IMPLEMENTATION OF FREEDOM OF INFORMATION LEGISLATION IN SOUTH AFRICA AND ZIMBABWE

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ABSTRACT

The passage of Freedom of Information (FOI) legislation demonstrates a commitment to combating corruption and promoting democracy through public participation, openness, and transparency. Adoption of the legislation, however, is insufficient without its implementation. The passage of FOI legislation, in theory, signifies a government's willingness to provide access to a wide range of information; however, access to the same constitutionally protected human rights of access to information requires considerable effort. Despite the fact that over 20 African countries have enacted FOI legislation, citizens continue to struggle to access information for a variety of reasons related to poor implementation of the legislation. As a result, the public sector has failed to provide transparency, accountability, and good governance to citizens. Using the Article 19 Principles for FOI Legislation as a conceptual framework, this study conducts a comparative analysis of the implementation of FOI legislation in South Africa and Zimbabwe to determine alignment with the principles. The study used a qualitative approach to collect data from a panel of experts chosen using the snowball technique, as well as an analysis of various documents such as FOI legislation, reports, and policies. To ensure content integrity, a Delphi design with two rounds of interviews comprised of 12 experts (6 from South Africa and 6 from Zimbabwe) was used.

According to the study's findings, FOI legislation in South Africa and Zimbabwe has done little to strengthen democracy and increase public participation because of several challenges, including a lack of political will, a lack of commitment to developing FOI policies, a lack of education and awareness, and a culture of secrecy. While recent developments such as the newly established information regulator in South Africa and the adoption of new FOI legislation in Zimbabwe are encouraging, it remains to be seen whether the legislation will be fully implemented. The shortcomings and strengths of both countries' legislation are discussed.

Using all nine principles of Article 19 to evaluate FOI legislation, the study discovered several gaps, such as partial or no alignment to specific principles. The PAIA of South Africa, for example, does not provide for the repeal of "secretive" laws, whereas the FIA of Zimbabwe partially does, and this has had a significant impact on the implementation of the FOI legislation.

The study recommends comprehensive legislative amendments to ensure alignment with Article 19 principles and that regulatory bodies collaborate with all key stakeholders, including Parliament, Civil Society Organisations (CSOs), and implementing agencies, to address challenges associated with FOI legislation implementation. The study proposed a framework for improving the implementation of FOI legislation in South Africa and Zimbabwe.

Keywords: freedom of information, public participation, open government, transparency, accountability, South Africa, Zimbabwe, democracy, good governance, public entities, human rights, PAIA, FIA, Article 19 principles.

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DEDICATION

I dedicate this piece of work to my parents, who always believed in me and had no doubt that I would pull through; my wife, with whom I walked side by side and concurred against all odds; my two beautiful daughters, who I believe will be inspired by this piece of work to work harder in order to build a better future for themselves with the common understanding that "a journey of 1000 miles begins with a single step," and my siblings, who continue to be the piller of my strength.

DECLARATION

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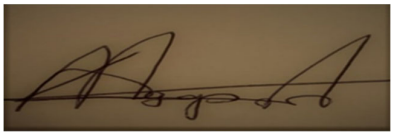
I declare that the above thesis is my work and that all the sources that I have used or quoted have been indicated and acknowledged by means of complete references.

I further declare that I submitted the thesis to originality checking software and that it falls within the accepted requirements for originality.

I further declare that I have not previously submitted this work, or part of it, for examination at Unisa for another qualification or at any other higher education institution.



SIGNATURE **DATE** **13 June 2022**

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LIST OF ACRONYMS

ACHPR:	African Commission on Human and People's Rights
AFEX:	African Freedom of Expression
AFIC:	Africa Freedom of Information Centre
ALA:	American Library Association
ANC:	African National Congress
ANCL:	African Network of Constitutional Lawyers
AOMA:	Alabama Open Meetings Act
APAI:	African Platform on Access to Information
CAOSA:	Community Advice Offices South Africa
CGE:	Commission for Gender Equality
CHR:	Centre for Human Rights
CJEU:	Court of Justice of the European Union
CLD:	Centre for Law and Democracy
CODESA:	Convention for a Democratic South Africa
CSO:	Civil Society Organisations
DIO:	Deputy Information Officer
DOCS:	Department of Justice and Correctional Services
FIA:	Freedom of Information Act
FOI:	Freedom of Information
FOIAnet:	Freedom of Information Advocates Network
GCFE:	Global Campaign for Freedom of Expression
GPNSRI:	Global Principles on National Security and the Right to Information
HRAC:	Human Rights Action Centre
HRW:	Human Rights Watch
HRWF:	Human Rights Without Frontiers
ICIC:	International Conference of Information Commissioners

