

ACCESS TO INFORMATION, INTIMIDATION AND ATTACKS AGAINST JOURNALISTS, INDEPENDENCE OF THE MEDIA-BY MCDONALD CHIPENZI.

1.0 Introduction

During the 3rd UPR cycle in 2017, the Government of Zambia received and accepted seven (7) recommendations relating to media freedoms, access to information, and civic space. However, a review of these recommendations demonstrates that the Government of Zambia has not implemented most of the recommendations particularly those relating to the enactment of the Access to Information law.

1.1 Country Context

Zambia is a constitutional democracy, a republic governed by a democratically elected President and a unicameral National Assembly. It is a state party to numerous regional and international human rights treaties and has ratified several of these international and regional human rights instruments on rights to information some of which create binding obligations on it, including the International Covenant on Civil and Political Rights (ICCPR) and the African Charter on Human and People's Rights (ACHPR). It must be noted and emphasised that the issues covered in this report are from two different governance dispensations. At the time of the third cycle, Zambia was under the Patriotic Front government led by President Edgar Chagwa Lungu, but the government changed hands following the General Election held on August 2021 that saw the long serving opposition political party-the United Party for National Development (UPND)-led by Hakainde Hichilema being ushered in into government.

1.1.2 2017 Recommendations:

- Guarantee that journalists and other media workers can carry out their work independently and without fear of persecution, including by reviewing its defamation laws to make sure they are in full compliance with international human rights law;
- Ensure media freedom by providing full editorial independence to publicly-owned media.
- Ensure the impartiality of the Independent Broadcasting Authority.
- Enact legislation to facilitate access to information,
- Make efforts to ensure access to information of public interest to citizens and guarantee the rights of freedom of assembly,
- Ensure that necessary reforms are undertaken to guarantee the effective protection of the rights to freedom of expression, assembly, and association. *This includes enacting without delay an expanded Bill of Rights and Access to Information Bill and ensuring that the Public Order Act is implemented objectively and with professionalism by the police.*
- Create and maintain, in law and in practice, an enabling environment that guarantees freedom of expression and peaceful assembly.

1.1.3 Progress on recommendations since 2017

From 2017 when these recommendations and commitments were given and made respectively by the Zambian government, there was slow progress until a boost came with the coming into power of the new administration on August 12, 2021. The new government's Cabinet has approved in principle, the review of some inimical laws to media and work of journalists. It has, in this regard, through the Zambia Law Development Commission and line Ministries, started the process of reviewing laws such as the Penal Code, the Public Order Act, the Cyber Security and Cyber Crimes Act , NGO Act among others, though the Bill of Rights has not yet been expanded with little talk about its review and also the Access to Information law has not been enacted though consultations are ongoing. Zambia has partially implemented four (4) of the seven (7) recommendations on Access to Information (ATI), intimidation and attacks against journalists, independence of the media. Those that have been partially met include;

- Guarantee that journalists and other media workers can carry out their work independently and without fear of persecution, including by proposed repeal of defamation laws to make sure they are in full compliance with international human rights law;
- Ensure media freedom by providing full editorial independence to publicly-owned media;
- Ensure the impartiality of the Independent Broadcasting Authority;
- Create and maintain, in law and in practice, an enabling environment that guarantees freedom of expression and peaceful assembly through the proposed repeal and replacement of the Public Order Act which is currently in draft form.

Concerns

The major concerns include the continued delay in the enactment of the Access to Information law and the slow speed in repealing or amending of laws that hinder freedom of expression in Zambia such as the Public Order Act, NGO Act, defamation law, Contempt of Court laws, the Penal Code Act, cyber security and cybercrimes Act. Further concern is the continued use of the defamation of the President provision in the Penal Code to arrest and restrict public expression which provisions are an affront on freedom of expression.

Conclusion

From 2017 when the last review was done on Zambia, several key issues identified in relation to Zambia's compliance with Article 19 on the right to freedom of expression remain outstanding. The prolonged non-enactment of the Access to Information Bill remains the biggest dent in Zambia's compliance with the provisions of Article 19. Furthermore, there are several recommendations relating to other Articles or Themes, that also have a direct bearing on the country's compliance with Article 19. Therefore, in terms of policy pronouncement and political rhetoric, Zambia has met almost all the recommendations.