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## Policy change or tactical retreat? Media policy reform in Zimbabwe's "new dispensation"

### **ABSTRACT**

This study explores Zimbabwe's media legislation, the Freedom of Information Act (FIA), which was brought into effect in 2020 to replace previous repressive legislation, the 2002 Access to Information and Protection of Privacy Act (AIPPA). While the new law has been presented under the reform agenda of the post-Mugabe administration, this paper explores whether the FIA offers genuine media freedoms or if it replicates the old law. The study was guided by a qualitative research design, and data was obtained through document analysis and in-depth interviews. A key finding from the study is that the FIA contains very few changes that differentiate it from the repressive policy that it is replacing. It thus appears that a dual legacy of democracy and media authoritarianism still exists in the post-Mugabe administration, which presents itself as the "new dispensation".

**Keywords:** constitutionalism, journalism, information access, democracy, human rights

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## **INTRODUCTION**

This paper grapples with the culture of repression and policy inconsistencies in Zimbabwe since the attainment of independence in 1980. The media space has long been a highly contested terrain between the government under the ruling party, Zimbabwe African Peoples Union Patriotic Front (ZANU- PF), and opposition parties, civil society and the international community. When former President Robert Mugabe was removed from power in November 2017 through a military-backed civilian protest, the incumbent Emmerson Mnangagwa made a pledge to introduce democratic media policies and broaden the democratic space. The introduction of the Freedom of Information Act (FIA) in 2020, which replaces the repressive Access to Information and Protection of Privacy Act of 2002 (AIPPA), marks an attempt at change but without meaningful reform. NANGO (2019) has described the new legislation as grossly inadequate and far from meeting regional, continental and international benchmarks and best practice. According to Reporters Without Borders (2020), Zimbabwe is ranked 126 on the global media freedom index, reflecting a retreat from the gains accrued during the period of the unity government from 2009 to 2013. This paper responds to the question, do the media reforms under the post-Mugabe political dispensation depart from the repressive legislation they are replacing?

In this information age, a few nations, including Zimbabwe, have entrenched a right of access in their constitutions (Roberts, 2002). Extant research reveals that access to information strengthens democracy in a number of ways. Jana (cited in Calland, 2002:18) notes that an information law is necessary because it “captures both the spirit and the necessity of the age in which we live, it is the life-blood of our times; we need it to survive and to prosper”. Access to information laws strengthens financial accountability and transparency in private and public entities. As Roberts (2002) opines, information access laws play an important role in reducing corruption in government institutions. By offering citizens and the media an opportunity to scrutinise available information about procurement processes and successful bids, access laws make it more difficult for officials to engage in unfair contracting practices. Zimbabwe’s FIA law is inspired by successful outcomes from similar laws in South Africa and Nigeria. According to Calland (2002), in this information age, unrestricted access to information can be regarded as a cornerstone of transparent, participatory and accountable governance. However, for citizens and media practitioners to fully benefit from access to information laws, government and stakeholders should engage scrupulously with all aspects of such laws, from the policy formulation to implementation. The significance of studying media policy has been outlined by Papathanassopoulos (2015), who argues that policy research seeks to examine the ways in which policies in the field of communications are generated and implemented, and their repercussions for the field of communications as a whole. Zimbabwe has endured decades of authoritarian media policies and the media reform agenda has been identified as one of the ways in which the country can broaden the democratic space.

## **1. MEDIA POLICY AND POLITICAL SURVIVAL IN ZIMBABWE**

Ever since independence in 1980, the ruling party ZANU-PF has been reluctant to institute sweeping democratic media policies, and has periodically negated progressive media legislation with authoritarian measures and laws (Moyo, 2004). After 1999, when the biggest opposition party, the Movement for Democratic Change (MDC) was formed, the government began to descend rapidly towards authoritarian media control. It is important to show how the media policies helped the Mugabe administration in elections, in order to explore continuity and change under the new dispensation that emerged after Mugabe was removed from power through a military-backed civilian protest in 2017. The 2000 parliamentary elections in which the new opposition garnered a significant number of seats in urban areas pushed the governing party to put in place legislation that would ensure that media freedom was stifled. Chiumbu (2004) notes that in 2000, the state captured public media when the operations of the media in the country came under the Department of Information and Publicity in the President's Office and the former Ministry of Information, Posts and Telecommunications was dissolved. Professor Jonathan Moyo became the new Minister of Information. Through this new department, the government introduced stringent laws that were a thorn in the flesh of democracy and freedom of expression.

