



State of the Media Report 2005

In the Report:

Introduction

Media Environment

Print Media

Broadcasting

Telecommunications

Media Violations Statistics: 2005

❖ Introduction - 2005 socio-political environment

As the year 2005 drew to a close, the government of Zimbabwe, despite its pariah status arising from its dented human rights record, demonstrated its increasing paranoia, intolerance, unmitigated disdain and hatred for opposing views by seizing the passport of Zimbabwean publisher Trevor Ncube, arresting Voice of the People Communications Trust (VOP) staff and seizing equipment from the same organisation.

Immigration officials in Bulawayo seized Ncube's passport on 8 December 2005 upon his arrival from South Africa where he is also the publisher of the weekly Mail and Guardian.

No reasons were advanced for the unlawful action other than that Ncube who is the chairman of Zimind, publishers of the Zimbabwe Independent and Zimbabwe Standard weeklies, was on a list of Zimbabwean citizens whose passports were to be withdrawn.

Under the draconian Constitutional Amendment (No 17) Act, the government is empowered to seize the passports of citizens who undermine "national interests" during their travels abroad.

Ncube's passport was later released after the Attorney General's Office conceded that the seizure was unlawful following an urgent application filed with the High Court in which the publisher argued that the action infringed on his basic freedoms and rights.

Far from being embarrassed by the Ncube-fiasco, which drew international criticism and condemnation, barely a week later, the government descended on the offices of the VOP Radio station.

The police raided the VOP offices in Harare on 15 December during which they arrested three VOP workers Nyasha Bosha, Maria Nyanyiwa and Kundai Mugwanda and confiscated equipment, computers and administration files.

The three journalists were detained for four nights at Harare Central Police station before being released without being charged. During the raid which subsequently led to the arrest of VOP director, John Masuku, the police cordoned off the office premises, swept and combed the building with metal detectors, purportedly searching for broadcasting transmitters.

The VOP offices were bombed on 29 August 2002 during which property worth millions was destroyed. These measures are the very antithesis of a government that is aiming at consolidating democracy and build a capable state, which will foster increased access to information and socio-economic and political opportunities.

Of significance is the fact that these brazen actions against basic human freedoms and rights came to the fore in a year during which Zimbabwe held its parliamentary elections. An election year generates a lot of excitement and expectations on the socio-economic and political front for any country as it provides opportunities for reinvigoration and renewal of leadership and macro-economic policies that will chart and define a given nation's future.

Zimbabwe, which is experiencing severe economic and political problems since 1998, characterised by hyper-inflation and dwindling disposable incomes, held its sixth parliamentary elections in March 2005.

The March 2005 elections, however, failed to bring about the desired renewal and expectations as the post-election period witnessed the ruling Zanu PF failing to generate meaningful policies and ideas to arrest the country's economic decline.

As of December 2005, an average Zimbabwean family now needs \$13 (US \$ 163) million dollars per month for basics, up from about \$1,5 million the previous year with civil servants (teachers and nurses) taking home as little as \$3 million (US \$38) a month. The foreign currency shortages persist with motorists and industry going for months on end without receiving a single drop of fuel, necessary for industry and commerce. Unemployment remained firmly entrenched at more than 80 percent.

The leadership appeared lost for ideas on resuscitating the country's ailing agro-based economy amid reports of fresh farm invasions reminiscent of the violent occupations of commercial properties, which began in 2000. Inflation, which had dropped from 600 percent to below 200 in 2004, was now at 502 percent in December 2005 and was set to increase in 2006.

The launching of the controversial Operation Murambatsvina or Operation Restore Order in May 2005, dented any hopes of a government that is determined to correct its human rights record. Tens of thousands were made homeless after the government destroyed their makeshift shelters and businesses effectively killing the country's burgeoning informal sector. The operation resulted in the production of a damning report by the United Nations.

The UN Special Envoy Anna Kajumulo Tibaijuka, in her scathing report, said the operation was carried out in an "indiscriminate and unjustified manner, with indifference to human suffering, and in repeated cases, with disregard to several provisions of national and international legal frameworks".

Undaunted by the UN report slamming the country's human rights deficit and far from entrenching democratic practices, the Zanu-PF dominated parliament went ahead and passed the controversial Constitutional Amendment No 17 Bill.

Passed on 30 August 2005, the Bill reintroduced the Senate and seeks to restrict the travel of individuals deemed to be acting against the economic interests of the country or campaigning for sanctions abroad.

Among other contentious clauses, the Constitutional Amendment Act, strips the right to the courts by aggrieved parties in cases where their land has been acquired by the State. The only appeal allowed is for compensation for the improvements on land. This violates Zimbabwe's international obligations, particularly Article 7 (1) of the African Charter on Human and Peoples' Rights which states: *"Every individual shall have the right to have his case heard"*.

This right includes “the right to appeal to competent authority organs against acts violating his fundamental rights as recommended and guaranteed by conventions, laws, regulations and customs in force”.

While the government blames its economic misfortunes on recurrent droughts and international sanctions, it is these wanton violations of basic freedoms and rights, which have earned the country its pariah status. The World Economic Forum in its published assessment of the state of Zimbabwe’s competitiveness, ranked the country as the least competitive of the 117 economies studied.

As has become common, the police descended on demonstrators agitating for a new constitution and arrested the leaders of the National Constitutional Assembly.

Protests against the high cost of living were extinguished in similar fashion resulting in the arrest of leaders of the umbrella Zimbabwe Congress of Trade Unions.

The Senate project is largely viewed as a ploy to appease disgruntled members of the ruling Zanu PF party. Political analysts say the Senate project smacks of increasing paranoia and obsession with retention of power meant to curb divisions and dissent within the ruling Zanu PF’s rank and file and avert a dogfight for the highest office ahead of President Mugabe’s planned exit in 2008.

Little wonder, Zimbabweans expressed their misgivings with this state of affairs by largely ignoring calls for them to turn out in their droves for the senatorial elections held on 26 November 2005.

State media and independent observers reported widespread low voter turnout countrywide. Opposition MDC leader Morgan Tsvangirai had called for a boycott of the elections saying it would serve only to increase Mugabe’s power to doll out jobs and perks in the ailing economy. The new house has no veto powers over legislation passed by the ruling party-dominated Lower House.