IEC:	Independent Electoral Commission
IFLA:	International Federation of Library Associations
IMF:	International Monetary Fund
ISO:	International Organisation for Standardization
JSC:	Judicial Service Commission
LIASA:	Library and Information Association of South Africa
MAZ:	Media Alliance of Zimbabwe
MMR:	Mixed Method Research
MIPBS:	Ministry of Information, Publicity and Brodcasting Service
MOPB:	Maintenace of Peace and Order Act
NA:	National Assembly
NARSSA:	National Archives and Recourds Service of South Africa
NCOP:	National Council of Provinces
NDA:	National Development Agency
NFIA:	Network of Freedom of Information Advocates
NFOIC:	National Freedom of Information Coalition
NGO:	Non-Governmental Organisation
NMCM:	Nelson Mandela Centre of Memory
NP:	National Party
OPG:	Open Government Partnership
PAIA:	Promotion of Access to Information Act
PFMA:	Public Finance Management Act
PIA:	Protection of Information Act
POPIA:	Protection of Personal Information Act

POSA:	Public Order Security Act
PPF:	Public Participantion Framework
PPSA:	Public Protector South Africa
RGFHSC:	Research Governance Framework for Health and Social Care
RTE:	Raidio Telifis Eirean
R2K:	Right to Know
SADC:	Southern African Development Community
SAHRC:	South African Human Rights Commission
SALS:	South African Legislative Sector
SAPS:	South African Police Service
SERI:	Socio Economic Rights Institute
UN:	United Nations
UP:	University of Pretoria
UCC:	University College Cork
UNCHR:	United Nations Commission on Human Rights
UNICEF:	United Nations International Children's Emergency Fund
UNISA:	University of South Africa
VMCZ:	Voluntary Media Council of Zimbabwe
WHO:	World Health Organization
WPTPS:	White Paper on Transforming Public Service
ZHRA:	Zimbabwe Human Rights Association
ZNEF:	Zimbabwe National Editors Forum
ZRA:	Zimbabwe Revenue Authority
ZUJ:	Zimbabwe Union of Journalists

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CHAPTER ONE

INTRODUCTION: LAYING THE FOUNDATION

1.1 Introduction and background to the study

Freedom of information (FOI) is regarded as one of the epitomes of democracy. Indeed, as Adeleke (2013) asserts, FOI is important for the achievement of a meaningful and complete democracy. FOI provides mechanisms that can be used to hold government representatives accountable for their decisions. For example, Meyer-Resende (2011) argues that if ordinary members of the public do not receive sufficient information and wide public access to official records, they will not be able to hold the authorities accountable for their actions. Every state that claims to be at the helm of democracy is expected to exercise a high level of openness and transparency by putting measures in place to promote access to government information at all levels to allow proper and fair scrutiny. According to Neuman (2002), democracy depends on a knowledgeable citizenry whose access to a broad range of information enables them to receive equal access to justice and to deal decisively with the government that undermines the will of the people. The maturity level of democracy can be judged by the extent to which the right of access to information is protected by a piece of writing, such as FOI legislation and its implementation thereof. Mendel (2003a) is of the view that even if the FOI is constitutionally guaranteed, it must be implemented by specific legislation outlining in detail the roles and responsibilities of all the parties involved in the process of access to information.

There is an underlying assumption that the concept of FOI law dates back to the 1760s, and Sweden was the first country in the world to pass FOI legislation (Banisar 2006). However, as the world democratised in the 1990s, countries such as the Republic of Ireland (1997), South Africa (2000), the United Kingdom (2000), Angola (2002), and Zimbabwe (2002) adopted FOI legislation.The FOI further gained momentum for the second time after the 2006 ruling by the Inter-American Court of Human Rights, when the court found that access to government information is a fundamental human right. The court further recommended that the state be required to make an effort to provide training to public officials on the right of access to information (Piotrowski, Zhang, Lin & Wu 2009). An observation suggests that so far, the courts are the only institutions capable of fostering the implementation of FOI legislation as

several disputes are referred to the courts for settlement. For example, in a study to investigate the role of the Court of Justice of the European Union (CJEU) on transparency and FOI, Spahiu (2015) found that while the CJEU may not be the ultimate solution to all problems pertaining to transparency and FOI, the court continues to be the driving force in the development of transparency and FOI.

