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FOLLOW THE MONEY: MEDIA REGULATION IN KENYA, TANZANIA, UGANDA AND ZAMBIA, AND ITS IMPLICATIONS FOR REPORTING ON ILLICIT FINANCIAL FLOWS AND TAX ABUSE



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INTRODUCTION

Illicit financial flows (IFFs) are defined as “illegal movements of money or capital from one country to another... when funds are illegally earned, transferred, and/or utilised across an international border”.¹ IFFs constitute one of the gravest political, social, economic, cultural and development challenges facing Africa. It is estimated that Africa loses at least US\$89 billion per year to IFFs, through transnational economic crime, aggressive tax avoidance, corruption and regressive tax measures.² The economic impact of these losses is staggering: in a continent with rapid population growth, and hundreds of millions of people living in poverty, Africa can ill-afford to lose this wealth. IFF losses outstrip inflows of foreign direct investment and overseas development assistance, making Africa a net creditor to the world.³

This report focusses particularly on the situation in Kenya, Tanzania, Uganda and Zambia. According to the Tax Justice Network, of the countries surveyed, Zambia is classified as the most vulnerable to IFF losses, with 18% of tax revenue lost per year, followed by Uganda (12%), Kenya (4.8%) and Tanzania (3.7%).⁴ Trade with secrecy jurisdictions and tax havens are one of the main factors for countries’ vulnerability to IFFs since they shield transactions from scrutiny, not only by state authorities, but also by the media and the public – often only being revealed when whistleblowers intervene as in the Panama Papers and other leaks of offshore economic activity. The facilitative effect of state-inspired corruption as a contributor to capital outflows from Africa cannot be underestimated in enabling economic crimes and corporate malfeasance and exacerbating the vulnerability of countries.

Laws regulating trade and investment can perversely help to facilitate such outflows. The growing prominence of extractive revenue in East African economies - given the sector’s vulnerability to capital outflows - significantly increases IFF risks.

1 "Illicit Financial Flows." Global Financial Integrity, gointegrity.org/issue/illicit-financial-flows

2 [Tackling Illicit Financial Flows for Sustainable Development in Africa](https://unctad.org/Tackling_Illicit_Financial_Flows_for_Sustainable_Development_in_Africa) (unctad.org)

3 [Tackling Illicit Financial Flows for Sustainable Development in Africa](https://unctad.org/system/files/official-document/aldcafrica2020_en.pdf). United Nations Publications, 2020. United Nations UNCTAD/ALDC/AFRICA/2020. unctad.org/system/files/official-document/aldcafrica2020_en.pdf

4 "Tax Justice Network - Illicit Financial Flows." Tax Justice Network - Illicit Financial Flows, iff.taxjustice.net.

Investigative journalists, in collaboration with whistleblowers and civil society organisations (CSOs), perform a crucial function in exposing the extent of IFFs and the systems that facilitate their spread. This endeavour frequently entails threats to personal and organisational safety and reputation, and strict media and other regulations can restrict their ability to uncover the culprits behind (or profiting from) tax evasion. The inadequacy and tardiness of the enforcement of access to information laws that allow access to state-held information serve as a deterrent to thorough investigation of accounts involving the depletion of public resources, corruption by multinationals and other economic offences.

This research takes a unique lens to the issue of IFFs, by zeroing in on the laws governing online, print and broadcast media in Kenya, Tanzania, Uganda and Zambia and, subject to the information available, the extent to which they affect independent reporting on IFFs or tax abuse. As a result, the report will be of broader relevance to understanding the state of the media and media freedom in the covered countries, with a view to more efficiently promoting independent journalism in the focus countries which will, in turn, strengthen reporting on IFFs. The analysis delves into the regulation of and protection for freedom of expression and the media (including protections afforded to journalists), the regulation of the media more generally, and reviews whistleblower protections and laws governing access to state information, both of which are critical sources for journalists who are seeking to report on IFFs.

The sections that follow summarise research findings in the focus countries, with highlights of provisions affecting media freedom, common trends and gaps in the legal landscape. The report is supplemented by an Annex that provides a high-level summary of the key provisions regulating the media for each country. These provisions impact the ability of journalists to report on IFFs.

CONSTITUTIONAL AND INTERNATIONAL LAW PROTECTIONS FOR FREEDOM OF EXPRESSION

Freedom of expression is critical to allow independent journalism to exist and flourish.

Constitutional law

The Constitutions of Kenya, Tanzania, Uganda and Zambia all protect freedom of expression and enshrine the right of access to information. However, such freedom is subject to restrictions. Commonly, the right to freedom of expression is limited to ensure the exercise of such right does not interfere with or significantly curtail the rights and freedoms of another person (e.g., in the case of laws against hate speech).

International and regional treaties

The focus countries are all signatories to the **Universal Declaration of Human Rights, 1948**, the **International Covenant on Civil and Political Rights, 1966**, and the **African Charter on Human and Peoples' Rights, 1981**, each of which include and protect freedom of expression. In 2019, Tanzania withdrew from the **Protocol to the African Charter on the Establishment of an African Court on Human and Peoples' Rights** which means that Tanzanian individuals and NGOs are no longer be able to file human rights-based petitions in the African Court on Human and Peoples' Rights, including in relation to cases involving violations to freedom of expression.

Article 19 of the **Universal Declaration of Human Rights** provides:

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

Article 19 of the **International Covenant on Civil and Political Rights** provides:

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

Article 9 of the **African Charter on Human and Peoples' Rights** provides:

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

Key resolutions and declarations of the African Union and African Commission on Human and People's Rights which relate to the media include:

- The **African Charter on Democracy, Elections and Governance** (adopted 30 January 2007)
- The **Resolution on the Deteriorating Situation of Freedom of Expression and Access to Information in Africa** (adopted 26 May 2010),
- The **Resolution on the Right to Freedom of Information and Expression on the Internet in Africa** (adopted 4 November 2016)
- The **Declaration of Principles on Freedom of Expression in Africa** (adopted 10 November 2019)
- The **Resolution on the Safety of Journalists and Media Practitioners in Africa** (adopted 3 December 2020).

Article 6(d) of the **Treaty for the Establishment of the East African Community 1999** provides that State Parties (which include Kenya, Tanzania and Uganda) must uphold "*good governance including the adherence to democracy, the rule of law, accountability, transparency as well as the recognition, promotion and protection of human and peoples' rights.*"

Safeguards for freedom of expression are critical for reporters to be able to freely report on IFFs and other topics that involve holding the powerful to account. While there are ample legal grounds for the protection of freedom of expression in constitutional and international law, it is essential that there be practical enforcement and respect for those legal safeguards.

LAWS GOVERNING THE MEDIA AND MEDIA REGULATORY BODIES

Kenya, Tanzania, Uganda and Zambia have all enacted laws that regulate media services and journalists which has an impact on the ability of journalists to freely report on issues such as IFFs.

These laws typically establish councils that are mandated with ensuring adherence to the standards of professionalism set for journalists and complaint processing mechanisms. However, a common criticism of such media councils is that they may be used to control the mainstream narrative and suppress media activity/critical journalists. Since reporting on IFFs can be a politically sensitive topic, a media council that is resilient and that has fair complaint mechanisms is important.

The **Media Services Act, 2016** is the primary legislation which regulates/controls online, print and broadcast media in Tanzania. The Independent Media Council of Tanzania is established by the Media Services Act, 2016 whose functions include setting a Code of Ethics for journalists and setting and promoting ethical and professional standards amongst journalists and media enterprises. Journalists are accredited by the Journalists Accreditation Board. Every journalist accredited by the Board is also a member of the Media Council. The members of the Journalists Accreditation Board are appointed by the Minister. The criteria for the accreditation of a journalist are not provided for in the Act, thus providing wide discretion to the Journalists Accreditation Board in the exercise of its powers, and the potential for misuse to bar journalists critical of the government or reporting on IFFs.

Section 6 of the Media Services Act establishes media houses which are defined as a person licensed to provide media services. Section 7(1) of the Media Services Act provides that every media house and journalist enjoys the right to collect or gather information from various sources and the freedom to publish or broadcast news. Section 7(3) however places a limitation to the extent that the media house shall ensure the information issued does not: undermine national security of the country; impede due process of the law or endanger the safety of life of any person; and involve unwarranted invasion of the privacy of an individual. Section 8 provides that any person intending to sell, offer for sale, import, distribute, or produce print media in any manner must be licensed.⁵

In addition, Tanzanian law criminalises defamation, libel, and sedition which is defined broadly to include content that “excite[s] disaffection against the lawful authority of the Government” or that “raise[s] discontent or disaffection amongst the people or section of people of [Tanzania]”. The Minister also has broad powers to ban or sanction publications on grounds of national security and public safety. Broadly, the result of this legal environment is that content published by media houses and journalists is subject to stringent government oversight, which could encroach on journalistic freedom of expression and opinion. The limitations placed upon media organisations are very broad, which may open the possibility of abuse by the regulator if it seeks to silence dissenting voices critical of the government.

