

## **CHAPTER ONE**

### **1.0 Introduction**

The press in Zambia can be described as having been in a constant battle with all the three successive governments from that of President Kaunda, President Chiluba through to President Mwanawasa. The objective of this paper is to bring to light this battle which has been raging on from 1964 when the country attained its independence. From the current status quo obtaining in Zambia, this battle for a free press will probably go on for a long time to come. As the *SADC Media Law: A Handbook for Media Practitioners* rightly puts it, ‘...repression(s) still persist, which indicates that media freedom in Zambia is still not what it should be’ (2004:76).

The question which drives this study is: why does the Zambian press continue to engage in this battle even long after the country reverted to democratic dispensation? And yet, according to Makungu, ‘Democracy flourishes in societies where non-governmental and private actors have appropriate space and capacity to play their respective role and where there are opportunities for cooperation. Shaping an effective democratic system therefore, requires many steps and formation of strong media that contribute to democracy and development’ (2004:4). This, in Zambia is not the case as the media, especially private media, is largely considered and perceived by each government which comes into power as an ‘enemy’ or as opposition or worse still as a thorn to be plucked off.

It is the conclusion of this study enlightened by both quantitative and qualitative methodology that all the past three governments under review came to realise very quickly that information is power. While the Chiluba and Mwanawasa governments made a song and dance out of democratic values, they generally remained adamant on the formulation of media friendly policy and laws.

The wind of change which engulfed the entire country prior to the 1991 general elections, catapulted by a global movement towards democratisation, found a fertile ground in the

autocratic tendencies of President Kaunda who used the press as a megaphone of the party and its government. The Movement for Multiparty Democracy (MMD) castigated Kaunda on this score and preached about the need to entrench values of good governance in the new democratic dispensation and spoke about media freedom in their campaigns as one of those indispensable tenets of democracy. One would therefore be correct to argue that the MMD government came into power in 1991 mainly due to the promise of free information to ensure accountability and transparency and good governance. Phiri (2009) actually puts it more aptly when he writes; ‘The rhetoric was electrifying. Crowds were swayed, and so was the media fraternity. They were promises of a free media ....The hour had come for Zambians to say what they wanted’ (p.138).

This study reveals that eighteen years after the MMD came into power; the media environment is largely the reminiscent of the same laws as in Kaunda era. Oddly enough, these laws in Zambia are largely born out of the colonial period (Makungu, 2004).

### **1.1 Zambia’s profile**

The Republic of Zambia is a land locked country located in the Southern part of Africa. Until independence in 1964 it was known as Northern Rhodesia. The Democratic Republic of Congo is to the North, Tanzania to the Northern East, Malawi to the East, Mozambique, Zimbabwe, Botswana, and Namibia to the South, and Angola to the West. The capital city is Lusaka which is located in the Southern part of the country (wikipedia, free encyclopaedia). Zambia has most of its population concentrated around the capital and the Copperbelt to the Northwest. The total population stands at 11,668,000, according to the 2005 estimates while the 2000 census had put the population of Zambia at 9,885,591 with a GDP being estimated at \$13.025, according to the 2005 estimate (retrieved, Ibid.).

According to the material retrieved (wikipedia, free encyclopedia), Zambia was, for thousands of years, inhabited by khoisan hunter - gatherers until AD300, when technologically - advanced migrating tribes began to displace or absorb them (Ibid.). History reveals that they were sporadic visits of European explorers at the beginning of the 18<sup>th</sup> century which led eventually to the occupation by the British as a protectorate towards the end of the 19<sup>th</sup> century (Ibid.). Zambia later on gained its independence on 24<sup>th</sup> October 1964

with a new name Zambia, which was derived from the Zambezi River which flows through the country. With Dr. Kenneth Kaunda as its first president, Zambia quickly adopted one party rule with Kaunda being the main force dominating the political arena until multi-party elections in 1991. It was Fredrick Chiluba, a former Trade Union leader, who came to defeat Kenneth Kaunda when he convincingly won the 1991 presidential elections with his Multi-party Movement for Democracy (MMD) taking 125 seats in parliament out of 150.

## 1.2 Government

Zambian politics take place in a framework of a presidential representative democratic republic, whereby the president of Zambia is both head of state and head of government in a plural form multi-party system. The government exercises executive power, whilst legislative power is vested in both the government and parliament. Zambia became a republic immediately upon attaining independence in October 24, 1964 (wikipedia, free encyclopaedia).

Zambia is divided into nine provinces, each province is administered by an appointed deputy minister. Each province is subdivided into several districts with a grand total of 73 districts (Ibid.). The provinces are as shown in the map below.

**Map 1: Showing the provinces of Zambia**



### **1.3 Geography**

The Geography of Zambia is a flat rolling plateau, lying 900 to 1,500m above sea level. Eroded uplands, called the Muchinga Mountains, cross the Eastern part of the country; in some places they attain elevations of more than 1,800m. South east of the uplands lies the Luangwa Trend, an extension of the Great Rift Valley which is a series of trenches running through Eastern Africa (<http://geography.howstuffworks.com>).

The Zambezi River and its tributaries drain all of Zambia except the north east, which lies in the Congo Basin. On the Zambezi, along the Zimbabwe border, are Victoria Falls and Lake Kariba, a large reservoir impounded by Kariba Dam. Lake Bangweulu and parts of lakes Mweru and Tanganyika lie in the north western part of the country. Much of the land consists of Savannah - grassland dotted by tree and shrubs (Ibid.).

The climate is tropical, tempered in most places by the elevation of the plateau. There are three distinct seasons: cool and dry (May-August, hot and dry (September-November), and warm and wet (December-April). Through-out most of Zambia temperatures average between 16oC and 27oC the year round. June and July are the coolest months; October is the hottest. Rainfall varies from about 636mm in the South to more than 1,270mm in the North; almost all rich people are attracted to the new modern life in cities where life seems to be more comfortable and promising.

### **1.4 The political economy of Zambia**

According to John Craig (2000), Zambia's state enterprise sector was built up primarily in its first decade of independence (1964 – 1974). Craig posits that burdened with mono-economy based on production, led by President Kenneth Kaunda, the government pursued Import Substitution Industrialisation (ISI). The state played a direct role in implementing this strategy and entered into joint ventures with foreign corporations to establish a range of new industries. In addition between 1968 to 1972, Zambia enacted a programme of nationalisation, acquiring a controlling interest in many of the most important private sector enterprises, including the copper mining companies. By the mid- 1970, most of the main enterprises in

the economy were under state ownership and were held within the hierarchy of state holding companies, at the summit of which was the Zambia Industrial and Mining Corporation (ZIMCO).

For Craig, the performance of the state enterprise sector over the subsequent one and half decades proved to be disappointing as it fell into malaise of low profitability, under investment and high indebtedness. Craig argues that while the current orthodox view is that results are the inevitable consequences of state ownership, he says a number of more concrete problems can be noted which largely account for the experience of Zambia in this period. Among these was the decline in international copper prices which brought a prolonged recession to the entire economy, the weakness of Zambia's managerial resources and certain conflicting objectives which government sought to pursue through the sector.

By the mid-1980s, (<http://www.answer.com>), Zambia was one of the most indebted countries in the world relative to its Gross Domestic Product (GDP). The IMF insisted that the Zambian government introduce programs aimed at stabilizing the economy and restructuring it to reduce dependence on copper. The proposed measures included: the ending of price controls, devaluation of the Kwacha, cut-backs in government expenditure, cancellation of subsidies on food and fertilizer; and increased prices for farm produce. The removal of food subsidies caused massive increases in the prices of basic food stuffs and the country's urban population responded by rioting and protesting. In desperation, Kaunda broke with the IMF in May 1987 and introduced a New Economic Recovery Program in 1988. However, this did not help him or the nation and eventually moved towards a new understanding with IMF in 1989. In 1990, with the collapse of the Soviet Union and Eastern Europe (on which Kaunda's ideology, Zambian Humanism had been fashioned) Kaunda was forced to make a major shift: he announced the intention to partially privatize the parastatals. However, these changes came too late to prevent his fall from power, which were largely the results of the economic troubles (Ibid.)

According to the *SADC Media Law: A Handbook for Media Practitioners* (2004), the results of all this was a heterogeneous anti-Kaunda coalition which campaigned for the restoration of multiparty democracy in the country. By this time, people had already lost confidence with the style of President Kaunda's leadership. In the first place, essential commodities were scarce. Queues for the basic commodities like sugar and salt became the order of the day.

The mood in the country at the time was highly charged which only required a small spark to set the fire across the country. Kaunda therefore, had no option but to bow down to the mounting pressure in the country. He eventually announced the holding of the national referendum in which people were to vote whether to go back to multi-party politics (Mwanza, 1993).

Zambia reverted to a multi-party political system in 1990 after the amendment of the Republican Constitution. And, on 31<sup>st</sup> October 1991, elections were held which saw Fredrick T.J. Chiluba ascend to power with the Movement for Multi-Party Democracy (MMD). Prior to the elections, Chiluba had made it very clear to the electorate that he would privatize the economy including the sale of parastatal companies once voted into power (1993). Phiri (2009) adds that Fredrick Chiluba and the Movement for Multiparty Democracy (MMD) swayed the crowds and the media fraternity with their rhetoric. 'There were promises of a free media. The state-run broadcasting system would be privatised; so would the dailies' p.138). True to his words, Chiluba did just that when he came into office and put in place a capitalistic economy with private sector controlling the means and ownership of production. It suffices to say it is difficult to tell whether it was Chiluba's idea to take this economic route or it was done under pressure from the Western donor countries whose sympathy and support he might have been soliciting. It is highly probable that Chiluba was given this economic road map given the history of the cold war between the West and the former Soviet Union. Chiluba, arguably, had therefore to drive the Western lane of a free market economy (Mwanza, 1993).

On the media landscape, Matibini (2006) writes that MMD's key promises during the election campaign of 1991, was that it would rewrite the national Constitution to strengthen the protection of civil liberties and ensure the de-linkage of the Party and Government' (p.8). The Constitution Commission Review, known as the Mwanakatwe Commission Review (MCR), was set up by the then President Fredrick Chiluba which later released a report and recommendations emphasising that '...since democracy was a system of government rooted in the sharing and shaping of opinions, the free flow of ideas ought to be protected'(p.8). Sadly enough, the MCR was reduced to an academic exercise as government of President Chiluba rejected nearly all the recommendations (Cf. 2006).

## **1.1.0 BACKGROUND TO THE FREEDOM OF EXPRESSION AND FREEDOM OF THE PRESS IN ZAMBIA**

### **1.1.1 State of affairs in the colonial era**

It is virtually and practically impossible to talk about the freedom of expression and the battle for a free press in Zambia without taking a drive back into the colonial times. Phiri (2001) postulates that from a macro-historical perspective, it can be argued that the underlying dynamic, which gradually turned Zambia into a virtual autocracy after independence in 1964, stems from its colonial past, although augmented by the Zambians themselves. In the effort and pursuit to outdo the Boer, Portuguese and German expansion (<http://www.sardc.net/sd/sd>), and the British government sanctioned the British South Africa Company (BSA) in 1889 to administer the lands beyond the Limpopo. Headed by Cecil Rhodesia, the BSA Company moved into Southern Rhodesia (now Zimbabwe) and Northern Rhodesia (present day Zambia), signing concessions that granted it exclusive mining rights. The BSA Company was unable to reap enough from the two protectorates and decided to hand back administrative responsibilities of the territory to the British government in 1924 which in turn formed a Legislative Council excluding the majority African population.

In this administration, African workers were denied the right to belong to trade unions and were instead consigned to welfare societies. It was out of this arrangement that the Federation of Welfare Societies was born. Later, the Federation was turned into a political party named the Northern Rhodesia Congress, changed in 1951 to the Northern Rhodesia African National Congress led by Harry Nkumbula. Kenneth David Kaunda, a former teacher, was general secretary of the Party (Kasoma, 1986).

Kaunda eventually formed his own Zambia African National Congress (ZANC) which was later banned and its leaders thrown into jail. United Independence Party succeeded the former and rapidly grew in number and strength. UNIP hatched a 'master plan' of civil disobedience aimed at forcing the British Government to dissolve the hated Federation and grant Northern Rhodesia independence (Kasoma, 1986).

According to Zambia Press, Media, TV, Radio, Newspapers forum (2007), in Zambia the media has not always had a happy existence as elsewhere in Africa. The earliest newspapers

like the *Livingstone Mail*, in what was then known as Northern Rhodesia was aimed at the small white community. Africans were ignored, except in so far as they could be depicted as criminals or in other negative ways. Kasoma (1986) observes that '*The Mail* was clearly a newspaper for the White settlers. Editorially, it was their voice. Its editorial was written in the collective "we" which often referred to the settler community in Livingstone' (p.22). This is why when African nationalists started agitating for change in the 1950s and continuing into the 1960s, they could not count on newspapers, radio, or television to tell their story. During federation days, the federal government controlled radio and television outlets, which were used to demonize black nationalists and to tout the views of the federal government (Zambia Press, Media, TV, Radio, Newspapers forum, 2007). *Election Reporting Handbook* adds that the newspapers at the time, *Northern News*, and *Central African Post* slanted news against the black nationalists in their struggle for self-rule and independence. While criticism of certain aspects of government policy was not allowed, articles favourable to the nationalists' cause were censored. After independence in 1964, the new Zambian government, recognising media as an influential and effective vehicle for mass mobilisation, progressively acquired the *Zambia Mail* in 1965, and the *Times of Zambia* and the *Sunday Times of Zambia* in 1983. The government viewed the acquisition as one major means of controlling the editorial content of the papers, ensuring achievement of nation-building objectives and of promoting unfettered publicity of government policies and programmes (2007).

### **1.1.2 The press under President Kaunda (1964 – 1972)**

The first Republican runs from independence on 24<sup>th</sup> October 1964, when Zambia was born as a sovereign state under Kenneth Kaunda to 1972. The constitution inherited is what has come to be called the independence constitution. It has already been established that prior to Zambia's independence, the British imposed a state of emergence purely for political reasons and specifically to suppress the freedom of association and speech. Phiri (2001) rightly observes that the nature of the colonial political system at the time, effectively anathematized opposition parties in Northern Rhodesia. After independence, the state of emergence was renewed every three months, later every six months and finally indefinitely by Kaunda. Off-course Zambia was at war with Zimbabwe (then Southern Rhodesia), Mozambique, Angola and South Africa, all posed a danger to Zambia as they were at war as well. But the state of

emergence was also perceived to be a weapon against political opponents. Kaunda kept the emergence in force throughout his 27 years rule. According to Phiri, President Kaunda considered a multi-party political system a luxury the new state could not afford. He argued that multi-party politics unnecessarily divided people thus impeding national-building and national development. Instead, Kaunda pushed for the ideology of togetherness which found its expression in “One Zambia One Nation” and in that nation, one leader. With such slogans, Kaunda soon came to be referred to as Father and everyone praised and compared him to Moses in the Bible. This researcher actually sung a song in primary school which ran as follows: *Kaunda ni Moses, Kaunda ni Moses, ewapelwa amaka kuli Lesa atufumya mu chalo mubusha atupela ubuntungwa...*( Kaunda is Moses and was given power from high just like Moses to deliver the Zambians from the colonial shackles). This indoctrination soon made Kaunda slowly, but surely being seen as infallible. Slogans were coined which made him appear a demigod. Phiri gives an example of a slogan ‘*Kumulu ni Lesa, panshi ni Kaunda*’ (In heaven it is God, on earth, it is Kaunda) (2001).

The liberal democracy inherited from the colonial rule began to wane a way when on 22<sup>nd</sup> January 1968 the speaker of the National Assembly, Robson Nabulyato, refused to recognize the ANC as an official opposition in the assembly arguing that it was too small a minority to constitute an official opposition (Phiri, 2001). He pointed out that ANC could form neither a quorum to execute the business of the House nor a government (Ibid.). This move by the speaker, contends Phiri, had a lot of implications in both parliament and the nation. The decision, according to Phiri, ultimately destroyed the democratic process, since without an officially recognized opposition party; Zambia became a *de facto* one party state. In fact Kaunda was reported as having stated categorically that he promised to pursue economic reforms in order to show that it pays to belong to UNIP (Ibid.). It was therefore no surprise that Kaunda re-organized and changed the relationship between the party and the government. Henceforth, the party was supreme over the government. The ‘It Pays to Belong to UNIP’ came with such a force that if you did not have a UNIP card, then you were subjected to all kinds of human rights abuses. Phiri (2001) mentions, for example, that women without UNIP cards were barred from entering markets and shops. Men without UNIP cards found themselves walking to and fro work as empty buses drove away (Phiri from Africa Confidential, February 1972).

According to the Zambia Press, Media, TV, Radio, Newspapers forum, (2007), President Kaunda thought the media had one purpose: to serve and propagate his policies and those of the ruling UNIP. Press freedom was an alien concept. At the beginning of UNIP rule, the print media was privately owned. Once in power, Kaunda changed all that. He effectively took over control of radio and television and started after the print media, arguing that the media's role was to transform society, in line with government policy. Over time, Kaunda appointed the head of the broadcasting facility. He also appointed, promoted, and fired the editors-in-chief at the *Zambia Daily Mail* and the *Times of Zambia*. Under those conditions, the print media could not afford to be critical of Kaunda, UNIP, or the government.

The *Times of Zambia* once carried a leading story about the harmful effects of the government's approach in dealing with members of the opposition. According to Phiri, this brought a wrath of Kaunda on the Editor who, in January 1972, was immediately replaced by Vernon Mwanga as new Editor - in Chief with a stern warning to Mwanga that the government was expecting not be confronted with the same thorn in the flesh again (2001).

With the freedom of the press stifled, in February 1972, Kaunda announced the Cabinet's decision to establish a one-party state in Zambia through constitutional change (Phiri, 2001). Though the Commission was set up under the Chairmanship of the Vice-President, Mainza Chona, it is argued that most of the findings were not reflected. In fact, Phiri posits that the Commission itself had very minimal public contribution and debate. In any case, the government went ahead with its white paper thereby excluding most of the Commission's recommendations, which Phiri says would have made Zambia's 'one party participatory democracy' with at least some semblance of democracy.

In August 1972, the Government organised in Lusaka the first ever-national mass media seminar. Makungu writes that the two-day conference was attended by nearly all the country's journalists from the print and electronic media, information officers and public relations personnel. In his address at the seminar, President Kaunda accused journalists of failing to reflect Zambian society and of often conducting themselves as if they were an alternative government, and declared that from that day onwards, the mass media would be an instrument of nation-building. The seminar unanimously endorsed the President's remarks and issued several recommendations ((Makungu, 2004).

In the end the Constitutional changes which ushered in the Second Republic reinforced party control over the presidency, while simultaneously provide for greater presidential control over the party. This, according to Phiri, contradicts what Kaunda had suggested in March 1972 that ‘one-party participatory democracy’ would end the politics of patronage. The reverse, was in fact the truth (Phiri, 2001).

The Bill was signed and enacted on December 13, 1972. Under this Bill, no person was allowed to attempt to form a political party or organization other than UNIP. Furthermore, no one was allowed to belong to or assembly, associate, express opinion or do anything in sympathy with such political or organization (Ibid.).

At independence, (Zambia Press, Media, TV, Radio, Newspapers Forum, 2007), it has to be recalled; Zambia Broadcasting Service (ZBS) came into being as a single-channel television outlet. It was loosely patterned after the British Broadcasting Corporation, meaning it was supposed to be autonomous, nonpartisan, and objective. In practice, ZBS quickly followed in the path trodden by other broadcasting outlets in most African countries—it became a state-run institution that tended to report news only from the government's and ruling party's perspective. Phiri writes that ‘... the state-run and only broadcasting entity, the Zambia Broadcasting Service (ZBS) parroted the messages of the government.’ (2009:136). Opposition views were absent from ZBS radio and television news. Kaunda and the ruling party saw the broadcast media as handmaidens of the government and UNIP, there to propagate and spread, uncritically, pro-government views and policies. In the Kaunda view, which was shared by many African leaders, opposition parties were enemies whose views should never be published or spread by the media (Zambia Press, Media, TV, Radio, Newspapers forum, 2007).

With one-party state securely in place, Kaunda was made *de facto* life President with a slogan ‘**one Zambia one nation: one nation, one leader, and that leader, Kaunda, Kaunda wamuyaya**’ (Phiri, 2001).

### **1.1.3 The press under President Kaunda (1972 – 1991)**

The second republic was ushered in 1972 when the constitution was changed making the country a one-party state under UNIP. Politically, this marked the cessation of competitive party politics. Political dissent was strongly suppressed.

According to Powers and Phiri (2001), the change in constitution saw most private companies, including media, transfer into state hands: as a policy of Kaunda, private companies were either totally nationalized or were turned into parastatals with the state holding 51 percent shares (Banda, 2001). Thus under one-party state, state power was highly centralized.

Powers and Phiri (2001) argue that the centralization of power was carried into the press policies to the extent that the media failed to gain autonomy during Kaunda's one-party rule. Kasoma (1986) also shows that attempts by individuals and groups to establish an independent press were made in the late 1970s through 80s but failed miserably. Kasoma therefore observes that by the mid - 1980s the only media outlet that continued to challenge the status quo was the church-run newspaper the National Mirror (1986). It is clear, Phiri contends, that even after breaking from colonial rule, power in Zambian government and media systems remained highly centralized and controlled by Kaunda's ruling party, thus limiting true freedom and independence.

Jong-Ebot and Eribo (1997) add to the argument that the press under Zambia's one-party state had almost been under the control of government. What followed was a period of almost total subjection of the country's media although journalists did not give in easily without putting up a series of fights. The battle for a free press in Zambia by journalists among others has not been an easy one. By the time Kaunda was defeated in 1991, the Zambian press had become the "Kaunda Press" publishing mostly news and views which Kaunda and his henchmen wanted excluding any information which may be frowned upon. Phiri (2009) is aware of this when he quotes UNESCO's 1972 definition of 'sets of principles and norms established to guide the behaviour of communications systems', which in this case, according to Phiri emanated out of the Kaunda-centred deliberations of UNIP's Central Committee and was imposed on the media. He adds that the fact that Ministry of Broadcasting and Information doubled as the source of 'national guidance' says it all. Indeed government was no longer 'confronted with thorns in the flesh' by the media. The media was

effectively turned by Kaunda into a parrot. Like Soviet Communist press or an authoritarian press, the media in Zambia turned to be subservient to the government and was never allowed to criticize it. A lot of things went unchecked and unchallenged including falsehood and propaganda. This made Kaunda and to some extent UNIP to be worshiped by the citizenry. There was nothing which was said on the radio or television without the party attaching or mentioning UNIP slogan reminding the people that UNIP was a pillar of the nation or its leader. Kaunda was indeed the Father and leader of the country.

Phiri (2001) quotes Larry Diamond and Dennis Galvin (1987) who saw Zambia as an authoritarian one-party state manifesting 'somewhat greater political freedom'. But Phiri argues that in the absence of legally constituted opposition parties, this freedom was largely a fallacy. His argument is sustained when he quotes S.E. Finer (1970:441) who noted that 'without the freedom of association, it is impossible to see how (people) can get together in order to put up the candidates who represent their opinions'. In fact Phiri's position seems to be supported by many when he says that lack of political freedom (in Kaunda era) was the frequently cited example of the many evils of one party state rule (Phiri, 2001).