The lowest voter turnout, since independence in 1980 was recorded during the senatorial elections with a percentage poll of less than 30 percent, clearly implying a snub by Zimbabweans against the status quo. This protest was largely attributed to the questionable relevance of the Senate, dwindling interest in the integrity of the ballot and the current economic hardships, among others.

❖ Media environment

Zimbabwe is far from conforming with its constitutional, regional and international obligations as mandated under the various charters and conventions it has signed, ratified and acceded to in order to foster and secure an environment that respects freedom of expression as a fundamental human right¹.

¹ Zimbabwe has so far signed, ratified or acceded to among others, the Windhoek Declaration of 1991, African Charter on Human and People’s Rights, Declaration of Principles on Freedom of Expression in Africa and the International Covenant on Civil and Political Rights.

This intransigence, which continues to impact negatively on media freedom, is amply demonstrated through the enactment and amendments to legislations that have a direct bearing on the exercise of the right to freedom of expression.

Not content with the wide and varied criticism against its restrictive media laws in the wake of the closure of four independent publications, harsh legislation designed to protect the executive from any form of criticism continues to find its way into the country's statutes.

The media both private and government-owned, however, cannot escape blame for failing to put issues pertaining to human rights on the national agenda especially where it pertains to social, economic, political and cultural rights. For instance, the media continues to pay scant regard on the imperative need to respect and highlight the rights of women in many media narratives.

This omission on the part of the media is most glaring when viewed against the backdrop of the Declaration on Gender and Development signed by SADC member states, including Zimbabwe, on 8 September 1997.

Despite the increasing number of women entering politics and marking their mark in business and hitherto male-dominated professions, the coverage of women or gender issues is still viewed from a male perspective.

The Declaration explicitly pledges to eradicate all forms of gender inequalities in the region. Sadly, the media, which is a critical tool in facilitating this process, does not seem to be paying critical attention on the need to reflect the giant strides that women have made in closing the gender disparities between women and men and indeed the challenges that are still in our societies for the advancement of women. There is, therefore, need for the formulation of commensurate gender media policies in order to give meaning and effect to the Declaration on Gender and Development and SADC quota system on 30 percent representation in the region's parliaments.

While cases pertaining to the harassment, arrests, vilification and assault of journalists working for the private media have declined compared to the period leading to the 2000 and 2002 parliamentary and presidential elections, respectively, the clamped legislative media environment is still far from the ideal. The decline in cases of media freedom violations is largely due to the absence of the critically informative Daily News and other newspapers such as The Tribune².

The enactment of the Criminal Law (Codification and Reform) Act and the tabling of the General Laws Amendment Act which seek to tighten sections of the Public Order and Security Act (POSA), speaks volumes of a government that is still to recover from the scare of the tightly contested elections in early 2000.

² The Daily News and The Daily News on Sunday were closed by the Media and Information Commission (MIC) on 11 September 2003. The Tribune on 10 June 2004 and The Weekly Times on 25 February 2005.

This comes on the backdrop of the enactment of the Broadcasting Services Act (BSA) in 2001, Access to Information and Protection of Privacy Act (AIPPA) on 15 March 2002 and the Public Order and Security Act (POSA) on 10 January of the same year.

These laws were put in place after the ruling Zanu PF's near defeat in the 2000 parliamentary elections which saw the government heating up its repressive engines to muzzle dissenting voices, control access to information and the electoral process.

Still reeling from the scare of the 2000 parliamentary elections, the government acted to tighten its screws on the media. This triggered an unprecedented wave of violence against journalists working for the private media and supporters of the opposition ahead of the 2002 presidential elections.

The intervening period saw a sharp increase in attacks against the independent media. The Daily News' premises were bombed on 22 April 2000 followed by that of its printing press on 28 January 2001.

Several foreign correspondents and journalists were either deported or barred from entering Zimbabwe. Pro-ruling Zanu PF militias seized numerous copies of independent newspapers; journalists and readers of the independent media were attacked, assaulted and detained, while private newspapers were banned from circulating in so-called Zanu PF strongholds.

These developments were not restricted to the print media alone. Scores of experienced journalists and broadcasters were retrenched at the then Zimbabwe Broadcasting Corporation, now Zimbabwe Broadcasting Holdings (ZBH) and replaced by juniors handpicked by then Minister of Information and Publicity, Professor Jonathan Moyo.

The retrenched journalists, broadcasters and other workers are still to receive their retrenchment packages some three years after they were made redundant³. This has seen the bulk of the retrenched workers virtually living from hand to mouth. Some of them have relocated to South Africa, the United Kingdom and United States.

This has seen the country's sole public broadcaster being manned by inexperienced personnel as evidenced by the poor quality of news and programme content. As for those still in ZBH's employ, they at times have to make-do with late salaries.

That alone speaks volumes on the trials and tribulations of working for both the private and government-controlled media in Zimbabwe. Security of tenure is never guaranteed as one can wake up one morning behind bars let alone without a job as independent newspapers are always at risk of closure.

Journalists working for the independent press have been variously referred to as agents of imperialism, sell-outs, enemies of the State and lapdogs of the former colonial master,

³ For more information on these cases contact the Zimbabwe Union of Journalists (ZUJ) on 00 263 (0) 11 807 800 or 00 263 (0) 91 859 485.

Britain, bent on derailing the land reform programme. These verbal attacks have provided the context of the levels of intolerance to media freedom and freedom of expression on the part of the government.

Only as recently as 3 November 2005, the government-run Herald, published an article laced with vitriol and hate language against veteran broadcasters John Matinde and Brenda Moyo, journalists Sandra Nyaira, Tichaona Sibanda and Blessing Zulu. These exiled media practitioners were referred to as “clowns and sellouts” determined to advance the agenda of Western imperialist propaganda.

For instance, a meeting organised by MISA-Zimbabwe under its Community Radio Initiatives in Dete, Matabeleland North was aborted after Thembinkosi Sibanda, a Zanu PF councilor said the organisers did not have police clearance in terms of the Public Order and Security Act (POSA). The public meeting attended by close to 1000 people, had been scheduled for 7 October 2005 at Dete Hall to brief residents on the Community Radio Initiatives and the concept of community radio stations.

It is against this background of intolerance that has seen at least 90 Zimbabwean journalists, including several of the nation’s prominent journalists exiled in South Africa, Namibia, United Kingdom and United States.