In Uganda, the principal legislation governing the media is the **Press and Journalist Act, 1995** that was enacted to ensure the freedom of the press, to provide for a Council responsible for the regulation of mass media and to establish an institute of journalists of Uganda. It clarifies which rights apply to corporate entities and the press and media. Section 2 of the Act grants journalists or media organisations the right to publish newspapers. The Act

5 On 5th September 2021, the Government suspended from operation the license of Raia Mwema Newspaper for thirty (30) days for “repeatedly publishing false information and deliberate incitement.” The statement quoted a few examples of the headings published such as, “Maumivu mapya 17” meaning “17 new pains” published on 21st August 2021 alleged to be contrary to sections 52 (1)(a), (c), (d) and (e) and sections 54(1) of the Media Service Act. Such information aimed at highlighting the pains brought by the Government to the people through the introduction of 17 new levies on pieces produced by artists. https://www.voanews.com/a/africa_tanzania-suspends-second-newspaper-less-month/6219286.html#:~:text=Raia%20Mwema%2C%20a%20leading%20Swahili,spokesperson%2C%20said%20in%20a%20statement.

prohibits any person or authority from preventing the printing, publication or circulation of a newspaper among the public on grounds of the content of a publication unless authorised by the Act or any other Law. Section 4 of the Act also restates the crucial principle set out in the Constitution and the **Right to Access to Information Act, 2005** by stating: “A person may have access to official information subject to any Law in force relating to national security, secrecy, or confidentiality of information”. This places importance on the right to access information although it is limited.

In Kenya, the primary legislation governing the media includes the **Media Council Act, No 46 of 2013** (MCA) and the **Kenya Information and Communications Act, No. 2 of 1998** (KIC Act). The objective of the MCA is “to give effect to Article 34(5) of the Constitution; to establish the Media Council of Kenya; to establish the Complaints Commission, and for connected purposes”. The Act applies to media enterprises, journalists, media practitioners, accredited foreign journalists as well as the consumers of media services. The Act reinforces the provisions of the Constitution of Kenya by providing that the values and guiding principles enshrined in the Constitution should be observed by the Cabinet Secretary of the Ministry of Information, Communication & Technology as well as the Council and Committees established under the Act. The media in Kenya is co-regulated by the government and media stakeholders. The selection panel that appoints the members of the Media Council includes not only representatives of media stakeholders but also a representative from the Ministry responsible for matters relating to media. The Media Council is also partially funded by the government. These factors may undermine the independence of the Council and affect the freedom of the Council to make decisions relating to the accreditation and licensing of journalists.

The Kenya Information and Communications Act, No. 2 of 1998 (KIC Act) is the primary legislation governing the telecommunications sector in Kenya. In particular, the Act regulates and licenses the provision of telecommunication, broadcasting, radio and postal services. The KIC Act also establishes the Communications Authority of Kenya, to facilitate the development of the information and communications sector (including broadcasting, multimedia, telecommunications and postal services) and electronic commerce.

The Independent Broadcasting Authority (IBA) through the **Independent Broadcasting Authority Act, No. 17 of 2002** (IBA Act), was put in place to control and regulate broadcasting services in Zambia.⁶ The IBA Act establishes the Independent Broadcasting Authority under Section 4. The function of the IBA is to regulate the broadcasting industry in Zambia mainly through licensing. Section 33 provides that the corporation and every licensed broadcasting service, shall develop a code of professional standards which shall comply with minimum requirements such as respect for human dignity and human rights and freedoms, and contribute to the tolerance of different opinions and beliefs. Zambia does not have an established media council or similar body, however, there have been steps taken for the establishment of a media regulatory framework so as to establish public confidence. For instance, on 11 July 2004, a media self-regulatory body (the Media Council of Zambia (MECOZ)) was launched but never operationalised. Similarly, another self-regulatory body was established in 2012 (the Zambia Media Council (ZAMEC)) but also never came to fruition.

Zambian law regulates the online, print and broadcast media by criminalising seditious intention, sedition, and libel. It provides a form of regulation for those in media such that they cannot print or publish materials that would under the **Penal Code** [Cap. 87] of the Laws of Zambia cause any kind of uprising against the Government or publish any defamatory matter with the intent to defame.

Legislation governing the media and the independence of media councils which regulate the activities and accreditation of journalists is essential to ensure the independence of the media and maintain their ability to report on matters of public concern, including on IFFs, tax abuse or corruption.

6 “Republic Of Zambia Report Of The Committee On Media, Information And Communication Technologies For The First Session Of The Thirteenth National Assembly”. June 2022. [Report of the Committee On Media, Information And Commu.pdf \(parliament.gov.zm\)](https://parliament.gov.zm)



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COMMUNICATIONS REGULATORY AUTHORITIES

The focus countries each have a regulatory authority established as regulators of telecommunications and broadcasting services. These laws apply to the media where journalists are publishing their content online or via broadcast, and can also enable state oversight and interference with communication channels journalists rely on for their reporting.

The Tanzania Communication Regulatory Authority (TCRA) has the mandate of overseeing and policing cybercrimes under the **Cybercrimes Act, 2015** and the **Electronic and Postal Communications Act, 2010**. However, it has been accused of exceeding its primary mandate by issuing sanctions against online media outlets (and others), rather than conducting cyber analysis and feeding back to the law enforcement authorities.⁷ The TRCA oversees the mandatory licensing of all SIM card users, and all communications via mobile devices can be tracked. According to a study conducted by a UK-based technology firm, Comparitech, Tanzania has the most invasive SIM-Card registration laws among the more than 150 countries in the world, including North Korea and Saudi Arabia, that require registration of the vital communication tool.⁸

In Kenya, the Communications Authority of Kenya established by the **Kenya Information and Communications Act, No. 2 of 1998** aims to facilitate the development of the information and communications sector (including broadcasting, multimedia, telecommunications and postal services) and electronic commerce. Similar to Tanzania, Kenyan laws require the mandatory registration of SIM cards which is overseen by the Communications Authority of Kenya. These laws may breach the confidentiality of sources, or deter people from coming forward with information which may be of public interest, since the information can be traced back to the source.

7 This point was recently highlighted by the Minister of Information, Communication and Information Technology Nape Nnauye in his warning issued to TCRA. Jumanne, Muyonga. "Nape tells TCRA to stick to its role." The Citizen, 19 Oct. 2022, www.thecitizen.co.tz/tanzania/news/business/-nape-tells-tcra-to-stick-to-its-role-3990576.

8 [Why Tanzania is ranked top in SIM-card listing | The Citizen](#)

In Uganda, the Uganda Communications Commission (UCC) is the main communications regulatory body. The Commission is tasked with monitoring, inspection, control and regulation of communications services under the **Uganda Communications Act, 2013**. There have been several instances where the UCC has issued directives to media houses which have been criticised. For example, in March 2015 the Commission ordered radio and television stations to boost the live coverage of President Museveni prior to the general elections that were due to take place in 2016.⁹ Again, in February 2016 during the general elections, the UCC switched off all social media platforms and service providers such as MTN, confirming that the instructions had come from the Commission. The UCC then apologised for its actions on its Facebook page just days after the election had concluded.¹⁰ These actions from the Commission and its wide discretionary powers have been criticised as being incompatible with international human rights, having the potential to be used “to muzzle the plurality of social, economic and political views in society”.¹¹

In Zambia, the Independent Broadcasting Authority (IBA) is established by the **Independent Broadcasting Authority Act, 2002** to regulate the broadcasting industry in Zambia. The IBA and the IBA Board have wide powers. A license issued under the Act shall be subject to such conditions as the Board may specify in the license when it is granted (Section 27(1)). The licensee is also required to comply with directions given by the IBA from time to time in relation to specified matters which could impact the media’s ability to broadcast. For example, in 2020 the IBA’s revocation of the license of Zambian television station Prime TV was criticised as being politically motivated.¹² The Minister of Information is also given powers to prohibit the Zambian National Broadcasting Corporation from making any broadcasts which in her opinion are defamatory, blasphemous, obscene or seditious.

Across all focus countries, communications regulatory authority bodies have broad powers. These powers, if used improperly, may adversely impact the media’s ability to report and broadcast at critical times or on matters of public interest, and may deter informants on IFFs from coming forward.

ONLINE CONTENT

A changing world and increased internet use has opened up new types of offences, those committed virtually. The focus countries have enacted various laws to keep up to date with such developments, which are of relevance to journalists and media organisations that publish content online. Depending on how they are applied in practice, such laws may infringe basic digital rights, the right to freedom of expression and the ability of journalists to report online on any topic including more sensitive topics which are subjected to greater scrutiny, such as IFFs.

In Tanzania, the **Cybercrimes Act, 2015** and the **Electronic and Postal Communications Act, 2010**, are the most important laws regulating the use of the internet. Under these Acts, the TCRA is provided with broad powers to regulate content. Terms such as “false” and “offensive” are not defined,¹³ leaving journalists vulnerable to action after

9 Walyemera, Daniel Masumba. (2021). Regulator or controller: a five-year analysis of the cat and mouse games between the Uganda Communications Commission and broadcasters in Uganda. *Law, Democracy and Development*, 25, 632-659. <https://dx.doi.org/10.17159/2077-4907/2021/idd.v25.22>

10 UCC releases a statement on the 2016 election social media blackout - [Dignited. UCC releases a statement on the 2016 election social media blackout - Dignited](#)

11 Walyemera, Daniel Masumba. (2021). Regulator or controller: a five-year analysis of the cat and mouse games between the Uganda Communications Commission and broadcasters in Uganda. *Law, Democracy and Development*, 25, 632-659. <https://dx.doi.org/10.17159/2077-4907/2021/idd.v25.22>

12 The Independent Broadcasting Authority closed Prime TV, an influential station, early in 2020 when the state accused the station’s owner of rejecting its requests to broadcast free public service announcements on the TV station in the wake of the COVID-19 pandemic breaking out in Zambia. However, it is claimed that the TV station was singled out due to its growing influence in the political discourse, as it had been the leading publicity platform for opposition and alternative political voices. <https://www.tandfonline.com/doi/full/10.1080/23743670.2021.1939749>

13 Section 16, Cybercrimes Act, 2015, section 104 Electronic and Postal Communications Act 2010, section 118 Electronic and Postal Communications Act 2010

the publication of material.¹⁴ Under these laws, law enforcement officers can compel an individual in possession of data to disclose such data required during investigation. In addition, any police officer or an employee authorised by the TCRA may search and seize any communication equipment from any premises if reasonable grounds exist that the Act or its Regulations have been contravened. The **Cybercrimes Act, 2015** confers wide powers on law enforcement officers to order search and seizure of equipment, and to compel the disclosure of data. Such broad powers, without judicial oversight, can adversely affect journalists from protecting their sources and freely exercising their media freedom rights.

