



Golden Key and Padlock Survey 2010

MISA-Zimbabwe Survey on the Most Open & Secretive Government Institutions in Zimbabwe

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CHAPTER ONE

1.1 Introduction

The Right to Know or Freedom of Information (FOI) is a fundamental human right, which is vital for both citizens and the media. Enshrined in the Universal Declaration of Human Rights, the Right to Know is affirmed in Article 19 of the International Covenant on Civil and Political Rights which states: *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.*

The African Charter on Human and Peoples Rights also affirms this right. Article 9 of the Charter states: *Every individual shall have the right to receive information ...*

The Right to Know underpins all other human rights. For example, freedom of expression and thought inherently rely on the availability of adequate information to make informed opinions. Likewise, the realisation of the right to personal safety also requires having sufficient information in that regard.

The Right to Know encompasses the right to seek information, as well as the duty to give information, to store, organize and make it available and to withhold it only when it is proven that this is in the best public interest.

Therefore, the practice of routinely withholding information from the public creates 'subjects' rather than 'citizens' and is a violation of peoples' rights.

1.2 Context

In Zimbabwe, the Constitution guarantees freedom of expression. Section 20 of the Zimbabwe constitution says:

Except with his own consent or by way of parental discipline, no person shall be hindered in the enjoyment of his freedom of expression, that is to say, freedom to hold opinions and to receive and impart ideas and information without interference, and freedom from interference with his correspondence.

However, freedom of expression is not absolute and freedom of the media is not guaranteed by the Zimbabwe constitution. The state has the obligation to enact laws that are reasonable in a democratic society that will govern the flow of information for purposes of safeguarding the interests of the nation. Section 20 (2a) stipulates:

Nothing contained in or done under the authority of any law shall be held to be in contravention of subsection (1) to the extent that the law in question makes provision -

(a) In the interests of defence, public safety, public order, the economic interests of the State, public morality or public health;

(b) For the purpose of:

- i. protecting the reputations, rights and freedoms of other persons or the private lives of persons concerned in legal proceedings;
- ii. preventing the disclosure of information received in confidence;
- iii. maintaining the authority and independence of the courts or tribunals or the Senate or the House of Assembly;
- iv. regulating the technical administration, technical operation or general efficiency of telephony, telegraphy, posts, wireless broadcasting or television or creating or regulating any monopoly in these fields;
- v. in the case of correspondence, preventing the unlawful dispatch therewith of other matter; or

(c) That imposes restrictions upon public officers: except so far as that provisions or, as the case may be, the thing done under the authority thereof is shown not to be reasonably justifiable in a democratic society.

This provision has been abused to enact laws that make it difficult for the public to obtain information from organisations particularly public institutions under the guise of protecting the defence, economic and other interests of the nation. Some of the laws were adopted from the colonial regime as they were, while some have simply changed names just like putting old wine in a new bottle.

One such law for instance is the Official Secrets Act which makes it difficult for the citizens and media to access information held by government and public institutions. Under this law, there are no formal procedures or mechanisms in place to appeal against government decision not to disclose information. The other laws are The Public Order and Security Act (POSA), which restricts freedom of association and freedom of assembly. Sections of the Criminal Law (Codification and Reform) Act also make it a criminal offence to communicate in any way any statement that undermines the president, his/her office or in his/her personal capacity.

There is also the infamous Access to Information and Protection of Privacy Act (AIPPA). In its pre-amble, the act states that it is meant to provide members of the public with the right of access to records and information held by public bodies. It further pledges to make public bodies accountable by allowing the public the right to request correction of misrepresented personal information. However, the opposite is true as the law takes away more than it gives.

Section 6 of AIPPA requires that applicants seeking records or information held by a public body should request the information in writing and where possible pay a reasonable fee. The head of the public body is given a maximum of 30 days to respond. He/she is allowed to refuse to grant the requested information where it is deemed the information sought is not in the public interest. If the information involves a third party the head of the public institution is allowed 30 more days to consult the third party before responding to the request.

This contradicts the law's principles of openness and accountability in the processes and works of the public institutions. Government departments are under no obligation to supply information or to respond to questions submitted by the press or any other inquirer.

1.3 Rationale and research parameters

The duty to facilitate access to information rests with government and public institutions and encompasses two key aspects: enabling citizens to access information upon request; and proactively disseminating important information. Therefore, between 30 June and August 06, 2010, MISA-Zimbabwe sought to assess the level of accessibility to information held by government and public institutions in Zimbabwe. The ministries and public institutions assessed were randomly picked with particular attention being paid on the relevancy and nature of information they hold.