Article 19 is an international organisation responsible for the promotion of free expression around the world. The organisation (Article 19) was established in accordance with article 19 of the Universal Declaration of Human Rights (UDHR) of the United Nations (UN), hence its name. As a result, Article 19 developed nine principles (see appendix A for Article 19's principles on FOI legislation) which can be used by different countries worldwide as a guideline for the development and implementation of FOI legislation in order to avoid problems such as litigation as a result of poor formulation of legislation itself. All these nine principles are relevant to this study as they broadly provide an explanation of what is expected in the FOI legislation and its implementation. Therefore, they will all be applied by the study. When there is a failure to implement any of the aforementioned principles, it could be presumed that there is poor implementation of FOI law. The primary goal of Article 19's nine principles is to promote progressive and effective FOI law, particularly in countries that are still struggling with its implementation. The principles were formulated on the assumption that the successful implementation of FOI legislation can be measured adequately. Notably, the principles are just sets of standards, and they can never be enough until they are implemented. Article 19 (2016) says that the principles are based on international and regional law and practice-based standards.

Article 19 (2017) posits that FOI is a key element of a sustainable development goal and its importance is well established globally. To begin, at the international level, the Universal Declaration of Human Rights, adopted by the United Nations (UN) Assembly in 1948, guarantees the right of access to information. Article 19 of the Universal Declaration of Human Rights clearly 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 medium and regardless of frontiers". Ironically, some of the member states of the UN have passed laws that provide for certain documents to be kept secret. Accordingly, and perhaps in simple terms, some countries, which are member states of the UN,

passed laws that advocate the opposite of what the FOI laws stand to achieve in order for the government to hold on to power and disempower citizens by limiting access to certain information (Freedominfo 2015).

In addition to subscribing to Article 19, Africa also recognises the importance of FOI law. For example, Article 9(1) and (2) of the African Charter on Human and People's Rights state that every individual has the right to receive information in order to express and disseminate his or her opinions within the framework of the law.To further demonstrate Africa's commitment to FOI, the Commission in 2004 adopted Resolution 71 at the 36th Ordinary Session, held in Dakar, Senegal, by creating the position of the Special Rapporteur on Freedom of Expression and Access to Information (herewith referred to as the "Special Rapporteur") in Africa. In 2010, the African Commission mandated the Special Raporteur to lead the process of developing a Model Law on Access to Information for Africa. Lastly, at the regional level, article 4 of the SADC protocols against corruption states that each state party "undertakes to adopt measures which will create, maintain, and strengthen mechanisms to promote access to information to facilitate eradication and elimination of opportunities for corruption." The SADC identifies access to information as one of the mechanisms that its member states can use to dismantle acts of corruption. As a result, four countries in the SADC region have passed FOI legislation so far.

By 2018, South Africa and Zimbabwe, as member states of the SADC, were among the 113 member states of the United Nations (UN) that have laws that establish mechanisms to access government-held information as indicated by Adu (2018). Network of Freedom of Information Advocates (2017) reports that only 25 out of 54 countries (with four from the SADC region) in Africa as a whole have passed laws that give citizens the right of access to public information. Ideally, a law on access to information is enforced by the Constitution, as is the case in many countries. This is also the case with South Africa and Zimbabwe; for example, section 32 of the 1996 Constitution of the Republic of South Africa recognises the right of access to information, which compels both public and private bodies to provide access to information to members of the public upon request (Adeleke & Ward 2015). A law on access to information by the name of the Promotion of Access to Information Act (Act No. 2 of 2000) (PAIA) was passed in South Africa to give effect to the constitutional obligations on access to information. However, despite the constitutional guarantee of the right of access to "any

information", the PAIA of South Africa only provides for access to a "record" (Ebrahim 2010), although the title of the Act talks about the promotion of access to information. The PAIA defines records as "recorded information regardless of form or medium."

In the case of Zimbabwe, FOI law was initially combined with privacy law as one piece of legislation. That has since changed because the new FOI legislation repealed the most criticised Access to Information and Protection of Privacy Act (AIPPA). The main issue with AIPPA was that the legislation was more on information protection than information disclosure, which was very problematic because maximum disclosure is one of the basic principles of FOI legislation. The media was also regulated by the same piece of legislation, which resulted in the legislation being too broad to the extent that politicians in the country hide behind the legislation to avoid accountability and transparency (Chitsamatanga & Peter 2016). The Act was dominated by the protection of information and not the provision of the same, despite the fact that sections 61 and 62 of Zimbabwe's Constitution of 2013 provide the people of Zimbabwe the guarantee of access to public information. It is for that reason that citizens and civil society leaders continue to criticise the legislation as they claim that the law was used under the former president, Robert Mugabe (1980–2017), to deny citizens basic rights through unnecessary clauses in the Act (Jordaan 2019; Human Rights Watch 2019). The new FOI legislation in Zimbabwe, which was passed in 2020, is the Freedom of Information Act (Act No. 1 of 2020).

