



International
Press
Institute

PRESS FREEDOM IN ZIMBABWE: NATIONAL, REGIONAL AND GLOBAL FRAMEWORKS

RESOURCE TOOLKIT





ABOUT THIS TOOLKIT

This toolkit is a compilation of domestic legislation, as well as international, regional, and sub-regional commitments, treaties, protocols, and case law that comprise the frameworks for the protection of media freedom, the right to access information, and the safety of journalists in Zimbabwe. It also includes laws that can limit freedom of expression and media freedom. It can be used as a resource for domestic and international advocacy groups and other stakeholders working to support and improve the environment for press freedom and journalists' safety in Zimbabwe.

Acknowledgements

We wish to thank the following experts who provided valuable input in the development of this resource:

- Joan Barata, Future of Free Speech, Justitia
- Thobekile Matimbe, Paradigm Initiative
- Fungisai Sithole, Friedrich Naumann Foundation

Contributing organizations



**FRIEDRICH NAUMANN
FOUNDATION** For Freedom.
Zimbabwe

Cover photo: Shutterstock/Sevenmaps

This report is produced as part of IPI's Africa programme, which is supported by the Government of Canada's Office of Human Rights, Freedoms and Inclusion (OHRFI)



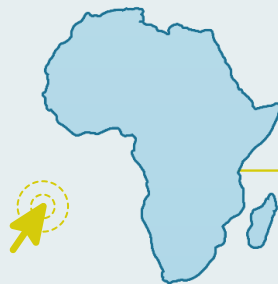
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ABOUT IPI

The International Press Institute (IPI) is a global network of editors, media executives, and leading journalists. Our mission is to defend media freedom and support independent journalism wherever they are threatened.



IPI Africa Programme

DEFENDING PRESS FREEDOM AND
THE SAFETY OF JOURNALISTS

The IPI Africa Program supports and advances press freedom and independent journalism in Africa. Through this programme, we monitor and collect data on press freedom threats and violations across the continent, including threats to journalists' safety as well as gendered attacks against journalists both online and offline. We use this data to carry out evidence-based advocacy to hold states and other duty bearers accountable for their responsibilities to protect press freedom and ensure that journalists are able to carry out their work freely, independently, and safely.



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01 • INTERNATIONAL STANDARDS AND TREATIES

Press freedom, access to information, and the safety of journalists are fundamental human rights, guaranteed in various international treaties.

Universal Declaration of Human Rights - UDHR (1948)

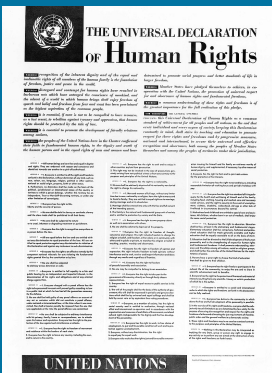


While the Declaration itself is not legally binding on states, the principles, standards, and freedoms set out in this Declaration have been incorporated into binding international and regional conventions, and national constitutions and other domestic legal frameworks.

Key provisions related to press freedom and the safety of journalists

👉 Article 19:

"Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers."



International Covenant on Civil and Political Rights - ICCPR (1966)



A multilateral, legally binding treaty that commits state parties to respect the civil and political rights of individuals, including the right to life, freedom of religion, freedom of speech, freedom of assembly, electoral rights and rights to due process and a fair trial.

The right to freedom of expression and the media is enshrined in Article 19 of the [International Covenant on Civil and Political Rights \(ICCPR\)](#).

Article 19:


- 👉 Everyone shall have the right to hold opinions without interference.
- 👉 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.

According to Article 19(3), freedom of expression may be subject to certain restrictions, including for the respect of the rights or reputations of others, and for the protection of national security, public order, public health, or morals. But these restrictions must be clearly prescribed by law, necessary to achieve a defined goal, and proportionate.

Zimbabwe ratified the ICCPR in 1991 and hence is bound by its provisions.


Compliance with the provisions of the ICCPR is monitored by the UN Human Rights Committee and Zimbabwe has an obligation to report progress made and measures put in place to promote the exercise of civil and political rights.



 **General Comment 34:** This document elaborates on Article 19 of the ICCPR and provides guidance on various topics including freedom of expression and the media, the right of access to information, and acceptable limitations on freedom of expression.

International treaties not ratified by Zimbabwe



 Zimbabwe has neither signed nor ratified the International Convention on the Protection of All Persons from Enforced Disappearances and the Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment.

These treaties both contain key frameworks for the safety of protection of journalists and media workers.

Universal Periodic Review



The Universal Periodic Review is a process that assesses countries' human rights records and addresses human rights violations.*

As a result of Zimbabwe's last review in January 2022, Zimbabwe agreed to implement 168 of the 264 recommendations that were made by the UN Human Rights Council. Some of the adopted recommendations included taking measures to ensure that journalists and human rights defenders can carry out their work freely and safely.

The next review cycle will be in 2027. In the meantime, stakeholders in Zimbabwe can advocate that the government implement the adopted recommendations that relate to media freedom and freedom of expression. A mid-term report can be developed by the state and also by non-state actors to highlight Zimbabwe's progress since the adoption of the outcome report in July 2022, which contains a summary of the deliberations and the full list of recommendations.



* See IPI's The Foundations of Press Freedom in Africa resource toolkit.





