



## **Report on the Parliamentary Portfolio Committee on Information, Media and Broadcasting Services public hearings on the Freedom of Information Bill.**

*Compiled by the Media Institute of Southern Africa (MISA Zimbabwe) and the Media Alliance of Zimbabwe (MAZ)*

### **1. INTRODUCTION**

This report summarises key submissions made by Zimbabwean citizens that participated in the Parliamentary Portfolio Committee on Information, Media and Broadcasting Services' public hearings on the Freedom of Information Bill.

The Freedom of Information Bill, gazetted on 5 July 2019, will be one of the three laws that will repeal the Access to Information and Protection of Privacy Act (AIPPA). The Bill aims to give effect to Sections 61 and 62 of the Constitution which provide for freedom of expression, media freedom and access to information.

The Portfolio Committee conducted these public hearings as required by Section 141 of the 2013 Zimbabwean Constitution. The public hearings were convened in the country's 10 provinces.

MISA Zimbabwe and MAZ participated in all the public hearings leading to the compilation of this summary report.

### **2. METHODOLOGY**

Subject to the provisions of Section 141 of the 2013 Constitution, the Committee invited members of the public to express their views on the proposed Bill during the public meetings or through written submissions after convening meetings in Harare, Bindura, Marondera, Tsvingwe (outside Mutare in Penhalonga), Masvingo, Plumtree, Bulawayo, Tsholotsho, Kwekwe and Kadoma.

### **3. ATTENDANCE BY MEMBERS OF THE PUBLIC**

Estimated attendance by members of the public are as follows:

<b>Venue</b>	<b>Date</b>	<b>Estimated Total Attendance</b>
Harare	19 August 2019	35
Bindura	19 August 2019	25
Marondera	20 August 2019	55
Tsvingwe Penhalonga	21 August 2019	41
Masvingo	22 August 2019	40
Plumtree	27 August 2019	28
Bulawayo	27 August 2019	40
Tsholotsho	28 August 2019	20
Kwekwe	29 August 2019	25
Kadoma	29 August 2019	20

**TOTAL**

**329**

### **3.1 MISA Zimbabwe and MAZ submissions**

MISA Zimbabwe made both oral and written submissions to the Committee outlining issues of concern and the gaps in the gazetted Bill in the context of the Constitution, the African Charter on Human and Peoples' Rights, Model Law on Access to Information, and other international benchmarks and best practices.

The oral and written submissions and recommendations on democratising and strengthening the Bill were made at the commencement of the public hearings in Harare on 19 August 2019. The submissions also acknowledged and highlighted some of the positive provisions in the Freedom of Information Bill when viewed against regional and international benchmarks and best practices.

## **4. SUBMISSIONS FROM MEMBERS OF THE PUBLIC**

### **4.1 Interpretation:**

Members of the public unequivocally supported the move to repeal AIPPA. While there were varying submissions regarding the title of the Bill, there was general consensus on the need to align the Bill with the country's 2013 Constitution. There were concerns on the lack of public awareness on the parliamentary hearings and contents of the gazetted Freedom of Information Bill. This resulted in low

attendances and participation by the general citizenry during the hearings resulting in some of the citizens making submissions or raising issues that were not related to the Bill.

The low turnout, which characterised all the public hearings, could be attributed to poor communication and publicity on the hearings on the part of Parliament. Members of the public submitted that turnout could have been higher if communication and information about the hearings and the Bill had been made well in advance.

#### **4.2 Amendment of Section 7(1) of the Bill**

Recommendations were made to the Committee that this section be amended to include verbal requests to cater for those that are unable to write as well as those with other disabilities such as visual impairments. This recommendation came out prominently during most of the public hearings.

For instance, it was well articulated by a villager in Tsholotsho, who buttressed the need for the proposed law to cater for those that are illiterate or have visual impairments for ease of making information requests.

The requirement that information requests only be in writing was deemed to be discriminatory and therefore not in sync with the letter and spirit of Section 62 of the Constitution which provides every citizen the right to access information. A citizen based in Kadoma, proposed that the clause be amended to allow those who cannot write to be assisted by people of their choice.

#### **4.3 Amendment to Section 6**

The public made submissions that Section 6 of the Bill be amended to allow for the declassification of information. While there was general consensus on the need to declassify information, there were varying submissions on the timeframe within which information should be declassified. AIPPA provides for the declassification of information after 25 years.

During the public hearings, the Portfolio Committee received suggestions on accessing information pertaining to minutes of meetings and deliberations of Cabinet and that of its Committees. It was recommended that these be declassified after a period ranging between five (5) and 20 years. It was also suggested that the Agenda of Cabinet deliberations should be made public.

Participants in Kwekwe argued that only information relating to national security should be classified for at least six months and that the rest of the information should be made available to the public in the shortest possible time. In Masvingo, it was pointed out that there was need to declassify information after 15 years to allow government to be accountable on some of its deliberations and decisions.

In Marondera, a citizen said information relating to natural disasters, for example, needed to be declassified immediately in order for citizens to access vital life saving information. Cabinet deliberations on Cyclone Idai, were cited as one of the examples for which information could have been disclosed or made available within the shortest period.

#### **4.4 Amendment to Section 17 of the Bill:**

The overwhelming recommendation from across the 10 provinces was that Section 17 of the Bill that allows for the charging of fees to access information must be amended or totally done away with.

A substantial number of participants argued that fees to access information should be scrapped completely especially where it concerns translation fees, since all languages are equal. Others suggested that access fees should be fixed at an affordable percentage rate for the generality of citizens.

