



JOINT STATEMENT

THREAT TO FREEDOM, DEMOCRACY AND ACCOUNTABILITY IN ZAMBIA

The Africa Freedom of Information Centre (AFIC) and the Media Institute of Southern Africa (MISA) deeply regret the decision of the National Constitutional Conference of Zambia (hereinafter referred to as the NCC), established pursuant to Act No. 19, 2007 and vested with the responsibility of producing Zambia's first ever peoples driven constitution, to delete the right to information clause in the draft constitution of the republic of Zambia.

Article 72 (1a) of the Mwanakatwe Draft Constitution currently under review, states that 'every citizen has the right to access information held by the State.' By removing this clause the NCC has denied the Zambian people their fundamental right to access information held by public authorities which Zambians require for purposes of advancing their socio, economic and cultural rights.

It is deeply disturbing that 45 years after Zambia gained independence and with the rest of the world moving towards open governance, transparency and accountability, the NCC have opted for secrecy and non transparency for public institutions in Zambia, thus effectively endorsing the continued existence and application of such retrogressive colonial legislation as the Official Secrets Act of 1923 which criminalises access and possession of public information with a minimum sentence of 25years.

By removing this fundamental human right from the draft constitution, the NCC is sending a message to the Zambian people that they have no business concerning themselves with wanting to know the affairs, projects and decisions of their own government.

This stunt by the NCC is both a contradiction and a violation of the rights entrenched in various international instruments and institutions to which Zambia is a member and signatory including the African Charter on Human and Peoples and its Commission. The Declaration of Freedom of Expression in Africa issued by the African Commission on Human and Peoples Rights states that "*Public bodies hold information not for themselves but as custodians of the public good and everyone has a right to access this information, subject only to clearly defined rules established by law,*"

Furthermore, resolution 59 (1) of the United Nations General Assembly states that "*Freedom of information is a fundamental human right and is the touchstone of all the freedoms to which the UN is consecrated.*"

The Universal Declaration of Human Right states that "*Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and*

to seek, receive and impart information and ideas through any media and regardless of frontiers."

Article 9 of the African Charter on Human and Peoples' Rights states that: *"a) Every individual shall have the right to receive information,*

It is not only unfortunate, but deeply disheartening that a body constituted with a mandate to ensure a constitution with greater protection of citizens' rights in the advancement of good governance, the rule of law, democracy and accountability is the one curtailing these rights.

Concerns of national security advanced by NCC to remove the right for citizens to access information are lame, borne of ignorance and unjustified. An access to information law developed in accordance with international guidelines and standards provides limitations and exemptions that safeguard information relevant for the protection of national security and defence interest of the nation.

Using these principles and standards, over eighty five countries around the world have in addition to entrenching the right of access to information in their national constitutions also passed specific legislation on freedom of information.

Africa Freedom of Information Centre (AFIC) and the Media Institute of South Africa (MISA) reminds the Government of Zambia that it has a duty and obligation to implement international and regional standards in relation to freedom of information.

In view of the above we call upon:

1. His Excellency President Rupiah Banda to show leadership in ensuring that access to information is expressly guaranteed in the new Constitution of Zambia
2. The Government of Zambia through its organs to recognize that they have a duty to afford Zambians the right to access information held by public institutions in order to promote good governance, transparent and accountable leadership.
3. Entrench the right to access information in the new constitution in line with international standards
4. Urge the Zambian Government to expedite the process of reviewing and enacting the freedom of information Bill, 2002 into law.
5. Mainstream access to information and the principles of open government in all decision making processes and engagement of the government with the people of Zambia.

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