It is argued that there are six basic features that distinguish an autocracy from a liberal democracy. Liberal as in a political system characterized by regular and free elections in which politicians organized into parties compete to form government, the right of virtually all adult citizens to vote and by guarantee of a range of familiar political and civil rights (Sandbrook, 1988).

An autocratic political system, on the other hand, is, according to Phiri (2001), characterized by the following features:

- 1 An official ideology;
- 2 A single mass party typically led by one man;
- 3 A technologically conditioned near complete monopoly control of all means of effective mass communication, such as the press, radio and television;
- 4 A similar technologically near-complete monopoly of control of all means of effective armed combat;
- 5 And central control and direction of the entire economy through bureaucratic co-ordination of its formerly independent corporate entities.

Phiri sees all these features characterized in Zambia's seventeen-year one-party state under Kaunda. Kaunda gave Zambia's official ideology Humanism. This was officially proclaimed and launched in 1965 by Kaunda himself. The declaration of one party state in 1972 was done against protests from the African National Congress (ANC) amid fears of harassment by the much dreaded special branch. According to *Zambia Daily Mail* (3<sup>rd</sup> February 1993), the Special Branch officers operated like people who were above the law. These interrogated suspects in a secrete place where nobody knew. The party and its government, aided by several units of the state, had total control of mass communication (Phiri, 2001). They also controlled and directed the economy through bureaucratic co-ordination provided by the Industrial Development Corporation (INDECO) and the Zambia Industrial and Mining Corporation (ZIMCO) - the two giant corporations set up following the 1965 and 1969 Economic Reforms. President Kaunda was initially the Chairman of this pyramid of ultimate political control of the economic activity (Ibid).

As for the freedom of the press in the second republic, Turo (1992) described the Zambian press under Kaunda when he wrote.

While Kaunda's regime was not vicious as many in Africa, the need to keep one's mouth shut and opinion to oneself was substantial. Individuals might speak out here and there, only to be met with public threats from the president himself if the individual was prominent enough. Zambia basically became a society of gossip and speculation based on rumour. "Meeting at night in private house" was one of the most seriously allegations that could be made. Yet permission to meet openly was refused and it was near impossible to publish a dissident newsletter or journal (Turo, 1992:15).

During the second republic (1973 – 1990), the party in power, UNIP and the One Party State regime was in full control of the print media – *Times of Zambia*, *Sunday Times*, *Zambia Daily Mail* and the *Sunday Mail*. In addition, the government was in full control of the Zambia Broadcasting Corporation, which operates the nation-wide radio and television stations. The effect of such control and ownership by government resulted in the editorial content of newspapers being kept to the barest minimum, if any. In this regard, dissenting political views, though justifiable, were negatively presented (Election Reporting Handbook, 2000).

As already stated, Kaunda did not want the press to be critical of his government policies and actions maintaining that the press had to be a partner in development instead of behaving like opposition to the government (Phiri, 2001).

But, by the late 1980s, the one-party state's grip on the country began to wane paving way for multi-party democracy and the possibility of pluralism (Powers and Phiri, 2001). According to Mwanza (1993), the wind of political change that began to blow across the Zambian political scene in 1990 had, to some extent its roots in the political changes in Eastern Europe. With the fall of the Soviet Union, capitalism and democratization driven by the West began to affect Zambia as well. Zambia was already a fertile ground for the Western driven democratization after a long East/West ideological rivalry.

For fifty years the world lived under the shadow of the Cold War fearing a fatal confrontation between the American and Soviet Union. But the fall of the Soviet Union on Christmas day 1991, officially ended the 45 years Soviet-American conflict. Mwanza describes this fertile ground for democracy in Zambia as 'a highly charged mood' (1993:13) because the people were already anti Kaunda with his one-party state. According to Mwanza, it only required a small spark to set the fire across the country (Ibid.). Given this volatile situation at the time, the then President Kaunda interpreted well the *Kairos*. He immediately announced the holding of the referendum to be completely sure whether the country truly wanted to revert to multi-party politics. Kaunda missed no word in declaring that he would vote for the retention of one party system (Ibid.). However, the mood for change was so charged that there were some voices in some quarters which were agitating for going straight to multi-party system by simply removing Article 4 of the Republican Constitution which barred the formation of other political parties besides UNIP (Mwanza, 1993). This direct attack on the one-party state made Kaunda concede to the wind of change which had already engulfed, seemingly the whole country by declaring Zambia a multi-party democracy before even repealing Article 4 of the constitution.

With the amendments to the Republican Constitution, Zambia saw a return to multi-party politics with the Movement for Multi-party Democracy (MMD) leading in popularity compared to the many political parties which had begun to mushroom in the country. The UNIP government then and the MMD party reached a consensus on the draft constitution led by Professor Patrick Mvunga (1993). This is what definitively gave birth to the multi-party democracy in Zambia.

#### **1.1.4 The press under President Chiluba (1991 – 2001)**

Following the 1990 constitutional amendment that legalized multi-party politics, competitive elections were held on 3<sup>rd</sup> October 1991 which was judged to be relatively “free and fair” by the number of observer teams. Zambia, according to Mwanza (1993) was literally set ablaze with mushrooming of newspapers with a strong bias against UNIP. These elections attracted international observers and monitoring groups who teamed up with local churches in ensuring that the elections were free and fair. For the first time in Zambia, there grew an atmosphere of issue based politics which were mainly encouraged by the free press. Mwanza describes this situation as the greatest assert in the new political dispensation which he says should never be allowed to tamper with or it will all be lost. Mwanza is quick to point out that:

In exercising this freedom of expression the people of Zambia and leaders of various parties in particular had a duty to define the real objectives as a tool with which to mould the nation into a new political and social culture that should stand the test of time for present and future of the generations so that ultimately the people of Zambia would be saying ‘I am proud to be a Zambian (1993:14).

The results of these elections clearly demonstrated overwhelmingly the rejection of the one party system together with its proponents as a party and Kaunda himself in favour of the Movement for Multi-Party Democracy (MMD). Kenneth Kaunda who from independence stood as a sole candidate was eventually removed from state house and replaced by the former Zambian Congress of Trade Union Fredrick Chiluba. Indeed, the elections were a landslide victory for Chiluba and the MMD as a party with Chiluba getting 76 percent vote count while Kaunda only managed to snatch 24 percent. Similarly, the MMD got 125 seats in parliament out of the 150 seats.

The demise of the one party system saw the birth and proliferation of political parties in Zambia ranging from between 30 to 37 since the legislation of multiparty competition in 1991. Parties include Agenda for Zambia (AZ), Forum for democracy and Development (FDD), Heritage Party (HP), Progressive Front (PF), Movement for Multi-Party Democracy (MMD), National Citizen Coalition (NCC), National Leadership for development (NLD), National Party (NP), Patriotic Front (PF), Zambia Republican Party (ZRP), Social Democratic Party (SDP), United National Independence Party (UNIP), United Party for National Development (UPND), and the National Democratic Alliance (NADA). The United Democratic Party and the United Democratic Congress party are headed by former

top UNIP leaders. The National Party (also with prominent ex MMD leaders) was created in August 1993 and won four seats in the Assembly in 1993 - 1994 by-elections. Within the MMD, there are breakaway groups like, caucus for National Unit with an agenda to root out corruption in the MMD government. The recent ones being, United Liberal Party (ULP) and National Democratic Focus (NDF), (Mwanza, 1993). Chiluba's government moved quickly to liberalize Zambia's commandist economy, dismantling the huge parastatal empire, created under Kaunda's one-party state in what has been described as the most aggressive privatizations exercises in sub-Saharan Africa. The government felt it was necessary to inject competition in the monopolistic economy, to induce growth (<http://www.sardc.net/sd/sd>).

According to Powers and Phiri (2001), the period leading to up to 1991 democratic elections was characterized by an environment of increased optimism among the people for a more democratic and pluralistic government. When the MMD came into power, many expected that it would be committed to what it termed multiparty pluralism and a draft constitution was actually steeped in democratic ideals. The preamble, for example, to the Zambian Constitution of 1991, amended in 1996, declares Zambia a Sovereign Democratic Republic and further resolved to uphold the values of democracy, transparency, accountability and good governance... (Ensuring) that Zambia shall forever remain a unitary, indivisible, multi-party and democratic sovereign state. Powers and Phiri observe that from this preamble, Zambia committed itself to democratic ideals and pluralistic principles.

This commitment to democracy and pluralism was carried through in the constitutional discussion of freedom of expression and the media in Zambia. Article 21 of the constitution states:

Except with his own consent, no person shall be hindered in the enjoyment of his freedom to receive ideas and information without interference, freedom to impart and communicate ideas and information without interference, whether the communication is to the public generally or to any person or class of person, and freedom from interference with correspondence (Chanda and Liswaniso, 1999).

Article 20 goes on to talk about the protection of this freedom as follows: "Subject to the provisions of this Constitution no law shall make any provision that derogates from the freedom of the press freedom" (1999).

From the above constitutional framework, Powers and Phiri posit that the governmental framework of Zambia carries its commitment to pluralism and democracy through its policies

regarding the exchange of ideas and press freedom. In terms of normative ideals, they argue that the press in Zambia is clearly meant to be democratic and pluralistic.

It is further argued that at the beginning the MMD speeches were punctuated with commitment to press freedom during the MMD's bid to cast out Kaunda (Powers and Phiri, 2001). At the very first public conference, leaders of MMD championed freedom of speech and criticized the one-party state for failing to foster an environment conducive to a free press. Accordingly, Remmy Mushota, whom Powers and Phiri quote, who became Minister of Legal Affairs when the MMD eventually came to power, identified freedom of the press as one of the most significant freedoms in the process of establishing and sustaining a free and democratic society.

The MMD manifesto also stated that: 'The MMD believes that freedom of expression and the right to information bare the basic human rights. As such journalists will have to play an important role in promoting democracy and development in MMD-led government' (Chiluba, 1994 again quoted in Powers and Phiri). According to Zambia Press, Media, TV, Radio, Newspapers forum (2007), the MMD promised to let journalists do their work without interference, and that those with the means would be able to own print and electronic media outlets. Those interested in starting private radio and television outlets were encouraged to apply for licenses. A Media Reform Committee was established to chart the way forward. Among the committee's recommendations were privatizing the Zambia National Broadcasting Corporation, privatizing newspapers, and putting a press clause in the Zambian constitution. The print media took advantage of the new freedoms. They criticized the new government and its president, made efforts to be a public watchdog, and tried to hold the government accountable for its actions though with a lot of confrontations with some sections of the media like *The Post*.

Thus MMD with its political and economic liberalization, brought in a lot of changes in Zambia in as far as press freedom is concerned. Today we have more radio (private) stations and TV stations without mentioning the mushrooming community stations which are now a common feature in nearly all the provinces of Zambia. The number of radio receivers in Zambia grew from 760,000 in 1994 to 1,000,000 in 1996 (Zambia Press, Media, TV, Radio, Newspapers Forum, 2007). There has been also number of progressive legislations under the Mwanawasa led government. Among others, the following are examples:

(i) **The ZNBC Act of 2002**

Government amended the ZNBC Act to remove the regulatory functions from the minister and transferred to the IBA, instead of repealing, as proposed by the media community in the Broadcasting Act. Government in respect, refused to transform ZNBC from a state-controlled broadcaster, to a public service, that was independent and professionally run (Makungu, 2004:65), a positive move, at least for a start.

(ii) **Independent Broadcasting Authority (IBA) of 2002**

It provides for the creation of an independent body to oversee the issuing of licenses to people intending to enter into broadcasting, as well as regulating broadcasting in Zambia. It is also suppose to provide legal guidelines for the issuance of licenses (Makungu, 2004:65)

(iii) **The Freedom of Information Bill** (if it is ever passed into law), is intended to establish a Public Information Commission and to define its functions, to provide the right of access to information, and to set out the scope of public information under the control of public authorities to be available to the public in order to, among other things, facilitate more effective participation in the good governance of the country, and to promote transparency and accountability of public officers. The absence of this legislation is denying the public access to some government proceedings and records (2004:66).

(iv) **Media Council of Zambia:** The establishment of the Media Council of Zambia (MECOZ) is another positive contribution to the role of media in Zambia. In its constitution, MECOZ's role is affirmed as voluntary self-regulatory body for journalists (an ethics committee) where the public could forward their complaints and grievances against the media. MECOZ has also formulated the code of ethics to assist journalists to defend the principles of the freedom of the press and information (JCTR, 2002-2006)

While MMD has tried to liberalize the media in Zambia, it is however the contention of Zambia Press, Media, TV, Radio, News forum (2007) that the MMD has continued to control ZNBC as a state broadcaster. It is acknowledged that the MMD did open up the airwaves to other voices, though in a limited context. By 1994, for example, the government announced that those interested in starting private radio and television stations could apply for licenses.

Some FM and medium wave frequencies were made available for radio, while a few UHF bands were also made available for television broadcasting. Despite these changes, however, the MMD government was adamant that under the Broadcast Act no broadcast licenses would be granted to political parties. This has made some people like Andrew Green (<http://www.globaljournalist.org>) to categorically state that the MMD has retreated from their original position during the past 17 or so years in terms of press freedom.

No wonder Powers and Phiri argue that the MMD was elected in part on its apparent commitment to the transformation of the media from an instrument of the ruling party to being an autonomous participant in the democratic process. Kasoma (1986) posits that democracy entails the right to choose from alternatives regarding the best course of action and to this end is largely based on the availability of information which lays out those alternatives. In a Zambian situation, for example, a free and pluralistic press is indispensable in guaranteeing the diversity of ownership, channels and opinion that characterize a democratic state (Powers and Phiri, 2001)

The understanding of Powers and Phiri is that ownership of broadcasting organizations has an undeniable influence on the information that is placed in the public sphere. For this reason, one of the primary requirements of a pluralistic media is the end of monopolies of any kind (Barker and Minnie, 2001). The American Heritage Dictionary, according to Powers and Phiri, defines monopoly as exclusive control by one group of the means of producing or selling a commodity or service. Thus, the end of monopolies must encourage multiple controlling parties in a particular industry and also implies direct competition between parties.

As already stated, the one-party state in Zambia nationalized broadcasting. When the MMD came into power, it privatized most industries, but opted not to privatise the state-held media. This means that rather than selling off their media holdings to private individuals or interests, the government retained control of the primary broadcasting channels and merely allowed other participants to enter the market-place (Powers and Phiri, 2001).

The conclusion from the above argument is that the state-run media have neither been privatized nor granted editorial autonomy. They have continued in more or less the same vein in which they operated under the one-party state (Phiri, 1999).

The state's grip on broadcasting in Zambia is still so tight that in many cases media outlets are handled as civil service entities with heads appointed by political leaders. Government not only monopolizes broadcasting, it has made broadcasters part of the civil service. This has meant that civil servants or politicians with little or no knowledge about the media, are often charged with overseeing the way radio and television are operated. Professional broadcasters become subservient to these bureaucrats who determine everything. They are effectively gatekeepers of what comes in or goes out (1999). And yet the Windhoek Declaration on Promoting Independent and Pluralistic Media clearly states:

Consistent with Article 19 of the Universal Declaration of Human Rights, the establishment, maintenance and fostering of an independent, pluralistic and free press is essential to the development and maintenance of democracy in a nation, and for economic development. 2. By an independent press, we mean a press independent from governmental, political or economic control or from control of materials and infrastructure essential for the production and dissemination of newspapers, magazines and periodicals. 3. By a pluralistic press, we mean the end of monopolies of any kind and the existence of the greatest possible number of newspapers, magazines and periodicals reflecting the widest possible range of opinion within the community. 4. The welcome changes that an increasing number of African States are now undergoing towards multiparty democracies provide the climate in which an independent and pluralistic press can emerge. 5. The world-wide trend towards democracy and freedom of information and expression is a fundamental contribution to the fulfilment of human aspirations. Endorsed by the United Nations / UNESCO General Conference at its twenty-sixth session—1991(MISA, (2002) from Media Advocacy Toolkit.htm).

MISA argues that since its inception, the Windhoek Declaration has served as a beacon that highlights the extent to which governments throughout the world and the region must honour their commitments towards upholding and promoting media freedom, independence and diversity.

There are other people who argue that the entry of community radio stations which has been growing since 1991 is a big step into decentralization and break in the government's monopolistic hold. Indeed (2001) more community stations have been established and probably more will be established even reaching the most remote areas as already as witnessed happening. However, Powers and Phiri deposit that another form of monopoly is developing in Zambian radio one that is in a separate sector from government broadcasting but no less influential. Of all the community radio stations operational now, 60 percent or

more are controlled by the Roman Catholic Church. This, apparently, according to Powers and Phiri, is reason why government has not done enough in terms of a policy framework to ensure the establishment of truly non-partisan radio that can freely report news and comments without undue pressure from any quarter (Banda, 2001 in Powers and Phiri, 2001). It is therefore clear that the initial commitment to freedom of expression and a free press by the MMD in the third republic were merely attempts.

The Human Rights Watch (1997) seems to be aware of this fact when in its findings had stated:

In its formal statement, the MMD government appears to be committed to freedom of expression and privatization of the media. In practice, however, the state has kept a tight range on media. The state continues to control television as well as the mainstreams newspaper, which constitutes some 90 percent of print media. They include the two dailies: The Times of Zambia and the Daily Mail; two Sunday papers, the Sunday Times of Zambia; and one weekly paper, The Financial Mail. All of these newspapers are posted on the Internet on the Zambian home page, ZAMNET, at government expense (1997).

The Human Rights Watch further posits that most of the state-owned media take a strong MMD line, which is usually uncritical if not unabashedly propagandistic. The Human Rights Watch gives the run up to 1996 elections as a case in point. It further observes that although Radio Phoenix enjoys the so-called freedom of speech, this freedom is actually limited. This is because, to some large extent, Radio Phoenix is privately owned and relies on advertising revenue to ensure financial survival, and eventually some projects. The Human Rights Watch wondered whether the independence of the station is not de facto limited by its need to please major clients. Considering the fact that Zambian political elite and the local business community are closely intertwined, to discontent advertisers would equate to dissatisfying the government. The Human Rights Watch further states that the government's claims to "having completely liberalized the media industry" are false. It argues that the Constitution Amendment Act (1996) did not include any of the Media Reform Committee's 1993 recommendation on press freedom, and none of the committee's recommendations have been implemented. These recommendations included privatizing the state newspapers and television stations and making media ethics and practice the subject of self-regulation by journalists' associations and other media groups with no statutory power. It is the contention of HRW that the committee also identifies at least thirteen sections of the 10 concerns which

have been expressed regarding the Government's proposal to form a media council of Zambia (MCZ). There was some suspicion that the establishment of the Council is intended to control the media and reduce freedom of the press.

### **1.1.5 The Media Council Bill**

Matibini (2006) writes that the government sought to introduce a Media Association of Zambia in 1995 the move which sparked off immediate resistance by the media fraternity, in a law suit between Kasoma (representing himself) and other members of the Press Association of Zambia the Attorney General. According to Matibini, Kasoma requested the High Court to quash the decision by the executive to enact a Media Association of Zambia on the following grounds:

- (i) The creation of the association would adversely affect the applicants;
- (ii) The executive acted unfairly by making the decision without giving the applicants a hearing on the matter.
- (iii) The applicants who were to be affected by the decision had a legitimate expectation to be heard on the matter and had not been accorded an opportunity to be heard.
- (iv) That the decision to constitute the association was not made in furtherance of the ideals of freedom of expression, press freedom and freedom of assembly and association; and
- (v) That the decision to create the association was made in bad faith, in that the objective was not to further good journalism, but rather to bring journalists under government control.

Matibini mentions that prior to delivery of the judgment in the Kasoma case, President Chiluba announced and introduced the concept for the bill in his speech on 17<sup>th</sup> January 1997 on the opening day of parliament (2006). The Human Rights Watch quotes Chiluba (1997) who said 'the intention was to regulate the media and its 'irresponsible reporting,' and added that integrate demands that media practitioners adhere to a standard of ethics that have

respect for truth that the nation and indeed the press itself has been brought into disrepute by a section of the media that has chosen to betray the country by publishing and distributing false information about Zambia. This is regrettable and a matter of grave concern'. The reaction to the proposed legislation was sharp and immediate (1997) from the media community. According to Matibini (2006), five media organizations namely; PAZA, ZUJ, ZAMWA, ZIMA and the Zambia section of the Commonwealth Press Union (CPU) came together to form a Media Liaison Committee (MLC) to fight the introduction of the Bill. It was from this background that (2006) protests were organized by MLC to raise public awareness of the impact the Bill would have on citizens once enacted. Matibini writes that 'journalists resolved to form a media driven, independent, self-regulatory body to represent and protect the interests and rights of journalist, to defend and promote press freedom, and uphold the principles and standards of journalists and Media Practitioners' (2006). The drafted Bill, according to Human Rights Watch (1997), required all journalists to be licensed by a media council that is appointed by the Minister of Information. Journalists who are not in compliance are subject to three month jail term, a fine, or both. To qualify for a license, journalists must be eighteen or older and have a Bachelor of Arts in Mass Communications or journalism from University or College that is recognized by the council; or they must have completed at least a two-year course in journalism. Under the Act, journalists were required to apply for a license or "accreditation" to the register of all "accredited" journalists. Accreditation is not automatic, but it is subject to the outcome of investigations of the applicants. Applicants are required to pay a fee and submit certificates of academic qualifications, or for companies, certificates of incorporation. Journalists are required to renew their accreditation annually.

Accordingly, the HRW tabulates a number of punitive measures for non-compliance such as: three months imprisonment for practicing without a license or for giving false details when applying for accreditation; disciplining journalists who conduct themselves in a manner contrary to "the profession of a journalist" or who engage "in any occupation which is inconsistent with the profession of a journalist" such journalists would be liable to reprimand, suspension or expulsion among others (1997). But, the High Court of Zambia, writes Matibini (2006), ruled in favour of Kasoma. The High Court observed that the decision to constitute and create MCZ would impact negatively on the freedom of journalists to assemble and associate. The judgment further stated that the decision to establish MCZ was not in

furtherance of the objectives and purposes embodied in the constitution. That is to say freedoms of expression and assembly contained in Article 20 and 21, respectively, of the constitution. For these and many other reasons, Matibini says the courts quashed the government's decision and halted the implementation and enactment of the Bill. Matibini adds that, following the judgment in the Kasoma case and after a lot of thinking and extensive consultation, the Media Council of Zambia (MECOZ) was eventually launched in 2002. The objectives of MECOZ were:

- (a) To promote professionalism by enforcing journalism ethics;
- (b) To promote freedom of the press;
- (c) To promote understanding between the media and the public;
- (d) To arbitrate complaints between the public and the media; and
- (e) To do such things as may be in the interest of the media and the public.

MECOZ is primarily responsible for self-regulation of the media fraternity without interference from government or judicial supervision (2006). The membership of MECOZ is from representatives from media owners, journalists and members of the public. Matibini also mentions that MECOZ has a code of ethics which is enshrined in its constitution. In the preamble to the code of ethics, it is stipulated that the purpose of distributing news and informed opinion is to serve the general welfare of the public. It further states that journalists who use their profession status as representatives of the public for selfish or other unworthy motives violate a high trust. Matibini is quick to mention that the preamble urges journalists to defend the principles of the freedom of press at all times, in relation to the collection of information and the expression of comment and criticism (2006).

