting services in Zimbabwe, taken as a whole, provide—*
  - (i) regular news services; and*
  - (ii) public debate on political, social and economic issues of public interest; and*
  - (iii) programmes on matters of local, national, regional and international interest or significance; so as to foster and maintain a healthy plural democracy; and*
- (e) to promote public, commercial and community broadcasting services in the interest of the public; and*
- (f) to ensure the independence, impartiality and viability of public broadcasting services; and*

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<sup>25</sup> <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G08/112/10/PDF/G0811210.pdf?OpenElement>

<sup>26</sup>As amended in 2003 and 2007

- (g) to ensure the application of standards that provide adequate protection against—
  - (i) the inclusion of material that is harmful or offensive to members of the public; and
  - (ii) unfair treatment of individuals in television or radio programmes; and
  - (iii) unwarranted infringements of privacy resulting from activities carried on for the purposes of television or radio programmes; and
- (h) to ensure that broadcasting licences adhere to a code of conduct acceptable to the Authority.”

Section 2 of the BSA defines a community broadcasting service “as a free-to-air (radio or television) broadcasting service not operated for profit or as part of a profit-making enterprise which:

- (a) provides programmes;
  - (i) for community purposes; and
  - (ii) is capable of being received by commonly available equipment; and
- (b) does not broadcast programmes or advertisements on behalf of any political party;”

Section 3 of the BSA establishes the Broadcasting Authority of Zimbabwe whose powers and functions, among others is to *receive, evaluate and consider applications for the issue of any broadcasting services or signal career licence*<sup>27</sup> ; *encourage diversity in the control of broadcasting services*.<sup>28</sup> When conducting its functions, the Broadcasting Authority of Zimbabwe, among others, is set to attain the *development of broadcasting systems and services in accordance with practicable and recognized international standards and public demands*.<sup>29</sup>

The Broadcasting Services Act also sets out the process of appointment of the Broadcasting Authority of Zimbabwe Board, which consists of 12 members of which nine of them are appointed by the President after consultation with the Minister of Information, Media and Broadcasting Services and the Parliamentary Committee on Standing Rules and Orders.<sup>30</sup> The Act also sets out the qualifications for some of the members to include a lawyer, an accountant, a traditional leader, women, a representative of religious groups and others.<sup>31</sup>

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<sup>27</sup> Section 3(2)(c) of the Broadcasting Services Act

<sup>28</sup> Section 3(2)(f) of the Broadcasting Services Act

<sup>29</sup> Section 3(3)(d) of the Broadcasting Services Act

<sup>30</sup> Section 4(1)(a) of the Broadcasting Services Act

<sup>31</sup> In the context of Zimbabwe, where the position of the President is considered to be too powerful and where partisan considerations often override human rights obligations, critics have advocated for reforms to ensure a non-partisan framework in the regulation of the broadcasting services. Some critics point at the fact that the nomination and appointment process of the Broadcasting Authority of Zimbabwe Board is not subject to any public involvement or input; that the President has an almost free hand to appoint a board of his or her choice; that actual power remains with the President given that the Act only requires consultation with the minister and the parliamentary committee but not their consent. [See for instance <http://www.afriMAP.org/english/images/report/AfriMAP-Zim-Broadcasting-Survey-Nov09.pdf>] The current Broadcasting Authority of Zimbabwe Board is chaired by Dr Tafataona Mahoso, himself an open ruling party sympathizer. To date the Authority has only awarded commercial broadcasting licenses to organizations widely seen as pro-ZANU-PF.

On paper, Zimbabwe's domestic legal framework allows for the establishment of community broadcasting radio stations. The Broadcasting Services Act has been in place since 2001 which amounts to a 14 year delay for its full implementation to allow licensing of community radio stations. Generally, licensing of broadcasting services in Zimbabwe has been rather random and arbitrary and raised questions on fairness and transparency of processing of applications by the BAZ.



# PATTERNS OF HUMAN RIGHTS VIOLATIONS

*"Politics is a challenge for community broadcasting. The politicians are not prepared to hear community views... We have been labelled regime change agents."*

Interview with community activist in Masvingo town, 28 August 2014

## HARASSMENT, INTIMIDATION AND CONFISCATION OF PROPERTY

Regrettably, advocacy for the liberalization of the airwaves in Zimbabwe, including the establishment of community radio stations, has always been seen by the government through a political partisan lens and as an extension of a perceived regime change agenda. As a result, the economic, social and cultural benefits of community broadcasting has been sacrificed and those advocating for community radio stations are treated with suspicion and subjected to harassment.<sup>32</sup> Community-based organizations and activists advocating for radio licenses are often targeted by authorities for carrying out their work. Several activists have been arrested while carrying out their work and/or subjected to surveillance, harassment and intimidation by state security agents.

