



Defending free expression and the right to know

**Report on MMPZ's participation in the
53rd Session of the African Commission on Human and Peoples' Rights**

9-23rd April 2013

Banjul, The Gambia

INTRODUCTION

This year's Forum on the participation of NGOs as well as the Ordinary session of the ACHPR were held at the Kairaba Beach Hotel from the 9th to the 23rd of April 2013. The African Centre for Democracy and Human Rights Studies (ACDHRS), which is an independent non-governmental pan-African organization, established in The Gambia in 1989, planned these. However some civic society organizations, mostly from West Africa boycotted this event citing concerns over the continuing human rights abuses by the host country. The sessions were however held regardless. The NGO Forum was held from the April 6th to April 8th 2013 and was followed by the ACHPR conference, which was held from the 9th to the 23rd of April. Public sessions ended on the 14th of April.

The Media Monitoring Project Zimbabwe (MMPZ) representative Molly Chimhanda attended both these events.

Other representatives from Zimbabwean civil society who attended both meetings were Susan Mutambasere from the Zimbabwe Human Rights NGO Forum, Jacqueline Chikakano (MISA-Zimbabwe), Patience Zirima from the Media Alliance of Zimbabwe (MAZ), Dzimbabwe Chimbga, Belinda Chinowawa from the Zimbabwe Lawyers for Human Rights (ZLHR) and Primrose Mungwari from the Zimbabwe Women Lawyers Association (ZWLA). The state delegates from Zimbabwe who attended the ACHPR conference included the Acting Permanent Secretary in the Ministry of Justice and Parliamentary Affairs, Mr Maxwell Ranga and Mrs Mabel Msika (Director, Policy and Research Ministry of Justice).

Seeing as Zimbabwe is headed towards an election, Zimbabwean CSOs held a meeting prior to the session and agreed on lobbying points. These included:

- Informing the Commission about the major political processes that took place and are to take place in Zimbabwe, that is the Constitutional Referendum and pending Elections
- Highlighting concerns over the shrinking space for CSOs in Zimbabwe following the continued arrests and detention of human rights defenders since the beginning of 2013.
- The need for the protection of the right to information following the confiscation of radio sets by the police.

As an organisation MMPZ sought to:

- Lobby and inform the Commission on and of the state of freedom of expression and information rights in Zimbabwe;
- To work in collaboration with the Zimbabwe Human Rights NGO Forum and other CSOs to address other issues of human rights concerns in Zimbabwe.
- Making the organisation and its activities public at a regional and international level by networking with different members from different organisations such as human rights institutions, NGOs, commissioners and state delegates both from Zimbabwe and international states.
- Urging the human rights commission to look at the problems Zimbabwe has been facing particularly the lack of political will by the government to implement the internationally recognised standards of issues to do with access to information and freedom of expression

SUMMARY OF THE FORUM ON THE PARTICIPATION OF NGOS IN THE 53rd ORDINARY SESSION OF THE ACHPR

The 53rd session of the NGO Forum gave participants the opportunity to interact on various thematic areas of concern on the African Continent. Discussions were held on the overall human rights situation in Africa, where representatives from Central, East, West, North and Southern Africa gave their statements with regard to this issue. Southern Africa representative Corlette Letlojane commended Zimbabwe for holding a peaceful referendum on March 16th 2013 but cited the need to adhere to and observe the African Charter and other International Instruments that call for the observance of human rights if peaceful elections are to be held in the country.

Representative for NGOs, Mrs. Hannah Forster in a speech gave a recap of the 2012 NGOs Forum, which she stated was a success. She noted that space for constructive dialogue between States and NGOs exists and the NGO Forum and the Commission created such space for this interaction. She also stated that it was the collective responsibility of States and NGOs to ensure that the voices of the people in their respective countries are heard. The African Commission has developed various instruments, made decisions and mechanisms to match this growing tide and has been able to adopt its rules of procedure streamlining its operations and clarified various provisions of the Charter to States Parties and other stakeholders; developed guidelines setting minimum standards for compliance with the Charter; established

mechanisms which have contributed to the building of jurisprudence as well as to the provision of information to the Commission; made laudable contributions to international human rights law in its communications; examined the states reports of about 40 states parties; granted affiliate status to National Human rights Institutions and observer status to Non Governmental Institutions; among other developments.