With so many reactions from the media houses, donor community and alliances between state media and independent journalists, the government was forced to withdraw the Media Association Bill. The Human Rights Watch (1997) reports that the opposition to the bill on the part of donors, journalists and human rights groups, resulted in a ten kilometer march by hundreds of journalists on April 12, 2007. Matching journalists from both the state and independent press were joined by the public and representatives from the NGOs. It is these kinds of protests that forced the governments hard not to control the press and the freedom of

expression through its intended Media Council Bill. David Mpamba, the then minister of Information and Broadcasting withdraw the bill saying that it had been postponed until further consultation took place with interest groups. Mpamba (1997) was also disillusioned with donors who had challenged the bill's provision stating that, it is a matter of profound regret that some diplomats accredited to Zambia have taken it upon themselves to issues very crude instructions to government of the republic of Zambia. Established norms and etiquette dictate that diplomats conduct affairs in the countries they are accredited to through normal diplomatic channels' (1997).

The HRW observes that the freedom of Expression is guaranteed by Article 19 of the Universal declaration of Human Rights and the International Covenant on Civil and Political Rights (ICCPR), which Zambia is a party. Article 19 states:

- (2) Everyone shall have the right to freedom of expression; this right shall include the freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or print, in the form of art, or through any malice of his choice.
- (3) The exercise of the rights provided for in paragraph 2 of this article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:
  - (a) For respect of the rights or reputations of others;
  - (b) Protection of national security or of public order, or of public health or morals.

It is important to note that (HRW, 1997), while the Zambian government or MMD in the third republic have frequently violated the rights of the free press, the HRW posits that the opposition political parties have also a big share in the abuses. The HRW cites the November 19 1996, the day after the elections; Zambia Democratic Congress (ZDC) militants forced their way into the studios of ZNBC and demanded to appear live on the air to speak out against the "irregularities" of the election (Ibid.). On December 5, 1996, militants of the Liberal Progressive Front (LPF) opposition party threw stones at national television crew that was covering a police search at the home of a party leader. Again, the HRW cites another

example on February 6, 1997, when members of s ZNBC television crew, upon arriving late to a meeting of the opposition party UNIP, were harassed by angry party members who called them liars and chased them from the room while accusing them of biased reporting.

The third republic under Chiluba can best be described, in terms of freedom of expression and a free press in the words of the Human Rights Watch/Africa (1996), as a government which waged a persistent and vociferous campaign against independent press and continued to criminalize the work of journalists by resurrecting colonial legal provisions and old legislation from the three decades of one-party rule. According to HRW (1997), it was only in Chiluba government that there were more court cases against journalists in Zambia than anywhere else on the continent. It is therefore not too farfetched for this researcher to state that in the third republic, freedom of expression, opinion and a free press was greatly compromised and illusive.

#### **1.1.6 The press under President Mwanawasa (2001 – 2008)**

As stated above, the MMD under Mwanawasa introduced the IBA and ZNBC Acts but the Freedom of Information Bill was met with reservations on the part of the Minister for Information and broadcasting Services. The Bill was withdrawn from parliament in February 2002 (<http://www.article19.org>). Chembo (2008) however mentions that the announcement by the late President Patrick Levy Mwanawasa to table the Freedom of Information Bill (FOI) in January 2008 was a good sign and a right step in as far as the freedom of expression and a free media is concerned. Matibini (2006) also indicates that there was need to enact a Freedom of Information Act so that the flow of information, particularly from the executive wing of the government, is enhanced and to meet the demands of democratic governance. As a matter of fact (2006), government recognized this need when it drafted the Freedom of Information Bill in 2001. This draft, according to Matibini, is required to be improved upon and enacted by Parliament.

Chembo (2008) argues that in the Mwanawasa administration, there was less intimidation of the press. He validates his position by pointing to the fact that the press or the print media in particular wrote a lot of bad things against Mwanawasa to the extent of sometimes calling him a fool with a low calibre. Chembo posits that even under such provocation from the print

media, the freedom of the press flourished. The then Minister of Information and Chief Government spokes person Mike Mulongoti assured the nation that he will present the Freedom of Information Bill (FOI) Bill to Parliament in that year 2008 and that the government of Mwanawasa was still keen on media law reforms (MISA-Zambia News,

April 1 - June 30, 2008). These and many examples point to the freedom of expression and press freedom which to a large extent was allowed and flourished under Mwanawasa leadership.

Chembo (2008) however is quick to point out that the only weakness in the Mwanawasa administration was lack of legislation of the bill to guarantee these freedoms. It is the understanding of Chembo that much as the country appreciated the freedom of the press, this, according to him was only out of the good will and tolerance of the President. He bemoaned the fact that the government under Mwanawasa has been very slow in putting in place the legal framework in far as the Freedom of Information Bill is concerned. This has been the major weakness in the Mwanawasa led government because, as Dr. Patrick Matibini puts it, 'The philosophy behind the freedom of information legislation is not meant exclusively for journalists but to ensure that all citizens have access to information' (MISA - Zambia News, April 1 - June 30, 2008). It is for this reason this researcher adds that even if there was a general good will and willingness to give rights to access information and opinion, this largely remained as a good intention which lacked practical application in terms of legislation. Indeed as someone said, 'good will alone is not good enough'.

The argument of the then Minister of Information and Broadcasting Mike Mulongoti for this inertia was that the journalists should first show responsibility. The Minister argued that insisting on rights and refusing obligations was a mark of irresponsibility (Ibid.). Mulongoti therefore urged media practitioners to form one regulative body just like other professions instead of having what he described as fragmented bodies (MISA-Zambia News, 2008).

As MISA - Zambia News observed, the Mwanawasa government, unlike his predecessors, has been "gentle" towards the media. As a result, the number of cases of blatant harassment of the media personnel in particular has been low.

However, Media Institute of Southern Africa (MISA-Zambia) observes that there have been sporadic attacks on the freedom of the press by the Mwanawasa government. MISA-Zambia

gives the following as some of the showcases of the difficulties the media experienced in the Mwanawasa government:

On May 4, 2007, the then Southern Province Minister, Joseph Mulyata, threatened Sky FM, a commercial radio station in Monze about 200 kilometers south of Lusaka, with closure for what he termed “unethical and unprofessional” conduct. This was after the station features Evangelical Fellowship of Zambia (EFZ) Executive Director, Bishop Paul Mususu, who was discussing Zambia’s constitution - making process. Mususu was speaking on behalf of Oasis Forum, which has been critical of the government on the constitution making process.

On May 17, 2007, Minister of Information and Broadcasting Services, Mike Mulongoti, threatened to withdraw the broadcasting license of Petauke Explorers Radio Station for featuring Patriotic Front President Michael Sata on a paid programme during the campaign for Kapoche Constituency by-election in the district.

On July 19, 2007, police in Lusaka blocked Q-FM, a private radio station in Lusaka, from mounting their outside broadcasting equipment to cover live a demonstration organized by the Oasis Forum and Collaboration Group on the Constitution outside Parliament grounds in Lusaka. The police said the permit issued to the conveners of the petition and demonstrators did not include mounting the outside broadcast unit for live coverage of the event.

On September 10, 2007, Zambia’s Minister of Information and Broadcasting Service, Mike Mulongoti, said journalists at the state-owned Zambia Daily Mail and Times of Zambia should not criticize the government and its leaders because they have jobs to protect.

There were also some attempts by the Mwanawasa government to deport Post Newspaper columnist Roy Clarke but was quashed by the Supreme Court of Zambia which upheld the 2004 ruling of the Lusaka High Court not to deport Clarke, a British national permanently resident in Zambia. According to MISA-Zambia Clarke wrote a satirical article published in the privately owned The Post Newspaper on 1<sup>st</sup> January 2004 allegedly insulting President Levy Mwanawasa. MISA-Zambia indicates that the ruling against the deportation of Clarke was a historical victory in favour of freedom of expression and the right to information.

However, there are still increasing calls for freedom of information legislation to be passed because, as already inferred, a draft bill submitted in 2002 has been shelved by the government. In the late 2005 (Ibid) recommendations from the Constitutional Review

Commission, that proposed provisions on freedom of information as well as to provide for freedom of all electronic and print media from interference, protect journalists from interference and protect journalists from disclosing their sources was rejected by the government.

### **1.1.7 Media legislation**

The Jesuit Centre for Theological Reflection – JCTR (2002-2006) argues that in the current Republican Constitution (1996) press and other media freedoms are not explicitly guaranteed. The Bill of Rights in the constitution of Zambia, Article 20 (1) provides for freedom of expression while Article 20 (2) provides for the freedom of the press. Freedom of expression embraces the freedom to hold opinions, freedom to receive ideas and information and the freedom to impart and communicate ideas and information without interference. According to JCTR, one can deduce from the above that freedom of the media is provided for in the Republican Constitution, at least by implication. Article 20 (1), which provides for freedom of express is not explicitly defined to favour freedom of the media as much as much as it articulates freedom of the individual. Freedom of expression needs a broader definition that entangles all the other rights implied therein, such as freedom of the media and artistic creativity.

Whilst freedom of expression guarantees for freedom to hold opinions, receive ideas and information without interference, there are other statutes (State Security Act) that impinge upon the same freedom (2002-2006). The JCTR writes that the current Republican Constitution, with its clauses relating to media freedom, is a colonial legacy. Little has changed in this constitution. The JCTR quotes Dr. Alfred Chanda and Mufalo Liswaniso in their book entitle Hand Book of Media Laws in Zambia note that the Zambian legal system imposes many restrictions on freedom of expression. Almost all the laws which seriously impede freedom of expression were enacted during the colonial days.

It further goes to numerate the undue restrictive media legislation found in the Republican Constitution (1996). Laws that restrict media freedom, according to JCTR, are:

Act, Cap 161

National Archives Act, Cap. 175

ZNBC Act, Cap. 154  
Theatres and Cinematography Exhibition Act, Cap. 158  
Penal Code, Cap. 87  
Prohibited Publication-Section 53 (1)  
Seditious Libel – Section 57 (1)  
Publication of False News – Section 67 (1)  
Defamation of the President – Section 69  
Criminal Defamation – Section 191  
Obscenity – Section 177 (1)  
The State Security Act, Cap 111  
National Assembly (Power and Privileges) Act, Cap. 17.

Some of the above are discussed below to illustrate how media laws impact on the freedom of press in Zambia. The Penal Code was added to the Republican Constitution around 1965-1966, immediately after independence. With all its good intentions of safeguarding national security and serving public interest, the Penal Code is more a hindrance to media freedom and abhorrence to public interest ([www.misazambia.org.zm](http://www.misazambia.org.zm)). Section 53 of the Penal Code accords the President many powers to declare any publication within and outside Zambia prohibited, if according to his/her opinion such materials are deemed to threaten national security. It argues that the President would only act in this matter in serving public interest. The problem of serving 'public interest' is a paradox in moments when information is withdrawn and denied to the public. This presidential prerogative to prohibit publication in the guise of serving public interest impedes press freedom, media freedom and the freedom to information and ideas (JCTR, 2002-2006).

The Task Force on Media Laws Report, otherwise known as the Sangwa Report, notes that: 'Section 67 (of the Penal Code) is unfair and a hindrance to press freedom as there is no legal obligation on the part of those who hold public office to provide information or confirm any information that is sought by a journalist.' (JCTR, 2002-2006). Section 69 which is intended to protect the institution of the presidency is equally unfair and a hindrance to press and media freedom. It is supposed to protect the office of the presidency and not the person holding that office. A democratic society is an open society, a society that favours the free flow of options and ideas as such the person holding the presidency should be ready to be challenged and ridiculed especially during the election campaigns period (Ibid.).

**The Penal Code is more a hindrance to media freedom and abhorrence to public interest:** According to JCTR (2002-2006), the MISA-Zambia presentation to the Constitutional Review Commission suggests that: ‘Article 20 (3) of the current Constitution provides for a very wide derogation clause, which is broadly constructed emasculates the protection of freedom of expression and the press contained in the clause (1) and (2) respectively. It is therefore suggested that Article 20 (3) of the Constitution should be repealed. The media and press are public spheres where people express their opinion and challenge those holding public office. Hence an executive president is not immune to challenges and ridicule, given the fact that he/she uses the same forum to ascend to the office of presidency (Ibid.).

### **Law of defamation, privacy and obscenity**

Article 20(3) of the Constitution permits the State to impose restrictions on the freedom of expression and press for the purpose of protecting the reputations of other persons. The law of defamation, which is embodied in both statutes and court decisions (i.e. common law), is concerned with the protection of reputations.

### **Defamation**

Defamation is the publication of a statement which reflects on a person's reputation and tends to lower him in the estimation of right thinking members of society generally or tends to make them shun or avoid him. The defamatory meaning of the communication may be apparent on its face or it may arise from extrinsic circumstances, which the plaintiff is then required to prove. Defamation consists of two torts; libel and slander (Chanda and Liswaniso, 1999).

**Libel:** Libel is a defamatory statement or representation in permanent form, e.g. a picture, statue, waxwork effigy, or any writing, print, mark or sign expressed to view. Broadcasting, both radio and TV and theatrical performances are, by statute, treated as publications in permanent form (<http://www.zamlii.ac.zm>). Section 191 of the Penal Code states that libel may be committed by any person who, by print, writing,, painting, effigy, or by any means otherwise than solely by gestures, spoken words, or other sounds, unlawfully publishes any defamatory matter concerning another person, with intent to defame that person. On the other

hand, slander is a defamatory statement or representation conveyed by spoken words (Chanda and Liswaniso, 1999).

**Slander:** This is a false oral statement that defames or damages the name of another person to whom it refers. The word “slander” can also be used as a verb (Chanda and Liswaniso, 1999).

It is important to distinguish libel from slander for two reasons. First, because libel is a crime as well as a tort, slander per se is not criminal albeit spoken words may be punishable by common law or statute as being treasonable, seditious, blasphemous, tending to breaches of the peace, etc. Second, libel is actionable per se, that is, without proof of special damage (actual damage). This means that no damages are recoverable merely for loss of reputation by reason of the slander and that the plaintiff must prove loss of money or of some temporal or material advantage estimable in money. It is not enough for the plaintiff merely to lose the society of his friends (1999).

The law of defamation is important as it aims at protecting the reputations of other persons. Both the Constitution of Zambia, in article 20(3) (b), and international and regional instruments, recognise the need to protect reputations. Freedom of expression is not a license for the destroying the reputations of other persons.

However, a rigorous implementation of defamation law may have a chilling effect on freedom of expression. It may also undermine good governance, transparency and accountability as the press, for example, may fear to publish certain information for fear of legal suits. Similarly, members of the public may be reluctant to provide information to the press or the authorities for the same reason. Public debate of national issues may thus be hindered by defamation law. The challenge in a democracy is, therefore, to strike an optimum balance between the legitimate interests of individuals not to have their reputations besmirched and the interest of the public to have access to relevant information and to have unhindered debate of public issues. This is especially important with regard to public figures (<http://www.zamlii.ac.zm>).

*The Post Newspapers*, based in Zambia's capital, Lusaka, has frequently run into trouble with the defamation instrument. Since its inception in 1991, *The Post* has been victim to a string of arrests and raids. M'membe has been jailed more than a half-dozen times, though never successfully prosecuted. Scores of other Post reporters have also been detained or questioned. In another incidence, Fred M'membe was arrested for defaming President Levy Mwanawasa in early November 2005 (<http://www.globaljournalist.org/stories>). *The Post Newspapers*, it should be mentioned, has been running battles with the government since its inception from President Kaunda all through President Mwanawasa.

The press under the MMD rule since 1991 can be described in the words of *Election Reporting Handbook* (2000:12) as being “ ... in a similar manner to UNIP’s”.

## **1.2.0 ORGANISATIONS INVOLVED IN THE FIGHT FOR A FREE PRESS IN ZAMBIA**

### **1.2.1 MISA-Zambia**

There are many non-governmental organisations involved in creating a conducive environment for the media in Zambia such as; Press Association of Zambia (PAZA), Zambia Media Women Association (ZAMWA), and among others, the Media Institute of Southern Africa (MISA-Zambia Chapter). To illustrate the roles played by these organisations in the battle for free press in Zambia, it is important to look at one of them, namely, MISA- Zambia.

MISA-Zambia is a non-governmental organization dedicated to promoting media freedom and diversity in Zambia. It is the Zambian Chapter of the Media Institute of Southern Africa (MISA), based in Windhoek, Namibia. MISA was established in September 1992 with the aim of promoting free, independent and pluralistic media as envisaged in the 1991 Windhoek declaration ([www.misanet.org](http://www.misanet.org)).

It has 10 other chapters in the Southern Africa Development Community (SADC) region, namely: Zimbabwe, Botswana, Malawi, Angola, Mozambique, Swaziland, Lesotho, Tanzania, Namibia and South Africa.

### **1.2.2 MISA's core areas of operations**

According to the MISA News (2008), MISA has six main areas of operation as listed below:

1. Freedom of Expression and Right to Information
2. Media Freedom Monitoring;
3. Campaign for Broadcasting, diversity and ICTs;
4. Media Support;
5. Legal Support; and
6. Implementation and Monitoring

### **1.2.3 Background to MISA-Zambia's role in the battle for a free press in Zambia**

According to Chembo (2008), National Director of MISA-Zambia, the battle for a free press and freedom of expression has been a fierce one which started in 1993. Chembo indicates that at that time, the government appointed a committee to look into many issues related to the Information Bill and the freedom of the press. MISA's involvement in the fight (2008) came to a fore in 1991 after the general elections (introduction of multiparty politics). At the time MISA saw a window of opportunity because of the entry of opposition parties into parliament.

Chembo further indicates that in 2002, MISA-Zambia began to push for the enactment of the following bills:

1. Freedom of Information Bill (FOI)
2. ZNBC Amendment Act of 2002
3. Independence Broadcasting Authority Act no. 17 of 2002

According to Chembo, MISA found the Minister of Information and Broadcasting, Dipark Patel, a good partner in the struggle. Chembo posits that what is obtaining now in the struggle for a free press in Zambia is largely due to MISA's contribution to the fight. MISA has continued to liaise with other media associations and the Ministry of Information and Broadcasting Service on the appointment of board members of both the ZNBC and Independent Broadcasting Authority (IBA).

It is through these avenues of MISA's advocacy (Ibid) efforts that other stakeholders have joined the bandwagon calling for the establishment of the IBA and new board for ZNBC. This means that MISA-Zambia has to a large extent conducted sufficient advocacy to enable stakeholders understood the issues and they are now taking them up.

Apart from these involvements of MISA, and also outside the six main core areas of operation, MISA-Zambia has since 1997 been carrying out programmes related to the media which include the following:

- 1 Face the media radio programme
- 2 Media Literacy seminars
- 3 Publications
- 4 Resource Centre
- 5 Good Governance and Community radio Programmes
- 6 Strategic Planning and equipment Support for Community Radio Stations

#### **1.2.4 Areas where MISA-Zambia could have done more**

According to Chembo (2008), MISA-Zambia could have done more in the draft Information Bill to push for the inclusion of the Intelligence. Zambia Air Force Intelligence, Zambia Army Intelligence and especially that government accepted the Prison Services and the Zambia National Services and the Zambia National Service to be incorporated in the information bill. Chembo also feels that MISA had relaxed a bit when the bill was withdrawn in December 2002.

It is for this reason that Chembo recommends the following:

1. Zambia to move fast to enact the Bill to guarantee the freedom of expression and freedom of the press.
2. The enactment of the FOI is now imperative since in this information revolution, there is nothing to hide because the world is opening up to information flows.
3. The enactment of the Bill could send ripples of good governance in Zambia.

It is the understanding of Chembo that in countries where this law has been enacted and the two freedoms of expression and press guaranteed, there has been less corruption than those

where they have not. It is a considered view of this researcher that in those countries where these freedoms have been guaranteed through legislation and in practice, it is highly probable that economic activities and growth have been sparked off. The Election Reporting Handbook states that: 'It is often said that state of the media in any country reflects the level of advancement and development of the particular country. This is because the universal role of the media is invariably linked to imparting information, knowledge and pleasure' (2000:11).

### **1.3.0 Statement of the problem**

Under the Zambian Law, section 20(1) of the Constitution, the freedom of expression is guaranteed. But according to the Media Institute of Southern Africa (2007), (<http://www.irex.org/programs.MSI>), the Constitution does not expressly guarantee press freedom, although the article 20(1) does state;

Subject to the provision of this Constitution no law shall make provision that derogates from press freedom.

It has always been argued that these grounds are so broad and vague that virtually any decision to override the guaranteed freedom can be justified (Media Institute of Southern Africa, 2007).

This is why though Zambia is constitutionally a democratic state, the battle for a free press and freedom of expression is far from being over. It is true that the press is one of the most significant freedoms in the process of democratization, but then Zambia is far from truly being democratic. The statement of the problem is well pinned down in the Election Reporting Handbook which clearly states;

In Zambia, like in many other countries in Africa, the return to multiparty politics or from military regimes to democratic governments has signalled a new and challenging role for the media. From one end, the media tries to play its role to the full, but the declared democratic governments on the other end encumber the media with restrictive legislation. The legislation prevents easy access to required government information and makes investigative reporting precarious.... Constitutional guarantees and provision for freedom of the Press are not expressed as a fundamental right (2000:13).

It is these restrictive and non progressive media legislation which has haunted the media industry in Zambia from 1964 to date, making accountability and transparency illusive and hard to come by. This alone has made the issues of checks and balances and good governance (2000) not to take a centre stage and thus making many African countries Zambia included to continue to sink in the doldrums of underdevelopment. It is therefore the opinion of this researcher that the developmental role of a free media cannot simply be over emphasized. Zambia reverted to multiparty politics nearly two decades ago. The time is ripe for a true democratic rule with a fully fledged self-regulated free media.

### **1.3.1 General objectives of the study**

The coming of MMD into power in 1991 opened the window for a new wind of political dispensation which saw the battle for political pluralism being won. In fact, according to Jesuit Centre for Theological Reflection – JCTR (2002-2006) posits that Zambia, in practice, is far better than so called democratic states in honouring media freedom. However JCTR quotes Raymond Louw in his book *Undue Restrictions: Law Impacting on Media Freedom in SADC* who purports that:

Though the Zambian Constitution expressly guarantees freedom of the media in much stronger terms, than several other SADC member states, the limitation clauses in the constitution coupled with legislation renders much of this freedom meaningless. Indeed the extra ordinarily wide compass of the limitations and restrictive laws place Zambia in the middle ages in regards to the freedoms that its citizens and the media are allowed (2002-2006).

Given the above contradictory state of affairs in Zambia, this study aims at establishing whether the battle for a press has been won or not in Zambia. Secondly, to find out whether the past governments vis-a-vis the first, second, third republics and the Mwanawasa government have been committed to creating an environment of the two freedoms: the freedom of expression and the freedom of the press.

### **1.3.2 Specific objectives**

- I. To find out why successive government of Presidents of Kaunda, Chiluba and Mwanawasa have paid lip service to media reforms in Zambia

- II. To find out which, among the three past governments has been a little more tolerant to the media and vice versa.
- III. To find out the variables at play in creating the environment the Zambian media has found itself in.
- IV. To find out the contributions of non-governmental organisations in the fight for a free press in Zambia
- V. To make recommendations for the forward.

### **1.3.3 Rationale**

The peaceful transition of power which Zambia witnessed from Dr. Kenneth Kaunda to Fredrick Chiluba following the latter's landslide victory of the 1991 general elections, made Zambia be held as a model for democracy in Africa ([www.en.wikipedia.org/wiki/zambia](http://www.en.wikipedia.org/wiki/zambia)).