The Ministries and public institutions assessed are:

- ❖ Constitutional Parliamentary Committee (COPAC)
- ❖ Zimbabwe Electricity Supply Authority (ZESA)
- ❖ Harare City Council
- ❖ Postal and Telecommunication Regulatory Authority of Zimbabwe
- ❖ Ministry of Public Services
- ❖ Zimbabwe Republic Police/Ministry of Home Affairs

In addition, MISA-Zimbabwe assessed the websites of these institutions to establish the nature and relevancy of the information carried by the websites.

While questions were delivered directly to the ZRP, the parent ministry of Home Affairs is included in this survey as it provides the website link to the ZRP. We inevitably, then looked at the information contained therein on the Ministry of Home Affairs' website.

1.4 Research Methodology

The research adopted both the qualitative and quantitative methods of data collection. MISA-Zimbabwe sent written requests to all the chosen ministries and institutions. The research data was categorised into two. Using clearly defined evaluation criteria, the first category (Category 1) entailed assessing the websites for the chosen government ministries and public institutions to establish which among them has the most or least efficiently organised provision of public information.

Category 2 entailed sending physical requests for information to the same ministries and public institutions seeking specific information.

1.5 Data analysis

Under **category 1** (websites) [n = 9], a score of 0-4 represents absence of or poorly organised website; 5 – 6 represents a fairly organised website; and 7 – 9 represents a well organised website with most or all relevant information that is of interest to the public.

In **category 2** (physical requests) [n = 10], a score of 0-4 in the evaluation criteria represents secrecy or access denied; 5 – 6 represents fair openness; and 7 – 10 represents openness. In addition, a response with requested information within the legal frame work of 30 working days constitutes openness whilst failure to respond within this legal period constitutes denial.

1.6 Limitations of study

1.6.1 Restricted sample. Owing to limited time and resources the study was limited to only a few government ministries and public institutions.

1.6.2 Qualitative data: It is subjective to personal interpretation

CHAPTER TWO

2.1 Summary of Key Findings

2.1.1 Websites (Category 1)

All six government and public institutions surveyed had websites. However, none of the websites had updated information. Zimbabwe Electricity Supply Authority (ZESA), for example, only had updates of faults as reported by customers and the period within which its workers would attend to the faults. The rest had out dated information, which was in many cases irrelevant.

The Harare City Council in particular had a poorly organised website. In some instances, the website had links without relevant information. For example upon clicking a hyperlink on [careers](#), one was drawn to a blank page. However, to its credit the Council's website was the only one that provided information on budget and expenditure. The rest had no precise information on these issues as well as their expenditure, procurement and employment procedures.

Although the Harare City Council provided its income and expenditure, this was in percentages. There were no actual figures given in terms of the total income to enable residents to calculate the actual figures represented by the percentages.

Despite these shortcomings, all organisations' websites fairly described their mandates/roles/line of business as well as data on the organisational structure, the functions, and the responsibilities of the administration. The Ministry of Public Works in particular had informative detail relating to its responsibilities. However, none of them clearly outlined its programmes, policies and reports.

While the institutions provided their contact details such as their addresses and telephone numbers, none of them stipulated working hours and days. Moreover, none of the institutions published contact details of their public liaison officers for example name, position, phone number or e-mail addresses. Three of the organisations (ZESA Holdings, Ministry of Public Works and Harare City Council) that tried to publish this information had one or two of the contact details missing.

For instance, ZESA had the names and positions of some of its top management but contact details like phone numbers and e-mails were missing. The Ministry of Public Works had phone numbers and e-mail addresses, but the names of contact persons were missing, which might suggest that institutions are trying to avoid direct contact with the public. POTRAZ and Harare City Council had no information on the names, positions, phone numbers and emails of its officials.

While the link to the ZRP provides hotlines that can be used in all the major towns including its standards of conformity, the link needs to be updated to reflect positional changes in its top command. Its crime statistics were last updated in 2001.

As for the parent ministry: www.moha.gov.zw, it still refers to the position deputy minister as being held by Reuben Marumahoko. This is not the case anymore as the ministry is now co-ministered by Kembo Mohadi and Teresa Makone since the formation of the inclusive government. The website still retains pictures of Kembo Mohadi as the sole minister and that of Marumahoko as his deputy.

Three of the institutions' websites had a facility that enabled electronic dissemination of information by visitors and organizations. These are ZESA, Ministry of Public Works and COPAC.

