



Defending free expression and the right to know

**Report on MMPZ's participation at the 54th Ordinary
Session of the African Commission on Human and
Peoples' Rights.**

October 2013

Introduction

The 54th session of the African Commission on Human and Peoples' Rights (ACHPR) was held in Banjul, The Gambia from 22nd to 5th November 2013. As per tradition, the session was preceded by the Forum on the participation of NGOs to the 54th Ordinary Session of the African Commission on Human and Peoples' Rights (NGO Forum) and the 28th African Human Rights Book Fair, which ran concurrently with the NGO Forum.

Representatives of Zimbabwean civil society present included Media Monitoring Project Zimbabwe (represented by Faith Ndlovu), the Human Rights NGO Forum (both the local office in Zimbabwe and the international office in London), Zimbabwe Women Lawyers Association, and Media Alliance of Zimbabwe.

The Zimbabwean government was represented by delegates from the Ministry of Justice, Legal and Parliamentary Affairs.

Background

MMPZ participated in the 54th Ordinary session of the ACHPR at a time when Zimbabwe has adopted a new constitution that for the first time explicitly recognises media freedom. The constitution, which has an expanded Declaration of Rights, also promotes media freedom and access to information. However, MMPZ's participation came at a time when laws that are contrary to the spirit of the new constitution such as the Access to Information and Protection of Privacy Act (AIPPA), the Interception of Communications Act, the Broadcasting Services Act, among other repressive laws, have yet to be repealed or amended. As a result these laws continue to be used to suppress peoples' freedom to access information. For example, in July 2013 two staff members from Kwelaz community broadcasters were arrested and appeared in court for breaching sections of the Broadcasting Services Act. Similarly, the airwaves are yet to be opened to community and commercial radio stations; as well as private television stations. The Broadcasting Authority of Zimbabwe's call for commercial licences is one step towards liberalization although MMPZ believes that community broadcasting

should be established if Zimbabwe is to achieve a holistic three- tier broadcasting system.

The Forum on the Participation of NGOs in the 54th session of the African Commission on Human and Peoples' Rights.

The **African Centre for Democracy and Human Rights Studies** organised the **NGO Forum**. MMPZ, alongside other CSOs from Zimbabwe and the region, attended the three-day session.

The **NGO Forum** discussed and assessed the human rights situation in Africa. A report was presented on each of the regions, namely East, South, West, North and Central Africa. While there are improvements in the human rights situation, it emerged from the presentations that the state of human rights and democracy in Africa generally remains poor. Highlighted areas of concern included Somalia where so far six journalists have been killed this year; the continued bombardment of civilians in Sudan; the violent dispersal of peaceful gatherings in North Africa among other areas of grave concern. The Zimbabwe Lawyers for Human Rights also flagged the continued persecution of human rights defenders in Zimbabwe.

Delegates to the NGO Forum later broke into **Special Interest Groups** for more detailed discussions to come up with draft resolutions and recommendations to the African Commission. **MMPZ** took part in the **Special Interest group on Freedom of Expression and Access to Information in Africa**.

Special Interest Group on Freedom of Expression and Access to Information in Africa

Apart from Zimbabwe, other countries that participated in this group included Tanzania, Democratic Republic of Congo, Burundi, Nigeria, Somalia, Kenya, Swaziland, The Gambia, Sudan, South Africa, Cameroon, and Lesotho. Kenyan Correspondents Association Chairperson William Janak was Chairperson for the group while MMPZ acted as secretary and rapporteur for the group.

The interest group members shared experiences from their different countries. **MMPZ** highlighted the progress made with regards to the adoption of Zimbabwe's new constitution and its provisions for media freedom, access to information and freedom of expression and the need for complementary realignment of the relevant laws for the realization of these rights in Zimbabwe. MMPZ also highlighted the continued restrictions characterizing the broadcasting sector in the country.

Other participants also highlighted challenges in their own countries such as the closure of media houses in Tanzania, The Gambia and the Democratic Republic of Congo; the killing of journalists in Somalia; the confiscation of newspapers in Sudan among other concerns. The retention of a repressive legislative framework that stifles media freedom, freedom of expression and access to information, as well as abuse of 'public media' by governments emerged as a cross cutting problem in most countries represented including Zimbabwe. Participants also raised concerns about poor professionalism and ethics in the media industry while in countries such as Nigeria and Tanzania this poor professionalism was linked to the violation of the rights of minority groups such as gays and lesbians and albinos.

As a follow-up to the group discussions, **MMPZ and Tanzania** compiled a report (complete with resolutions) on freedom of expression and access to information in Africa. MMPZ presented the document to the NGO Forum session after which it was forwarded to the drafting committee.

The NGO Forum adopted the resolutions from the group, which among other things called for the realignment of freedom of expression and media laws with progressive constitutions in several countries such as Zimbabwe and Kenya. The group also recommended that the Commission urge African governments to report more regularly on the state of implementation of freedom of expression and access to information laws. The group was hesitant to call for the enactment of legislation against hate speech, as authoritarian governments might take advantage of this to introduce repressive laws. The group therefore settled on urging for the strengthening of anti-discrimination laws – with the NGO Forum agreeing that this resolution

would be adopted with some rephrasing by the drafting committee.

