



AFRICAN MEDIA BAROMETER

A home-grown analysis of the
media landscape in Africa

NAMIBIA 2022



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The African Media Barometer (AMB) is a perception index. The findings, interpretations and conclusions reported are those of panelists drawn from civil society and media organisations for the purposes of conducting the AMB, and do not necessarily reflect the views and opinions of *fesmedia* Africa, the Friedrich-Ebert-Stiftung or the Media Institute of Southern Africa (MISA).

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The African Media Barometer

The African Media Barometer (AMB) is an in-depth and comprehensive description and measurement system for national media environments on the African continent. Unlike other press surveys or media indices the AMB is a self-assessment exercise based on home-grown criteria derived from African Protocols and Declarations such as the Declaration of Principles on Freedom of Expression in Africa (2002) by the African Commission for Human and Peoples' Rights. The instrument was jointly developed by *fesmedia* Africa, the media project of the Friedrich-Ebert-Stiftung (FES) in Africa, and the Media Institute of Southern Africa (MISA) in 2004.

The AMB is an analytical exercise to measure the media situation in a given country which at the same time serves as a practical lobbying tool for media reform. Its results are presented to the public of the respective country to push for an improvement of the media situation using the AU-Declaration and other African standards as benchmarks. The recommendations of the AMB reports are then integrated into the work of the 20 country offices of the FES in sub-Saharan Africa and into the advocacy efforts of other local media organisations such as MISA.

Methodology and Scoring System

Every three to four years a panel of 10-12 experts, consisting of at least five media practitioners and five representatives from civil society, meets to assess the media situation in their own country. For 1½ days they discuss the national media environment according to 39 predetermined indicators. The discussion and scoring is moderated by an independent consultant who also edits the AMB report.

After the discussion of one indicator, panel members allocate their individual scores to that respective indicator in an anonymous vote according to the following scale:

- 1 Country does not meet indicator
- 2 Country meets only a few aspects of indicator
- 3 Country meets some aspects of indicator
- 4 Country meets most aspects of indicator
- 5 Country meets all aspects of the indicator

In 2009, 2013, 2019 and 2021 some indicators were replaced to align with changes in the media landscape. Consequently, in some instances, the comparison of indicators of previous reports is not applicable (n/a), as the indicator is new or has been amended considerably.

The sum of all individual indicator scores is divided by the number of panel members to determine the average score for each indicator. These average indicator scores are added up to form average sector scores.

Outcome

The final, qualitative report summarises the general content of the discussion and provides the average score for each indicator. Panellists are not quoted by name in the report, in order to protect them from possible repercussions. The reports can be used as a tool for possible political discussion on media reform.

In countries where English is not the official language, the report is published in a bilingual edition.

In facilitating the AMB, the FES and MISA only serve as a convener of the panel and as guarantor of the methodology. The content of the discussion and the report is owned by the panel of local experts and does not represent or reflect the view of FES or MISA.

By the end of 2021 the AMB had been successfully completed 126 times in 32 African countries, in some of them for the sixth time already.

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See above 32 AMB Countries (2005-2021)

African Media Barometer

NAMIBIA 2022

Summary

On the surface, Namibia's stellar reputation as the beacon of media freedom remains intact, but the role of the Fourth Estate in speaking truth to power is gradually being eroded as state officials become increasingly intolerant of the media in Namibia. The perceptible decline in the media landscape is evidenced by the intimidatory tactics the state has been using to discourage journalists from reporting on certain issues.

The tactic of deploying military paratroopers to control certain events is proving to be an effective deterrent. 'When the SFF [Special Field Forces] arrive on the scene, you know you shouldn't be there, or something will happen to you. When we see them, we know that we as the media are more prone to attack...and they are increasingly present where people gather in large numbers.'

There have been attempts by authorities to ban demonstrations. In instances where protests have taken place, the police have come down heavily on both protesters and the media, with officers teargassing and arresting demonstrators and deleting footage or destroying equipment belonging to the media.

Since the elections in 2019, there has been a steady shift on the Namibia political landscape, which has translated into the narrowing of civic space as the ruling party focuses on the retention of power. Citizens can express themselves explicitly – depending on who they are, the issue they are addressing and the medium through which they are communicating. Mundane issues devoid of political connotations are discussed freely and openly, but provocative topics with political overtones are avoided as the 'police are known to knock on the doors'.

Such constriction heavily impacts the free flow of information, as citizens' voices and agency are constrained, thus preventing their views, opinions and concerns from being articulated in or through the media.

Namibia's legal and policy framework offers strong protection for freedom of expression and media freedom through Article 21 of the constitution. This is further bolstered by Article 144 of the constitution on international law, which automatically incorporates regional and international protocols, agreements and treaties signed and ratified by the Namibian government into the domestic legal system.

However, commitment to the notions contained in these regional and international protocols and conventions seems to be solely on paper. Recent SIM card registration regulations and certain clauses in the proposed Access to Information Bill go against the regional and international principles contained

in these documents. The drawback for Namibians is also in the implementation and interpretation of the extensive legal framework, as they contain overly broad and vague clauses that are open to interpretation, thus allowing the state to overreach its authority.

Like all other sectors, the Namibian media industry took a battering during the COVID-19 pandemic, emerging bruised and slightly altered in the post-pandemic era.

The health and safety restrictions imposed during the pandemic and the drastic cut in advertising revenue resulted in the closure of numerous media outlets. Retrenchment of staff translated into smaller and more harried newsrooms. Subsequently, journalists have come under strain – forced to work longer hours and take pay cuts with very little or no support from their employers. Their mental well-being and safety are disregarded, which has pushed journalists into setting up a union that is currently structuring itself into a more formal entity.

Numerous publications stopped producing print versions, opting to go exclusively online. While the broadcasting sector was also hit hard by the pandemic, interestingly enough, there are a few new players on the commercial and community broadcasting landscape.

While the country's media tend to follow the basic tenets of professional journalism, and there are strongly visible pockets of discerning media, it is becoming evident that capacity and professionalism are in sharp decline.

Through membership of the Editors Forum of Namibia (EFN), the media follow a self-regulatory Code of Ethics and Conduct (2017) that speaks to the print, broadcasting and online media. The Media Ombudsman has even acted in instances when the news media company does not subscribe to the code of ethics. Complaints recently received by the Media Ombudsman include critical accuracy issues and journalists' tendency to create content based on information extracted from social media posts on platforms such as Facebook and Twitter.

While the creation of the Media Ombudsman is essential for the sustained enhancement of the Namibian media industry, there is a critical need for the EFN to support that office with technical, financial and skilled human resources.

Namibian society is fractured along inequalities: those with resources and those without; the educated and uneducated; the different ethnic groups, including marginalised communities, are played out in and by the media. This impacts the public's ability to participate effectively around issues of national interest because it is compromised by the media's tendency to avoid 'hot topic' issues which include transitional justice, land rights, issues impacting the San and the ever-present issue of race and tribal dominance in every sector of Namibian life.

'When face-to-face with a state entity or a politician, one feels less free to express oneself...especially with the dynamics involved if you are female, queer, black, inarticulate or young.'

The public is further compromised by the capture of the state media institutions by those in power and portions of the private media acting on behalf of corporate sector interests.

The panel discussion took place at Okahandja Country Hotel, Namibia from 8-10 July 2022.



SECTOR 1:

Legal/regulatory framework for freedom of expression and access to information and actual practice of these rights

1.1 Freedom of expression, including freedom of the media, is guaranteed in the constitution and supported by other pieces of legislation.

The Namibian Constitution's Article 21 on fundamental freedoms guarantees freedom of expression, including media freedom, as follows:

- (1) *All persons shall have the right to:*
- a) *freedom of speech and expression, which shall include freedom of the press and other media...*

In addition, Namibia has also ratified various international and regional agreements that support the freedom of the media (see indicator 1.3). These agreements are automatically incorporated into the country's legal system and thus considered domesticated, as a direct outcome of Article 144 of the constitution on international law, which states:

Unless otherwise provided by this Constitution or Act of Parliament, the general rules of public international law and international agreements binding upon Namibia under this Constitution shall form part of the law of Namibia.

'Our courts certainly have various examples of case law which affirms that freedom of expression is a constitutionally guaranteed right, and very much recognised in our legal framework, but implementation is a totally different thing.'

Article 21 (2) of the Namibian Constitution provides limitations to this freedom, however, in that:

The fundamental freedoms referred to in Paragraph (1) shall be exercised subject to the law of Namibia, in so far as such law imposes reasonable restrictions on the exercise of the rights and freedoms conferred by the said Paragraph, which are necessary in a democratic society and are required in the interest of the sovereignty and integrity of Namibia, national security, public order, decency or morality, or in relation to contempt of court, defamation or incitement to an offence.

The above 'clawbacks' cannot always be used to limit media freedom and perpetuate corruption. For example, in 2019, the High Court and the Supreme Court rejected an attempt by the Namibian Central Intelligence Service (NCIS) to use national security as a reason to prevent *The Patriot* newspaper from publishing information relating to properties acquired by the NCIS to house its retired staff and their families. It was noted that this judgement was based on the issue of "protected speech" and not freedom of expression.

Of importance in *The Patriot* case, however, is that "national security" has still not been adequately defined, and at what point is national security compromised

and what is considered as being in the public interest, as per the Global Principles on National Security and the Right to Information (Tshwane Principles).

‘When it comes to practice, people are very quickly shut down when they express themselves, depending on areas and institutions, and there has been a huge trend towards legal harassment, or SLAPPs – Strategic Lawsuit Against Public Participation.’

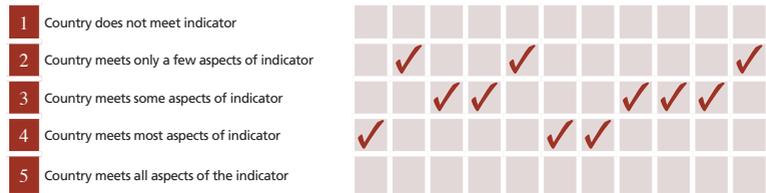
Freedom of expression is not currently supported by other pieces of legislation. There are, however, various acts which infringe on this freedom. The subsidiary legislation includes the Defence Act of 2002, which prohibits reporting related to the army which is deemed to impact negatively on national security, and the Protection of Information Act of 1982 and the Official Secrets Act of 2004, both of which limit the sharing by the government of state-held information.

Legislation that supports freedom of information but is not yet operational includes the Whistleblower Protection Act of 2017 and the Access to Information Bill. (Soon after this report was compiled, the Access to Information Bill was passed by the National Council.)

Panellists noted that freedom of expression also appeared limited regarding the formation of labour unions as Parliament does not always approve their registration.

Scores:

Individual scores:



Average score: 3.0

1.2 The right to freedom of expression is practised and citizens, including journalists, are asserting their rights without fear.

Panellists agreed that citizens are generally able to practise freedom of expression, especially when they can do so at a distance, for example, anonymously via SMS pages in the local newspapers or on radio call-in shows.

The call-in programme *People’s Parliament*, which airs every weeknight for an hour on the public broadcaster, the Namibian Broadcasting Corporation (NBC),

and *The Namibian* newspaper's daily SMS feature were highlighted as spaces for people to express themselves freely, provided they don't insult others.

However, when mentioning the NBC's *Otjiherero* call-in programme, a panellist stated, 'What does it say if you have to give all your details – identify yourself and where you are from, even to the extent of your erf number [number of the land/property on which you live] – before you go on air? Is that what we call freedom of expression? It intimidates people.'

It was noted that the producers of all NBC's programmes are required to ask for callers' names and locations. Print media editors also require writers to identify themselves as 'people tend to say things that are false when hiding under the cover of anonymity'.

'While people generally can express themselves...with the changing political landscape since the last elections in 2019, people have become malicious. People who previously expressed themselves publicly on social media have become intimidated, and there is a lingering fear of people being targeted.'

While the law guarantees freedom of expression, within limits, concern was raised over how much citizens are aware of this and understand their rights, especially those living in more rural areas. 'This is what tends to be abused by the police and politicians. In addition, the more uninformed you are, the more fear you have, and the more you restrict yourself.'

In 2019, WikiLeaks published the Fishrot Files, consisting of thousands of documents linking high-ranking Namibian politicians and officials to Iceland's acquisition of multi-million-dollar fishing quotas in Namibia. The six people under investigation for allegedly receiving hundreds of millions of US dollars in suspicious proceeds, and who are still imprisoned, include former Namibian fisheries minister Bernhardt Esau and former justice minister Sacky Shanghala. In 2021, President Geingob was also implicated in the Fishrot corruption allegations by the Organised Crime and Corruption Reporting Project. Geingob has denied any involvement.

'When face-to-face with a state entity or a politician, one feels less free to express oneself...especially with the dynamics involved if you are female, queer, black, inarticulate or young.'

There is a sense that freedom of expression can be constrained by the state.

State officials, especially the police, were said to abuse their power by preventing people from expressing themselves freely. This depends on where such expression takes place, how people express themselves and who they are in society.

'Citizens do not feel free to practise freedom of expression, especially when it comes to state institutions – the police and defence – who will shut you down, beat and harass you.'

Activists don't feel free to express their anger, 'even constructive anger'. 'One of the first things the authorities try to do at a protest is restrict your expression by targeting your equipment, especially the sound.'

Mention was made of the police trend to prevent people from holding spontaneous demonstrations or protests. This was evident in 2020 with the #ShutItAllDown movement, a wave of protests against sexual and gender-based violence, during which protesters were tear-gassed and 25 were arrested.

'This specifically goes against the spirit of freedom of expression, as picketers will be told they have not been granted permission or are beaten up by the police.'

While the law, through the Public Gatherings Proclamation of 1989, does state that persons wanting to hold public gatherings must notify the police in advance, panellists felt that the police used disproportionate force against #ShutItAllDown protesters and journalists. The Public Gatherings Proclamation is aimed at ensuring that public gatherings take place in a safe and orderly manner. It does not give the police the power to forbid a public gathering altogether. However, it does empower the police to impose conditions on a public gathering. Such conditions may relate to issues that could endanger the public, lead to violence or restrict other people's rights. In practice, police should provide escort services for marches or attend gatherings to ensure law and order.

In May 2022, in Chinatown, Windhoek, a group of young Namibian entrepreneurs were thwarted from holding a demonstration to protest what they felt was unfair state support for Chinese small businesses to sell counterfeit branded goods. Two activists from this group were arrested for public incitement.

This protest came after the Namibian Revenue Agency destroyed N\$5 million worth of counterfeit goods from China, which had been bought by Namibian entrepreneurs. The group had reportedly requested permission to hold the protest, and although they had received no feedback, they decided to go ahead.

Citizens, mainstream media and young journalists on community radio stations are known to censor themselves and prefer to steer clear of controversial topics due to possible repercussions as 'police are known to knock on the doors' of those who have ventured into this territory.

'Sometimes, when I am working on an opinion piece, I second-guess myself and wonder: will this even get published? Is this not really pushing it? So, there is that level of fear of a backlash, despite lots of research backing you up.'

Cultural constraints, especially in rural areas, also inhibit people, including journalists, from expressing themselves freely. This is particularly evident with regard to respect for community elders. When journalists guard themselves in this way, it impacts on their ability to inform their audiences about certain topics.

The threat and high litigation costs also prevent journalists from writing more freely.

‘As a publisher, you are always aware of the chilling effects of making a genuine error, especially when it comes to very powerful people who have the resources to litigate. Especially after the Covid pandemic, you won’t be able to afford to defend a defamation case. So, you are always in an uncomfortable space to criticise public figures, some of whom will use state resources to take you on... The judges require you to be accurate to perfection.’

Mention was also made of the public broadcaster, the NBC, and the belief that staff are unwilling to discuss specific issues on air to avoid ‘biting the hand that feeds’. The state provides 70% of the NBC’s running costs.

‘It is common knowledge that certain topics would not be entertained by a continuity announcer or presenter. There is a real sense of fear about how far you can go on certain topics. And it’s one of the reasons why people have ridiculed the concept of a public broadcaster in Namibia.’

Nonetheless, it was also noted that NBC staff have begun adopting a more editorially independent stance, although this was not the case a few years ago.

‘On NBC, listeners have the opportunity to express themselves. While topics may have been decided on beforehand, within certain parameters. Even online, when live events are streamed, people have the right to comment, even to the point of ridiculing public figures.’

An incident was related of two private-media journalists who were manhandled by security officials in front of President Hage Geingob.

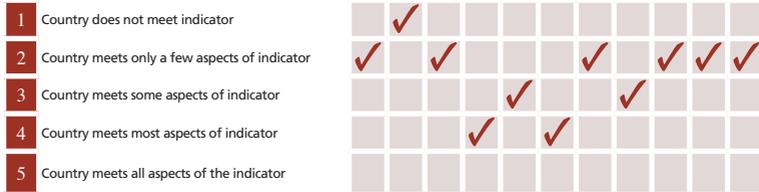
‘With the high rate of GBV [gender-based violence] in the country, when the police see that the president witnesses such an incident and doesn’t do anything, they will think it’s open season, and they can do what they want. And that is the constant fear that female journalists, in particular, have when they do their job, as we haven’t seen these attacks perpetrated against male journalists... There is a sense that there is no protection for journalists even in the newsroom.’