Although they are not broadcasting, some community radio initiatives are currently disseminating community interest information on topical issues in development including on HIV/AIDS, service delivery, family planning and how to improve community livelihoods. Information is gathered by community-based activists, known as citizen journalists, produced and distributed on compact discs. The activists also hold popular road shows to raise awareness in the communities. A community-based activist told Amnesty International that having a community radio station would have a positive impact on education in the area, where many children drop out of school, through awareness-raising on the importance of education. He said farmers would also benefit from information on good farming methods and market trends relevant to the community.<sup>33</sup>

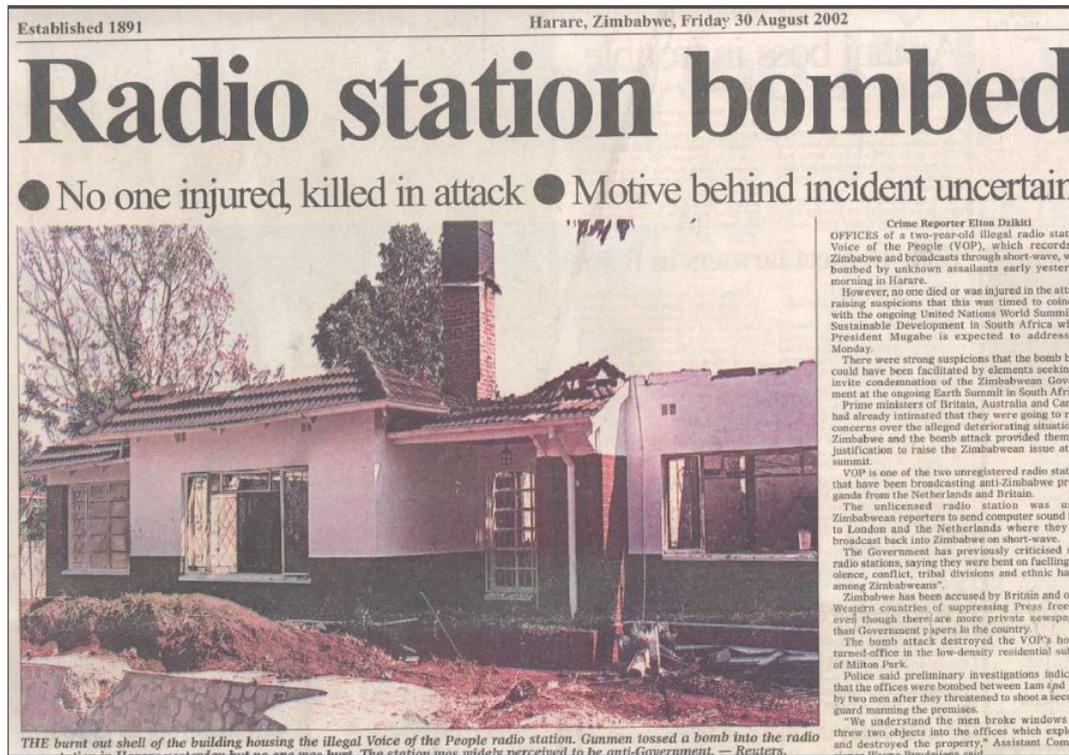
Campaigners for licensing of community radio stations, like other human rights defenders in Zimbabwe, have faced many hurdles, some arising from government's refusal to accommodate them, and in some instances they have suffered other violations of human rights, including their rights to freedom of association and peaceful assembly when they try to engage other members of the community on their cause. Some of the initiatives have seen their members being victims of arbitrary arrests, had their meetings barred by the police or experienced interference from local government officials.

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<sup>32</sup> The ruling party and government in Zimbabwe uses state owned media organizations such as the Zimbabwe Broadcasting Holding's four radio channels and television channel for propaganda purposes. The ruling party gets favourable media coverage from state-controlled Zimbabwe Newspapers Pvt Limited's publications and radio station.

<sup>33</sup> Interview with community activist from Lupane, 29 August 2014

RADIO VOICE OF THE PEOPLE'S OFFICES IN HARARE BOMBED AND OFFICIALS ARRESTED, HARARE



The Herald, 30 August 2002

On 29 August 2002, the offices of a private radio station, Radio Voice of the People (VOP), in Harare were completely burnt down in a bomb blast and property worth an estimated US\$100,000 was destroyed. At the time, the state-controlled Herald newspaper quoted police officials reporting that the offices had been bombed by two men who had first threatened to shoot the private security guard at the premises before breaking windows and throwing two objects that exploded burning down the building.<sup>34</sup> No one was ever arrested for the bomb blast.

In July 2002, police had raided the station in search of unregistered transmission equipment and “subversive material.” Tapes and files were confiscated but were returned without charges being pressed against the station or its trustees.

In December 2005, Radio VOP director John Masuku and other workers were arrested and spent four nights in police custody. Trustees of the organization were also arrested. They were charged with broadcasting without a license. The matter dragged on for 10 months and was later dismissed by the magistrate court.

<sup>34</sup> The Herald newspaper, *Radio station bombed*, 30 August 2002

Radio VOP is a Short Wave radio station established in June 2000 and was registered in Zimbabwe in May 2002 as Radio Voice of the People Communications Trust.<sup>35</sup> Radio VOP's programmes are recorded and filed from all corners of Zimbabwe and broadcast from outside the country. Radio VOP is one of the radio initiatives that have applied for a license to broadcast on FM and has been denied a license. The station offers alternative information by giving an opportunity to individuals, civil society and intellectuals who have limited or no space on the state-run Zimbabwe Broadcasting Holdings) to express themselves about issues affecting the country. In 2005, 2011 and 2012 Radio VOP applied to be a fully-fledged FM radio station license to serve the community of Harare as VoxMedia Productions Private Limited but was not granted a license.