Online content service providers such as bloggers and journalists are obliged to obtain licenses.¹⁵ Online content services are defined as content broadcasting or aggregation to the public through television, radio, blog, weblog, instant messaging tools, and social media and applications.¹⁶ The fees for obtaining licences are considered by some to be relatively high, considering the country's economy, limiting the number of licensees who can afford them and, consequently, the variety of media sources through which information can be disseminated. In addition, licensees are prohibited from the publication of private information regardless of whether the information is true, where publishing the same may harm the person.¹⁷ The harm envisioned by the law is not defined, potentially deterring the reporting of acts committed by individuals.

In Uganda, the **Computer Misuse (Amendment) Act, 2022** is the key law regulating cybercrimes. The Act aims to enhance the safety and security of the digitised environment while preventing unlawful access, abuse, or misuse of information systems. The amended law has been criticised on the basis that it can be abused to silence dissent against government officials, punish critical voices and overall, limit free speech. For example, in 2022 a Ugandan TikTokker was remanded in prison for a video she shared that celebrated the death of a former security minister.¹⁸ The amendments have been challenged in the Constitutional Court by a group of Ugandan activists who filed a petition arguing that the amendments violate the right to freedom of expression whilst criminalising some digital work.¹⁹ In its ruling, the Constitutional Court noted that, *"In a democratic and free society, prosecuting people for the content of their communication is a violation of what falls within guarantees of freedom of expression in a democratic society"*.²⁰

Like Tanzania, Uganda faces similar issues on the vague wording in the Act regulating online publications (e.g. communication which *"disturbs or attempts to disturb the peace, quiet, or right of privacy of any person with no purpose of legitimate communication"* (Section 25)). Such provisions have been used by the regulatory authority against activists such as Dr. Stella Nyanzi, who was held to have committed a crime for a series of Facebook posts critical of the President and the First Lady.²¹

Zambia faces similar issues in that the **Cyber Security and Cyber Crimes Act, No. 2 of 2021** (the Cyber Security Act) provides wide definitions which could be abused to hinder publications by the media. For example, the Cyber Security Act refers to *"corrupt morals"* (Section 59). However, this is not defined and gives the authorities wide discretion to interpret. The vagueness and breadth of some of the definitions under the Cyber Security Act could be used against the media, but, as the Act is fairly new, the courts have not yet had the opportunity to interpret it.

14 E.g. On 10 July 2020, Kwanza Online TV's license was suspended for 11 months for sharing a health alert on Instagram, issued by the US Embassy, warning that Tanzania's COVID-19 cases were rising. TCRA stated that Kwanza Online TV published an unbalanced story that was designed to cause panic and damage the country's economy and that this was against the Electronic and Postal Communications (Online Content) Regulations, 2018 (American Bar Association. 2020. [online] Available at: https://www.americanbar.org/groups/human_rights/reports/tanzania--report-on-the-arbitrary-suspension-of-kwanza-online-tv/)

15 Regulation 4, the Electronic and Postal Communications (Online Content) Regulations, 2020

16 Regulation 4, the Electronic and Postal Communications (Online Content) Regulations, 2020

17 Regulation 16, the Electronic and Postal Communications (Online Content) Regulations, 2020

18 <https://www.monitor.co.ug/uganda/news/national/tiktokker-who-jubilated-over-gen-tumwine-s-death-granted-bail-3971452>

19 [Uganda Law Society petitions court to nullify Computer Misuse Law \(independent.co.ug\)](https://www.independent.co.ug/uganda-law-society-petitions-court-to-nullify-computer-misuse-law)

20 [A Section of Uganda's Computer Misuse Act Outlawed! But, the Greater Part of the Law Remains Thorny – Collaboration on International ICT Policy for East and Southern Africa \(CIPESA\)](https://www.cipesa.org/uganda-section-of-computer-misuse-act-outlawed-but-the-greater-part-of-the-law-remains-thorny-collaboration-on-international-ict-policy-for-east-and-southern-africa)

21 <https://ulii.org/ug/judgment/hc-criminal-division-uganda/2020/1>

Similarly, the Kenyan **Computer Misuse and Cybercrimes Act, No. 5 of 2018**, provides for offences relating to computer systems and a framework to enable timely and effective detection, prohibition, prevention, response, investigation, and prosecution of computer and cyber-related crimes. It establishes various offences including unauthorised interference or interception of computer systems programmes or data, false publication of data, cyber harassment, cybersquatting, cyber terrorism, identity theft and impersonation, phishing, computer fraud, computer forgery, unauthorised disclosure of passcodes, fraudulent use of electronic data, and issuance of false e-instructions among others which could be used against the sharing of information. This legislation has a profound effect on the media as it rapidly migrates into the cyberspace in terms of publishing and reporting. The Act creates the crimes of false publication and publication of false information which regulates and at the same time limits the content which online media may publish (Sections 22 and 23). The penalties for committing these offences can be high. For example, the statute imposes a penalty of up to ten years for the publication of false or fictitious information that results in panic or is likely to discredit the reputation of a person.

DATA PROTECTION

All focus countries have a data protection law in place providing for the handling of data collected.

In Kenya the **Data Protection Act, 2019** provides for lawful processing of personal data which allows a data processor or data controller to process personal data where it is necessary for journalistic purposes. Journalists are granted an exemption under the Data Protection Act from the principles on processing personal data (Section 52).

Tanzania passed the **Data Protection Act, 2022**²² to provide for the minimum requirements for the collection and processing of personal data, enhance the security and protection of personal data, and other related issues.

The **Data Protection and Privacy Act, 2019** together with the **Data Protection and Privacy Regulations 2021** are intended to support the right to privacy guaranteed by Article 27 of the Ugandan Constitution. Section 3 of the Act provides that data should be collected in a lawful and fair manner, not be kept longer than necessary and be secure among other principles.

The Zambian **Data Protection Act, No. 3 of 2021** is designed to provide an effective system for the use and protection of personal data, to regulate the collection, use, transmission, storage and otherwise processing of personal data and to establish the office of the Data Protection Commissioner and provide for its functions.

Data protection laws in the focus countries require journalists to be cautious when collecting and processing personal data, as they may be held accountable if they mishandle such data. Journalists may need to obtain consent from individuals before collecting their personal data and should ensure that they handle such data in a secure and responsible manner. Provisions mandating journalists to reveal data can act as a deterrent for both sources to provide information and journalists to report on it.

²² At the time of preparing this report, the Act is yet to come into force

WHISTLEBLOWING

All focus countries, bar Kenya, have enacted specific laws that cater for whistleblowers. In general, the laws set out the procedures by which an individual may disclose information in the public interest that relates to irregular, illegal or corrupt practices and for those making the disclosure to be protected from victimisation or detrimental action. Typically such laws only protect disclosures to a specific person, body or authority (which does not necessarily include the independent media) and a common criticism is that none of the laws cater for anonymous disclosures (i.e. the law requires the identity of the whistleblowers to be noted before any protection can be given). Given the perception of a lack of protection from reprisals, individuals with information on IFFs may be dissuaded from disclosing such information.

In Tanzania, the **Whistleblower and Witness Protection Act, 2015**, supplemented by the **Whistleblowers and Witness Protection Regulations, 2022** provides for the protection of whistleblowers and witnesses against potential retaliation or victimisation and sets out a legal mechanism to reward and compensate whistleblowers and witnesses. The Act provides protection for individuals making a public interest disclosure before a competent authority, and the procedure to be followed.

In Uganda, the **Whistleblowers Protection Act, 2010**, provides for the procedures by which an individual in both the private and public sector may in the public interest disclose information that relates to irregular, illegal or corrupt practices and for protection against victimisation of persons who make such disclosures. Under Section 3, disclosures of impropriety must be by an employee in the public or private sector in respect of their employer, by an employee in respect of another employee, by a person in respect of another person, or by a person in respect of a private or public institution.

In Zambia, whistleblowers are protected under the **Public Interest Disclosure Act, 2010** which provides for the protection of whistleblowers from reprisals. Section 2 defines protected disclosure as a disclosure made to a legal practitioner, an employer, a defined person or body; or any other person or body in accordance with Part III of the Act.

Kenya does not have general provisions in law on whistleblower protection. Instead, whistleblower protection is subject specific to criminal activities under various laws that relate to economic crimes, anti-money laundering and anti-bribery.²³ The lack of a unified legal safeguard for whistleblowers may result in the fear of retaliation which inhibits people from speaking out in the public interest, and has been criticised for contributing to a “*culture of silence*” in both public institutions and private sector organisations.²⁴ Section 45 of the **Media Council Act, No 46 of 2013** (MCA) however, prescribes the Code of Conduct for the Practice of Journalism (**the Code**). This requires news sources to be identified wherever possible, but permits the use of confidential sources when it is clearly in the public interest to convey information when a person providing the information might be harmed. This principle under the Code provides journalists with an avenue to report stories on public interest matters while protecting whistleblowers.