In April 2001, Parliament passed the Broadcasting Services Act (BSA). The Public Order and Security Act (POSA) followed in January 2002, and the Access to Information and Protection of Privacy Act (AIPPA) in March the same year. While the AIPPA was presented as a law that would make access to information to members of both the public and the press easier, it was draconian in the sense that it actually made access to public information more difficult for the media (Chiumbu, 2004). Another authoritarian aspect of AIPPA that made it repressive was that journalists and media organisations were to be registered by a Media and Information Commission (MIC) and such licenses could be cancelled by the Minister or the commission at any time. This paper is of the view that these authoritarian measures were basically, attempts to stifle the independence of journalists and were an act of crippling the MDC's activities ahead of elections (Mano, 2005; Ndlovu-Gatsheni, 2012). ZANU-PF electoral victories in 2000 and 2002 were described by the civic society and the opposition as a product of a combination of election rigging and a restrictive media environment that gave advantage to the ruling party (Ndlovu-Gatsheni, 2012). The 2005 elections were held under the same stringent media policies. The Public Order and Security Act was again used to prohibit and shut down the opposition's rallies and public meetings, and the Access to Information and Protection of Privacy Act restricted press freedom yet ZANU-PF enjoyed unlimited media and political freedom.

Buckling to pressure from the Southern African Development Community (SADC), ZANU-PF and the opposition MDC signed a pact termed the Kariba draft in 2007 that would ensure that the 2008 elections were "free and fair" (Badza, 2010). Ahead of the elections, the opposition parties enjoyed a rare coverage on state media which have been traditionally ZANU-PF mouthpieces. The temporary media and political freedoms nearly cost ZANU-PF which performed dismally

in the elections with opposition MDC-T candidate, Morgan Tsvangirai getting 47,87% of the vote while ZANU-PF's Robert Mugabe had 43, 24%. Since there was no outright winner, a presidential runoff was set for 27 June 2008. The runoff was the most violent Zimbabwe has ever had, prompting election observers and diplomatic missions to declare it not free and not fair as ZANU-PF, the party activists and the military virtually took over control of elections and closed the media to the opposition (Bratton & Masunungure, 2009). As a result, ZANU-PF, MDC-T and its splinter MDC faction negotiated a Global Political Agreement (GPA) that culminated in a Government of National Unity (GNU) that spanned from 2009 to 2013. One of the mandates of the unity government was to write a new constitution that would introduce democratic media policies. Although the new constitution was successfully completed and adopted through a referendum in time, before the 2013 elections, ZANU-PF deliberately delayed aligning the old laws with the new charter. The 2013 elections were held under the old legislation, which ensured the ruling party maintained control of the media space (Mututwa, Oluinka & Mututwa, 2019). A few independent radio licenses were issued in 2013 to Zi-FM, Star FM and some community radio stations. However, this was merely a cosmetic implementation of the GPA as research established that the owners of these independent radio stations had links with the ruling party (Matsilele, 2013). The ZANU-PF government's delay in media policy reform reflects the centrality of media policy in shaping the political terrain and electoral outcome.

### ***1. THE POLITICS OF MEDIA POLICY REFORM***

Media policy making in Zimbabwe cannot be separated from the political contestations which influence the pace and character of media policy reform. As Kaitatzi-Whitlock (2005:17) argues, media policy is itself a medium of control which acts upon politics, and at the same time it is a product of the political process. Kaitatzi-Whitlock adds that there is a critical relation between media policy on the one hand, and political communication on the other. In post-independence Zimbabwe, the media reform agenda emerged from the AIPPA legislation promulgated in 2002, as ordinary citizens, media practitioners, civil society, regional and international media and human rights bodies raised concern at how the law was used to stifle freedom of access to information and freedom of expression (Chuma, 2018).. Despite the endless calls and lobbying for the reform of AIPPA, the government clung to the repressive legislation, mainly for political reasons. The ruling party ZANU-PF was desperate to control the hearts and minds of the people (Chiumbu, 2004). Secondly, the law would silence independent-minded journalists and editors from taking a critical stance on governance under the ZANU-PF government (Chuma, 2010). The Government of National Unity between ZANU-PF, Movement for Democratic Change (Tsvangirai) (MDC-T) and the splinter MDC group led by Welshman Ncube after the disputed 2008 presidential election, opened a window of opportunity for media reform. It should be acknowledged that regardless of the haggling and frustrating intransigence by political parties, the final draft constitution that won the referendum in March 2013 is one of the best democratic constitutions in Africa, guaranteeing