Much harassment in Namibia takes place online and is primarily aimed at women and marginalised groups, including the lesbian, gay, bisexual, transsexual, queer and intersex (LGBTQI+) community.

‘I don’t think people understand that the same rights they have offline, they have online too. They think they have *carte blanche* with what they say, especially against journalists, where the trolls and the bots can be really offensive. This lends one to self-censorship. You can ignore it, but it can be very intimidating.’

Scores:

Individual scores:



Average score: 2.5

1.3 The state honours regional and international instruments of freedom of expression and freedom of the media.

Namibia has ratified various international and regional agreements enshrining freedom of expression and freedom of the media. These include the International Covenant on Civil and Political Rights (Article 19), the International Convention on the Elimination of All Forms of Racial Discrimination (Article 5) and the Convention on the Elimination of All Forms of Discrimination against Women (Article 7).

At the regional level, human rights instruments guaranteeing the right to freedom of opinion and expression include the Windhoek Declaration for the Development of a Free, Independent and Pluralistic Press; the SADC Protocol on Culture, Information and Sport; the African Charter on Human and Peoples’ Rights, Article 9; Resolution 169 on Repealing Criminal Defamation Law in Africa by the African Commission on Human and Peoples’ Rights (ACHPR); and the ACHPR Declaration of Principles on Freedom of Expression and Access to Information in Africa.

These instruments may be invoked in the Namibian courts. Given the terms of Article 144 of the Namibian Constitution, international agreements binding upon Namibia are automatically incorporated into the domestic legal order (see indicator 1.1).

‘The Namibian government has a tendency to sign up to most of the international and regional instruments, which recognise the right to freedom of expression and freedom of the media, so as to tick a box, but the practice is totally different, and they are not institutionalised.’

The UN Committee on Economic, Social and Cultural Rights expressed concern in 2016 about the lack of jurisprudence invoking economic, social and cultural rights claimable in Namibian courts through the international instruments binding on the country.

A panellist questioned the word “honour” in this indicator: ‘Access to information legislation is part of the African Charter on Human and Peoples Rights of 1981, which the government has ratified. Our government has been talking about Access to Information forever. This act may sit on the books for another ten years... “Honour” is a question of it being ratified and enforced in court, despite the government having ratified the Windhoek Declaration [of 1991], which really pushed for access to information.’

‘Lip service is being paid, and there is a huge reluctance to really honour these agreements and enact media freedom legislation because the people in power would rather not have to be forced, proactively, to provide access to publicly held information. Instead, they want to sift what they say to the public.’

It was noted that officials from the Ministry of Information Communication Technology recently held an internal session to clarify details of the ATI Bill. The session included an NBC reporter, while private and community media reporters were excluded.

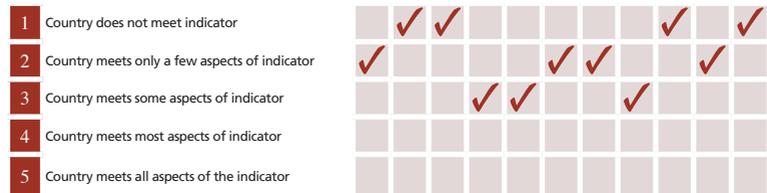
Mention was made that private media was prohibited from attending an Electoral Commission of Namibia official event. Covid-19 official media briefings, held early during the pandemic, were likewise restricted to state media institutions.

Panellists felt that Namibian journalists were failing to interrogate the use of international agreements.

‘The will is there, but when it comes to the implementation, ownership and the application of these resolutions, the desired action is lacking. The legislation exists but the checking and ticking, the follow-up, doesn’t happen. We need to keep the government on its toes and keep it on the agenda.’

Scores:

Individual scores:



Average score:

1.9

1.4 The state has amended or repealed laws that criminalise sedition, insult and publication of false news.

Namibia has not amended or repealed laws that criminalise sedition, insult and the publication of false news. While there is no defamation act, the law of defamation is based on common law and is often used to tie up media houses in costly defamation cases (see indicator 1.5).

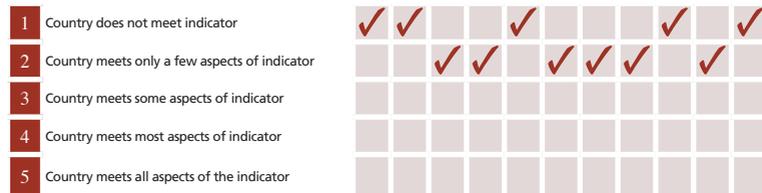
In addition, under the Covid-19 emergency regulations in April 2020, publishing false news about the pandemic was criminalised. Those committing such an offence could be fined N\$2,000 or given a maximum prison sentence of six months.

Conscientious editors correctly question journalists to check they have covered everything before publication. ‘Once a powerful person decides to sue or report you for defamation or insult, you end up having to spend so much time in court and with lawyers that it takes away a lot of resources from an already under-resourced organisation.’

It was felt that media practitioners should determine which outdated laws on Namibia’s statute books should be repealed.

Scores:

Individual scores:



Average score:

1.5

1.5 The state has amended criminal laws on defamation and libel in favour of necessary and proportionate civil sanctions.

Defamation is part of the common law of Namibia. The Namibian courts have held that the common law of defamation is not inconsistent with the constitution per se. In terms of the present legal position, defamation is treated as both a civil wrong (delict) and a criminal offence. As a civil defamation, one may institute a defamation action for an alleged defamatory statement made by another. As a criminal offence, one may be charged with criminal defamation. There is debate on whether the crime of criminal defamation should still exist in a constitutional

democracy like Namibia. In fact, the ACHPR in 2016 called on Namibia to repeal this law and expressed its concern about the 'existence of criminal defamation law on Namibia's statute books despite the fact that it has not been used in practice to prosecute/intimidate journalists'.

'We've become a defamation nation lately in terms of the powerful using the courts and receiving a sympathetic ear from quite a number of judges. This is how they cripple freedom of the media and freedom of expression of individuals in Namibia.'

Most defamation cases in Namibia are civil suits by those who can afford them. For example, in 2022, Namibia's First Lady Monica Geingos was awarded N\$250,000 in damages, plus annual interest and legal costs for defamation on social media by opposition political party figure, Abed-Nego Hishoono. To date, this has been the highest amount awarded in a civil defamation case in Namibia.

But the application of the law and the impartiality of rulings appears to depend on who you are. Mercedes von Cloete, a transgender woman, sued the Minister of Safety and Security for being beaten, kicked and verbally abused by police in 2017. Although she asked for damages amounting to N\$250,000, she received only N\$50,000 in 2021 after a lengthy court battle.

In 2021, Beate Siteketa, aka socialite Betty Davids, won damages of just N\$60,000 in a N\$400,000 defamation case against *Independent Patriots for Change* spokesperson Emmanuel Nashinge, who had made defamatory and hurtful remarks towards her.

'It seems that the more of a public figure you are, the higher in social status, the more likely you are to get higher awards in court. If you are from a minority group, you will be handled completely differently... While Geingos may have been right that the stories were false, the case moved with speed compared to civil lawsuits on freedom of expression. And it's the chilling effect of the high legal costs that really impact freedom of expression.'

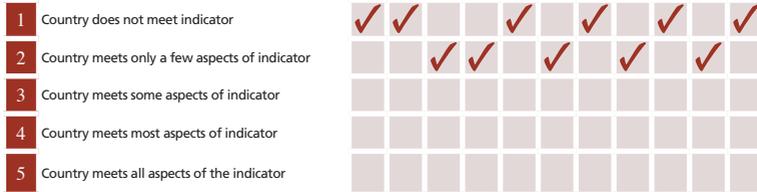
Namibian politicians were described as being savvy for using the civil and not the criminal route in defamation cases, and this was seen, ironically, as one of the reasons why Namibia ranks so high in the World Press Freedom Index – in 2022, Namibia ranked 24th out of 180 countries, and was the second-highest African country after the Seychelles, which was 13th.

Panelists felt that the Editors' Forum of Namibia should strengthen the resources of the Media Ombudsman to help prevent lengthy, drawn-out court cases around media issues. The Media Ombudsman has no designated office, permanent support staff or budget and is run part-time by the Media Ombudsman (see indicator 4.2).

'Much needs to be done to educate civil society and politicians on how this office can be used to resolve cases of defamation and libel without resorting to the courts.'

Scores:

Individual scores:



Average score: 1.5

1.6 The state refrains from using emergencies such as natural disasters, pandemics, or other kinds of national crises as an excuse to curtail freedom of information.

The state does not refrain from using national crises as an excuse to curtail freedom of information. A case in point is how the initial Covid 19 state press briefings were deliberately restricted to the public broadcaster, the NBC. These briefings were opened up to other sectors of the media following objections from the private media’s editors and journalists.

‘The presidency used the pandemic to curtail freedom of information by initially using the NBC as the only conduit of information... I feel sorry for our colleagues in the government-funded media institutions because they get put under a cloud and are made to look like they are siding with the politicians, but the politicians tend to use NBC and *New Era* in cases like this.’

Another example of the state refusing to allow freedom of expression is with those in favour of seceding the Zambezi Region, formerly Caprivi, from Namibia. They are not allowed to express themselves freely and are defined as terrorists by the state.

Private media reporters have in the past had camera equipment seized by the police when they have tried to cover news about the accused secessionists.

‘In established democracies, people are allowed to go to a referendum to decide whether it is right to secede or not. But our government has taken a decision that we do not allow freedom of expression on this issue. Even media that publishes articles about this topic are seen to be aiding the secessionists. We all need to educate ourselves about what we mean by freedom of expression: it’s not a crime to talk about wanting to secede; it only becomes a crime when you take up arms to attempt it.’

But it is not just government which should realise its duty to freedom of expression. Private media houses were noted for ‘falling asleep on stories’ and not exercising the right to freedom of expression and freedom of information by failing to follow up on specific relevant stories. For example, on secessionist leader Mishake Muyongo, who fled the country following the 1998 attempt to secede from what was then the Caprivi Region from Namibia.

When the organisers of the #ShutItAllDown movement, dedicated to fighting the national crisis of SGBV, were called in by President Geingob, the media was not allowed to attend what turned out to be a ‘very contentious’ briefing. Thus, the freedom of sharing information with the public was curtailed. The group released a statement afterwards, requesting all media to attend future briefings with the government, which have since been covered.

Similarly, the media is reportedly never invited to meetings involving State House and the Trade Union Congress of Namibia (TUCNA), which is not the case with other unions. TUCNA has publicly criticised the government on various issues, including ‘endemic corruption’.

Civil society faces a conundrum regarding government, as they must be very strategic about what is publicly said.

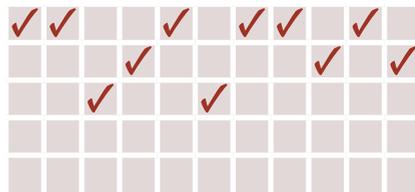
‘If TUCNA issues a proactive media statement after the meeting, this could jeopardise the union’s relationship with the state.’

‘Maybe sometimes meetings have to happen ‘in camera’, behind closed doors, to build relationships because campaigns won’t reach their goals if policymakers don’t agree... This is not about curtailing information.’

Scores:

Individual scores:

- 1 Country does not meet indicator
- 2 Country meets only a few aspects of indicator
- 3 Country meets some aspects of indicator
- 4 Country meets most aspects of indicator
- 5 Country meets all aspects of the indicator



Average score:

1.6

1.7 The state prohibits discriminatory or hate speech or incitement to discrimination, hostility or violence.

In Namibia, minority groups, such as the LGBTQI+ communities and the San, have borne the brunt of harassment, discrimination and hate speech, and are among the most marginalised groups in the country.

Demographically, the largest ethnic group is the Owambo (49.8%) followed by the Kavango (9.3%), Damara (7.5%), Herero/Himba (7.5%), white (6.4%), Nama (4.8%), Caprivian (3.7%), San (2.9%) and Bastards (2.5%).¹

Namibia is a signatory to the Copenhagen Convention on Social Development, which requires that governments proactively provide protection and social justice to society, especially marginalised communities. However, this is not observed in practice in Namibia. In 2020, under the Universal Peer Review, 19 recommendations were made for the government to monitor and ensure the protection of marginalised communities, but these have not been followed through.

Under the Racial Discrimination Prohibition Act of 1991, the maximum fine is N\$100,000 or 15 years in jail. This act was criticised by the panel as it fails to define what a racist attack constitutes.

Issues of race and sex tend to be taboo in Namibia, and education in this regard is lacking. Racial issues appear to have been taken over by issues of tribal dominancy, which are not discussed openly. There is sentiment within Namibia that certain ethnic groups are prioritised above others. This accusation is laid squarely at the door of the ruling party, SWAPO, with “jobs for comrades” accusations.

‘Most managers of parastatals and state-owned enterprises and senior ministerial appointments are all from the same ethnic community. Racial advancement has become institutionalised.’

It is alleged that at one point, the Central Procurement Board was found to have recruited 90% of their candidates from the Owambo community.

‘It is well known that Namibian society tends to sweep things under the carpet. The public debate on race and ethnicity has not been very effective. These are deeply entrenched, culturally.’

Resource allocation across Namibia’s regions was questioned for being based on statistics, meaning that some sparsely-populated regions do not receive sufficient resources. The San community has appealed publicly not to be labelled “marginalised”, as this further disempowers them, but rather to be termed an

¹ <https://worldpopulationreview.com>

indigenous minority. They say the name of the Division of Disability Affairs and Marginalised Communities perpetuates this discrimination.

‘Members of the San community are severely discriminated against, even at social welfare grant pay points, and some communities see them ranked as low as animals in society. They tend not to finish high school or make it to university, and the government is not addressing this.’

Former [general] Ombudsman John Walters was said to have experienced difficulties in addressing racist incidents when someone was called a “baboon” or a “kaffir”, as the law made it difficult for his office to deal with such issues.

Namibia still has *crimen injuria* on the statutes, a law which can be used quite broadly. While there have been no recent cases, in 2005, two Mao Mao school of thought supporters were arrested on this charge after wielding a placard reading ‘Kill the whites’.

‘In Namibia, *crimen injuria* is a common law crime, which is quite broadly defined. Those found guilty may get small fines of N\$500, so in small towns, racism will continue.’

A few years ago, a parliamentarian declared youth unruly and disrespectful to elders, noting that they should be called to order.

‘While the state has not done so in practice, there are indications that it wants to regulate social media and control what is said there against politicians. This is a concern to me.’

In 2021, SWAPO MP Jerry Ekanjo and former Cabinet minister made derogatory comments about the LGBTQI+ community, saying homosexuals should not be allowed in Namibia as the constitution only refers to marriage as happening between a man and a woman.

Ekanjo said in Parliament, ‘Why should we allow gays here in Namibia? We cannot allow a male person to insert his penis into the anus of another man.’

Bernardus Swartbooi from the opposition party, the Landless People’s Movement (LPM), has also made homophobic comments, which the Ministry of Justice condemned. Comments made by the founding father and former president Sam Nujoma against the LGBTQI+ community, where he compared them to animals, are sometimes used by traditional community elders to justify their hate speech, homophobia and misogyny.

The LGBTQI+ community does not feel it has the same protection as other members of society. ‘We only have the Racial Discrimination Prohibition Act. And then you can file for defamation. The Hate Speech Bill has yet to be adopted.’

Notably, steps were made in 2021 towards a Prohibition of Unfair Discrimination, Harassment and Hate Speech Bill, with the Ombudsman² consulting with civil society partners and various stakeholders, including the Ministry of Justice and the Legal Assistance Centre (LAC). Alongside a Racial Discrimination Prohibition Act, this bill would promote equality and prohibit unfair discrimination, harassment and hate speech. It would also establish equality courts to adjudicate breaches of these prohibitions. In January 2021, the Ombudsman was to submit the bill to the government for consideration, but it is unclear whether this was done.

The media also uses language that could be seen as hate speech with regard to racial and same-sex discrimination.

‘In Namibia, there are constantly homophobic undertones and harassment, where sodomy is used to indicate rape, whereas rape is just rape. These terms confuse the public in terms of internalising assault and hate speech attached to that.’

The LGBTQI+ community has been making a concerted effort to address these pervasive negative narratives and put out a statement supporting the Law Reform Development Commission’s 2020 report on scrapping the common law that prohibits sodomy.

In July 2022, a case was filed in the High Court to challenge the constitutionality of criminalising gay sexual activity between men under the colonial-era common law in Namibia.

It was also noted that recent discussions about abortion and the pro-choice/pro-life movement bordered on hate speech.

The Namibian Constitution’s Article 10 is a “closed” and limited list of prohibited discrimination types.