Despite the passing of FOI legislation in South Africa and Zimbabwe, it was observed that there are still gaps relating to the implementation thereof, resulting in the intention or general objectives for which the pieces of legislation were passed, not being met. Several scholars, such as Makhura and Ngoepe (2006) and Mutula and Wamukoya (2009), identify records management systems as one of the contributors to poor implementation of the FOI legislation. On the other hand, Neuman and Colland (2007) are on record suggesting that the implementation of FOI legislation is experiencing common challenges such as changing people's mindsets, lack of capacity in relation to record-keeping, lack of training, lack of incentive systems, and assigning responsibility for oversight mechanisms.

The current study suggests that some of the gaps in the implementation of FOI legislation may be addressed by the full implementation of Article 19's nine principles of access to information.

The principles were endorsed by reputable and globally respected international organisations supporting FOI, such as the United Nations Commission on Human Rights (UNCHR). Furthermore, some of the factors that contribute to the current challenges experienced by the implementation of FOI legislation are the inability to maintain the balance between the demand and supply of information. It is for this reason that Neumann and Colland (2007) suggest that due to the complex nature of the implementation of FOI legislation, undivided attention is needed for the development of sustainable strategies to change the mindsets of people who hold the information. Some public representatives hold the view that the government owns the public information. As such, the very same government has every right to hold on to the information for as long as time still allows. In a study by Adu (2018), it is pointed out that the greatest paradox as far as FOI is concerned lies in the fact that restrictive media, absence of media pluralism, denial of access to information, and lack of transparency and accountability are identified to be the main elements that continue to undermine the effort made towards the promotion of access to information, and those elements also override the very ideals of FOI law.

In an ideal situation, FOI is expected to promote transparency, accountability, and good governance. Transparency is regarded as an end product of FOI and is another element of good governance, largely because it enables the citizens to evaluate the functionality of the government based on the available information. The Sixth Global Forum on Reinventing Government, held in Seoul from May 24 to 27, 2005, concluded that transparency is an important component of good governance (Kim, Halligan, Cho, Oh & Elikenbery 2005). Michener and Bersch (2013) put it correctly to say that transparency is about information, and if information is not visible, then the primary and secondary meaning of the word "transparency" loses its relevance. Transparency means that the information should be provided openly in an easily understandable format and medium, and that is also a requirement for good governance. Good governance means conducting business in an ethical way as opposed to abusing power by those in public office. By its nature, a commitment to FOI laws sends out a strong message of radicalism, change, and empowerment, which is obviously well received by citizens (Worthy 2017). Cannataci, Zhao, Torres, Monteleone, Bonnici and Moyakine (2016) assert that access to information is a component of transparency, but the latter also entails conducting affairs openly and how you conduct the affairs must be subject to public scrutiny. If not handled properly, the issue of access to public information can lead to

unnecessary conflicts and tensions, such as unprecedented protest actions, as has been seen in the past. By making it easier for people to get access to public information, people will learn to trust those who have been elected to public office.

The current study uses Article 19's nine principles of FOI legislation to evaluate, through a comparison analysis, the implementation of FOI legislation, with a specific focus on South Africa and Zimbabwe. The reason for choosing the two countries is that both South Africa and Zimbabwe are working hard to reverse the legacy of British colonial rule. Recent developments in two countries have shown legislative reform in the area of FOI legislation, something about which one may generally argue that there is a desire to address anomalies pertaining to the implementation of FOI. While South Africa's PAIA is regarded as the best FOI legislation in Africa which other countries can benchmark against, evidence seems to suggest that South Africa and Zimbabwe are still caught between a rock and a hard place in terms of implementation as a result of traditional legislation inherited from colonial masters aimed at depriving locals the rights of access to information. For example, South Africa has legislation such as the Protection of Information Act (PIA), whereas Zimbabwe has legislation such as the Maintenance of Peace and Order Act (MOPB), Official Secrets Act, and Interception of Communications Act, all of which advocate the opposite of what FOI law seeks to achieve.

