



Government confused on defamation laws



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Harare – TWO ministries in the Government of Zimbabwe have shown opposing intentions on the fate of the notorious criminal defamation laws, which are found under the Criminal Law (Codification and Reform) Act, which could signal lack of consensus on whether to scrap them or not.



City of Harare has had many illegal settlements sprouting on its outskirts

Information, Media and Broadcasting Services Minister Prof. Jonathan Moyo recently said the defamation laws should be removed to create a free environment for the media, meanwhile Justice, Legal and Parliamentary Affairs Minister Emerson Mnangagwa has filed opposing papers at the Constitutional Court (Concourt) in a bid to have the laws retained.

The viewpoint of the Information, Media and Broadcasting Services Ministry seemed to be legally strengthened by the Concourt, which ruled that the laws, Sections 31(a) (iii) and 33 (a) (ii), which criminalize publishing and communicating falsehoods detrimental to the State, and undermining the authority of the President respectively were unconstitutional and must be scrapped on Wednesday, October 30.

However, when the Concourt gave Justice, Legal and Parliamentary Affairs Minister Mnangagwa 20 days to show cause why the laws should not be removed, his ministry on behalf of the government filed legal opposition against the scrapping of the laws on the last day of the ultimatum on Wednesday, November 20.

Jeremiah Bhamu of Zimbabwe Lawyers for Human Rights (ZLHR), a lawyer privy to the case and one of the lawyers representing visual artist Owen Maseko, who challenged the constitutionality of the law, confirmed that Minister Mnangagwa had opposed the scrapping.

“Minister Mnangagwa opposed confirmation of the order,” Bhamu said, “and filed bulky submissions.”

“We will respond to them in due course, meantime the show cause order was discharged.”

Incidentally, the Justice, Legal and Parliamentary Minister who has been locked in a one year legal battle with private media is claiming US 1 million damages from newspaper stable, Alpha Media where Zimbabwe Independent editor Dumisani Muleya is cited as second respondent.

Mnangagwa won the first round of the suit after the High Court threw out the publishing company's application for exception to the claim, according to The Herald of Tuesday, November 19.

Besides the case of Masuku, the other case challenging the constitutionality the defamation laws was brought to the Concourt by journalists Constantine Chimakure and Vincent Kahiya of Alpha Media.

The legal opposition by government is at odds with the more progressive precedents set when similar provisions under the Public Order and Security Act (POSA) and the Access to Information and Protection of Privacy Act (AIPPA) were ruled to be in violation of the African Charter on Human and People's Rights, after Media Institute of Southern Africa – Zimbabwe Chapter (MISA-Zimbabwe) and other media organisations approached the African Commission in 2005.

AIPPA and POSA were revised in 2008 to repeal the provisions, but according to MISA-Zimbabwe Director Nhlanhla Ngwenya:

"Instead of repealing the laws completely, they brought them to a different Act, under Section 31 of the Criminal Law Codification and Reform Act."

Zimbabwe to be questioned over rights violations at African Commission

THE African Commission on Human and People's Rights (ACHPR), after a period of two months, might request the Zimbabwean government to respond to a complaint of human rights violations allegedly perpetrated on the Women of Zimbabwe Arise (WOZA) activists by the police since 2010, it has emerged.

This development comes after the ACHPR recently notified the WOZA complainants that it had received and accepted their communication, registering the human rights violations complaint, at its 14th Extraordinary Session held from July 20 to 24, 2013 in Nairobi, Kenya.

"The communication, which was initially submitted in April 2013, documents a lengthy series of arrests, beatings, arbitrary detentions, and general physical harassment of WOZA members for over a decade between 2003 and 2013," WOZA posted on its website on Tuesday, November 19.

The communication number 446/13, which outlines the violations, was taken to the ACHPR during the 53rd Session held in Banjul, The Gambia, on April 13 by Jennifer Williams, Magodonga Mahlangu, and WOZA against the Republic of Zimbabwe (ZRP).

Bellinda Chinowawa of the Zimbabwe Lawyers for Human Rights (ZLHR), who is representing the WOZA activists, said they took up the matter because the government ignored a Supreme Court ruling to stop the persecution in 2010, and they would be counting the violations starting from that year.

"The real starting point is 2010 because there was a Supreme Court decision in favour of WOZA to stop the persecu-

tion,” Chinowawa said, “but the persecution continued.”

The ACHPR decision in Nairobi, recently communicated to WOZA also means that ZLHR and the Washington-based Robert F. Kennedy Center for Justice and Human Rights (RFK Center) now have 60 days to argue for admissibility of the case on behalf of the complainants.

“We have 60 days to file our pleadings,” Chinowawa said. “The government will have 60 days to file its own pleadings thereafter.”

The decision made by Williams and Mahlangu, who claim to have been arrested on over 50 occasions, to submit their case in April, came barely two months after police violently arrested and dispersed WOZA activists, during marches for social justice held in Bulawayo and Harare in February 2013.

WOZA traditionally holds peaceful demonstrations around Valentine’s Day in Mid-February each year to bring out the plight of Zimbabwean women.

After filing the communication, WOZA released a statement on April 17, outlining the purpose of its communication to the African Commission.