But according to Matibini (2006), who quotes Mendel (2003), information and ideas lie at the heart of every notion of democracy and are crucial to the effective respect of human rights. Matibini observes that in the absence of respect for the right to seek, receive and impart, information and ideas, it is not possible to exercise the right to vote; human rights abuses take place in secret, and there is no way to expose corrupt, inefficient government (2003). Matibini therefore argues that central to the guarantee in practice of the free flow of information and ideas, is the principle that public bodies hold information not for themselves, but on behalf of the public. These bodies hold a vast wealth of information and, if this is held in secret, the right to freedom of expression, guaranteed under international law is as well as most constitutions, is seriously to mention that the right to freedom of information is now widely recognized as a fundamental right.

This study therefore may contribute greatly to the understanding of democracy in Zambia and how Zambia as a country has failed in terms of human rights record especially in as far as freedom of expression and freedom of the press is concerned. It is a considered view of this researcher that the battle for a freedom of expression and for a free press in Zambia remains unfinished and probably will continue for a numbers of years to come. But, it is by putting

one brick after the other that a house is build. This study is probably another brick towards building a democratic and a free Zambia.

## **CHAPTER TWO**

### **2.0 METHODOLOGY**

#### **2.1 Research questions**

The following are the research questions that will be employed to enlist the information from some selected people to help in achieving the above objectives;

- i) Who is responsible for the state of the press, information and communication environment we find ourselves in today in Zambia?
- ii) Is Zambia ready for Freedom of Information Act?
- iii) Is the media in Zambia responsible enough?
- iv) Who should regulate the media in Zambia?
- v) Is there a relationship between press freedom and economic development?
- vi) Is the legal framework favourable for media in Zambia to operate effectively and independently?
- vii) Have media organisations such as Media Institute of Southern Africa (MISA) been active in the fight for a free media?
- viii) If you were appointed Minister of Information and Broadcasting today, which pieces of legislation would you work on and why?
- ix) How was the press handled during the first, second, and the third republics?
- x) Why is Zambia still lagging behind in terms of media laws after so many years since multiparty politics was introduced?

## **2.2 Population**

The population on which the research was carried out consisted of the following; Jesuit Centre for Theological Reflection (JCTR), MISA-Zambia, Press Association of Zambia (PAZA), Zambia Media Women Association (ZAMWA), Zambian Union of Journalists (ZUJ), Media Council of Zambia (MECOZ), International Federation of Journalist (IFJ), Editors of the Post Newspapers, *Times of Zambia*, *Daily Mail* and the *National Mirror* and the Post Freedom Forum.

The researcher conducted in-depth interviews with some of these while others filled in the questionnaire which basically consisted of those who have an expertise in the field of journalism, media and law. The second was the general public randomly picked to find out how they feel about media in general.

### **2.2.1 Sampling procedure**

Considering the nature of this study, it was the intention of this researcher to employ the triangulation method in order to enrich the study and achieve the intended objectives. This study therefore will made use of the following methods:

### **2.2.2 Quantitative survey**

This was done by way of administering 100 questionnaires to a sample that was randomly selected from media houses, NGO's, individuals who are qualified in this area of study and those without professional media background were also included.

### **2.2.3 Focus group discussion (FGDs)**

The study also included 3 focus group discussions up to 5 to 10 members of the target participants who were chosen on the basis of being knowledgeable about the study, representative of the target population and generally a wide spectrum of interest groups (purposive Sampling). The dates, times, and venues were arranged for each focus group having discussed with each discussant.

- (i) In these interactions, open ended questions were administered and an independent conversant moderator was employed. This person was an independent person and this researcher took down notes with the video camera capturing every proceeding. This ensured that the attitudes, emotions, and feelings of the people towards the subject were later on analyzed.
- (ii) A prompt list was developed to guide the discussion (Appendix 3)
- (iii) There was also a provision of refreshments for each focus ground conducted.

The prompt list for focus group discussions was as follows;

- Democracy in Zambia
- The main pillars of democracy
- The relationship between democratic governance and the two freedoms of expression and the press
- Zambia in terms of the two freedoms
- The republics, first, second and third, where was democracy in Zambia truly experienced?
- A democratic nation where the two freedoms are suppressed
- How to do battle to ensure that the two freedoms are guaranteed in Zambia
- Responsible reporting and self regulation

#### **2.2.4 In-depth interview**

In-depth interview was part of the triangulation with 6 members of the target population who were chosen on the basis of being conversant with media and governance issues of the first, second and third republics. The interviews procedure was as follows:

- (i) The interviews were scheduled for each respondent (dates, times and periods of each interview was between 30 to 45 minutes)
- (ii) Those targeted were followed either at home or at their places of work depending on where they felt comfortable.

- (iii) Actual Interview. The researcher personally administer structured questions and at the same time taking notes. The tape recorder was always employed to ensure that every point was pinned down at birth.

### **2.2.5 Measures of attitudes to governance issues using Likert scale**

Since it is governance issues at hand, which sometimes are emotional and sticky, a Likert Scale measurement used to analyze the attitudes of a targeted population to the regimes of Kaunda and Chiluba in terms of their human rights records.

The question was: how would you rate the three republics: First, Second, Third including the past presidents of Kaunda and Chiluba in terms of human rights record? The Likert scale is attached-Appendix 1 indicating very bad, bad, neutral, very good and good for each president.

### **2.2.6 Limitations of the study**

Though there was a likelihood of finding a sponsor from Media houses, embassies or indeed NGOs dealing in advocacy, this was not so. This is probably because we are still experiencing the economic meltdown. The other limitation was how to get committed and serious respondents to the questionnaires. In most instances this researcher had to make several trips to ensure that the questionnaire was filled while others were not. The other limitation concerns the respondents and those in the F G Ds who could have been supporters of the past regimes either of Kaunda, Chiluba or Mwanawasa. This, in some instances could have affected the objectivity of the outcomes. Finally, and regrettably so, the questionnaire was suppose to have captured the Presidency of Mwanawasa but was missed out. It is also true that issues of press freedom will continue for a long time to come.

## **CHAPTER THREE**

### **3.0 CONCEPTUAL AND THEORETICAL FRAMEWORK**

#### **3.1.1 Operational definitions and conceptual view**

#### **3.1.2 Operational definitions**

The following key concepts will be applied in this study especially the concept of press freedom which emanates from the field of human rights. It is one human right that has been in existence for a long time in the world as whole and borders on the liberty granted to people in terms of expression. The concept comprises two parent words namely 'press' and 'freedom'. It is important to understand these concepts as applied to this study.

**3.1.3 Press:** This is a collective term used to refer to journalist, the media, reporters, newspapers and correspondents.

**3.1.4 Freedom:** The Oxford Advanced Learner's Dictionary (1989) defines freedom as a condition of being free; state of not being a prisoner or slave. Wikipedia defines freedom as a state of being inwardly autonomous capable of exerting free will or freedom of choice within a given set of outward circumstances ([en.wikipedia.org/wiki/Freedom\\_\(philosophy\)](http://en.wikipedia.org/wiki/Freedom_(philosophy))). In this study freedom is synonymous with liberty, lack of restrictions, independence, free will and autonomy.

**3.1.5 Human rights:** These can also be referred to the rights of human beings. They are entitlements for all human beings by virtual of their being human. According to classical theories, human rights are derived from natural rights simply meaning they are inherent and generally cannot be derogated.

### **3.1.6 Press censorship**

In this study, press censorship, is the suppression of speech or deletion of communicative material which may be considered objectionable, harmful, or sensitive, as determined by a censor. There are three main types of censorship namely;

**3.1.7 Pre- publication** which takes place before the material is published,

**3.1.8 Self-censorship** is when journalists themselves, because of suspected position of government, can decide to give a story a new angle or twist for fear of getting into trouble.

**3.1.9 Post- publication censorship** which is a kind where after the story is published or aired, the authority moves in to rebuke the editor and sometimes the entire publication is withdrawn ([en.wikipedia.org/wiki/Freedom\\_\(philosophy\)](http://en.wikipedia.org/wiki/Freedom_(philosophy))).

The rationale for censorship is different for various types of data censored. It could be moral, military, political, religious or indeed corporate censorship.

### **3.1.10 Freedom of the press**

In this study, freedom of the press, according to Wikipedia (free encyclopedia), is guaranteed by a government of free public press for its citizen and their association, extended to members of news-gathering organizations (Journalists) and their published reporting. The four cornerstones of press freedom are:

1. Mass media to gather information freely;
2. Mass media to organize and pack that information;
3. Mass media to air or publish the information; and
4. The public to be able to access that information.

In many countries there is constitutional or statutory protection pertaining to these fundamental freedoms of the press.

In developed countries (free encyclopedia), freedom of the press implies that people should have the right to express themselves in writing or any other way of expressing of personal opinion or creativity. The Universal declaration of Human Rights states:

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

Within this framework, this philosophy is usually accompanied by legislation ensuring various degrees of freedom of scientific research (known as scientific freedom), publishing, press and printing the depth to which these laws are entrenched in a country's legal system can go as far down as freedom of the press, thereby giving equal treatment to media and individuals.

According to Reporters without Borders (free encyclopedia), more than a third off the world's people live in countries where there is no press freedom. Overwhelmingly, these people live in countries where there is no system of democracy or where there are serious deficiencies in the democratic process.

Freedom of the press therefore, is an extremely problematic concept for most non-democratic systems of government since, in modern age, strict control of access to information is critical to the existence of most non-democratic governments and their associated control systems and security apparatus. To this end (free encyclopedia), most non-democratic societies employ state-run news organizations to promote the propaganda critical to maintaining an existing political power base and suppress (often very brutally, through the use of police, military, or intelligence agencies) any significant attempts by the media or individual journalists to challenge the approved "government line" on continuous issues. In such countries, journalists operating on the fringes of what is deemed to be acceptable will often find themselves the subject of considerable intimidation by agents of the state.

The one definition of democracy which has stood the test of time is the one given by Abraham Lincoln which defined democracy as 'government of the people, by the people, and for the people.' This way of defining democracy by Abraham Lincoln has become part of generation after generation (Retrieved, 20 June 2008 from [www/en.wikipedia](http://www/en.wikipedia)).

Also modern Scholars like Giddens (2000) defines democracy 'as a system involving effective competition between political parties for position of power' (2000). In a democracy,

according to Giddens, there are regular and fair elections, in which all members of the population may take part. These rights of democratic participation go along with civil liberties - freedom of expression and discussion, together with the freedom to form and join political groups or associations. This is a type of democracy which this study would go along with. In a democracy as defined by Giddens, there is an in-built free flow of information which gives room for different points view and opinions to build consensus.

### **3.1.11 Conceptual view**

To coin or pin down the actual meaning of democracy has been very illusive. According to Jacobsen ([www.beyond/plutocracy.com](http://www.beyond/plutocracy.com)), democratization demonstrates a range of contested meanings, differing from each other in relation to the scope of democracy, etc. Jacobsen actually mentions four (4) kinds of democracy, all of them differing from each other in relation to their meaning and concept.

#### **(i) Democracy as Constitutionalism**

According to Jacobsen, this way of conceiving democracy is limited in its conceptualization. Constitutionalism in the context of democracy is simply in the rule of law, the idea of a *Rechtstaat*, the division of power etc, or constitutionalism. The emphasis here is rights and liberties where the citizens live freely without the interference from the state or other citizens. In this concept, democracy is the matter of principle than a matter of popular participation in the decision making process.

#### **(ii) Democracy as a form of Life**

This is another concept of democracy apart from a constitutionalism. Democracy here is conceived as merely a way of life or mode of life or a “life form”- a certain way not only to handle political and social matters but also to associate with your fellow citizens in everyday life. According to Koch (1945:12) quoted in Jacobsen, ‘democracy cannot be bound by a formula. It is not a system or dogma. It is a mode of life’. This means that democracy goes beyond the right to vote to the mutual interactions among the citizenry. According to Koch, here democracy becomes a

disposition, a way of thinking in which people are socialized in. Conceived from this stand point, democracy takes on a higher standard than constitutional democracy though the process takes a long time and many generations (Ibid.).

(iii) Democracy as a form of governance

This conception specifically concerns political decision making, the political system in a society or any system of governance understood as a certain kind of relationship between key elements of that system, e.g. the ruler (the government) and the ruled (the citizenry). What is interesting in this form of democracy is that the government and the citizens consider each other as equal partners. This level of relationship between government and the citizens is reached or achieved through sufficiently guaranteed political right or simply “responsive rule”.

(iv) Democracy as “election of Leaders”

This concept of democracy is tied with an idea of public decision making in which the political rulers obtain the power or right to govern but can be withdrawn or won over by another political party at the next election. This concept of democracy corresponds with Giddens’s concept of democracy which he says is ‘a system involving effective competition between political parties for position of power’ (2000). Giddens argues that ‘in a democracy, there are regular and fair elections, in which all members of the population may take part’.

This conceptualization of democracy both Jacobsen and Giddens stress and lay emphasis on the dimension of competition. Democracy is conceived as an institutional arrangement for arriving at political decisions in which individuals acquire the power to decide by means of competitive struggles for people’s vote (2008).

This way of conceiving democracy seems to fit the twentieth- century political system as democratic to the extent that its most powerful collective decision makers are elected through fair, honest, and periodic elections in which candidates freely compete for votes and in which virtually all the adults population is eligible to vote ( 2008). The assumption in this kind of

concept of Democracy is that political rights and liberties are guaranteed but to the limit of permitting the electorates to take its due course (2008). This in fact is a common concept of democracy nearly everywhere including America. This researcher feels that in African, Zambia included, limiting democracy to the electoral process seems to feature more where democracy seems to be tied to the casting of a vote. No wonder social scientist have come up with what is known as “fallacy of electoralism” which holds that “the bare holding of elections is taken as the existence of a process of democratization i.e. irrespective of the simple fact that incumbent authoritarian leaders successfully could run for elections and continue their non-responsive politics (Ibid.).

And yet the 1997 Cairo Universal Declaration on democracy reaffirms and also recalls the Declaration on Criteria for Free and Fair Elections which it adopted in March 1994 and in which it confirmed that in any State the authority of the government can derive only from the will of the people as expressed in genuine, free and fair elections. The following are some of the principles of Democracy:

- Democracy is a universally recognised ideal as well as a goal, which is based on common values shared by people throughout the world community irrespective of cultural, political, social and economic differences. It is thus right of citizenship to be exercised under conditions of freedom, equality, transparency and responsibility, with due respect for the plurality of views, and in the interest of the polity;
- As an ideal, democracy aims essentially to preserve and promote the dignity and fundamental rights of the individual, to achieve social justice, foster the economic and social development of the community, strengthen the cohesion of society and enhance national tranquillity, as well as to create a climate that is favourable for international peace. As a form of government, democracy is the best way of achieving this objectives; it is also the only political system that has the capacity for self-correction;
- The achievement of democracy presupposes a genuine partnership between men and women in the conduct of the affairs of society in which they work in equality and complementarily, drawing mutual enrichment from their differences;
- A state of democracy ensures that the processes by which power is acceded to, wielded and alternates allow for free political competition and are the product of open, free and non-discriminatory participation by the people, exercised in accordance with the rule of law, in both letter and spirit;

- Peace and economic, social and cultural development are both conditions for and fruits of democracy. There is thus interdependence between peace, development, respect for and observance of the rule of law and human rights;
- Public accountability, which essential to democracy, applies to all those who hold public authority, whether elected or non-elected and to all bodies of public authority without exception. Accountability entails a public right of access to information about activities of government, the right to petition government and to seek redress through impartial administrative and judicial mechanisms;
- The state of democracy presupposes freedom of opinion and expression; this right implies freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers;
- The institution and processes of democracy must accommodate the participation of the people in homogeneous as well as heterogeneous societies in order to safeguard diversity, pluralism and the right to be different in a climate of tolerance;

It was the conviction of the Declaration that strengthening of the democratisation process and representative institutions can greatly contribute to the attainment of peace and development (Cairo, 1997).

## **3.2.0 THEOLOGICAL FRAMEWORK**

### **3.2.1 Theories of democracies**

The Wikipedia encyclopaedia defines democracy as a system of government by which political independence is retained by the people and exercised directly by citizens. In modern times the democracy has also been used to refer to constitutional republic where the people have a voice through their representative. It is derived from the Greek word which has been translated as “popular government” which was coined from demons “people” and “rule strength” in the middle of the 5<sup>th</sup> century BC to denote the political systems then existing in some Greek city states, notably Athens.

In political theory (free encyclopaedia), democracy describes a small number of related forms of government and also a political philosophy. Even though there is no universally accepted definition of ‘democracy’, there are two principles that any definition of democracy includes. The first principle is that all members enjoy universally recognized freedoms and liberties. There are several varieties of democracy, some of which provide better representation and more freedoms for their citizens than others. However, if any democracy is not carefully legislated to avoid an even distribution of political power with balances such as the separation of powers, then a branch of the system of rule is able to accumulate power in a way that is harmful to democracy itself. The “majority rule” (free encyclopaedia) is often described as a characteristic feature of democracy, but without responsible government it is possible for the rights of a minority to be abused by the “tyranny of the majority”. An essential process in representative democracies are competitive elections, that are free and fair both substantively (free encyclopaedia) and procedurally. Furthermore, freedom of political expression, freedom of speech and freedom of the press are essential so that citizens are informed and able to vote in their personal interests.

In some countries (free encyclopaedia), democracy is based on the philosophical principle of equal rights. Many people use the term “democracy” as shorthand for liberal democracy, which may include additional elements such as political pluralism, equality before the law, the right to petition elected official for redress of grievances, due process, civil liberties, human rights, and elements of civil society outside the government. In other cases, “democracy” is used to mean direct democracy. Though the term “democracy” is typically used in the context of a political state, the principles are also applicable to private organizations and other groups.

Wikipedia free encyclopaedia states that democracy has its origin in Ancient Greece. However, other cultures have significantly contributed to the evolution of democracy such as Ancient Rome, Europe, and North and South America. Democracy has been called the “last form of government” and has spread considerably across the globe.

### **3.2.2 The four theories of the press**

According to McQuail (1994), the four theories of the press were as a result of the work of some scholars who were asked to write about the press. Asley then put these works together in what is called four theories of the press. It was suggested that media systems around could be classified according to four main types of theory.

#### **1. Libertarian theory**

This theory states that mass media or press must be free in society together in information and to publish whatever they have gathered to publish that information. In the libertarian theory, the absence of control of the media is a watch word or *operatum operand*.

#### **2. Responsibility theory**

Responsibility theory came as a reaction to libertarian theory which posits that the press for sure must be free to gather and disseminate information but must exercise social responsibility. Freedom goes with responsibility and duty. The assumption is that if someone has total freedom there is a tendency to infringe on other people's freedom.

#### **3. Authoritarian press**

The Authoritarian Press includes the press in the authoritarian countries. Though they may be free, they turn to be subservient to the government without being too critical.

#### **4. Soviet communism press**

This approach to journalism was pioneered by the socialist state of Russia. The press had certain rules like propaganda which was allowed especially when criticizing capitalism. It was considered desired. Secondly, in the Soviet Press, journalists could

not criticize people at their level or above them. A lot of things could not be criticized and some falsehood was allowed to go on unchanged. Here the journalist is not allowed to show creativity and personality of a journalist should not be shown.

The four theories of the press underpins this study given the different kinds and varieties of democracy, the two freedoms of expression and of the press is applied different and interpreted them differently. It is the view of this researcher that the two freedoms in some democracy are completely ignored and by past.

### **3.2.3 Functional theory of communication**

The theory has its roots in a scholar called Robert Merton. According to McQuil (1994), functionalism claims to explain social practices and institutions in terms of the 'need' of the society and of individuals. Robert Merton observed that society has structures and each structure has specific role to play just as the human body. If there is something wrong, then you end up with dysfunctioning of society. This theory has both functions and dysfunctions of Mass Communication. Functions are those consequences that are intended in communication. These are manifest or intended functions of communication. But there are also latent functions which are not intended which nevertheless come up but are positive.

Dysfunctions of Mass Communication refer to those consequences of mass communication which are never intended but harm societies. It is up to the communicators to crystal clear about that which they wish to communicate.

Society then is viewed as an ongoing system of linked working parts or subsystems, of which the mass media are one, each making an essential contribution to continuity and order McQuil (1994).

## **CHAPTER IV**

### **4.0.0 LITERATURE REVIEW**

#### **4.0.1 Introduction**

Literature from different parts of the world especially where democracy is has taken root, acknowledge the essential role which the media plays in a democratic state. Matibini (2006) quotes Mendel (2003) who indicates that the free flow of information and ideas lies at the very notion of democracy and is crucial to the effective respect of human rights. Mendel adds that in the absence of respect for the right to freedom of expression, which includes the right to seek, receive and impart information and ideas, it is not possible to exercise the right to vote; human rights abuses take place in secret, and there is no way to expose corrupt, inefficient government. Indeed, as Mendel observes to democracy is essentially about transparency, accountability and good governance. To this end, the public has the right to criticize the action of their leaders and engage the government in full, open, uninhibited and, if need be robust debate about their actions, policies and programmes (2003).

The review is divided into the following subheadings: The press freedom in Zambia, the impact of media reforms and finally the way forward for the media today as they are relevant to the issue at hand – the battle for a free press in Zambia. It is however important to indicate from the onset that the review is non-exhaustible as there are many literature on the subject under scrutiny. This review therefore is very much subject to more extensions.

It is from this backdrop that the literature review has highlighted the study on the key elements on press freedom here in Zambia. There are a lot of scientific works done in this regard just as around the world as already intimated using different research methods and in most instances using the triangulation method.

This researcher has gone beyond what has been done in Zambia by looking at related literature in books, magazines, journals and dissertations that have direct or indirect bearing on the topic under this study. The review below was particularly judged, and purposely so, by this researcher to be not only pertinent but directly, effectively and neatly linked to the proposed study without being too far-fetched.

#### **4.0.2 Press freedom in Zambia**

The research under review was done here in Zambia to underscore the fact that press freedom consolidates the ideas of democratic governance of any country. The work takes a critical glance at the first five years (1991 to 1996) since MMD came into power. Chirwa (1996) recognizes the proliferation of independent newspapers, which have taken up a rightful place in covering of events and activities of civil and political leaders.

The work of Chirwa has not failed to highlight the intolerance towards the media especially those from independently owned. The research attest to the fact that journalists from the above category who have appeared to have tested the limits of press freedom during the Third Republic have been intimated, harassed and even thrown into jail. Chirwa, in his work presents chronological record of some instances of harassment involving media personnel in the Third Republic.

#### **4.0.3 State of freedom of the press in Zambia**

Makungu states that before independence, the media in Zambia was owned and controlled from Zimbabwe and South Africa. He argues that the owners of early papers used their newspapers as vehicles for political power. Makungu gives the example of Leopold Moore owner of *Livingstone Mail*, Dr. Alexander Scott of the *Central African Post*, and Sir Roy Welensky and his *Copperbelt Times* and *African Life* published by Sikota Wina, which

helped African nationalists achieve their ambitions in mobilising the people. Makungu (2004) observes that the white essentially created newspapers to cater for their own interests. After independence, the Kaunda administration simply continued to use the media to serve their own interests as well. From now onwards, the media in Zambia continued to suffer government intrusion and control reaching its apex when Kaunda announced that the newspapers would now be owned by the only legal party in the country – UNIP (2004).

