

Narrowing the Space for Civic Action

Zimbabwe's Parliament Fast-Tracking Repressive Legislation

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In the run-up to the presidential elections scheduled for 9-10 March 2002, President Robert Mugabe's government has been actively pushing several controversial bills through parliament. The Bills are sharply criticized by civic groups, opposition political parties, and in some cases, from within the ruling ZANU PF party, for their grave infringement on democratic culture. Such infringements and the fear they perpetuate will prevent a free and fair election.

On the final day of Zimbabwe's Parliament despite opposition, an amended version of the highly controversial Freedom of Information and Right to Privacy Bill (Media Bill) was passed. This followed international and domestic outcry, which fueled heated parliamentary debate, and the use of a Parliamentary Legal Committee to assess the constitutionality of the bill.

The need for a new Media Bill is well recognized, because existing media laws have encouraged secrecy in public and private bodies. The right to receive and access information by the state and private citizens is required for the exercise or protection of rights. A free media ensures a healthy check on centers of power to maintain an open and enlightened society.

Amongst the far-reaching amendments of Zimbabwe's Media Bill are those relating to foreign correspondents and ownership of media. Barred from working in Zimbabwe in the original version, foreign correspondents may now be accredited for a limited period of time. "Limited" however, is not elaborated.

Accreditation will be undertaken by a Media Commission, made up of nominees by journalists' associations and an association of media houses instead of being selected by the Minister of Information and Policy. The appointment of the members and the assumption of their duties is however, subject to approval by the Information Minister in consultation with the president (Section 86). Foreigners who could not own, or co-own mass media services, now can invest in media enterprises, as long as the major shareholding resides with Zimbabwean citizen(s) (Section 68). Any arrangements made prior to the passing of this bill that do not meet this stipulation are exempted. This new amendment ensures that media agencies and practicing journalists have not been criminalized overnight with the passing of the bill. Additionally, Zimbabwean journalists are now able to write for international publications, with their employer's approval.

While the amended version has dropped clauses imposing jail terms on journalists accused of denigrating the office of the president (already catered for under another law) it still ensures that journalists who "abuse journalistic privilege" will be sentenced to two years

imprisonment or fined \$100,000. Abusing journalistic privilege includes such things as falsifying information and publishing rumours and falsehoods.

Information Minister Jonathon Moyo has argued that the Media Bill will address acts of 'misconduct and unprofessionalism' that have become entrenched in certain sections of the media and stop the falsehoods by foreign correspondents about the situation in Zimbabwe. Private-owned media has been repeatedly attacked as "unprofessional" and "unbalanced", favoring business interests. **Moyo** (He) has since publicly voiced his disapproval of the amended version of the bill, claiming that he wasn't sufficiently consulted.

Zimbabwe's Media Bill faces strong criticism from wellversed sources. The Media Institute of Southern Africa- Zimbabwe Chapter (MISA-Zimbabwe) states in their February 1,2002 Press Statement: The Bill still contains restrictive clauses on accessing information and regulation of media workers. It remains at the discretion of public officials to release information and fees will be prescribed for different categories of information to be accessed. Information exempted from disclosure [includes] government policy issues and cabinet deliberations...The restrictions signal an end to investigative journalism through fetters and traps being put on journalists in terms of what they can report or not...Despite removing most of the quasi-judicial powers that had been granted to the [Media] Commission and the Minister, the Bill overly remains restrictive in terms of the operations of the media in Zimbabwe.

A "Petition To Parliament" drafted by media workers and journalists in Zimbabwe is resoundingly critical of the bill. Despite amendments, the bill "remains a draconian and unconstitutional document". The objection is having to be accredited by the Media Commission, which sets them apart from other professional associations. Moreover, making the Commission answerable to the Minister of Information, politically compromises its independence. Regarding access, the 30 days required for a person to access information from a public official is deemed "grossly unreasonable". Information from all local, central government and municipalities would be considered "protected information", which conflicts with Section 20 of the Zimbabwean constitution providing for freedom of expression.

Interestingly, internal dissent within the ZANU PF party was probably the single greatest factor in the bill's revisions. To date, the bill has not been signed by President Mugabe, and there is now ambiguity over whether it will be signed. Minister Moyo has concern that the bill has lost its policy thrust. Other bills deserving scrutiny illustrate similar attempts to restrict rights and freedoms. These include the Electoral Amendment Act, which prohibits civic groups from conducting voter education and monitoring presidential elections. The Public Order and Security Act (POSA), passed by Parliament on 9 January 2002 gives unprecedented powers to the police, while restricting the freedom of assembly, movement and expression. The ruling ZANU PF party claims the POSA would adequately address state security while recognizing civil liberties and human rights. They argue that it is not dissimilar to legislation being enacted in many countries around the world to deter terrorism, following the September 11 attack on the United States.

Critics have likened it to the colonial Law and Order Maintenance Act (LOMA) (1960)—the very law that blacks fought against in the years before independence. The POSA makes it

illegal to “undermine the authority of the president and “to engender hostility” towards him, through obscene, abusive, or false statements against him. Civic groups point to this as a clear violation of free speech. It is also illegal to “disturb the peace, security and order of the public”, which makes it virtually impossible to organize a rally or public march, and gives police the power to shoot demonstrators. POSA was utilized on 24th January 2002 against 60 journalists demonstrating against the Media Bill. Three journalists were arrested, and Basildon Peta, the Secretary General of The Zimbabwe Union of Journalists (ZUJ), was brought in for questioning over allegations of organizing an illegal demonstration. The Attorney General’s Office has since refused to prosecute on the grounds that the POSA does not require professional bodies, of which the ZUJ is considered, to seek such police approval.

These bills have profound implications for civil society to pursue peaceful change in Zimbabwe. The Media Bill and other bills being fast-tracked through parliament seek to intimidate the public, prevent awareness raising and narrow the space for dialogue, mass action, and international community support for change in the run-up to the election. They also provide constitutional backing for unacceptable governmental actions. International pressure to stop the passage and implementation of such bills is noteworthy, but not sufficient, in the increasingly tense climate being fostered to stifle civic action—the foundation for just social and political change. Commonwealth governments and members of international civil society have condemned the political violence and these pieces of legislation. Now pressure must be maintained to ensure that the Media Bill is not signed by President Mugabe, and that the POSA is repealed.