Article 10: Equality and Freedom from Discrimination

- 1) *All persons shall be equal before the law.*
- 2) *No persons may be discriminated against on the grounds of sex, race, colour, ethnic origin, religion, creed or social or economic status.*

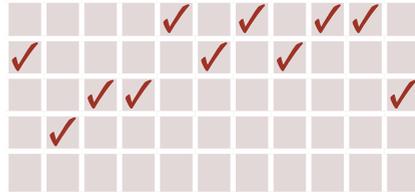
Notably, it does not include categories such as disability or sexual orientation. In 2010, the UN Human Rights Committee and the UN Committee on Social, Economic and Cultural Rights recommended that this article be amended to apply to all types of discrimination. Similarly, the Racial Discrimination Prohibition Act protects only against only one form of discrimination.

² The general Ombudsman and not the Media Ombudsman.

Scores:

Individual scores:

- 1 Country does not meet indicator
- 2 Country meets only a few aspects of indicator
- 3 Country meets some aspects of indicator
- 4 Country meets most aspects of indicator
- 5 Country meets all aspects of the indicator



Average score:

2.1

1.8 Confidential sources of information are protected by law and/or the courts.

Confidential sources of information are not specifically protected by other laws or the courts.

The Whistleblower Protection Act will protect confidential sources of information once it is operational, but it still contains problematic clauses. A significant concern raised is that this law may not protect whistleblowers if a disclosure principally questions the merits of government policy, including that of a public body (see indicator 1.11).

‘Already it shows that someone disclosing information for the public good runs a risk if that information questions government policy. The Whistleblower Protection Act is also vague, in that protection is only granted if the disclosure is made in good faith, which is not well defined.’

Of concern are the SIM card registration regulations, which Parliament approved in March 2021. From January 2023, all new SIM cards must be linked to an individual through an identification number and other personal details. Holders of existing SIM cards are required to register their SIM cards by December 2023.

In April 2022, the Communications Regulatory Authority of Namibia (CRAN) imposed additional conditions on mobile service providers to coordinate the registration of SIM cards and store call data of all customers for five years (see indicators 3.8 and 3.9). Although there is fear that this will give authorities over-reaching powers to intrude upon citizens’ communications, it has been made clear by authorities that such surveillance is already happening through the Criminal Procedure Act of 1977 and the Namibia Central Intelligence Service Act of 1997.

The SIM card registration regulations require service providers to keep clients’ records for five years. Namibia does not yet have a law on data protection, which ideally should be passed simultaneously with the SIM card registration regulations.

During public discussions, the CEO of CRAN announced that the state intelligence department already has the right to access the personal information of clients from telecommunications service providers based on a court order issued by a judge.

However, a panellist noted that there had been times when employees attending disciplinary hearings discovered their employer had accessed their personal communication information from service providers without a court order. Parents are also known to ask mobile service providers for information about their children’s mobile numbers, which has also been divulged freely.

Panellists feel that in this regard, the Namibian government is going against Principle 25 of the ACHPR’s Declaration of Principles on Freedom of Expression and Access to Information in Africa, which states that the confidentiality of media practitioners’ sources should be protected.

Principle 25 also states:

States shall not circumvent the protection of confidential sources of information or journalistic material through the conduct of communication surveillance, except where such surveillance is ordered by an impartial and independent court and is subjected to appropriate safeguards.

‘The SIM card registration regulations have been promoted by the state as being necessary for national security, but it has a definite impact on journalists, lawyers and doctors with regard to confidentiality and the protection of sources.’

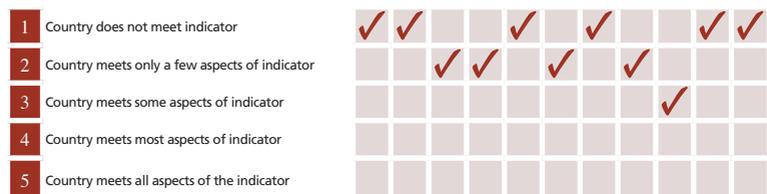
Panellists felt that the government has been debating how to regulate civil society to a greater extent under the Financial Intelligence Act. In 2017, the government wanted to pass a combined Electronic Transactions and Cybercrime Bill, but civil society successfully fought to separate these laws.

‘If cyber security was added to e-commerce, it would have been even more intrusive.’

Neither the Cybercrime Bill of 2019 nor the Electronic Transactions Act of 2019 are operational. Panellists voiced concern that the government could misuse the Financial Action Task Force to curtail the work of civil society organisations and their lines of funding.

Scores:

Individual scores:



Average score: 1.5

1.9 Every person has the right, guaranteed by law, to access information held by public bodies and relevant private bodies expeditiously and inexpensively.

Namibia is a state party to the ACHPR Declaration on Freedom of Expression and Access to Information and also to the International Covenant on Civil and Political Rights, both of which guarantee citizens the right of access to information. As discussed in indicator 1.1, these provisions automatically form part of the country's legal instruments. Namibian journalists, however, have not used international legal requirements to challenge boundaries and demand access to information, and obtaining information can be problematic. There is currently no strategic litigation in this regard. The country's only public-interest law firm, the Legal Assistance Centre, was seen to be understaffed and overworked with other cases.

The enabling national legislation is also not yet operational.

An Access to Information (ATI) Bill exists in Namibia and has been passed by the lower house of Parliament, the National Assembly, but has not yet been enacted into law. As such, there is no guarantee of access to information, and information held by public or private bodies cannot be accessed either expeditiously or inexpensively. Although not perfect, the still-to-be-operationalised legislation is seen to be particularly progressive with regard to information held by public and relevant private bodies. The Ministry of Information has begun sensitising its staff to issues around access to information in preparation for the law's enactment.

'In Namibia, we make the mistake of thinking that because a law has been passed, the guarantee is in place...public officials can just say: 'I don't have that information right now. Wait for ten days.'

People with disabilities are disproportionately side-lined when it comes to accessing information, as information is not presented in accessible formats, such as braille for the visually impaired. This extends from government-held information to the media itself and includes print and online access issues.

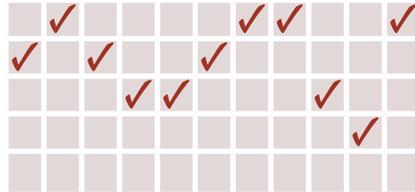
'People with severe mental disabilities also need access to information they can understand, but this isn't the case currently, and they are treated as second-class citizens.'

Despite some contentious clauses, the ATI Bill is seen mainly as very progressive. Once operational, information officers within every public institution or department will be duty-bound to make available relevant information to the general public. The law also makes provision for the independent and transparent appointment of a neutral information commissioner to address complaints in cases where information has been declined. The law, however, does not stipulate a set timeframe after which classified state information becomes declassified.

Scores:

Individual scores:

- 1 Country does not meet indicator
- 2 Country meets only a few aspects of indicator
- 3 Country meets some aspects of indicator
- 4 Country meets most aspects of indicator
- 5 Country meets all aspects of the indicator



Average score:

2.1

1.10 Public and relevant private bodies are required by law to proactively publicise information of public interest about their functions, activities, officials, powers, budgets, etc.

Generally, public bodies proactively divulge information about which they want the public to be informed. Even though there is no overarching legal framework for this, as the ATI Bill is still not operational, there is a sense that public officials/civil servants feel pressured by civil society and the media to provide information.

State House’s prioritising of state media institutions at the Covid briefings in the early days of the pandemic, above all other media houses, was seen as a restriction of the free flow of information. After the private media voiced its objection, State House began inviting all media members. These briefings became a positive example of proactive information disclosure, to reassure and inform the nation.

Specific laws, such as the Electoral Act, compel the state, through the Electoral Commission of Namibia, to provide relevant and adequate public information about polling stations and election days.

‘This is normally done only during the congested period of elections, which is a problem as it is a publicly confusing time and does not keep voters informed throughout the yearly cycle.’

In 2015, soon after the start of President Geingob’s first term, Cabinet decided that all government information and advertising must be shared first with government media. This regulation is still in place.

Panellists lauded the Ministry of Finance for providing online access to information on public expenditure with regard to the National Budget, even when money had been poorly spent.

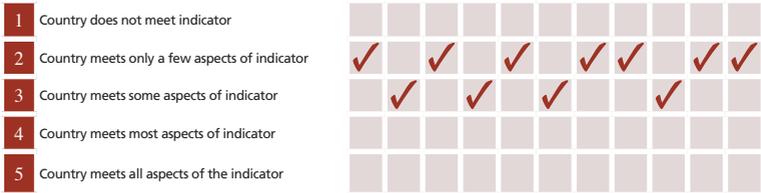
Other ministries, such as the Ministry of Gender, Poverty Eradication and Social Welfare, were not necessarily proactive about disseminating relevant public information and keeping their social media updated. However, because no one regulates this, it is hard to surmise proactivity. ‘With the advent of social media, digital visibility is a necessity for distributing public information.’

Panelists noted that a census needed to be conducted in Namibia, as the last one dates back to 2011. Panelists speculated that the impact of Covid had possibly delayed an updated census.

A panellist noted that the state sometimes appears more open to providing information than non-governmental organisations (NGOs). NGOs have been known to pressure the media into not publishing stories that show the government in a bad light as this may jeopardise the NGO’s funding relationships. This was noted with reference to an NGO pulling the plug on a potential newspaper story about rural, underage girls being sexually preyed upon by government officials and Chinese business owners.

Scores:

Individual scores:



Average score: 2.4

1.11 No person is subject to any sanctions or harm for releasing information on wrongdoing or serious threats to public health, safety or the environment in the honest belief that such information is substantially true.

The Whistleblower Protection Act will protect confidential sources of information once it is operational, but there is concern that it may not protect whistleblowers if a disclosure principally questions the merits of government policy, including that of a public body (see indicator 1.8).

‘Already it shows that someone disclosing information for the public good runs a risk if that information questions government policy. The Whistleblower Protection Act is also vague in that protection is only granted if the disclosure is made in good faith, which is not well defined.’

It appears that government and parastatal employees who speak out about in-house corruption are taken to task by their seniors. Mention was made of a current case at the Namibian Revenue Authority, where an employee identified tax evasion and now faces a disciplinary hearing.

A panellist noted that government employees are regulated by the Public Service Act, which makes it an administrative offence for employees to disclose government information without the permission of the executive director (formerly known as the permanent secretary). If they do, they will face disciplinary action.

In another example, employees at Covid isolation centres approached a trade union to complain about the amount of overtime they were being asked to work. Punitive action was taken against them by the Ministry of Health, and they were subsequently removed from working at the isolation centres and sent back to work at hospitals.

There is a pervasive sense that if the government is criticised, state power will 'come down' on those deemed guilty through action by the police or government officials.

In a regional example, an outspoken man from the Omaheke region spoke to community members about the lack of access to water, using a megaphone and tagging municipalities and the governor on social media. The police sanctioned him for speaking out about the right to water being curtailed when community taps were closed to prevent people from gathering.

'The state tried hard to shut him down. He was physically threatened. It appears that during national disasters, such as the pandemic, state officials become very oppressive.' (See also indicator 1.6.)

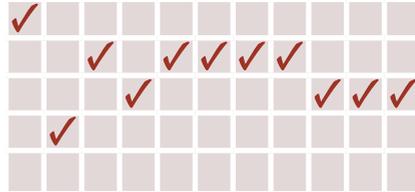
In April 2020, during Covid, a Cabinet resolution was passed, criminalising fake news about the pandemic. The resolution, an amendment to the Covid-19 State of Emergency regulations, made it an offence to publish anything false or misleading about the disease, including online. Those found guilty faced fines up to N\$2,000 or imprisonment for up to six months.

An example of the state censoring information and working secretly was in the 2021 discussions between the Namibian and German governments regarding reparations for the Ovaherero and Nama genocide of 1904-08. Those involved in the discussions were reportedly made to sign non-disclosure agreements, meaning that community leaders were not privy to the details of the talks until the agreement had been made. The offer of €1.1 billion was subsequently rejected as 'insulting' by Ovaherero and Nama chiefs, who are asking for 400 times more in compensation. As of July 2022, the talks remained stalled.

Scores:

Individual scores:

- 1 Country does not meet indicator
- 2 Country meets only a few aspects of indicator
- 3 Country meets some aspects of indicator
- 4 Country meets most aspects of indicator
- 5 Country meets all aspects of the indicator



Average score: 2.5

1.12 Civil society in general and media lobby groups actively advance the cause of media freedom.

There was a consensus that media advocacy groups in the country are vigorously active in pushing for media freedom, freedom of expression and access to information issues, and their engagements with the public have been robust yet inclusive. Mention was made of the work by the Namibia Media Trust (NMT) and its constant engagement on topical issues around media rights. The Media Ombudsman acknowledged that the NMT provided him with a great deal of support to deepen his understanding of legal frameworks and freedom of expression.

Access to Information in Namibia Coalition (known as the ACTION Namibia Coalition) was formed to push for access to information legislation and has been proactive in lobbying for this cause. It had members from both civil society and media houses, which include the Namibia Media Trust³, the Editors’ Forum of Namibia (EFN), the Institute for Public Policy Research (IPPR), Legal Assistance Centre (LAC), Internet Society Namibia (ISOC) Namibia, *Sister Namibia Magazine* and Citizens for an Accountable and Transparent Society (CATS).

ACTION Namibia has been effective in bringing about changes. This effort helped realise the ATI Bill, amendments to the initial Whistleblower and Witness Protections Bills and the initial draft of the Electronic Transactions Act.

The EFN, in collaboration with NMT, is planning workshops to train journalists and media managers on the ATI Bill.

Concern was raised by some panellists about the lack of coordination among civil society groups in ACTION Namibia, with disability organisations and trade unions not being invited to discussions. There was a sense that this ‘silo mentality’ needed to be broken with more consultation and collaboration within civil society.

³ Owner of *The Namibian* newspaper and *Desert Radio*.

There is not much use of strategic litigation currently, largely due to capacity issues with limited technical skills and financial resources. Namibia also tends to be very inward-looking. The ACHPR, the SADC Protocol and other human rights instruments are not seen as a means of mobilising civil society, although Namibia is party to these and others.

The Namibia Media Professionals Union (NAMPU), a union for journalists, was formed in 2020. It has applied for registration as a formal union but is still waiting for government permission, thus, it is not yet accepting membership fees.

‘The state seems to be deliberately frustrating the process of signing-off trade unions, for which it can take years to get registration approval.’

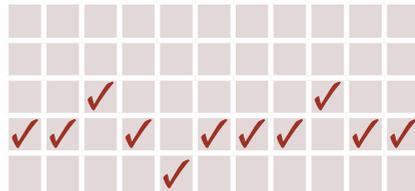
Panellists felt that members of this union – the journalists – could ‘pick up momentum’ to contribute more to media freedom.

‘Civil society and some lobby groups are doing well in this regard, but the journalists themselves have been a bit slow on the uptake.’

Scores:

Individual scores:

- 1 Country does not meet indicator
- 2 Country meets only a few aspects of indicator
- 3 Country meets some aspects of indicator
- 4 Country meets most aspects of indicator
- 5 Country meets all aspects of the indicator



Average score: 3.9

Overall Score for Sector 1: 2.4



SECTOR 2:

Diversity, independence and sustainability
of the media landscape

2.1 A wide range of sources of information (print, broadcasting, internet, mobile phones) is accessible and affordable to the public.

The pandemic heavily affected the media sector in Namibia, causing a reduction in advertising revenue for all media houses and impacting business. While Namibia still has a range of weekly and daily newspapers, some have not survived in print due to the pandemic. The weekly publications – *The Patriot*, *The Villager*, *Informanté*, *The Observer* and the *Caprivi Vision* – stopped producing print versions in the last two years, although they have retained their online presence.

Mainstream print newspapers, such as the *Namibian Sun*, *Republikein* and *Allgemeine Zeitung* – all published by Namibia Media Holdings (NMH) – reduced their print run and the size of the papers due to the impact of Covid-19. No publications were known to have increased their print run in this period. Since 2016, *The Namibian*, a daily newspaper, has reduced its circulation by 50%, due likely to more people accessing the newspaper online.

During Covid, NMH staff salaries were also reduced, and some newspapers, such as the private *Confidante*, struggled to pay staff due to a revenue reduction.

Although there was agreement that ‘fewer people are buying newspapers these days’, the cover prices of the three NMH newspapers had increased. *Republikein*, for example, increased from N\$7 to N\$9. By comparison, a loaf of bread costs about N\$10 or N\$11. *The Namibian* has not increased its cover price of N\$5 for a few years, in keeping with the newspaper’s philosophy to make it as accessible as possible.

During Covid, most media houses in Namibia were forced to retrench staff, reducing newsrooms even further. There were no known retrenchments at the NBC during this time, but there was a month-long strike over salaries in 2021. The strike was abandoned when the public broadcaster instituted the no-work-no-pay principle, and while contract workers were permanently employed, salaries were not increased.