#### HARASSMENT AND INTIMIDATION OF PATSAKA-NYAMINYAMI COMMUNITY TRUST, KARIBA

Patsaka-Nyaminyami Community Trust (Patsaka Trust) is a community based organization operating in Kariba town, Mashonaland West province founded in 2009. It is one of the organizations campaigning for a community radio license in Zimbabwe. The organization has repeatedly had its activities interfered with by Ministry of Local Government officials in Kariba and in some instances it had to take legal action to assert its rights. For example, on 20 October 2014, Patsaka Trust notified police in Kariba of its intention to hold a community meeting in terms of the Public Order and Security Act (POSA). The meeting was to be held on 29 October 2014. The aim of the meeting was to discuss, among other things, recommendations on the regulatory framework for community broadcasting in Zimbabwe. Forty people were expected to attend the meeting at the organization's offices in Kariba town. However, on 24 October, police wrote to the organization advising that the meeting had not been "sanctioned". In terms of the POSA organizers of public meetings are only required to give notice to the police. However, police have repeatedly interpreted this as giving them the power to sanction meetings. Police referred Patsaka Trust to the office of the District Administrator "who should sanction your meeting with the community of Kariba." The organization was also told to "have its papers in order before it embarks on community programmes."<sup>36</sup> Previously, in September 2014, police had also not 'sanctioned' another notification by Patsaka Trust to hold ward community meetings and focus group discussions.<sup>37</sup>

Patsaka Trust appealed to the Kariba Magistrate Court against the decision to bar the October meeting on the grounds that police had not followed the procedures set out in the POSA when denying permission to hold a public meeting. Patsaka Trust appealed on the grounds that the police, as a regulatory authority under the POSA, had arbitrarily barred its meeting without arranging for negotiations or giving the reasons under oath why the meeting could not be held as provided under Section 26 of the POSA. The organization also argued that as a registered trust, its papers were in order and the police had no basis of referring it to the District Administrator's office. A default

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<sup>35</sup> Radio Voice of the People Trust website, <http://www.radiovop.com/index.php/about-radiovop-zimbabwe.html> [Accessed on 15 March 2015]

<sup>36</sup> The requirement for NGOs and CBOs to first sign Memorandum of Understandings (MoU) with local authorities has been used by the government to bar organizations with dissenting views from operating in rural and peri-urban areas. Because of fear most local officials would not enter into an agreement with organizations perceived to be too critical of the government. In the case of Patsaka Trust, the CBO has a Memorandum of Understanding with Kariba Town Council, the local authority for Kariba Town which is controlled by the opposition party. Generally, the District Administrator's Offices across the country are seen as partisan and pro-ruling party.

<sup>37</sup> Letter to Patsaka Trust from the Officer Commanding Police Kariba District dated 18 September 2014

judgement in favour of Patsaka Trust was later handed by the Kariba Magistrate Court on 28 October 2014.<sup>38</sup>

The organization's members told Amnesty International that they believe the police's attempt to bar their meeting was part of a strategy to frustrate their advocacy for a community broadcasting license. One female activist told Amnesty International: *"For us to have advocacy meetings we have to be cleared by the police. Whether one gets a clearance depends on the mood of the day. One policeman would clear you, while another may not. It is probably because of the misconception of what a community radio really is."*<sup>39</sup>

#### RADIO KWELAZ RAIDED BY STATE SECURITY AGENTS, KWEKWE

On 17 June 2014, state security agents, including soldiers, raided Radio Kwelaz offices in the town of Kwekwe. They had a search warrant alleging that the community based organization was illegally broadcasting in contravention of the Broadcasting Services Act or other laws in force in Zimbabwe. The state security agents seized laptops and 1,223 compact discs. The compact discs covered topics such as cancer, sexual violence, education and other issues affecting the community of Kwekwe. The community activists told Amnesty International that during the raid the security agents were not clear of what crime the community based organization had committed.<sup>40</sup> The community activists were told by the state security agents that experts from Harare would determine the charge against the activists.

The June raid was a second one in a year where, again, material was seized from the community based organization. In July 2013, a volunteer with Radio Kwelaz, Annie Maseko, was arrested and charged with broadcasting without accreditation in terms of the Access to Information and Protection of Privacy Act after she reportedly failed to produce accreditation with the Zimbabwe Media Commission when she was found recording an interview by police. The offices of the organization were also raided and material confiscated. The chairperson of the organization, Eric Musesengwe, was charged with operating without a license under the Broadcasting Services Act.<sup>41</sup> The charges were later dropped.

#### RADIO DIALOGUE DENIED A LICENSE IN 2005 AND PERSISTENTLY TARGETED BY POLICE, BULAWAYO

Radio Dialogue is a community-based organization in Zimbabwe's second city of Bulawayo. It was founded in 2001. In 2005 it applied to be licensed as a community radio station but was denied by the Broadcasting Authority of Zimbabwe because the authority had not called for application as per the Broadcasting Service Act.<sup>42</sup> They produce compact discs, audio cassettes containing music and current affairs content and hold roadshows to disseminate the information. They also distribute the programmes through the public transport system in Bulawayo who then play them to their passengers.