1.1.1 Brief background to FOI in South Africa and Zimbabwe

Sweden laid the groundwork for the formalisation of the FOI with the passage of the Freedom of the Press Act 255 years ago, and today many countries see access to public information as a means of strengthening the democratic system of government. Finland (1951), Norway (1970), France (1978), and Denmark (1985) were the first European countries to join Sweden in the passing of FOI legislation. The United States (1966) and Canada (1983) were the first countries in South America that saw an opportunity to follow Sweden's lead and passed FOI legislation. In the case of Caribbean countries, FOI is relatively a new concept, as Belize was the first country in the region to pass FOI legislation in 1994. Today, at this time of writing, FOI is embraced by over a hundred countries around the world (Walby and Luscombe 2017). However, the adoption of FOI legislation in Africa appears to be moving at a snail's pace. In 2000, Africa began to make inroads into the world of transparency and openness, roughly 51 years after Sweden passed its first FOI legislation. The first FOI legislation on the African

continent was enacted in South Africa (which is the subject of the current study) in the year 2000. According to Asogwa and Ezema (2017), since the year 2000, FOI has become popular in Africa. As of 2021, only 22 out of 54 African countries had passed laws promoting freedom of access to public information.

According to Lemieux and Trapnell (2016), some countries did not pass FOI legislation easily without putting in a lot of effort. The years gap between the adoption of the Constitution and the passage of FOI legislation demonstrates the amount of effort expended in getting FOI legislation passed. For example, it took Nigeria about 12 years to pass the FOI legislation that gives effect to the constitutional obligation of the fundamental human rights of access to information. In South Africa, the year gap between the adoption of the Constitution and the passage of FOI legislation is only five years, demonstrating the country's commitment to transparency and openness. The "year gap" as labelled by Lemieux and Trapnell (2016) could be the reason why there is an asymetry in the implementation of the FOI legislation. Adu (2018) and Benjamin (2017) both say that the speed with which FOI laws have been passed in Africa has not been matched by the speed with which they have been put into place.

1.1.1.1 South Africa

In order to gain an understanding of FOI in South Africa, some historical context about the country's previous government systems, as well as the attitude of that system towards information in general, is required. This section discusses the history of FOI in South Africa and the latest developments since the FOI legislation was enacted. After the National Party (NP) won elections in 1948, the apartheid system was established with the passage of laws that sought to divide people according to their racial groups. It is through the apartheid system that several pieces of legislation were adopted as an effort to systematically restrict the rights of access to information. Some of the pieces of legislation which were meant to restrict free access to information include: the Suppression of Communism Act (1950), the Internal Security Act (1950), the Public Safety Act (1953), the Publication Act (1974) and the Protection of Information Act (1982). According to McKinley (2003), the Protection of Information Act (Act No. 84 of 1982) will always be used as an excuse by secretive governments to argue for non-disclosure of certain information.

According to Hart and Nassimbeni (2018), the year 1994 saw the end of a government ruled by fear, secrecy, and oppression, bringing a new democratic era with the election of the African National Congress (ANC) to take over the government from the NP. Following a long period of apartheid and colonial rule, South Africa attained democracy in 1994, resulting in a 1996 Constitution which was used as a tool to "lay the foundation for a democratic and open society in which government is based on the will of the people" (South Africa 1996). Section 32 of South Africa's 1996 Constitution gave birth to the bill of rights. One of the most important and celebrated aspects of the 1996 Constitution is the Bill of Rights, which sought to ensure equal protection of all human, socio-economic, and civil rights regardless of race, gender, sexual orientation, disability, and other factors used by the apartheid government to foster discrimination (Dimba & Calland 2003). Section 23 of the 1996 Constitution (under the Bill of Rights) provides for the enactment of legislation to give effect to the rights of access to information. It is for this reason that the Promotion of Access to Information Act (Act No. 2 of 2000) was passed. Development of the PAIA was guided by the Global Principles on National Security and the Right of Access to Information (herewith referred to as the Tshwane Principles). The Tshwane Principles were developed by a group of experts on October 1st, 1995 with the goal of establishing authoritative guidelines for those engaged in drafting, revising, or implementing laws or provisions of laws relating to the withholding of information by the state on the grounds of national security (Mendel 2003b).