“The communication demonstrates Zimbabwe’s clear and systematic pattern of suppression of WOZA’s rights to engage in peaceful protest and public demonstrations,” the statement read.

“It details over 24 incidents of violations over the course of two years of the Applicants’ rights to freedom of expression, freedom of assembly, freedom of association, freedom from arbitrary arrest and detention, non-discrimination, equal protection of the law – all protected by the African Charter.”

Zimbabwe Lawyers for Human Rights (ZLHR) also released a statement at the joint press conference with WOZA.

“The ACHPR is also being asked to recommend to the

government of Zimbabwe to adopt policies and measures such as trainings and policy directives that enhance the effective implementation of all domestic laws in a manner that promotes the enjoyment of the rights of freedom and assembly,” the ZLHR attorneys said.

“The uninhibited exchange of ideas, opinions and information is the very lifeblood of democracy and through this Communication it is hoped that the continent’s premier human rights mechanism makes a definitive pronouncement on the rights of protest.”



WOZA Director , Jennifer Williams

Zimbabwe, which ratified the African Charter on Human and People’s Rights on May 30, 1986, has previously lost human rights violation cases at the ACHPR, emanating from an increasingly bad human rights record since 2000.

As a result of the lost legal battles government has been asked to pay compensation.

The cases include the one of the torture of exiled human rights lawyer Gabriel Shumba in 2003 and another submitted by Zimbabwe NGO Human Rights Forum in 2004 regarding the killing of four people, Batanai Hadzidzi, Lameck Chomumvura, BeavanTatenda Kazingachire and Munyaradzi Nerver Chitsenga, between 2001 and 2004, all at the hands of the security forces.

ZINASU elects new leaders to tackle student problems, national issues

Harare – THE Zimbabwe National Students Union (ZINASU), which counts amongst its successes an international peace award, has elected a new leadership to serve until 2015, following a successful Congress held in Harare on Saturday, November 16.

The Students Union says it is on a mending path after a period of factionalism.

“The 9th bi-annual Congress ushered in a new executive,” outgoing Spokesperson Zechariah Mushawatu said, “and placed the final nail on the coffin of factionalism and disunity which plagued the Union for over five years.”

The Students Union is credited for facilitating competitive multi-party democracy in Zimbabwe after teaming up with other democratic formations to form the Movement for Democratic Change (MDC) in September 1999.

However the outgoing 8th National Executive Council (NEC) warned the new leadership not to be aligned with partisan politics as ZINASU membership was politically crosscutting, but urged it to address national issues.

“The 9th National Executive is reminded that though the primary role of ZINASU is to ensure the concerns of students are addressed, it also exists as the intelligentsia of the nation and the vanguard of democracy, whose purpose is to challenge abuse of human rights, corruption and bad governance among other ills,” said a statement of the outgoing NEC.

The leadership renewal comes as many tertiary students struggle to finance their education due to limited government funding, necessitating stronger student leadership and representation.

The depressed funding came after the scrapping of student

grants in February 2006 by the Zimbabwe African National Union Patriotic Front (Zanu-PF) led government, replacing it with the Cadetship Scheme.

Gilbert Mubuki, the incoming president of ZINASU, said it was important for accessibility of education to tertiary students to be enhanced, as education was a right rather than a privilege.

“The right to education was one of the reasons why the liberation struggle was fought,” Mubuki, a University of Zimbabwe (UZ) student, said.

“We would also like to address the issue of academic freedom.”

Mubuki said his team will try to engage the government on the issues affecting students.



Some of the elected members of the ZINASU National Executive Council (NEC) are: VimbaiTazaure (Vice President), Obey Sithole (Secretary General), and Avoid Masiraha (Spokesperson), Joana Mamombe (Gender Secretary), and Freeman Mashoko and Kingsley Sibanda (Legal Secretaries), Varlerie Chidhakwa (International Relations Secretary) and Ephraim Mtombeni (Education Secretary).

Mubuki bemoaned the fact that the Constitution of Zimbabwe addresses education as a privilege as it subjects the right to the ability of government to source funding, which can be used as an excuse by government to renege on the mandate to provide free tertiary education.

Section 75 (1) (b) of the Constitution states: *“Every citizen and permanent resident of Zimbabwe has a right to further education, which the State, through reasonable legislative and other measures, must make progressively available and accessible.”*

However, it is where the Constitution says in Section 75 (4) the State's fulfillment of the right to education will be realized *"within the limits of the resources available to it..."* which ZINASU views as a clause that treats education as a privilege.

Analysts and activists have also complained about similar clauses for other socio-economic rights such as health (Section 76) and food and water (Section 77) saying the qualification prevents the justiciability of the rights.

Mubuki's remarks that one of the goals of black emancipation in Zimbabwe was to attain free education could find resonance with admissions by some of the freedom fighters, like Josiah Tongogara, that access to education was an issue that jolted people to stand up against the pre-independence Rhodesian government.

As a Congress resolution, ZINASU made a commitment that it will keep on ensuring participation of female students in student leadership and activism.

ZINASU also resolved to ensure that all students are represented by democratically elected Student Representative Councils (SRCs), aligned to the 2003 International Students Peace Prize for Human Rights award-winning union.