



Defending free expression and your right to know

September 16th, 2014

STATEMENT

MMPZ concerned by news of plans to 'regulate' social media

MMPZ is shocked by news that the government is in the process of drafting new cyber-security laws to control the activities of social media.

This was disclosed by the legal director of the Posts and Telecommunications Regulatory Authority of Zimbabwe (Potraz), Cecilia Nyamutswa, who was reported telling the Parliamentary Portfolio Committee on ICT that the Bills to regulate cyber-space were now ready to be tabled before the Attorney-General's office for final drafting before being taken to Cabinet and subsequently to Parliament (*NewZimbabwe.com*, 27/8).

However, Nyamutswa highlighted the challenges government was likely to face in its attempt to regulate social media: ***"...even if we were to come up with these laws, there is no consensus in the international community under the International Telecommunication Union (ITU) on how to regulate ICTs"***.

She said: ***"We are part of a study group of the ITU to understudy the issue of regulations but we are failing to find a common ground"*** (*NewZimbabwe.com*, 27/8).

Earlier, the *Daily News* (25/8) reported Nelson Chamisa, chairman of the Parliamentary Portfolio Committee on ICT, expressing the need for Zimbabwe to enact its first ever "cyber-bullying" laws that would protect against online abuse, and urging Parliament ***"to urgently pass an anti-harassment law specific to the Internet"***.

Chamisa told the *Daily News* that consultations were being conducted to bring a Bill before Parliament to deal with cyber-crime: ***"We are pushing, we are completing a report of the factors. We were gathering information from Econet, Telecel, NetOne, Potraz, etc."***

He was reported defending the need for such laws, saying: ***"Government must move with speed to cover and protect the people of Zimbabwe from cyber-bullying and other cyber-crimes"***, adding: ***"We are really exposed as a country. We have not sufficiently put legislative clothing to protect everyone, including government officials, ordinary citizens"***

against cyber-bullying”.

While MMPZ does not condone the use of social media platforms, such as Facebook, Twitter, WhatsApp, MySpace, LinkedIn, You Tube and the Internet to abuse others, MMPZ is concerned that any new cyber-laws may also undermine Zimbabweans’ rights to free expression and a free media.

The government and other influential members of society might take advantage of these laws to restrict criticism of public figures and the exposure of bad governance and other malpractices across all sectors of society by bloggers, government critics and journalists, among others.

MMPZ appreciates the importance of social media in people’s lives. They enable us to communicate with wide sections of society and reach out to a global audience. They also facilitate debate and discussion on all issues affecting our daily lives, including government actions and policies. And social media play an unprecedented role in making us better-informed citizens, and better equipped to participate in the affairs of the country and to share our ideas.

By so doing, social media serve as critical democratizing agents in promoting justice, transparency and accountability, the building blocks of good governance, especially in a country such as ours, where a culture of repression has so heavily restricted the free flow of information and communication.

These media allow a rapidly growing population of citizens to discuss their ideas and share their observations at minimal cost, promote citizen journalism, and facilitate wider and faster dissemination of news and information about all matters that affect our lives.

The relative anonymity of the Internet has also played a vital role in encouraging citizens to speak their minds; to criticize and debate even so-called “sensitive” issues of state and governance by providing “safe” platforms for these debates.

Of course, the problems of cyber-bullying and abuse do need to be addressed, and the issue of shadowy characters, such as Baba Jukwa disseminating offensive and uncorroborated information has, no doubt, provided the impetus for government to revisit the statute books to control these so-called “Internet outlaws”. But it is the secrecy with which government is formulating these laws that gives rise to the gravest concern.

According to recent reports, nearly half the entire population now has access to the Internet and this community is growing fast. There is no question that any legislation to curb the so-called abuse of the Internet is an issue that involves us all, and, like any other law, should be the subject of wide consultation, advice and discussion before it is presented to Parliament.

But by official accounts, ***“these laws are ready for drafting”*** and Zimbabweans know nothing about them.

Clearly, there is a very real danger that the proposed laws will be rushed through Parliament and into law before the public knows what’s happening. And before we can do anything about it, the security of Zimbabweans’ Internet identities are likely to be seriously compromised by legislation that allows

government access to confidential information in the name of protecting people's and organizations' reputations. Such restrictive laws will seriously curtail the vigorous debates that currently pervade all websites carrying news about Zimbabwe.

And unless government undertakes to subject these laws to extensive public consultation and debate, it is quite possible that they will also have the "unintended" effect of undermining the people's rights to free expression and a free media, guaranteed under the new Constitution. While the Ministry of Information, Media and Broadcasting Services has declared that existing antiquated and repressive criminal defamation laws should be scrapped, it is also quite possible that a new form of criminal defamation laws will emerge in legislation seeking to "regulate" and control the nature of debate on the Internet in which the mainstream media is increasingly becoming an integral sector.

Section 141 of the new Constitution compels Parliament to facilitate public involvement in the legislative process in order to advance parliamentary democracy and an accountable system of governance. It also demands that Parliament ensures that interested parties are widely consulted about proposed legislation under consideration BEFORE being passed for signing into law.

The latest Electoral Amendment Act, shoved through Parliament earlier this year, almost escaped this provision. But despite a belated effort to consult "stakeholders" on the provisions of this Bill, the Ministry of Justice ignored the advice of civil society, professionals and others, and railroaded the deficient amendments through Parliament without change anyway.

MMPZ is concerned that any cyber-security legislation will suffer a similar fate.

Government is constitutionally obliged to make its plans for introducing Internet security laws the subject of wide national debate and consultation. But it is not obliged to listen.

MMPZ hopes that, in the spirit of the new Constitution, the authorities will undertake to fulfil this duty and will take into account the concerns and recommendations of the people. The public need to understand what is being proposed – and to stand ready to defend their constitutional rights to privacy, freedom of expression and a free media.

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