

Taking Stock of Media Self-Regulation in Zimbabwe: The Case of the Voluntary Media Council of Zimbabwe (VMCZ)

Elliot Muchena, Tsungirirai Shoriwa and Malvern Mugadzikwa

Elliot Muchena: Lecturer in Media and Journalism (Zimbabwe Open University)

Tsungirirai Shoriwa: PR practitioner in Zimbabwe and Masters in Media Studies student

Malvern Mugadzikwa: Reporter Zimpapers (Kwayedza)-Social Media Administrator (Kwayedza)

ABSTRACT: The study sought to assess the effectiveness of media self-regulation in Zimbabwe. The study was qualitative in nature and is a case study of the Voluntary Media Council of Zimbabwe VMCZ which is the country's sole media self-regulation body. It was largely concerned with establishing if the VMCZ has managed to distinguish itself as a media self-regulatory body in areas of dealing with media complaints, promoting professionalism and ethical journalism in Zimbabwe and to find out whether the VMCZ had gained enough traction within the Zimbabwean media landscape. The research also sought to find out the desirability of the VMCZ continuing to operate alongside the Zimbabwe Media Commission (ZMC) a state regulatory agency for the media. In depth interviews were conducted with the executive director of the VMCZ together with the chairman of MISA-Zimbabwe. An analysis of the VMCZ Media Complaints Analysis Report 2014 was also carried out. Two focus group discussions were held with 30 journalists drawn from a population of 150 journalists. The focus groups comprised 15 journalists each. The results from the research revealed that there is growing consensus among media houses that self-regulation is the way to go since all media houses in Zimbabwe, except those controlled by the State are members of the VMCZ. The study also noted that there is significant increase in the number of complaints being handled by the VMCZ. From starting with one case in the first year, the VMCZ, as of October 2014 had handled 35 cases. The study also concluded that the VMCZ was providing an efficient and cheap platform for complaints handling with ordinary citizens now able to get redress when aggrieved by media actions. However, the VMCZ still needs to do a lot of work in terms of awareness since most of the people approaching it reside in the country's major towns. It also needs to do a lot of lobbying for it to gain the requisite trust from the government. This will pave way for the joining of the State controlled media houses.

Keywords: libertarian theory, self-regulation

Date of Submission: 25-10-2017

Date of acceptance: 16-11-2017

I. INTRODUCTION

Media self-regulation in Zimbabwe is fairly a new concept considering that the operational media self-regulatory body, the VMCZ came into being in 2007. Before that, the Zimbabwean media had largely operated without proper regulation until in 2002 when the government passed a law to regulate the media. The law had very serious consequences for the media industry and thus awakened players from their deep slumber, resulting in them agitating for media self-regulation. The agitation for media self regulation culminated in intense debates and the eventual formation of the VMCZ.

Since then the VMCZ has been operational and running parallel to the state regulation. This paper will thus give an assessment of the VMCZ's effectiveness in ensuring media self regulation in Zimbabwe. In the end the researchers seek to come up with recommendations on how media self regulation can be effectively implemented in Zimbabwe.

II. BACKGROUND TO THE PROBLEM

In 2002 the Zimbabwean media, which had been operating without any regulatory body for decades, found itself staring in the face of the Access to Information and Protection of Privacy Act (AIPPA), which provided for, among other things, statutory regulation of media through the setting up of the Media and Information Commission (MIC) now the Zimbabwe Media Commission (ZMC). The act also introduced the compulsory registration of mass media houses as well as the accreditation of journalists. It also set out some chilling fines and prison terms for transgressions. In passing the act government argued that the Zimbabwe media had failed to self regulate hence the justification of government intervention. According to Bussiek

(2008) attempts by the Zimbabwean media to set up self-regulatory mechanisms in the 90s stalled and the Zimbabwean media took freedom of expression for granted.

The promulgation of AIPPA was initially resisted by media players who argued that the Act was tantamount to scuttling media operations in the country. The late firebrand legislator, lawyer and ZANU-PF politician, Eddison Zvobgo, who chaired Parliamentary Legal Committee then, presented an adverse report on the AIPPA bill saying it was ultra vires the constitution and likened the accreditation of journalists to licensing people to speak.