02 • REGIONAL FRAMEWORKS FOR PRESS FREEDOM IN AFRICA

The following regional conventions and charters describe obligations to safeguard media freedom and the safety of journalists by African states.

African Charter on Human and Peoples' Rights (1981)



Freedom of expression and access to information are fundamental human rights protected by Article 9 of the African Charter.

Article 9:

Every individual shall have the right to receive information

Every individual shall have the right to express and disseminate his opinions within the law

Zimbabwe signed and ratified the African Charter in 1986.

Countries are required to submit reports to the African Commission on Human and Peoples' Rights (African Commission) on measures taken to ensure that the rights enshrined in the African Charter are implemented. Zimbabwe submitted its Combined Periodic Report on the Implementation of the African Charter on August 5, 2019 for the period 2007 to 2019.

African Union Convention on Preventing and Combating Corruption (2003)



This convention acknowledges that access to information is critical to fighting corruption.

👉 **Article 9:** Each state shall adopt such legislative and other measures to give effect to the right of access to any information that is required to assist in the fight against corruption and related offenses.

👉 **Article 12(2) :** States must create an enabling environment that will enable civil society and the media to hold governments to the highest levels of transparency and accountability in the management of public affairs.

Zimbabwe ratified this convention in 2006.

African Charter on Democracy, Elections, and Governance (2012)



The African Union's principal binding treaty that sets standards to "deepen and consolidate the rule of law, peace, security and development" across the African Union. Freedom of the press and access to information are explicitly referenced as fundamental human rights and essential components of credible elections and accountable democracies.

👉 **Article 2(10)** - This article states that the objectives of the charter include: Promote the establishment of the necessary conditions to foster citizen participation, transparency, access to information, freedom of the press, and accountability in the management of public affairs.

👉 **Article 27(8)** - In order to advance political, economic and social governance, state parties shall commit themselves to promoting freedom of expression, in particular, freedom of the press and fostering a professional media.

Zimbabwe ratified this convention in 2022.

African Union Convention on Cybersecurity and Personal Data Protection (2014)



Sets out principles for the establishment of a credible digital space for electronic transactions, personal data protection, and combating cybercrime.

👉 **Article 9:**

State must establish a legal framework that strengthens fundamental rights and freedoms and protects privacy without infringing the free flow of personal data.

👉 **Articles 16 through 19** establish the right to information, right of access, right to object, and the right of rectification or erasure.

👉 **Article 25(3):**

States must ensure that measures adopted to protect cybersecurity do not infringe on rights of citizens protected by the constitution and other domestic laws, as well as rights protected in the African Charter particularly freedom of expression, privacy, and right to fair hearing.



Zimbabwe has yet to ratify the AU Convention on Cybersecurity and Personal Data Protection



ADDITIONAL REGIONAL DECLARATIONS, GUIDELINES, COMMITMENTS

In addition to the legally binding frameworks above, Zimbabwe is also expected to abide by a number of regional protocols, declarations, commitments, and principles. These regional instruments build upon the rights to freedom of expression and access to information enshrined in the African Charter.

Declaration of Principles on Freedom of Expression and Access to Information in Africa (2019)



The 2019 declaration by the African Commission on Human and Peoples' Rights, which replaces the Declaration of Principles on Freedom of Expression (2002), reconfirms the African Charter's provisions on ensuring press freedom and protection of journalists and includes principles on access to information, including information online.

Sets principles on:

- ➡ Freedom of expression, which includes safety of journalists and other media practitioners; calls on states to take measures to prevent attacks on journalists and media workers.
- ➡ Promotion of a diverse and pluralistic media; self-regulation and co-regulation; and the protection of sources and journalistic materials.
- ➡ Right of access to information.
- ➡ Freedom of expression, access to information, and privacy online.

African Declaration on Internet Rights and Freedoms (2014)



A pan-African and civil society-led initiative to promote human rights standards and principles of openness in internet policy formulation and implementation on the continent.

The Declaration establishes 13 principles, including:

- ➡ Principle 3 - Everyone has the right to hold opinions without interference. Everyone has a right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds through the Internet and digital technologies and regardless of frontiers. Any interference with these rights must be clearly prescribed by law, necessary to achieve a defined aim, and proportionate.
- ➡ Principle 4 - Everyone has the right to access information online.
- ➡ Principle 11 - Everyone has the right to due process in relation to any legal claims or violations of the law regarding the Internet.

Model Law on Access to Information for Africa (2013)



A guide developed by the African Commission for the development, adoption or review of access to information legislation by African states

The right to information is guaranteed in accordance with the following principles:

- ➡ (a) Every person has the right to access information of public bodies and relevant private bodies expeditiously and inexpensively.
- (b) Every person has the right to access information of private bodies that may assist in the exercise or protection of any right expeditiously and inexpensively.