No wonder Chirwa (1996) contends that the First and Second Republics, from 1964 to 1991, a number of media personnel were, particularly during some Republican presidential press conferences, humiliated and even called “stupid idiots”. In other instances, journalists were either detained without trial for suspected offences or sacked from their work places for what was perceived as acting against the Party and its government. The number of such instances, considering the span of 27 years, was relatively few. It should be realized that these injustices were “permitted” from 1973 till 1990 because the country was a one-party state, with limited opportunity for expressing opposing political thought and views.

Chirwa seems to regret that the litany of harassments, conflicts, arrests and detentions, as well as court case involving media personnel during the five-year period of the Third Republic, is on the other hand comparatively very long. He posits that the Third Republic was supposed to have been a dawning of democracy wherein freedom of speech, press, association and human rights as well as the rule of law are guaranteed and complied with. There are a number of questions which remain unanswered. For example; to what extent is the catalogue of harassments, police raids and court cases attributable to the fault and guilt of the media personnel? Similarly, to what extent are the various intimidating and police State-like acts demonstrative of the ruling party’s intolerance and failure to appreciate the working environment of journalists? (1996).

If within a period of the five years of the Third Republic there have been such harassments as reflected in the foregoing pages as well as in the chronological schedule at the end of this review, then something has gone amiss in Zambia. It is inconceivable that the media, albeit almost all independent, would deliberately dwell on so-called “falsehoods”, distortion of facts” and “war against the ruling party” and expect to survive. Such media would before long lose credibility and readership, thus fold up. If the independent media has during the Third Republic effectively exposed any scandals, personal or official, involving political and

civic leaders it is merely playing its role as a watchdog and ensuring transparency, accountability and consistency in pronouncements or policies. This role of the Press is in keeping with President FJT Chiluba's address to the National Press Club in Washington, D.C. "so that whatever we are trying to bury under the carpet...will not escape the notice of society, and society must call us to account for it if the Press remains free". And a closer look at the various instances of harassment of journalists at the hands of the police or MMD cadres shows that they were uncalled for and totally unjustified (1996).

The government and the MMD leadership more than the independent media, Chirwa argues, need to urgently review their stance in order to truly justify their intimidating acts against the media.

#### **4.0.4 Impact of media reforms in Zambia**

Zambia changed and reverted to multiparty politics in 1991 when UNIP and its leader President Kaunda were defeated by MMD with President Chiluba at its helm. Naturally, with this wind of change anchored on democracy and a liberal economy, Makungu (2004) says many Zambians expected rapid changes, especially as regards the press, to bring them in line with the emerging democracy in the country. In fact Makungu quotes the MMD manifesto (1991) which the party used to address the mass media:

The MMD believes that freedom of expression and the right to information are basic human rights. As such, journalists will have to play an important role in promoting democracy development in an MMD-led government. All bona fide journalists, both local and foreign, will be registered by the National Archives of Zambia. The Mass Media will subscribe to the United Nations International Information Order. In case of conflicts occurring within the Mass Media, a Press Council composed of professional journalists, lawyers and other professional representatives will be established to receive and resolve such conflicts (p.10).

Maimbo (2001) in his dissertation for Master of Communication insists that the MMD liberalised the economy and introduced a free-market system. Maimbo quotes Pearce (1992) who defines economic liberalism as a doctrine which advocates for the greater possible market and the forces of competition to coordinate activity. For him, this allows the state only those activities which the market cannot perform like provision of public goods or those

which are necessary to establish the framework within which the private enterprise economy and the market can operate efficiently, for instance by establishment of the legal framework on property and contract of such policies as anti-monopoly legislation. On the other hand, the free market entails the absence of intervention by government and where the forces of supply and demand are allowed to operate freely.

It was therefore expected, argues Maimbo, that through the media reforms, the MMD was going to push further the development of the media by removing internal and external obstacles to a free flow and wider and better balanced dissemination of information and ideas, and ensuring plurality of sources and channels of information (2001:p.31-32).

But Makungu's (2004) examination of the MMD promises in the first five years in office reveals that these have not been fulfilled. Makungu says the *Times of Zambia*, the *Zambia Daily Mail* and the Zambia National Broadcasting Corporation (ZNBC) are still owned by the government more than ten years of being in power. Indeed Makungu acknowledges the growth of the electronic media during Chiluba's second term of the role this new media is playing in the democratic process.

However Makungu is quick to mention that the MMD under Mwanawasa, right from the beginning, gave renewed impetus to the campaign to establish an Independent Broadcasting Authority (IBA) because Parliament then was more balanced and representative of the seven major political parties. Thus ZIMA, PAZA and other media associations saw this as an opportunity to push for an IBA using a "Private Member's motion once the Bill was prepared (p.62).

By March 2002, (Makungu, 2004), the campaign had intensified following an elaborate consultative process with stakeholders on the nature of the desired IBA. Makungu writes that by this time, the campaign had also broadened to include the amendment and subsequent replacement of the ZNBC Act of 1987, and the enactment of a Freedom of Information Act (FOI).

The 2002 World Press Freedom Day celebrations whose theme was "Towards Media Law Reform in 2002 and Beyond" (p.62) were used to propel the need for the media law reforms into the public agenda (2004). Moreover in 1992, there came to birth the Media Reform Committee whose task was to recommend to Government ways in which media freedom and

also the democratic process could be implemented in the country. To date, Makungu bemoans, Government has not been willing to offer its cooperation in matters of media liberalisation. He however acknowledges the enactment of the two pieces of legislation (IBA) and (ZNBC) as a step in the right direction but says this does not go far enough (2004).

It is therefore true when Phiri (1999) summarises this scenario that there was a brief period (just before and soon after 1991) when it appeared that media would become an independent influence in a democratic environment. But any movement in that direction has been thwarted by continued state control of the country's major establishment.

#### **4.0.5 Way forward**

According to Chirwa (1996), in matters of Press freedom Zambia is not an island. The country can and should be able to take cognizance of Press practices in other countries and draw from their experiences without necessarily transplanting any irrational and irrelevant ones.

The United States for example, has many a time been quoted as one of the countries that offer an ideal environment for the freedom of the Press citing the provision of the First Amendment 1791 which states:

“Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the Press; or the right of people peaceably to assemble, and to petition the government for a redress of grievances.”

Over the years experience did show that both the interpretation and application of that First Amendment were not exclusive of other constitutional and legal provisions. Despite the immunity offered by the First Amendment there was friction between the Press and government and demands for limitations on the freedom of the Press. After the press was criticized for “sensationalism” following the work of a Commission on Freedom of the Press appointed “to examine areas and circumstances under which the Press of the United States is succeeding or failing; to discover whether free expression is or is not limited, whether by government censorship, pressure from readers or advertisers or the unwise of its proprietors

or the timidity of its management,” the Press was charged with a new public or “social responsibility” (1996).

The press was in the new norm of social responsibility expected to provide “a truthful, comprehensive, and intelligent account of the day’s events in a context which gives them meaning”, this demanded of newspapers that they separate fact from comment and to present both sides of disputed issues. The Press was to provide a forum for the exchange of comment and criticism; be a common carrier of the public expression; project a representative picture of constituent groups in society and to present and clarify the goals and values of society (Ibid.).

In view of the foregoing, the Press owes to its society a major responsibility far beyond the often quoted “to inform, to entertain and to educate”. In order to discharge this responsibility, availability of and accessibility to information is critical. The existence of such specific legislation as Freedom of Information Act or Access to Information Act and/or Freedom of the Press Act, or such similar legislation would go a long way to broadening the base upon which public debate, free exchange of ideas and opinions as well as open decision-making would thrive for the enhancement of democracy (Chirwa, 1996.).

A number of pronouncements as evidenced in respect of privatizing the state media have in the last five years been made by MMD leadership and government officials on the need to attain the ideal Press freedom.

Chirwa gives an example of an MP for Petauke constituency, Mr. Lavu Mulimba (UNIP), a resource person on “Oversight Executive Action” during the Inter-Parliamentary Union (IPU) seminar held in Lusaka in June 1995, did commend the MMD government for allowing Press freedom. Mr. Mulimba’s incisive pointer however was that it was wrong for the executive to set itself up as a judge on what constituted responsible journalism (Ibid.).

Half-hearted or piece-meal efforts have been made whose impact appears to have petered out. There is now need to consolidate these for results. The media sorority and fraternity have off and on been awakened to the possibility of one draft bill or another being prepared by the Ministry of Information and Broadcasting Services (MIBS). Perhaps we now need a more cooperative approach of regular consultations (Ibid.).

It was in September 1993 that the Media Reform Committee of 26 persons and representative of all relevant media institutions and experiences in Zambia, after exhaustive consultations, discussions and debate finally submitted its recommendations to the MIBS. Out of the ten recommendations in Section A of the report, only three seems to have been implemented three years later. None of the many recommendations on constitutional and legal reforms have been included in the Constitutional Amendment Act 1996, particularly with regard to new provisions on the freedom of the Press which were strongly sought after. More work still has to be done on outstanding archaic and restrictive pieces of legislation; it would appear that the final decision is generally on gold, despite the emergence of private media and radio stations (Chirwa, 1996).

It would consequently follow that there is every justification either to revisit the Media Reform Committee, reactivate it or else to reconstitute a smaller steering committee to stir follow-up action with the MIBS. It is crucially important that some definite feedback from the MIBS is received, or else all efforts and hard work put in the Media Reforms Report will have been wasted. It is not enough to leave the Report in the hands of the Ministry and wait!

Freedom of the press is about enabling the media to perform its role without encumbrances or undue restrictions. It would thus appear that various recommendations or legal reforms can be tackled without further delay. It may equally be advisable to undertake some systematic lobbying for speedier supportive action (Chirwa, 1996).

It is useful to recall that although the first Press council was established in Sweden in 1916, by 1980, only a little more than 50 Press councils, media councils or such similar units has been established in various regions of the world. Kenya, Nigeria, Tunisia and Egypt were some of the few African countries to have established Press councils by 1980.

Press councils may exist in three different categories namely, those where the general public and media professions are represented; those where government representatives are included under the chairmanship of a Minister and those established exclusively by media personnel at various levels.

In Zambia (Chirwa, 1996), an initial attempt was made in the early eighties by the UNIP government to pass a Press Council Bill. This was heavily objected to by the local media.

There has been talk about a draft bill for PAZA, but in addition a bill for a Media Council or a Media Association of Zambia. Even if one were to give these efforts any benefit of doubt, it is clear that the exercise smacks of nebulosity. It was lack of consultations in July 1995 that forced PAZA to seek a judicial review in the High Court to determine whether the government's intentions to establish a Media Council were in order (Chirwa, 1996).

Upon a ruling by Mr. Justice David Lewanika, PAZA was granted leave on 18 July 1995 for judicial review which stopped all proceedings by the government towards the establishment of the proposed Media Council of Zambia (1996).

According to the *Times of Zambia* of 20 June 1995 quoted in Chirwa, the president of the Zambia Union of Journalists (ZUJ), Mr. Edwin MUSAIKA described the proposed legislation of the Media Association of Zambia as "shameful and undemocratic" as it was aimed at muzzling freedom of expression and of the Press. ZUJ reaffirmed its strong opposition to any form of regulation of the Press in Zambia.

On the other hand, on 2 December 1995, a group of Lusaka-based journalists formed a steering committee to promote ethical practices and behaviour of journalists. The committee was part of Professional Ethics in News Services (PENS) to safeguard the integrity of journalism in Zambia. According to the spokesman of PENS, Mr. Mwaba Phiri, the organization had been formed to meet specific goals which PAZA had failed to fulfil. In this regard, PENS had specifically declared war on what it called "irresponsible behaviour" in news dissemination, non-balanced news, fabrication of news and other vices that distort journalism nobility as a profession (Chirwa, 1996).

This development is clearly sending out a number of signals in terms of what is being perceived, even by the media personnel themselves, as falling standards of reporting and the lack of professional ethics among Zambian journalists. What is evident is that the entire media fraternity are opposed to any form of official regulations and control of the media personnel. Unfortunately a growing chasm has developed between public sector media personnel and independent sector media personnel whereby the former perceive the latter as being unethical and irresponsible. Copious features articles in the mainstream newspapers bear this out. Some of these articles are banal while others are invective that they degenerate journalism as a profession. This tendency should be stemmed and the misleading

picture ought to be reversed. There should be room for mutual respect and dignified professional co-existence (Chirwa, 1996).

It is significant to observe that two camps – one dominated by the public sector media personnel and the other by the independent media personnel have emerged. The former is encamped in the Press Association of Zambia (PAZA) and the latter in MISA-Zambia Chapter. MISA-Zambia Chapter during the second half of 1996 was the Zambia Independent Media Association (ZIMA). Although ZIMA has a constitution based closely on that of MISA two of the objectives are worth noting (Chirwa, 1996), thus:

“(a) to promote and defend Press freedom in Zambia, to take appropriate steps where such freedom is violated, and to seek to remove obstacles and impediments to the free flow of information.

“(d) to collect information and monitor development and problems facing the media in Zambia.” (Chirwa, 1996:55-56).

As reflected in the name, ZIMA’s membership is drawn from independent electronic and print media institutions, journalists association and trade unions, and individual journalists from independent media institutions.

It is possible that in spite of the existence of the two camps the Zambian media personnel can professionally forge ahead and contribute to the national development of the country.

It should be acknowledged, says Chirwa, that even in Britain debate or a battle still rages as how best to enact some legislation that would control the Press in matters of excesses of tabloid journalism and of professional ethics. One committee, the Calcutt Committee on privacy headed by Mr. David Calcutt, made some recommendations. The Press Complaints Commission (PCC) which started work in 1991 later made some progress to the extent that there was a code of practice drawn up by national newspaper editors which was accepted. The code of practice became part of the contract of employment of journalists.

According to Chirwa, at present the British National Union of Journalists (NUJ) uphold the tenets of NUJ Code of Conduct just as the Press Complaints Commission upholds its Code of Practice. Both of these Codes were drawn up by media practitioners themselves rather than

by the government or authorities. Of course one has to bear in mind that the British media system is predominantly private (1996).

Chirwa is quick to take a leaf from the Polish media, which after an International Communication Forum held in Kazimierz Dolny, Poland, from 1 December 1994, on “Freedom and Responsibility, The Dilemma of the Media” drew up “The Policy Media Charter of Ethics” which in the main underscored The Principle of Objectivity, The Principle of the Division of Information and Comment, The Principle of Truth, The Principle of Respect and Tolerance, The Principle of the Superiority of the Audience and the Principle of Freedom and Responsibility.

Zambia, he says, can take a leaf from the foregoing examples and developments in order to institute desirable professional ethical standards.

It is crucially important that the media professionals themselves should undertake the necessary work. In this way participation in and ownership of the final product would be more widely accepted. Despite the slow beginning it is gratifying to note that in March 1996, the Ministry of Information and Broadcasting Services released the National Information and Media Policy which contains policy goals, objectives and strategies. Unfortunately Press freedom is not sufficiently stressed or articulated and it would appear not many stakeholders were involved in the formulation (1996).

From the national Information and Media Policy one can easily extract a few relevant policy objectives for debate and further action thus:

Under Information Policy objective;

“2.1.1 (iii) to promote civic education on people’s rights, duties and responsibilities in order to enable them to participate fully in the democratic governance of the country”.

The objective is supported by the following policy strategies:

“2.1.2 (v) reviewing laws that impede Press freedom and hinder investment in the media industry.

(viii) carrying out civic education campaigns on people’s rights in order to enable them to participate fully in the democratic governance of the country”

Under the Media Policy, the following objectives are pertinent:

“2.1.1 (v) to facilitate the creation of a self-regulatory professional body for journalists, backed by law, to enforce ethics and standards.

(x) to grant editorial independence to the *Times of Zambia* and *Zambia Daily Mail* while maintaining government ownership of the two newspapers”

The supportive strategies state as follows:

“2.2.2 (iv) reviewing laws that impede press freedom and hinder investment in the media industry. Launched by the MMD party president MR. FJT Chiluba on

(vi) creating a self-regulating media council to enhance ethics and journalistic standards in the country.

(ix) Revamping and decentralizing the Film Censorship Board to make it more effective in its operations. The Board will be renamed, Film and Video Classification Board to avoid misunderstandings over the word ‘censorship’ and to accommodate the aspect of video”.

These are some aspects of the Policy that in one way or the other affect the recommendations of the Media Reform Committee that would require further review. It should be stressed that as a principle freedom of expression should not be controlled in any form. The foregoing extracts provide documentary evidence of the standpoint of the government, via the Ministry of Information and Broadcasting Service, vis-a-vis what is considered as elements that constitute the national Information and Media Policy. This in itself ought to be taken up as an excellent starting point for any appropriate revision of the Policy, for no person institution and in particular the Zambia media can endorse any law or policy which is not progressive (Ibid.).

The national Information and Media Policy must not be a cosmetic document for the files or bookshelf. It behoves the MIBS as the nodal or anchor government unit and all stakeholders to draw up a strategic plan and implement what the Policy sets out to achieve by the target year. There should be more action in place of the continued rhetoric that has been witnessed in the media privatization programme. It is a bold start to build on. It is hoped that the experiences gained in the Third Republic will be harnessed and utilized in order that both the media professionals and the government can forge ahead with more pragmatic measures to

bring to fruition the ideals of press freedom in Zambia. The MMD Manifesto 1996 launched by the MMD party president Mr. FJT Chiluba on 31 August 1996 did not make any radical or positive policy changes in respect of the Mass Media vis-à-vis Press freedom or access to information from the party's earlier Manifesto of 1991. The MMD Manifesto 1996 acknowledged the drawing up of the Information and Media Policy with the objectives alia of "promoting and safeguarding Press freedom" as the MMD's achievement since 1991(Ibid.).

Beyond 1996, the MMD Manifesto states that the MMD government will:

"Undertake legal reforms as a matter of policy in order to remove or change laws that were tailored prior to November 1991... (Chirwa, 1996:58)

"Create an environment that will allow for a responsible, professional, efficient and self-motivated media capable of meeting the information needs of the country.

"Facilitate more privately-owned media

"Advocate for professional accuracy in the media.

"Educate parents to assume responsibilities in protecting their children from some media-driven morally corruption material" (1996:59).

In respect of providing better environment and desired Press freedom, the MMD Manifesto 1996 is relevant only to the extent that it does not offer any express changes that enhance freedom of the Press or a statement for the eventual privatization of the existing state-owned and controlled media.

The Declaration of Windhoek on "Promoting and Independent and Pluralistic African Press" to which Zambia was party still offers an excellent springboard for future development of the Press in Zambia (Chirwa, 1996).

The Declaration on 3 May 1991 which followed a UNESCO Seminar on "Promoting an Independent and Pluralistic African Press" held from 29 April till 3 May 1991 is now a catalyst for encouraging Press freedom, independence and pluralism in Africa. The Declaration of Windhoek has since been endorsed by the UNESCO General Conference at its 26th Session in 1991 and thereafter has gained full support and total commitment from the Declaration of Alma Ata, Kazakhstan of 9 October 1992, the Declaration of Santiago, Chile's of 6 May 1994 and the Declaration of Sana's, Yemen of 11 January 1996 (Ibid.).

In essence the Declaration of Windhoek, consistent with Article 19 of the Universal Declaration of Human Rights, endorses that the establishment, maintenance and fostering of an independent, pluralistic and free press is essential to the development and maintenance of democracy in a nation, and for economic development. The Declaration also urges African States to provide constitutional guarantees of freedom of the Press and freedom of association (Ibid.).

Following the endorsement by the UNESCO General Conference of the Declaration of Windhoek, which has since become the *Magna Carta* on promotion of Press freedom in the world, 3<sup>rd</sup> May each year, is observed as the International Press Freedom Day. On this day a joint report in liaison with the United Nations Secretary General on the progress of Press freedom in the world is issued to mark the day.

On 3 May 1996 the Zambia Chapter of MISA (then ZIMA) successfully organized a kilometer walk in Lusaka involving various media organizations in the country that carried placards calling on the MMD government to create a conducive environment that ensures true Press freedom in the country (Ibid.).

The active participation of the Zambia Congress of Trade Unions, Zambia Independent Monitoring Team, the Civil Servants Union of Zambia, the Zambia Civic Education Association, and the Law Association of Zambia, alongside media organizations enhanced the Zambian media personnel's call for the government to honour its promise for Press freedom.

It is therefore hoped that every year on 3 May the Zambian Government will be reminded to review the state of Press freedom in Zambia with a view to redressing any shortcomings and ameliorating the status till the ideal is fully attained (Chirwa,1996).

#### **4.0.6 Methodology used by Chirwa**

(a) Content analysis of both independent and government controlled newspapers -  
*Times of Zambia*

- *Sunday Times of Zambia*

(b) Analysis of political statements

- (c) Analysis of court cases and arrests involving journalists
- (d) Document analysis e.g. MMD manifesto and the constitution of Zambia

#### **4.0.7 Observations on methodology used**

Given the topic under review, “Press Freedom in Zambia” a brief review of the Press during the MMD’s first five years in office, content analysis was probably the most appropriate method to be applied. This helped to bring out the direct assault on the press freedom under the MMD rule during the specified period. However, this researcher feels that press freedom touches on one of the fundamental rights of human beings and therefore, the way any government handles this sensitive issues, has a lot of bearing on how the citizenry feels about their government. It affects their attitudes, social life and ultimately how they view the government in power.

It is a humble submission that the book would have included the humanistic approach as well by employing qualitative method. This could have given insight into how the Zambians felt under the first five years of the MMD rule especially that MMD as a party was elected on this very platform-to restore democratic governance based on the two freedoms-freedom of expression and freedom of the press. This is the battle the Zambian people had engaged Kaunda and UNIP in, during the run-up to multi-party democracy in 1990 to 1991.

Though Chirwa (1996) seems to have fulfilled his objectives using one method, the book could have been made richer by triangulating the method which would have acted as wide window to collect as much information as possible.

#### **4.0.8 Findings on the press freedom in Zambia during the first five years of MMD in office.**

- 1 Zambian leadership became critical of the print media
- 2 State owned newspapers such as the *Zambia Daily Mail* was increasingly viewed as government propaganda
- 3 Due to critical leadership, print media generally experienced low sales during the period under review.

- 4 Only the private press had come under attack by the state through security wings
- 5 The first five year rule of the MMD marked the biggest attack on the freedom of the press in Zambia.

#### **4.0.9 Suggested avenues for future research**

The avenues suggested for future research include the following:

1. Extending the analysis into electronic media and their programming
2. Analysis of the community radio station's ownership and programming
3. The application of the Public Order Act (POA) in Zambia
4. Survey on readership of the government controlled newspapers

#### **4.0.10 What has not been investigated**

The following are what seems not to have been investigated on:

1. Where does the freedom of the press begin and where does it end?
2. The reaction of the general populace to the harassment of the journalists and subsequent imprisonment of journalists
3. The reaction of the international community on the suppression of the press freedom during the first five year rule of the MMD.
4. The book does not talk about the corresponding impact on the economic and social life of the people.

#### **4.0.11 How the research will add to what has been found**

At the end of the study, the researcher hopes that this research will add the following to what has already been found:

- 1 How democratic governance should enhance the freedom of expression and press freedom.

- 2 That the fight for a free press is an on-going fight in Zambia and most countries in the world.
- 3 That the two freedoms-freedoms of expression and press freedom are the most violated by government.