Unemployment, political violence and human rights abuses have fuelled a steady stream of emigration from Zimbabwe since the late 1990s bringing to an estimated four million Zimbabweans now living in the Diaspora, according to a study released in 2005 by the International Organisation for Migration⁴.

❖ Print Media

Criminal Law (Codification and Reform) Act

With the signing into law of the Criminal (Codification and Reform) Bill on 2 June 2005, it will be increasingly difficult for the few journalists who are still employed to perform their newsgathering tasks without fear or favour.

Zimbabwean journalists now risk spending 20 years in jail following the signing of the Bill into law as the new Act introduces harsher penalties than those provided for under POSA and AIPPA. A journalist convicted of contravening Section 31 (a) of the Act will be jailed for a period not exceeding 20 years or to a fine of up to Z\$2,5 million or to both such fine and imprisonment.

Under Section 15 of POSA, which is similar to Section 31 of the Codification Act, one is liable to a five-year jail term or alternatively a fine of \$100 000 or both imprisonment and fine. Section 31 (a) of the Act which is almost a regurgitation of Section 15 of POSA, makes it an offence for anyone inside or outside Zimbabwe to publish or communicate to

⁴ Source:[http://www.misa.org-Zimbabwe’s Exiled Press](http://www.misa.org-Zimbabwe's%20Exiled%20Press)

any other person a statement which is wholly or materially false with the intention or realising that there is real risk or possibility of any of the following:

- (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 the public confidence in a law enforcement agency, the Prison Service or the Defence Forces of Zimbabwe.
- (iv) Interfering with, disrupting or interrupting any essential service.

An offence will still have been committed even if the publication or communication does not result in any of the envisaged scenarios.

Section 31 (b) of the Act is an extraction from Section 80 of AIPPA, which deals with issues linked, to the publication or communication of falsehoods.

Under AIPPA, once convicted, one is liable to two years imprisonment or a Z\$400 000 fine. In terms of the Codification Act, once convicted under Section 31 (b), one is now liable to a 20-year jail term or Z\$2,5 million fine⁵.

Section 33 of the Codification Act is similar in all respects to Section 16 of POSA. It deals with “undermining the authority of or insulting the President”. It prohibits the making, publicly and intentionally, of any false statement (including an act or gesture) about or concerning the President or Acting President if the person knows or realises that there is a risk or possibility of endangering feelings of hostility towards or causing hatred, contempt or ridicule of him/her, whether in his official or personal capacity.

Article 19 of the International Convention on Civil and Political Rights (ICCPR), states that any restrictions on the right to freedom of expression must be reasonable, necessary and justifiable in a democracy.

Such restrictions should be proportionate and the harm to freedom of expression should not outweigh the benefits of the restrictions. In Zimbabwe, however, it is also an offence to make an abusive, indecent, obscene or false statement about the President, also in his official or personal capacity.

POSA imposes a fine of Z\$ 20 000 or a one year jail term or to both such fine and imprisonment. The Codification Act raises the fine to Z\$200 000 while the prison term remains the same.

Ironically confusing as it might appear, the governing party’s explicit intentions to narrow the democratic space were brought to the fore only in September 2005 following the tabling of the General Laws Amendment Bill.

⁵ By December 2005 75 000 Zimbabwe dollars were worth 1 US dollar.

General Laws Amendment Bill

Notwithstanding the enactment of the Codification Act, the Bill yet again seeks to tighten POSA by increasing the penalty fees against journalists convicted for publishing statements that undermine the authority of, or insulting the President.

The Bill, which seeks to amend several other Acts, including the amendment of 22 sections of POSA, has since been referred to the Parliamentary Legal Committee.

The proposed amendments seek to increase the fine imposed under Section 16 of POSA (referred to earlier), from \$20 000 to \$2 million. The penalty fees for those convicted under Section 15 will now be Z\$10 million or five years or both such fine and imprisonment. Unauthorised public gatherings for the purposes of rioting or causing disorder will attract a fine of Z\$10 million.

Secret Service Media Ownership Scandal

The ubiquity of this onslaught against basic freedoms gets murkier in the wake of reports that the country's secret service, the Central Intelligence Organisation (CIO) has acquired a controlling stake in the 'privately owned' Zimbabwe Mirror Newspapers Group, publishers of the Daily Mirror and Sunday Mirror.

This leaves the three financial weeklies, The Financial Gazette, Zimbabwe Standard and Zimbabwe Independent as the only untainted privately owned publications following the closure of the Daily News, Daily News on Sunday, Tribune and The Weekly Times.

The closures of The Tribune in June 2004 and The Weekly Times on 25 February 2005, by the Media and Information Commission (MIC) led by its blatantly partisan executive chairman Dr Tafataona Mahoso, dealt yet another severe blow on the few remaining alternative sources of information.

Accreditation – the case of journalist Kelvin Jakachira

Section 79 of AIPPA, states that the Media and Information Commission (MIC) may accredit journalists and issue press cards to those it has accredited. Accreditation is required annually.

The Commission determines whether one is qualified to practice as a journalist or not. In other words, there are no laid down criteria as to the nature of the qualifications as that is the discretion of the Commission, which is answerable to the responsible Minister and the Executive.

Journalists wishing to be accredited have to submit several documents, referees, e-mail and residential addresses to the MIC among several other sinister requirements. Section 79 contradicts Section 20 of the Constitution in that it restricts the exercise of the right to freedom of expression only to those that the responsible minister decides to

accredit or register. In other words it is the MIC which decides who can work as a journalist in Zimbabwe and not media houses themselves.

This bias of the MIC came to the fore following the acquittal of Kelvin Jakachira⁶, a journalist with the closed Daily News on charges of practicing journalism without accreditation.

In his evidence, Mahoso said he had rejected wholesale the applications filed by the ANZ journalists because the publishing company was not registered with the MIC as required under AIPPA.

Mahoso was non-committal if not evasive as to whether he had acknowledged receipt of Jakachira's application, let alone considered it as an individual application as required in terms of the law in question.

The magistrate, however, ruled that Jakachira did submit his application in time and had thus complied with the application procedures as stipulated under AIPPA.

The trial magistrate said that the state through Mahoso, had led unreliable evidence as to whether he had received Jakachira's application and whether a determination had been made and communicated to him as an individual applicant in terms of the law.