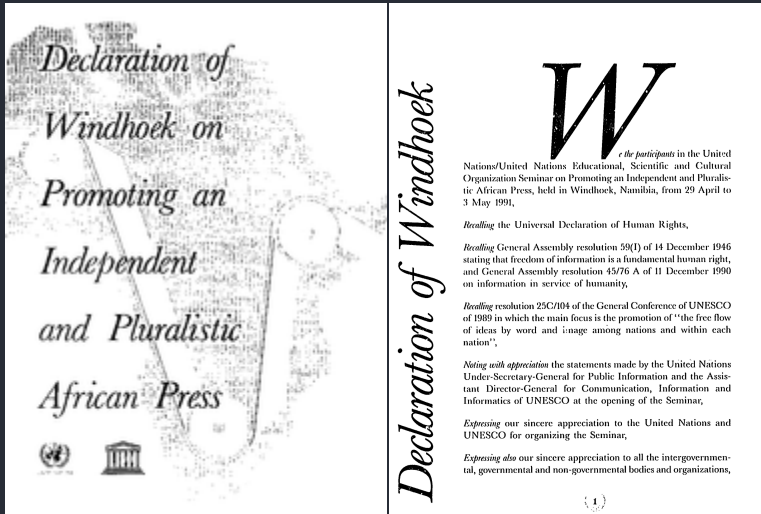
Guidelines on Access to Information and Elections in Africa (2017)



Adopted at the 61st Ordinary Session of the African Commission to provide direction on access to information in the electoral process as a means of strengthening democratic governance in Africa.

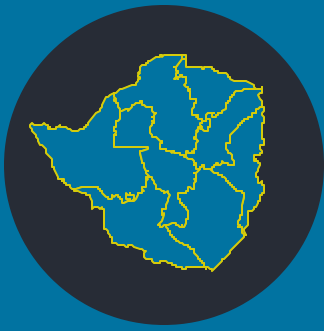
- ➡ Key principles include:
 - Proactive disclosure by various stakeholders including election management bodies, law enforcement authorities and political parties.
 - Protection of whistleblowers from administrative, social, legal or employment-related sanctions.
 - The duty to create, keep, and maintain information.

The Windhoek Declaration (1991)



This is a statement of principles on press freedom by African journalists, editors, and media professionals.

➡ The declaration calls for constitutional guarantees of press freedom, emphasizes the importance of press independence from government, political or economic control, and advocates for media independence and pluralism.



03 • NATIONAL FRAMEWORKS FOR PRESS FREEDOM IN ZIMBABWE

The following are key domestic laws that guarantee press freedom and access to information in Zimbabwe.

Constitution of Zimbabwe



The rights to freedom of expression, freedom of the media, access to information, and privacy are enshrined in the 2013 [Constitution of Zimbabwe](#). The constitution, widely seen as a progressive leap towards guaranteeing the fundamental rights of Zimbabweans, strengthened key protections for independent media and journalists.



[Constitution of Zimbabwe \(pdf file\)](#)



Section 50:

Rights of Arrested and Detained Persons

- Must be informed of the reason for the arrest at the time of arrest
- Must be permitted, without delay, at the expense of the State, to contact their spouse or partner, or a relative or legal practitioner, or anyone else of choice
- Must be permitted at own expense, to consult in private with a legal practitioner and a medical practitioner of choice and must be informed of this right promptly;
- Must be treated humanely and with respect for inherent dignity;
- Must be released unconditionally or on reasonable conditions, pending a charge or trial, unless there are compelling reasons justifying continued detention;
- Must be permitted to challenge the lawfulness of the arrest in person before a court and must be released promptly if the arrest is unlawful.

Section 53:

Freedom from Torture or Cruel, Inhuman or Degrading Treatment or Punishment

No person may be subjected to physical or psychological torture or to cruel, inhuman or degrading treatment or punishment.

Section 57: The Right to Privacy

Every person has the right to privacy, which includes the right not to have:

1. their home, premises or property entered without their permission;
2. their person, home, premises or property searched;
3. their possessions seized;
4. the privacy of their communications infringed; or
5. their health condition disclosed.



Section 61:

The Right to Freedom of Expression and Freedom of the Media

Every person has the right to freedom of expression, which includes:

- * freedom to seek, receive and communicate ideas and other information;
- * freedom of artistic expression and scientific research and creativity; and academic freedom.

Every person is entitled to freedom of the media, which freedom includes protection of the confidentiality of journalists' sources of information.

Broadcasting and other electronic media of communication have freedom of establishment, subject only to State licensing procedures that

- * are necessary to regulate the airwaves and other forms of signal distribution; and
- * are independent of control by government or by political or commercial interests.

All State-owned media of communication must-

- * be free to determine independently the editorial content of their broadcasts or other communications
- * be impartial; and
- * afford fair opportunity for the presentation of divergent views and dissenting opinions.

Freedom of expression and freedom of the media exclude-

- * incitement to violence;
- * advocacy of hatred or hate speech;
- * malicious injury to a person's reputation or dignity; or
- * malicious or unwarranted breach of a person's right to privacy.



Section 62:

The Right to Access to Information

- Every Zimbabwean citizen or permanent resident, including juristic persons and the Zimbabwean media, has the right of access to any information held by the State or by any institution or agency of government at every level, in so far as the information is required in the interests of public accountability.
- Every person, including the Zimbabwean media, has the right of access to any information held by any person, including the State, in so far as the information is required for the exercise or protection of a right.
- Every person has a right to the correction of information, or the deletion of untrue, erroneous or misleading information, which is held by the State or any institution or agency of the government at any level, and which relates to that person.
- Legislation must be enacted to give effect to this right, but may restrict access to information in the interests of defence, public security or professional confidentiality, to the extent that the restriction is fair, reasonable, necessary and justifiable in a democratic society based on openness, justice, human dignity, equality and freedom.

Freedom of Information Act (2020)



The repeal of the Access to Information and Protection of Privacy Act in 2019, which was the leading weapon for the government to silence independent media, and its replacement with the Freedom of Information Act was a major step forward for media freedom in Zimbabwe.

