



Criminal Law (Codification & Reform) Act

Fact Sheet One:

Purpose of the Act

Introduction:

The Criminal Law (Codification and Reform) [Chapter 9:23] Act was first published in the government *Gazette* on the 3rd of June 2005 (General Notice 227/2005). It was passed by the Parliament of Zimbabwe on 9 December 2004 and was signed into law by the President of the Republic of Zimbabwe on 2 June 2005.

Purpose of the Act:

The adoption of the Criminal Law Code by Parliament is a landmark development in the Criminal Law of Zimbabwe.

This Code brings together under one piece of legislation all the major aspects of the Criminal Law of Zimbabwe, whilst at the same time effecting a series of reforms and improvements to the pre-existing Criminal Law. Hence the title of the Act refers to both the codification and reform of the Criminal Law.

Previously, criminal law in the country was widely dispersed and was contained under different pieces of legislation. Thus, the Code does not only bring together pre-existing laws, but also makes a series of changes to the pre-existing laws. In doing this, it is envisaged that this Code will both improve the quality of the Zimbabwean Criminal Law and its general accessibility. In order to bring together all pieces of legislation dealing with criminal law in the country, the Code incorporates the existing laws without alteration or only modifies some aspects of the currently existing laws while at the same time leaving the other laws intact.

For example, the Code makes a series of additions to some sections of the Public Order Security Act [Chapter 11:17] (POSA), while in other cases, it simply re-enacts some of the provisions found in POSA. New crimes, notably, computer crimes are introduced.

The most notable changes effected on POSA is that the Code imposes even harsher penalties for offenders, especially journalists, who face up to 20 years in jail for publishing or communicating to any other person "false" information deemed prejudicial to the state. This is coming at a time when several other African countries are lifting criminal sanctions against press offences thereby bringing their laws in line with international standards and norms.

Some of the pieces of legislation that the Code re-enacts and brings together include: the Criminal Procedure and Evidence Act [Chapter 9:07]; the Customary Marriages Act [Chapter 5:07]; the Intellectual Property Tribunal Act [Chapter 26:08]; the Labour Act [Chapter 28:01]; the Miscellaneous Offences Act [Chapter 9:17]; the Police Act [Chapter 11:10]; the Preservation of Constitutional Government Act [Chapter 11:01]; the Public Order and Security Act [Chapter 11:17]; and the Road Traffic Act [Chapter 13:11].

However, this discussion will only focus on the re-enactments or additions that have been made on some sections of POSA, which have a bearing on the work of journalists and civil society organisations. Special focus will also be on how the changes, if any, affect such fundamental issues such as individuals' constitutionally guaranteed freedoms of association and assembly, and freedom of expression, etc.

In particular, this analysis will touch on Chapter III of the Code (sections 19 to 34), which outlines crimes against the state, and Chapter IV of the Code (sections 35 to 46), which outlines crimes against public order.

Ends.