FOI legislation in South Africa, whose implementation has been widely criticised by several scholars, including Marais, Quayle and Burns (2017) and Darch and Underwood (2005), is seen as an important tool for reversing human rights violations and corrupt activities that were going unnoticed due to the unjust laws imposed by the secretive apartheid government. As previously stated, South Africa was the first country in Africa to pass FOI legislation, and there have been notable developments since the law was first passed 21 years ago. Some of the latest developments include the following:

- Information officers forum conference and golden key awards
- Establishment of the Information Regulator in terms of Protection of Personal Information Act
- Several court cases which continue to provide a clear interpretation of the Act
- Hosting of the continent's first information conference (ICIC) in South Africa under the theme: "International cooperation to strengthen public access to information"

- Online portal for the registration of information officers and deputy information officers (DIO).

African Freedom of Expression (AFEX) analysed the state of FOI in South Africa. According to AFEX, access to information in South Africa is still confronted with a number of challenges, such as a lack of education and awareness about the existence of FOI legislation and what this piece of legislation seeks to achieve. Some of these challenges are explicitly explained by the South African Human Rights Commission (SAHRC) every year in their annual PAIA reports. For example, in the 2019/20 PAIA reports, the SAHRC reports that one of the challenges affecting full implementation of FOI legislation is the fact that there is no compliance with the National Archives and Records Service of South Africa Act (Act No. 43 of 1996) (herewith referred to as the NARSSA Act). In terms of the NARSSA Act, public entities are required to do the following: use the approved records classification system; appoint a records manager to manage the records of government entities; obtain authorisation for the disposal of records; and last but not least, conduct records inspections regularly. However, SAHRC reports that these provisions of NARSSA have a significant impact on the implementation of PAIA but they are not being complied with by the public entities. According to Dominy (2017), open access is the most powerful tool for combating inefficiency and human rights violations; however, the implementation of the PAIA has become a source of contention because some political leaders believe that having this piece of legislation was the biggest mistake.

1.1.1.2 Zimbabwe

In order for the reader to have a better understanding of the history of FOI in Zimbabwe, it is important to first understand the historical background of the country's constitutional reform. In this section, a reader is taken through Zimbabwe's constitutional development since the country obtained independence. Zimbabwe, just like South Africa, is one of the African countries that were colonised by the British government. After many years as a British colony, a constitutional conference was held at Lancaster House in 1979. According to the report of the constitutional conference, the purpose of the conference was to "discuss and reach agreement on the terms of an independent constitution and that elections should be supervised by to enable Rhodesia to proceed to legal independence and the parties to settle their differences by political means" (Southern Rhodesia 1979). The parties involved in the Lancaster House

Agreement included the British (represented by Lord Carrington), the white Rhodesians (represented by Bishop Muzorerwa), ZANU (represented by Robert Mugabe), and PF-ZAPU (represented by Joseph Nkomo). The Lancaster House Conference reached agreement on the following:

- Summary of Independence Constitution;
- Agreement for pre-independence period;
- A cease-fire agreement signed by the parties.

Having obtained independence in 1980, there were a lot of expectations that the new administration would reverse most of the decisions imposed by the previous regime (Darnolf and Laakso 2003). These expectations were not covered in the Lancaster House Constitution as many believed that the constitution made specific provisions aimed at protecting white minorities (Hatchard 1991). According to Chiduza and Makiwane (2016), the Lancaster House Constitution failed to recognise the importance of human rights for all citizens. In 1997, the government formed a Constitutional Commission as a result of pressure from the newly established National Constitutional Assembly (NCA). The purpose of the Constitutional Commission was to engage in the process of constitutional reform. Following a nationwide public consultation with the Zimbabweans, the Constitutional Commission produced and sent to President Robert Mugabe a draft Constitution that contained a broader bill of rights than the Lancaster House Constitution (Hatchard 2001; Dzinesa 2012). However, President Mugabe was not happy with the draft and used his powers to amend it, which was later rejected by the National Referendum (Dzinesa 2012). Three political parties in Zimbabwe, namely ZANU-PF, MDC-T and MDC-N, successfully negotiated a new constitution which was approved by referendum on March 16, 2013.

Zimbabwe's 2013 Constitution makes provisions for fundamental human rights, including the rights of access to information. Section 53 of the 2013 Constitution provides for the enactment of legislation to give effect to the fundamental rights of access to information. However, section 53 further indicates that information on matters relating to defence, public security or professional confidentiality must be restricted (Zimbabwe 2013). The first FOI legislation in Zimbabwe, by the name of the Access to Information and Protection of Pricacy Act (AIPPA), was passed in 2002 and the legislation has gone through numerous amendments as most of the media commentators in the country hold the view that the legislation was passed to take control

of the media rather than allow freedom of access to a wide range of information. The AIPPA was amended for the first time in 2003, for the second time in 2004, and for the third time in 2007. The path that Zimbabwe took on several constitutional amendments as a result of dissatisfaction with the provisions appears to be the same path the country is taking regarding the amendment of AIPPA. These developments in the legislation's amendment speak volumes about how dissatisfied Zimbabweans are with the provisions of the legislation. Zimbabweans criticised AIPPA from the day it was passed to this date. According to MISA and Article 19 (2004), the Parliamentary Legal Committee criticised AIPPA just two days before it was passed.