The Freedom of Information Act (2020) was passed to strengthen the constitutional rights of expression, freedom of the media, and access to information and to set out clear procedures for requesting access to public and private information.

The aim of the Freedom of Information Act as highlighted in Article 3 is:

- a) to give effect to the right of access to information in accordance with the Constitution;
- b) to establish voluntary and mandatory mechanisms or procedures to give effect to the right of access to information so as to facilitate swift, inexpensive and simple access to information; and
- c) to promote transparency, accountability and effective governance by taking any steps necessary to:
 - educate or inform the public of their rights in terms of this Act; and
 - ensure that appropriate assistance is afforded to members of the public seeking to exercise their right of access to information in order to facilitate the exercise of the right.

The Freedom of Information General Regulations, passed in September 2021, set the framework for the enforcement of the Act and the realization of the right to access information. This includes information on the forms, procedures, and mechanisms for requesting and accessing information.



An access to information request may be denied if the information concerns the following:

- personal and confidential information about a third party who is a natural person
- commercial information of a third party or private entity
- other confidential information of a third party
- safety of individuals and property
- information in bail proceedings, law enforcement and other legal proceedings
- legally privileged information
- defence, security, and international relations of a state
- economic interests and financial welfare of State and commercial interests of public entities
- research information of a third party or entity
- operations of public entities
- frivolous or vexatious requests, or requests involving substantial and unreasonable diversion of resources

This legislation enables journalists and media practitioners to legally request information from public institutions including for investigative journalism purposes and, in the event of unjustifiable refusals, to approach the Zimbabwe Media Commission and the High Court for redress.



04 • LEGISLATION AFFECTING PRESS FREEDOM AND FREEDOM OF INFORMATION IN ZIMBABWE

In contrast to the constitutional framework described above, Zimbabwe maintains laws on the books that can restrict or undermine press freedom and access to information rights in Zimbabwe and are not considered to be in line with Zimbabwe's binding international commitments to protect freedom of expression. This section highlights several of these laws, although it is not intended to be an exhaustive analysis.

Criminal Law (Codification and Reform) Act (2007)



SECTION 31 - Publishing or communicating false statements prejudicial to the state



SECTION 33 - Undermining authority of or insulting the President



SECTION 31

Publishing or communicating false statements prejudicial to the state

Section 31 criminalizes the publication or communication of false statements that are prejudicial to Zimbabwe, including statements:

- (i) inciting or promoting public disorder or public violence or endangering public safety;
- (ii) adversely affecting the defence or economic interests of Zimbabwe;
- (iii) undermining public confidence in a law enforcement agency, the Prison Service or the Defence Forces of Zimbabwe; or
- (iv) interfering with, disrupting or interrupting any essential service;



The offense is punishable by a fine of up to USD 5,000 or imprisonment up to 20 years, or both.

.....

In 2021, freelance journalist Hopewell Chin'ono was arrested and charged with contravening Section 31(a)(iii) because of a tweet. The charges were dropped after a court confirmed that this section was no longer part of Zimbabwean law following a previous High Court ruling (see section on case law).



SECTION 33

Undermining authority of or insulting the President

Section 33 criminalizes the act of publicly making a statement about the President or an acting President “with the knowledge or realising that there is a real risk or possibility” that the statement is false and that it may “engender feelings of hostility towards” or “cause hatred, contempt or ridicule of” the President or an acting President or the office of the President.

Section 33 also criminalizes making any “abusive, indecent or obscene statement about or concerning the President or an acting President...”



Offenses are punishable by a fine or imprisonment for a period not exceeding one year or both.

Both of the above provisions have undermined freedom of expression in Zimbabwe, with journalists and other citizens being arrested under these sections. Sections 31 and 33 are not compatible with Principle 22(2) of the Declaration of Principles on Freedom of Expression and Access to Information in Africa, which establishes that States shall repeal laws that criminalize sedition, insult, and publication of false news. Paragraph 30 of General Comment 34 also highlights that states should ensure that such provisions are crafted in a manner that conforms with the allowed limitations on freedom of expression as laid out in Article 19(3) of the ICCPR.



SECTION 22A OF THE CRIMINAL LAW CODIFICATION AND REFORM ACT as amended - Willfully injuring the sovereignty and national interest of Zimbabwe.

This provision was inserted through an amendment that was enacted in July 2023 and is popularly known as the “patriotic provision”. This Section criminalizes the participation in a meeting whether in person or virtually by a Zimbabwean citizen or permanent resident in a meeting which involves the following:

- * Military or armed intervention in Zimbabwe
- * Subverting, upsetting, overthrowing or overturning the Constitutional government
- * The planning for the imposition of sanctions or trade boycott over Zimbabwe



While this provision prima facie appears to be straightforward, concerns have been raised over its scope and vagueness, raising the potential for abuse. Such fears were underscored in the case of Evan Mawarire, a local pastor who was arrested and charged after calling for protest boycotts on Facebook and Twitter, complaining about the standard of living in Zimbabwe. From the time of gazetting of the amendment, this provision raised concerns nationally and internationally over fears that it could be used to curtail media freedom and freedom of expression, privacy, and other rights.

Cyber and Data Protection Act (2021)



The Cyber and Data Protection Act was passed, according to the text of the law, “to build confidence and trust in the secure use of information and communication technologies” (section 2).