## **CONCLUSION**

The different research done around the world on the two freedoms has opened up a lot of areas which remain grey areas in as far as freedom of expression and of the press is concerned. It is hoped that these findings will act as a stepping stones for this study to try and patch up and sharpen the fight for a free press in Zambia and elsewhere where these freedoms have been compromised by government machinery.

The Wikipedia free encyclopedia (2008) mentions that since World War II, democracy has gained wide spread acceptance. And as the Chewa hardedge goes “*walila mvula walila matope*” (translated as he who cries for rains must be prepared for muddy as well). Indeed the freedom of the press cannot be compared to literally as muddy, but underscores the inevitability of the freedom of the press in a democracy.

It is the considered view of this researcher that unless the freedom of expression and of the press is guaranteed by a legal framework and in practice, self proclaimed democratic governments, should not be deemed as such. The two freedoms should be made as one of the important bench-marks for any nation to qualify to be called democratic.

## CHAPTER V

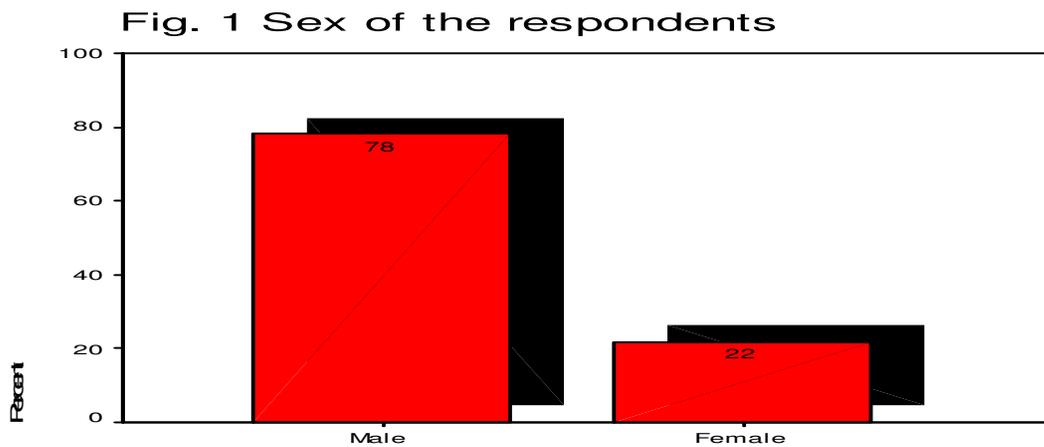
### PART I

#### 5.1 Research findings and presentation

This chapter presents findings in line with the objectives and research questions of this study. The information gathered is presented and summarized using tables of frequency and other graphics using Statistical Package for Social Sciences (SPSS).

#### 5.2 Sex profile of the sample

Out of the total of 100 respondents, 78 percent were male, and 22 percent were female. Figure 1 below shows this distribution while table 1 shows the age composition of the sample.



**Table 1: Age groups of the respondents**

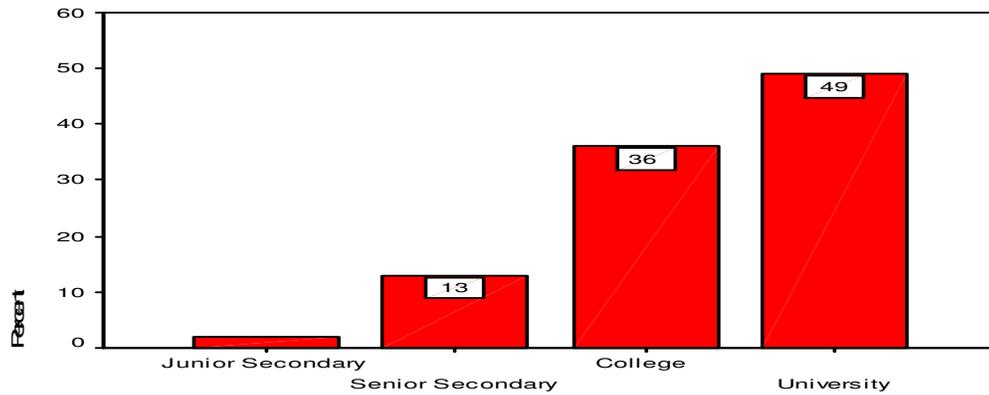
	Frequency	Percent	Valid Percent	Cumulative Percent
21-24 yrs	21	21.0	21.0	21.0
25-34 yrs	41	41.0	41.0	62.0
35-44 yrs	18	18.0	18.0	80.0
45-54 yrs	10	10.0	10.0	90.0
55-64 yrs	9	9.0	9.0	99.0
65-74 yrs	1	1.0	1.0	100.0
Total	100	100.0	100.0	

The table above shows the highest percentage of the respondents was between the ages of 25 and 34; they accounted for 41 percent of the total respondents. Those from 35 and above added accounted for 35 percent of the total.

### **5.3 Level of education**

There has never been any nation which has developed without the factor of education. Education plays a pivotal and irreplaceable role in nearly all facets of human endeavour. This study therefore takes particular interest in the educational levels of the respondents and their perception of democracy in relation to media environment in Zambia.

**Fig. 2 : Education level of the respondents**



In terms of their level of education, figure 2 above shows that 49 percent of the respondents attained or are still at the university studying while 13 and 36 percent attained senior secondary and college levels respectively.

#### **5.4 Importance of democracy in Zambia**

This research revealed that most Zambians are interested to see Zambia becomes truly a democratic state. The governance issues should not just be relegated to political sloganeering but that democratic governance should be seen in operational terms in the various institutions and wings of government and in laws.

**Table 2: Zambia as a democratic state**

	Frequency	Percent	Valid Percent	Cumulative Percent
yes	80	80.0	80.0	80.0
No	20	20.0	20.0	100.0
Total	100	100.0	100.0	

From the above table, it is clear that 80 percent of the respondents think that Zambia is truly a democratic state while only 20 percent feel Zambia is not yet democratic.

### 5.5 Democratisation and the freedom of the press in Zambia

There has been always an argument whether freedom of the press is totally indispensable to democracy or is simply part of it. There is one school of thought which argues that democracy and a free and independent press are inseparable. Others however belong to the school which says you can have one without the other.

**Table 3: Freedom of the press and democratisation**

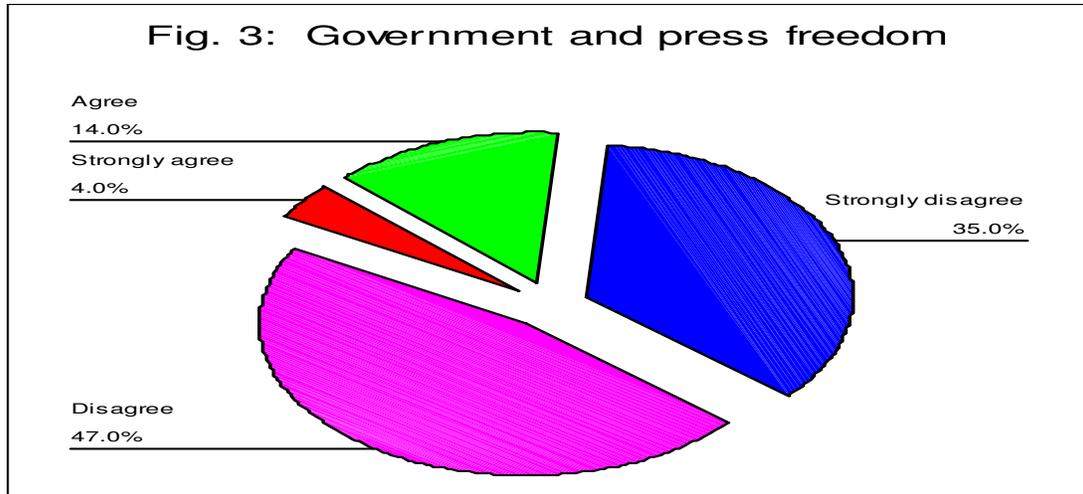
	Frequency	Percent	Valid Percent	Cumulative Percent
Yes it is part of it	83	83.0	83.0	83.0
No it is not part of it.	17	17.0	17.0	100.0
Total	100	100.0	100.0	

The above table depicts the majority of the respondents accounting for 83 percent who felt that freedom of the press is indispensable and totally inseparable from the whole package of democratic system of governance. It is only 17 percent, according to this finding who think freedom of press is just part of democracy.

### 5.6 The Zambian government's commitment to press freedom from Dr. Kaunda through to President Mwanawasa

The Zambian government from independence in 1964 up to date has dealt with the press differently from Dr. Kaunda through to President Mwanawasa. For instance, President Levy Patrick Mwanawasa's government is said to have been merely 'gentle' towards the press but was slow in committing it to the legal framework which would have guaranteed complete free flow of information. Sitting governments and in particular sitting presidents have a lot of bearing on the environment in which the media operates from. This can be deduced from the

ad hoc pronouncements either from government officials or presidents themselves concerning the media in the country.



The above pie chart shows that 35 percent of the total respondents strongly disagree that governments from Dr. Kaunda to President Banda have been committed to freedom of the press in Zambia. 47 percent simply disagree totalling 82 percent of those who think there has been non committal by the past and present governments to freedom of the press.

### **5.7 Independence of the press in Zambia**

The question of whether the media is independent or not in Zambia has been a tag of war between the media houses and the government. The media, especially the private has maintained that the media is not free but that it suffers from the heavy hand of government.

**Table 4: Freedom of the press in Zambia**

	Frequency	Percent	Valid Percent	Cumulative Percent
Free	4	4.0	4.0	4.0
Not free	29	29.0	29.0	33.0
Has some levels freedom	67	67.0	67.0	100.0
Total	100	100.0	100.0	

The findings of this study has revealed that 67 percent of the total respondents feel that the media in Zambia enjoys some level of freedom with 29 percent completely disagreeing that the media is not free. The other thing observable in this study is that only 4 percent out of the total number of respondents think the media is free.

### **5.8 The battle for press freedom in Zambia, who should fight for it?**

It is said that freedom is not given on the silver platter. It has to be wrestled for from those who wield power who would like their people to be subservient to government or the powers that be. Freedom itself, it can be argued, is power. The question therefore which should keep coaxing at the back of the mind is, who should fight for this freedom? Or, for the purpose of this study, who should engage in this battle for a free press in Zambia?

**Table 5: Showing who should fight for a free press**

		Frequency	Percent	Valid Percent	Cumulative Percent
	Law makers	3	3.0	3.0	3.0
	Journalists	2	2.0	2.0	5.0
	citizens themselves	94	94.0	94.0	99.0
	Not sure	1	1.0	1.0	100.0
	Total	100	100.0	100.0	

Table 5 above is stunningly revealing when it comes to who should fight for a free press. Most respondents accounting for 94 percent think citizens themselves and not just journalists and media houses should fight for this freedom. It is only 2 percent who feel journalists themselves should fight for a free press in Zambia. Interestingly 3 percent of the total number of the respondents puts this onus squarely on the law makers.

### 5.9 Press freedom and development

This study sought to find out whether there is a direct relationship between press freedom and development in any given country or community of peoples.

**Table 6: Showing the relationship between a free press and development**

		Frequency	Percent	Valid Percent	Cumulative Percent
	Yes	94	94.0	94.0	94.0
	No	3	3.0	3.0	97.0
	Not sure	3	3.0	3.0	100.0
	Total	100	100.0	100.0	

In the table above, the results were that a total of 94 percent linked press freedom to development while 3 percent said there is no direct link whatsoever. A further 3 percent simply weren't sure if there is or not.

#### 5.1.10. Legislation and press freedom in Zambia

For press freedom to flourish, it must be supported by good and entrenched laws which the media can operate from. In Zambia the constitution provides that framework in Article 20 of the republican constitution which guarantees the freedom of the press and freedom of expression.

**Table 7: Legislations needed for a free press in Zambia**

	Frequency	Percent	Valid Percent	Cumulative Percent
Independence Broadcasting Act (IBA)		11.0	11.0	11.0
Zambia Broadcasting Corporation Amendment Act	8	8.0	8.0	19.0
Freedom of Information Act (FOI)	45	45.0	45.0	64.0
All the above	30	30.0	30.0	94.0
Do not know	6	6.0	6.0	100.0
Total	100	100.0	100.0	

This study also wanted to find out if there are other legislations which may help facility a free flow of information without any difficult or hindrance. The study revealed that 45 percent of the total respondents see the Freedom of Information Act to be so vital for the press freedom in Zambia. 30 percent prefer Independence Broadcasting Act (IBA) of 2002, Zambia Broadcasting Corporation Amendment Act (ZNBC) of 2002 together with the Freedom of Information Act (FOI) to be put in place in order to create conducive atmosphere for the press in Zambia. 11 percent take IBA to be very vital while 8 percent would like ZNBC Act to be put in place. While it is widely acknowledged that there are many other laws which inhibit press freedom in Zambia, the above, if put in place, would a big mile stone in media legislation.

#### 5.1.11 The need for responsible reporting

Responsible reporting is at the heart of journalism as it is critical for credibility otherwise the Newspaper, Radio or indeed any Television station will soon lose face and eventually its market. Of late in Zambia the question of responsible or the inverse of it has attracted the call for media to be regulated by government.

**Table 8: Responsible reporting**

		Frequency	Percent	Valid Percent	Cumulative Percent
	Reporting truthfully, fairly, and ethically	95	95.0	95.0	95.0
	Regulated reporting	3	3.0	3.0	98.0
	Not sure	2	2.0	2.0	100.0
	Total	100	100.0	100.0	

This study sort to find out what responsible reporting would mean. Most respondents accounting for 95 percent think truthfulness, fairness and ethical reporting is what constitutes

responsible reporting. Only 3 percent find regulated reporting of media to help bring about responsible reporting. 2 percent of the total respondents are not sure what responsible reporting means.

### 5.1.12 Freedom of Information Act as a point of controversy in Zambia

The FOI has raised a lot of controversy as to whether Zambia is ready for this piece of legislation. Government on one hand seems not to be in a hurry to take back the Bill while those in the media fraternity especially private, insists that it should be taken as soon as possible. The question which could be hanging in the air is; is Zambia’s democracy ready enough for this Act?

**Table 9: Freedom of Information Act.**

	Frequency	Percent	Valid Percent	Cumulative Percent
Strongly agree	41	41.0	41.0	41.0
Agree	35	35.0	35.0	76.0
Strongly disagree	9	9.0	9.0	85.0
Disagree	14	14.0	14.0	99.0
Do not know	1	1.0	1.0	100.0
Total	100	100.0	100.0	

Table 9 in this study clearly reveals that 41 percent of the respondents strongly agrees and feels that Zambia is ready to have a freedom of Information Act while 35 percent simply agree totalling 76 percent of those who positively think the Act is long overdue. 23 percent out of the total number of the respondents represents those who do not agree. 9 percent strongly disagrees and 14 percent simply disagrees.

### 5.1.13 MISA’s position in championing media freedom in Zambia.

MISA’s mission statement is to promote media diversity, pluralism, self sufficiency, and independence of the media. It is however debatable whether MISA has enough acumen to marshal a free and fair media environment in Zambia.

According to this study, most people seem to be aware of the presence of MISA in Zambia as attested by table 10 below. Up to 90 percent accounted for the respondents who are aware of the activities and operations of the organisation. Only 7 percent of the total respondents were not aware of its existence.

**Table 10: MISA-Zambia**

	Frequency	Percent	Valid Percent	Cumulative Percent
Yes I am aware	92	92.0	92.0	92.0
No I am not aware	7	7.0	7.0	99.0
Not sure	1	1.0	1.0	100.0
Total	100	100.0	100.0	

**Table 11: Showing the strength of MISA- Zambia**

	Frequency	Percent	Valid Percent	Cumulative Percent
Has enough strength	15	15.0	15.0	15.0
Has not	15	15.0	15.0	30.0
Has been trying	64	64.0	64.0	94.0
Not sure	2	2.0	2.0	96.0
Not applicable	4	4.0	4.0	100.0
Total	100	100.0	100.0	

The study also endeavoured to check on the strength of MISA-Zambia to handle and enhance good media environment in Zambia as shown in table 11 above. Most respondents accounting for 64 percent feel and think the organisation has done enough while 15 percent think MISA has no muscle at all. The other 15 percent feel MISA has enough strength to marshal and prod the stakeholders into a free and fair media environment. It is only 2 percent of the respondent who are not sure of MISA’s capacity and strength in realising its media vision in Zambia.

#### 5.1.14 Regulation of media in Zambia

It is now an open secret that the Zambian government has had a strong intention of regulating the media in Zambia through a statutory media council citing irresponsible reporting and a failure by the media to regulate itself.

**Table 12: Regulation of the media**

	Frequency	Percent	Valid Percent	Cumulative Percent
Strongly agree	14	14.0	14.0	14.0
Agree	38	38.0	38.0	52.0
Strongly disagree	26	26.0	26.0	78.0
Disagree	22	22.0	22.0	100.0
Total	100	100.0	100.0	

The results of this research present a total of 52 percent accounting for respondents who would want to see the press regulated by an independent body with 14 percent out of the 52 feeling strongly about this matter. The other immediate significant thing to notice is the total number of respondents accounting for 48 percent who would not want the press to be regulated. Out this number, 26 percent strongly disagrees to media regulation in Zambia. The

difference between those who say yes the media must be regulated and those who do not subscribe to this position is 4 percent. This shows how thorn and sticky the issue is currently in Zambia.

### 5.1.15 Who should regulate the media?

The school which advocates for media regulation has still to face the question of who should regulate it because there are many interest groups and stakeholders with competing interests in this area.

**Table 13: Showing who should regulate the media**

	Frequency	Percent	Valid Percent	Cumulative Percent
The government	6	6.0	6.0	6.0
Journalists themselves	33	33.0	33.0	39.0
Media Council of Zambia (MECOZ)	46	46.0	46.0	85.0
Government and the journalists	14	14.0	14.0	99.0
Not sure	1	1.0	1.0	100.0
Total	100	100.0	100.0	

This study reveals that 46 percent of the total respondents would like the media regulated by Media Council of Zambia (MECOZ) while 33 percent would want journalists regulate themselves. A further 14 percent want government and the journalists come up with a roadmap on media regulation. 6 percent represent those of the respondents who are thinking of going to the government and ask it to regulate the media through any means possible. It is only 1 percent which is not sure which way to go.

**5.1.16 Did President Kaunda permit enough freedom of press in the first republic (1964-72)**

**Table 14: President Kaunda and press freedom in the first republic**

		Frequency	Percent	Valid Percent	Cumulative Percent
Ho	Strongly agree	6	6.0	6.0	6.0
	Agree	15	15.0	15.0	21.0
	Not sure	14	14.0	14.0	35.0
	Disagree	37	37.0	37.0	72.0
	Strongly disagree	28	28.0	28.0	100.0
	Total	100	100.0	100.0	

In the First Republic, the study reveals that 37 percent of the respondents strongly object to the statement that Dr. Kaunda generally permitted enough freedom of the press to operate well and a further 28 percent also disagree to this assumption making the total of 65 percent of those who feel the press was not muzzled in the first republic. However, 15 percent simply agree that Dr. Kaunda permitted enough press freedom while 6 percent strongly disagrees. A further 14 percent seem not to be sure of what the conditions of the press were at the time.

**5.1.17 Did President Kaunda permit enough press freedom in the second republic? (1972-1991)**

**Table 15: President Kaunda and press freedom in the second republic**

	Frequency	Percent	Valid Percent	Cumulative Percent
Strongly agree	3	3.0	3.0	3.0
Agree	11	11.0	11.0	14.0
Not sure	10	10.0	10.0	24.0
Disagree	47	47.0	47.0	71.0
Strongly disagree	29	29.0	29.0	100.0
Total	100	100.0	100.0	

In the second table above, the study is consistent with the fact that even in the second republic Dr. Kaunda was not ‘gentle’ with the press as revealed by the number of those who disagree that Kaunda permitted enough freedom of the press which now stands at 76 percent in total with 47 percent strongly opposing this view representing 76 percent of the respondents accounted for. It is only 14 percent in total of those for the view that enough freedom was permitted in the second republic under Dr. Kaunda. However, 10 percent of the respondents were totally not sure of what was obtaining at the time.

**5.1.18 Press freedom and the MMD government under President Chiluba**

The political liberation in 1991 brought in a lot of changes in Zambia in as far as press freedom is concerned. With the coming of the MMD led government into power, the country witnessed the entry of many private radio stations, TV stations, newspapers and community stations which are now a feature in nearly every town. But the question which remains begging is: **did President Chiluba permit enough press freedom?**

**Table 16: President Chiluba and press freedom**

	Frequency	Percent	Valid Percent	Cumulative Percent
Strongly agree	5	5.0	5.0	5.0
Agree	53	53.0	53.0	58.0
Not sure	4	4.0	4.0	62.0
Disagree	28	28.0	28.0	90.0
Strongly disagree	10	10.0	10.0	100.0
Total	100	100.0	100.0	

The table above shows that 53 percent agree that President Chiluba permitted enough freedom of the press in Zambia with 5 percent strongly agreeing with the same assumption giving Dr. Chiluba a total of 58 percent of the total respondents who think the Chiluba government allowed the press to operate independently. 28 percent disagrees while 10 percent strongly disagrees to the assumption totalling 38 percent of those who oppose the proposition.

#### **5.1.19 Press freedom in the future in Zambia**

After all the findings on the press in Zambia, one still looks into the future to see and visualise what kind of a press Zambia will shape especially that organisations such as MISA is still very much around coupled with increased awareness of the Zambian people of their inalienable rights in as far as their participation in governance of their country is concerned.

**Table 17: The future of the press vis-a-vis MISA- Zambia**

		Frequency	Percent	Valid Percent	Cumulative Percent
	Strongly agree	18	18.0	18.0	18.0
	Agree	49	49.0	49.0	67.0
	Not sure	28	28.0	28.0	95.0
	Disagree	4	4.0	4.0	99.0
	Strongly disagree	1	1.0	1.0	100.0
	Total	100	100.0	100.0	

The study reveals that most respondents were optimistic that Zambia is poised for a free press in the future. Those who feel strongly about this view account for 18 percent and those who merely agree that yes Zambia will achieve this goal account for 49 percent bringing the percentage to 67. The study shows only 5 percent in total that do not go along with this view. Interestingly enough, those who are not sure about the future of the press in Zambia account for 28 percent representing still some degree of uncertainty in the direction the media will take in the next few years.

## **PART II**

### **5.2.1 Focus group discussions (FGDs)**

The researcher held two focus group discussions that were purposively sampled for this study. The two groups comprised of 8-10 people. Guided discussions were conducted related to good governance and media in general.

The First FGD was held in Kaunda Square east of Lusaka on 23<sup>rd</sup> July, 2009 from 16:30hrs to 18:30hrs. The comprised of the following participants;

- i) Mr. Luke Kachali, Moderator
- ii) Francis Chenga
- iii) J. Mtamira, Secretary
- iv) Mr. J. Masuwa
- v) Mr. M.M. Manda
- vi) Ms. T. Sakala
- vii) Mr. Mwendalubi

The Second FGD was held in Long acres at Pope Square on 7<sup>th</sup> August, 2009 from 17:00hrs to 17:45hrs. The five participants, Emmanuel Zulu, Maureen Mulenga, Jeremiah Banda, Agnes Mumba and Mr. P. Bwalya came from the Archdiocesan Catholic Commission for Peace and Justice which is in charge of issues of justice and peace in the Catholic Archdiocese of Lusaka. Mr. Emmanuel Zulu facilitated the discussion while Maureen Mulenga took notes.