Zimbabwe's continuous amendment of the legislation may be compounded by the fact that the intent with which the legislation was passed is questionable. According to Ploch (2008), in 1999, the ruling ZANU PF was not able to deal with the reality that the MDC was increasingly gaining popularity, accompanied by an independent and robust media, which eventually led to the intensification of efforts to stifle the independence of the media by the introduction of AIPPA. In addition, the government also introduced other repressive laws such as the Broadcasting Service Act 2000 (in order for the government to take full control over the establishment of private broadcasters) and the Public Order and Security Act (POSA) (which controls gatherings of three or more people). According to Moyo (2009), legislation such as POSA and AIPPA severely impacted on the flow of information in the country for the following reasons: POSA provides for police clearance to be secured for any type of gathering, including academic conferences, workshops, and seminars, whereas AIPPA requires journalists to register with a government-controlled media council.

The government of Zimbabwe has succumbed to severe pressure from civil society in 2020 when they signed into law a new Freedom of Information Act which has repealed the most widely discredited AIPPA (MISA 2019). Repealing of AIPPA was amongst some of Mr. Emerson Mnagangwa's promises to Zimbabweans just shortly after what has been described as a "military coup" in Zimbabwe, which saw the ousting of the long-serving president of Zimbabwe, Mr. Robert Mugabe, from his office. Despite the fact that Zimbabweans continue to have concerns about the new FOI legislation, particularly because it appears that most of the recommendations submitted by civil society have not been incorporated, many Zimbabweans hold the view that the new legislation is better than AIPPA. Zimbabwe's AIPPA was replaced

by three laws: the Data Protection Law, the Access to Information Law, and the law governing Zimbabwe Media Commission law (MISA 2019), though their implementation has yet to be tested.

1.2 Conceptual framework

Adom, Hussain and Joe (2018) define a conceptual framework as a researcher's explanation of how the research problem would be explored. A conceptual framework helps the researcher to visualise how ideas through concepts in a study relate to one another within the theoretical framework (Grant & Osanloo 2014) and how the relationship of concepts affects the investigated phenomenon (Ngulube, Mathipa & Gumbo 2015). Ngulube (2018), in trying to overcome the difficulties associated with conceptual and theoretical frameworks in heritage studies, proposes four ways to formulate a conceptual framework. According to Ngulube (2018), a conceptual framework can be formulated in the following ways:

- Combining concepts from the literature,
- Using more than one theory (triangulation of theories),
- Decision on taking aspects of one theory or theories, personal experience and combining theories, and
- Putting together concepts.

Although Ngulube (2018) does not list legislation or principles, the study used Article 19's principles (see appendix A for the Article 19's nine principles) as a conceptual framework to investigate the implementation of FOI legislation in South Africa and Zimbabwe. The principles were used to inform the objectives of the study. In the context of the current study, these principles are referred to as Article 19's nine principles. As highlighted earlier, Article 19 is a leading international human rights NGO based in London advocating for freedom of expression. It is on record to mention that the principles were endorsed by the Special Rapporteur on Freedom of Opinion and Expression of the United Nations Commission on Human Rights. The principles were further endorsed by the Organisation of American States' (OAS) Special Rapporteur on Freedom of Expression in the 1999 report, Volume 111 of the Report of the Inter-American Commission on Human Rights. Table 1.1 provides a summary of Article 19's nine principles of FOI legislation. A broad explanation of the principles is provided in Annexure A.