Even more revealing from evidence led in court, was the fact that the MIC, which is supposed to enjoy some kind of autonomy, does not even have its own private postal box but relies on the President's Office for its mail delivery service.

The state is still to decide on the fate of eight more Daily News journalists who were facing similar charges making it difficult for them to seek employment with the registered media houses as they first have to be accredited with the MIC.

The eight were expected to appear in court on 12 October 2005. The alternative is for them to freelance but that has its own risks as they will still be required to produce their accreditation cards upon entering certain areas to access information or interview public officials.

The resignation of veteran journalist Jonathan Maphenduka from the Commission on 18 August 2005 sheds more light on the biased nature of the MIC's decisions. Maphenduka resigned over what he described as the Commission's ill-advised decisions to close down four newspapers⁷.

"It must be obvious to all that the decisions of the Commission regarding those newspapers at this most opportune time is shorn of discretion and therefore ill advised and counter-productive," he said in his resignation letter.

The chances of these newspapers staging a comeback look bleak given the partisan nature of the MIC evidenced by the flimsy reasons it has advanced for closing them down in the first place, and subsequently refusing to register them.

⁶ Kelvin Jakachira was acquitted by the Magistrate's courts in Harare on 31 August 2005.

⁷ In terms of a Section 40 (2) of AIPPA the MIC board shall consist of no fewer than five members and not more than seven at least three of whom shall be nominated by an association of journalists.

The MIC, with the backing of the Executive, will do everything in its power to defer the return of the banned/suspended/closed publications, let alone allowing new players considered to be critical of the government, to enter the arena.

Revelations from affidavits filed before the High Court in the case in which ANZ is contesting the MIC's decision to refuse the media house an operating licence, give credence to assertions by MISA Zimbabwe that the MIC is a partisan body that does not serve the interests of a free media environment. The affidavits reveal that the Commission had in June 2005 agreed to license ANZ, but was forced to reverse the decision due to political pressure.

Maphenduka alleges in his affidavit, that the decision was made at a June 16 2005 meeting on the basis that there was no legal basis to deny ANZ an operating licence. According to Maphenduka, minutes of that meeting were not made available to the Commissioners following the delay of the announcement of the decision to license the ANZ and subsequent announcement that ANZ would not be licensed.

It is these developments, which vindicate and authenticate assertions that the MIC's is openly partisan and that a self-regulatory Independent Media Council should replace the government-controlled body.

The restrictive legislative environment notwithstanding, the poor working conditions ranging from poor salaries, low skills base due to inadequate investment in training resources and Information Communication Technologies, exacerbate the plight of Zimbabwean journalists.

This has affected morale and the quality of the stories with most journalists preferring to sell their investigative pieces to foreign media houses, or receiving "consultancy or settlement fees" to protect certain corrupt businesspersons from negative publicity.

The Zimbabwe Union of Journalists is, however, working towards setting up a National Employment Council which will specifically look into the working conditions of journalists with the aim of at least standardising salaries and perks.

MISA-Zimbabwe working with ZUJ, Independent Journalists Association of Zimbabwe (IJAZ), Media Monitoring Project of Zimbabwe, and National Editors Forum is pushing for the endorsement of a national code of ethics, which will pave way for the establishment of a voluntary self-regulatory media council as a parallel structure to the government-appointed MIC.

Submissions have already been made to the Minister of Information and Publicity and the Parliamentary Portfolio Committee on Transport and Communications⁸⁸.

MISA Zimbabwe has also lobbied through the submission of position papers, and will continue to pressure parliament to revisit restrictive legislation such as AIPPA, BSA and POSA with the view of having them amended or repealed to create an enabling environment for media freedom and freedom of expression.

⁸⁸ On 20 September 2005, ZUJ, MISA-Zimbabwe and the Media Monitoring Project Zimbabwe presented their submissions to the Parliamentary Portfolio Committee on Transport and Communications as part of efforts to press for the repeal/amendment of AIPPA, BSA and POSA.

However, MISA-Zimbabwe's work at the African Commission on Human and Peoples Rights (ACHPR) in the Gambia is bearing fruit. MISA-Zimbabwe working with IJAZ and the Zimbabwe Lawyers for Human Rights are challenging AIPPA, which the Supreme Court declared a constitutional law in 2003.

Continued lobby work with parliament has seen parliament producing adverse reports on the broadcasting environment in Zimbabwe with particular focus on the untenable position of the ZBH's entrenched monopoly of the airwaves.

The recent acknowledgements by government ministers that the BSA is not conducive to private investment in the broadcasting sector and should be reviewed to allow the entry of private players gives credence to MISA-Zimbabwe's campaigns to free the airwaves.

However, with the enactment of additional repressive anti-media freedom laws, Zimbabwe's democratic space is destined for further shrinkage as the measures being put in place can only be indicative of worse times ahead for media freedom and freedom of expression.

That coupled with the state-controlled Zimbabwe Broadcasting Holdings (ZBH) monopoly of the airwaves, adds to the skewed and fast shrinking media landscape.

❖ **Broadcasting Environment**

Since the enactment of BSA in 2001, no private players have been licensed to operate independent radio and television stations despite the government's commitment to the Windhoek Declaration, the African Charter on Broadcasting and the Banjul Declaration on the Principles of Freedom of Expression.

The refusal by the Broadcasting Authority of Zimbabwe (BAZ) to grant a commercial television licence to Munhumutapa African Broadcasting Corporation (MABC) brings into question the government's sincerity in opening the airwaves to private players. In August/September 2005, the BAZ ruled that the MABC had failed to demonstrate that it had requisite financial muscle to launch the project.

Investing in the broadcasting sector demands huge foreign capital injections and expertise.

The African Charter espouses editorial independence, plurality and diversity in the broadcasting sector, among other principles and provisions.

The Charter emphasises that governments should strive to promote an economic environment that facilitates the development of independent production and diversity in broadcasting.

However, the BSA, among other restrictions bans foreign funding and investment in the otherwise capital-intensive broadcasting sector.

Given the restrictive nature of the BSA where it concerns the issue of funding, licensing fees and ownership, the government's commitment to freeing the airwaves and invitations for applications for licenses, becomes a red herring.

To impose such restrictions notwithstanding the highly prohibitive licensing and frequency fees some of which is paid in foreign currency, smacks of hypocrisy where it concerns the government's commitment to opening the airwaves.