23 Kenya Anti-Corruption and Economic Crimes Act, Act Number 3 of 2003, Witness Protection Act, 2006, Bribery Act, 2016, Bribery Regulations, 2022

24 Transparency International Kenya “Comprehensive legislation on whistleblower protection in Kenya” <https://tikenya.org/wp-content/uploads/2017/06/policy-brief-no-1-2015-comprehensive-legislation-on-whistleblower-protection-in-kenya-1.pdf>; “A Kenyan blogger, Abraham Mutai was in 2015 arrested in Mombasa and carted off to Nairobi where he was detained for close to 24 hours and then released for publishing alleged cases of corruption as reported by Transparency International Kenya [here](#)

ACCESS TO INFORMATION BY JOURNALISTS

Access to information enables people to effectively scrutinise and participate in Government decisions that affect them. All focus countries, except for Zambia, have implemented general laws providing for access to information and the scope of information which the public, including journalists, has the right to access. These laws set out the information covered (and limitations), the procedures to be followed in seeking this information, and how to challenge refusals to provide information. In addition, some countries have specific laws relating to access to official information by the press and journalists, subject to national security, secrecy or confidentiality laws.

In Kenya and Uganda, the right of access to information is also a separate constitutionally enshrined right (see Articles 35 and 41 respectively). For example, the Constitution of Kenya guarantees every citizen the right of access to information. The citizen may request the State to provide information or also request any other person to provide information that they are holding which is required for the exercise or protection of any right or fundamental freedom under the Bill of Rights. Conversely, the State has a duty to provide information requested or supply reasons as to why the information request cannot be granted. Kenyan courts have upheld the right to information.²⁵

The Kenyan **Access to Information Act, 2016**²⁶ gives effect to the Article 35 right of access to information. Additionally, it provides guidance to public and private entities to proactively disclose information they hold upon request by a citizen. However, the right of access to information by journalists is not absolute and will be weighed against various factors (Article 24), including the factors highlighted in the **National Intelligence Service Act, No. 28 of 2012**, which includes limitations in the interest of national security (Section 37).

In Tanzania Section 5 of the **Access to Information Act, 2016** provides that every person shall have the right of access to information which is under the control of information holders. A person means a citizen of the United Republic, which would include journalists. A list of exemptions is provided for under Section 6 which includes but is not limited to information that is likely to: undermine the defence, national security and international relations of the United Republic; impede due process of law or endanger the safety of life of any person; and involve unwarranted invasion of the privacy of an individual.

The purpose of the **Access to Information Act, 2005** of Uganda is *“to empower the public to effectively scrutinise and participate in Government decisions that affect them.”* Section 5(1) of the Act expressly states that all citizens of Uganda are provided with the right to access information and records that are in Government custody or any public body unless the security or sovereignty of the State would be put at risk due to the release of the information. A public body is defined as a Government ministry, department, statutory corporation, authority, or commission. The establishment of a legal right to Government information by citizens is therefore a critical principle in the pursuit of a more accountable Government. The enactment of the Act provides citizens and civil society groups with a platform for engagement with the State and advocacy efforts for greater accountability. Beyond this, the Act, whose Regulations were passed five years later, did not succeed as a tool to mobilise, or operationalise latent demand among citizens for information, nor has it served as a tool for making Government officials responsive to such requests thus far.

Zambia does not have an Act specifically enacted to govern access to information but the **Information and Communications Technologies Act, No. 15** of 2009 was enacted to facilitate access to information among other things.

25 In the case of *Nairobi Law Monthly Company Limited v Kenya Electricity Generating Company & 2 Others* [2013] eKLR, the High Court stated that the right to information is at the core of the exercise and enjoyment of all other rights by citizens.

26 <http://kenyalaw.org:8181/exist/kenyalex/actview.xql?actid=No.%2031%20of%202016>

The practical utility of these laws for journalists is mixed. In Uganda, for example, the **Access to Information Act** aims to empower citizens and civil society and offer greater accountability. However, other laws (e.g. concerned with Official Secrets or National Intelligence Services²⁷), prohibit State officials from disclosing information, and there is little accountability or enforcement where government officials are unresponsive to requests. The limitations imposed on access to information are similar in Tanzania, Kenya and Uganda. Access to information laws can be crucial tools to help facilitate financial journalism and specifically reporting on IFFs, but limitations which prevent access to information can be used to avoid, impede or delay disclosing financial information that can make it more difficult to report.

RECENT NOTABLE MEDIA FREEDOM CASES

Across the focus countries, there is limited case law relating to media reporting on tax abuse or IFFs. A number of significant cases concerning media freedom have however, been brought in recent years, a selection of which are set out below.



KENYA

In recent years, the Kenyan courts have tended to uphold media freedom and freedom of expression. There have been several notable cases where the courts have ruled in favour of media outlets and journalists, striking down laws and regulations that restrict the free flow of information. Additionally, the courts have also held that the right to freedom of expression is a fundamental human right that must be protected. However, there have also been instances where the Government and other entities have attempted to limit the freedom of the media, and the courts have sometimes ruled in their favour. The overall trend in Kenya appears to be towards increasing protection for media freedom, but there are still ongoing challenges to this right in the country.

- ***Communications Commission of Kenya & 4 others v Royal Media Services Limited & 7 others [2014] eKLR***: the body that will set media standards and regulate and monitor compliance with those standards is the Media Council of Kenya.²⁸ This body is independent of control by government, political interests or commercial interests.
- ***Petition No. 628 of 2014: Coalition for Reform and Democracy (CORD) & 2 others v Republic of Kenya & 10 others [2015] eKLR***²⁹: “This new offence under the Penal Code that seeks to punish “insulting, threatening, or inciting material or images of dead or injured persons which are likely to cause fear and alarm to the general public or disturb public peace” thus limits the freedom of expression to a level that the Constitution did not contemplate or permit, and in a manner that is so vague and imprecise that the citizen is likely to be in doubt as to what is prohibited.”

27 E.g. in Kenya Section 37 of the **National Intelligence Service Act** limits the right of access to information as guaranteed under Article 35 (1) and 35 (3) of the Constitution of Kenya. The effect of this provision is that the National Intelligence Service may not comply with a request for classified information or information relating to sources of information, intelligence collection methods and covert operations of the National Intelligence Service or information which would prejudice national security. [National Intelligence Service Act, 2012](#)

28 Although the dispute concerned the mandate to license broadcasters, the Court, in a progressive juridical intervention, provided clarification as to the scope of the mandate of the Body under Article 34(5) vis-à-vis the licensing process under Article 34(3) of the Constitution.

29 <http://kenyalaw.org/caselaw/cases/view/106083/>

- ***Jacqueline Okuta & another v Attorney General & 2 others [2017] eKLR***, High Court: *Criminal defamation induced a chilling effect further exacerbated by the maximum punishment imposed of two years. Awarding damages in civil suits for the tort of defamation is sufficient to redress injury to reputation. The High Court declared Section 194 of the Penal Code as unconstitutional to the extent that it covered offences beyond those envisaged under Article 33 (2) (a)-(d) of the Constitution and the continued enforcement by the Director of Public Prosecution was unconstitutional and a violation of the right to freedom of expression.*³⁰
- ***Constitutional Petition No. 206 of 2019: Bloggers Association of Kenya vs Attorney General & 5 others [2019]*** and ***Bloggers Association of Kenya (BAKE) v Attorney General & 3 others; Article 19 East Africa & another (Interested Parties) [2020]***: The Bloggers Association of Kenya (BAKE) challenging some parts of the Computer Misuse and Cybercrimes Act 2018 (i.e. publishing false information, fraudulent use of electronic data, interference with computer systems and data) as infringing on and threatening the right to freedom of expression and privacy. The High Court upheld the entire Act as constitutional. However, an appeal is currently before the Court of Appeal.
- ***Cyprian Andama v Director of Public Prosecution & another; Article 19 East Africa (Interested Party) [2019] eKLR***: The petitioner (Cyprian Andama) challenged the constitutional validity of Section 84D of the Kenya Information and Communications Act 1998 on the basis that it criminalises the publication of obscene information in electronic form in broad, vague terms thus limiting freedom of expression. The Court concluded that Section 84D of KICA violates the Constitution and is invalid. It was held that the respondent did not sufficiently demonstrate that the limitation by Section 84D of KICA was justified and that the disputed Section is unconstitutional to the extent that it flouts the citizens' right to freedom of expression guaranteed under Article 33 of the Constitution.



TANZANIA

Based on the case law highlighted below, and the broad powers vested in various Government institutions with supervisory authority over the internet and media, a case may be made that media freedom has become increasingly regulated.