vast media freedoms and individual liberties. Zimbabwe's 2013 Constitution mandates the State, among other obligations, to ensure that realistic measures are taken to protect and promote fundamental rights and freedoms enshrined in the Bill of Rights for their realisation and fulfilment (MISA, 2016). Despite the Bill of Rights meeting international benchmarks on fundamental human rights, the government deliberately delayed its implementation. MISA (2016) expressed pessimism on the democratisation agenda in Zimbabwe, arguing that several years after the coming into being of the 2013 constitution the pace of media reform had been painstakingly slow. In January 2016, an all stakeholders meeting as promised by the Ministry of Media, Information and Broadcasting Services for purposes of debating and framing a new media policy failed to materialise. The agenda of the retreat was to discuss the findings and recommendations of the government sanctioned Information and Media Panel of Inquiry (IMPI) report released on 18 March 2015. The government thus continued to mix its commitment to reforming the media with threats to introduce harsh measures to deal with the independent media.

As Chuma (2018) argues, the GNU period was characterised by complex strategic manoeuvres among the key political protagonists in the government. Chuma adds that the former opposition parties now in government and civil society did not succeed in achieving the western-style liberalisation they wanted. What emerged was a thinly veiled retention of the status quo that benefited the old political elite in ZANU-PF (Chuma, 2018). No single entity was granted a television operating license, while the private radio stations which were licenced were sympathetic to the ruling party (Chuma, 2018). Despite successfully writing the constitution in 2013 in time, before the elections, ZANU-PF was reluctant to repeal the existing media laws such as the AIPPA. After the 2013 elections which ZANU-PF won by a two-third majority in parliament, defeating their erstwhile rivals the MDC-T, the opposition parties and civil society amplified their call for media reforms as part of the broad call for electoral reforms (Mare, 2020). Enjoying a majority in parliament, the ruling party has mainly shaped media policies among many other proposed reforms, regardless of opposing views from opposition party members and civil society.

Zimbabwe entered a new historical and political chapter in November 2017 when long serving president, Robert Mugabe was removed from power through a civilian-backed military operation. His successor, Emmerson Mnangagwa pledged to liberalise the air waves and broaden the democratic space, including repealing contentious media laws. In what could confirm Pigou's (2017) claim that the new dispensation was not likely to deviate much from Mugabe's policies. Freedom of Information Act was passed in 2020, two years into Mnangagwa's first presidential term, which he won in August 2018. It is in light of the pace and character of media reforms that this paper seeks to establish whether the media reform process under the new dispensation constitutes a genuine progressive change or it is merely a tactical retreat into authoritarianism.

## **2. METHOD**

This study was guided by a qualitative research design, and data was obtained through document analysis and in-depth interviews. The documents analysed included the Freedom of Information Act (2020) and the Constitution of Zimbabwe (2013). We also conducted in-depth interviews with media practitioners and political analysts from Veritas, Media Monitors, and the Media Institute of Southern Africa respectively, and the remaining were with members of civil society. Contrasted with other research methods like surveys and focus groups, interviews are significant in revealing the opinions, experiences, values and various other aspects of the population under study, and interviews are always goal-oriented, hence their use in this study. Considering that most of the interviewees were very busy, and face-to-face interviews were restricted due to the COVID-19 pandemic, we made use of WhatsApp and Zoom applications for online interviews. This approach concurs with what has been noted by Showkat and Parveen (2017:4) that with the advent of technology we have witnessed an increase in the number of methods through which an interview can be conducted. Unlike earlier, it is no longer mandatory for an interview to be a physical meeting. It can be conducted by phone or Skype or email or through various other forms of the internet and telephone systems without physical presence. In order to understand more about the connections and disconnections between the Mugabe era and the post-Mugabe media polices, those at the core needed to be consulted: the people. Without listening to them, the research risks becoming shallow and does not reflect the realities and challenges at stake. For this purpose, in-depth interviewing offers a unique method and source of information since it provides research with depth, detail and perspective on a certain research question, and at a certain moment in time (Brounéus, 2011:131). We chose in-depth interviews for this study because of their advantages. Firstly, interviewers can establish rapport with participants to make them feel more comfortable, which can generate more insightful responses, especially regarding sensitive topics.