Far from complying with the SADC Guidelines and Principles, which call for equal participation of all citizens as well as allow all political parties access to the public broadcaster, ZBH continues to act as the propaganda mouthpiece of the ruling Zanu PF at the expense of other opposing views. ZBH has also failed to produce the long-awaited editorial charter⁹ as part of efforts to ensure that it performs its mandate as a public broadcaster. The charter would go a long way in educating the public on what is expected of a public broadcaster as it acts as a monitoring tool to check whether ZBH is serving its public mandate.

Thus Zimbabweans now tune into outside stations manned by Zimbabweans in the Diaspora such as SW Radio Africa, which beams from London, Voice of the People Radio (VOP) and Voice of America. Several other online editions have come on stream namely NewZimbabwe.Com, ZimOnline and ZimNews, to fill the void created by the closure of the privately owned publications.

It is therefore hoped that acknowledgments by the Deputy Minister of Information and Publicity that the BSA is a stumbling block¹⁰ to the entry of private players in the broadcasting sector, will go beyond mere rhetoric.

While the government has argued all along that one of the restrictions to the number of broadcasting stations that can be licensed is that of limited frequencies, with the advent of satellite communication, fibre optic among others, the world finds itself with a number of channels through which broadcasting stations can reach their audiences.

As opposed to simply looking at broadcasting media in a narrow political sense, the Zimbabwean government should seriously consider the immense economic benefits of an advanced media environment regardless of how critical it might be of the present or any future government.

Government's dillydallying on opening the airwaves has resulted in many Zimbabweans wasting millions in foreign currency to connect to foreign media outlets¹¹.

The broadcasting industry in Zimbabwe has the chance to benefit from the ICT revolution and contribute to the strengthening of democracy in Zimbabwe.

⁹ The editorial charter will espouse ZBH's mission and vision as a public broadcaster as well as act as a monitoring tool to check whether ZBH is fulfilling that mandate.

¹⁰ The Herald on 2 September 2005 reported that Deputy Minister of Information and Publicity Bright Matonga, criticised the Broadcasting Services Act (BSA) as a "stumbling block" to private investment in the broadcasting sector because of its inhibitive licensing and frequency fees.

¹¹ Zimbabwe has access to South Africa owned Multichoice satellite pay per view television channels.

Deputy Minister Matonga's concerns on the restrictive nature of the BSA should, therefore, translate into concrete steps towards creating a legislative environment conducive to the entry of private players.

This entails revisiting the contentious sections of BSA with the view to amending or repealing them to ensure that the Act falls in line with the vision of the African Charter and allow for the easy entry of new players into the broadcasting arena. And that an Independent Broadcasting and Telecommunications Regulatory Authority should be put in place through an Act of Parliament.

❖ Telecommunications

In a public notice on 2 December 2005, the Postal and Telecommunications Regulatory Authority (POTRAZ) withdrew the licence of TeleAccess¹² to provide fixed telephone services. POTRAZ said it had cancelled the licence because the company had failed to rollout its network as stipulated in its licence.

The project roll out was expected to commence in May 2003, but TeleAccess said it had failed to proceed accordingly due to the acute shortages of foreign currency. It also argued that fixed telephone wireless services were not a viable business proposition.

The company had therefore requested a revised licence that embraced Internet services and data provision in line with International Telecommunications Union's standards for it to operate as a sound business venture¹³.

Regrettably, Zimbabwe has not made any meaningful strides towards ensuring that its citizens gain greater access to ICTs in order for them to gain greater access to information, and the sustainable development benefits that would accrue from such technology being an everyday aspect of their lives.

It is incumbent upon the government of Zimbabwe to review and reform the laws that govern telecommunications in the country, with the intention of creating a single regulatory authority for broadcasting and telecommunications.

To ensure the full utilisation of ICTs and further the objectives of sustainable development as outlined in the Millennium Development Goals (MDGs), the government should review its position on matters that concern freedom of expression and freedom of information. This is argued in relation to the articulated roles that all governments are expected to undertake in order to promote the use of ICTs for development.

This cannot be undertaken in isolation of the review of the laws that currently underpin the telecommunications industry in Zimbabwe. The laws in question are the Postal and Telecommunications Act (PTA), BSA, ZBH Act and the Zimbabwe Broadcasting Act. MISA Zimbabwe, therefore, recommends that the Ministry of Information and Publicity in conjunction with the Ministry of Science and Technology, review the situation

¹² TeleAccess was licensed on 3 January 2003

¹³ TeleAccess has since filed a notice of appeal to the Minister of Transport and Communications challenging the cancellation of the licence in terms of Section 96 of the Postal and Telecommunications Act Chapter 12:05.

regarding access to information in Zimbabwe based on legislations such as AIPPA which pose serious impediments for ordinary citizens to access information from government departments.

This is also argued within the context that the World Summit on the Information Society (WSIS) Plan of Action, calls for the connection of all government departments, ministries and educational facilities to the World Wide Web in order to facilitate the free flow and access to information. ICT policy cannot, therefore be separated from the broader legislative environment under which the media and citizens have to access information.

This is as stated in Section C3 of the WSIS Plan of Action, where it states:
ICTs allow people anywhere in the world, to access information and knowledge almost instantaneously. Individuals, organisations, and communities should benefit from access to knowledge and information.

This will entail an urgent review of the Postal and Telecommunications Act, the Broadcasting Services Act and the Zimbabwe Broadcasting Act, otherwise the Internet will remain as one of the most expensive means of communication if not under-utilised and least developed in Zimbabwe.

❖ Media violations statistics 2005

As alluded to earlier, cases of media violations declined during the year under review not because the government had mellowed, but owing to the absence of the highly critical ANZ publications.

While the cases may have declined, the trend of the violations was similar to that of the previous year, 2004, as witnessed by the MIC's closure in February 2005 of The Weekly Times in a sequel to the closure of the Tribune in June 2004, almost a year after the ANZ publications had met a similar fate.