The public broadcaster has not reduced broadcasting hours since 2019, when new hours were allocated to cut costs. Radio and TV services have since been restored. The NBC has three television channels (NBC 1, NBC2 and NBC3), all of which are also available on DSTV, as is the private Namibian television station, *One Africa*.

NBC TV has reached 74.5% of Digital Terrestrial Television coverage countrywide. NBC met the International Telecommunications Union digitalisation deadline in 2015 and switched over, but it is still available on analogue.

Terrestrially, *NBC TV* is available across more than 70% of the country, while *NBC radio* covers 95%. Access to *NBC TV* has improved since 2016, when it was included in the DSTV platform.

No magazines are currently published in Namibia.

There have been some new entrants into the broadcasting sector during the last four years. These include NMH's television station *Network TV (NTV)*, as well as *The Namibian's* FM radio station, *Desert Radio*, which came on air in October 2021 and live-streams via Facebook. While *NTV* began streaming online during Covid, since February 2022 it has also been available as a channel on the DSTV satellite platform.

Community broadcasting is challenging at the best of times in terms of resources, and this became more pronounced during Covid when several community radio stations were forced to shut down permanently due to reduced income. These include *Khorixas FM*, *Ohangwena Community Radio*, *Capricorn FM*, *Unam Radio* and *Base FM* (formerly *Katutura Community Radio*). In 2022, two community stations, *Omuthiya FM* and *Supreme Radio*, were granted licences to broadcast in Omuthiya and Eenhana. As of July 2022, they were yet to go live.

In early 2022, the Communications Regulatory Authority of Namibia (CRAN), which grants broadcasting licences to public and private players, and regulates private broadcasters, extended an 18-month moratorium until 2023 on issuing licences to enable CRAN, apparently, to reorganise the frequencies on the spectrum and considerations of digitalisation.

CRAN was viewed as using 'frequency reorganisation as a weak excuse when it is not sufficiently technically equipped to check on frequencies'. Some panellists felt that reorganisation was necessary due to issues with frequency allocation. Some broadcasters, including private radio stations and the NBC, were said to be 'hoarding' frequencies and broadcasting over more than one frequency in certain areas, for example. Some stations, which had been given a community licence to broadcast in a specific geographical area, were broadcasting way beyond their limited range and sometimes even from a different town to the one specified in their licence.

Mobile telephone penetration is reportedly more than 100% for 2G, 75% for 3G and 39% for 4G, according to the DW Akademie report on Freedom of Expression Southern Africa – Regional Trends, Data, and Country Profiles. Namibia has the second most expensive data in southern Africa after Botswana.

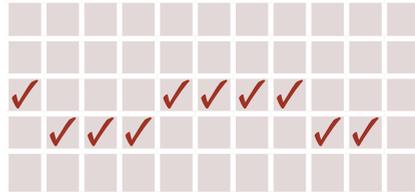
'City people tend to forget that rural Namibians are very deprived because of the high cost of data and the lack of internet connectivity.'

People with disabilities battle with not having accessible formats online.

Scores:

Individual scores:

- 1 Country does not meet indicator
- 2 Country meets only a few aspects of indicator
- 3 Country meets some aspects of indicator
- 4 Country meets most aspects of indicator
- 5 Country meets all aspects of the indicator



Average score: 3.5

(Note: a panellist had to attend to a personal emergency during this sector, so there were only 10 panellists instead of 11)

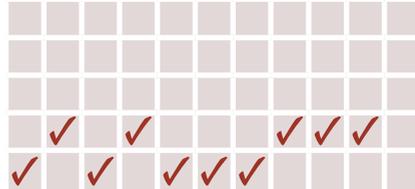
2.2 There is unrestricted public access to domestic and international media sources.

The Namibian government does not appear to restrict access to domestic and international media.

Scores:

Individual scores:

- 1 Country does not meet indicator
- 2 Country meets only a few aspects of indicator
- 3 Country meets some aspects of indicator
- 4 Country meets most aspects of indicator
- 5 Country meets all aspects of the indicator



Average score: 4.5

2.3 The state guarantees the right to establish various forms of independent media and any registration of media is for administrative purposes only.

Establishing a print media business appears easier than for broadcasting, which uses airwaves and thus is subject to regulation by CRAN. Applications to register for print media are made to the Ministry of ICT, but this is regarded as more of a formality based on the Newspaper and Imprint Registration Act of 1971, and panellists doubted if it was even still necessary and if anyone from the government followed this up.

The 1971 law reads:

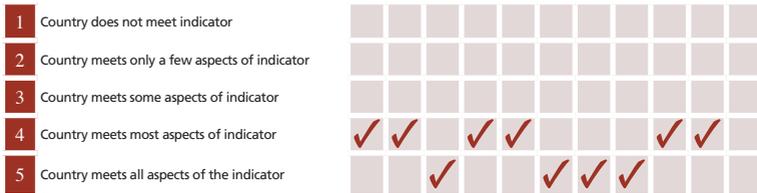
No person shall print and publish in the Republic any newspaper unless such newspaper has been registered.

Online publications can operate without any permission.

However, print and broadcasting companies must register with the Business and Intellectual Property Authority, as is required of any other business.

Scores:

Individual scores:



Average score: 4.4

2.4 The state promotes a diverse media landscape and takes effective measures to avoid concentration of ownership and monopolies.

Panellists felt that the state did not specifically promote a diverse media landscape.

‘The cabinet policy from 2015, where they push state advertising and information to state-owned media organisations first, indicates the government wanting, rather, to concentrate resources and ownership of media. The state does not guarantee the diversity of media in Namibia.’

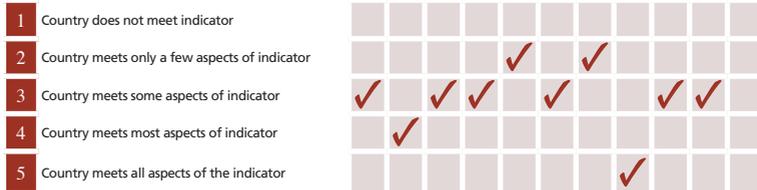
Government and NMH were considered by some to represent monopolies. The state owns a large number of radio and television stations, the newspaper *New Era* and the news agency NAMPA. NMH owns a printing press (Newsprint Namibia), three newspapers, and a television station. It was noted that each of NMH’s publications is aimed at a different audience (*Republikein* for conservative Afrikaans readers, *Allgemeine Zeitung* for German readers and the *Namibian Sun* for English and Oshiwambo readers). Thus, the content for each is quite different. NMH’s new TV station, *NTV*, has shows like *Agenda*, which address controversial issues such as abortion, while *Evening Review* involves “hard talk” interviews.

The Namibia Media Trust (NMT) is the sole shareholder and owner of *The Namibian* daily newspaper, *Desert Radio* and WordPress Printers.

The state has not challenged any media operations yet regarding monopolistic concerns, and panellists thought the only mechanism to deal with monopolies might be through CRAN on the broadcasting side and general competition laws with the Competition Commission.

Scores:

Individual scores:



Average score: 3.1

2.5 Transparency of media ownership is guaranteed by law and enforced.

The Newspaper and Imprint Registration Act of 1971 requires the particulars of newspaper ownership to be lodged with the ministry concerned (the Ministry of ICT) and for this to be published in each issue.

The 1971 law states:

The printer of a registered newspaper shall ensure that the full and correct address at which the newspaper is published, and the full and correct names and addresses of the proprietor, printer and publisher thereof are printed in legible type and in either of the official languages of the Republic upon the front, penultimate or back page of every copy of any issue of such newspaper.

Panellists did not think this law was enforced as the proprietors of some publications did not provide the details required in each edition of their publication.

‘Once the ATI Bill is passed, this kind of relevant information would have to be proactively disclosed.’

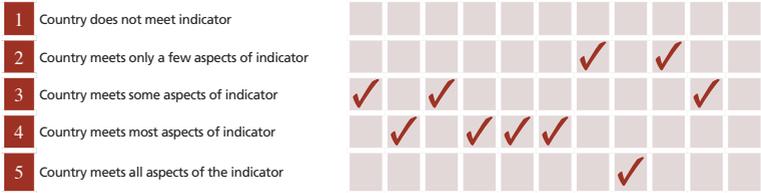
With a relatively small national population of 2.6 million, panellists noted that to a large extent, ‘Namibians know who owns what’.

In terms of the Business and Intellectual Property Authority, information about registered business ownership is required, public, and generally accessible, although publication of this does not appear enforced.

It was noted, however, that Namibia's First Lady Monica Geingos's 50% shareholding in NMH was made public in 2012, two years before she became First Lady, because the company that bought into NMH, Stimulus Investments, is owned by Geingos. This deal had to be publicly announced because Stimulus is listed on the Namibian Stock Exchange.

Scores:

Individual scores:



Average score: 3.4

2.6 The state promotes a diverse media landscape with economically sustainable and independent media outlets.

Panellists felt that the Namibian government did not intentionally promote a diverse, sustainable and independent media landscape.

In terms of community radio stations, it was opined that state recognition of community media ended after a station had registered as an NGO or a trust and received a broadcasting licence from CRAN.

It was further mentioned that Namibian community radio stations got the 'short end of the stick' in the broadcasting sector as the CRAN community broadcasting licence restricts the amount of advertising funding they can raise.

'Some stations don't submit their annual reports and would rather pay the penalties than be subjected to pay invoices from CRAN. This was a tactic used by community radio stations that have now converted to commercial stations.'

Some headway has been made in securing the community broadcasting sector. Stakeholders, including the Namibia Community Broadcasters Network, have been pushing for five years for a framework on community media with the Ministry of Information and Communication Technology. This was finally submitted in draft form to Cabinet for approval in 2021.

'This framework was inspired by some aspects of South Africa's model with the Media Development and Diversity Agency and has components of community media sustainability and advertising revenue.'

The Media Development and Diversity Agency (MDDA) is established through an act of Parliament in South Africa and resides under the presidency. To assist community broadcasters in buying equipment and becoming established, MDDA makes available 70% of a station’s funding, while 30% needs to be obtained through commercial means.

In Namibia, there are no specific measures taken by the government to protect small media outlets, and state media is prioritised with government advertising spending.

‘As government is also an owner and a player in the media sector, it does not put in place proposals to support independent media or encourage competition. Cabinet still has in place the 2015 policy that government and parastatal advertising must first go to state-owned media.’

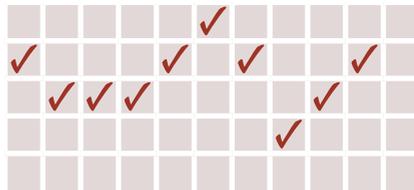
The Namibian economy is primarily dominated by the government through the ministries and parastatals, which play a significant role.

‘The size of the Government Institutions Pension Fund, for example, was more than half – 62% – of the country’s GDP in 2021. These government institutions can make or break the economy, more than the stock market.’

Scores:

Individual scores:

- 1 Country does not meet indicator
- 2 Country meets only a few aspects of indicator
- 3 Country meets some aspects of indicator
- 4 Country meets most aspects of indicator
- 5 Country meets all aspects of the indicator



Average score: 2.5

2.7 The editorial independence of print and online media published by a public authority is protected adequately against undue political interference.

The editorial independence of state-owned media is a contentious issue.

‘I am not saying there is no political interference within public media, but professionalism has improved over the years, based on ethical standards, and there is now more of an attempt to push back against such interference at the NBC.’

Neither the state-owned news agency, the Namibian Press Association (NAMPA), nor the state-owned newspaper, *New Era*, have joined the EFN.

'This shows the NBC has a level of editorial independence that they get to use compared to fellow parastatals NAMPWA and *New Era*, which don't appear to push back.'

The incident involving NAMPWA journalist Edward Mumbuu in 2020 is relevant here. NAMPWA distanced itself from the journalist because of questions he posed to President Hage Geingob regarding the Fishrot scandal. Edward Mumbuu was almost fired as a result and then side-lined in the newsroom. This highlights how the staff of state-owned media face various forms of pressure from those in management and their colleagues when questioning government/the head of state.

The agency came under fire after an editor reprimanded reporter Edward Mumbuu and distanced itself from questions posed by him after he agitated president Hage Geingob with questions on the Fishrot corruption scandal during a Covid-19 media briefing at State House.

In 2019, political analyst Joe Diescho claimed that the *New Era* stopped publishing his column *Diescho's Dictum* because it was too critical of the government and President Geingob.

Concern was raised about the blurring of lines and editorial independence regarding *New Era* journalists, for example, being given lifts to SWAPO's political rallies by members of the ruling party.

'This is how serious this influence is on these journalists. Opposition parties would not offer *New Era* journalists lifts.'

Some panellists felt there was more interference and pressure from the private sector than from the government itself.

'A government minister may call a journalist the next day to say he didn't like the article, but it is very rare for there to be threats of lawsuits or the withdrawal of funding.'

Disputes around traditional leadership in Namibia are complicated, and the patronage system appears to be played out in media owned by public authorities.

While the law allows for members of a traditional community to address their traditional leader by a traditional title of their choosing, an allegation was made to the Media Ombudsman that the NBC had been informed by the Minister of ICT that when referring to a specific Herero community group, which was allegedly not recognised or favoured by the state, they could not broadcast that title for their traditional leader. In May 2022, the Media Ombudsman held a public hearing regarding this complaint by a senior chief of the Ovambanderu Traditional Council against the NBC, and specifically its service, *Omurari FM*. The Media Ombudsman's complaints committee ruled against the public broadcaster for censoring the use of *Ombara Otjitambi*, the customary title for the chief. The press watchdog accused the NBC of failing to respect the right to the self-identification of members of the Ovambanderu Traditional Council. He ruled that

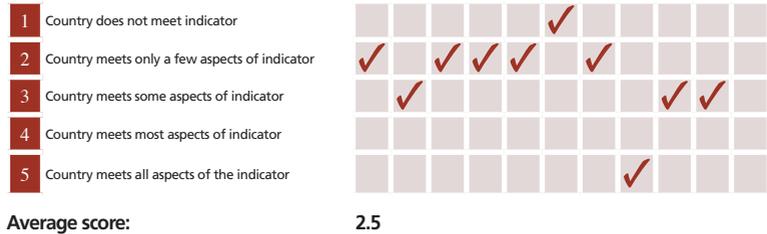
in future when using this traditional title, the public broadcaster could broadcast a disclaimer saying this did not reflect the corporation's views.

The NBC appealed this ruling. The appeal is due to be heard in September 2022.

Panellists felt that NBC radio language services, such as *Omurari FM*, tended to give more airtime to traditional authorities that were aligned with the government compared to those that were not.

Scores:

Individual scores:



2.8 The state allocates funds for public advertising in a transparent manner and refrains from using its power over the placement of such advertising as a means to interfere with editorial content.

As has been raised previously in indicators 1.10 and 2.4, a government policy in 2015 prioritised public media with regard to the placement of public advertising and information. This was a Cabinet decision that the Minister of ICT announced at the time, and it has still not been rescinded.

‘This is two-pronged: advertising and information. Prioritising state-owned media for government advertising was a means for the state-owned publications to become more self-sufficient by sourcing alternative financial resources and not just relying on the state subsidy, but with information included as well, it smacks of editorial influence.’

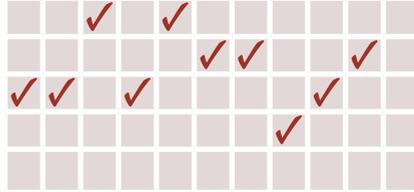
Private media houses receive some government advertising but are described as ‘standing at the back of the queue’, after the state-owned media.

‘Even when it comes to information dissemination, private newspapers do not always get ministerial responses to questions as quickly as state-owned media does, especially the NBC. We normally get it after our daily deadline has passed.’

Scores:

Individual scores:

- 1 Country does not meet indicator
- 2 Country meets only a few aspects of indicator
- 3 Country meets some aspects of indicator
- 4 Country meets most aspects of indicator
- 5 Country meets all aspects of the indicator



Average score:

2.4

2.9 The size of the advertising market can support a diversity of media outlets.

There has been a severe reduction in advertising generally due to the impact of Covid. As such, some panellists did not consider the advertising market sufficient to sustain existing media outlets.

‘If there was enough advertising, we would not be discussing issues of media sustainability... we would not have seen media organisations, such as *Confidante*, struggling to pay staff, other media houses retrenching staff, such as *Informanté*, and radio stations and print publications closing down. Quite a few publications have gone online only and stopped printing. It is a brutal fight for this revenue.’

Other panellists felt that there was enough advertising spend (ad spend) but that it wasn’t distributed equally and fairly. It was claimed that historically, white-owned private media houses tended to get a disproportionately larger amount of advertising. As discussed, the government is known to favour its own media operations regarding advertising.

Panellists could not confirm the current annual ad spend in Namibia but agreed that the government is the largest advertiser in the market, after banks, retailers and corporates, most of which are South African-owned, with advertising placement decisions taking place in South Africa. Panellists surmised that the government ad spend might be N\$300m a year, but this was speculation.