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<sup>38</sup> Default judgment, Kariba Magistrate Court, 28 October 2014

<sup>39</sup> Interview with Patsaka Trust activists, 6 September 2014

<sup>40</sup> Interview with community based activists in Kwekwe on 30 August 2014

<sup>41</sup> Media Institute of Southern Africa – Zimbabwe Chapter Alert, 30 July 2013

<sup>42</sup> Interview with community radio activist on 12 May 2015

On 1 March 2013, police in Bulawayo raided the offices of Radio Dialogue and confiscated some 180 radio sets. Police also arrested and interrogated the production manager Zenzele Ndebele before releasing him into the custody of his lawyers. In February 2014, Zenzele Ndebele was summoned to appear in court on 6 March facing charges of smuggling Shortwave radio sets into the country in contravention of Section 182 of the Customs and Exercise Act or alternatively for failure to produce a listener's licence. The case was not pursued by the State and was simply abandoned. Police returned the seized radio most of them having allegedly been tampered with and not working. Since its establishment Radio Dialogue has been raided by security agents six times.<sup>43</sup>

#### HARASSMENT AND INTIMIDATION OF PEOPLE WITH SHORT WAVE RADIO RECEIVERS TO RECEIVE ALTERNATIVE INFORMATION FROM FOREIGN-BASED RADIO STATIONS BROADCASTING INTO ZIMBABWE

Violations to the right to freedom of expression and information have also extended to people seeking to receive alternative information by owning Shortwave radio receivers. People owning Shortwave radio receivers and NGOs distributing them, including some of the community radio initiatives, have been targeted with raids, had the radio receivers seized by police and, in rural areas, some people were beaten up for possessing these receivers.

One of the consequences of the restrictive media environment that existed in Zimbabwe since 2000 was the emergence of foreign-based radio stations broadcasting into the country on Shortwave frequency. The government has described these radio stations as "pirate" radio stations broadcasting "illegally" into the country. The foreign-based radio stations include Radio Voice of the People, Voice of America's Studio 7 and (now defunct) SW Radio Africa<sup>44</sup> and were established by exiled Zimbabwean journalists. The radio stations are a source of alternative information for people in both rural and urban areas in the country. The emergence of the foreign-based radio stations was also attributed to failure of the government to issue licenses to independent broadcasting services.<sup>45</sup> Although the foreign based radio stations broadcasting into Zimbabwe are not community radio stations as per the Broadcasting Services Act, they have been filling in a gap where diversity in radio broadcasting was lacking, and have a huge following.

- On 19 February 2013 the Zimbabwe Republic Police announced a ban on Shortwave radio receivers. It was not clear under which law this ban was made. However, following the ban, police searched the offices of Radio Dialogue in Bulawayo and seized 180 Shortwave radio receivers and charged Zenzele Ndebele, the station manager, under section 182 of the Customs and Exercise Act.<sup>46</sup>

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<sup>43</sup> Interview with community based activist in Bulawayo on 29 August 2014, and Amnesty International's monitoring of police raids against human rights defenders.

<sup>44</sup> SW Radio Africa stopped its short wave broadcasts into Zimbabwe on 10 August 2014 after 13 years of operating from the United Kingdom.

<sup>45</sup> See Article 19 of the Global Political Agreement on Freedom of Expression and Communication, 2008

<sup>46</sup> Telephone interview with Radio Dialogue staff following the police raid as part of Amnesty International monitoring of the human rights situation in Zimbabwe, 19 February 2013.

The ban on Shortwave radio receivers was seen as an attempt by police to curb access to alternative sources of information as the country prepared for the constitutional referendum on 16 March and elections in July 2013.

- On 11 February 2013, police who had a warrant to search for “subversive material and illegal immigrants” raided the offices of the Zimbabwe Peace Project in Harare. They seized material including project documents, four smart phones and 80 solar powered/crank radio receivers.<sup>47</sup>
- On 16 December 2006, a magistrate in Gokwe ordered two state security agents to return Shortwave radio receivers they had confiscated from teachers in the area.<sup>48</sup> The radios had been confiscated from 17 teachers by the state security agents. The radio receivers had been given to the teachers by the trade union, Progressive Teachers Union of Zimbabwe (PTUZ). The state security agents had confiscated the radios without legal authority to do so. According to PTUZ, state security agents went to Simbe Primary School in November 2006 and produced a list with names of teachers who had allegedly received Shortwave radio receivers from the trade union. The security agents ordered the teachers to hand over the radios claiming that it was a “national issue.” The security agents also carried out a similar operation at Njelele Secondary School and confiscated a radio from a teacher’s wife. This was part of a pattern at the time where state and non-state actors were engaged in similar activities to prevent members of the public from seeking information from alternative sources. Incidents were also recorded in Mashonaland East province where villagers were rounded up and warned against listening to foreign-based radio stations while those who had received donated solar powered or wind up radio sets were targeted.
- Amnesty International was told that in Lupane, just before the July 2013 general elections, people possessing Shortwave radio receivers were targeted by state security agents. Some were beaten after being suspected that they have the receivers. The radio receivers would be confiscated and the people given warnings.<sup>49</sup>

The supposed ban on owning a Shortwave radio receivers and the accompanying harassment and intimidation of both organizations and individuals found with the radios amounts to an unlawful restriction of the right to freedom of expression and the right to receive and impart information. It is calculated to effectively deny people in communities access to alternative sources of information.