This Act amends the Criminal Law (Codification and Reform) Act and introduces “cyber-related offenses”.

Section 164 criminalizes the publication and distribution of material online that incites violence or damage to property.

Section 164C criminalizes the spread of false messages online with intent to cause “psychological or economic harm.” (section 164(c))



SECTION 164 - Transmission of data message inciting violence or damage to property.



SECTION 164C - Transmission of false data message intending to cause harm

SECTION 164: Transmission of data message inciting violence or damage to property.



Any person who unlawfully by means of a computer or information system makes available, transmits, broadcasts or distributes a data message to any person, group of persons or to the public with intent to incite such persons to commit acts of violence against any person or persons or to cause damage to any property shall be guilty of an offence and liable to a fine not exceeding level 10 or to imprisonment for a period not exceeding five years or to both such fine and such imprisonment.



Section 164 has been criticized for being overly broad and vague, and has led to law enforcement officials arresting individuals for protected speech. Freelance journalist Hopewell Chin'ono (who has faced charges on several separate occasions) was arrested and charged under Section 164 on one occasion for publishing a tweet.

SECTION 164C: Transmission of false data message intending to cause harm



Any person who unlawfully and intentionally by means of a computer or information system makes available, broadcasts or distributes data to any other person concerning an identified or identifiable person knowing it to be false with intent to cause psychological or economic harm shall be guilty of an offence and liable to a fine not exceeding level 10 or to imprisonment for a period not exceeding five years or to both such fine and such imprisonment.



In 2022, two journalists from News Day were charged under Section 164C for their court reporting, but the case was ultimately not prosecuted.

Official Secrets Act (2004)



The Official Secrets Act (OSA) restricts access to state-held information, and therefore imposes serious limitations on the constitutional right to access information.

SECTION 4(1)

Section 4(1) criminalizes the disclosure of state secrets and official state information to anybody who “uses such information in any manner or for any purpose prejudicial to the safety or interests of Zimbabwe.”

SECTION 4(2)

Section 4(2) criminalizes the publication or communication of any material relating to “the preservation of the security of Zimbabwe or the maintenance of law and order by the Police Force or any other body or organization appointed or established by the Government for the purpose of assisting in the preservation of the security of Zimbabwe” in “any manner or for any purpose prejudicial to the safety or interests of Zimbabwe.”



Offenses are punishable by a fine or imprisonment for a period not exceeding 20 years, or both.

Interception of Communication Act (2007)



The Interception of Communication Act gives the government the authority to surveil communications without a warrant issued by a judicial authority. Instead, the law provides that a warrant is provided by the Minister of ICTs, Postal and Telecommunications Services.

The lack of judicial oversight puts journalists and their sources at risk of indiscriminate government surveillance.



SECTION 9(1)

Section 9(1) mandates that service providers ensure telecommunications systems are “technically capable of supporting lawful interceptions at all times” and services “are capable of rendering real-time and full-time monitoring facilities for the interception of communications.”

SECTION 12(1)

According to Section 12(1), telecommunications service providers must “provide a telecommunication service which has the capability to be intercepted.”

Censorship and Entertainments Control Act (1967)



The Censorship and Entertainments Control Act establishes a “Board of Censors” to “examine any article or public entertainment submitted to it” and to “make such inquiries as it may consider necessary in regard to any publication, picture, statue, record or public entertainment” that is prohibited (Section 4).

SECTION 13

A publication, picture, statue, or record is “undesirable” if it is “indecent or obscene or is offensive or harmful to public morals” or “is likely to be contrary to the interests of defence, public safety, public order, the economic interests of the State or public health” (Section 13(2)).

SECTION 14

Any publication, picture, statue, or record deemed “undesirable” by the Board of Censors is “liable to forfeiture and shall be disposed of as the Board may direct.” (Section 14(7)).



05 • MEDIA REGULATORY BODIES

ZIMBABWE MEDIA COMMISSION

Section 249 of the Constitution establishes the Zimbabwe Media Commission as the media regulatory body and sets out its roles and functions. [The Zimbabwe Media Commission Act, 2020](#) elaborates on the functions laid out in the Constitution and highlights the necessary structures and mechanisms to enable the Commission to exercise its powers to regulate the media.

The Commission's responsibilities include the following:

1. to uphold, promote and develop freedom of the media;
2. to promote and enforce good practices and ethics in the media;
3. to monitor broadcasting in the public interest and, in particular, to ensure fairness and diversity of views broadly representing Zimbabwean society;
4. to encourage the formulation of codes of conduct for persons employed in the media and, where no such code exists, to formulate and enforce one;
5. to receive and consider complaints from the public and, where appropriate, to take action against journalists and other persons employed in the media or broadcasting who are found to have breached any law or any code of conduct applicable to them;
6. to ensure that the people of Zimbabwe have fair and wide access to information;
7. to encourage the use and development of all the officially recognised languages of Zimbabwe;
8. to encourage the adoption of new technology in the media and in the dissemination of information;
9. to promote fair competition and diversity in the media; and
10. to conduct research into issues relating to freedom of the press and of expression, and in that regard to promote reforms in the law.

The chairperson of the Zimbabwe Media Commission is appointed by the President in consultation with the Committee on Standing Rules and Orders. The eight members of the Commission are also appointed by the President from a list of nominees submitted by the Committee on Standing Rules and Orders. It should be noted that the involvement of the President in this appointment process risks interfering with the independence of the Commission, which is contrary to the decision of the African Commission in the case of Open Society v Cameroon (2019) on the independence of media regulatory bodies from political interference.