However, government went ahead and enacted AIPPA, leading to all media houses and practitioners complying with its requirements except for the Associated Newspapers of Zimbabwe (ANZ) which published the Daily News and the Daily News on Sunday. ANZ mounted a constitutional challenge of the Act at the Supreme Court but lost on a technicality after the Supreme Court ruled that ANZ had approached the courts with dirty hands and had to register first before it could be heard. Its titles were eventually closed in 2003 leading the loss of thousands of jobs. Other newspapers such as the Tribune and the Weekly Times also fell afoul of AIPPA and were closed down. This earned the then MIC the notorious tag of “Media Hangman.”

In 2007, media players in Zimbabwe gathered to launch the VMCZ to self regulate the industry. Their argument was that AIPPA was enacted without any consultation and that its provisions meant doom for the media industry and the only escape route was through self regulation just like in the case of other professions such as law and medicine. Former VMCZ executive director Takura Zhangazha (2012) said the VMCZ was established by journalists and media organisations for the purpose of promoting media self regulation against a repressive state.

The VMCZ was therefore formed with the objectives of safeguarding the independence and integrity of the media profession, promoting high ethical and professional conduct among journalists, serving as a medium of understanding between the media and the public and to monitor trends, course content and ethics in media training institutions. It also sought to offer advice and support to training institutions. The council was also mandated with the receipt, mediation and adjudication of complains by individuals and organisations against the media.

In pursuit of this, the VMCZ is operating alongside the ZMC. Zhangazha (2012) said this was co-regulation by political default. So far the council has handled numerous complaints against the media and adjudicated on them, sometimes handling matters which could have potentially sapped a lot of valuable time and financial resources through protracted legal battles.

III. STATEMENT OF THE PROBLEM

Since the inception of the VMCZ in 2007, no concrete studies have been carried out to assess the effectiveness of the body as a tool for media self regulation in Zimbabwe. Where such study have been carried out, they tended to be so generalised as part of a broader assessment of media self regulation in Africa. The question for this study then is to what extent is VMCZ effective as a medium of media self-regulation in Zimbabwe and as an alternative dispute resolution mechanism in cases where individuals or organisations have complaints against the media?

IV. THEORETICAL FRAMEWORK AND REVIEW OF RELATED LITERATURE

4.1 Libertarian theory

This study is driven by one of the normative theories by Siebert (1965) as he tried to explain the ideal situation for media operations. From the four identified theories i.e. the authoritarian, the libertarian, the social responsibility and the Soviet theories of the press, this study dwelt on the libertarian theory. Normative theories are said to provide a benchmark for media performance and accountability (Ungangu, 2012). These theories are concerned with the roles played by the media in any given society and the ideal conditions needed for those roles to be sufficiently executed.

The libertarian theory recognizes the freedom of the press and resents government interference in the affairs of the press. Karthik (2005) asserts that the essence of the libertarian theory of the press is that the press functions to tell the truth. He further asserts that the major argument behind the libertarian theory is that it is impossible for the press to properly execute its mandate if it is controlled by some authority other than itself. This thinking has the backing of Ostin and Fung (2002) who also argue that adherence to libertarian ideals involves an innate distrust of the role of the government in media issues. This innate distrust is what has driven media players to advocate for self-regulation.

4.2 Media self-regulation

Scholars on media self-regulation have drawn up various definitions and characteristics of the concept. Bartle and Vass (2005) said self-regulation is the regulation of conduct of individuals, organisations or groups by themselves. In self-regulation, regulatory rules are self specified, conduct itself is self monitored and the rules are self enforced. This is in concurrence with Castro (2011) who said self-regulation is a regulatory process whereby an industry level organisation sets and enforces rules and standards relating to the conduct of firms in the industry. Self regulation also implies that no external involvement or control in the regulatory process and the conduct of the regulated organisations (Bartle and Vass, 2005).

This line of thinking is supported by Pudephatt (2011) who noted that media self regulation is a combination of standards setting out the appropriate codes of behavior for the media that are necessary to support freedom of expression and processes of how those behaviours will be monitored or held to account. He says self regulation preserves independence of the media and protects it from partisan government interference.

Self-regulation can be contrasted with strong statutory or command and control regulation in which the State, by a variety of means, specifies the regulation, monitors and enforces the conduct of the regulated organisations, (Bartle and Vass, 2005). Bagott (1989) said in State regulation, the government's involvement may vary from tacit threats of its action to close monitoring and enforcement by a state agencies and there is no choice but to submit.