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<sup>47</sup> Amnesty International, 2013, Urgent Action: 19/13 Index: AFR 46/001/2013 Zimbabwe

<sup>48</sup> Financial Gazette, *CIO Agents Ordered to Return Seized Radios*, December 2006  
<http://www.tmcnet.com/usubmit/2006/12/21/2190479.htm> (accessed on 18 February 2015)

<sup>49</sup> Interview with a community activist in Bulawayo, 29 August 2014

## BARRIERS FOR COMMUNITY RADIO LICENSING

### COST AND LACK OF TECHNICAL EXPERTISE TO MAKE AN APPLICATION; POTENTIAL BARRIERS FOR COMMUNITY RADIO STATIONS

While the Broadcasting Authority of Zimbabwe has not yet invited applications for community broadcasting services, it is anticipated that it might do so in the near future especially when the country has transitioned from analogue to digital broadcasting as per the deadline set by the International Telecommunications Union (ITU), the United Nations specialized agency for information and communication technologies, including Spectrum. In 2006 the ITU member states agreed by consensus to migrate from analogue to digital broadcasting and the deadline of 17 June 2015 was set for all countries in Region 1 (Europe, Africa and Arab countries) and Iran. In a response to Amnesty International on 13 March 2015, following a request for a meeting with the organization's delegates, Dr Tafataona Mahoso, the Chairperson of the Broadcasting Authority of Zimbabwe, indicated that the authority was in the process of holding "internal engagements and consultation on [licensing of community broadcasting services]."

One of the many advantages for digitalization is that it gives regulators more efficient use of radio Spectrum. In Zimbabwe, this will create opportunities for more players to be licensed including community radio stations. Consequently, this begs the question on whether current and future community radio initiatives will be able to meet the criteria for registration and license fees as set in the Broadcasting Services Act and by the Broadcasting Authority of Zimbabwe, respectively.

The Broadcasting Authority of Zimbabwe has set the license fees as follows: In order to be licensed a community radio initiative must first pay a US\$500 non-refundable application fee to the Authority. When granted a license, the community radio station must pay an annual basic license fee of US\$1,000 for 10 years and a frequency fee of US\$30 monthly.<sup>50</sup> Community activists across the country have told Amnesty International that the license fees are prohibitive for resource-poor communities<sup>51</sup>, especially in the context of Zimbabwe, where the economy continues to shrink. In addition to the application fee, the Broadcasting Services Act requires applicants to publish, at their cost, their application in a national newspaper within seven days of submitting their application. Section 10(3) states: "*Within seven days of submitting his application in the prescribed manner and form, an applicant shall publish his application in a national newspaper at his own expense and in a manner and form approved by the Authority and the Authority shall not consider the application until it has received proof of such publication.*"

Community activists advocating for licensing of community broadcasting services in Zimbabwe, told Amnesty International that, in addition to prohibitive application fees, applicants also have to spend considerable amounts of money preparing applications for submission that meet the application criteria<sup>52</sup> as set in Part 12 of the application form, Form BS1.<sup>53</sup> Part 12 of the application form requires applicants to provide a proposal that includes:

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<sup>50</sup> Broadcasting Authority of Zimbabwe website, <http://www.baz.co.zw/index.php/features/fee-schedule> [accessed on 18 April 2015]

<sup>51</sup> Interview with community radio activist in Harare, 18 March 2015

<sup>52</sup> Interview with community radio activist in Harare, 18 March 2015

*(a) broadcasting and programming plans including-*

- *broadcasting and programming schedule plans;*
- *details on how local content requirements will be met;*
- *details on how other statutory obligations will be met.*

*(b) technical specifications, including-*

- *descriptions of system and technology;*
- *detailed frequency requirements, if any;*
- *detailed roll out plan which includes, without limitations, timescales provision of emergency and community services; interoperability* <sup>54</sup>

*(c) the business plan, including*

- *market analysis and projections;*
- *particulars of financial resources to be applied to project;*
- *cash flow projections for 3 years;*
- *experience in the provision of similar services.*

Community activists told Amnesty International that the requirements as set out in Form BS1 will be onerous for community-based organizations and urged the government to simplify the process to accommodate community realities. The role of organizations such as ZACRAS and the Media Institute of Southern Africa<sup>55</sup> that have been providing technical expertise and training to community radio initiatives will be critical in order to fulfil the technical requirements set by the regulator.

Amnesty International is concerned that the application process as set out in the Broadcasting Services Act and by the Broadcasting Authority of Zimbabwe does not take into account the technical limitations of community-based organizations that are interested in establishing radio stations in Zimbabwe. The process is not simplified and places an onerous burden for resource poor communities.

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<sup>53</sup> Broadcasting Authority of Zimbabwe, Form BS1: Application for Licence, <http://www.baz.co.zw/index.php/features/application-forms> [Accessed on 19 April 2015]

<sup>54</sup> Relating to systems, especially of computers or telecommunications, that are capable of working together without being specifically configured to do so.

<sup>55</sup> The Media Institute of Southern Africa is a membership based organization advocating for media freedom and freedom of expression in southern Africa. It has a local chapter in Zimbabwe which was formed in August 1995.

# NEED TO CREATE AN ENABLING ENVIRONMENT

## NEED FOR AN INDEPENDENT REGULATOR

The Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression has noted that: *“One of the central problems relating to the promotion of diversity [in the media] refers to the licensing of media outlets. State-controlled licensing procedures have, in many countries, become a technical means of curbing media independence, particularly through normal and periodic procedures of renewal of licenses. These procedures have been used systematically by some Governments not as a regular administrative practice, but rather as a policy tool to wield influence over editorial content... [I]n order to guarantee freedom of the press, licensing should always be conducted by an independent authority, free from political interference by government officials. Furthermore, licensing procedures are only justified as a response to problems of scarcity, thus restricted to the broadcast media.”*<sup>56</sup>

The Broadcasting Authority of Zimbabwe is the regulator of broadcasting in Zimbabwe as set out in the Broadcasting Services Act. However, its independence and impartiality has been put into doubt given an emerging pattern where all the licenses granted have been to companies that are owned by the state or where the government, senior members of the ruling party or people with close links with the ruling party are the majority shareholders. Despite a clear demand for licensing of community radio stations, BAZ has not shown clear interest in supporting communities to enjoy their right to freedom of expression.

