

New laws to stifle dissent and protest

Crisis in Zimbabwe Co-ordinating Committee

The Zimbabwean Government is about to pass a whole series of laws that, taken in combination, will almost completely destroy freedom of expression and of the press and the right of peaceful protest. They will also drastically curtail the activities of civic organisations in relation to the electoral process and will disenfranchise a large numbers of voters.

What follows is short overview of these laws.

A. Access to Information and Protection of Privacy Bill

This legislation is clearly aimed at clamping down upon the private media in Zimbabwe that have been highly critical of the Zimbabwe Government and imposing further controls over foreign media operations. Already a number of foreign journalists have been refused accreditation or have had their accreditation withdrawn by the Information Minister. It must be viewed against the backdrop of the increasingly vitriolic criticism by the Zimbabwe Government, especially by the Information Minister, of some foreign journalists and the private press in Zimbabwe. Some foreign journalists have been refused accreditation or have had their accreditation withdrawn. Most recently the Information Minister labeled a number of foreign journalists as "terrorists". The same Minister has constantly accused the private press behaving in an unethical fashion, of acting as a mouthpiece for the political opposition and of furthering the anti-Zimbabwe agenda of foreign powers. On a number of occasions this Minister has taken legal action against private newspapers for allegedly defaming him, invading his privacy or violating his rights in other ways.

Media institutions and journalists will not be able to operate unless they are registered with a Media Commission consisting solely of persons appointed by the Information Minister, a Minister who has repeatedly displayed, and publicly expressed, his extreme antipathy to the private media. Media institutions must be Zimbabwean owned and only Zimbabweans can be registered as journalists. Journalists will only be registered if they hold the qualifications to be prescribed by the Information Minister. If an owner of a media institution or a journalist operates without being registered he is liable to a penalty of up to two years in prison. The registration of a media house is for a period of two years and the registration of journalist is for a period of one year but such registration "may be renewable." The registration of a media institution can be cancelled on various grounds, including failure to comply with the directions or orders of the Commission and breach the provisions of the legislation. The Commission has powers to discipline journalists for breaches of media ethics and it has the power to deregister the journalist, suspend him or fine him.

A representative office of a foreign media service can only be set up with the permission of the Minister of Information and only journalists accredited under this legislation may represent foreign correspondents in Zimbabwe which means that only a Zimbabwean with the prescribed qualifications will be able to represent foreign correspondents in Zimbabwe.

In terms of this Bill a media owner or a journalist can be sent in prison for up to two years for various ill-defined offences such as

- concealing, falsifying or fabricating information;
- spreading rumours, falsehoods or causing alarm and despondency under the guise of authentic reports;
- publishing a fabricated record of personal information;
- denigrating, bringing into hatred or contempt or ridicule or to exciting disaffection against the

President, the law enforcement agents or the administration of justice;

- rewriting a story that has already been published by another mass media service without the permission of that mass media owner.

B. The Public Order and Security Bill

The proposed Bill contains a series of offences that will drastically curtail freedom of expression, if not entirely eliminate, the right of peaceful protest.

Civil disobedience

- A person can be sent to prison for up to twenty years if that person organises or sets up a group or suggests the setting up of a group or supports or assists a group that will apply pressure or threaten to apply pressure to Government by various activities such as they use of violence, *but also various other non-violent acts that are normally permissible in a democracy such as boycotts, civil disobedience campaigns or campaigns of resistance to any law.*

This offence is taken from the Preservation of Constitutional Government Act, an Act that was repealed in 1999.

This offence is one of a series of offences in respect of which the courts are barred from granting bail to persons who have been charged with this offence and for this offence the police can detain a person for up to seven days instead of the normal two days before bringing the person to court.

False statements

- A person can be sent to prison for up to five years for communicating to others a false statement intending to undermine public confidence in a law enforcement agency, the Prison Service or the Defence Forces or adversely affect the defence or economic interests of Zimbabwe or interfere with an essential service. (Essential service is very widely defined and includes water supply services, communication services and transport services.) This is also committed where these consequences occurred even though they were not intended providing the person communicating the statement knew that it was false or did not have reasonable grounds for believing that it was true.

Insulting the President

- A person can be sent to prison for up to one year for intentionally making a public statement that engenders feelings of hostility towards or causes hatred, contempt or ridicule of the President, whether in person or in respect of his office or makes any abusive, indecent, obscene or false statement about the President, whether in respect of his person or office. This offence is completely incompatible with the right that people have in a democracy to criticise public figures. In Zimbabwe the President is an executive President and is not a ceremonial President.

Public protests

- People are not allowed to hold a meeting or a procession or protest march unless they give seven days notice to the police. The police can prohibit any meeting or procession if a senior police officer has reasonable cause to believe that the meeting or procession will lead to public disorder. The only right of appeal against this prohibition is to the Minister of Home Affairs. The police may also ban public demonstrations in an area for up to three months if they believe that this is necessary to prevent public disorder.