BROADCASTING AUTHORITY OF ZIMBABWE

BROADCASTING SERVICES ACT (2001)

The Broadcasting Services Act (BSA) is the principal law regulating broadcast media in Zimbabwe. The BSA established the Broadcasting Authority of Zimbabwe as the regulatory body responsible for licensing broadcasters. Until recently, the state-controlled Zimbabwe Broadcasting Corporation was the sole broadcaster in Zimbabwe. In 2018, the Broadcasting Authority of Zimbabwe granted its second-ever broadcasting license to Zimbabwe Newspapers, and in 2020, it issued six new licenses to commercial TV stations ([read more here](#)).

The Broadcasting Authority of Zimbabwe is governed and managed by the Broadcasting Authority of Zimbabwe Board. According to Section 4 of the BSA, members of the Board are appointed by the Minister of State for Information and Publicity in consultation with the President. According to Section 4B(1), the Minister may advise the Board on “general directions relating to the policy the Authority is to observe in the exercise of its functions as the Minister considers to be necessary in the national interest.” As above, it should be noted here that this political appointments procedure poses risks to the authority's independence.



06 • FREEDOM OF THE PRESS AND ACCESS TO INFORMATION DURING ELECTIONS

Electoral Act (as amended)

The Electoral Act acknowledges the critical role of independent media during election periods. Journalists are expected to ensure the following:

SECTION 160J - Conduct of news media during an election period

1. all political parties and candidates are treated equitably in their news media, in regard to the extent, timing and prominence of the coverage accorded to them;
2. reports on the election in their news media are factually accurate, complete and fair;
3. a clear distinction is made in their news media between factual reporting on the election and editorial comment on it;
4. inaccuracies in reports on the election in their news media are rectified without delay and with due prominence;
5. political parties and candidates are afforded a reasonable right of reply to any allegations made in their news media that are claimed by the political parties or candidates concerned to be false;
6. their news media do not promote political parties or candidates that encourage violence or hatred against any class of persons in Zimbabwe;
7. their news media avoid language that—
8. encourages racial, ethnic or religious prejudice or hatred; or
9. encourages or incites violence; or
10. is likely to lead to undue public contempt towards any political party, candidate or class of person in Zimbabwe.

According to Section 160K, the Zimbabwe Electoral Commission, with assistance from the Zimbabwe Media Commission and the Broadcasting Authority of Zimbabwe, has the power to “monitor the Zimbabwean news media during any election period to ensure that political parties, candidates, broadcasters, print publishers and journalists” abide by the rules of the Electoral Act related to media coverage (Section 160K(1)).

Accreditation of journalists

Local and foreign journalists working in Zimbabwe must be accredited annually by the Zimbabwe Media Commission and the fees are gazetted through a statutory instrument. The media community has regarded the fees as in some cases excessive and disproportionate to the income levels of journalists.



These accreditation rules are **not in compliance with international standards**. The UN Human Rights Committee has declared that “general State systems of registration or licensing of journalists” are incompatible with the ICCPR and that “limited accreditation schemes are permissible only where necessary to provide journalists with privileged access to certain places and/or events.”

– UN Human Rights Committee ‘General comment No. 34’ (12 September 2011) UN Doc CCPR/C/GC/34 para 44

Accreditation during elections

Journalists who are accredited by the Zimbabwe Media Commission must also apply for accreditation by the Zimbabwe Electoral Commission to report on elections and electoral proceedings.

Section 239(i) of the Constitution grants the Zimbabwe Electoral Commission the power to accredit observers of elections and referendums. According to Section 40(1)(6)(c) of the Electoral Act, an observer who has been accredited by the Observers Accreditation Committee must pay an accreditation fee “as may be prescribed” and show his or her accreditation certificate to any electoral officer “who demands to see it”.



Concerns have been raised about the system of double accreditation of journalists, with civil society advising the Zimbabwe Electoral Commission to acknowledge the accreditation by the ZMC, as they are both Commissions established by the Constitution, or to allow double accreditation but without requiring double payment of accreditation fees.

Accreditation at polling stations

The Electoral (Accreditation of Observers) Regulations, 2013 sets out the requirements for accreditation and the conduct of accredited media practitioners at polling stations. Statutory Instrument 143 of 2022 (as of June 2023) amended Section 6(2) of the Electoral (Accreditation of Observers) Regulations, 2013 to increase the fees for accreditation. Officers have the authority to control the number of journalists at polling stations and constituency centers (Section 8). According to Section 9(4), accredited journalists are not allowed to take photographs inside the polling stations unless permitted by the presiding officer (Section 9(4)).

Regulations on media coverage of elections

The Zimbabwe Electoral Commission (Media Coverage of Elections) Regulations, 2008 regulates the conduct of broadcasters, print publishers, presenters, and reporters during an election period.