After decades of the state-owned Zimbabwe Broadcasting Corporation (now Zimbabwe Broadcasting Holdings) monopoly over broadcasting, Zimbabwe licensed its first ‘independent’ radio stations in 2012 during the tenure of the Government of National Unity. However, the process was not without controversy. The two licences were given to companies with close links to the government or the ruling ZANU-PF, raising concerns that the government had not fully embraced liberalization of the airwaves and pluralism. In the first wave of licensing, one licence was issued to Zimbabwe National Newspapers Private Limited (Zimpapers), a publicly-listed company of which the government is the majority shareholder. Zimpapers also owns *The Herald, Chronicle, The Sunday Mail, Sunday News*, and *Manicapost*, which all do not enjoy editorial independence and are government-controlled and pro-ruling party. Zimpapers was also awarded a local commercial broadcasting license for Mutare during the second wave of licensing of local commercial radio stations in March 2015.

The second national commercial radio license was awarded to AB Communications’s ZiFM Stereo radio station, which is owned by Supa Mandiwanzira - a member of the ruling ZANU-PF party who later became its member of parliament, was appointed Deputy Minister of Media, Information and Publicity and in December 2014 was elevated to Minister of Information, Communication Technology and Courier Services. AB Communications received a further two licenses in March 2015 to establish local commercial radio stations in Gweru and Masvingo towns. The awarding of

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<sup>56</sup> <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G08/112/10/PDF/G0811210.pdf>

the licences to companies widely seen as pro-ruling party has raised doubts over the government's willingness to allow true pluralism of voices in broadcasting services in Zimbabwe by extending the enjoyment of the right to freedom of expression to all.

## FUNDING MODELS FOR THE COMMUNITY RADIO SECTOR TO ENSURE SUSTAINABILITY AND EDITORIAL INDEPENDENCE

The question on how community radio stations are to be funded in Zimbabwe is very critical to ensuring their survival, sustainability and remaining true to the objective of facilitating freedom of expression in the community. If the benefit of community broadcasting services are to be realized it is important to ensure editorial and programming independence are not compromised by powerful institutions such as the ruling party, political opposition parties, business and religious and cultural ones.

From interviews with activists engaged in community radio licensing advocacy in Zimbabwe, it is important to reflect on how in the Zimbabwean context the community broadcasting sector could be funded to ensure sustainability. Judging from the financial requirements to prepare an application and current license fees it is clear that most communities will need some form of financial injection from either advertising, government or international funding agencies. However, these sources of funding must not impede on the editorial independence of the community radio stations. It is vital that the community radio stations become an authentic voice of the communities they serve. It must be ensured that the respective communities are actively engaged in message creation, message dissemination and station administration so that stations remain credible. Commenting on Cape Town-based South African pioneering community radio station, Bush Radio, Olurunnsola observes that: *"The participation of ordinary folk in the [content production]... demystified the complexities of mass communication for the benefit of the respective communities."*<sup>57</sup>

It is clear that, when licensed, the community radio sector in Zimbabwe will operate in a financially resource-poor context. That on its own means, that the sector will struggle financially to sustain operations save for college or university-based and religious stations that may benefit from subsidies from the parent institutions. They will need financial resources to purchase equipment for programme production and training. In other African countries, a mix of financial streams (grants and advertising) have ensured the survival of the most viable community radio stations, though many have only had a short life span, or later became commercial stations because of viability challenges. Zimbabwe can borrow from these models and even improve upon them. Open and genuine dialogue among stakeholders, including government, could produce more creative funding models that also guarantee editorial independence and safeguard community control over the radio stations.

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<sup>57</sup> Olurunnsola A.A, 2002, *Community Radio: Participatory Communication in Postapartheid South Africa* in *Journal of Radio Studies*/Volume9, No. 1.

## QUESTION OF WHAT CONSTITUTES A “COMMUNITY” AND ITS IMPLICATIONS ON FREEDOM OF EXPRESSION

*“No one is confused about what radio is, but there is a lot of confusion about what a community is.”<sup>58</sup>*

Activists campaigning for licensing of community radio stations in Zimbabwe are concerned that, when the government finally opens up space to license community radio stations, the process itself may exclude urban areas. Activists are concerned that the licenses will be granted only to rural communities who are closely linked to the ruling party ZANU-PF and controlled through traditional leaders.<sup>59</sup> Their fears are based on public remarks by government officials reflecting their attitudes towards current advocacy activities and also on a perception that the Broadcasting Authority of Zimbabwe is not a truly independent body.

Amnesty International has documented numerous incidents where traditional leaders in Zimbabwe have been used by the ruling party to restrict the enjoyment of the rights to freedom of association and assembly of people living in rural areas. In some instances real and perceived opponents of the ruling party have been threatened with eviction or denied access to food aid and other services.<sup>60</sup> Although such conduct is unlawful, police were unable or unwilling to act against such human rights abuses.

