

New law introduces media censorship

Journalists, editors and publishers 'not recognised' by the South African press ombudsman and 'not adhering to its code of conduct' face the prospect of being jailed for five years or a fine, or both, if they fail to submit their copies or material prior to publication or broadcast, exhibition or distribution to the Films and Publications Board (FPB) for approval. This is according to the newly-signed Films and Publications Amendment Act 3 of 2009.

 Bylssa Sikiti da Silva 7 Sep 2009

The aim is to check if the material contains sexual conduct which violates or shows disrespect for the right human dignity of any person, degrades a person, constitutes incitement to cause harm, advocates propaganda for war. The FPB also wants to ensure that the material is free from inciting violence or advocating hatred based on any identifiable group characteristic.

The Freedom of Expression Institute (FXI) says it is disappointed by the signing of bill into law, calling it problematic and adding that it violates section 16(2) of the Constitution.

FXI acting executive director Melissa Moore said last week: "The Amendment Act constitutes a grave intrusion of the right to freedom of expression. To this end we are of the view that certain sections of the Amendment Act fail dismally in giving effect to the right to freedom of expression.

"Most intrusive"

"The most intrusive element of the act is that, under the guise of the 'protection of children's rights' the legislature has introduced a system of pre-publication censorship and self-censorship which offends against the letter and spirit of the Constitution of the Republic of South Africa."

It is believed the law could also be used to curtail service delivery reporting and force journalists to reveal their confidential sources of information - a practice mostly used in many African countries.

This is the first time in post-apartheid SA that such a draconian media law has been introduced, and Moore said this practice will open the regulation of publications, films and games up to abuse and uncertainty and inhibit the free flow of information.

"What they fail to realise is the fact that it is not the prerogative of an organ of state to dictate to society what they may read, see, hear or do," she pointed out.

New offence

The act also introduces a new offence in SA law, Moore said, requiring that anyone who knows of, suspects or has reason to suspect, that an offence has been or is being committed under the provisions of the Act furnish the police with a full report of such knowledge or suspicion, failing which such person shall be guilty of an offence.

Furthermore, she slammed the law for promoting unequal treatment before the law.

She said: "It is unequivocally unfair to grant one group of publishers an absolute exemption from the

requirement to submit material for classification.

“We don't imply that all publishers should be required to submit their material to the FPB for approval prior publication. On the contrary, all publishers in the market should be similarly exempt from this requirement. grant a group of publishers such an exemption would also grant that group an unfair market advantage over the disadvantaged group in terms of time, cost and effort.”

ABOUT ISSA SIKITI DA SILVA

Issa Sikiti da Silva is a winner of the 2010 SADC Media Awards (print category). He freelances for various media outlets, local and foreign, and has travelled extensively across Africa. His work has been published both in French and English. He used to contribute to Bizcommunity.com as a senior news writer.
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