- ***Jebra Kambole v Attorney General, Miscellaneous Civil Cause No. 32 of 2015***, High Court of Tanzania (Main Registry), at Dar es Salaam (Unreported)³¹: The Petitioner challenged certain sections of the Cybercrimes Act, 2015 to be unconstitutional violating Articles 16, 17(1), 18, 21(1) and 21(2) of the Constitution of the United Republic of Tanzania. The Court held that the Act had sufficient safeguards in place to curb any possibility of arbitrary decisions capable of curtailing a citizen's right of free movement, thus in line with Article 17(2) of the Constitution. The Court found Section 50 of the Act to be in contravention of Article 13(6)(a) of the Constitution for the reason that it fails to provide the right of appeal for a person aggrieved nor does it provide for any safeguards in place against the abuse of discretion to the compound offence.
- ***Jamii Media Company Ltd vs The Attorney General & Another, Miscellaneous Civil Cause No. 9 of 2016***, High Court of Tanzania (Main Registry), at Dar es Salaam (Unreported)³²: The court stated that it had the duty

30 <http://kenyalaw.org/caselaw/cases/view/130781/>

31 The Tanzania Human Rights Defender Coalition. 2016. [online] Available at: <https://thrdc.or.tz/wp-content/uploads/2019/09/JEBRA-KAMBOLE-VS-THE-AG-MISC.-CIVIL-CAUSE-32-OF-2015.pdf>

32 Data Guidance. 2017. *Jamii Media Company Ltd v. the Attorney General and Another* (2016). [online] Available at: <https://www.dataguidance.com/legal-research/jamii-media-company-ltd-v-attorney-general>

of balancing the interests of an individual against those of the public. The Cybercrimes Act was enacted to curb a new form of crime that was not envisioned under the older laws, that is crimes committed using the internet. The Court also found the Act to have sufficient safeguards. The High Court dismissed this petition and found both sections 32 and 38 of the Cybercrimes Act to be compatible with the Constitution of the United Republic of Tanzania.

- ***The Managing Editor Mseto & Another v The Attorney General of The United Republic of Tanzania, Reference No. 7 of 2016***, East African Court of Justice, at Arusha: Although the rights to press freedom, to receive and impart information are not absolute, in the present case, the restrictions (to cease publication of the newspaper Mseto for 3 years) were unlawful, disproportionate and did not serve any legitimate or lawful purpose. The EACJ found in favour of the Applicant and determined the order prohibiting the publication of Mseto violated the Respondent's obligation under the Treaty.³³
- ***Media Council of Tanzania & Others v The Attorney General of the United Republic of Tanzania, Reference No. 2 of 2017***, East African Court of Justice, at Arusha³⁴: NGOs filed a reference before the East African Court of Justice (EACJ) challenging multiple provisions of the Media Service Act, 2016 to be contrary to the terms of the Treaty for the Establishment of the East African Community (Treaty) to which Tanzania is a signatory. The EACJ found in its judgment that multiple sections violated Articles 6(d) and 7(2) of the Treaty as it restricted press freedom and freedom of expression. Tanzania was directed to bring the law into compliance with the Treaty by taking necessary measures, however, it has not yet done so.
- ***Raymond Paul Kanegene & Another v The Attorney General, Consolidated Miscellaneous Civil Cause No. 15 of 2019 & No. 5 of 2020***, High Court of Tanzania (Main Registry), at Dar es Salaam (Unreported)³⁵: The High Court found that Section 39(2)(a) and (b) of the Cybercrimes Act does not offend the provisions of Articles 16 and 18 of the Constitution since it only provides for the powers of the responsible Minister to promulgate a procedure under which information on alleged illegal activities or information may be divulged to a competent authority.
- ***Nehemia Kyando Mchechu v Mwananchi Communication Limited & Another, Civil Case No. 48 of 2021***, High Court of Tanzania (Dar es Salaam District Registry), at Dar es Salaam (Unreported): The Petitioner sued the publishers of a newspaper (The Citizen), alleging defamation for comments made by the Respondents alleging that the Petitioner was sacked by the former President and that the Petitioner was involved in dubious dealings. The Court restated the test for defamation, held that the statements were defamatory, not justified and not privileged, as the Respondent had not brought evidence on the truth of the statements. The court touched on the role of investigative journalists and stated that it is imperative for such journalists to base their statements on credible evidence before alleging a fact, even when the information is based on statements made by a whistleblower. The court also explained the role of journalists and held that while they have a duty of informing the public on necessary and relevant news, such duty is to be discharged in accordance with the laws of the land and applicable professional rules of ethics.

33 East African Court of Justice. 2018. *The Managing Editor, Mseto & another v the Attorney General of the United Republic of Tanzania* - East African Court of Justice. [online] Available at: <https://www.eacj.org/?cases=the-managing-editor-mseto-another-v-the-attorney-general-of-the-united-republic-of-tanzania>.

34 East African Court of Justice. 2019. *Media Council of Tanzania & 2 others v. The Attorney General of the United Republic of Tanzania* - East African Court of Justice. [online] Available at: <https://www.eacj.org/?cases=reference-no-2-of-2017-media-council-of-tanzania-legal-and-human-rights-centre-tanzania-human-rights-defenders-coalition-vs-the-attorney-general-of-the-united-republic-of-tanzania>

35 Tanzlii.org. 2020. *Raymond Paul Kanegene and Another vs Attorney General* (Consolidated Misc. Civil Cause 15 of 2019, 5 of 2020) [2020] TZHC 4032 (26 November 2020); | Tanzlii. [online] Available at: <https://tanzlii.org/tz/judgment/high-court-tanzania/2020/4032>



UGANDA

Some of the key media case law, decisions and reasoning for those judgments promote media freedom. In several situations the Court has ruled in favour of the media practitioner or in favour of the right of access to information and freedom of expression.

- ***Greenwatch (U) Ltd v Attorney General of Uganda and Uganda Electricity Transmission Co. Ltd (HCT 00 CV-MC-139 of 2001)***³⁶ : The High Court of Uganda held that a power company wholly owned by the State is a Government agent and therefore power agreements to which it is a party are public documents subject to disclosure requirements. However, on the facts of the case it ruled that disclosure need not be provided because the organisation that requested the information, an environmental rights NGO, had failed to prove that its members were citizens.
- ***Onyango-Obbo & Mwenda vs Attorney General Constitutional Appeal No. 2 of 2002***³⁷ : The Constitutional Court declared null and void the sedition provisions, Sections 39, 40, 42 and 44 of the Penal Code, because they were in contravention with the enjoyment of the right to freedom of expression. The State appealed against the decision, which appeal was subsequently dismissed.
- ***Charles Onyango Obbo and Anor v Attorney General (Constitutional Appeal No. 2 of 2002) [2004] UGSC 81 (10 February 2004)***³⁸ : Veteran journalists Charles Onyango Obbo and Andrew Mwenda were prosecuted under Section 50 of the Penal Code Act (publishing any false statement, rumour, or report which is likely to cause fear and alarm to the public or to disturb the public peace) for publishing an article entitled “Kabila paid Uganda in Gold, says report”. The story was based on a report by a foreign newspaper claiming that the President of the Democratic Republic of Congo was involved in the illicit financial flow of gold to the Government of Uganda as payment for “services rendered by the latter”.
- ***Amama Mbabazi v Museveni & others (Presidential Election Petition No. 1 of 2016) [2016] UGSC 3 (31 March 2016)***: the Court found that the Uganda Broadcasting Corporation failed to provide equal coverage to all the Presidential candidates as required by Article 67(3) of the Constitution and Section 24(1) of the Presidential Elections Act.
- ***Edward Sekyewa t/a Hub for Investigative media vs National Forestry Authority Miscellaneous Cause No. 354 of 2013 (02 March 2017)***³⁹ : The Chief Magistrates Court ruled that the decision to deny Sekyewa access to the information for investigative media requested (i.e. relating to World Bank funding of four areas of forestry development which had not been implemented) was not in line with the provisions of the Access to Information Act 2005. Due to the lack of a response by the NFA upon receiving Sekyewa’s request, the NFA was not in compliance with the clear provisions of the Law. Therefore, the NFA had no justification to deny Sekyewa’s request for access to the information sought.
- ***Editors Guild Uganda Ltd and Centre for Public Interest v Attorney General Miscellaneous Cause No. 400 of 2020***⁴⁰ : The Civil Division of the High Court held that directives in a press statement entitled “*Guidelines for Media Council of Uganda Accreditation of Journalists for Coverage of 2021 elections and Other State events*”⁴¹

36 <https://ulii.org/ug/judgment/hc-civil-division-uganda/2002/28>

37 <https://ulii.org/ug/judgment/supreme-court-uganda/2004/81>

38 <https://ulii.org/ug/judgment/supreme-court-uganda/2004/81>

39 <https://ulii.org/ug/judgment/hc-civil-division-uganda/2017/63>

40 <https://ulii.org/ug/judgment/hc-civil-division-uganda/2021/2>

41 [Press Statement on accreditation for media coverage in Uganda – Media Council of Uganda](#)

requiring the registration and accreditation of journalists by the Media Council of Uganda to cover the 2021 general elections were overturned as being illegal, irrational, and procedurally irregular. The directives were issued by the Media Council as a prerequisite to covering the 2021 general elections in Uganda.⁴²

ZAMBIA

Below are a number of examples of prosecutions of journalists, artists or academics being sought on the grounds of free speech-related offences. However, the Courts have on occasions declined to proceed with the prosecutions on the basis that no evidence has been brought to support the case.

- In 2013, **two Watchdog journalists** were arrested and charged with the offence of seditious intention, in interviews carried out. While Thomas Zgambo was discharged, Clayton Hamaaka was charged with possession of pornographic materials after his laptop was seized and searched by police officers when he was arrested for the offence of seditious intention. He was later acquitted on the basis that the prosecution failed to adduce sufficient evidence to support their case.⁴³
- **A musician, Chama Fumba, alias Pilato**, was charged in 2015 with conduct likely to cause the breach of peace by producing a song entitled 'A Lungu Anabwela'.⁴⁴ The song in question was allegedly defamatory to the Republican President. The Director of Public Prosecutions entered a nulle prosequi which effectively discharged the accused with liberty to reopen the case on the basis that the prosecution had failed to adduce sufficient evidence in support of their case.
- **Dr Austin Mbozi, a lecturer from the University of Zambia** was arrested and charged with defamation of the President after he wrote an opinion piece critical of the government. The outcome of this case is unreported.⁴⁵

CONCLUSION

This report surveys key provisions relating to the regulation of and protection of freedom of expression and the media including a spotlight on national and international instruments protecting media freedom and the status of laws governing online content, data protection, whistleblowing and access to information by journalists in Kenya, Tanzania, Uganda and Zambia. Although applied generally, these provisions have the potential to impact on the critical ability of journalists to be able to report on IFFs. It is hoped that this report will provide a greater understanding of the legal landscape regulating the media. The situation in each country differs but the sections above aim to summarise provisions affecting media freedom, common trends, comparisons and gaps in the legal landscape.