Side Meetings

MMPZ attended two side meetings. The first event was organised by the Zimbabwe Human Rights NGO Forum running under the theme: **“Lowering Electoral Standards? Assessment of the Application of the SADC Guidelines on Elections and Good Governance”**.

The objectives of the meeting were to determine whether the threshold used by the SADC Election Observer Mission in determining the legitimacy of recently held elections in Zimbabwe and Swaziland was acceptable; assessing the impact of this ‘lowering of the threshold’ on the principles of democracy and good governance and to consider the implications of this state of affairs on upcoming elections in South Africa, Malawi, Botswana, Mozambique and Namibia as well determining general impact on good governance in Africa.

Participants, drawn from various SADC countries as well as Kenya, identified several action points including reviewing the SADC Guidelines to determine whether they are indeed best practice; the targeting of key institutions such as the SADC Parliamentary Forum and the Pan African Parliament to ensure they give a proper assessment of elections and establishing a regional solidarity framework for monitoring elections.

A task team comprising Lomncebo Dhlamini from Swaziland, James Mawira, Clement Mavungu and Bellinda Chinowawa from the Zimbabwe Lawyers for Human Rights was appointed to spearhead work on the action points identified by the group. The Southern African Human Rights Defenders Network will also play a pivotal role in galvanising CSOs across the region.

'Freedom of Assembly Under Threat: Civil Society Responds'

MMPZ also attended the Freedom of Assembly workshop organised by the **African Centre for Democracy and Human Rights**.

The workshop was mainly aimed at enhancing participants' knowledge of the right to assembly and the available remedies and providing a forum for sharing insights and strategies.

The workshop assessed laws relating to freedom of assembly in countries such as Uganda, Zimbabwe and Central Africa Republic and the critical role that civic society can play in safeguarding this right.

Participants were urged to ensure that communities in their countries have access to credible information for informed debate and discussion on freedom of assembly issues; to monitor the conduct of government with regards to freedom of expression issues; as well as take legal action against states and power holders and ensure continued lobby and advocacy on these issues.

54th Ordinary Session of African Commission on Human and Peoples' Rights

The 54th Ordinary Session of the ACHPR was officially opened on 22nd October 2013. The key development in the opening included the swearing in of four new commissioners. Honourable Commissioner Kayitetsi Zainabo Slyvie was elected as the new Chairperson while Honourable Commissioner Mohamed Béchir Khalfallah was elected as the Vice.

Statements by governments, Intergovernmental Organisations, National Human Rights Institutions and NGOs

Several countries made statements relating to the human rights situation in Africa. These included Inter-governmental organisations, international organisations and national human rights institutions and NGOs.

MMPZ presented a statement on the media environment in Zimbabwe under agenda item number five (5) which focused on human rights issues. The Rapporteur on Freedom of Expression was due to present by the 26th of October, by which time MMPZ would have left. Hence the decision to utilise the earlier slot on human rights rather than the later date scheduled for freedom of expression and access to information issues.

MMPZ acknowledged the progress made as far as the constitutional provisions on the media are concerned but expressed concern with the lack of prioritization of freedom of expression issues on Parliament's legislative agenda as set by the President. The organisation also highlighted the need to harmonise media laws with the new constitution; the continued restrictions on access to information especially in marginalized communities; the need to open up the airwaves and the transformation of the state-controlled broadcaster into a public service broadcaster that is accountable to the public among other issues. For more detail, the statement can be accessed on the organisation's website and social media platforms.

The **newly elected Chairperson of the Commission Honourable Commissioner Kayitetsi Zainabo Sylvie** 'noted' MMPZ's calls for the realignment of media laws with the new constitution.

The government of Zimbabwe exercised the right to respond under this agenda item and made specific reference to the statement by MMPZ. In its response, the government of Zimbabwe **'noted'** MMPZ's statement and ***"human rights violations accusations levelled against Zimbabwe by MMPZ and the Zimbabwe NGO Forum"***.

The Zimbabwean government representative also argued that President Mugabe outlined the legislative agenda and spelt out the need to align all legislation, therefore ***"there is no need to give priority to specific laws as all laws are a priority"*** and that laws such as AIPPA, POSA and BSA ***"are being subjected to realignment ... inconsistent laws will be repealed or amended"***

The Zimbabwean government further rebutted claims that marginalized communities are not adequately informed, arguing that ***"almost all parts of Zimbabwe have access to newspapers and the airwaves"***.

Conclusion

The African Commission remains a critical forum to engage. Attending the African Commission's Ordinary Sessions will help MMPZ not only to remain visible, but also to get the opportunity to interact with the Commission and

other African stakeholders who will in turn lobby their Heads of State. As a complement to the African Commission, other mechanisms such as the EU and UN should be engaged.