In general, the failure by these institutions to provide adequate and useful information on their operations, programmes, comprehensive budgets, employment criteria and direct contact details makes them appear secretive and non-transparent public institutions in Zimbabwe.

2.1.2 Confusion on the web

The failure by government institutions to effectively use the Internet to disseminate information, which may point to poor internet literacy among public institutions, was clearly mirrored by the continued existence of web links to the now defunct Posts and Telecommunications Corporation (PTC). The Corporation is found on www.mbendi.com. This causes confusion as the institution was disbanded under the Postal and Telecommunications Act of 2000. Its subsidiaries TelOne, NetOne, Postal Services and the Post Office Savings Bank were then commercialised.

Efforts should be made to ensure that this is rectified as wrong information creates wrong perceptions about the status of PTC.

2.1.3 Written Requests – (Category 2)

Access Denied

Five of the six surveyed institutions did not respond to MISA-Zimbabwe's written requests for specific information. Only POTRAZ responded through e-mail inviting MISA-Zimbabwe for an interview at their offices. However, it later cancelled the appointment and preferred to respond in writing. It however, never actually responded to questions.

Thus, POTRAZ – like other organisations – did not provide information as requested and required by international best practice and principles on the right to Access to Information. This appeared to be a manifestation of the organisations' failure to designate officials to handle public information requests. If they had, then these were clearly inaccessible. Only ZESA had an official designated to handle public information requests.

While the newly constituted statutory Zimbabwe Media Commission (ZMC) was not part of this survey, it is however, opportune and within the context of this survey to also mention that MISA-Zimbabwe has over the months had difficulties securing formal/informal meetings or engagements with the Commission. While the Chairperson did respond to requests for a meeting, the planned meetings never materialised as they were continuously postponed due to the Chairperson's tight schedules.

Public bodies are there to unconditionally serve the tax-paying public as well as engage with key stakeholders in areas of mutual interests and should therefore be easily accessible as opposed to maintaining closed-door policies. It is therefore hoped that the ZMC would soon find its feet to freely mingle, meet and engage formally and informally with the key media players to share ideas and concerns that will forge and shape Zimbabwe's media reforms agenda.

In conclusion, this research generally reveals that some of Zimbabwe's government and public institutions are non-transparent and overly secretive with information they hold making it almost impossible for citizens to easily exercise their constitutional right to access information in the hands of public bodies.

CHAPTER THREE

3.1 Detailed Findings

3.1.1 The Postal and Telecommunications Regulatory Authority of Zimbabwe (Potraz)

Category 1 – Website

Total score-4/9

n = 9	Yes	Not quite	No
1. Does the website contain updated information?			X
2. Does the website contain:			
a) Description of its powers as well as data on the organisational structure, the functions, and the responsibilities of the administration.	x		
b) A list of Acts, laws issued within the scope of its powers;	x		

c) Reports, policies, programs			X
d) Budget and expenditure			X
e) Information about the procurement procedures, signed contracts			X
f) Vacancies and employment procedures			X
g) The name, the address, the telephone number and the working hours of the respective institution?		x	
h) Has contact information about the officials been published: name, position, phone number, e-mail?			X
i) Does the institution reply to electronic requests/ provide requested information electronically?			X

Category 2 - Written Requests

Total Score: 4/10

n = 4	1-14 days	30 days	Yes	No /None
1. Is there an official designated to take and respond to information requests? What is the title of the official?				X
2. How long did it take for institutions to provide you with information?	X			
3. Did the institution respond orally or in writing to information requests?			writing	
4. In what format was the information given, if given (hardcopy, softcopy).				
5. If information was not given, did public institution give a written/oral reason?				X
6. Did the institution proactively disclose information about its operations, structures, budgets as handouts e.g. flyers, booklets?				X
7. If information is not given within 30 days consider it a refusal.				Information Refused
8. Did institution ask for reason why information is being sought?				X
9. How would you describe officials' attitude to your request (helpful, secretive, inefficient and unhelpful)				Secretive, Inefficient, Unhelpful

3.1.2 Ministry of Home Affairs/ZRP

Category 1 – Website

Total Score: 3/9

n = 9	Yes	Not quite	No
1. Does the website contain updated information?			x
2. Does the website contain:			
a) Description of its powers as well as data on the organizational structure, the functions, and the responsibilities of the administration.	x		
b) A list of Acts, laws issued within the scope of its powers;	x		
c) Reports, policies, programs		x	
d) Budget and expenditure			x
e) Information about the procurement procedures, signed contracts			x
f) Vacancies and employment procedures			x

g) The name, the address, the telephone number and the working hours of the respective institution?	x		
h) Has contact information about the officials been published: name, position, phone number, e-mail?			x
i) Does the institution reply to electronic requests/ provide requested information electronically?			x

