

Email Inquiry sent to Parliament and Ministry of Information dated 15/09/2014

We write to make an official inquiry on the [recent media reports](#) that Government, through POTRAZ, is in the process of drafting new cyber laws to regulate the activities of social media. We have been trying to find out the status of the drafting process to find out at what stage POTRAZ is at now as that information is not forthcoming. However, we have not received a response to our inquiry.

In our respectful view, it was our hope that the process being undertaken by POTRAZ as well as the substantive contents of the proposed laws could have benefitted from the outcome of the Media Panel of Inquiry (IMPI) which is currently being conducted by the Ministry of Information, meant to solicit for citizens' views on how to reconfigure the country's media industry. We consider the Inquiry as an important step in the government's efforts to engage more constructively with all stakeholders to address concerns that have been raised in connection with the state of the media generally and specifically freedom of expression and privacy in Zimbabwe. We believe the Inquiry offer an unprecedented opportunity to fulfill government's commitment to an inclusive and transparent process towards the reform of Zimbabwe's media industry. We strongly believe this would ensure free flow of information, which is a cornerstone of democratic and prosperous societies.

It is heartening to note that the Inquiry followed a significant step taken by government in May 2013, to adopt a new Constitution with an extensive bill of rights, with specific and broad provisions that guarantee the right to privacy and civil liberties. In doing so, government brought the country into line with international best practice regarding

constitutional rights, and indeed the constitutional guarantees represented a significant improvement on the rights set out by international covenants and declarations that had already been ratified by the country, such as the African Charter on Human and People's Rights (ACHPR), which does not contain a specific right to privacy.

However, the process being taken with regard to the proposed social media laws has been very opaque, and is running parallel to, rather than benefit from the noble IMPI. From the little information we have to hand, we are reliably informed that the Bill is still at its formative stages and it appears it's simply a reaction to swelling increase of the Internet and unpleasant comments expressed online.

We are concerned that the proposed laws may simply be reactionary to a passing social problem and may not be grounded on any principle and policy framework, for example, that seeks to balance public interest and state security. Experiences from elsewhere have demonstrated the inherent dangers of legislating away social problems, especially if the process does not benefit from an inclusive multistakeholders consultation, which is exactly what your IMPI sought to achieve. A detailed assessment ought to be made to ascertain if the current laws are not adequate to address the issues, and if not what interventions to put in place that adheres with the [principles of legality, necessity and proportionality](#).

We are concerned that the proposed law, rather than build on the ground covered by the IMPI and the new constitution, might take away from such progress and curtail free expression, online critical debates and information sharing which are critical for an active citizenry that is engaged in civic and political affairs that concern them. This might be the case since this follows POTRAZ's recent failed attempts to pass

invasive data retention and sim card registration regulations. As is the case now the now defunct laws did not benefit from wide public consultations and did not benefit from the input of independent experts.

We are therefore concerned by the lack of a transparent and inclusive consultation process that would sit with the current IMPI, to ensure that the resultant laws benefit from the views of multiple stakeholders, civil society in particular.

We respectfully call upon you to provide us with an update on the current and future processes relating to the proposed laws, provide us with copies of the proposed laws as well as an opportunity to review and contribute towards the review of the drafts. We would be pleased if the proposed laws and their broader framework could also benefit from our recent IMPI Submissions, the draft [African Declaration on Internet Rights and Freedoms](#) as well as some of the promising good practice as contained in the [African Union Convention on Cybersecurity and Personal Data Protection](#). In particular, the recent Baba Jukwa case underscores the need for a cyber emergency response institutional framework that benefit from both civilian and judicial oversight. This is in line with both regional and international best practice.

We look forward to the opportunity to work with you and your staff on how best to integrate civil society voices and concerns into the drafting and all the other concurrent processes. We are readily available to help to offer our informed views on the contents of the proposed laws. Thank you very much for your time and for your attention to this important issue. In the meantime, we have enclosed a copy of our IMPI submissions, [African Declaration on Internet Rights and Freedoms](#) and the [African Union Convention on Cybersecurity and Personal Data Protection](#).

Sincere regards,