OUTCOME OF THE SPECIAL INTEREST GROUP ON FREEDOM OF EXPRESSION AND ACCESS TO INFORMATION

As is the norm, NGOs met under the various special interest groups to discuss the issues affecting their operations and beneficiaries. Below is the submission given by the Special Interest Group on Freedom of Expression and Access to Information:

We participants to the NGO Forum in the 53rd Ordinary Session of the African Commission on Human and Peoples' Rights and 27th African Human Rights Book fair held from 6th-8 April, 2013 in Banjul, The Gambia

Conscious that Freedom of Expression plays a vital role in the effective enjoyment of all other human rights and conscious that the assuring safety and security of human rights defenders forms an integral part of the protection of the rights to information

Horried by the killings of journalists in Somalia

Denouncing the increasing of physical attacks of journalists/media houses by both state agents and non-state agents in African state like Angola, Sudan, , Mali, Guinea Bissau

Noting that these physical attacks are systematic in critical periods or situations such as of electoral campaigns, demonstrations, coups, etc

Concerned by the persistence of lawsuits against journalists affiliated and human rights activists in most African countries as it is the case in Côte d'Ivoire, The Gambia, in Zimbabwe

Noting that these lawsuits are favoured by the existence in these countries of inadequate legal frameworks touching to freedom of expression and access to information

Further concerned by the prevalence of illegal arrests and detentions of journalists on the continent, namely in The Gambia, Côte d'Ivoire and in Eritrea where 32 journalists are still in jail with some of them reported dead

Noting that advocates of free expression, journalists in particular continue to be seriously threaten, discredited, humiliated or impoverished in relation to their work by the state machinery using comprehensive systems to weaken or suppress independent journalism as it is the case in Ethiopia and Burundi where terrorism charges are used against journalists; in Sudan with the government security agents

systematically raided private media houses after publication and confiscated large publication forcing these media houses to lose lot of revenue while at the same time prosecuting journalists . In the same vein the government is also buying out some of the private media, with a mission to entirely change the editorial line and focus as the case in Angola. Journalists are specifically targeted and attacked with impunity while covering demonstrations.

Recalling the 2002 Declaration on Principles of Freedom of Expression and Access to Information in Africa and previous resolutions, particularly the 2011 resolution on freedom of expression, access to information and protection of journalists

We recommend the African Commission to:

- To facilitate country visits of the Special Rapporteur on Freedom of Expression and Access to Information in countries such as Sudan, Angola, Zimbabwe, Somalia and Gambia, to ensure full implementation of the African charter and resolutions of the commission on Freedom of Expression and Access to Information.
- Call on African states to stop suppression of freedom of expression through killings, arrests, arbitrary detentions, physical attacks, closure of media houses, and malicious lawsuits against journalists as well as citizens.
- Urge member States to transform state broadcasters into independent public broadcasters that are free from any type of interference and that facilitate access to information.
- Urge African states to respect constitutional guarantees on freedom of expression and access to information and to adopt and fully implement effective access to information laws.
- Urge countries like the Gambia and Angola to investigate and bring to book the perpetrators behind the killing and disappearance of journalists such as MILOCAS PEREIRA who disappeared in July 2012 in Angola.
- Use the four working AU languages notably English, French, Portuguese and Arabic to effectively communicate and ensure access to information on all its activities

It was noted that countries in Africa face more or less the same problems in the operating environment for media personnel. The working group also devised strategies for networking, which included the creation of a Google Group around issues of Freedom of Expression and Access to Information that everyone would feed into as well as sharing important information around violations and abuses on these rights that occur in the various countries that were part of this group.

The Chairperson of the African Commission, Honourable Commissioner Catherine Dupe Atoki, closed the NGO Forum.

UPDATE ON THE PROCEEDINGS OF THE 53rd ORDINARY SESSION OF THE ACHPR

A statement on behalf of the NGOs that participated in the NGO Forum preceding the 53rd Ordinary Session of the Commission expressed concern over the continuing human rights violations in some African countries, which are being caused or aggravated by poverty, conflicts, and bad governance. Instances of violations of human rights in places like Sudan and South Sudan, Nigeria, Zimbabwe, Angola, DRC, and the Horn of Africa were cited as examples. Concerns were also expressed over the threat of terrorism and transnational organised crime and the continued state of poverty, disease and underdevelopment in Africa.

The Special Rapporteur on Freedom of Expression and Access to Information, Advocate Patsy Tlakula, gave a report on her activities since the last ACHPR session. She stated that there has been movement in states adopting access to information legislation and the Republic of Rwanda adopted its Access to Information law in March 2013. She called upon State parties to align their Access to Information legislation and that they have an obligation that these laws be adopted and implemented.