❑ Arrests / media law / litigations

Victim/concerned party	Issue	Date
AIPPA (Amendment) Bill	President Robert Mugabe signs the Bill into law. Under the Amendment Act is now an offence for unaccredited or suspended	7January 2005

MISA-Zimbabwe State of the Media Report 2005

	journalists to practice without accreditation. Journalists caught on the wrong side of the law now risk a two-year jail term	
Pius Wakatama, a renowned Zimbabwean newspaper columnist	Charged with publishing falsehoods under AIPPA after he allegedly repeated an allegedly false story published on 29 April 2002 by the now closed Daily News. Trial date set for 10 March 2005.	14 January 2005
Frank Chikowore, a freelance journalist	Arrested while covering a demonstration by the Women of Zimbabwe Arise (WOZA), a militant women's pressure group. Released without charges after being detained at Harare Central Police Station.	18 January 2005
Associated Newspapers of Zimbabwe (ANZ), publishers of The Daily News and Daily News on Sunday.	Judgment in the matter in which ANZ was fighting to resume publication reportedly set for 7 February 2005	27 January 2005
Opposition MDC secretary-general Professor Welshman Ncube	Accuses the Zimbabwe Broadcasting Holdings of sabotaging its election campaign programmes. ZBH executive director said the issue should have been directed to Transmedia, which is responsible for transmission.	10 March 2005
Associated Newspapers of Zimbabwe (ANZ)	The Supreme Court referred back to the Media and Information Commission for resubmission of its application to be registered. The court also upheld sections of AIPPA, which were being challenged by ANZ, as constitutional.	14 March 2005

MISA-Zimbabwe State of the Media Report 2005

Richard Musazulwa, correspondent with the weekly Standard newspaper	The trial in which Musazulwa was being accused of abusing journalistic privilege under Section 80 (1) (b) of AIPPA, was postponed to 25 April 2005. The charges followed the publication of a story on 29 August 2004 alleging that hungry Zanu PF had attempted to gatecrash a luncheon hosted by the Airforce of Zimbabwe in Gweru.	23 March 2005
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MISA-Zimbabwe State of the Media Report 2005

Toby Harnden, chief correspondent for the London Sunday Telegraph, photographer Julian Simmonds	Arrested and accused of covering the March 2005 parliamentary elections without official accreditation in terms of AIPPA as well as breaching the country immigration laws. Remanded in custody.	31 March 2005
SADC Election Observer Mission	The SADC criticized Zimbabwe's media environment and called on the government to create an enabling environment that allows for equitable access to the state media by citizens across the socio-political and economic divide. The call was made in Harare at the end of Zimbabwe's parliamentary elections held on 31 March 2005.	3 April 2005
Toby Harnden and Julian Simmonds	The pair filed an urgent application with the High Court for their release after they failed to appear in court three days after their arrest	4 April 2005
Davison Maruziva, Savious Kwinika, editor and reporter with the Standard weekly newspaper.	Charged with abusing journalistic privilege in terms of Section 80 (c) (1) of AIPPA. This followed publication of a story on 10 April 2005 alleging that some ballot papers had gone missing during the March 2005 parliamentary elections. Police said they would	20 April 2005

MISA-Zimbabwe State of the Media Report 2005

	proceed by way of summons after recording their warned and cautioned statements.	
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MISA-Zimbabwe State of the Media Report 2005

ANZ, publishers of the Daily News and Daily News on Sunday	The High Court dismissed ANZ's application seeking a declaratory order for its journalists to be accredited with the MIC in terms of the AIPPA. The ANZ ceased publication on 11 September after the Supreme Court ruled that it was operating illegal as it was not registered with the MIC	12 May 2005
Criminal Law (Codification and Reform) Bill.	President Robert Mugabe signed the Bill into law after it was passed into law by parliament towards the end of last year. Zimbabwean journalists now risk spending 20 years in jail if convicted for publication or communication of falsehoods, which may incite public disorder or public violence.	The bill was gazetted on 2 June 2005
Daily News journalists, Margaret Chinowaita, Taka Muparutsa, Conway Tutani, Darlington Majonga, Fanwell Jongwe, Pedzisayi Ruhanya, McDonald Dzirutwe and Cornelia Mabasa.	The eight journalists who worked for the banned Daily News were served with summonses to appear in court for practicing journalism without accreditation in terms of the Access to Information and Protection of Privacy Act. The journalists were expected to appear in court on 12 October.	13 June 2005
Willie Mponda, Editor of the Sun, a community	Charged with contravening Section 15 (1) (c) Chapter	16 June 2005

MISA-Zimbabwe State of the Media Report 2005

newspaper in Gweru.	11:17 of the Public Order and Security Act (POSA). This followed publication of a story in The Sun on 10 June 2005 that a Gweru woman had committed suicide after her two telephone shops were destroyed under the controversial clean-up campaign code named, Operation Restore Order.	
ANZ	The ANZ said it had filed its application to be registered with the Media and Information Commission in terms of AIPPA.	23 June 2005
ANZ	Simon Sipepa Nkomo, the ANZ chief executive told journalists in Harare that they would appeal the MIC's decision to deny them an operating licence.	20 July 2005
ANZ	The ANZ filed its appeal with the Administration Court following the MIC's refusal to grant them a licence. The ANZ says the MIC erred by refusing to duly register them on the basis of contravening sections of AIPPA in the absence of a successful criminal prosecution and conviction against the publishing company	27 July 2005

MISA-Zimbabwe State of the Media Report 2005

Willie Mponda, Editor of The Weekly Sun	Mponda pleads not guilty to publishing falsehoods in terms of Section 15 (1) (c) of POSA. The trial was adjourned to 11 August 2005 after charges had been read to Mponda.	3 August 2005
Kelvin Jakachira, journalist with the banned Daily News	Accused of practicing without accreditation in terms of Section 83 (1) Chapter 10:27 of AIPPA. Trial postponed to 11 August at the request of his lawyer.	4 August 2005
Kelvin Jakachira	Defence applies for his acquittal on charges of practicing journalism without accreditation.	11 August 2005
Willie Mponda, Editor of The Sun.	Mponda was convicted of publishing a false statement prejudicial to the State in terms of Section 15 (1) (c) of the Public Order and Security Act (POSA) following the publication of a story which claimed that a Gweru woman had committed suicide after the police destroyed her two telephone shops. He was fined Z\$100 000. The offence carries a five-year prison term, or alternatively both such fine and imprisonment.	12 August 2005