### **5.2.2 Democracy**

The discussants defined democracy as a system of governance where people are free to conduct their affairs freely as long as one is not stepping on another's rights. It was further noted that in a democracy people take part in decision making process at different levels of governance. In a democracy, one should express oneself without being hindered and to have

the rights which are due to everyone. Democracy, according to the discussants, is anchored on the following pillars:

- ✓ Transparency,
- ✓ Accountability,
- ✓ Freedom of expression,
- ✓ Freedom of the press,
- ✓ Constitutionalism, and
- ✓ Fair and regular multiparty elections

### **5.2.3** **Zambian democracy**

There was a strong opinion that Zambia is democratic though it was stated that the level of this democracy is what is debatable. It was agreed that in terms of having regular elections, we have done well. But when it comes to other things which constitutes democracy, for example the freedom of expression, fair coverage of political parties during campaigns, the autonomy of the judiciary, and the powers the executive wields, these seem to be counterproductive to our young democracy.

It was also noted that the process of democratisation was being impeded by some of the hangovers from the one party state mentality. The National Constitution Conference (NCC) currently sitting in Lusaka was cited as one of the draw backs on the road to democratisation. The fears of the discussants were that the NCC may siphon the wishes of the people as expressed in the Mungomba Commission of Enquiry. In a democracy, they observed, many different players participate in national building and therefore their wishes must be respected.

### **5.2.4** **Governance**

According to the discussants, in a democracy, power is located in the people governed. This type of power was termed as ‘participatory and distributive power’. In this kind of governance, there is no intimidation of any sort on anyone including the press which must operate without hindrance or fear. The discussants expressed the feeling that Zambian situation has not yet reached this level of governance.

### **5.2.5 Relationship between freedom of the press and democracy**

It was noted that freedom of the press and democracy are interrelated to the extent that if the press is suffocated, then the entire democratic process is suffocated. It was the opinion of the discussants that in Zambia unfortunately the public media is suffocated by government control to such an extent that every news item is censored. This way, people are denied the information they can use to make informed decisions and choices. In the final analysis people make decisions that are only meant to appease the government of the day.

The discussants expressed the opinion that the freedom of expression and the freedom of the press go hand in hand and cannot be separated. You cannot simply have one without the other. When people express themselves, that free expression needs to be captured by the media and be broadcasted. Otherwise the freedom of expression is undermined.

Furthermore, discussants felt there was more freedom of expression under Dr. Chiluba than any other. They cited the tendency of shooting down the opinion of citizens by senior government officials immediately the opinion is aired.

### **5.2.6 Responsible reporting and self-regulation**

Responsible reporting was defined as fair reporting and fair coverage which is backed up by evidence on whatever is covered. Self regulation is where journalists have access to information without being restricted by laws such as the Secret Act. At the same time information gathered must be based on the truth. It is the truth to regulate the media with information presented in an ethical manner.

### **5.2.7 Way forward**

Discussants felt the enactment of the Freedom of Information (FOI) bill and Independent Broadcasting Authority (IBA) will greatly liberalise the information flow in the country and enhance freedom of the press at the same time. It was further discussed that there was a great need to put pressure on government so that these instruments are quickly framed and enacted.

## **PART III**

### **5.3.0 IN-DEPTH INTERVIEWS**

#### **5.3.1 Democracy in Zambia**

What came out strongly from the people interviewed is that true democracy is about total freedom. It is about speaking freely. According to the people interviewed, this is where the issue of media gathering information without government interfering comes in. Government interference has many forms including bad or unfavourable laws which impede on free flow of information like State Security Act where even taking pictures of certain infrastructure is actionable. The result of this is that corruption thrives because it is being covered and protected by such laws.

True democracy therefore, is about allowing citizens to criticize freely the issues affecting their lives otherwise the country becomes like chiefdom. In a democracy the people are the masters of the country because of the right to vote.

Those interviewed argued that presently Zambia has not achieved or reached this level of democracy due to a number of reasons. Firstly, Zambia has not yet developed strong democratic institutions and processes. For example, nearly every election results are disputed in Zambia; secondly, currently the autonomy of the judiciary is perceived to be in tatters and ever doubted; and thirdly, the presence of the state controlled media are some of the things which contribute to Zambia lag behind when it comes to democratisation.

However, those interviewed were quick to add that Zambia generally tries to follow a constitutional rule though in a limited way. There is for example, they observed, sufficient freedom of association and speech, elections are governed, in principle, by free franchise, there is reasonable amount of press freedom and there is also space for civil society's organisations to operate.

### **5.3.2 Press freedom in Zambia**

Those interviewed noted a line of weaknesses in achieving a free press in Zambia because of the presence of media owned and controlled by government. They insisted that government controlled media always tell the line of their masters which in turn create confusion among journalists. It was pointed out that even on issues of national interest and development, the government controlled and private media never reach any consensus agreement. One interviewed gave an example of what happens at press conferences where some journalists ask what the state will do with other papers which seem to have divergent views.

Journalists go further by contradicting and discrediting each other on issues of discoveries because such information was not originated by their organisation. This, it was argued, makes it very difficult to attain media freedom in Zambia. It was pointed out that as long the training of Zambian journalists who are trained only as reporters with no skill of coming up with their own work and to work independently continues, the attainment of media freedom will remain a pipe dream for a long time to come.

### **5.3.3 Government and press freedom**

Government, from the beginning of the MMD led government under Dr. Chiluba, tried to give the media some breathing space. There was then the talk of privatizing the state owned media but along the line the government realized how much it can use the power of media to its advantage. This factor alone gave the idea a natural death.

The people interviewed observed that what constitutes a free and independent media is no interference by government backed by good laws like the Freedom of Information Act which was said to have been shelved by government for too long. According to those interviewed, without this important piece of legislation, there is no freedom of the press to write home about. Additionally the presence of the controlled media makes the talk of freedom of the press in Zambia a laughable matter.

It was discovered in the interviews conducted that lip service is paid to the press freedom by politicians and sitting presidents by merely making certain pronouncements concerning media issues. The Mwanawasa government, to give an example for example, it was argued

that was never serious with media freedom. The pronouncements the government made which seemed to favour media freedom were simply meant to appease the media.

One person interviewed gave an example FOI which he said was an opportunity Mwanawasa had to enact during his reign as president. Instead he allowed it to be stalled in parliament. Similarly, Dr. Chiluba managed to privatize some of the big companies and even conglomerates were easily privatized in a very short time privatization has ever seen on the continent of Africa but he failed to do the same with organizations such as *Zambia Daily Mail* and *Times of Zambia* where, it is alleged, workers actually offered to forfeit their benefits in order to buy shares in these institutions. Instead the government under Dr. Chiluba opted to continue with the same system of appointing directors.

Those interviewed generally agreed that yes Chiluba and Mwanawasa both made attempts but these attempts were meant to attract and appease the media and the donor community.

Concerning the current president Mr. Rupiah Bwezani Banda, the people interviewed observed that he has equally not shown much in terms of commitment to press freedom.

One gave an instance where the president was asked if he would close down the *Post News papers*. It is alleged the president to have said that it was not his intention to do so and indeed not his intention to waste time on such media houses because they will close on themselves. This, according to this person interviewed, gives an insight into how Banda and his government view the private media as a threat instead of allies or partners in development.

It will therefore take a very long time for the battle to be won because of the above reasons and many others. He said it was something Zambians have to continue fighting for because, has he puts it, 'there is very little understanding of the importance of media in a democracy'. He argued that other countries have managed to have a free press because they recognize the important role the media plays in development. He said the opposite is true in Zambia where media is treated as an opposition to government.

He concluded by saying, the environment in Zambia is very hostile to media freedom.

#### **5.3.4 MISA and the media in Zambia**

On MISA, one person interviewed describes the organization as a toothless dog used by government whenever it is convenient. He observed that MISA is usually manipulated by government to endorse and baptize its own activities. He does agree and acknowledge some of the good works MISA is engaged in especially in bringing journalist together to speak with one voice. But he said there are many weaknesses in the organization of MISA such as the journalists who work for MISA whom he said most of them are on correspondence making them vulnerable to the need to work only for monetary gain.

The other weakness for MISA, according to this person interviewed, was that once MISA has taken a position then everybody has to take it as a final position. This way of doing things, he argued, has forced some papers like *The Post* not to be part of MISA.

But those others interviewed also noted that if operated professionally like other chapters in Zimbabwe and Namibia where MISA truly champions the issues of the media which the media has with the government and the people and institutions, then it can be of much help than it is currently offering. It was acknowledged that MISA has a lot of advantages to itself. Firstly, it is not a business entity which relies on government and therefore can manage to remain objective on issues dogging the media in Zambia. Secondly, MISA is run by professionals who understand how media houses operate. Thirdly, MISA is well positioned to put up a good fight. Fourthly, and probably the bigger advantage, MISA is supported financially by donor countries and the organisation is linked to other chapters in the Southern Region.

## CHAPTER VI

### 6.0 INTERPRETATION AND ANALYSIS OF RESULTS

#### 6.1 Zambia as a democratic state

The overall revelation of this study is that Zambia is a democratic state. This is evidenced by the total number of 80 percent of those who said Zambia was a democratic state.

**Table 18: Education level Cross tabulation**

		Is Zambia a democratic state?		Total
		Yes	No	
What is your education level?	Junior Secondary	1	1	2
	Senior Secondary	13	0	13
	College	24	12	36
	University	42	7	49
Total	80	20	100	

The cross tabulation table above shows the education levels of the 80 percent who think Zambia is a democratic state. The table shows that 42 percent are university graduates, 24 percent have acquired college education while 13 are from senior secondary level.

It is however important to note that while 80 percent of the respondents agreed that Zambia is a democratic state, in the Focus Group Discussions and In-depth interviews people questioned the level or degree of democracy in Zambia.

The question at this time therefore is not whether Zambia is or not democratic. The question is how far Zambia has proceeded in democratisation process. This is a legitimate and timely question because eighteen years ago in 1991, Zambia was a model for democracy in Africa. This was mainly due to a smooth transition from one party state to democracy. President

Kaunda conceded defeat and agreed to hand over power to the winning MMD and its leader Chiluba. This was indeed the first step in Africa in the democratisation process. The question which remains begging is, is Zambia still on the right track as far as democracy is concerned or has Zambia slide or fallen below the expected and perceived standards?

In trying to answer this question, modern scholars like Giddens (2000) may be of some help. He defines democracy as a system involving effective competition between political parties for position of power.

This way of defining democracy places much emphasis on power struggle among political parties. The assumption in this concept of democracy is that political rights and liberties are guaranteed but only by permitting the electorates to take part in elections (Mwanza, 1993).

The danger is that Zambia may risk limiting democracy to the electoral process specifically to the casting of a vote. The bare holding of elections alone should never be taken as the existence of democracy in any country. It is in this view that the pillars of democracy discussed in the previous chapter under FGDs, should be taken seriously and considered whenever one talks about a democratic state. The pillars were said to be:

- Transparency;
- Accountability;
- Freedom of expression;
- Freedom of the press;
- Constitutionalism; and
- Fair and regular multiparty elections

## **6.2 Freedom of the press and democracy**

The question of democracy in Zambia naturally brings to the consideration of one of the pillars of democracy namely, press freedom. According to this study, 67 percent of the total respondents feel that Zambia enjoys some level of freedom. Only 29 percent think the media is not free.

The starting point of the analysis of this revelation is the question why the press has only some level of independence. Why should this freedom be given in piece meals in a

democratic state like Zambia? It should always be remembered that modern society is radically different from the way traditional societies were organised. One of the major differentiating factors is what is called the 'fourth estate' which is a free press. Press freedom is critically important as it brings out the checks and balances so that no single person or state can dominate the other at the expense of the poor. The Norwegian Ambassador to Zambia Tore Gjos observed that democratic rule is not possible without a free and independent press that could spread after cultural information and provide platform where people could express their views (*The Post*, 2009).

According to the editorial, the comment of Ambassador Tore Gjos brings out a number of overlapping but distinctive functions. One is to inform and educate so that people make intelligent decisions about public policy. In this regard people need accurate, timely, unbiased information. And because opinions are diverse, they also need access to a wide range of viewpoints. This role is especially important during election campaigns, when few voters will have the opportunity to see, much less talk with, candidates in person. Instead, they must rely on newspapers, radio and television to explain the issues and characterise the respective positions of candidates and their political parties.

The editorial gives a second function of the media which is to serve as a watchdog over government and other powerful institutions in society. By holding to a standard of independence and objectivity, however imperfectly, the media can expose the truth behind the claims of government and hold public officials accountable for their actions.

Given the above functions and many others, the point under consideration and analysis is why should most people say the press in Zambia has only some level of freedom? One would justify this revelation in this study given the press or media scenario in Zambia. There are three daily newspapers in Zambia and two of them are owned by the state and controlled by the government (Ibid). Only one of them is under independent private ownership and control. Furthermore, there is only one national television station. And that station is owned by the government. In other words, it is the government that sets the agenda or the mandate for the national television station (Ibid).

Indeed there are two or more localised television stations but in additional limited coverage, they always fear to stray vary far from the wishes of those in power because their licences can easily be withdrawn. What is more, the prospects of them being granted licences to

broadcast to the whole country depend on their ‘good behaviour’ or how much they cooperate with those in authority. The same applies to the private – owned and highly localised radio stations (Cf: Ibid).

Clearly, from the above situation in the country, it is not difficult to see why one would agree with those who argue that the press in Zambia is not free but enjoys only some independence. It is however desirable and required that the press enjoys full and complete freedom so that it can perform its functions without any hindrances or fear. A fully fledged freedom of the press is what democracy is concerned about. A press which enjoys freedom is designed to advance the protection of the public by making the widest possible flow of information which is one of the cornerstones of democratic governance.

In this regard, *The Post* (2009) was correct when it observed that democracy and a free press and independent press are inseparable. You cannot have one without the other. No nation, according to *The Post*, ever has, and none will. If you choose the democratic way then a free media is simply unavoidable.

### **6.3 Press freedom and development**

In this study, 94 percent of the respondents linked press freedom to development while 3 percent said there is no direct link whatsoever. This revelation is of great relevance for the purposes of this study – the battle for a free press in Zambia. The 94 percent results underpin the importance, first of all, of press freedom, and secondly, the contribution this study can be to national building and the general welfare of the people of Zambia.

It is true that there are other people who do not link free press to development. This study however shows that there are in the minority represented by 3 percent in this study. According to one respondent interviewed, he argued that you can have a very dynamic free press with a weak economy on the other hand. For him free media is simply the free flow of information. Even where people or country has no economic power, there are bill boards and public places where people can still gather information.

But the United Nation Educational Scientific and Cultural Organisation (UNESCO, 2008), agrees with this study’s revelations and emphasises the correlations between freedom of the

press and different dimensions of development namely poverty, governance and peace. According to UNESCO, the links between free press and development are evident. UNESCO points to the last two decades and their success stories of people empowered through the free flow of ideas and by access to information and knowledge which have been accompanied by many resolutions and authoritative statements by international bodies on the importance for sustainable development of an environment enabling free, pluralistic and independent media. Therefore, UNESCO concludes, supporting freedom of expression has been increasingly considered as a mean to promote human development, security, participation, accountability, good governance and there ultimately as a way to contribute to poverty reduction.

What this means is that freedom of the press is so cardinal to the extent that UNESCO, as a UN organ, has been mandated to defend freedom of expression and press freedom and continues to support, among other efforts to understand the impact of media freedom on various dimensions of development.

It must be kept in mind that this study is about the media and its critical role in relaying information gathered for the good of society and in this particular case Zambia. This is all the reason the study is entitled 'The battle for a free press'. A free press contributes greatly and facilitates the process that builds consensus and further facilitates the sharing of knowledge to achieve positive change in development of a nation (World Congress on Communication for Development, 2006). *The Post* (2009) quotes Kenny Makungu a senior University of Zambia Lecturer when he argues that 'Freedom of political expression, freedom of speech and freedom of the press are essential so that citizens are informed on the political, social and economical interests'(Thursday 17, p.8).

It is therefore frightening how quickly the world has forgotten how the concept of modernisation as a development strategy for Africa failed in the 1970s. Modernisation was in many aspects undemocratic with an arrogant top-down approach to development. The indigenous African people to whom development was intended had no say or hand in any of the plans (<http://www.southboun.com.my/>). People at that time received developmental projects like a car receives fuel from a fuel pump. This made modernisation to fail lamentably because local people were not involved at all. Modernisation missed out on the indigenous knowledge and thus alienated the local people from development which was meant for them.

Democracy, one can argue, with an in-built free press, is exactly the opposite of the 1950s and 60s approach to a modern way of organising and developing countries such as Zambia. Autocratic governments use the 'top-down' kind of governance. But in a democratic country such as Zambia, participation of the people in the destiny of their country by sharing their experiences and knowledge is what has come to be accepted as a system of governance.

A media which is not free in this new paradigm shift does not only have the potential to fracture the emerging democracy but can also frustrate the little developmental efforts of a country. It is free media which facilitates communication for development where people feel part and parcel of what is taking place in governance issues. This is bottom-up. In fact this is in line with what the people interviewed discussed about democracy. They mentioned that true democracy is about allowing citizens to criticize freely issues affecting their lives.

One of the weaknesses highlighted in the last chapter under In-depth interviews is the little understanding of a free press in Zambia and the failure to recognise the important role the media plays in development. It was observed that in Zambia the private media is taken as an opposition to government. And yet UNESCO (2008) points out that there is a 'good' correlation between press freedom and the different dimensions of development, poverty and good governance. In particular, UNESCO argues press freedom is positively correlated with most of the dimensions of human development such as economic security education, food and health. With this analysis, UNESCO asserts that a widespread media access and independent free press can contribute to attainment of the Millennium Development Goals. These findings and analysis of UNESCO therefore, validate the findings of this study where 94 percent of the respondents agreed that there was a relationship between a free press and development as amplified by *The Post* (2010) in the letter to the editor, 'Free media is as essential to a country as water is to fish. A nation can't prosper and progress without a vibrant and independent media....' (p.13).

#### **6.4 Regulation of media in Zambia**

The question of media regulation continues to be a thorny issue in Zambia. The results of this study give a total of 52 percent of those who would like the media to be regulated while 48 percent would not. The revelation brings out the fact that media in Zambia has created or

given some overtones which may not be quite desirable for public consumption. How else would one explain this public demand for media to be regulated in Zambia? It points to some grey areas in the manner the media has portrayed itself. As *The Post* (2008) rightly points out that sometimes the media can be sensational, superficial, intrusive, inaccurate, and inflammatory and even to the point of irritation. Private media can sometimes be very insensitive to the cultural norms of society especially in the choice of words ascribed to things and citizens of Zambia from every strata of society.

It can also be argued that there is nothing completely perfect on earth and so it is up to the public to find 'kernels of truth' (Ibid). But this way of looking at things is simply running away from responsible reporting which is so cardinal in Journalism. It could be that it is this irresponsible reporting which has pushed some people to opt for regulation of the media in Zambia. Indeed everyone else understands the constitutional right of press freedom in Zambia. Everyone else is also aware of the consequence and implications of a regulated press. According to *The Herald*, a South African Newspaper (2008), "It is the duty of any patriotic citizen to monitor and judge our rulers, and when our rulers monitor and censor us that is despotism". This is probably why 46 percent respondents would want the media to be regulated by Media Council of Zambia (MECOZ) as opposed to the others who would want the government to regulate.

It is true as *The Post* (2008) rightly noted, a press that is subjected to a mandatory regulation by a statutory Council is not a free one. It is eventually suffocated as it is now open to criminal sanctions.

Clearly this is not the way the press want to go in Zambia as clearly again pointed out by *The Post*. *The Post* argues that asking the government to set up a statutory body to regulate the conduct of the press is definitely not the right way to go. One who takes this route can not in any way claim to be promoting, advancing or defending press freedom (Ibid). Makungu, quoted in *The Post*(2009), maintains that if any democracy is not carefully legislated to avoid an uneven distribution of political power with balances, such as the freedom of the press, it could become harmful to democracy itself because citizens and the media will not be free to express themselves under an oppressive legal regime. Moreover, Zambia is a signatory to the International Declaration on Media Freedom, which is against statutory regulation (*The Post*, 2009) But 52 percent of the total respondents in this study have taken the root of the media

being regulated. This means then, that the media in Zambia has to do a lot in terms of self cleansing. Otherwise it will be the media itself abusing the freedom they are always insisting on.

### **6.5 Responsible reporting**

Responsible reporting has always been taken as a hallmark of good Journalism. This study shows 47 percent of the respondents feel responsible journalism will be promoted by strictly following ethical standards while 21 percent think adequate and fully trained Zambian Journalists will bring out good journalism. But as one of those interviewed observed, as long as journalists remain poor and as long as training of journalists remains inadequate, responsible reporting will continue to be elusive.

Zambian journalism may not be responsible enough as long as some journalists seek to be torn between the pursuit of the truth and their desire of being in good standing with the powerful (2008). *The Post* described this as the main form of corruption in journalism today.

### **6.6 Freedom of Information Act (FOI)**

This study also sorts to find out whether Zambia was read to have this piece of legislation. 76 percent in total agreed that Zambia's democracy is ready. It could have been insulting if most respondents said Zambian democracy is not yet ready for such an Act. It could have meant Zambians; especially Zambian journalists are all children who could go crazy with such legislation.

Even if such a situation arose where some journalists may be trigger happy with the FOI, there are other laws already in the constitution to protect and handle such transgressions. The Bill of Rights, for example has derogations to this affect. FOI may also be accompanied by derogations to make sure it is not open to abuses by the press.

The Freedom of Information Bill has been pending for a long time now and yet it is provided for in the Mung'omba draft Constitution in Article 57 (3) while at the same time providing for the establishment of a body to regulate broadcasting (MISA News, 2008).

According to Kabanda (2008), media organisations have been insisting that the Bill be taken back to Parliament for enactment into law because the Freedom of Information Bill is aimed at the following:

1. Establish the Public Information Commission and to define its functions;
2. Provide for the right of access to information;
3. Set out a scope of public information under the control of the public authorities to be made available to the public in order to facilitate more effective participation in the good governance of Zambia;
4. Promote transparency and accountability of public officers; and
5. Provide for matters connected with or incidental to the foregoing (FOI, 2002).

Kabanda therefore argues that the country really needs the freedom of the press in order for the press to operate in an environment that gives them room to provide information that citizens yearn for.

One can only remember with sadness what happened when President Mwanawasa fell ill in 2008. The media that time struggled to access timely and accurate information on the status of his health from Zambian officials to pass on to the anxious citizens. The Zambian media seemed confused and lagged behind major international media organisations in terms of information about the president's health as a result. The situation was worsened when the international media reported that the president had died, yet no official confirmation was made by Zambian officials. Sections of the Zambian media aired the news and commenced playing solemn music. However, the then Minister of Information Mike Mulongoti dispelled the rumour on ZNBC and stated that the Zambian president was still alive and was in a stable condition. On August 19 then Acting President, Rupiah Banda, announced Mwanawasa's death in a national address on ZNBC television and radio (So This is Democracy? State of media freedom in southern Africa, 2008).

Given the above state of affairs in the Zambian media, the government would do well to pay attention when UNESCO (2008) exulted national states in these words; 'To that end it is necessary for states to ensure transparency and accessibility of information, for media to develop within an independent, viable, pluralistic and professional environment and for legal guarantees of which the public is aware to ensure right of access to information' (p.14).