MMPZ Intervention

MMPZ delivered a statement based on the need for the right to access information in Zimbabwe. The statement highlighted the need for political will if media reforms are to be implemented before the elections. MMPZ also noted with concern the raids on civic service organisations like Radio Dialogue, which work to promote the right of access to information by providing resources such as radios to communities. MMPZ took note of the following:

- If the country is to hold free and fair elections, MMPZ believes that Zimbabwe's citizens need to be informed and to make choices based on a wide variety of views. This can only be achieved if a free and diverse media environment exists and if restrictive laws abridging freedom of expression and the right to information are repealed. These rights continue to be severely curtailed in our country because authorities in control of media activity and legal affairs in Zimbabwe lack the political will to implement the recommendations of this Commission.
- Asking for the complete reform of the state media, particularly the state broadcaster and its re-establishment under an independent, representative

body that will safeguard its editorial independence and ensure that it fulfils its public service mandate to report all events and opinion fairly, accurately and with balance.

- Imploring the African Commission to urge the Zimbabwean government to remove the restrictive provisions of the Broadcasting Services Act, as a matter of urgency, and ask that an independent, representative Broadcasting Authority be responsible for the issuing of broadcasting licenses fairly and without political interference.
- Furthermore, since Zimbabwe is headed toward an election, we asked that the Commission urge the government to implement media reforms as stated in the GPA.
- Urged that the Commission continue to take note of MMPZ recommendations at previous sessions, emphasizing that the need for media reforms in Zimbabwe remains fundamental. There is need for political will which will see a transformation in a sector that is so important if we are to have a truly diverse and independent media environment in our country.

Zimbabwe Government Response to MMPZ statement

State parties are provided with a right of reply to statements made by NGOs from their country. It is in this regard that the Acting Permanent Secretary in the Ministry of Justice and Parliamentary Affairs, Mr Maxwell Ranga, gave his response regarding the confiscation of radios. He denied that people had been arrested in connection with the radio sets and stated that as far as he was concerned, the only crimes committed regarding the radio sets was their “smuggling” into Zimbabwe without duty being paid for. He accused non-governmental organisations of stage-managing the “crimes” towards the holding of the ACHPR session so that they could have something to report on during the session.

Launch of the Model Law on Access to Information-MISA Zimbabwe Communiqué

The African Commission on Human and People’s Rights (ACHPR) on 12 April 2013 officially launched its Model Law on Access to Information at a ceremony held during the 53rd Ordinary Session. The Model Law, which was officially launched by outgoing ACHPR chairperson Catherine Dupe Atoki, was drafted by a team of African experts on access to information and freedom of expression under the

auspices of the Commission's Special Rapporteur on Freedom of Expression and Access to Information in Africa, Advocate Pansty Tlakula. The drafting process and consultations with various stakeholders which took about two years to complete, was coordinated by the University of Pretoria's Centre for Human Rights. This Model Law is a tool intended to provide benchmarks to all African States towards enactment of effective access to information laws in line with standards set in key instruments such as the African Charter on Human and Peoples' Rights and the Declaration of Principles on Freedom of Expression in Africa. It is also meant to encourage wide adoption of such laws on the continent, as well as their effective implementation.

MMPZ along with partners in the Media Alliance of Zimbabwe have been pushing for the change in access to information legislation in Zimbabwe and this new model law is an opportunity to present to government what civic society organisations view as a law that can be used to effect citizens rights on this matter.

Side meetings

A side meeting on the Shrinking Space for CSOs in Zimbabwe was held under the auspices of the Human Rights NGO Forum on April 8 2013. This was held in relation to the threats facing NGOs and human rights defenders that Zimbabwe has been facing since the end of 2012 with the arrests of Zimrights staff, raids on ZESN, ZPP and Radio Dialogue and the arrest of Beatrice Mtetwa. The meeting mapped the scenario on Zimbabwe's political landscape to give attendees a background of the type of environment CSOs are operating in. It was emphasized that there needs to be increased focus on Zimbabwe as we head toward elections and Zimbabwean CSOs implored the need for solidarity with regional and international organizations ahead of as well as after elections. Issues highlighted included:

- The general lack of progress on reforms in the GPA
- The importance of an independent judiciary if credible judgments on electoral violations are to be made
- The point that arrests made are intended to dampen the spirit of the electorate through instilling fear and creating an environment where citizens are not free to express themselves
- The need for protection mechanisms for human rights defenders as well as their families

Mrs Hannah Forster, the Director of the ACDHRS was present at the meeting and stated that solidarity from SADC would be key if free and fair elections are to be held in Zimbabwe. She also alluded to seeking means by which an Observer team could be sent to the country to assess the general human rights situation prior to elections.

The date and venue for the 54th Ordinary Session of the ACHPR will be advised in due course.

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