Berger (2010) says that media self regulation functions within the legal parameters of media freedom in a particular political order and systems differ from law enforcement and can function as an alternative specialized court or perform a mandatory and advisory function that handles issues not covered by the law, (Berger 2010). Bagott (1989) has however stated that, self regulation in itself is no panacea for the problem of direct regulation. In some instances there is a combination or blend of the statutory and self regulatory known as co-regulation (Palzer and Scheuer, 2004).

Regulation usually comprises three components. Campbell (1999) noted the three components as legislation, enforcement and adjudication. Legislation deals with the defining of appropriate rules while enforcement comprises the initiation of actions against violations. Adjudication then covers the process of determining whether a violation has taken place and imposing the corresponding sanctions.

Self-regulation entails the setting up of self regulatory bodies which carry out the three functions of legislation, enforcement and adjudication. Tetey (2002) said that media self-regulation institutions that monitor the conduct of the media are called Press Councils. The main duties of press councils are to accept complaints, verify if they fall within the code of ethics, to review complaints thoroughly, serve as a mediator between the media and complainants and then make fair rulings based on regulations.

However, there is another school of thought supported by the likes of Bagott (1989) who have asserted that self-regulation have remained a rather vague and elusive concept. Bagott (1989) said the reality of regulation is that there is a multiplicity of forms which do not fit easily into a small number of discrete categories. He believes that in practice there is some form of State involvement in most regulatory schemes even in many of those which are characterized as predominantly self-regulatory.

4.3 The case for media self regulation

Various reasons have been advanced to justify self regulation of the media. Most of the arguments for self regulation are usually proffered when the system is compared to state regulation. Kruger (2009) has argued that the media has always been described as the fourth estate alongside the executive, the judiciary and the legislature. The same author noted that the media can influence individual behavior, they set the agenda for public debate, they can make or destroy reputations whilst their power has been, for a long time, subject to intense academic debate. This makes the case for media regulation, be it statutory or self-regulation crucial as there are checks and balances on its power in society. If media are the watchdogs of other centres of power, then there is need for it to be held to account (Kruger, 2009).

Obuya (2012) said institutions such as the media, which monitor the state, must be held accountable for their actions. Thus the media, while serving as autonomous agents of accountability, are themselves not immune from operating within scrutiny and the answer lies in self regulation. It is therefore important for the media to be held accountable to the various publics they serve and be subject to necessary sanctions if they stray in discharging their responsibilities since there is no way a profession can obtain public support unless it is accountable and listens.

Liberal theorists of press freedom also believe that the press can be accountable to the public, hence the need for it to be freed from Government or statutory regulation. Osae-Brown (2012) has argued that the Governments, which the press are meant to watch over, cannot be allowed to dictate the rules by which they will be watched, hence the need for self-regulation. Osae-Brown (Ibid) says it is only self-regulation that can guarantee the accountability of the media to society. To him, both statutory and co-regulation cannot guarantee this need.

This notion has the backing of Edwards (2012) who stated that media self-regulation is derived from media's normative theory of social responsibility. According to Edwards (Ibid), the theory entails the free press acting responsibly towards the society it serves by means of self-regulation whereby the media voluntarily set up and subscribe to a code of ethics thus ensuring responsibility and in turn maintaining its freedom.

Kruger (2009) said while the claim to a right to self-regulate is common among professions, media self-regulation however differs from the way other professions such as medicine or law regulate themselves. These other professions regulate the individual practitioners and maintain a register. These bodies are usually established by statute, which is rare for media councils. Individuals such as lawyers and doctors found guilty of offending the rules can be struck from the roll thereby preventing them from practicing. On the other hand media self-regulation generally deals with news organisations, the employer, and relies on lesser sanctions.

4.4 Media self-regulation in Zimbabwe: the VMCZ

For years, the media in Zimbabwe had been operating without proper regulation either statutory or self. Proper regulation of the media started after the 2002 promulgation of AIPPA. AIPPA created the Media Information Commission (now the Zimbabwe Media Commission) as the statutory regulatory body for the media and responsible for among other things the registration of media houses and journalists.