## **6.7 The position of Media Institute of Southern Africa in Zambia (MISA)**

The strength and position of MISA in Zambia, according to this study is very encouraging to MISA. 92 percent of the respondents indicated that they are aware of MISA's presence and activities in Zambia while 64 percent think MISA-Zambia has been trying in its effort to bring about a good environment for the media in Zambia. Apart from the main activities MISA is involved in, MISA has been part of the fight and battle for a free press especially against the oppressive legislation. The legislative and regulative framework in Zambia continues to pose serious challenges to public, community and private broadcast media (MISA Zambia Chapter, undated).

MISA strategies and tactics have included the holding of targeted marches, workshops, meetings, production of t-shirts, caps, etc., programmes for radio and TV, fliers, and adverts in other media. The organisation also issues statements and alerts especially when there are violations of press freedom.

There is little doubt that the strategising and programming by MISA-Zambia is timely and on target. Their objectives, activities, monitoring and reporting systems also meet the high standards expected for media project work (Ibid.).

## **6.8 The Future of the press in Zambia**

The future of the press in Zambia should be looked at within the backdrop of how the Zambian government from independence to the present has related with it. The study reveals that the press in Zambia has been subjected to hostile conditions since independence. A total of 65 percent revealed that Dr. Kaunda did not permit enough freedom of the press in the first republic (1964-1972) while a total of 76 percent of the respondents said the same in the second republic (1972-1991).

Under President Chiluba a total of 58 percent agreed that he permitted enough press freedom while 38 percent disagreed.

This favourable response placed under President Chiluba's rule can be explained by the liberalisation policies under the MMD rule which liberalised the airwaves in 1991 after a

landslide victory. However, critics of the Chiluba Administration say Chiluba only liberalised but he failed to privatise the media to completely free it from government control.

The case in point here is Zambia National Broadcasting Corporation (ZNBC) which according MISA in its report: Towards the Enactment of the Independent Broadcasting Authority (IBA), Amendment and Subsequent Replacement of the Zambia National Broadcasting Corporation (ZNBC) Act and enactment of the Freedom of Information (FOI) act in Zambia (2002), unfortunately has continued to serve as tool for government right through to independence. MISA argues that the station has changed names over time from 'Corporation' to 'service' and again to 'corporation' without much meaning being attached to the name – it continues to be a government entity. Even under the leadership of Dr. Mwanawasa and the current president Mr. Banda, the status quo of the media has been *aluta continua* with the same laws which inhibited press freedom in the past.

However, the future of the press in Zambia is not brink as many media organisation continue to present a formidable force in this fight. Below are some of the media organisations involved with the press;

- a) Press Association of Zambia (PAZA)
- b) Zambia Union of Journalists (ZUJ)
- c) Media Ethics Council of Zambia (MECOZ)
- d) Zambia Media Women Association (ZAMWA)
- e) Zambia Community Media Association (ZaCoMeF)
- f) UNZA Department of Mass Communication
- g) Evelyn Hone College (Media Studies Section)
- h) Zambia Institute of Mass Communication (ZAMCOM)
- i) Society of Senior Journalists;
- j) The Post Freedom Committee of the Posts Paper; and
- k) Media Institute of Southern Africa (MISA)

As the maturation of democracy in Zambia continues, the Zambian media is indeed posed for a brighter future. This, however, is not saying the battle will be easy. On the contrary, it is by stepping up the fight by organisations such as MISA and its allies that such a vision will be actualised. The 67 percent in this study of the respondents who are optimistic about the future of the press in the near future is not therefore too farfetched.

## CHAPTER VII

### 7.0 Conclusion and recommendations

The battle for media freedom in Zambia is not perceived but real. The battle has been going on from the time of colonial rule when a voice of an African in the then Northern Rhodesia was conveniently excluded from print and electronic media which was strictly controlled and served only the interests of the white minority.

This study has brought to the fore the fact that since the dawn of independence in 1964, the Zambia media has not shared fully in this independence and self rule. In fact the media continue to suffer restrictions and hindrances due to laws which are found in the constitution which are basically a colonial legacy.

The Penal Code for example, and many others, remains a big thorn and a big stumbling block for the attainment of media freedom. The Penal Code gives unlimited powers to the President to declare any material which he himself may find a danger to the interest and welfare of Zambia.

These calls for concerted efforts from all well meaning Zambians of good will to push politicians from their comfortable zones and induce political will to amend and implement legislation which support and protect freedom of the press.

It is true that material things in this world bring and help human beings to live a happy life. But it is also true that democracy, freedom of expression, and in particular freedom of the press add a lot of flavour and goodness to human life as it spurs innovations thus making life itself more fulfilling and worth living. *The Post* (2010) echoes and expands the same sentiment in its editorial when it says; ‘Material things alone don’t make for happiness. A sense of justice, dignity, self-respect, respect for other, and love for your fellow men have a great deal to do with happiness, with peace as have moral principles: the feeling of being free,

equal and respected and of taking part in the battle for the progress of our country, the country we live in; and working like beavers, shoulder to shoulder with the rest of our fellow citizens, the citizens of goodwill' (p.12).

This probably explains the reason why the battles have been fought and continue to be fought in those parts of the world and countries where the freedom of the press has been denied or restricted by draconian laws. This argument may be sustained as the world trend moves more and more in the direction of democratisation. According to this study, power in a democracy, is located in the people governed. This power is what has been termed by the people interviewed as participatory and distributive power.

In this system of governance, any attempt to muzzle the press inevitably evokes a great deal of resistance because people's inalienable rights have been tampered with. This makes the battle and fight for a free press not only necessary but something which must not be given up until it is won. In Zambia and in Africa and elsewhere in the world where the press has not yet enjoyed a happy existence, the fight must be stepped up so that democracy may truly go hand in hand with all the liberties which go with democratic governance.

Zambia has still a chance of reclaiming and re-positioning herself as a model of democracy in Africa by working on the laws which are injurious and infectious to press freedom. The media reforms which came with political liberation in 1991 were only a few steps if not one, in the right direction. Many more steps and strides could have been made. The commitment to media freedom is not only beneficial to media houses but to the nation as a whole. It is, as someone said, 'a lifeline of democracy and helps to cleanse society'.

## **7.1 RECOMMENDATIONS**

### **7.2 Strengthening democratic rule**

The strides already made in the democratic process should not be allowed to thin out. It is true that democracy in Zambia has not reached the satisfying levels one would desire as it seems to come in piece meals. The ideal democracy Zambia ought to aim at is that where government becomes 'a government of the people, by the people, and for the people'.

For democracy to truly take root and to mature, there must be a strong will by politicians to give greater and unquestionable separation of powers to the three wings of government namely: the executive, the legislature and the judiciary where even the press can operate freely without undue interferences. These institutions must be autonomous so that they function and execute their constitutional roles they are mandated to do.

Makungu (2004) writes that 'The Press has often been described as the Fourth Estate, (the others being the Executive, Judiciary and Legislature,) because full and accurate information on matters of public interest is the measure by institutions and governments and all others in positions of authority are held accountable to and by the public. And as such, the media serves as a watchdog against the abuse of power and against corruption in public life' (p.2).

Democratic rule therefore, is strengthened where the media is free because of its vital and critical role especially during campaign periods when the electorates are pinning for information about the candidates to hear from the 'horse's mouth' the programmes and manifestos different parties have for the country.

Furthermore, the electoral system must also be independent from government and its laws completely overhauled so that elections are not disputed each time there is an election. Indeed it is recommendable that Electoral Commission (ECZ) has a website ([www.election.gov.zm](http://www.election.gov.zm)), which provides adequate information for anyone seeking information on ECZ and its operations. But the website alone is not enough.

### **7.3 The legal system**

The Zambian legal system imposes many restrictions on freedom of expression and of the press, almost all the laws which seriously impede on these freedoms were enacted during the colonial days. The main purpose of this colonial legislation was to suppress the African struggle for independence. This repressive legislation was not repealed at independence or at the dawn of political pluralism in 1991. There is a wide derogation clauses contained in the Constitution coupled with lack of political commitment to individual human rights on the part of government (Chanda, 2002). The following are part of the wide derogation clauses in the Constitution:

- a) Penal code, Cap 154
- b) Prohibited publication – section 53 (1)
- c) Seditious libel – section 57 (1)
- d) Publication of false news – section 69
- e) Defamation of the president – section 69
- f) Criminal defamation – section 191
- g) National assembly (Power and Privilege) Act, Cap 17

These laws, not mentioning the threats and ad hoc pronouncements from politicians and government officials are some of the challenges the media face which are very difficult and strenuous.

### **Recommendation**

Zambia must begin to move from these unfavourable and undue restrictive pieces of legislation to a more sober, media friendly and supportive with minimum unnecessary restrictions. The Zambian government must begin to respond and implement the many recommendations on media laws and reforms especially the Sangwa Report of 2000. The Report remains one of the influential documents produced in the process of establishing freedom of press and the media in Zambia. The Report recommended the formulation of information and media policy, the formulation of a single media code of ethical conduct, and commercialisation of the national broadcaster and public owned newspapers. These recommendations led to the enactment of the Independent Broadcasting Authority (IBA) Act, No. 17 of 2002, the Zambia National Broadcasting Corporation (ZNBC) Amendment Act, NO. 20 of 2002 and the establishment of Media Council of Zambia (MECOZ), in 2004.

All these regulative authorities were aimed at minimising the influence of government on media institutions. The following media bills therefore, calls for immediate considerations and quick if not swift implementation.

- (i) ZNBC (Amendment) Act of 2002
- (ii) Freedom of the Information Bill, and the
- (iii) Independent Broadcasting Authority (IBA)

Among the three, the Freedom of Information Bill and ZNBC (amendment) Act need a special emphasis as they seem to be in line with the Windhoek Declaration of 1991 and the African Charter on Broadcasting which promote independent and a pluralistic media. ZNBC is still seen to be overly controlled by the government and is unable to distance itself from vested political interest. A change in government entails a change in the board of directors and the director general which compromises every effort to manage the institution professionally for the benefit of all. This is evident during elections when it is impossible for the board and director general to remain non-partisan.

As the Bishops of Zambia clearly and succinctly noted (2010), the people of Zambia look forward to a time when our public media will one day be truly independent. The public media though funded by the taxpayer still has a long way to go before it will be at the disposal of the 'the public' over and above the interests of politicians and sitting governments. ZNBC therefore, must be helped by government to become truly public and independent so that it can begin to accurately reflect the diversity of its audience and stakeholders. ZNBC has a potential of providing space for Zambians in their diversity to find what they have in common by talking to and learning about each other and thereby leading to nation building.

#### **7.4 Freedom of Information Bill**

The Freedom of Information (FOI) Bill needs mention and recommendation because it was shelved by government after it was introduced in 2002. The reasons surrounding its withdrawal have not been satisfactorily forthcoming. This has, in the long run opened up to a lot of speculations as to why the government has grown cold feet over this important piece of legislation.

And yet many media organisations have been pressing government to take the Bill back to parliament for enactment into law. One would indeed justify the persistence of the media organisations over this matter. Matibini (2006) quotes Mendel (2003:1) when he argues that 'the flow of information and ideas lies at the heart of the very notion of democracy and is crucial to the effective respect of human rights' Matibini also adds that; the right to freedom of information is now widely recognised as a fundamental right (Ibid.). In Zambia the

contrary is what is true. Access to information possessed by government is instead criminalised through the official Act of 1923.

The purpose of FOI, according to MISA in its report: Towards the Enactment of the Independent Broadcasting Authority (IBA), Amendment and Subsequent Replacement of the Zambia National Broadcasting Corporation (ZNBC) Act and enactment of the Freedom of Information (FOI) act in Zambia (2002), was to encourage a more open and transparent government where members of the public, including media, can have access to some information about government operations upon request. With this legislation, members of the public would have access to reports of commissions of enquiry, audits of various government offices and reports held in government offices. With this, government officials would be obliged by law to release information.

### **Recommendation**

There is only one way forward for the FOI. This one way is for the government to resurrect and take the Bill to Parliament for further debate and eventually to see to it that it is enacted.

A Freedom of Information is a must in Zambia now and it must be stated clearly in the constitution that citizens have a right to information and it does not matter who is holding that information.

### **7.5 Regulation of the media**

The call for a regulation of the media is a serious consideration and a wakeup call for the media in Zambia. A regulated media cannot guarantee a free media and therefore a regression in the process of democratisation. This is because the word regulation connotes control and restrictions. Regulation of the media therefore, has very little to do with the modern concept of democracy and media freedom.

## **Recommendation**

The media must avoid fragmentation and working in isolation as individual media houses. Instead they must come together to form a one strong formidable self-regulative body where ethical standards are adhered to and followed in the spirit of professionalism, responsible reporting, and over and beyond, in the spirit of self-criticism. On the other hand, those institutions such as Evelyn Hone College and the University of Zambia charged with the responsibility of training journalists must ensure that they design programs that will improve professionalism; self motivated journalists and a high sense of ethical background. The government's role in all this is not to regulate but to invest in the training and retraining of journalists.

Furthermore, it is highly recommended that media houses ensure a fair and just remuneration for the journalists so that they do not fall prey to *freebies* from the powerful who would want to see their objectivity compromised.

## **7.6 The Constitution of Zambia**

The Constitution in its current form and legality does explicitly guarantee the freedom of expression under Article 20. However, the Constitution does not categorically and clearly spell out the freedom of the press. It is only inferred to and taken for granted. This has left the Constitution on freedom of the press quite vague and unequivocally ambiguous. As Kabanda observes (2003 – 2007), press freedom is only assumed under the general freedom of expression. Press freedom therefore is not guaranteed in the Zambian Constitution as such.

## **Recommendation**

The National Constitution Conference (NCC) currently sitting in Lusaka must seriously take a second look at Article 20 which only provides for the freedom of expression and probably consider Article 72 of the Mungomba recommendation on the freedom of the press in Zambia. This study has revealed that freedom of expression go hand in hand with the freedom of the press. The opinions and thought processes expressed freely by the citizens

must be broadcasted in a free environment so that there may be competing opinions and thoughts over issues which affect the general populace.

It is therefore the recommendation of this study to once again echo the recommendation of the Sangwa Report of 2000 that the Constitution must guarantee the freedom of the press and media in clear and unambiguous terms. Furthermore the NCC must follow the well-traced path outlined by the Mung'omba Constitution Review Commission at the explicit request of the then Republican President when he appointed the CRC in 2003. The NCC should not fail the Zambian people on this score by putting in place a "Constitution to stand the test of time." In other words, the citizens of Zambia do not want any more of the constant re-writing of constitutions that were either weak or distorted

It is for this reason that the Catholic Bishops in Zambia (2010) strongly suggested that it is not right for the NCC to attempt to replicate a document that was capably drafted after two and a half years of wide and all-embracing consultation, research, expert surveys, public hearings held all across the country. The Constitution, being the basic law of the land, needs to go through the process of legitimatisation and popularization. A new constitution without these important provisions will only create more tension and possible violence and an excuse for subsequent new Governments to re-start the constitution making process all over (2010).

## CONCLUSION

In conclusion, it's important to state once more and categorically so that the media in Zambia is still in a precarious position. This precariousness emanates from hostile and repressive legislations such as the Penal Code, Law of Defamation, State Security Act, to mention but a few. What is more scandalous is the fact that most of these media laws in Zambia have much of their roots in the pre-independence Zambia which have not been repealed. The Sangwa Report (2000) notes that all legal provisions which relate to media are negative in effect. It insists that there are no laws which seem to assist people in media industry in the performance of their functions. These and many other militating factors like the political will have had telling effect on the general landscape of Zambia, vis-a-vis the economic well being of the country. It is no longer an intellectual exercise to state that information is power. It is in this very domain of power that a journalist plays a vital role of communicating the information which empowers not only society but as well as individuals to make informed decision about the affairs of their individual lives and that of their societies. It is this same information which spurs innovations and creativity thus contributing to the wellbeing of society which in effect is development itself. But once journalists and the media in general are subjected to unsteady, unsafe, and colonial legal frame work, then their critical role in society is in complete and perfect jeopardy.

The Election Reporting Handbook (2000) has a lot to offer on this score when it states:

Under the emerging democracy the populace is no longer a passive listener; ... hitherto they were inhibited from expressing their views, and were blind loyal followers of government pronouncements and policies. The citizens are now free to express opinions, question government actions and ensure accountability. The media should provide the people with full, consistent, accurate and factual information to enable the citizens raise issues. Such information should empower the public to make informed choices and decisions (p.14).

In Zambia and in many African countries there has been the problem of corruption involving very high profile citizens. It is a problem which has been spreading like cancer and eating the very fabric of society. It is the opinion of this researcher informed by this study that if the media was allowed to operate in a truly independent atmosphere, these high incidences of corruption would be brought to minimum levels. But with laws such as the State Secret Act

were as long as the information is labelled 'confidential' that information remains closed to public scrutiny. This state of affairs has contributed to underdevelopment in Zambia. Again, Election Reporting Handbook (2000) misses no word when it says; 'Issues of checks and balances and good governance take a centre stage in emerging democracies. It is therefore incumbent upon the media, because of its professional advantageous news gathering role, to expose any government malpractice, abuses, corruption and other shortcomings as a way of prodding the authorities to redress the situation. This watch-dog role should help in protecting public interest in the governance of the country (P.14).

If the role of media was allowed to flourish in a free environment, it has the stimulating effect of development as all the resources are directed and used for the intended purposes. The catch words in today's democracy and development are: accountability, transparency, and good governance. A free media is simply a *condisio sine qua non*.

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**Quantitative Survey Questionnaire**

Dear respondent,

We have sent to you this questionnaire because we believe you can contribute to the environment in which freedom of expression and freedom of the press can thrive. Please, feel free to provide as much information as you can in these questions. In doing so, you are not only adding to the body of knowledge on the state of affairs regarding press freedom in Zambia but also helping in creating a fair and just society where Zambians will truly be part to the aspirations and destiny of their country.

**Section A**

Biodata

**1. What is your sex?**                      **Male ( )**              **Female ( )**

**2. Please, tick the range of years in which you fall.**

21—24 yrs {    }

25—34 yrs {    }

35—44 yrs { }

45—54 yrs { }

55—64 yrs { }

65—74 yrs { }

**3. Education level.**

1. Primary { }

2. Junior secondary { }

3. Senior secondary { }

4. College { }

5. University { }

6. None of the above { }

**Section B**

**1. Is Zambia a democratic state?**

**i) Yes { }**

**ii) No { }**

**2. Is the independent media a must for a democratic state?**

i) Yes it is indispensable { }

ii) No it is only part of it { }

iii) Not sure { }

**3. Would you say freedom of expression and of the press go with democratisation?**

- i) Yes. They are part of the democratisation package { }
- ii) No. They are part of the struggle towards true democracy { }

**3. Have governments from Kaunda through to President Banda been committed to a free and conducive press freedom in Zambia?**

- i) I strongly agree { }
- ii) I agree { }
- iii) I strongly disagree { }
- iv) disagree { }

**4. Is the media free and independent in Zambia?**

- i) Free { }
- ii) Not free { }
- iii) Has some level of freedom { }

**5. Who should really fight for a free press in Zambia?**

- i) Law makers { }
- ii) Journalists { }
- iii) All the Zambian citizenry { }

**6. In your opinion, what constitutes a free press?**

- i) Mass media to gather information { }
- ii) Mass media to organise and pack information { }
- iii) Mass media to air and publish information { }
- iv) All the above { }

**7. Is there a relationship between a free press and development?**

- i) Yes { }
- ii) No { }

**8. Which of the following legislations would you say are so vital for the free press in Zambia?**

- i) Independent Broadcasting Act (IBA) { }
- ii) Zambia National Broadcasting Corporation Amendment Act { }
- iii) Freedom of information(FOI) { }
- iv) All the above
- v) Do not know { }

**9. What is responsible reporting?**

- i) Reporting truthfully, fairly, and ethically { }
- ii) Regulated reporting { }

**10. Zambia is now ready to have a Freedom of Information Act?**

- i) I strongly agree { }
- ii) I agree { }
- iii) I strongly disagree { }
- iv) I disagree { }

**11. Are you aware of the existence of Media Institute of Southern Africa in Zambia (MISA-ZAMBIA), a non-governmental organisation championing a free media environment in Zambia?**

- i) Yes I am aware { }
- ii) No I am not aware { }

**12. If your answer is yes to the above question, would you honestly say MISA has**

**enough strength to marshal a free and fair media environment in Zambia?**

- i) Has enough strengths { }
- ii) Has not { }
- iii) Has been trying { }
- iv) Not sure { }

**13. Should the press be regulated?**

- i) Strongly agree { }
- ii) Agree { }
- iii) Strongly disagree { }
- iv) Disagree { }

**14. If the media was to be regulated, who should regulate it?**

- i) The government { }
- ii) Journalists themselves { }
- iii) Media Council of Zambia (MECOZ) { }
- iv) Government and Journalists { }

**15. How can we promote responsible reporting in the Zambian journalism?**

- i) By regulating the media { }
- ii) By ethical reporting { }
- iii) Adequate and fully trained Zambian journalist { }
- iv) By enforcing membership of all media houses to belong to Media Council of Zambia (MECOZ) { }

**16. What could be your concept of good governance?**

- i) Free flow of information { }
- ii) Strong democratic institutions { }
- iii) Free and fair elections { }
- iv) Autonomous wings of government { }
- v) All the above { }

## Appendix 2

### Section C

Answer the questions below on freedom of the press in Zambia from independence to the present

Please, tick [√] in the right space to indicate your answer.

#### **First Republic (1964-1972)**

**17**

1

2

3

4

5

<b>Statement</b>	<b>Strongly Agree</b>	<b>Agree</b>	<b>Not Sure</b>	<b>Disagree</b>	<b>Strongly Disagree</b>
Generally Kaunda permitted enough freedom on the press to operate well					

**Second Republic (1972-1991)**

**18**

1                      2                      3                      4                      5

Statement	Strongly Agree	Agree	Not Sure	Disagree	Strongly Disagree
Generally Dr. Kenneth Kaunda permitted enough freedom on the press to operate well					

**Third Republic (1991 to 2008)**

**19**

1                      2                      3                      4                      5

Statement	Strongly Agree	Agree	Not Sure	Disagree	Strongly Disagree
Generally Dr. Fredrick Chiluba permitted enough freedom on the press to operate well.					

**MISA – ZAMBIA’s work for press freedom**

No	Statement	Strongly Agree	Agree	Not Sure	Disagree	Strongly Disagree
20	MISA-Zambia has contributed significantly to the battle for a free press in Zambia					
21.	MISA is a force to recognize when it comes to the fight for a free press in Zambia					
22.	With organizations such as MISA, Zambia is poised for a free press in the near future.					
23.	MISA has empowered the Zambian Media and Journalists.					

**Focus group discussion guide**

**Name:**.....

**Profession:**.....

**Date:**.....

1. The concept of democracy in general
2. Zambia and democracy
3. How would you rate press freedom in Zambia?
4. What has been the relationship between the government of Zambia and the press in general?
5. How did Presidents Kaunda and Chiluba handle the press in Zambia?
6. Is Zambia ready for the Freedom of Information Act?
7. Is there a relationship between freedom of the press and development
8. Have media organisation such MISA been effective in ensuring that there is press freedom in Zambia
9. The missing link(s) in Zambia's freedom of the press
10. The way forward

**NB: This format is also applicable to in-depth interviews**