It was felt that the media sector needed to know the country’s annual ad spend and that the Namibian Statistics Agency could address this.

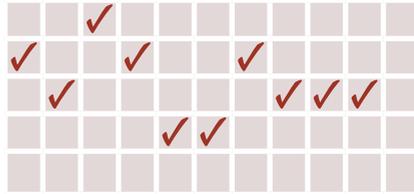
Advertising from the state-owned telecommunications company MTC is distributed across private and public media, but Windhoek-based media outlets receive the bulk of such advertising, indicating a bias towards the capital.

Even though radio has the widest audience reach of any medium in Namibia, advertisers appear to prefer visuals and moving images when it comes to persuading the market, prioritising print/online and TV adverts over the radio.

Scores:

Individual scores:

- 1 Country does not meet indicator
- 2 Country meets only a few aspects of indicator
- 3 Country meets some aspects of indicator
- 4 Country meets most aspects of indicator
- 5 Country meets all aspects of the indicator



Average score:

2.7

2.10 Media fairly represent the voices of society as a whole, including those of all genders, minorities and marginalised groups.

Panelists felt that the media in Namibia could make more of an effort to represent a greater diversity of voices in society. However, the country’s social hierarchies and structure across racial and gender lines often made it difficult for journalists to access other voices, as some people did not want to speak out publicly on issues.

‘Journalists should learn to be more inclusive and not succumb to the status quo.’

Leaders and other prominent sources in Namibia tend to be men, for example, so these are the voices normally heard in the media. Even when journalists go out of their way to find women’s voices, women often don’t want to be quoted and refer the journalist to a more senior man, as they are not confident with their own opinion.

‘It gets almost laughable. Even in a story on gender-based violence, we once had a male pastor speaking on behalf of women.’

Political discussions on NBC rarely feature women analysts because of a lack of capacity. While this used to be the case in the business sphere, there are now many women’s voices on economic issues.

Some private media houses were seen to be unfair or inaccurate in their reporting, particularly on issues about women, leading to one-sided reports, character assassinations and voices being undermined in society. This was evident in some of the reporting on the #ShutItAllDown movement.

In February 2021, members of the reproductive justice movement conducted awareness sessions for media houses about reporting sensitively on abortion through the lens of human rights to uphold the dignity of those interviewed and

ensure fair reporting. Out-Right Namibia conducted similar media workshops in May 2020 to address and highlight biased approaches and derogatory language towards the LGBTQI+ community.

‘Despite all these efforts, we still find the dignity of women and minorities being undermined in the media through the use of language.’

Some of the bias evident in the media tended to favour the most dominant ethnic group in society. In contrast, issues about other ethnic groups did not receive as much attention.

A panellist felt that there were three areas where the media either did not understand issues correctly or was pushing a specific agenda. These issues are reparations for lost ancestral land; reparations for the Ovaherero-Nama genocide committed in Namibia by the German colonial regime; and transitional justice for the atrocities committed by SWAPO in the fight for independence.

The San – arguably the most oppressed community in the country in terms of living conditions, development and dignity – generally do not speak for themselves or have personal agency. Thus, most media products about the San ironically do not include their own input, ‘but rather that of an intermediary, such as an NGO working in their interests, usually run by a white woman who does not share the San’s cultural, lived experiences.’

Other voices absent in Namibia are those of refugees in Osire Refugee Camp, except perhaps around UN World Refugee Day. Access to the camp is difficult as journalists must obtain state permission and be accompanied by officials from the Ministry of Home Affairs, Immigration, Safety and Security.

Concern was raised about large institutions and corporations allegedly censoring media houses by donating funds to them, or employing former journalists as public relations agents, thus leading to certain narratives being run in the media. ‘There tends to be a lot of misleading information published about the extractive industry, for example, with little follow-up done.’ ReconAfrica, a controversial Canadian gas and oil company, was mentioned as an example of this behaviour. There has been much vocal antagonism towards the company over their plans for Namibia, termed FrackRot by activists.

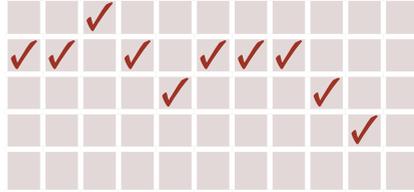
The views of people with disabilities are also rarely heard in mainstream media. Even issues like the disappearance of N\$21m from the sale of the Ehafo Trust property, run as an employment-creation project for people with disabilities, are not followed up.

The media was also seen to be very biased towards covering events held in the capital, Windhoek, compared to more rural events, which do not get the same level of attention. This was likely a question of capacity and resources on the part of media houses.

Scores:

Individual scores:

- 1** Country does not meet indicator
- 2** Country meets only a few aspects of indicator
- 3** Country meets some aspects of indicator
- 4** Country meets most aspects of indicator
- 5** Country meets all aspects of the indicator



Average score:

2.3

Overall Score for Sector 2:

3.1



SECTOR 3:

Legislation and regulation of broadcasting and internet

3.1 The body that regulates broadcasting, telecommunications and internet infrastructure is independent, appointed transparently, and protected by law against political or commercial interference

The Communication Regulatory Authority of Namibia (CRAN) was established in 2011, replacing the Namibia Communications Commission (NCC), to supervise and promote the provision of telecommunication services and networks, broadcasting, postal services and the use and allocation of radio spectrum in Namibia. It also regulates broadcasting, telecommunications and internet infrastructure in Namibia.

Unlike commercial and community broadcasters, the NBC does not fall under CRAN, although the regulator allocates frequencies to the public broadcaster, dictates the levies and stipulates content quotas. The NBC is instead regulated by the Namibian Broadcasting Act of 1991.

CRAN is meant to be an independent body but whether it is run independently without state interference is not always clear. Mention was made of the commercial radio station *Eagle FM* being taken off air by the regulator in 2021, around the time of the national elections. The talk-radio station claimed this was due to political interference after SWAPO politicians put pressure on CRAN. *Eagle FM* is known to air controversial topics, with guests sometimes criticising the government. It was noted, however, that the private radio station had been breaching its licensing conditions and broadcasting beyond the area for which it was licensed 'for quite a long time', which was cited as why they had been cut off temporarily. *Eagle FM* was meant to broadcast to the community around Okahandja but was broadcasting more broadly from Windhoek. It was noted that *Base FM* in Windhoek and *Ohangwena Community Radio* were equally at fault as they had previously breached the same conditions in similar situations – broadcasting beyond their allocated areas – but neither of these stations had been cut off.

'CRAN does seem to operate with some leeway at times. *Shipi FM*, for example, an English and Oshiwambo station, was meant to be a community radio station for Ondangwa but was given a licence to broadcast across the entire country. I wonder whether a station calling itself *Zambezi Radio* will be given the same leeway? CRAN does seem to take liberties, but it's not clear on which criteria this is based.'

The process of appointing CRAN board members is ostensibly transparent, with the Ministry of Public Enterprises advertising calls for applications for all appointments on various boards. These applicants are interviewed by a panel drawn from the government and civil society. A recommended shortlist is drawn up from which the Ministry of ICT makes the final decision. The Ministry of

Public Enterprises, set up in 2015 to manage the 18 profit-driven state-owned enterprises, including CRAN, was disbanded in 2022. This ministry is apparently being absorbed into the Ministry of Finance as a department, and it is not yet clear how CRAN’s next board will be appointed.

However, members of the CRAN board of directors are generally seen as political appointees. While none of them hold positions in the ruling party, SWAPO, they are known to be aligned with the party’s governing faction.

‘It is very rare that the appointments would include non-SWAPO-aligned people. It is known that people who apply to these parastatal boards and are not aligned with the ruling party get side-lined. There is transparency to a degree, but it is sabotaged.’

‘We mustn’t forget there is an unwritten SWAPO policy, from 1990 until today, of “jobs for comrades”.’

A *New Era* article in March 2019, in which President Geingob was interviewed, points to SWAPO members being prioritised for jobs.

CRAN does not appear to be subjected to commercial interference.

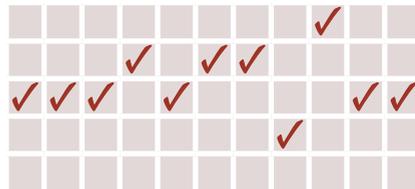
While the granting of broadcasting licences is considered vulnerable to political interference in terms of service provision and regulation, CRAN was seen to have been doing a good job compared to its predecessor, the NCC. This included regulating the cross-cutting costs between the different telecommunication service providers and dropping the prices of SIM cards.

It was felt, however, that CRAN was not monitoring and policing the spectrum effectively, as some radio stations have overlapping signals. The decibels of some of the country’s radio stations were also seen to be too high, making these stations considerably louder than others, another area that should be regulated by CRAN. CRAN also does not appear to supervise the content quotas on radio and television stations, as it was noted that commercial radio stations, for example, do not broadcast even the minimal amount – 15% – of local music prescribed by the Broadcasting Code for CRAN broadcasting licensees.

Scores:

Individual scores:

- 1 Country does not meet indicator
- 2 Country meets only a few aspects of indicator
- 3 Country meets some aspects of indicator
- 4 Country meets most aspects of indicator
- 5 Country meets all aspects of the indicator



Average score:

2.6

3.2 The state/public broadcaster is accountable to the public and protected against political or commercial interference, governed by a board representative of society at large and selected in an independent, open and transparent manner.

The NBC is governed by the Namibian Broadcasting Act of 1991. CRAN allocates frequencies and levies, and prescribes quotas for broadcasting content, even for the NBC (see indicator 3.1).

The current NBC board was appointed directly by the Minister of ICT and did not involve the more transparent, public-participation approach as noted in the previous indicator. The NBC board supervises and controls the affairs of the public broadcaster and appoints the broadcaster’s director-general.

The board of five members, two of whom are women, was appointed in 2020 for a five-year term. Businessman Lazarus Jacobs, a former chairperson of CRAN, is the current NBC board chairperson. He is known to have a close relationship with President Geingob. The current board comprises senior parastatal appointees, those in public office and members of the private sector, with no civil society representation. In 2015, NBC Board member Yvonne Boois was appointed acting director general to oversee the appointment of a new director general. Frieda Shimbuli also served as acting board chairperson in 2009.

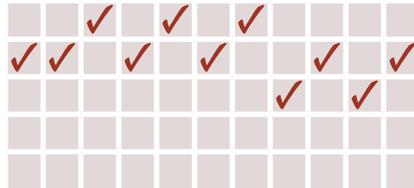
‘One can’t say the state broadcaster is accountable to the public or fully protected from political interference as the board appointment process leaves much room for interference.’

‘If you want to do a good job [at the NBC] and are seen as too progressive, you won’t last.’

Scores:

Individual scores:

- 1 Country does not meet indicator
- 2 Country meets only a few aspects of indicator
- 3 Country meets some aspects of indicator
- 4 Country meets most aspects of indicator
- 5 Country meets all aspects of the indicator



Average score:

1.9

3.3 Public service media are adequately funded in a manner that protects them from political interference through allocation of budgets and from commercial pressure.

As noted in indicator 1.2, the NBC receives approximately 70% of its running costs from the state. The remaining 30% comprises revenue from TV licences, content sales and advertising income. In 2021, in the middle of Covid, the public broadcaster received N\$127 million from the state and generated N\$100 million, mostly from advertising.

The NBC has made various public presentations to parliamentary standing committees, for example, stating that it does not receive adequate funding to carry out its mandate of providing news, information and entertainment to the public.

'NBC TV licence revenue is very small as people don't feel they necessarily follow or watch NBC, so don't feel they have to pay their licences, despite what the law says. Enforcement is definitely an issue and is too expensive for the NBC to do. The public is left to have a voluntary obligation to pay the fees.'

For some panellists, the prolonged strike over salaries by NBC staff in 2021 indicated that the public service broadcaster was not adequately funded. There was also a previous strike in 2019.

'If you look at the output of the NBC, you will agree it is not adequately funded.'

The advertising environment was considered challenging for all media houses, including the NBC. The biggest local clients are the parastatal mobile service provider MTC and Namibia Breweries, owned by Ohlthaver and List (O&L).

There was no apparent commercial pressure on NBC from advertisers. The previous NBC chairperson, O&L chairman Sven Thieme, used to impress upon NBC staff the need to be independent, objective and professional with all advertisers, including O&L.

In terms of political interference, it was felt that NBC management and editorial staff are largely strong enough to 'push back' against this, embracing the EFN's Code of Ethics and Conduct. In fact, President Geingob took the NBC to task in 2020, saying it was 'unfair' that the public broadcaster was allocating more airtime to opposition parties in the run-up to the regional council and local authority elections.

'NBC could reduce potential political interference if it was not so dependent on funding from the state...those who feed you expect certain things. Creatively, they could use the service provision side, especially with digitalisation terrestrial TV [DTT], to boost their revenues. The decoders required could help with the

collection of licence fees because you need a TV licence to buy a decoder, as you do to buy a TV.’

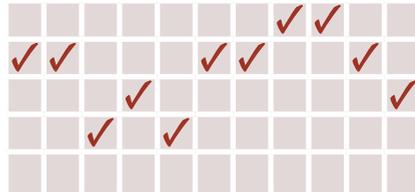
Other panellists felt the funding was ‘most likely adequate but misdirected’, pointing out the N\$5.7m in bonuses that 17 NBC managers paid themselves in December 2020, one of the issues raised by the strikers the following year.

‘It seems as though, until a year or two ago, there was mismanagement of funds as the NBC was shown by the Auditor General to have defaulted on paying tax to the government and its medical aid contributions for staff. It is a common mismanagement issue at the government-controlled media – NBC, *New Era* and Nampa.’

Scores:

Individual scores:

- 1 Country does not meet indicator
- 2 Country meets only a few aspects of indicator
- 3 Country meets some aspects of indicator
- 4 Country meets most aspects of indicator
- 5 Country meets all aspects of the indicator



Average score: 2.4

3.4 The editorial independence of public service media from political influence is guaranteed by law and practised to ensure balanced and fair coverage of news and current affairs.

The NBC was applauded for being a member of the Editor’s Forum of Namibia (EFN) and subscribing to the EFN’s Code of Ethics and Conduct and the Media Ombudsman’s disciplinary process.

The Namibian Broadcasting Act of 1991 does not explicitly guarantee its editorial independence from the government. Board members are not transparently appointed, and permission from the Minister of ICT is often required. Thus, although the Namibian government has signed the African Charter on Broadcasting, it does not always seem to abide by it when it comes to the public broadcaster.

This charter states in Part II:

1. *All State and government-controlled broadcasters should be transformed into public service broadcasters, that are accountable to all strata of the people as represented by an independent board, and that serve the overall*

public interest, avoiding one-sided reporting and programming in regard to religion, political belief, culture, race and gender.

2. *Public service broadcasters should, like broadcasting and telecommunications regulators, be governed by bodies which are protected against interference.*

As previously mentioned, there could be political interference in NBC editorial matters, but the staff at the public broadcaster were thought to be able to 'push back'.

Other panellists were less convinced of this. 'The lack of protection provided by the law provides a chilling effect because it leaves it up to NBC staff to navigate that territory.'

'This is a very murky area. NBC is in a better place than Nampwa and *New Era* to the extent of editorial independence from government, but it is always a push-and-a-pull and, in practice, is not guaranteed.'

The incident with the government not recognising the Ovambanderu chief (see indicator 2.7) was seen by a panellist as a sign that 'the NBC only does what the government recognises'.

In another example of possible editorial influence, the government reportedly told the NBC not to interview Trade Union Congress of Namibia leaders when they organised an illegal strike for teachers.

'Hard-hitting current affairs programmes were known to get "canned" often in the past. There haven't been good investigative-reporting programmes since 2014, apparently because of political interference.'

Another reason given for these programmes being taken off the air was because of the capacity of staff and the high costs involved. New programmes such as *In the Community* have been introduced.

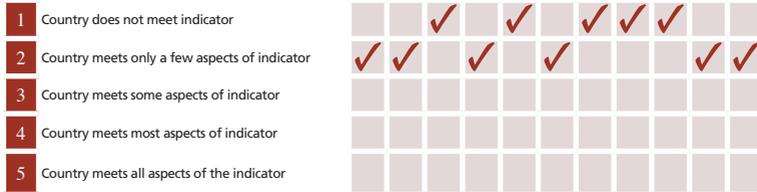
While the evening news on NBC TV is normally led by a story on the country's president, there is thought to be some diversity in content after that.

Some panellists felt that SWAPO tended to get more coverage on the NBC than the other parties during elections, despite President Geingob's claims to the contrary in 2020 (see indicator 3.3). The NBC ensures an equal airtime quota to all parties during elections. 'What makes it difficult sometimes is that the president of the county is also the president of SWAPO, so sometimes the ruling party may seem to feature more on the NBC.'

It was pointed out that contrary to some misconceptions, the NBC uses its own budget, not that of State House, to travel with the state president on all his international and local trips.