In Harare, for example, one of the participants proposed that the fees be pegged at not more than 1 percent of the salary of a civil servant. In Bulawayo, it was suggested that the fees should not be more than 1 percent of the poverty datum line as not all citizens were gainfully employed.

In Plumtree, a citizen argued that this Section contradicted Part IV of the Bill that permits citizens to access information in a language of the applicant's choice yet Section 17 permits the charging of a translation fee. After all, the participants argued, Section 6 of the Constitution recognises the country's 16 official languages. Citizens were generally in agreement that the fees in question should not be an impediment to the exercise and enjoyment of a right.

#### **4.5 Amendment to Section 8 of the Bill:**

Citizens recommended that this section be amended with the number of days to process an information request reduced to within one to seven working days. Some information is required immediately for one to exercise their rights and there is no justification why one must wait for 21 days.

A citizen in Bindura said it was unreasonable to wait for 21 days for the replacement of a certificate which may be important in securing employment. A journalist in Masvingo also said it was not necessary to wait for 21 days for information that could be released at the click of a button.

Another citizen in Mutare said there was need to categorise information so that information which is not sensitive is easily availed in the public interest and particularly for journalists who will be discharging their constitutionally guaranteed professional duties.

#### **4.6 Amendment to Section 35 of the Bill:**

Overwhelming submissions were made on the need for appeals relating to denial of information requests to be lodged with the Zimbabwe Human Rights Commission or a Competent Court of Law and not with the Zimbabwe Media Commission as its constitutional mandate is on media regulation.

In Bulawayo, a citizen submitted that it would not be appropriate to launch an appeal with the Zimbabwe Media Commission should one be denied access to their health records. In her view, the ZMC would not be the competent body to arbitrate in a matter in which the Commission does not have the expertise and knowledge to handle an issue pertaining to health.

Another resident in Marondera, said the Zimbabwe Media Commission is not decentralised in all provinces as is the case with the Zimbabwe Human Rights Commission, making it difficult, therefore, for citizens living in areas where the Zimbabwe Media Commission is not represented, to immediately lodge their appeals.

#### **4.7 Other recommendations included among others:**

1. Recommendation to factor in penalties or fines for Information Officers who do not grant information requests as required by the Bill. A citizen in Kwekwe expressed disappointment that the Bill was silent on the measures and consequences for officers who unjustifiably deny citizens the enjoyment of a right.

2. Removal of the clause that says all statutory instruments under AIPPA will remain in full force. Some of these clauses are not constitutional and leaving them in effect, undermines the right to access to information.
3. Need to clearly define what constitutes public information against private information in order to prevent private institutions from unnecessarily refusing to disclose information in the public interest, safety and security.

Recommendation for the decentralisation of public institutions in the context of devolution. Citizens in rural areas such as Tsvingwe, Plumtree and Tsholotsho, said they have to walk long distances to access information from public institutions that are far away thereby incurring costs for transport and accommodation.

4. The need for a framework for the establishment of community radio stations and information hubs. Citizens expressed disappointment that they were not aware of the public hearings until the last minute were it not for the efforts made by MISA Zimbabwe/MAZ in that regard. They implored Parliament to make information easily available by having parliamentary sub-offices in respective districts.

## **5. MISA ZIMBABWE AND MAZ FINDINGS AND RECOMMENDATIONS**

5.1 There was higher attendance in urban areas than in rural areas. This could have been due to transport and logistical challenges. To this end, MISA Zimbabwe and MAZ recommends that Parliament increases the number of meetings per province, especially in rural areas so that members of the public do not have to travel long distances to venues of such meetings.

5.2 There was poor communication and lack of information about the public hearings and the Bill, which accounted for the low turnout at these meetings. In that regard, Parliament should mount intensive nationwide publicity campaigns for purposes of raising awareness ahead of their public outreach programmes to enable greater citizen participation.

5.3 There was a generally noticeable gender parity in terms of the attendances. However, there was gender disparity in terms of participation and contributions to the hearings as male members of the public dominated in the contributions submitted during the hearings.

For future hearings, there is a need to deliberately target and mobilise more young people and women to participate.

5.4 The majority of the people who attended and participated in the public hearings were not satisfied with the provisions of the draft Bill. We therefore recommend that the submissions that were made by members of the public, representative bodies and organisations, be adequately captured and debated for inclusion in the Freedom of Information Bill.

### **Quotable quotes from across the country**

Farai Matebvu- Regional Co-ordinator and Editor in Chief of Science Explorer Africa Network:

*“The Zimbabwe Human Right Commission and not the Zimbabwe Media Commission is the appropriate guardian of human rights in Zimbabwe including the right to access information. So the Zimbabwe Human Rights Commission's mandate will allow it to interpret the right to access information in a significantly wider context and therefore, it should be given the task of overseeing the protection and promotion of the right to access information.”*

Denzel Gwebu of Christian Legal Society:

*" The ZMC should not be the appeal body with regards to information request denials but the Zimbabwe Human Rights Commission." He also said the response time to information requests should be reduced from , "21 days to at least five days ... there should be a penalty for information officers that do not grant requests based on their personal decisions."*

Philasande Ndlovu, Plumtree

*" Why charge (for) a ( translation ) fee when all the 16 of our languages are equal."*

Donald Nyarota - representative of Manicaland Media Committee Alliance Trust:

*"We have private institutions that hold information that can be of public interest. Talk about Econet, talk about construction companies and non-governmental organisations. All of these have got information and for them not to be mandated to publish or to have information accessed, it means that it is already a limitation in terms of access to information."*

**END**