In the wake of this statutory regulation, media then started efforts to self regulate since the statutory regulation proved untenable. Bussiek (2008) said the result of AIPPA was the closure of newspapers such as the Daily News, The Daily News on Sunday, The Business Tribune and, the Weekly Tribune. The Weekly Times was also shut down in its infancy.

Bussiek (2008) noted that the first attempts at media self regulation in Zimbabwe was in 1995 and the efforts collapsed in 1997. In 1999 another attempt at self regulation was initiated and was also still born. In 2002, the Government set up the Media and Information Commission giving birth to statutory regulation. Bussiek (Ibid) said before the statutory regulation, the Zimbabwean media had taken issues of press freedom and regulation for granted.

In June 2007, the VMCZ was formed with organisations such as the Media Institute of Southern Africa, the Media Monitoring Project of Zimbabwe and the Zimbabwe Union of Journalists taking a leading role in its formation. Its major mandate was adjudication, training on ethics and professionalism. Since then the council has been operating parallel to the ZMC. VMCZ former executive director, Takura Zhangazha (2012) said this state of affairs was "co-regulation by political default".

According to the VMCZ constitution, the council's objectives are safeguarding the independence and integrity of the media profession by ensuring effective and professional self-regulation in the print and broadcasting media; promoting the highest ethical and professional journalistic standards; serving as a conduit between government, other authorities and political parties on the one side, and the media on the other and monitoring media trends, and course content and ethics in media training institutions, and to consult and offer advice and support to such institutions in furtherance of the aims and objectives.

The constitution further lists the upholding and preserving the established constitutional freedom of expression and of the media. It also talked of upholding the right of the public to be accurately and fairly informed on matters of public and general interest, establishment, promotion and enforcement of the Code of Conduct of media practitioners, media institutions and similar bodies and providing an independent and effective channel through which to consider, investigate and resolve complains about the conduct of all media in general and to ensure adherence with the spirit and letter of the Code of Conduct as the other objectives.

Zhangazha (2012) said the VMCZ has been steadily increasing public understanding of media accountability, ethics, professionalism and freedom of expression. It now boasts of The Newday, Financial Gazette, The Independent, The Standard, The Daily News, The Weekend Post, NewZimbabwe.com, Iharare.com and the Daily News on Sunday as some of its members.

V. METHODOLOGY

This study was qualitative in nature and is an explanatory case study. According to Jensen and Jankowski (1991), qualitative research has been popular with mass communication research since the media is concerned with news and ideology and thus regulation itself, whether by government or self, is an ideological matter.

The researchers adopted a case study method as they wanted to explore and investigate real life phenomenon through detailed contextual analysis of a limited number of events or conditions and their relationship (Zainal, 2007). Our adoption could have been influenced by Yin (1984) who said a case study is an empirical enquiry that investigates a contemporary phenomenon within its real life context.

This study focused on the VMCZ as it is the only Zimbabwe's contemporary media self-regulation entity. The study looked at the VMCZ's complaints handling platforms so as to gauge the effectiveness of media self-regulation and as an alternative dispute resolution mechanism on media issues in Zimbabwe. The data was collected through the use of interviews, document analysis and focus group discussions. The three were used following Bowen (2009) who said in qualitative research, the researcher is expected to draw upon at least two multiple sources of evidence to seek convergence and corroboration.

The director of VMCZ and the chairperson of MISA were interviewed. The VMCZ director was key as the one running the operations of the council while MISA was very influential in the formation of VMCZ. Two focus group discussions was held with 30 journalists who were drawn from 150 journalists operating in Harare and who are members of the Harare Press Club. Each group had 15 participants. The VMCZ Media Complaints Analysis Report for 2014 was analysed.

VI. FINDINGS

The study looked at media self-regulation in Zimbabwe with the VMCZ as the case study. From the interviews and the focus group discussions held, the study has established that the VMCZ has distinguished itself as a neutral arbiter in solving complaints arising from stories published in the media. The study concluded that since its launch in 2007, the VMCZ has established itself as an independent and effective mediator and adjudicator of complaints against the media. The growth in the volume of cases the VMCZ handles in fact point to the effectiveness of media self-regulation in Zimbabwe. It points out to growing confidence in the media self-regulatory system.