Category 2 - Written Requests

Total: 0/10

n = 10	1-14 days	30 days	Yes	No /None
Is there an official designated to take and respond to information requests? What is the title of the official?				
2. How long did it take for institutions to provide you with information?				
3. Did the institution respond orally or in writing to information requests?				
4. In what format was the information given, if given (hardcopy, softcopy).				
5. If information was not given, did public institution give a written/oral reason?				

6. Did the institution proactively disclose information about its operations, structures, budgets as handouts e.g. flyers, booklets?				
7. If information is not given within 30 days consider it a refusal.				Information Refused
8. Did institution ask for reason why information is being sought?				X
9. How would you describe officials' attitude to your request (helpful, secretive, inefficient and unhelpful)				Secretive, Inefficient, Unhelpful

3.1.3 Harare City Council
Category 1, Website
Total 2/9

n = 9	Yes	Not quite	No
1. Does the website contain updated information?			X
2. Does the website contain:			
a) Description of its powers as well as data on the organizational structure, the functions, and the responsibilities of the administration.	X		
b) A list of Acts, laws issued within the scope of its powers;	X		
c) Reports, policies, programs			X
d) Budget and expenditure		X	
e) Information about the procurement			X

procedures, signed contracts			
f) Vacancies and employment procedures			X
g) The name, the address, the telephone number and the working hours of the respective institution?		X	
h) Has contact information about the officials been published: name, position, phone number, e-mail?			X
i) Does the institution reply to electronic requests/ provide requested information electronically?			X

Category 2 - Written Requests

Total 2/10

n = 10	1-14 days	30 days	Yes	No /None
1. Is there an official designated to take and respond to information requests? What is the title of the official?				
2. How long did it take for institutions to provide you with information?				
3. Did the institution respond orally or in writing to information requests?				
4. In what format was the information given, if given (hardcopy, softcopy).				
5. If information was not given, did public institution give a				

written/oral reason?				
6. Did the institution proactively disclose information about its operations, structures, budgets as handouts e.g. flyers, booklets?				
7. If information is not given within 30 days consider it a refusal.				Information Refused
8. Did institution ask for reason why information is being sought?				X
9. How would you describe officials' attitude to your request (helpful, secretive, inefficient and unhelpful)				Secretive, Inefficient, Unhelpful

3.1.4 Ministry of Public Service and Social Works

Category 1.Website

Total Score: 3/9

n = 9	Yes	Not quite	No
1. Does the website contain updated information?			X
2. Does the website contain:			
a) Description of its powers as well as data on the organizational structure, the functions, and the responsibilities of the administration.	X		
b) A list of Acts, laws issued within the scope of its powers;		X	
c) Reports, policies, programs			X
d) Budget and expenditure			X
e) Information about the procurement			X

procedures, signed contracts			
f) Vacancies and employment procedures		X	
g) The name, the address, the telephone number and the working hours of the respective institution?	X		
h) Has contact information about the officials been published: name, position, phone number, e-mail?		X	
i) Does the institution reply to electronic requests/ provide requested information electronically?	X		

Category 2 - Written Requests

Total 0/10

n = 10	1-14 days	30 days	Yes	No /None
1. Is there an official designated to take and respond to information requests? What is the title of the official?				
2. How long did it take for institutions to provide you with information?				
3. Did the institution respond orally or in writing to information requests?				
4. In what format was the information given, if given (hardcopy, softcopy).				

5. If information was not given, did public institution give a written/oral reason?				
6. Did the institution proactively disclose information about its operations, structures, budgets as handouts e.g. flyers, booklets?				
7. If information is not given within 30 days consider it a refusal.				Information Refused
8. Did institution ask for reason why information is being sought?				X
9. How would you describe officials' attitude to your request (helpful, secretive, inefficient and unhelpful)				Secretive, Inefficient, Unhelpful

3.1.5. Constitutional Parliamentary Select Committee (COPAC)

Category - 1 Website

Total Score: 3/9

n = 9	Yes	Not quite	No
1. Does the website contain updated information?			X
2. Does the website contain:			
a) Description of its powers as well as data on the organizational structure, the functions, and the responsibilities of the administration.	X		
b) A list of Acts, laws issued within the scope of its powers;	X		
c) Reports, policies, programs		X	

d) Budget and expenditure			X
e) Information about the procurement procedures, signed contracts			X
f) Vacancies and employment procedures			X
g) The name, the address, the telephone number and the working hours of the respective institution?		X	
h) Has contact information about the officials been published: name, position, phone number, e-mail?		X	
i) Does the institution reply to electronic requests/ provide requested information electronically?	X		