Speaking at the Bulawayo Press Club in Bulawayo at an event to commemorate World Radio Day on 13 February 2015, Prof Jonathan Moyo, the Minister of Information, Media and Broadcasting Services said: *“We need serious debate on what constitutes a community. A community must have values, culture, beliefs and history.”* In November 2013, Minister Moyo, while attending a regional media conference convened by Silveira House in Harare, was quoted saying: *“For Zimbabwe, the priority at the moment is not community radio stations, there are other things we are still dealing with.”<sup>61</sup>* In February 2014, Minister Moyo was also quoted in the media as having said that his ministry was concerned about the lack of shared understanding on the definition of a community radio and saying that the government looks at geographical communities that exist under the jurisdiction of chiefs with shared history, norms and values.<sup>62</sup>

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<sup>58</sup> Zimbabwe’s Minister of Information, Media and Broadcasting Services quoted in a meeting with members of the Zimbabwe Association of Community Radio Stations in 2013

<sup>59</sup> Interviews with community activists in Zimbabwe from August 2014 to March 2015.

<sup>60</sup> Amnesty International, *Zimbabwe: Between a rock and hard place – women human rights defenders at risk*, 24 July 2007, AI Index: AFR 46/017/2007

<sup>61</sup> Daily News newspaper, *Community radios not a priority: Moyo* 14 November 2014, <http://www.dailynews.co.zw/articles/2013/11/14/community-radios-not-a-priority-moyo> [Accessed on 17 April 2015]

<sup>62</sup> The Zimbabwean newspaper, *Community radio stations to get licenses: Prof Moyo*, 4 February 2014, <http://www.thezimbabwean.co/news/zimbabwe-news/70350/community-radios-to-get-licences.html> [Accessed on 17 April 2015]

In the absence of a definition of what constitutes a “community” in the Broadcasting Services Act, the Minister’s statements have been interpreted by community activists to be a government attempt to exclude people living in urban settlements from being issued community radio licenses since there are no traditional leaders in the towns and cities of Zimbabwe.

Section 2 of the Broadcasting Services Act defines a “community broadcasting service” as a “*free-to-air (radio or television) broadcasting service not operated for profit or as part of a profit-making enterprise which-*

*(a) provides programmes*

*(i) for community purposes; and*

*(ii) is capable of being received by commonly available equipment; and*

*(b) does not broadcast programmes or advertisements on behalf of any political party; and*

*(c) otherwise complies with any classification criteria that may be applicable to such a service in terms of subsection (2).*

Whereas subsection (2) of the Broadcasting Services Act gives the Minister powers to: *(a) determine additional criteria to those specified in the definition of any broadcasting service...; or (b) clarify the criteria specified in the definition of any broadcasting service...; or (c) for the purpose of distinguishing between categories of broadcasting services:*

*(i) determine other categories of broadcasting services;*

*(ii) determine different criteria or make different clarifications for radio services and television services.*

The government of Zimbabwe is still to clarify the meaning of a ‘community’ in the context of community broadcasting services. However, Amnesty International believes that the debate on what constitutes a ‘community’ has to be guided by human rights principles and standards arising from the country’s own constitution, regional and international human rights treaties. The clarification of the criteria in the definition of community broadcasting services must not result in the exclusion of other population groups on the basis of their location of dwelling. Human rights must be enjoyed on a principle of non-discrimination.

Section 56 of the Constitution of Zimbabwe states:

*(1) All persons are equal before the law and have the right to equal protection and benefit of the law...*

*(2) Women and men have the right to equal treatment, including the right to equal opportunities in political, economic, cultural and social spheres.*

*(3) Every person has the right not to be treated in an unfairly discriminatory manner on such grounds as their nationality, race, colour, tribe, place of birth, ethnic or social origin, language, class, religious beliefs, political affiliation, opinion, custom, culture, sex, gender, marital status, age, pregnancy, disability or economic or social status, or whether they were born in or out of wedlock.*

*(4) A person is treated in a discriminatory manner for the purpose of subsection (3) if—*

*a. they are subjected directly or indirectly to a condition, restriction or disability to which other people are not subjected; or*

*b. other people are accorded directly or indirectly a privilege or advantage which they are not accorded.*

Any attempt to come up with a definition of a 'community broadcasting service' that does not accord the full right to freedom of expression and freedom of the media as provided in Section 61 of the constitution to all sections of the Zimbabwean population – rural and urban, would be unconstitutional.

If the government of Zimbabwe decides to exclude urban settlements from being issued with community broadcasting licenses, it will also be failing to fulfil its obligation under regional and international human rights treaties. The right to freedom from discrimination is enshrined in both the African Charter and the International Covenant on Civil and Political Rights (ICCPR).

Article 2 of the African Charter states: *“Every individual shall be entitled to the enjoyment of the rights and freedoms recognised and guaranteed in the present Charter without distinction of any kind such as race, ethnic group, colour, sex, language, religion, political or any other opinion, national and social origin, fortune, birth or any status.”* Article 2(1) of the ICCPR states: *“Each State Party to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.”*

Some activists, however, believe that the debate is being introduced by the government deliberately to delay the whole process of licensing community radio stations.<sup>63</sup> This means that without clarification on what constitutes a community in \*community broadcasting service\* in the Broadcasting Services Act, the BAZ will not call for applications for community radio stations. Such a development would constitute a continued denial of communities' right to express themselves through the airwaves.