The VMCZ has offered a cheap and quick dispute resolution mechanism for the media and its audiences and readers, which court litigations and State regulation do not provide. Ordinary citizens have found an accessible route to dispute resolution. This is evident in the Media Complaints analysis where in 2014, ordinary citizens accounted for 16 of the 35 complaints the Media Complaints Committee handled between January and October. This supports claims by Barker and Evans (2007) that self-regulation as a less formal approach allows ordinary citizens who do not afford legal representation to seek redress when aggrieved by media actions. The efficiency of the system is also confirmed by the conclusion of 23 out of 35 cases brought before the Media Complaints Committee between January and October 2014. The country's justice system, with its current case backlogs, will not offer such quick resolution to disputes.

It was also established that players in the media industry believe that the VMCZ should be given a chance to operate as the country's sole media regulatory authority. Interviewees and participants in focus group discussions really believe that there no longer exists a tangible reason for State regulation, hence the media should self-regulate like any other profession.

VII. CONCLUSION

It is also a conclusion of this study that the VMCZ has gained enough traction with the country's media organisations for it to claim regulatory authority. With all media houses, except, the State media being members and subscribing to the VMCZ Code of conduct, it is evident that most media houses have now reposed their faith in self-regulation as opposed to statutory regulation. The non-subscription of State media to the VMCZ serves to confirm assertions by Bussiek (2008) that the relationship between press councils and governments in most African countries remained precarious. The fact that the Media Complaints Analysis Report (2014) noted an 80% compliance with the council's directives is also another pointer of the growing authority of the VMCZ among media houses.

It was also established that through the VMCZ Code of Conduct and the Media Complaints Committee, the VMCZ has managed to help promote professional and ethical journalism in Zimbabwe. This is also evidenced by the rising number of people who now resort to the VMCZ for redress. On another note in some cases, complaints are not even formally adjudicated but are resolved through the intervention of the VMCZ secretariat. These less formal approaches hastens the speed of decision making.

The research also concluded that the VMCZ still have a lot to do to promote awareness. The geography of the complaints leaves a lot to be desired especially if one is to consider that all complaints handled by the council and covered in the Media Complaints Analysis report concerned people living in urban areas namely Harare, Bulawayo, Mutare, Bindura and Masvingo. This might imply that people outside these major towns are still unaware of the operations and activities of the VMCZ.

The research also confirmed some weaknesses of media self-regulation. State controlled media houses have refused to be part of the VMCZ and nothing can happen to them. Instead of being members, they selectively participate in programmes and complaints handling processes. This means these media houses' ethical conduct is effectively unregulated. This can pose challenges for the regulatory system.

VIII. RECOMMENDATIONS

From the study, the researchers recommend the following;

- That there is need for government to streamline the functions of the ZMC so that it gets confined to the registration of media houses and collection of the necessary levies. In terms of regulation, the Zimbabwean media needs to be allowed to self-regulate.
- That there is a strong need for the VMCZ to continue engaging government and help dissolve the seeming mistrust the government has on the VMCZ. This will pave way for State media to join the VMCZ.
- That the VMCZ intensifies its awareness activities so that it gets known beyond the major towns and cities.
- That the VMCZ spreads its wings and invest more on capacity building and training of journalists as a way of improving professionalism and ethical reporting.
- That media houses form a publishers association that can decide on whether to join the VMCZ or not rather than individual media deciding that on their own.
- That a mechanism be created to allow individual journalists to join the VMCZ in cases where the employer is unwilling so that the individuals can benefit from VMCZ activities and trainings.
- That the VMCZ should find ways of incentivising good journalism by launching awards or by producing quarterly rating reports.
- That the VMCZ should be proactive and initiate its own investigations where there is suspected breaches and not wait for complainants alone to initiate corrective processes.
- That the VMCZ should continue with its system where newspapers are ordered to make retractions if breach is confirmed and not adopt fines as fines may formalise the adjudication processes to the point where legal representation is required, which will undermine the accessibility of the complaint process.

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Elliot Muchena Taking Stock of Media Self-Regulation in Zimbabwe: The Case of the Voluntary Media Council of Zimbabwe (VMCZ)." *IOSR Journal Of Humanities And Social Science (IOSR-JHSS)* , vol. 22, no. 11, 2017, pp. 43-48.