Scores:

Individual scores:



Average score: 1.5

3.5 Private broadcasters make an effort to offer a minimum of quality public interest programming.

Panelists concurred that *One Africa*, a commercial private TV station, has been providing good public-interest content in terms of subjects and quality. The station has reportedly been using the contribution of freelancing creatives, that has enhanced *One Africa's* output, and includes news broadcasts and its previous local current affairs programme, *It's a Wrap* with Erica Gebhardt, which targeted younger viewers.

The NMH's new TV offering, *NTV*, was also noted for offering a diverse range of programming, including the hard-hitting weekly *Agenda*, which does not shy away from controversial issues, as well as the popular *Evening Review* and *Sports Wrap*. Airtime is also dedicated to programmes on agriculture and tourism, with the station promoting local hospitality establishments on the air for free to assist them after the ravages of Covid.

Criticism was directed at many of the country's commercial radio broadcasters for having little diversity of content. Most of these private stations were seen as 'music stations' that give little airtime to 'real programming', other than brief news broadcasts. They were also accused of flouting the CRAN quota regulations set by the Broadcasting Code by not playing the minimum of 15% Namibian music.

'CRAN is a toothless dog and is not regulating content as no one receives any penalties for contravening the law. They do not have the capacity to do this.'

Desert Radio, a private commercial enterprise launched in 2021 under the same Namibia Media Trust (NMT) umbrella as *The Namibian* newspaper, offers a range of public interest broadcasting, from documentaries to actuality, current affairs and news. It has also added podcasts of some of these shows to its website.

The *Eagle FM* talk show was said to be addressing issues that cut across society, such as politics and controversial topics. 'It is really one of the most impressive radio stations in Namibia in terms of public interest content.' However, the

station was also accused of making factually incorrect statements on air that bordered on homophobia, which they did not retract.

Other radio stations, such as the NBC and *Desert Radio*, were seen to be making attempts to cover issues of gender and intersectionality (discrimination on various fronts), as well as representing more voices of society. Broadcasters, especially from the NBC, were more readily addressing gender-based violence. UNICEF has been implementing a successful mass communication strategy with the Disability Communication Network.

‘Although private stations may be doing better these days in terms of public interest, how accessible are they as they don’t have the almost 100% reach of NBC?’

The dominant language for private radio stations is English, which also limits stations’ accessibility by members of the public who speak other languages.

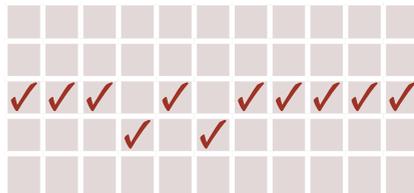
CRAN reportedly makes it very difficult for private broadcasters to expand their reach, informing them that there are no frequencies available in heavily populated areas (such as the north or the coast).

‘It’s also a question of funding to pay for the infrastructure to broaden the reach. Private radio stations need to make money, and I doubt they make N\$100m a year, compared to the subsidy that the NBC gets, but at least the NBC does use some of this to cover as much of the country as possible.’

Scores:

Individual scores:

- 1 Country does not meet indicator
- 2 Country meets only a few aspects of indicator
- 3 Country meets some aspects of indicator
- 4 Country meets most aspects of indicator
- 5 Country meets all aspects of the indicator



Average score: 3.2

3.6 The state promotes the establishment of independent community broadcasters who deliver content relevant to the interests of their communities.

To date, 13 private community radio stations have received licences, but just nine are broadcasting actively. They are spread around the country, except for the Kavango Region, where there are currently no community radio stations.

There are no community television stations in Namibia. Community broadcasting licences are granted based on geographic location or audience, i.e., a community of interest.

The state, through CRAN, provides licences and frequencies to community radio stations, but this is where the support ends. As mentioned in indicator 2.6, some effort was made by the broadcasters through the voluntary association Namibia Community Broadcasters Network (NCBN) and the Ministry of ICT to formulate a framework for community radio. However, as of July 2022, this was still in progress.

Ideally, the NCBN would like to see the realisation of something akin to South Africa's MDDA, which would help the sector become more sustainable, but it is unclear whether this will become a reality. MDDA even provides high-tech, digital equipment to community radio stations and some initial operational capital (see indicator 2.6).

'The state feels that having the legal provision to allow community radio stations to exist, and providing the licences and frequencies, is enough support. They don't really promote this sector at all otherwise.'

Due to severe budget constraints, community radio stations work mostly with young volunteers, who help to produce some ongoing programmes. These stations tend to have more public-interest content and play less music than commercial radio stations.

The enthusiastic volunteers on community radio stations often bring youth topics to the table, such as alcohol abuse and teenage pregnancies. A downfall of these stations is that the volunteers are not always adequately informed to provide factual analysis on certain topics, like gender or sexuality. 'They tend to be opinionated rather than knowledgeable, which affects the credibility of community radio stations.'

Content on these stations has improved in the last four years since the NCBN began offering training (see indicator 4.10). The network has also introduced some skills, such as conducting interviews on a shoestring budget through WhatsApp interviews. Some organisations and institutions, such as NMT, the DW Akademie, the Friedrich-Ebert-Stiftung and the Ministry of ICT, have also provided their own content for community radio stations to broadcast.

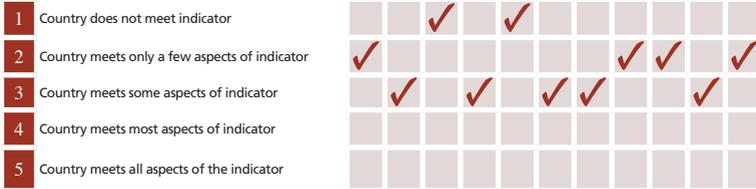
The NCBN does not monitor content across community radio stations, as it is a voluntary association. The group does unite around capacity-building issues, content sharing and networking, and conducts an annual Media Viability Bootcamp. It has also looked at ways to involve adult volunteers to expand content.

‘Some community radio stations flout their conditions and operate more as commercial stations. Although they need to be run by a trust or an NGO, this is not monitored by CRAN, and many don’t have active governance structures.’

Community broadcasters are not yet members of the EFN.

Scores:

Individual scores:



Average score: 2.3

3.7 The state has promulgated laws and policies that ensure universal, equitable, affordable and meaningful access to the internet.

The internet is not available throughout the entire country, and there are some blind spots. The Ministry of ICT reported in June 2022 that only 51% of the country’s population had access to the internet due to infrastructural issues and the inability to afford smartphones and data.

Countrywide, slower-speed Edge/2G is more common than 4G, which is available in more commercial centres. There is no 5G network in Namibia as of July 2022.

The Ministry of ICT and MTC are reportedly working together to erect new transmission towers to expand internet coverage.

Compared to neighbouring South Africa, some panellists felt data was not so expensive for those working, but for the poor and unemployed, it is unaffordable. Reported poverty rates differ considerably, with the Namibian government refuting the World Bank’s 2022 statistics of 61%, claiming 17% is more accurate. For the disabled community, too, the internet is prohibitively expensive and thus not accessible.

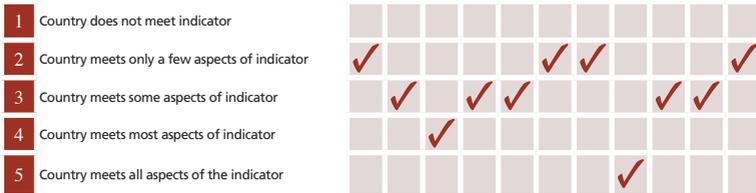
For many school pupils and university students around the country, it was not possible to do e-learning during the intense Covid lockdowns when schools were shut. This was due to a lack of internet coverage, data costs and lack of equipment. A 2020 *New Era* report noted that only 13,000 of 804,000 government-school pupils could access e-learning.

Although it does not appear widely known, even among the media community, Namibia has an internet and communication technology policy, but it dates back to 2008. Panellists felt that this and the Communications Act of 2009 should be revised and updated as technology has changed considerably over the years. Issues that still need to be addressed include advancing media literacy, data protection and privacy.

The government has not made efforts to establish community centres or networks to enable more equitable access to the internet.

Scores:

Individual scores:



Average score: 2.9

3.8 The state protects everyone’s right to privacy and the confidentiality of their communications, and refrains from indiscriminate and untargeted collecting, storing, analysing or sharing of such communications.

As noted in indicator 1.8, the new regulations around mandatory SIM card registration are a concern in terms of data protection and privacy, as legislation providing information protection to consumers has not yet been enacted. Namibia also has no cybercrime law, making people vulnerable to falling victim to such breaches.

The Electronic Transactions and Cybercrime Bill of 2017 was scrapped in 2018 after a public outcry from civil society about the two laws being combined, with concerns, particularly about surveillance issues. The draft Cybercrime Bill of 2019 is still with parliament and awaiting input. The Electronic Transactions Bill was passed in 2019 but is not yet operational.

It is known that the state has the ability to track citizens’ communications. ‘While government officials are meant to get a court order before they intercept people’s personal information and communication history, we know that this is already happening, and the service providers are storing that information and making it available.’

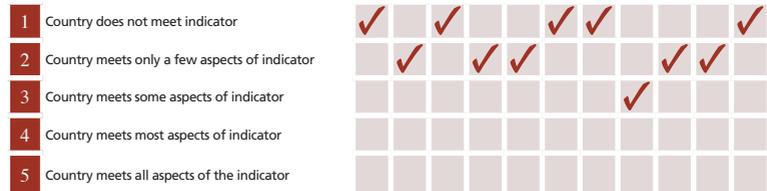
Frequently Asked Questions (FAQs) on the CRAN website try to allay people's fears by stating:

The Communications Act of 2009 and its new regulations regarding SIM card registration are not about interception – or so-called ‘spying’ – and do not authorise or introduce interception. Instead, lawful interception is provided for in the Criminal Procedure Act of 1977 and the Namibia Central Intelligence Service Act of 1997. Therefore, interception has been taking place in Namibia for many years, as guided by these laws. SIM registration requires customers to register a SIM card in their name to access cell phone services and other related products. It is also an important tool for preventing phone-based fraud, identity theft and other criminal activity. This is not the same thing as ‘spying’ or ‘government surveillance’. Law enforcement agencies can only access a customer’s call data if a crime has been reported and a warrant has been issued by a judge. (See also indicator 3.9.)

The Ministry of ICT has drafted a Data Protection Bill, but panellists noted that only external bodies, such as the International Telecommunications Union, the European Union, African Union and Southern African Development Community, were consulted and not Namibian stakeholders.

Scores:

Individual scores:



Average score: 1.6

3.9 The state upholds the right of individuals to seek, receive and impart information through digital technologies and does not remove, block or filter any content, unless such interference is compatible with international human rights laws and standards.

Panellists were not aware of any laws that the Namibian government could use to block or filter internet content.

Some activists connected with the #ShutItAllDown protests in 2020, however, experienced their cell phones being blocked towards the end of the last protest.

Also, journalists have experienced the jamming of the cell phone network and being unable to use their cell phones at high-profile events at State House and sometimes at parliament when the president is present.

‘Namibia does have the technology to block internet content already, and it is being used selectively. The laws and the regulatory framework are already there, and we know that surveillance and interception are already happening. The SIM card regulation is not about interception of communications; it is more about purely enabling data storage and further surveillance.’

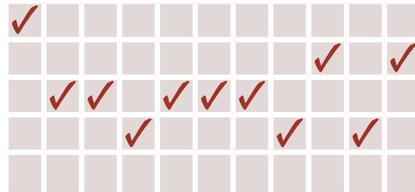
‘It feels like the state is building up to blocking internet content in future, with the Cybercrime Bill and the mandatory registrations of SIM cards.’

As mentioned in indicator 3.8, the Communications Act of 2009 already gives the state broad powers to intercept and monitor telecommunications. Section 71(1) of the act requires licensees and other providers of telecommunications services to provide their telecommunications service in such a manner that it can be intercepted. To this end, Section 71(2) obliges licensees and other providers of telecommunications services to store information relating to the originator, destination, contents of, and additional information about the telecommunications concerned. In terms of Section 73, the prescribed information must be obtained from all customers and must be sufficient to determine which telephone number or other identification has been issued to a specific customer in order to make it possible to intercept the telecommunications of that customer.

Scores:

Individual scores:

- 1** Country does not meet indicator
- 2** Country meets only a few aspects of indicator
- 3** Country meets some aspects of indicator
- 4** Country meets most aspects of indicator
- 5** Country meets all aspects of the indicator



Average score: 2.9

Overall Score for Sector 3: 2.4



SECTOR 4:

Quality of media, working conditions and safety of journalists

4.1 The standard of reporting follows the basic principles of accuracy and fairness.

Generally, it was felt that the media in Namibia, although not perfect, does get the basics right regarding accuracy and fairness. Corrections in the various newspapers seem to relate mainly to the misspelling of names and not factual inaccuracies.

‘There does seem to be a concerted effort by media houses to try and uphold the EFN’s Code of Ethics and Conduct, generally, and maintain principles of fairness and accuracy.’

Complaints that the Media Ombudsman has received recently include issues of critical accuracy, notably concerning the *Informanté* newspaper, which is not a member of the EFN. *Informanté* misrepresented the facts in an article about a vehicle accident and provided a correction after being approached by the Media Ombudsman (see indicator 4.2).

In terms of fairness, the Media Ombudsman has also noticed a trend in complaints against journalists who extract information from Facebook postings and other online media platforms, such as Twitter, and represent this content in an article as if the person quoted had been interviewed.

‘While this information may be in the public domain, with so many fake Facebook accounts, this is a dangerous approach.’

Those working in the media agreed that with the fast-paced changes going on in the world, especially with regards to digital technology and social media, if the information is online, it is in the public domain, but ‘the onus is on the media to provide context...the tricky part is verifying if accounts are genuine.’

Other complaints received by the Media Ombudsman were that journalists gave people insufficient time to respond to questions, such as two hours before deadline, which was seen as being disrespectful. Sometimes the right of reply is not proffered at all.

‘Fear of being scooped and looming deadlines lead to this sort of behaviour, but it is no excuse for not giving people enough time to respond.’

The quality of reporting was sometimes seen as weak as some Namibian journalists lacked knowledge of the subjects about which they write, leading to misinformation or the lack of critical questions being asked. ‘Journalists don’t always go the extra mile to understand their subject and do preliminary research.’

Panellists from the media agreed that this was sometimes a problem, as it takes time to learn about new topics, and there are not always experts available to provide clarity.

When tackling controversial issues, journalists sometimes approach an opposing party for comment but don't return to the original source for their further comment and context, which appears unfair and leaves the public 'hanging'.

In terms of accuracy, the absence of access to information legislation hinders journalists as it can prevent them from obtaining the information they need without a struggle.

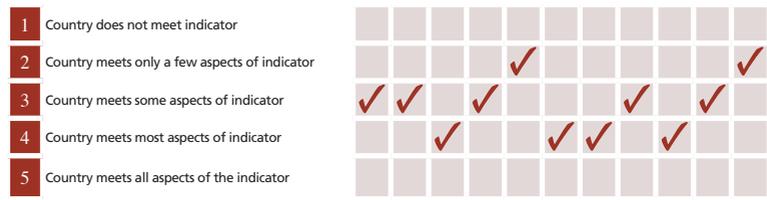
'Once this law is in place it will make it easier for journalists to access even basic information that is in the public interest.'

Some members of civil society who submit opinion pieces to newspapers feel affronted when editors ask that such pieces are published exclusively in their publication when they had wanted it to be printed in various publications for the widest reach. Meanwhile, editors largely insist on exclusivity to serve their audiences better and be fair to all contributors.

The Media Ombudsman does have jurisdiction over opinion/comment pieces printed in newspapers, as these are regarded as news items. This office has received complaints about biased opinion pieces that push a certain agenda, such as pro- or anti- the state president, for example, and which are seen as unfair. The Code of Ethics and Conduct states that opinion pieces should be substantiated by reported facts and provide comments fairly.

Scores:

Individual scores:



Average score: 3.2

4.2 The media follow voluntary comprehensive codes of professional standards, which are enforced by independent bodies that deal with complaints from the public.

Members of the EFN follow a self-regulatory Code of Ethics and Conduct for print, broadcasting and online media (see indicator 4.7). Panellists noted that the code, revamped and consolidated in 2017, requires revision.

As mentioned in indicator 4.1, EFN members generally uphold this code and are taken to task by the Media Ombudsman when they don't. Panellists felt that even non-EFN members of the media tend to subscribe to the code in practice.

'Our courts are clear. Decisions taken by voluntary organisations are enforceable within their own structures. Article 1 of the Namibian Constitution, which relates to abiding by the rule of law, also refers to voluntary associations. It's more a question of thinking of more creative ways to get media houses to abide by such rulings.'

The Media Ombudsman usually addresses complaints about EFN members. If an objection relates to an online issue, this must be linked to an online platform of a particular media house and not something said on social media in general, for example.