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<sup>63</sup> Comment from activist to Amnesty International, 6 May 2015



# CONCLUSION

The right to freedom of expression in Zimbabwe remains restricted, mainly because of the government's unwillingness to truly open the airwaves to achieve pluralism of voices by allowing communities to own and control their own radio stations. The Zimbabwean government has failed to implement its positive obligations relating to freedom of expression and the right to information by refusing to allow sufficient access for broadcasting licenses for licensing of community radio stations in the country.

The Zimbabwean government must give priority to community radio stations and see them as equally important tools to address some of the economic, social, cultural and political challenges facing the country. Community radio stations can give isolated and marginalized communities a means of education, self-expression and communication, while also promoting the community's history, music and oral traditions.

The denial or failure to license community radio stations has been accompanied by a series of human rights violations, including harassment, intimidation, arbitrary arrests, selective application of the law and restrictions of the rights to freedom of association and assembly for people advocating for community broadcasting licenses.

As the ITU deadline approaches for Zimbabwe to switch over to digital broadcasting, the government must use this development to allow pluralism in the broadcasting communication sector by licensing community radio stations in rural and urban areas. The government must collaborate with organizations such as ZACRAS and the Zimbabwe chapter of the Media Institute of Southern Africa and similar organizations to support communities to establish viable and sustainable community radio stations.



# RECOMMENDATIONS

## TO THE GOVERNMENT OF ZIMBABWE

Regarding the restriction of the rights to freedom of expression and right to information resulting from failure to license community radio stations the government must:

- Ensure that the right to freedom of expression and right to information are enjoyed by all people in Zimbabwe without distinction.
- Implement its positive obligations relating to freedom of expression and the right to information by allowing sufficient access for broadcasting licences, particularly at community level, to ensure pluralism of voice in debates.
- Ensure a fair and simple licensing procedure which does not require stringent technological or other license criteria which disadvantages community applicants for broadcasting services.
- Fully respect editorial and programming independence of community radio stations when they are established.
- Make the Broadcasting Authority of Zimbabwe more autonomous and strengthen it to function without political interference.
- Support the work of civil society organizations working to ensure that community radio initiatives get support to process applications, receive adequate support to access equipment and training.
- Fully and effectively respect the rights to freedom of expression, association and assembly for all people campaigning for free airwaves in Zimbabwe and allow unfettered access to communities including rural and urban.
- Repeal or amend sections of the Public Order and Security Act and other laws that place unnecessary restrictions on human rights defenders exercising their rights to peaceful assembly and freedom of association. All national laws should be compatible with the Constitution of Zimbabwe, the African Charter, ICCPR, and the UN Declaration on Human Rights Defenders.
- Conduct an immediate, full, transparent and impartial investigation into all reports of harassment and intimidation of activists engaging in advocacy for community broadcasting services in Zimbabwe including into the raids and seizure of material and equipment by security agents with the view to hold perpetrators accountable.

### TO THE BROADCASTING AUTHORITY OF ZIMBABWE

- Adopt an open-ended mechanism of licensing of community broadcasting services by accepting applications any time of the year.
- Lower the fees for licenses to ease the financial burden for applicants for community broadcasting services.
- Adopt a user-friendly application process for community broadcasting services that takes into account the technical limitations of community-based organizations that are interested in establishing radio stations.
- Operate in a non-partisan, fair and transparent manner including by opening the adjudication process and the decisions not to license made available to the applicant as well as to the public particularly to allay fears that licenses are being issued favourably to ruling party members and sympathizers alone.

### TO THE PARLIAMENT OF ZIMBABWE

- Exercise its oversight role to ensure that the mandates of the Broadcasting Authority of Zimbabwe are fully and effectively carried out.
- Investigate reasons why the government has failed to license community radio stations since the enactment of the Broadcasting Services Act with the view of taking concrete corrective measures that result in issuance of licenses in a non-partisan, fair and transparent manner.
- Amend or repeal all laws in Zimbabwe with the view of bringing them in line with the Constitution of Zimbabwe and the country's obligations under regional and international human rights standards.

### TO THE INTERNATIONAL COMMUNITY

- Call upon the Government of Zimbabwe to fully and effectively fulfil its obligations with regard to freedom of expression and the right to information.



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# I WANT TO HELP



# BEYOND TOKENISM

## THE NEED TO LICENSE COMMUNITY RADIO STATIONS IN ZIMBABWE

For the last 14 years the Zimbabwean government has failed to license a single community radio station, despite passing the Broadcasting Services Act in 2001, which recognizes the three-tier broadcasting system and sets the criteria and licensing process.

Activists campaigning for community radio licenses have endured a series of human rights violations, including harassment, intimidation, arbitrary arrests and restrictions of their rights to freedom of association and assembly.

Government's failure to license community radio stations undermines the ability of communities to participate in debates of public interest on matters that affect them.

Opening up of the airwaves in Zimbabwe, particularly to include the establishment of independent community radio stations, can have a positive impact on the lives of people, especially the low income communities in urban and rural areas who have traditionally been marginalized by mainstream media, to freely exchange information and ideas on matters of public interest among themselves through a seemingly cheaper medium that is accessible to them.

Zimbabwe has an obligation under international law to respect, protect and fulfil the right to freedom of expression of everyone in the country, especially those who are marginalized by the mainstream media and those whose voices are drowned in national or local debates.

The government must also respect community activists' right to freely assemble and associate for the purpose of asserting their Constitutional and internationally recognised right to freedom of expression and information.

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