Category 2 - Written Requests

Total- 0/9

n = 9	1-14 days	30 days	Yes	No /None
1. Is there an official designated to take and respond to information requests? What is the title of the official?				
2. How long did it take for institutions to provide you with information?				
3. Did the institution respond orally or in writing to information requests?				
4. In what format was the information given, if given				

(hardcopy, softcopy).				
5. If information was not given, did public institution give a written/oral reason?				
6. Did the institution proactively disclose information about its operations, structures, budgets as handouts e.g. flyers, booklets?				
7. If information is not given within 30 days consider it a refusal.				Information Refused
8. Did institution ask for reason why information is being sought?				X
9. How would you describe officials' attitude to your request (helpful, secretive, inefficient and unhelpful)				Secretive, Inefficient, Unhelpful

3.1.5 Zimbabwe Electricity Supply Authority (ZESA)

Category 1- Website

Total Score: 2/9

n = 9	Yes	Not quite	No
1. Does the website contain updated information?			X
2. Does the website contain:			
a) Description of its powers as well as data on the organizational structure, the functions, and the responsibilities of the administration.	X		
b) A list of Acts, laws issued within the scope of its powers;			X
c) Reports, policies, programs		X	

d) Budget and expenditure			X
e) Information about the procurement procedures, signed contracts			X
f) Vacancies and employment procedures			X
g) The name, the address, the telephone number and the working hours of the respective institution?		X	
h) Has contact information about the officials been published: name, position, phone number, e-mail?		X	
i) Does the institution reply to electronic requests/ provide requested information electronically?	X		

Category 2 - Written Requests

Total 0/10

n = 10	1-14 days	30 days	Yes	No /None
1. Is there an official designated to take and respond to information requests? What is the title of the official?				
2. How long did it take for institutions to provide you with information?				
3. Did the institution respond orally or in writing to information requests?				
4. In what format was the information given, if given				

(hardcopy, softcopy).				
5. If information was not given, did public institution give a written/oral reason?				
6. Did the institution proactively disclose information about its operations, structures, budgets as handouts e.g. flyers, booklets?				
7. If information is not given within 30 days consider it a refusal.				Information Refused
8. Did institution ask for reason why information is being sought?				X
9. How would you describe officials' attitude to your request (helpful, secretive, inefficient and unhelpful)				Secretive, Inefficient, Unhelpful

CHAPTER FOUR

4.1 Research Conclusions

Zimbabwe has some of the most secretive government and public institutions in Southern Africa, making it almost impossible for citizens to access information either electronically or physically. For instance, the two ministries that were surveyed, which form part of the critical arm of government, had no websites while the other four organisations' websites had little or outdated information. Even as the surveyed institutions were prompted to provide information, only one, POTRAZ, responded to written requests. The rest did not. However, POTRAZ's response was barely useful as it was only in the context of expressing its intention to respond in writing to MISA-Zimbabwe's requests. It did not fulfill its pledge.

4.2 Most Secretive Public Institution in Zimbabwe

All government institutions surveyed in this research, save for POTRAZ, easily qualify as the most secretive and unhelpful in providing citizens with information voluntarily through their websites and when it is requested. But the worst performer was ZESA, which scored low on both categories (See above) used for this research. The organization is the recipient of the 2010 Padlock for the Most Secretive Institution.

4.3 The Most Open Public Institution in Zimbabwe

Postal and Telecommunications Regulatory Authority of Zimbabwe (Potraz) performed relatively better than most government institutions surveyed for this research. Using international standards and principles on Access to Information as well as the criteria set for this research, this institution fared better than the other institutions as it responded to the request within the time frame but failed to actually issue out responses to the questions asked. The institution could do itself justice by updating its website, which largely contains less than useful information about its operations. The failure by the institution to respond to given questions however, disqualifies it from receiving the 2010 Golden Key Award for the Most Open and Transparent Government Institution in Zimbabwe, which it could have easily received compared to other organizations.

4.4 Recommendations

There is a need for MISA-Zimbabwe to plan, organise and mobilise around FOI awareness activities and campaigns under the *Right to Know* campaign in Zimbabwe.

End