The EFN and the Media Ombudsman are clearly seen by the state as valuable and respectable self-regulatory mechanisms. The forum reached an agreement with CRAN that if a complaint refers to non-compliance with the code by a non-EFN broadcaster, the Media Ombudsman can take it up. Non-EFN-member broadcasters that refuse to abide by the Media Ombudsman's ruling can be referred to CRAN (see indicator 4.7 for the list of current EFN members).

A challenge for the Media Ombudsman's office, which is run on a part-time basis, is that it is virtually 'a one-person show', with some support from a student intern. There is a lack of capacity as there is no actual office, budget, permanent support staff or other resources.

Following a call for public nominations and an interview process, the EFN appoints a Media Ombudsman to take up grievances and complaints about the media by members of the public. The Media Ombudsman is paid a monthly stipend for this work.

The current Media Ombudsman, who is serving a second three-year term in the position until 2023, was initially given guidance into media matters from Gwen Lister, the executive chair of the Namibia Media Trust and the NMT's director, Zoé Titus, and not from the EFN as would have been expected. The current Media Ombudsman paid an intern out of his own pocket for the first two years until the EFN finally agreed in 2020 to pay for this position, which is normally held by a final-year law student who assists with research and case studies.

The Media Ombudsman handles about six complaints a month. Complaints come from members of the public in general, as well as the ruling party and opposition politicians, and even State House. In 2021, a complaint was received from the judge president.

'It seems as though, with time, people are really buying into the system. Six complaints a month is very small for our population size, but because of the lack

of capacity in the Media Ombudsman’s office, turnover of these cases can take some time.’

While there is an acknowledgement that more members of the public should be made aware of the office, at the same time, it would not be able to handle much more work if it was publicised more widely. Thus, there is the need first to capacitate and strengthen this office, possibly through partnerships.

Members of the Namibian Community Broadcasters Network have not yet joined the EFN but have been encouraged to do so individually and to put their weight behind this self-regulatory mechanism as a means of avoiding statutory regulation of the media. ‘There is even the possibility of them paying reduced membership fees.’

The code states that members of the public are free to raise complaints to EFN members and ask for a correction instead of taking the very costly route of going to court. Media houses who violate the code two or more times are ‘obliged’ to pay a fine of N\$50,000 to the Media Ombudsman. This amount was raised from N\$10,000 in the last few years after complaints that the office was ‘toothless’.

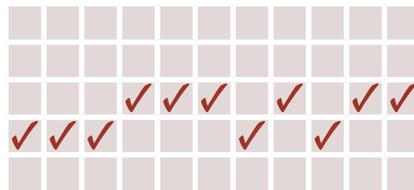
As the code only applies to members of the EFN, freelancers, advertising agencies or non-EFN members cannot be held accountable by the Media Ombudsman unless the freelancer is writing for a publication that is a member. The Media Ombudsman has, however, taken a non-EFN member to task in the case of *Informanté*, and it did abide by the ruling to publish a correction (see indicator 4.1).

The code is very clear that the ruling of the Media Ombudsman, or the media complaints committee or the appeals committee are binding, although enforcement is a challenge for the Media Ombudsman. One media house simply ignored the ruling and did not offer the exit interview to the complainant as agreed during the mediation session.

Scores:

Individual scores:

- 1 Country does not meet indicator
- 2 Country meets only a few aspects of indicator
- 3 Country meets some aspects of indicator
- 4 Country meets most aspects of indicator
- 5 Country meets all aspects of the indicator



Average score:

3.5

4.3 Salary levels and general working conditions, including safety, for journalists and other media practitioners are adequate.

Private media houses generally pay acceptable average salaries, such as N\$12,000 a month for an entry-level journalist. It is unknown whether male journalists earn more than their female counterparts, but because men traditionally tend to be assigned 'hard beats', such as politics and business, this may be the case. Women tend to be responsible for community and health issues.

'There is a historic problem with starting salaries at media houses. In the past, you could enter a newsroom and negotiate your salary with the editor, depending on your exposure to the industry and money. This practice was perpetuated for years, meaning that there is a large discrepancy in salaries across media houses for people doing the same job.'

Some newsrooms, such as NMH, have recently restructured salaries to make them more equitable.

At the NBC, salaries are given according to a grading scale based on qualifications. They are not open to negotiation and are considered competitive. Entry-level remuneration may also be about N\$12,000 for a rookie reporter, plus medical aid and pension benefits. There are no known salary discrepancies between male and female staff at the public broadcaster.

While there was previously an issue with the NBC using contract labour on a systematic basis, with workers on three-to-six-month contracts only, this was resolved after the strike in 2021, and the contract workers have since been absorbed into the system and given permanent contracts.

The Namibian government has legal instruments that support fair employment: Namibia has ratified International Labour Organisation Convention 100 (which deals with equal pay for equal employment), Convention 111 (non-discrimination) and Convention 190 (violence and harassment at work). The spirit of the Labour Act, Section 128, c1, is to abolish short-term contracts.

Some media houses are known to take advantage of cheap labour by employing Zimbabwean journalists who lack the bargaining power to negotiate higher salaries or who may be in the country on a study permit, not a work permit, and who sometimes go without a salary for a month or two. This exploitation does not refer to practicals or work-integrated learning that form part of a student's studies. NAMPU has received complaints along these lines, which it has taken up with the media house concerned.

One of the reasons the new media union, NAMPU, was started was because journalists did not feel safe, even in their newsrooms, and did not feel protected by their editors. An incident was mentioned where State House pressured an

NBC journalist not to run a specific story, and the editor did not support the journalist.

‘Some of the EFN’s founding statements seem to be an attack on journalists, so we really felt an urgent need for an entity that will fight for us.’

In terms of media houses looking after their journalists’ safety, *The Namibian* and *Namibian Sun* were commended for providing their journalists with protective gear to enter the hospitals during the Covid-19 pandemic. In partnership with the Ministry of Health, the NBC also made an effort to prevent journalists from being directly exposed to Covid during their work.

‘Some journalists from other media houses are so poorly paid that they can’t even afford medical aid, so there was really no support from their employers. NAMPU had to raise money to provide vitamins for some of these journalists who are really struggling and freelancers who earn very little money. Journalists felt unsafe as they were exposing themselves to the disease but were not even given basic protective gear, like masks and hand sanitiser, from their employers. In this sense, most of the media houses failed miserably.’

The shifting media landscape with the convergence of newsrooms has also meant that journalists’ jobs were arbitrarily changed, across the board, without them having a say or getting a pay increase. Salaries were also cut for most journalists during Covid as media houses came under strain due to reduced income from advertising. Some media houses have since reverted to the original salaries or introduced some benefits, such as subsidised medical aid or pension, to compensate.

Journalists are generally overworked, and, during the pandemic, some newsrooms were regularly reduced when Covid took its toll on staff, who sometimes spent up to a month in hospital. This placed additional strain on the remaining journalists.

Journalists’ mental health is also not generally addressed by media houses in Namibia.

‘There is absolutely no psycho-social support from the media organisations. There is no debriefing culture in the media industry. You go to an incident and see horrific things that have happened, and that’s it.’

For example, journalists were traumatised after seeing the corpses of Covid victims being loaded into a mortuary van.

‘A number of journalists developed mental health issues during this time, and, mostly, there was no sympathy or support from the newsrooms at all. If you see a doctor and are booked off, that’s okay, but there is no sense that you might need a day or two off to recover, especially when three of your colleagues are ill simultaneously.’

The NBC is reportedly looking into adopting debriefing measures for certain teams to give them psycho-social support. The public broadcaster has a wellness office which staff can access for assistance.

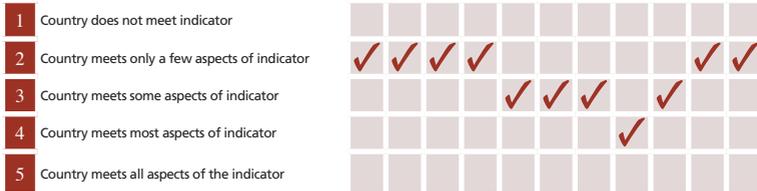
Sexual harassment does not appear to be a problem in newsrooms, although outside of the office, politicians are ‘known to hit on female journalists’. NAMPU has not received complaints of journalists being sexually harassed within newsrooms.

Working hours depend on individual newsrooms. Some of the more established and formalised newsrooms do their best to stick to the rules and have an overtime policy in place. ‘For the others, if they are struggling to pay journalists, they won’t go the extra mile to pay overtime.’

The creation of the new media union, NAMPU, was seen as a positive development for the sector, although capacity building and training for those involved in the union were seen as critical needs. ‘Research is also needed so we can understand the sector better, and bring out the various dynamics, so the union can deal effectively and efficiently with salary issues, for example.’

Scores:

Individual scores:



Average score: 2.5

4.4 The state guarantees the safety of journalists and other media practitioners and does not arrest and detain them arbitrarily, or engage in attacks, threats or unlawful surveillance.

The state does not specifically protect the safety of media practitioners, and state officials are known to be heavy-handed with journalists at times.

When two female journalists from different private newspapers were covering an official event in 2020, they were forcibly removed from the venue – the Windhoek State Hospital – by security officials, despite having been invited to cover the opening of a new isolation centre. They were told that only state media was permitted entry. Afterwards, these journalists were told by police, threateningly, ‘You are lucky you weren’t shot.’

They reported the incident to the police and the Office of the Ombudsman but were informed that the Prosecutor-General decided that the case would not be prosecuted.

There is a complaints department within the police force to lodge grievances about staff, but journalists do not bother to use it, as it is not seen as an independent process, and the complaints are unlikely to be addressed with any seriousness and sense of redress. For this very reason, the journalists did not lay complaints with the minister concerned.

In a separate event during a press briefing on the ruling party's involvement in the Fishrot corruption scandal, Minister of Labour, Industrial Relations and Job Creation, Utoni Nujoma, manhandled a female journalist from *Namibian Sun* in full view of President Geingob, who ignored the incident.

The journalist did not report the matter, as, by this time, she had been branded a troublemaker for asking hard questions and speaking out about these abuses.

In another incident, a female journalist from *Eagle FM*, who was wearing a press jacket, was also harassed by police during the course of her work. 'Of course, there may be times when the lines are blurred, but in this instance, she was clearly identified as a member of the press.'

An NBC radio journalist reporting on the Chinatown protests in Windhoek in 2022 was hit by a rubber bullet discharged by police. However, this was not seen as a direct attack on him as a journalist but rather an unfortunate case of being caught in the melee.

The issue of identification is essential, however, as most journalists in Namibia are not supplied with high-visibility press jackets. 'While the EFN released a statement saying all journalists should be identified with these jackets, they are the ones sending us out without the proper equipment.'

The EFN does realise it needs to do something and provide such equipment.

Panelists felt that Namibian journalists need training on how to report on public violence issues. 'During the #ShutItAllDown protests, some journalists were reporting on the demonstrations but also protesting at the same time, which is biased and unprofessional.'

Some of those reporting on these protests were injured and felt they were targeted as journalists, but as many were not identified as media workers, it wasn't an issue the Media Ombudsman could take up with officials. In addition, complaints had not first been laid with the police complaints department, the first port of call.

Journalists in Namibia are not generally arrested or detained wilfully by the state or attacked during elections. However, some members of the media have been told they were unwelcome at rallies held by particular parties. For example, the

NBC was not allowed to cover rallies of the Independent Patriots for Change. It was argued that this was because the party assumed they would not get coverage from the public broadcaster anyway.

‘While the law allows journalists to take pictures in court before the judge or the magistrate is present, sometimes this is ignored. With the Fishrot case, for example, we were forbidden by the judge from taking photographs inside the court, even before he was present.’

Members of the media felt that state officials were becoming increasingly intolerant of the media in Namibia. Journalists covering a disgruntled group of pensioners who had not received their social welfare grants in June 2022 were forcibly pushed away by Special Field Force members, who told them not to take photographs and to leave.

‘When the SFF arrive on the scene, you know you shouldn’t be there, or something will happen to you. When we see them, we know that we, as the media are more prone to attack. And they are increasingly present where people gather in large numbers.’

Panellists felt that surveillance by security officials was happening quite openly, as mentioned previously.

It was pointed out that UNESCO has offered training to police officials on how to conduct themselves during situations like protests. The NBC has been invited to send senior editorial staff to attend these sessions as well.

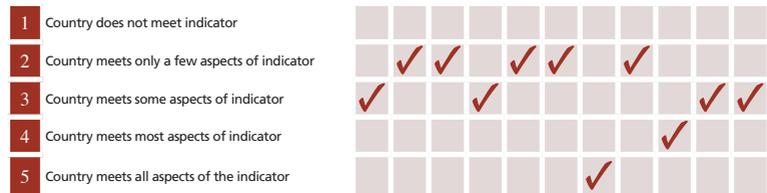
With support from UNESCO and through the UN International Programme for the Development of Communication, the EFN plans to undertake various initiatives to make the environment safer for Namibian journalists.

NMT has also approached the Minister of ICT and alerted him to the need to subscribe to the UN Convention on the Safety of Journalists.

‘This will also require that incidents of attacks against journalists are investigated. Unfortunately, the Namibian government tends to align itself with its bilateral partners China and Russia on this issue.’

Scores:

Individual scores:



Average score:

2.8

4.5 The state takes effective legal and other measures to investigate, prosecute and punish perpetrators of attacks against media practitioners, and ensures that victims have access to effective remedies.

As mentioned previously, the state does not investigate, prosecute or punish perpetrators of attacks against media practitioners. This is generally because victims of such incidents don't report the issue, believing that this would not lead to anything, as state officials largely perpetrate the attacks.

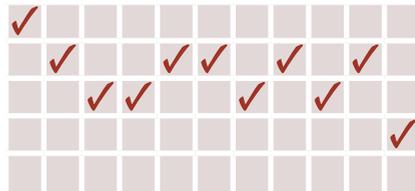
Panellists were only aware of the police training on the safety of journalists and not training related to investigating attacks against members of the media.

There is no independent body that investigates attacks on the media, but there is an official police complaints department. This issue has been raised previously in other cases of police brutality against public members.

Scores:

Individual scores:

- 1 Country does not meet indicator
- 2 Country meets only a few aspects of indicator
- 3 Country meets some aspects of indicator
- 4 Country meets most aspects of indicator
- 5 Country meets all aspects of the indicator



Average score:

2.5

4.6 Equal opportunities regardless of race or ethnicity, social group, gender, sexual orientation, religion, disabilities and age are promoted in media houses.

The NBC is one of the media operations considered 'fairly representative' of the population and the various demographics in Namibia, with management positions held by a larger proportion of women. Staff are mostly Christian and include some members of the LGBTQI+ community.

While research found that most newspaper journalists in Namibia are female, this is not reflected in senior management positions.

‘All of the newspapers in Namibia are headed by male editors. Even those who are second-in-command tend to be men, as well as those with the hard beats of politics and finance.’

There was a consensus that discrimination against people with disabilities was not an issue regarding employment in the media.

Age was not necessarily used to discriminate against media job applicants. However, when staff reach the retirement age of 60, at NMH, for example, they do have to retire.

Complaints were raised about what was termed ‘race salaries’ at NMH, where the son of the white CEO was reported to be earning N\$50,000 a month as an intern compared to some with more experience earning N\$12,000. This was noticed when his salary slip was mistakenly handed to the wrong employee.

Media houses were not seen to be actively promoting equal opportunities for all.

‘The lack of gender equality has been an issue for a long time, and I don’t see this being addressed, although people do speak out about it. This is probably because those being criticised are the ones in leadership positions.’

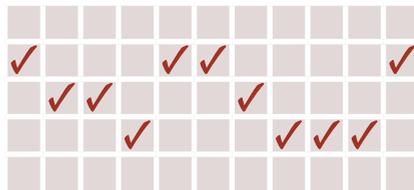
Research conducted in 2009 by Gender Links (*Glass Ceilings: Women and men in southern African media*) showed that 27% of Namibian media houses had gender policies, 36% had sexual harassment policies, and 45% showed interest in improving an existing gender policy. No more recent surveys appear to have been conducted on media house policies.

‘Media houses reflect what happens in society in general. In Namibia, we have a problem of structural, institutionalised discrimination, which is not necessarily intentional. The government does not have an employment policy prioritising Oshiwambo-speaking men, but these are the people who occupy the high-ranking positions. This also plays out in media houses.’

Scores:

Individual scores:

- 1 Country does not meet indicator
- 2 Country meets only a few aspects of indicator
- 3 Country meets some aspects of indicator
- 4 Country meets most aspects of indicator
- 5 Country meets all aspects of the indicator



Average score:

3.0

4.7 Journalists and other media practitioners are organised in trade unions and/or professional associations which represent their interests effectively.

Panellists generally agreed that there is a level of solidarity among journalists in Namibia. Most of the country's media organisations tend to find common ground on issues, and there is some collaboration. This has been visible with the collective involvement in helping to develop access to information legislation (see indicators 1.3 and 1.12) and support shown for Edward Mumbuu, formerly of NAMPA (see indicator 2.7), when fellow journalists from various media houses exerted pressure on the state news agency not to dismiss him. During the NBC strike, some off-duty journalists from other media houses joined their colleagues at the NBC in a show of solidarity.