MISA-Zimbabwe State of the Media Report 2005

Ibbo Mandaza, publisher and editor-in-chief of the Zimbabwe Mirror Newspapers Group	Mandaza denied, in an interview with the SABC, any shareholding by the CIO in the Mirror Newspapers Group. The Zimbabwe Independent had published a story alleging the CIO controlled the newspaper company.	16 August 2005
Kelvin Jakachira, journalist with The Daily News	Magistrate dismisses application for his acquittal.	17 August 2005
General Laws Amendment Bill tabled before parliament.	The Bill seeks to amend several other Acts including 2 sections of POSA by increasing the penalty fees against journalists convicted of publishing statements that undermine the authority of the President. The present fine of Z\$100 000 will be increased to Z\$10 million or five years imprisonment or both such fine and imprisonment. The penalty fee under Section 16 which deals with undermining the authority of the President will be increased from \$20 000 to Z\$2,2 million or one-year imprisonment or both such fine and imprisonment.	6 September 2005
ANZ	The ANZ appeal in which it is challenging the government-controlled MIC's decision to grant them an operating licence is set for 21-22 September	16 September 2005

MISA-Zimbabwe State of the Media Report 2005

	2005 in the Administrative Court.	
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MISA-Zimbabwe State of the Media Report 2005

Ibbo Mandaza, CEO and editor-in-chief of the Zimbabwe Newspapers Mirror Group, publishers of the Daily Mirror and Sunday Mirror	Mandaza denies media reports that his newspaper group is controlled by Zimbabwe's secret service.	16 September 2005
ANZ	The matter that had been set for hearing in the Administrative Court for 21-22 September was postponed to an unknown date. This followed the MIC's strong objection to the presence of two assessors who presided in a previous matter in which the court ruled in ANZ's favour.	21 September 2005
Dr Ibbo Mandaza	High Court Judge Justice Bharat Patel suggested that a retired judge should hear the case in which Mandaza is contesting his ouster from the Zimbabwe Mirror Newspapers Group.	11 October 2005
Dr Ibbo Mandaza	Retired Chief Justice Anthony Gubbay selected to chair an independent labour panel to determine the suspension of Mandaza.	1 November 2005
Zimbabwe Congress of Trade Unions (ZCTU) leaders, Lovemore Matombo and Wellington Chibebe and Last Taribuka, a photographer with the ZCTU's mouthpiece, The Worker.	Matombo the ZCTU president and secretary-general Chibebe, were arrested together with 100 other demonstrators following demonstrations in Harare against the ever-rising cost of living. Taribuka was arrested while	8 November 2005

MISA-Zimbabwe State of the Media Report 2005

	covering the demonstrations.	
Dr Ibbo Mandaza	An independent labour tribunal set up to probe Mandaza's ouster from ZMNG fails to proceed with the hearings after parties to the dispute failed to agree on the need for independent arbitration.	22 November 2005
TeleAccess	In a public notice, TeleAccess said it is appealing against the cancellation of its licence to provide the country second fixed telecommunications services. TeleAccess said it is appealing to the Minister of Transport and Communications in terms of Section 96 of the Postal and Telecommunications Act Chapter 12:05 against the Postal and Telecommunications Regulatory Authority's decision to cancel the licence.	7 December 2005
Trevor Ncube, chairman of Zimind Publishers, owners of the Zimbabwe Independent and Zimbabwe Standard weeklies. Ncube is also the publisher of the Mail and Guardian in South Africa.	Ncube filed an urgent application for a High Court Order compelling the government to return his passport arguing that the decision was an unlawful act which infringes on his basic rights and freedoms.	12 December 2005
Three Voice of the People Workers, Nyasha Bosha, Maria Nyanyiwa and Kundai Mugwanda.	Arrested and detained at Harare Central Police Station after police raided their offices in Harare confiscating equipment, computers and administration files.	15 December 2005

Beaten

Victim	Incident/issue	Date
Frank Chikowore, freelance journalist	Assaulted and subsequently arrested by the police while covering a blitz on street vendors and suspected criminals in Harare's central business district. Released on 19 May 2005 without charges after spending a night in police cells at Harare Central Police Station	18 May 2005

□ Harassed / Threats/Kidnapped

Victim	Incident	Date
Weekly Times	The Media and Information Commission (MIC) threatens to close the Weekly Times for allegedly misleading the Commission on the thrust of its editorial policy.	5 January 2005
Jan Raath, Angus Shaw, Brian Latham, Harare-based foreign correspondents	Police raided the offices of the three foreign correspondents accusing them of spying and working without accreditation. The three were reported to have skipped the country following the raids. However, Raath and Shaw in Zimbabwe from where they continue to file their stories.	14 February 2005
Herald reporters	An unnamed policewoman threatened to beat up a news crew from the government – controlled national daily, The Herald covering a	17 February 2005

MISA-Zimbabwe State of the Media Report 2005

	traffic accident in which 14 people were killed. The policewoman had been incensed by an earlier story accusing the police of responding late to public calls that a man was lying dead at a shopping complex in Harare.	
Wilf Mbanga, editor and publisher of the London-based The Zimbabwean. Mbanga is also the founding CEO of ANZ, publishers of the Daily News and Daily News on Sunday.	MIC chairman Dr Tafataona Mahoso criticized Mbanga for producing a donor-funded newspaper which intends to undermine the existence of national and sovereign publications.	18 February 2005
DStv Subscribers	DStv subscribers in Bulawayo were asked by the police as to the source of the foreign currency they use to pay their monthly subscriptions. The police said they were justified to investigate cases where they suspect crimes were being committed.	17 June 2005
Hosea Chipanga, prominent Zimbabwean musician.	Accused and grilled by members of the Central Intelligence Organization for allegedly singing that President Mugabe would only vacate office upon his death.	5 August 2005
Dr Ibbo Mandaza, suspended founding chief executive and editor-in-chief of the Zimbabwe Mirror Newspapers Group.	Mandaza confirmed that the CIO had infiltrated the media house by wresting a majority shareholding through a company known Unique World Investments.	7 October 2005
Trevor Ncube, chairman of Zimind Publishers, owners of the Zimbabwe Independent and Zimbabwe Standard weekly	Immigration officials seized Ncube's passport upon his arrival from South Africa. Under the controversial Constitutional Amendment	8 December 2005

MISA-Zimbabwe State of the Media Report 2005

newspapers. Ncube is also the publisher of the Mail and Guardian in South Africa.	(No 17) Act, the government is empowered to seize the passports of citizens suspected of undermining “national interest” during their travels abroad.	
Voice of the People radio station.	Police raided the VOP offices in Harare, confiscating equipment, administration files and computers. The offices of the VOP which broadcasts on short-wave were bombed on 29 August 2002 during which property worth millions of dollars were destroyed.	15 December 2005