Data was also gathered through document analysis of the Freedom of Information Act (2020), which was the primary source of data that this research relied on for critique, and the Constitution of Zimbabwe (2013), which provided key legislation which the FIA was measured against. Therefore, this study employed document analysis in order to understand the implications of every section of the policy. Document analysis is a systematic procedure for reviewing or evaluating documents, both printed and electronic (computer-based and Internet-transmitted) material. Like other analytical methods in qualitative research, document analysis requires that data be examined and interpreted in order to elicit meaning, gain understanding, and develop empirical knowledge (Corbin & Strauss, 2008). Documents contain text (words) and images that have been recorded without a researcher's intervention. For the purposes of this discussion, other mute or trace evidence, such as cultural artefacts, were not included. Coffey and Atkinson (1996:47) refer to documents as "social facts", which are produced, shared, and used in socially organised ways. Document analysis is often used in combination with other qualitative research methods as a means of triangulation, "the combination of

methodologies in the study of the same phenomenon" (Denzin, 1970:291). The qualitative researcher is expected to draw upon multiple (at least two) sources of evidence; that is, to seek convergence and corroboration through the use of different data sources and methods. Apart from documents, we conducted semi-structured interviews with journalists and media professionals in order to explore their everyday experiences under the Zimbabwean media environment.

In order to get a more detailed insight, the transcribed interview responses were transferred into analysable contents for this dissertation. As a first step, tentative categories including variables were defined and explained in a coding agenda. In order to differentiate the categories, coding rules were developed. Subsequently, the transcript was read and every statement that seemed relevant at a first glance underlined. After reconsidering the defined categories, the content of the transcript was structured using a colour scheme. Statements, opinions and quotes were taken out by order of their colour; summarising them into the category system. For example, responses on the unconstitutionality of sections of the FIA were marked in blue, and this made it easy for the research to identify related codes during the analysis. In case the contents did not fit into existing categories, we developed new ones. Some statements were quoted directly, but most were summarised and paraphrased.

### **3. THEORETICAL APPROACH**

Although Freedman (2008) was attempting to address US and UK media policy issues, the ideas can be rightly applied to understand media policy elsewhere in the world. In this paper, we have understood that the media policy making process is "dominated by those with the most extensive financial, ideological and political resources who are best able to mobilise their interest against their rivals" (Freedman, 2008:22). The implication is that the ideas from ordinary citizens and civil society are ideal for policy making but in reality, they are not taken up by those with political and economic superiority. Therefore, media policy making is not a detached, neutral, and predominantly technical process but rather, as Freedman (2008) has argued, an inherently political process. Applying this thinking to the Zimbabwean political context, the media policy reform agenda has been a heavily contested terrain for decades and no genuine attempt to liberalise has been made since independence in 1980. Attempts in the past to come up with new media policies have been described by Saunders (2000) as turning left while indicating right; an indication of the conflicting political and ideological interests within the policy making process. Freedman (2008:1) identifies heavy political influence on media policy making but still insists on the role of other players such as business, civil society, the international community or the media in the character of the wider media environment. He notes that while the form a media system assumes at any one time is by no means the direct expression of a state's political priorities, it makes little sense to ignore the impact of political actors and political values on the character of the wider media environment. In Zimbabwe, the

Freedom of Information Act was exposed to public consultations where citizens and civil society aired their views and it was subjected to a parliamentary debate. Chuma (2018) notes that despite these consultations, in the final analysis, political factors constituted the lion's share of the complexion of media policies in many cases. In addition to theorising policy making as an inherently politics-driven process, this paper is also informed by the elite continuity model as a framework for analysing the experience of policy making in Zimbabwe under the immediate post- Mugabe political order. Sparks (2008:11), is of the view that the elite continuity model "lays its primary stress upon the social continuity in societies in transition, rather than assuming that the process was essentially one of democratization". Moyo (2004) concurs with this when he notes that in many post colonies the transition from authoritarianism to democracy is largely stalled by media policies that he describes as change with continuity. According to Chuma (2018), related studies on the political economy of transition in Africa have also highlighted the elite continuity aspect and how it shaped the transition itself. In South Africa, for example, Bond (2000:318) has written quite extensively about what he frames as the country's "elite transition" from apartheid to democracy, while Marais' (2011) work on the political economy of transition in South Africa also indicated the tensions between continuity and change in the domain of policies. This study explores the Freedom of Information law within the scope of the broader politics.