The self-regulatory EFN was formed in 2007. It is a non-profit, non-governmental, voluntary association of media practitioners and media houses from the print, broadcasting and online sectors. It focuses more on standards than on representing journalists' interests.

The EFN welcomes the membership of editors from all media houses in Namibia. Currently, the membership of the EFN comprises the country's four dailies, two television stations including the public broadcaster and seven commercial radio stations. The dailies are *The Namibian*, *Republikein*, *Namibian Sun* and *Allgemeine Zeitung*. The television stations are *One Africa TV* and NBC national TV station. The NBC membership is also inclusive of its 10 language radio stations. The seven EFN-member commercial radio stations are *99 FM*, *Energy 100 FM*, *Radio Omulunga*, *Radiowave*, *Fresh FM*, *Nova 103.5* and *Kosmos 94.1*. *Desert Radio* also belongs to the EFN.

Members of the EFN subscribe to the Code of Ethics and Conduct for print, broadcasting and online media.

The EFN's Code of Ethics and Conduct compels the media to observe the basic principles of good journalistic practice, including truth, accuracy, balance, independence and protection of sources. The EFN appoints a Media Ombudsman to address public complaints with the media. Assisting the Media Ombudsman is a complaints committee of eight panellists, four members of the public and four from the media, as well as an appeals committee comprising three members of the public and three from the media.

The EFN 2021 Journalism Awards was an important event to showcase the work of journalists across the following categories: health; business, innovation and finance; political reporting and governance; sport; agriculture and the environment; photojournalism; community broadcasting and journalist of the

year. The awards were also an opportunity to remind citizens of the importance of media freedom.

The first Media Ombudsman was appointed by the forum in 2009. As mentioned in indicators 1.5, 4.1 and 4.2, there is an urgent need to strengthen the office of the Media Ombudsman to enable it to better carry out its self-regulatory duties.

NAMPU, the new media union, was formed in 2020, but it still awaits feedback on its application from the Labour Commissioner (see indicators 1.12 and 4.3). It has, however, already lent some support to fellow media workers, supporting striking NBC staff and the journalists at *Confidante* who were not being paid.

‘If journalists are distressed, NAMPU is already responding, whether or not they are signed up with the union.’

NAMPU began rather informally as a means of trying to address the intimidation that some journalists and media houses were facing from the state and from within their own newsrooms. It has since developed more structure with a founding statement and the appointment of a secretary-general and a deputy secretary-general, as well as five executive committee members. The union is still awaiting formal government registration, so it has no paid-up members yet, but about 180 media professionals, including those from the public media, belong to its WhatsApp group, and there are online application forms for those interested in joining.

‘Because of a fear of intimidation, some journalists have been afraid to even sign up or be associated with the new union.’

Media workers of the state-owned media – NBC, Nampa and *New Era* – previously belonged to the general workers’ union Namibia Public Workers Union, but reportedly some members left, as they felt their interests were not being addressed.

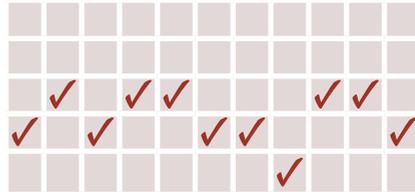
Another important media association is the Namibia Community Broadcasters Network, which was registered in 2013 and began operating in 2015. It represents the interests of community broadcasters (see indicators 2.6 and 3.6).

The Namibia chapter of the Media Institute of Southern Africa (MISA Namibia) is no longer in existence. The MISA head office/secretariat has also relocated from Namibia to Zimbabwe in recent years.

Scores:

Individual scores:

- 1 Country does not meet indicator
- 2 Country meets only a few aspects of indicator
- 3 Country meets some aspects of indicator
- 4 Country meets most aspects of indicator
- 5 Country meets all aspects of the indicator



Average score:

3.6

4.8 Journalists and media houses have integrity and are not corrupt.

In general, Namibian journalists and media houses are not seen as corrupt, and there is a sense that integrity levels are primarily high.

While there isn't concrete evidence, there are rumours of journalists from private media houses being enticed with bribes from businesspeople not to write specific stories. This seems to be more common in the country's northern regions, where journalists are considered to be more open to bribery. No formal complaints have been laid with the Media Ombudsman in this regard.

In terms of integrity, an anonymous member of the public informed the Media Ombudsman that a private media house had been paid to write a positive article about gas and oil company ReconAfrica (see indicator 2.10). The Media Ombudsman generally does not entertain anonymous complaints, and no formal complaint was made.

'The allegation of companies paying off the media for positive publicity is very serious and a clear contravention of the EFN's Code of Ethics and Conduct.'

A specific freelancer was mentioned for posing very intimidating, antagonistic questions about LGBTQI+ issues. He is also known to be very biased and disrespectful to women, and his articles tend to perpetuate "slut shaming" and rape culture.

'Sometimes journalists misquote interviewees, leading to misrepresentation, and this comes across as lacking in integrity. Other journalists can be hostile and aggressive, forcing interviewees to become defensive.'

Mention was also made of journalists being pro-LGBTQI+ issues and crossing the line in their writing and becoming more like activists, which confuses the audience and impacts on the integrity of the media.

Another freelance journalist was mentioned as having written articles about TransNamib that were factually incorrect.

‘A serious problem with some freelancers is that they can be a law unto themselves, which is an issue that the EFN should address.’

Another concern is the issue of journalists using social media content for an article without providing context and additional information and making it appear as if the person quoted was interviewed (see indicator 4.1). ‘This puts a greater responsibility on the gatekeepers – editors and sub-editors – to prevent this.’

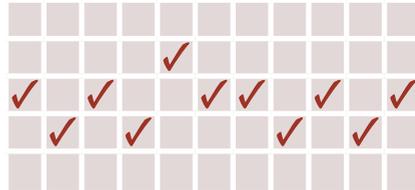
Panelists mentioned the importance of the print media in clearly distinguishing paid advertorials (promotional content) from editorials.

Some private media houses have in-house policies on ethical conduct. *The Namibian*, for example, has policies about freebies and taking trips with sources. The issue of *New Era* journalists taking trips to events with State House staff was seen as problematic in this regard.

Scores:

Individual scores:

- 1 Country does not meet indicator
- 2 Country meets only a few aspects of indicator
- 3 Country meets some aspects of indicator
- 4 Country meets most aspects of indicator
- 5 Country meets all aspects of the indicator



Average score:

3.3

4.9 Journalists and editors publish freely and do not practise self-censorship.

‘Journalists do restrict themselves from writing about certain topics.’

There appear to be several “hot potato” topics which are not addressed by the media. This includes the issue of transitional justice in light of the pre-independence human rights violations and atrocities committed by SWAPO as well as the Ovaherero-Nama genocide of 1904-08 committed by the Germans, and whether the reparations being requested should be used for what the Ovaherero and the Nama want, who is entitled to benefit and why there should be this debate.

‘Another subject that journalists avoid is that of reparations for land dispossession during the colonial periods, which is rarely interrogated properly.’

Issues of race and the tribal dominance of the Oshiwambo people are also not talked about openly, and this is reflected in the media.

'Journalists seem to feel uncomfortable to write about such sensitive and hard issues and restrict themselves from writing about them.'

Certain media houses, such as *The Namibian*, are known to write very critically about mining giant, ReconAfrica's operations in Namibia. *The Namibian* has taken a firm ethical and editorial stance against the drilling for oil and gas in the Kavango, although the energy-extraction company is permitted to advertise in the newspaper.

A few years ago, the former editor of a rival daily used to offer *The Namibian* article ideas about specific companies, saying their more conservative newspaper couldn't write critically about such firms or they would lose advertising.

It is common for some senior managers of media houses to discourage or even prevent journalists from writing critical articles on particular companies or parastatals if they personally know people from those firms. In some media houses, the editor is subordinate to the CEO and thus not always free to make independent editorial decisions.

It is rare to find critical articles in Namibian media, private or public, about prime advertisers, such as the telecommunications service provider MTC.

'The intimidation of the private media by the private sector is more severe than that from government. Although the state dictates what public media houses can publish or broadcast, the state will rarely refuse to allow a private newspaper to publish an article, but, with private companies, there is always the very real threat of losing advertising.'

Private media also tend to avoid criticising members of the judiciary. *The Namibian* and *Insight Namibia* magazine, the latter of which is no longer in existence, both previously reported on High Court and Supreme Court judges who were taking an inordinately long time to finalise cases and deliver their judgements, causing people to suffer. 'While some judges were forced to resign eventually, other judges later ruled against us in other cases, and this has affected our reporting.'

Confidante also had a negative experience with a judge who did not recuse herself from a case, despite having questioned the editor in a previous case when she was a lawyer.

'In future, if I have a story about any particular judge, I won't do it. I will self-censor myself.'

Members of the community broadcast media were also known to practice self-censorship and were prone to pressure from their communities based on advertising and influence. *OFM* in Oranjemund is a case in point, where the operational costs of the community radio station are still supported by the

Communication Technology and Information Technology, but these are more technical, hardware-related degrees and not journalism qualifications.

Panellists noted that these institutions are all required by the Namibia Qualifications Authority (NQA) to consult the media industry before drafting the curricula, making the courses relevant, pitched at the correct level and set according to NQA standards.

Most journalists in established media houses have formal training in the form of first degrees. One of the concerns raised was that at some media houses, there are too many people with journalism degrees who then go on to learn about specialised topics. As a result, some media houses, such as *The Namibian*, prefer to accept job applications from people with relevant graduate qualifications, for example, in finance or economics, for a business journalist post. In this case, they would be supported by the media house to have their skills upgraded with journalism training.

‘This approach helps a lot as health and financial topics, for example, can be really specialised and complex that you can’t learn in a short time. It would help if there were three-month courses available in journalism for these employees.’

Some media houses currently employ sub-editors who have not studied journalism, which is problematic as they don’t necessarily understand news values, for example.

‘In the past, if you could demonstrate your ability to write, you wouldn’t need a formal journalism qualification, but this is becoming increasingly relevant now.’

At *Republikein*, applicants for journalist positions with a good command of Afrikaans and Grade 12 are said to be still likely to get the job as there is a shortage of Afrikaans writers in Namibia.

Before the Covid pandemic, journalists had more training opportunities to upgrade their skills, but many of these options have dried up. Those that do exist are now online courses.

Some organisations provide guidebooks on pertinent topics for media practitioners, such as UNESCO’s *Handbook on Sensitive Reporting*. The EFN is looking to offer refresher WhatsApp-based training courses/tutorial groups for working journalists.

In 2020, the Office of the First Lady offered in-service training to journalists on the issue of infertility to prevent reporting that further victimised women through sensationalism and incorrect terms. While journalists were asked to sign up for this tailor-made short course, it was noted that there was very little interest shown.

Community radio stations scout for volunteers in the community who start learning on-the-job. For the last five years, the NCBN has been providing training

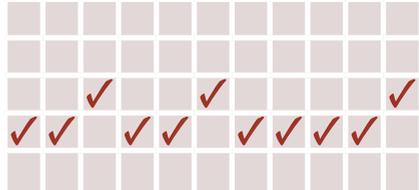
with the support of partners, such as Deutsche Welle, using a training centre and production studio at the College of the Arts in Windhoek. Community radio journalists are invited for one-week, focused courses. A pool of NCBN trainers also visits the radio stations annually to provide in-house training.

‘When they go back to their communities, you see how much more inspired and motivated they are and how their skills have been enhanced.’

Scores:

Individual scores:

- 1 Country does not meet indicator
- 2 Country meets only a few aspects of indicator
- 3 Country meets some aspects of indicator
- 4 Country meets most aspects of indicator
- 5 Country meets all aspects of the indicator



Average score: 3.7

Overall Score for Sector 4: 3.1



THE WAY FORWARD

1. What were the developments in the media environment in the last three/four years?

Positive Developments:

- The formation of the Namibia Media Professionals Union (NAMPU).
- The solidarity shown within the media.
- A level of editorial independence shown by the NBC.
- New players in the broadcast sector – public, commercial and community.
- The permanent employment of NBC's former contract workers.

Negative Developments

- The financial impact of Covid-19 on media sustainability.
- The NBC strike and continuing financial woes at the public broadcaster.
- The increasing harassment of journalists and civil society by the state.
- State surveillance of journalists and civil society.
- The SIM card regulations imposed by CRAN.

2. What kinds of activities are needed over the next three/four years?

Recommendations from the panellists:

| Drivers | Tasks | Additional Notes |
|---------------------------|---|---|
| Editors' Forum of Namibia | Commission research on the work conditions for journalists. | |
| | Conduct a five-year strategic plan, including finding ways to boost the resources of the EFN to carry out the following activities. | |
| | Revise the EFN's Code of Ethics and Conduct, and strengthen the office of the Media Ombudsman. | Include input from media stakeholders, including the Media Ombudsman. |
| | Raise the profile of the EFN. | Reach out to potential stakeholders to increase membership. |

| | | |
|---|--|---|
| | Drive changes to improve the safety of journalists and determine if the police complaints department is fulfilling its role. | Involve NAMPU and the general Ombudsman to drive this process. |
| | Look at strategic litigation to push for the rights of media practitioners. | The international human rights organisation, Media Defence, provides funding for this. |
| | Lobby media houses to update their in-house policies, including those on gender, safety, harassment and assault. | Involve NAMPU in this consultative process. Dramatic changes in the media environment have made this necessary to make the media more accountable and create common ground among media houses. |
| | Arrange for civil society organisations to conduct information sessions with the media to capacitate journalists and editors on their work and sensitise them on appropriate language use. | |
| ACTION Namibia Coalition | Analyse the legislative framework and lobby for amendments/ rescinding concerning outdated, inappropriate laws. | Involve media stakeholders and the Media Ombudsman to ensure that issues of concern, such as surveillance and information protection, are addressed. |
| Namibia Media Professionals Union (NAMPU) | Source training on the current legal framework to boost NAMPU's capacity. | Liaise with fesmedia Africa and the Trade Union Congress of Namibia. |
| Media Ombudsman | Analyse the complaints received. | This will pick up trends and show which publications are most commonly complained about. |
| | Write a briefing paper on how the new mandatory SIM card regulations will impact the work of journalists (disclosure of sources, etc.) and fighting corruption. | Following the Media Ombudsman's participation in the Anti-Corruption Commission's panel discussion on the Role of the Media in Fighting Corruption, with an emphasis on investigative journalism. |
| | Spearhead the revision of the Code of Ethics and Conduct for consideration and endorsement by the EFN. | |
| Friedrich-Ebert-Stiftung (<i>fesmedia Africa</i>) | Commission research on the working conditions for journalists. | Consult with the unions and journalist's federations. |
| | Conduct regional trend analysis on AMBs since 2011. | (In progress) |

| | | |
|--|---|---|
| | Offer contents of AMBs to the African Peer Review Mechanism. | Convey the importance of media to governance. |
| | Establishing a relationship with the African Union's Special Rapporteur on Freedom of Expression and Access to Information. | Draw out five key critical points from each AMB, possibly around specific issues. |
| | Use the indicator around the safety of journalists to engage with UNESCO. | |
| | Liaise with SADC on the SADC Gender Protocol (media section) on some of the findings of the AMB and the needs of journalists. | |

Additional activities – panel is not sure who would undertake these

| | | |
|--|---|--|
| | Help to capacitate civil society organisations with media and information literacy so they can utilise the media more effectively. Also, compile a directory of media houses, including community radio stations, with relevant policies and legislation that apply to the media. | |
| | Conduct in-depth research to determine the viability/self-sustainability of the media, including determining the size of the advertising revenue market for the media. | Find ways to make media more self-sustainable in these times of incredible change, including how people consume news on non-traditional platforms and how we develop investigative journalism units within media houses. |
| | Improve the role of the courts and security officials in strengthening journalism. | Involve UNESCO and train key parties such as judges and the police to appreciate the role of the media, even in heated times of protest. |
| | Strengthen the trade by conducting a periodic review of journalistic standards. | Integrate this with the curricula of institutions of higher learning to raise the quality of emerging journalists. |
| | Lobby for reduced costs of data. | |

Panellists:

Media:

1. Tangeni Amupadhi, private media editor (print, online and radio)
2. Jemima Beukes, private media political journalist and media unionist
3. Peter Denk, public broadcaster
4. Max Hamata, private media editor (print and online)
5. Levi Katire, community broadcaster

Civil Society:

6. Emily Brown, media academic and gender specialist
7. Kavihuha Mahongora, trade unionist
8. Ndiilokelwa Nthengwe, gender activist, author and journalism student
9. John Nakuta, human rights law academic
10. Tjijueza Tjombumbi, activist for people with disabilities
11. Zoé Titus, media freedom, free expression activist

Rapporteur:

Sarah Taylor

Moderator:

Reyhana Masters

The panel discussion took place at Okahandja Country Hotel, Namibia from 8-10 July 2022.

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