SECTION 8: Conduct of broadcasters, print publishers, presenters, and reporters during an election period

- Broadcasters and print publishers shall ensure that during the election period, news and current affairs programmes or features relating to the election in question are presented in a balanced, fair, complete and accurate manner.
- Broadcasters' and print publishers' presenters or reporters who are engaged during an election period in broadcasting programmes or publishing articles that present news and current affairs in connection with the election in question shall not—
 - * express their personal views in such programmes or articles;
 - * wear or exhibit symbols or colours or appear with clothes or insignia associated with any political party or other election contestant;
 - * accept gifts, favours or special treatment by political parties or other persons interested in the election that compromise their professional integrity.
- Journalists accredited to cover an election during an election period shall not do anything whether in the course of their duties or otherwise and whether by way of action, speech attitude or manner, that may compromise their professional integrity.
- Every broadcaster and print publisher shall afford political parties and candidates the right of reply where a report aired or published under the editorial responsibility of the broadcaster or print publisher contains inaccurate information or unfair criticism based on a distortion of facts, and such right shall be given within twenty-four hours in a programme or column of similar weight and audience.



07 • AFRICAN COMMISSION ON HUMAN AND PEOPLES' RIGHTS

In accordance with Article 55 of the African Charter, the African Commission can make decisions on complaints, known as communications, from anyone on compliance by states to the rights guaranteed in the African Charter. Though the recommendations are not strictly legally binding, Zimbabwe is expected to abide by the decisions of the African Commission.

SELECT DECISIONS FROM THE AFRICAN COMMISSION:



Williams v.
Zimbabwe (2021):
The right to
demonstrate and
petition vis-a-vis
freedom of
expression

Communication 446/13:

The African Commission held that the systematic crackdown by the government on public demonstrations and peaceful protests led by Women of Zimbabwe Arise (WOZA) violated the applicants' rights to freedom of expression. The African Commission noted that "any violation of the right to freedom of expression impacts on the full realization of other rights and freedoms enshrined in the African Charter and other international instruments" and concluded that Zimbabwe failed to show its restrictions were based on "legitimate grounds, including the need to safeguard national security public order, public health or morals."



Scanlen & Holderness v. Zimbabwe (2009): Decriminalization of offenses relating to accreditation and the practice of journalism

Communication 297/05:

On the government's decision to pass the Access to Information and Protection of Privacy Act, the African Commission ordered the government to repeal Sections 79 and 80, decriminalize offenses related to journalist accreditation and the practice of journalism, and adopt a legislative framework for self-regulation by journalists. The African Commission stated that "by preventing journalists from freely exercising their right to freedom of expression, [Zimbabwe] inevitably violates the freedom of expression of the Zimbabwean society by depriving the society the right to receive information due to the restrictions imposed on the journalists' right to disseminate information." The African Commission noted that adopting such restrictive legislation "aimed at or under the pretext of protecting public order, health or morals, is tantamount to imposing conditions for prior censorship."



Zimbabwe Lawyers for Human Rights & Associated Newspapers of Zimbabwe (2009): Suspension of media house for failing to register with a media regulator

Communication 284/03:

On the forced closure of the newspaper The Daily News for its refusal to register with the Media and Information Commission, the African Commission noted that the "action of [Zimbabwe] to stop the Complainants from publishing their newspapers, close their business premises and seize their equipment resulted in them and their employees not being able to express themselves through their regular medium; and to disseminate information." The African Commission stated that in a "civilised and democratic society," respect for the rule of law is also an obligation of the state. By resorting to the use of force as opposed to seeking a court order, the African Commission held that Zimbabwe infringed on the rights of the complainants.



Zimbabwe Lawyers
for Human Rights
v. Zimbabwe
(2009):
Deportation of
foreign journalist
for allegedly
publishing
falsehoods

Communication 294/04:

On the deportation of an American journalist for allegedly publishing falsehoods, the African Commission stated that the deportation arose from the publication of an article that Zimbabwe “did not appreciate” and that Zimbabwe “resorted to deportation in order to silence him, in spite [of] a court order” that he could stay in the country. The African Commission held that the journalist’s right to express himself in Zimbabwe as guaranteed by the African Charter was violated and asked Zimbabwe to rescind the deportation orders and grant accreditation to the journalist so he can continue his work as a journalist.



For additional information on the mechanisms of the African Commission, please download IPI’s The Foundations of Press Freedom in Africa resource toolkit.



08 • THE AFRICAN COURT ON HUMAN AND PEOPLES' RIGHTS

The African Court on Human and Peoples' Rights is based in Arusha, Tanzania. Established by a protocol to the African Charter on Human and Peoples' Rights (Protocol), the African Court complements the functions of the African Commission.

The African Court on Human and Peoples' Rights is based in Arusha, Tanzania. Established by a protocol to the African Charter on Human and Peoples' Rights (Protocol), the African Court complements the functions of the African Commission. The African Court has jurisdiction to deal with all cases and disputes submitted to it regarding the interpretation and application of the African Charter, the Protocol, and any other relevant human rights instrument ratified by the concerned States.



Zimbabwe signed the Protocol in 1998 but has not yet ratified it nor made the Declaration under Article 34(6) of the Protocol to accept the competence of the African Court to receive cases directly from individuals and NGOs. The African Court has therefore not considered any cases relating to Zimbabwe.



09 • SUBREGIONAL COURTS

Zimbabwe is a part of

- the Common Market for Eastern and Southern Africa (**COMESA**) and
- the Southern Africa Development Community (**SADC**).



The COMESA Court of Justice has not considered any cases relating to press freedom in Zimbabwe.



Since 2012, the SADC Tribunal can only determine cases reported by states against each other and hence no longer receives cases from individuals or companies.