Disturbing the peace

- A person can be sent to prison for up to ten years if he, acting with at least one other person at any place, public or private, or meeting he intentionally does the following things:
- disturbs the peace of the public or any section of the public or invades the rights of others intending to do this;
- performs any action, utters any words or distributes or displays a sign that is obscene, threatening or abusive or insulting intending to provoke a breach of the peace;
- utters any words or distributes or displays any sign with the intention of engendering, promoting or exposing to hatred, contempt or ridicule any group, section or class solely on account of their race, tribe, nationality, place of origin, national or ethnic origin, colour, religion or gender.

This offence is incredibly widely and vaguely formulated.

- A person can be sent to prison for up to ten years if he throws anything that it likely to cause damage at another person, car or building or overturns or attempts to overturn a car.

Period of detention

- The period for which the police may detain a person before bringing him or her to court has been extended from two to seven days in respect of the various offences under the Public Order and Security Act, namely subverting constitutional government and insurgency, banditry, sabotage or terrorism and related offences such as training people for these purposes, undergoing training, supplying weapon or possessing weapons for these purposes and harbouring or failing to report insurgents, bandits, saboteurs or terrorists.

C. Amendments to the Labour Relations Act

These contain a provision making it a serious criminal offence to organise strikes, stayaways and boycotts.

D. Amendments to the Electoral Act

The election laws in Zimbabwe are already badly skewed in favour of the ruling party and the President is given wide powers to change the rules. The persons in charge of the administration of the elections are widely viewed as being supporters of the ruling party and as performing their duties in a highly partisan fashion. There is no independent Commission to ensure fairness in the elections. Electoral Supervisory Commission. In terms of the Constitution provides that the President appoints all the members of the Commission. The chairperson and two members are appointed by him after consultation with the Judicial Service Commission and the remaining two members are appointed by him after consultation with the Speaker of Parliament. Members of Parliament and local authorities are not eligible for appointment and public officers may not be appointed. The present Commission is seen as being both partisan and ineffectual.

The proposed amendments to the Electoral Act will impose a range of further restrictions. The effect of these restrictions will be to disenfranchise many voters, prevent civic organisations from engaging in voter education, greatly limit election monitoring and observation and almost completely prevent the posting of posters and other campaign materials on wall, trees etc.

Disenfranchisement

- Only diplomatic staff and defence force personnel will be able to vote by post, thereby depriving the large numbers of Zimbabweans outside the country of their right to vote
- The requirement to produce proof of residency in the area in which one is seeking to register has meant that many people in the towns, especially young people, have not been able to register as voters as many of them are lodgers, and many have to move from place to place because of the difficulty in finding affordable permanent accommodation
- Although the Presidential election is a national election those running the election have announced that people will have to vote in the constituencies in which they are registered. Many people have fled from the rural areas because of the violence and, especially those who have been physically assaulted, will be too frightened to return to their home areas to vote. This will mean that they will be deprived of their right to vote as they will not be able to prove that they are now resident in the areas in which they have sought refuge.
- The requirement to produce proof of residency in the area in which one is seeking to vote will mean that Zimbabwean living outside the country will not be able to return to Zimbabwe to register and ultimately cast a vote because they will be unable to satisfy the residency requirement.

Monitors and observers

- The only people who will be able to be election monitors will be public servants appointed by the Electoral Supervisory Commission and trained by the Registrar-General. Public servants are clearly not neutral and are likely to favour the ruling party.
- The Minister of Foreign Affairs invites foreign election observers. He can invite whichever persons he likes to represent foreign governments, international and regional bodies. He may also invite "eminent" foreign persons. The Minister of Home Affairs has the sole discretion to invite persons to represent local organisations. He also may appoint "eminent" local persons. The Government has made it clear that it intends only to invite from outside Zimbabwe representatives of SADC, the AU and Ecowaz. People from Africa and the Caribbean will be invited and maybe some other handpicked Commonwealth but whites will be probably not be invited according to the President. The Information Minister has said it would not invite enemies of the State to observe and it would use its discretion to invite friends to observe. Thus only persons likely to give a clean bill of health to the elections are likely to be invited to be observers. (Foreign press elements perceived to be hostile are also likely to be refused accreditation.)

Voter education

- The Government views most civic organisations as being hostile to it. The Justice Minister has stated that "most local NGOs are partial, foreign funded and loyal to their foreign funders." The amendments to the election laws effectively block civic organisations from engaging in voter education. Only the Electoral Supervisory Commission may conduct voter education and no foreign funds may be received for voter education other than by the Electoral Supervisory Commission. Breach of these prohibitions attracts a maximum sentence of six months in prison. The Commission may, however, appoint a local person to assist with voter education but that person. An organisation may only be appointed for this purpose if its constitution specifically mandates it to provide voter education. Any person or body appointed to assist with voter education must use the education materials provided by the Electoral Supervisory Commission.

Correction of voters roll

- Under the amendments, wide powers are given to the Registrar-General and the constituency registrar to alter to correct errors or omissions on the voters roll and to change the original name or address of the voter to an altered name or address. These powers could be used in a partisan fashion to favour the ruling party.

Posting of election materials

- There are ridiculously wide provisions criminalizing the posting of election materials on any walls, trees, building etc without the permission of the owner. This would make it nigh impossible to post on a large-scale basis any election materials.