⁴² *Editors Guild Uganda Limited & Centre for Public Interest Law Limited v Attorney General* Miscellaneous Cause No. 400 Of 2020

⁴³ International Press Institute, Two journalists in Zambia arrested, charged with seditious <https://ipi.media/two-journalists-in-zambia-arrested-charged-with-sedition/>

⁴⁴ *ISA Zambia Defamation of the Zambian President* | MISA Zambia (5 October 2015).

⁴⁵ Meerrotter Anneke Zambia: Challenging the enforcement of the offence of defamation of the President – Southern Africa Litigation Centre (25th May 2019)



REUTERS/Thomas Mukoya

ANNEX: A HIGH-LEVEL SUMMARY OF CURRENT NATIONAL LEGAL FRAMEWORKS ON MEDIA REGULATION



KENYA

ESSENTIAL LEGAL FRAMEWORKS (LAWS, REGULATIONS, POLICIES AND 'SOFT LAW') WHICH REGULATE/ CONTROL ONLINE, PRINT AND BROADCAST MEDIA

- The Kenya Broadcasting Corporation Act, [CAP 221] of 1988 (KBC Act)
- The Kenya Information and Communications Act, No. 2 of 1998 (KICA)
- The Constitution of Kenya, 2010
- The Books and Newspapers Act, [Cap. 111] of 2012
- The Media Council Act, No 46 of 2013 (MCA)

LAWS REGULATING AND/ OR LIMITING THE CONTENT WHICH ONLINE, PRINT AND BROADCAST MEDIA MAY PUBLISH

- Defamation Act, 1970 [Cap 36]
- The Kenya Information and Communications Act, No. 2 of 1998 (KICA)
- The Constitution of Kenya, 2010
- Computer Misuse and Cybercrime Act, No. 5 of 2018
- Data Protection Act, 2019 (DPA)

<p>GENERAL CRIMINAL / CIVIL LAWS, AVENUES FOR LEGAL REDRESS, REGULATIONS, POLICIES OR OTHER FRAMEWORKS NOT SPECIFICALLY TARGETED AT THE MEDIA WHICH ARE USED TO CONTROL, REGULATE, PREVENT OR PUNISH THE MEDIA'S ACTIVITY AND THE CONTENT IT PUBLISHES</p>	<p>Despite the constitutional safeguards on media freedom and the right to freedom of expression, there are a number of laws that have an indirect impact on the enjoyment of the rights of the media and freedom of expression under the Constitution of Kenya including:</p> <ul style="list-style-type: none"> • Films and Stage Plays Act, No 34 of 1962 [Cap. 222] • The Penal Code, 1970 [Cap 63] • Preservation of Public Security Act, Act No. 2 of 1960 [Cap. 57] • Prevention of Terrorism Act, No. 30 of 2012 • Contempt of Court Act, 2016 <p>A number of statutes contain provisions which undermine the public's right to receive information and the media's right to publish information. These statutes are targeted and prohibit the publication of certain kinds of information. Nevertheless, the Constitution is the supreme law of Kenya and any law, including customary law, that is inconsistent with the Constitution is void to the extent of the inconsistency, and any act or omission of the Constitution is invalid.</p> <p>That notwithstanding, the media in Kenya has faced several challenges and obstacles, including the abuse of laws to limit their activity. Examples include the Official Secrets Act, 1968, National Intelligence Services Act, No. 28 of 2012 and the Computer Misuse and Cybercrime Act, 2018, which have been used to target journalists and media outlets that report on sensitive issues such as corruption, human rights violations, and political matters.</p>
<p>LEGAL PROTECTION OF WHISTLEBLOWERS</p>	<p>Kenya does not have general provisions in law on whistleblower protection. Instead, whistleblower protection is subject- specific to criminal activities under various laws that relate to economic crimes, anti-money laundering and anti-bribery (e.g. Kenya Anti-Corruption and Economic Crimes Act, Act Number 3 of 2003, Public Officer Ethics Act, 2003, Witness Protection Act, 2006, Bribery Act, 2016 and Bribery Regulations, 2022).</p>
<p>ACCESS TO INFORMATION BY JOURNALISTS</p>	<p>Article 35 of the Constitution of Kenya guarantees every citizen the right of access to information. This right however is not absolute.</p> <p>The Access to Information Act, 2016⁴⁶ gives effect to the constitutionally guaranteed right of access to information safeguarded under Article 35 of the Constitution of Kenya. The Data Protection Act (DPA), 2019⁴⁷ gives effect to the constitutional provisions on the right to privacy under Article 31 (c) and (d). Additionally, the DPA establishes the Office of the Data Protection Commissioner, makes provision for the regulation of the processing of personal data, and provides for the rights of data subjects and obligations of data controllers and processors.</p>

46 <http://kenyalaw.org:8181/exist/kenyalex/actview.xql?actid=No.%2031%20of%202016>

47 <http://kenyalaw.org:8181/exist/kenyalex/actview.xql?actid=No.%2024%20of%202019>

<p>LEGAL AND REGULATORY PROTECTION OF JOURNALISTS AND MEDIA ORGANISATIONS</p>	<p>Journalists’ protection is enshrined under Article 33 (a) of the Constitution of Kenya which provides that every person has the right to freedom of expression, which includes freedom to seek, receive or impart information or ideas. Media organisations are also protected by the Constitution of Kenya under Article 34 which provides that freedom and independence of electronic, print and all other types of media is guaranteed, but does not extend to: propaganda for war; incitement to violence; hate speech; or advocacy of hatred.</p> <p>See also the Media Council Act, 2013 (which establishes the Media Council of Kenya as the body that sets media standards and regulates and monitors compliance with those standards) and the Kenya and Information Communications Act, 1998 which creates the Communications Authority of Kenya who shall be guided by the Constitution of Kenya which guarantees the freedom and independence of the media and bars the state from exercising any control or interference with media as well as from penalising any person for any opinion or for the content of any broadcast or publication.</p>
<p>RECENT NOTABLE LEGISLATIVE DEVELOPMENTS IN MEDIA REGULATION AND LEGAL CHALLENGES TO AMEND OR REPEAL REPRESSIVE LEGISLATION IN RELATION TO THE MEDIA</p>	<p>Various laws that touch on the media were enacted pre promulgation of the Constitution of Kenya and are still in force. They comprise, but are not limited to: The Chief’s Authority Act, [Cap 128], 1937; The Public Order Act, [Cap 56], 1950; The Preservation of Public Security Act, [Cap 57], 1960; The Films and Stage Plays Act, [Cap 222],1962; The Official Secrets Act,[Cap 187], 1968; The Defamation Act, [Cap 36], 1970; The Penal Code, [Cap 63], 1970; The Kenya Broadcasting Act, [Cap 22], 1998; The Copyright Act, 2001; The Books and Newspapers Act, [Cap 111], 2012.</p> <p>Since 2013, several pieces of legislation have been enacted which relate to the regulation of the media. These laws include the Kenya Information and Communication Act and the Media Council Act. In spite of the laws being enacted after promulgation of the Constitution of Kenya, there have been attempts to enact some laws that curtail freedom of expression of the media (e.g. Security Laws (Amendment) Act, 2014 and the Parliamentary Powers and Privileges Bill 2014).</p>
<p>RECENT MEDIA CASELAW EXAMPLES</p>	<ul style="list-style-type: none"> • <i>Communications Commission of Kenya & 4 others v Royal Media Services Limited & 7 others [2014] eKLR</i> • <i>Petition No. 628 of 2014: Coalition for Reform and Democracy (CORD) & 2 others v Republic of Kenya & 10; others [2015] eKLR</i> • <i>Jacqueline Okuta & another v Attorney General & 2 others [2017] eKLR</i> • <i>Constitutional Petition No.206 of 2019: Bloggers Association of Kenya vs Attorney General & 5 others [2019]</i> • <i>Cyprian Andama v Director of Public Prosecution & another; Article 19 East Africa (Interested Party) [2019] eKLR</i> • <i>Bloggers Association of Kenya (BAKE) v Attorney General & 3 others; Article 19 East Africa & another (Interested Parties) [2020]</i>
<p>USE OF LEGAL REMEDIES TO PREVENT, INTERFERE WITH OR SANCTION REPORTING ON ILLICIT FINANCIAL FLOWS OR TAX ABUSE</p>	<p>We are not aware of any legal remedies that have been used to prevent, interfere with or sanction reporting on illicit financial flows or tax abuse.</p>