For additional information on the mechanisms of the African Commission, please download IPI's The Foundations of Press Freedom in Africa resource toolkit.



10 • SELECT CASE LAW FROM THE ZIMBABWE COURTS

Constitutional Court



MISA-Zimbabwe and others v. Minister of Justice and others (2016): Criminal defamation

Landmark ruling declaring the offense of criminal defamation under Section 96 of the Criminal Law (Codification and Reform) Act as incompatible with freedom of expression protections under the 2013 Constitution and therefore unconstitutional and void.

Chimakure v. Attorney General (2014): Criminal law on reporting 'false news'

Ruled that Section 31(a)(iii) of the Criminal Law (Codification and Reform) Act criminalizing false statements that undermine public confidence in a law enforcement agency or the Defence Forces of Zimbabwe infringed freedom of expression rights protected by the former Constitution.

Madanhire v. Attorney General (2014): Criminal defamation

Declared the offense of criminal defamation under Section 96 of the Criminal Law (Codification and Reform) Act as unconstitutional and incompatible with freedom of expression protections under the former Constitution. According to the Court, "[i]t is inconceivable that a newspaper could perform its investigative and informative functions without defaming one person or another."

Supreme Court



Law Society of Zimbabwe v Minister of Communications (2004): Surveillance of communications

The court struck down sections 98(2) and 103 of the Postal and Telecommunications Act granting the President powers to intercept communications in the interest of public safety. The Court ruled that “[i]n the absence of such limitations and control mechanisms the powers conferred on the President are too broad and overreaching to be reasonably justified in a democratic society” and declared them unconstitutional. The Court highlighted that the provisions were an unjustifiable limitation on freedom of expression.

Chavunduka v. Minister of Home Affairs (2000): Criminal law on “false news”

Declared the criminal law on “false news” to be unconstitutional on the basis that it was unnecessary, too broad to constitute a law under the Constitution, and not “reasonably justifiable in a democratic society.” Judge Gubbay noted the “reality of being liable to criminal conviction and imprisonment for a period not exceeding seven years results very definitely in a curtailment of free expression.”

High Court



Zimbabwe Lawyers for Human Rights and another v. Minister of State for National Security and others (2019): On internet shutdowns

Held that an order by the Minister of State to shut down internet services under the Interception of Communications Act was unlawful and ordered all telecommunications service providers to restore full and unrestricted access to the internet.

Fanele Magele v. Ngwabi Bhebhe and Midlands State University (2016): The right to demonstrate and petition

The court held that the right to protest and demonstrate is protected by Section 61 of the Constitution, which guarantees freedom of expression and the “freedom to seek, receive and communicate ideas and other information.” The accused students had been suspended for passing on a WhatsApp message that called for mass student protests.

State v. Mawarire (2017): National security and public order versus freedom of expression

The judgment upheld the exercise of constitutionally protected rights to freedom of assembly and association, the right to demonstrate and petition, the right to freedom of expression, and the right to participate in peaceful activities, to peacefully criticize government policies. The accused person had been arrested and charged with contravening Section 22(2) (a) of the Criminal Law Code on subverting a constitutionally elected government and in the alternative Section 187(1) (a) on incitement to commit public violence stemming from his online videos.



11 • LOCAL RESOURCES AND ORGANIZATIONS SUPPORTING JOURNALISTS


Media Institute for Southern Africa (MISA)

- **MISA** is a non-profit organization that defends and promotes media freedom, freedom of expression and access to information. It has national chapters in eight countries in Southern Africa, including in Zimbabwe. MISA Zimbabwe launched a resource for the media called the Panic Alert Button.

Panic Alert Button:

A mobile phone app to help journalists in emergency situations. A tap on the red trigger button will send an SMS to select emergency contacts, alerting them of the journalist's current location. After one minute, the app will automatically call the emergency contacts.

 [Download here](https://tinyurl.com/misabutton)



MISA ZIMBABWE

ALERT BUTTON ANDROID APP

MISA Alert Button is an Android app which can help you in case of an emergency situation. In case of an emergency tap on the red trigger button which will cause the app to send an SMS to your preconfigured contacts.

Download it today on Google play store, or from the MISA Website <https://tinyurl.com/misabutton>

Google play

HOW IT WORKS GUIDE

Zimbabwe Lawyers for Human Rights (ZLHR)

- **ZLHR** is a non-profit human rights organization focused on upholding respect for the rule of law and the unimpeded administration of justice and the protection of constitutional rights and freedoms in Zimbabwe. Its team of lawyers, law students, and human rights legal experts engages in strategic human rights litigation and offers legal support to journalists and human rights defenders at risk. ZLHR has filed complaints on behalf of victims of human rights violations with local, regional, and international bodies. Internet.

Counseling Services Unit (CSU)

- **CSU** offers medical and psychological care for victims of organized violence and torture in Zimbabwe, including counseling services, victim support, and trainings.

Voluntary Media Council of Zimbabwe (VMCZ)

- **VMCZ** is media self-regulatory body set up by Zimbabwean journalists and civil society stakeholders to promote the principles of media freedom, accountability, independence, and ethical journalism. The VMCZ has a platform to receive and mediate complaints by individuals and organizations against journalists, media institutions, and media owners and publishers. All parties must voluntarily accept the authority of the Media Complaints Committee to adjudicate complaints and abide by the Code of Conduct for Zimbabwean Media Practitioners.