

Parliament repeals oppressive media law

By Gregory Gondwe: @Kalipochi

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The Parliament of Malawi has repealed an oppressive media law - Section 46 of the Penal Code - which gives the information minister power to ban any publication and circulation of materials he/she deems would be bad for the public.

Parliament on Wednesday, 30 May 2012, scrapped off the piece of legislation without much ado as even parliamentarians of the Democratic Progressive Party (DPP) of the late president Bingu wa Mutharika which wanted to consolidate the law by changing it, never put up any fight except for one member of parliament who still insisted that the law was necessary.

Ironically, former information minister in the DPP regime who tabled the bill, and advocated for it once people expressed their misgivings with this piece of law, supported its repeal.

"I rise to support the motion," said the former minister.

In November 2010, parliament amended Section 46 of the Penal Code, to read:

“ If the minister has reasonable grounds to believe that the publication or importation of any publication would be contrary to the public interest, he may, by order published in the Gazette, prohibit the publication or importation of such publication. ”

Before the proposed amendment, the section only prohibited importation of seditious publication and it read:

*“ If the Minister is of the opinion that the importation of (a) any publication
(b) all publications published by any person would be contrary to the public interest, he may in his absolute discretion, by order, prohibit the importation of such publication or publications and in the case of a periodical publication may by the same or subsequent order prohibit the importation of any past or future issues thereof. ”*

Media organisations and the public fought for the repeal of the law but the government of former president Mutharika put its foot down.

The Malawi Chapter of the Media Institute of Southern Africa (MISA-Malawi) went a step further by writing to president Mutharika explaining to him that this piece of legislation was retrogressive other than progressive for Malawi as a nascent democracy but he ignored the plea and assented to it.

Leader of the House, Henry Duncan Phoya, a highly trained lawyer, said when he tabled the bill proposing the removal of the law from the statutes that gave Malawi a wrong image without any benefits to the government.

"Section 46 was unreasonable limitation to free publication, freedom of speech and freedom of the media," said Phoya in his submission.

Media practitioners have hailed the decision by parliament to have this piece of law completely removed from Malawi laws saying this gives hope for a better operating environment for Malawi media.

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