TANZANIA

<p>ESSENTIAL LEGAL FRAMEWORKS (LAWS, REGULATIONS, POLICIES AND ‘SOFT LAW’) WHICH REGULATE/ CONTROL ONLINE, PRINT AND BROADCAST MEDIA</p>	<ul style="list-style-type: none"> • The Constitution of the United Republic of Tanzania, 1977 • The Tanzania Communications Regulatory Authority Act, 2003 • The Electronic and Postal Communications Act, 2010 • The Media Services Act, 2016 • Media Service Regulations, 2017 • The Electronic and Postal Communications (Investigation) Regulations, 2017 • The Electronic and Postal Communications (Licensing) Regulations, 2018 • The Electronic and Postal Communications (Radio and Television Broadcasting Content) Regulations, 2018 • The Media Services (Defamation Proceedings) Rules, 2019 • The Electronic and Postal Communications (Online Content) Regulations, 2020 • Police General Orders (PGO)
<p>LAWS REGULATING AND/ OR LIMITING THE CONTENT WHICH ONLINE, PRINT AND BROADCAST MEDIA MAY PUBLISH</p>	<p>All of the laws highlighted above regulate/limit the content that online, print and broadcast media may publish, including social and digital media. In particular:</p> <ul style="list-style-type: none"> • On Libel - Section 37 of the Media Services Act 2016. The Media Services (Defamation Proceedings) Rules, 2019 sets out the procedure to be followed in defamation proceedings; • On Slander - Regulation 16 of the Electronic and Postal Communications (Online Content) Regulations, 2020
<p>GENERAL CRIMINAL/ CIVIL LAWS, AVENUES FOR LEGAL REDRESS, REGULATIONS, POLICIES OR OTHER FRAMEWORKS NOT SPECIFICALLY TARGETED AT THE MEDIA WHICH ARE USED TO CONTROL, REGULATE, PREVENT OR PUNISH THE MEDIA’S ACTIVITY AND THE CONTENT IT PUBLISHES</p>	<ul style="list-style-type: none"> • National Security Act, 1971 • Tanzania Intelligence & Security Services Act, 1996 • The Prevention of Terrorism Act, 2002 • The Cybercrimes Act, 2015 • The Cybercrimes (General) Regulations, 2016 • The Penal Code
<p>LEGAL PROTECTION OF WHISTLEBLOWERS</p>	<p>The Whistleblower and Witness Protection Act, 2015 aims to promote and facilitate reporting of organised crimes, corruption offences, unethical conduct, abuse of office, illegal and dangerous activities; to provide for the protection of whistleblowers and witnesses against potential retaliation or victimisation; to provide for a legal mechanism to reward and compensate whistleblowers and witnesses and to provide for other related matters.</p> <p>The Whistleblowers and Witness Protection Regulations, 2022 provide for the procedure related to an application for protection, protection measures, and the concealment of identity.</p> <p>In addition: The Prevention and Combatting of Corruption Act [Cap 329 RE 2019]; Criminal Procedure Act [Cap 20 RE 2022]; Anti-Money Laundering Act [Cap 200 RE 2022]</p>

<p>ACCESS TO INFORMATION BY JOURNALISTS</p>	<p>The Access to Information Act, 2016 provides access to information and the scope of information which the public has the right to access. The Data Protection Act, 2022 (not yet in force), provides for the minimum requirements for the collection and processing of personal data, enhance the security and protection of personal data, and other related issues.</p>
<p>LEGAL AND REGULATORY PROTECTION OF JOURNALISTS AND MEDIA ORGANISATIONS</p>	<p>Tanzania does not have a specific legal and regulatory framework that assures the protection of journalists and media organisations. All citizens are subject to the laws cited above regardless of profession.</p>
<p>RECENT NOTABLE LEGISLATIVE DEVELOPMENTS IN MEDIA REGULATION AND LEGAL CHALLENGES TO AMEND OR REPEAL REPRESSIVE LEGISLATION IN RELATION TO THE MEDIA</p>	<p>The Media Services Act was introduced in 2016 and repealed the archaic Tanzania News Agency Act 1976 and Newspaper Act 1976. The present Act, and its predecessor, have been used as a tool to “<i>shut down, fine, or suspend independent and critical media outlets for publishing or broadcasting allegations of corruption and human rights violations or reporting on general issues of governance.</i>”⁴⁸</p> <p>The Statistics Act was amended once in 2019 allowing every person a right to collect and disseminate statistical information.</p> <p>Tanzania withdrew from the Protocol of the African Charter on the Establishment of an African Court on Human and Peoples’ Rights.⁴⁹</p> <p>The Tanzania Intelligence and Security Service (Amendment) Bill, 2023 was tabled in Parliament in May 2023. Relevant changes include: the TISS will now directly report to the President as opposed to the Minister, aligning it with international best practice; and widening the scope of immunity to be afforded to officers in TISS to immunity from criminal action resulting from bona fide acts by those officers in the course of implementing functions under the Act.</p>
<p>RECENT MEDIA CASELAW EXAMPLES</p>	<ul style="list-style-type: none"> • <i>Jebra Kambole v Attorney General, Miscellaneous Civil Cause No. 32 of 2015</i> • <i>Jamii Media Company Ltd vs The Attorney General & Another, Miscellaneous Civil Cause No. 9 of 2016</i> • <i>The Managing Editor Mseto & Another v The Attorney General of The United Republic of Tanzania, Reference No. 7 of 2016</i> • <i>Media Council of Tanzania & Others v The Attorney General of the United Republic of Tanzania, Reference No. 2 of 2017</i> • <i>Raymond Paul Kanegene & Another v The Attorney General, Consolidated Miscellaneous Civil Cause No. 15 of 2019 & No. 5 of 2020</i> • <i>Nehemia Kyando Mchechu v Mwananchi Communication Limited & Another, Civil Case No. 48 of 2021</i>
<p>USE OF LEGAL REMEDIES TO PREVENT, INTERFERE WITH OR SANCTION REPORTING ON ILLICIT FINANCIAL FLOWS OR TAX ABUSE</p>	<p>We are not aware of any legal remedies that have been used to prevent, interfere with or sanction reporting on illicit financial flows or tax abuse.</p>

48 Amnesty International. 2022. Tanzania: Victory for media freedom as ban on four newspapers lifted. [online] Available at: <https://www.amnesty.org/en/latest/news/2022/02/tanzania-victory-for-media-freedom/>

49 “Notice of withdrawal of the declaration made under article 34(6) of the protocol to the african charter on the establishment of an African Court on Human and Peoples’ Rights” (2019) African Court on Human and Peoples’ Rights. Available at: https://www.african-court.org/wpa/cf/wp-content/uploads/2020/10/Withdrawal-Tanzania_E.pdf



UGANDA

<p>ESSENTIAL LEGAL FRAMEWORKS (LAWS, REGULATIONS, POLICIES AND ‘SOFT LAW’) WHICH REGULATE/ CONTROL ONLINE, PRINT AND BROADCAST MEDIA</p>	<ul style="list-style-type: none"> • The Official Secrets Act Cap 302 of 1964 • The Constitution of Uganda, 1995 • The Press and Journalist Act Cap 105 of 1995 • The Anti-Terrorism Act 2002 (as amended 2017) • The Right to Access to Information Act 2005 • The Presidential Elections Act 2005 • The Parliamentary Elections Act 2005 • The Referendum and other Provisions Act 2005 • The Uganda Broadcasting Corporation Act 2005 • The Copyright and Neighbouring Rights Act 2006 • The Penal Code Act Cap 120 (amended in 2007) • The Regulation of Interception of Communications Act 2010 • The Computer Misuse Act No. 2 of 2011 (amended 2022) • The Uganda Communication Act No. 1. 2013 • The Anti-Pornography Act 2014
<p>LAWS REGULATING AND/ OR LIMITING THE CONTENT WHICH ONLINE, PRINT AND BROADCAST MEDIA MAY PUBLISH</p>	<p>All of the national laws highlighted above regulate/limit the content that online, print and broadcast media may publish, including social and digital media.</p>
<p>GENERAL CRIMINAL/ CIVIL LAWS, AVENUES FOR LEGAL REDRESS, REGULATIONS, POLICIES OR OTHER FRAMEWORKS NOT SPECIFICALLY TARGETED AT THE MEDIA WHICH ARE USED TO CONTROL, REGULATE, PREVENT OR PUNISH THE MEDIA’S ACTIVITY AND THE CONTENT IT PUBLISHES</p>	<p>The Penal Code Act (“The Penal Code”) provides for a crime of defamation. A person who commits criminal defamation is liable to imprisonment for a period not exceeding two years.⁵⁰</p> <p>Civil defamation arises from similar circumstances to criminal defamation. Section 179 of the Penal Code Act criminalises libel.</p> <p>Slander falls under defamation overall as an offence, which is regulated by the Penal Code Act.</p> <p>In addition: Computer Misuse Act 2011 (cyber harassment, offensive communication); Anti-Terrorism Act 2002 (amended 2017).</p>
<p>LEGAL PROTECTION OF WHISTLEBLOWERS</p>	<p>The legal protection of whistleblowers is set out in the Whistleblowers Protection Act, 2010 which provides for the procedures by which an individual in both the private and public sector may in the public interest disclose information that relates to irregular, illegal or corrupt practices and for protection against victimisation of persons who make such disclosures.</p>
<p>ACCESS TO INFORMATION BY JOURNALISTS</p>	<p>The aim of the Access to Information Act 2005 is “To empower the public to effectively scrutinise and participate in Government decisions that affect them.”</p> <p>Section 4 of the Press and Journalist Act 1995 provides for access to official information: “A person may have access to official information subject to any Law in force relating to national security, secrecy or confidentiality of information”.</p>

50 [Section 22 of the Penal Code Act, Cap 120, Laws of Uganda.](#)