### **3. DATA ANALYSIS AND DISCUSSION**

The findings are derived from data collected from interviews and the Freedom of Information Act (FIA) document and the Constitution of Zimbabwe.

#### **3.1 NOTABLE POSITIVE CHANGE**

The study finds that the new media law (FIA) reflects that the new dispensation has made a positive departure from the old repressive media laws. Despite its limitations, the FIA addresses access to information, which had been a highly contested clause under the 2002 AIPPA. The legislation grants the right of access to information by putting in place voluntary mechanisms of disclosing data and information controlled by public institutions. The FIA seeks to fulfil Section 62 of the Constitution of Zimbabwe, which offers the right to information. Private institutions, on the other hand, have the discretion to voluntarily disclose any information within their control. In cases where private entities refuse to grant access to information, the Act empowers the Zimbabwe Media Commission to appeal this. As MISA (2019) notes, the ZMC will in terms of this law, be responsible for overseeing the fair application and exercise of the right to access information in Zimbabwe. Furthermore, the ZMC will receive and decide appeals against refusal of requests for the access to information. According to the constitution of Zimbabwe, the ZMC is an impartial and independent body set up to fulfil Section 249(1)(f), which says one of the ZMC's functions is "to ensure that the people of Zimbabwe have fair and wide access to information". Based on this description, this study finds that the right to information has been



backed by mechanisms. Journalist Pati Zirima described the conflicting picture of authoritarian consolidation and reform of the FIA:

When the new government came into power in 2017, they mentioned that they will repeal AIPPA, will reform broadcast, but today we are in 2020 now and we have seen the Freedom of Information Act that has been passed. But if you look at the timeline itself, it raises questions on whether they really intend to reform the media or not (personal communication, 5 September 2020).

What can differentiate the FIA from the previous AIPPA may not be words but actions. As Chiumbu (2004) noted, the AIPPA had some progressive clauses on paper but the government appropriated the law to stifle media freedom. In the same vein, the FIA can only improve the access to information situation in Zimbabwe if government and stakeholders abide by the letter and spirit of the law.

### **3.2 THE CONSTITUTIONAL QUESTION**

The study finds that some clauses of the Freedom of Information Act are *altravires* the constitution of Zimbabwe, thus a retreat into the old laws using a different name. . According to Mhike (2019), the widely defined roles of the minister in the running and management of the ZMC are contrary to Section 235(1) of the Constitution of Zimbabwe, whose provisions guarantee the independence of Chapter 12 institutions, such as the ZMC. Abel Dzobo, a media law expert and journalist noted:

Under the current wording of FIA, the commission cannot make substantive decisions without consulting and seeking approval from the minister. ZMC is one of the Chapter 12 institutions established via the constitution. That means it ought to be completely independent of government and any other player and yet there are wide powers that are given to the minister to interfere basically with the operations of the commission (personal communication, 7 September 2020).

That the Minister of Information, Media and Broadcasting continues to have excessive powers over the commission reflects a clear attempt by the ruling party to control media operations. The Minister of Information, Media and Broadcasting is a political appointment made by the ruling party. In an article, "Zimbabwe's 'independent' media commissions fail to deliver" Bulawayo 24 (2018) opined that independent commissions have suffered major setbacks as a result of political interference, which has made it difficult for the organisations to work as independently as they should. Politicians, particularly from the ruling party ZANU-PF, are responsible for

administering and enabling each commission, thereby exercising undue control over the secretariat of the commissions (Matyszak, 2019). In exploring the significance of abiding by the constitution, the International Institute for Democracy and Electoral Assistance (2014) argues that those states that have consistently failed to maintain constitutional government have often fallen short of their development potential. The overarching presence of political control of the Zimbabwe Media Communication impedes the ability of the constitution to deliver media freedom as it promises. In providing fundamental rules about the source, transfer, accountability and use of political power in a society, a constitution introduces a separation between the permanent, enduring institutions of the state, on the one hand, and the incumbent government, on the other. The constitution ensures that the government does not own the state: it simply manages the state, under the authority of higher laws, on behalf of citizens (IDEA, 2014).