❑ Banned/Deported/ Denied work permit

Victim	Case	Date
The Weekly Times	MIC closed the privately owned publication barely a month after its launch citing “misrepresentation and non-disclosure of material facts by the owners.	25 February 2005
Radio Dialogue	Denied licence to operate a free to air commercial radio by the Broadcasting Authority of Zimbabwe. The BAZ ruled that in its application, Radio Dialogue had described itself as a community radio station but had proceed to apply for a free to air commercial radio licence in Bulawayo.	10 May 2005
National Constitutional Assembly (NCA), pressure group agitating for constitutional reforms.	The police barred the NCA from launching its album dedicated to agitations for a democratic constitution in	18 May 2005

MISA-Zimbabwe State of the Media Report 2005

	term of the Censorship and Entertainment Control Act. The album, Singing for a New Constitution, had been widely distributed despite the police ban.	
SW Radio Africa.	The station that broadcasts from London was forced to beam its last short-wave broadcast due to repeated jamming of its transmission signal by the Zimbabwean government. The station that is manned by Zimbabwean exiled in the UK is now broadcasting on medium wave which does not cover the whole of Zimbabwe.	2 June 2005
African Tribune Newspapers (ATN), publishers of The Tribune weekly newspaper	The Media and Information Commission denied ATN an operating licence saying the media house had failed to meet the requirements for re-registration in terms of AIPPA by failing to prove that it had the requisite capital to resume publication.	13 July 2005
ANZ	The MIC refused to register ANZ because it had contravened Sections 66, 72, 76, and 79 of AIPPA. The sections in question deal with the registration of a mass media service provider, operating without a licence and accreditation of journalists.	18 July 2005
Munhumutapa African Broadcasting Corporation (MABC).	The Broadcasting Authority of Zimbabwe (BAZ) denied MABC a licence to operate a commercial television station. The BAZ ruled that MABC	16 September 2005

MISA-Zimbabwe State of the Media Report 2005

	had failed to demonstrate that it had the financial muscle to operate such a venture. The MABC is appealing the BAZ's decision.	
MISA-Zimbabwe	Theminkosi Sibanda, a Zanu PF councilor in Dete, Matabeleland North Province, barred a meeting organized by MISA-Zimbabwe under its Community Radio Initiatives saying the police had not cleared the meeting.	7 October 2005
TeleAccess	The Postal and Telecommunications Authority of Zimbabwe (POTRAZ), cancelled TeleAccess' licence to provide fixed public telecommunications services in terms of Section 43 of the Postal and Telecommunications Act. POTRAZ said the licence had been cancelled after TeleAccess failed to provide the service by 1 May 2003 in terms of the licensing conditions.	29 November 2005
Associated Newspapers of Zimbabwe (ANZ), publishers of The Daily News and Daily News on Sunday.	The weekly Financial Gazette reported that the Central Intelligence Organisation had allegedly reversed a decision by the government-controlled Media and Information Commission to register ANZ. According to papers filed with the High Court, Jonathan Maphenduka, a former MIC board member, the regulatory body had on 16 June agreed to register	1 December 2005

MISA-Zimbabwe State of the Media Report 2005

	ANZ. ANZ is challenging the MIC's decision to deny it an operating licence to publish its titles.	
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❑ Victory

Parties	Matter	Date
Vincent Kahiya, Dumisani Muleya, Iden Wetherell and Itai Dzamara	The four journalists had been on remand for almost a year on charges of criminally defaming President Robert Mugabe. Magistrate Crema Chipere removed them from remand after the State failed to set their trial date.	.10 January 2005
Pius Wakatama, newspaper columnist with The Daily News	The State withdrew charges against Wakatama accused of publishing falsehoods under AIPPA after it failed to prove its case.	10 March 2005
Mark Chavunduka (deceased), and Ray Choto, editor and senior reporter with the Standard	The pair was paid more than \$20 million in damages and interest for the torture and unlawful arrest they suffered following publication of a story in December 1998 alleging an abortive coup plot by Zimbabwe National Army soldiers. Military personnel tortured the journalists following publication of the story.	5 April 2005
Toby Harnden, Julian Simmonds, journalists with The Sunday Telegraph	Norton magistrate Never Diza acquitted the two on charges of contravening AIPPA after the pair argued that they were in the country as tourists and not for purposes of covering the	14 April 2005

MISA-Zimbabwe State of the Media Report 2005

	March 2005 parliamentary elections	
Richard Musazulwa (deceased), correspondent with weekly private owned Standard	Gweru Magistrate Auxilia Chimburu acquitted him on charges of contravening Section 80 (1) (b) of AIPPA which deals with abuse of journalistic privilege. This followed the publication of a story alleging that hungry Zanu PF youths had attempted to gatecrash a luncheon hosted by the Air Force of Zimbabwe at Thornhill Airbase in Gweru. The magistrate ruled that the state had failed to prove its case.	2 May 2005
Bornwell Chakaodza, former editor of the privately owned weekly Standard newspaper, reporter Valentine Maponga.	The State dropped charges against the pair. The two were accused of publishing false statements prejudicial to the State under Section 15 (1) of POSA. This followed publication of a story on 16 May 2005 which claimed that the family of the slain Trojan Nickel Mine boss, Leonard Chimimba had blamed some unnamed government officials for his death.	18 August 2005
Kelvin Jakachira, journalist with The Daily News.	Harare magistrate Prisca Chigumba acquits Jakachira saying he had complied with the application procedures and the State's evidence was vague and confused.	31 August 2005
Jonathan Maphenduka, veteran journalist and Commissioner with the MIC	Maphenduka announced his resignation from MIC over what he described as its ill-advised decisions to close down The Daily News, Daily News on	7 October 2005

MISA-Zimbabwe State of the Media Report 2005

	Sunday, The Weekly Times and The Tribune. He tendered his resignation letter to George Charamba the permanent secretary for Information and Publicity on 18 August	
Trevor Ncube, chairman of Zimind Publishers which publishes the Zimbabwe Independent and Zimbabwe Standard weeklies.	The government released Ncube's seized passport after the Attorney-General's Office indicated that it would not be filing an opposing affidavit against his urgent application for its immediate release.	14 December 2005

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