<p>LEGAL AND REGULATORY PROTECTION OF JOURNALISTS AND MEDIA ORGANISATIONS</p>	<p>The principal framework regarding the protection of the rights of journalists and media organisations is the Constitution of Uganda⁵¹ which establishes media rights and freedoms. Freedom of speech, expression, thought, association and movement are a few of the key rights that can be upheld and applied to journalists as well as media organisations alike. See also the Press and Journalist Act 1995 which provides for the freedom of the press and provides for a Council that is responsible for the regulation of mass media and to establish an institute of journalists of Uganda (the Ugandan Journalists Association). The Media Council is a statutory body established by the Press & Journalists Act and charged with the regulation of mass media.</p>
<p>RECENT NOTABLE LEGISLATIVE DEVELOPMENTS IN MEDIA REGULATION AND LEGAL CHALLENGES TO AMEND OR REPEAL REPRESSIVE LEGISLATION IN RELATION TO THE MEDIA</p>	<p>The Computer Misuse Amendment Act 2022 - Section 12 of the principal Act has been amended to mean that any person who intercepts or accesses another person's data or information whether it be through video recording or voice recording, sharing information that relates to another person is illegal. Any person found liable in such an instance would have committed an offence. The Amendment continues to state that any person found liable to committing an offence under Section 12 will be subject to a fine of seven hundred and fifty currency points or could face imprisonment with a maximum sentence of 10 years.</p>
<p>RECENT MEDIA CASELAW EXAMPLES</p>	<ul style="list-style-type: none"> • <i>Greenwatch (U) Ltd v Attorney General of Uganda and Uganda Electricity Transmission Co. Ltd (HCT 00 CV-MC-139 of 2001)</i> • <i>Onyango-Obbo & Mwenda vs Attorney General Constitutional Appeal No. 2 of 2002</i> • <i>Francis Lukooya Mukoome & another v The Editor in Chief Bukedde Newspaper & 2 others High Court Civil Suit No.351 of 2007</i> • <i>Amama Mbabazi v Museveni & others (Presidential Election Petition No. 1 of 2016) [2016] UGSC 3 (31 March 2016)</i> • <i>Edward Sekyewa t/a Hub for Investigative media vs National Forestry Authority Miscellaneous Cause No. 354 of 2013 (2 March 2017)</i> • <i>Editors Guild Uganda Ltd and Centre for Public Interest v Attorney General Miscellaneous Cause No. 400 of 2020</i> • <i>Godfrey Kirumira Kalule v. New Vision Printing and Publication Co. Limited & Deox Tibeingana, The Editor In Chief Of The New Vision Printing & Publishing Company Limited, Red Pepper Publications Limited and The Editor in Chief of Red Pepper HCMA No. 789 of 2020</i>
<p>USE OF LEGAL REMEDIES TO PREVENT, INTERFERE WITH OR SANCTION REPORTING ON ILLICIT FINANCIAL FLOWS OR TAX ABUSE</p>	<p>The fake news offence under the Penal Code Act Cap 120 has been used by the State to prosecute writers and journalists. Section 50 of the Penal Code Act provides that any person who publishes any false statement, rumour, or report which is likely to cause fear and alarm to the public or to disturb the public peace commits a misdemeanour (see e.g. the prosecution of veteran journalists Charles Onyango Obbo and Andrew Mwenda⁵²).</p> <p>Government officials have used the Uganda Communications Commission to shut down the social media accounts of vocal journalists, media outlets and online sites that publish reports involving corrupt Government officials citing that the reporting is fake news and/or disinformation. For example, during the 2021 elections all social media or internet connection was shutdown to prevent the publication of the state of the country during the ongoing election.⁵³</p> <p>The Courts in Uganda have been criticised for being used by the state to curtail or gag media freedoms by charging and trying journalists and writers with defective and trumped-up charges including criminal defamation, sedition and treason.⁵⁴</p>

51 Article 27(2), Article 29(1) (a), Article 41(1)(2), Article 43(1)(2)

52 <https://ulii.org/ug/judgment/supreme-court-uganda/2004/81>

53 <https://www.monitor.co.ug/uganda/news/national/ucc-orders-social-media-shutdown-ahead-of-tense-poll-3254532>

54 <https://www.bbc.com/news/world-africa-59951890>



ZAMBIA

<p>ESSENTIAL LEGAL FRAMEWORKS (LAWS, REGULATIONS, POLICIES AND ‘SOFT LAW’) WHICH REGULATE/ CONTROL ONLINE, PRINT AND BROADCAST MEDIA</p>	<ul style="list-style-type: none"> • The Constitution of Zambia • Copyright and Performance Rights Act [Cap. 406] • Penal Code Act [Cap. 87] • State Securities Act [Cap. 111] • Defamation Act [Cap. 68] • Zambia National Broadcasting Corporation Act 1987 • Independent Broadcasting Authority No. 17 of 2002 • Cyber Security and Cyber Crimes Act No. 2 of 2021
<p>LAWS REGULATING AND/ OR LIMITING THE CONTENT WHICH ONLINE, PRINT AND BROADCAST MEDIA MAY PUBLISH</p>	<p>In addition to those indicated above, the following regulate/limit content which online, print and broadcast media may publish:</p> <ul style="list-style-type: none"> • Information And Communications Technologies Act, 2009 • The Zambia National Broadcasting Corporation Act, 1987 • Electoral Act, 2006 <p>The laws that regulate laws and policies on defamation include the Penal Code [Cap. 87] and the Defamation Act.</p> <p>In Zambia libel is a criminal offence as provided in Section 191 of the Penal Code.</p> <p>In Zambia slander is a civil offence and is criminalised under the Defamation Act. Sections 3, 4 and 5 of the Defamation Act provide for three different types of slander.</p>
<p>GENERAL CRIMINAL/ CIVIL LAWS, AVENUES FOR LEGAL REDRESS, REGULATIONS, POLICIES OR OTHER FRAMEWORKS NOT SPECIFICALLY TARGETED AT THE MEDIA WHICH ARE USED TO CONTROL, REGULATE, PREVENT OR PUNISH THE MEDIA’S ACTIVITY AND THE CONTENT IT PUBLISHES</p>	<p>Section 57 of the Penal Code criminalises seditious practices. The term seditious is not defined under the Penal Code, however, it can be defined as inciting or causing people to rebel against the authority of a state or monarch. The Penal Code also criminalises seditious intention to excite the people of Zambia to attempt to procure the alteration, otherwise than by lawful means, of any other matter in Zambia as by law established.</p>
<p>LEGAL PROTECTION OF WHISTLEBLOWERS</p>	<p>Whistleblowers are protected under the Public Interest Disclosure Act, 2010. Part V of the Act provides for the protection of whistleblowers from reprisals.</p>
<p>ACCESS TO INFORMATION BY JOURNALISTS</p>	<p>The Data Protection Act, 2021 is an Act designed to provide an effective system for the use and protection of personal data, to regulate the collection, use, transmission, storage and otherwise processing of personal data. The Data Protection Act has no provisions relating to access to information by journalists.</p>
<p>LEGAL AND REGULATORY PROTECTION OF JOURNALISTS AND MEDIA ORGANISATIONS</p>	<p>Journalists and media organisations are protected by the Constitution. There is currently no regulatory framework in Zambia regulating the media sector, though attempts have been made through the Media Council of Zambia (MECOZ) and the Zambia Media Council (ZAMEC) (which were never operationalised).</p>

<p>RECENT NOTABLE LEGISLATIVE DEVELOPMENTS IN MEDIA REGULATION AND LEGAL CHALLENGES TO AMEND OR REPEAL REPRESSIVE LEGISLATION IN RELATION TO THE MEDIA</p>	<p>After several consultations the Technical Working Group organised the first media regulation Insaka (Conference) in 2019. Various forms of regulation were presented and the Insaka agreed to a self - regulation framework by an Act of Parliament - a Bill which was to be drafted by the media itself and submitted to MIBS to facilitate its enactment. The draft media self-regulation ZAMEC Bill has not been passed into law.</p> <p>There have not been any legal challenges to amend or repeal repressive legislation, only a call by persons in the media such as journalists and NGOs for the enactment of an Act that will fully govern the media sector.⁵⁵</p>
<p>RECENT MEDIA CASELAW EXAMPLES</p>	<ul style="list-style-type: none"> • Two Watchdog journalists in Zambia arrested and charged with seditious intention⁵⁶ • A musician, Chama Fumba, alias Pilato, was charged in 2015 with conduct likely to cause the breach of peace by producing a song ‘A Lungu Anabwela’ which was allegedly defamatory of the President. The Director of Public Prosecutions entered a nulle prosequi which effectively discharged the accused with liberty to reopen the case on the basis that the prosecution had failed to adduce sufficient evidence in support of their case.⁵⁷ • In October 2018, Dr Austin Mbozi, a lecturer from the University of Zambia was arrested and charged with defamation of the President after he wrote an opinion piece critical of the government.⁵⁸
<p>USE OF LEGAL REMEDIES TO PREVENT, INTERFERE WITH OR SANCTION REPORTING ON ILLICIT FINANCIAL FLOWS OR TAX ABUSE</p>	<p>No specific regulation and the Courts have not had the opportunity to adjudicate on the matter.</p>

55 <https://country.eiu.com/article.aspx?articleid=730368856&Country=Zambia&topic=Politics&subtopic=Fo.7>

56 <https://ipi.media/two-journalists-in-zambia-arrested-charged-with-sedition/>

57 [MISA Zambia Defamation of the Zambian President | MISA Zambia](#) (5 October 2015)

58 Meerotter Anneke Zambia: Challenging the enforcement of the offence of defamation of the President – Southern Africa Litigation Centre (25th May 2019)