The FIA prescribes a limitation to access to information on government borrowing. This clause denies the fundamental right to information which promotes accountability with public finances. Section 62 of the constitution prescribes that Zimbabwean citizens and media professionals have “the right of access to any information held by the State or by any institution or agency of government at every level, in so far as the information is required for public accountability”. However, such rights are stifled by Section 28(v), which puts a restriction on access to information on government borrowing. According to MISA (2019), this is a regressive step when government stifles citizens’ right to know where and how much government has borrowed and for what purpose. Media expert, Paidamoyo Muzulu commented on the classified information thus:

There is a misnomer where Protection of economic interests and financial welfare of state and commercial interests of public entities are indefinitely classified. This clause shuts the door for citizens who may want the information for academic purposes (personal communication, 5 September 2020).

Another media expert said:

The Act provides for too many exemptions; it is as if half of it is on exemptions. Including exemptions that the government is borrowing that information must be exempted from being assessed by the public, which is quite archaic if you measure it with modern laws elsewhere (Thabani Moyo, personal communication, 9 September 2020).

This study finds that by empowering the government to withhold vital information from the citizens, the FIA is a replica of the old law that it is replacing. Vijayakumar and Vijayakumar (2004) opine that modern society incessantly produces and uses information, and in a democratic country information is considered as a vital resource for development. Article 19 (2011) added that Implicit in freedom of expression is the public’s right to open access to information and to know what governments are doing on their behalf, without which truth would languish and people’s participation in government

would remain fragmented. Therefore, by denying citizens and journalists access to vital information, the FIA negates the right to information, which was one of the contested clauses in the AIPPA. The secrecy that the government wants to protect on its borrowing can open the floodgates of corruption and misuse of public funds within the government as there will be no checks and balances. Freedom of information is also an inalienable right. Mendel (2008) explains the importance of freedom of expression in three key ways, as an aspect of human dignity, as the best means of ascertaining the truth, and as a fundamental underpinning of democracy.

### **3.3 INFORMATION REQUESTS**

From the documents analysed, this paper established that the FIA fails to depart from the AIPPA which it is replacing. According to MISA (2019), the Act only allows for the request of information from public entities, while private entities are given the freedom to accept or reject the request to provide information. This contradicts the constitutional provision set out in Section 62(2) of Zimbabwe's constitution that guarantees information requests to private entities for information that is essential to exercise or protect one's right. No reason need be given when making a request for information from a public entity. One of the journalists we interviewed echoed that the Bill seeks to protect the political elite or those with political connections whose businesses and properties might have been acquired illegally. One civil society actor observed thus:

One of the things we were pushing for but couldn't get in the Freedom of Information Act was access to information from the private institutions. Such information includes information that may result in the infringement of other people's rights as well as information that has to do with national security. So one can simply decide the information that you want and cannot be given to you because of national security consideration. I think the act failed to define what the national security is, where it starts and where it ends (Taurai Mabhachi, personal communication, 28 January, 2021).

The Carter Center (2004) describes access to information as a socio-economic right. Bodipe, cited by The Carter Center (2004), argues that citizens require information from private companies to exercise and protect the right to equality; to ensure the absence of discrimination in hiring, promotion and salaries; and generally to promote democratisation of the workplace. The implications of empowering private entities to decide whether to grant or deny an information request are that the law offers an opportunity for illicit businesses, particularly owned or associated with the politically privileged, to thrive uncensored, and denies citizens a constitutional right to information. Eventually, the public will lack trust in these institutions.

This study establishes that one of the major hindrances posed by the FIA is the requirement that requests for information must be in writing and delivered to a public body – oral requests

are not possible. This view is strengthened by MISA (2019), which noted that the FIA maintains this unjustifiable position by stating in Section 7(1) that requests must be in writing and submitted to the information officer. As noted by Zimbabwe Human Rights NGO Forum (2015), persons with disabilities should enjoy the same rights enjoyed by able-bodied people, but they often face social, legal, and practical barriers in claiming and enjoying those rights on an equal basis with others. The FIA legislation is a retreat into discriminatory and exclusionary media laws that it seeks to replace.

Although the Act compels a public or private entity to provide information in the language requested, Section 16 stipulates that the entity may recover the reasonable costs of the translation from the applicant. Neuman (2002:4) argues that “democracy depends on a knowledgeable citizenry whose access to a broad range of information enables them to participate fully in public life, help determine priorities for public spending, receive equal access to justice, and hold their public officials accountable”. Therefore, the imposition of a fee is a deterrent to the applicant which makes it difficult for citizens or journalists in financial stress to access information. Another weakness of the FIA law is that it excludes the visually impaired from freely accessing information in braille without having to pay for transcription. Therefore, the legislation is a negation of local, regional and international efforts at the promotion of rights for vulnerable groups.

