

Abstract

The right to freedom of expression is with no doubt one of the most important rights in all democratic societies. The southern African sub-region is however lacking when it comes to the protection of this right. There are either highly repressive laws which result in the right being practiced but to a limited extent. In other cases the media is owned by the elite in society which results in the majority not being represented in the independent media and at the same time, the public media is often abused by the governing elite. The scene is therefore that both the public media and private media are representative of the elite.

The research seeks to explore the protection of human rights, particularly the right to freedom of expression in politically volatile environments. The research focuses on Zimbabwe but comparative analysis has also been drawn with other jurisdictions more so South Africa. It is important to note that Zimbabwe has ratified both the International Covenant on Civil Political Rights and the African Charter on Human and Peoples' rights both of which protect the right to freedom of expression. It is however not enough that states ratify international and regional instruments without domesticating the instruments at the national level. The domestication of the international and regional instruments is meant to ensure that individuals enjoy these rights.

Freedom of expression is highly volatile in Zimbabwe. The legislature has been accused of taking away the right which has been granted to citizens by the Constitution through its highly repressive laws. The Access to Information and Protection of Privacy Act (AIPPA), the Public Order and Security Act (POSA), and the Official Secrets Act are some of the laws which have been put under spotlight in Zimbabwe. There is therefore a

conflict between the legislature, the press and individuals in Zimbabwe. In Zimbabwe like many democratic states, there is separation of powers between the legislature, the executive, and the judiciary. The legislature is the decision making structure that enacts policies in their capacity as representatives of the people; the judiciary is the mediating body that adjudicates decisions between the organs of state as well as between those organs and individuals and the executive enforces decisions.

The findings of the research are that despite the ratification of international and regional instruments dealing with the right to freedom of expression and the protection of the right to freedom of expression in the constitution, there still exist repressive laws in Zimbabwe which to a great extent limit the right to freedom of expression. These laws in light of the prevailing environment in Zimbabwe are often used to deprive citizens and journalists of information and their right to freedom of expression. The judiciary finds itself in a difficult position as the executive does not comply with its rulings. The independence of the judiciary, in light of the environment is also compromised by the threats to the judges, the appointment process and 'gifts' given to the judges for example, farms.

The research analyses the history and theories of freedom of freedom of expression in Zimbabwe, the laws regulating the right and the case law dealing with this right. Finally there is a comparison between Zimbabwe and South Africa and conclusions and recommendations are made based on the discussion in the dissertation. Among the recommendations is that civil society should be involved in educating individuals especially journalists about the right to freedom of expression. Further, the judiciary should also take a more proactive approach in the protection of the right.