The study also finds that the FIA fails to articulate clearly what happens with declassified information and whether government has the mandate to declassify certain information for the consumption of the public. The absence of clarity means the government cannot be legally held liable to declassify any information. One media expert commented, saying:

The challenge with FIA it is silent on declassification. In other jurisdiction declassification simply means that every time when the government is trusted to make decisions, we must then be privy on how it decides the issues. So you stagger certain information classified for life. Certain information must not be released maybe after 10 years and so on. We must start declassifying meanings of how they reached to certain decisions but in Zimbabwe you go to death or grave without knowing how the government decided on it because it is not provided for in any law. In essence there is a sweeping law which is OSA which makes it a criminal to release information on how the government is deciding. (Thabani Moyo, personal communication, 9 September 2020).

In the absence of access to declassified information, the government can deliberately avoid public scrutiny on governance, use of funds, agreements and any transactions entered into on behalf of the citizens. Access to information creates critical citizens who are aware of the state’s social responsibility. Through information-sharing, citizens are shaping consciousness and perspective on current affairs, of political or social interest (Karaduman, 2015). One of the most interesting questions to think about regarding lack of clarity around the handling of declassified

information is who will hold the government accountable if the information will never be known? The effect on citizens is that they lose touch with power and ultimately lose interest in politics.

#### **4. RECOMMENDATIONS**

This paper has established that the government of Zimbabwe is not committed to genuine media reform. From the findings of this study, we recommend that rather than expend energy crafting laws that continue to stifle the media, the state must expend energy on creating an enabling environment which can inspire actual progress. On its part, government maintains its rhetoric publicly of instituting media reforms. Roberts (2002) suggests two key advantages of making information accessible. Firstly, information access laws help in reducing corruption within government and private institutions. With a combination of the media as the fourth estate and citizen participation, access laws make it more difficult for officials to engage in unfair contracting practices. Access laws may also make it more difficult for senior officials in both public and private entities to make large policy decisions that are not supported by sound analysis (Roberts, 2002). The government should embrace the various stakeholders at its disposal in order to truly broaden the democratic space as they come up with media policy. Policies are the outcome of an interaction between a government's approach to problem solving and discussions, including bargaining, and other actors engaged in the formulation of policy outcomes, and are inextricably bound up with politics, whether in agendas or procedures (Chakravartty & Sarikakis, 2007:4-5). It is crucial for the government to learn from the mistakes of the AIPPA and include all important stakeholders for the FIA legislation to truly allow access of information to citizens and the media fraternity.

The fact that the Zimbabwe Media Commission has a duty to "ensure that the people of Zimbabwe have fair and wide access to information," does not justify making this Commission the guardian of the right to access information in Zimbabwe (MISA, 2019). The Freedom of Information Act rightly states that the Zimbabwe Human Rights Commission is the guardian of human rights in Zimbabwe, including the right to access information. Therefore, the ZHRC should be the Commission that is responsible for the monitoring and enforcement of this Bill. This Bill does not prioritise accessibility of information supplied in response to a request for information. Section 21(6) of the Model Law requires that the requested information must be made available in a form in which it is capable of being read, viewed or heard by the requester. Accessibility is important for the realisation of the State's duty to ensure that people living with disabilities do not suffer any prejudice as a result of their disability.

#### **5. CONCLUSION**

This paper makes a strong claim that media policy implementation in Zimbabwe is riddled with

contradictions, and that this has been the case since Zimbabwe's independence in 1980. This study further establishes that the Freedom of Information Act is a betrayal of the aspirations of the people of Zimbabwe and the international community who have been pushing for the repeal of the Public Order and Security Act and the introduction of a policy that is in line with the constitution, and with local, regional and international statutes on human rights and freedom of the media. While there are some positive steps in the Act, it fails to make a clear and sound departure from the authoritarian policy it is replacing. Moyo (2004) notes that the dual legacy of democracy and authoritarianism has been the trait of the media landscape in Zimbabwe since independence in 1980. In coming up with the FIA, the new dispensation under President Emmerson Mnangagwa has shown lack of honesty and real intent to reform. It is clear that the new dispensation has betrayed its promise to democratise all institutions in Zimbabwe after the fall of the former president, Robert Mugabe. The paper offers recommendations aimed to promote inclusive policy formulation in Zimbabwe. This will ensure that policies do not just promote the interests of the political elite at the expense of the majority of the population.

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