Table 1.1: Summary of Article 19 Principles

Number	Name	Principle
1	Maximum Disclosure	"Freedom of information should be guided by the principle of maximum disclosure"
2	Obligation to Publish	"Public bodies should be be under an obligation to publish key information"
3	Promotion of Open Government	"Public bodies must actively promote open government"
4	Limited Scope of Exception	"Exceptions to the right to access information should be clearly and narrowly drawn and subject to strict harm and public interest tests"
5	Process to Facilitate Access	"Request for information should be processed rapidly and fairly and an independent review of any refusal should be available"
6	Cost	"Individuals should be deterred from making requests for information by excessive costs"
7	Open Meetings	"Meetings of public bodies should be open to the public"
8	Disclosure takes Precedence	"Laws which are inconsistent with the principles of maximum disclosure should be amended or repealed"
9	Protection of Whistle Blowers	"Individuals who release information on wrongdoing – whistleblowers – must be protected"

1.3 Problem statement

Studies demonstrate that the FOI has not made a significant contribution to advancing democracy and reducing corruption as expected. This is confirmed by Adu (2018), who is of the view that FOI in Africa is in contradiction as the passing of FOI legislation, in theory, should help to reduce the level of corruption and expand the coverage of democracy. Ironically, the current state of affairs reveals that the outcomes are the opposite. Several scholars, such as

Mutula (2006), Odinkalu and Madiri (2014), as well as Asogwa and Ezema (2017), admit that the implementation of FOI is still a massive challenge in the SADC region. Adopting a FOI law to guarantee access to information is not enough if there is no full implementation. According to Adu (2018), FOI legislation has had little impact in addressing Africa's struggling democracy, and the greatest paradox observed thus far is that corruption, human rights abuses, denial of access to information, and a lack of a culture of transparency and accountability continue to undermine the underlying principles of FOI, as previously stated. It is therefore evident that one of the major challenges to the implementation of FOI legislation in Africa is the culture of secrecy perpetuated against ordinary citizens. In some countries, secrecy is still rife even when transparency has become a popular and well-established norm on paper. This was also confirmed by the former Minister of Communications in South Africa, Ms. Ayanda Dlodlo (2017), who told members attending a SADC ICT Ministers' meeting that took place in Durban, South Africa, in 2017 that the FOI is still undermined in the SADC region with a high level of secrecy promoting information to be withheld for no reason. There doesn't seem to be much evidence from public representatives in many countries that the government is committed to pushing for openness and transparency in the public sector (Bentley & Calland 2013).

Reaffirming that implementation is the most crucial element of the overall process of FOI law, Martin (2014) concurs that the FOI is unlikely to bring sustainable change if not implemented effectively. Whilst it is noted that some of the sections of the FOI laws provide for the denial of access to public information on reasonable grounds, such must be done in a responsible manner to avoid abuse of the process and promotion of secrecy. For example, in the case of South Africa, chapter four of the PAIA provides the grounds on which access to the requested information can be denied. On the other hand, the Global Principles on National Security and the Right to Information (GPNSRI) also provide that public authorities may withhold certain information on the grounds of national security, although the restriction should not undermine other provisions. The principles were developed by 17 organisations and five academic centres (see appendix B for 22 organisations that contributed to the drafting of the principles) to assist the countries engaged in drafting, revising and implementing the FOI legislation (Right2Info 2012). Although the current study adopted Article 19's nine principles of FOI legislation, it is safe to indicate that Article 19 is amongst the members that contributed towards the

development of the global principles of the GPNSRI. Some of the grounds that are commonly found in FOI legislation include but are not limited to public order, private life, and fair trade. McKinley (2003) contends that one of the most overlooked, but most crucial elements in the effective implementation of FOI law, is the management of records. Bertot, McClure, Quinn and Shuler (2011) assert that a lack of dedicated resources and widespread poor record-keeping practises continue to hinder the full implementation of FOI law.

The risk of failing to comply with FOI law is that citizens will lose trust in the state, which will eventually change the political landscape in the country, leading members of the public to look for an alternative political party that upholds the values of accountability, openness, and transparency. Challenges pertaining to the implementation of the FOI law are sometimes man-made problems and can be resolved if the government representatives are willing to change their attitude towards the disclosure of information, with a common understanding that access to information is an internationally recognised human right and it is therefore not just a privilege.

1.4 Research purpose and objectives

The purpose of this study was to explore the implementation of FOI legislation in South Africa and Zimbabwe against Article 19's nine principles of FOI legislation. The specific research objectives for the study were to:

- analyse FOI legislation in South Africa and Zimbabwe to determine the alignment with Article 19's nine principles.
- evaluate the policy instruments and processes that are considered key for the implementation of FOI legislation in South Africa and Zimbabwe.
- describe the FOI legislation implementation model adopted by South Africa and Zimbabwe.
- determine factors stimulating or inhibiting the implementation of FOI legislation in South Africa and Zimbabwe.
- develop a framework to foster the implementation of FOI legislation.

1.5 Research questions

In order to explore the above research problem, the following research questions were investigated:

- How is the FOI legislation in South Africa and Zimbabwe aligned to Article 19's nine principles?
    - What key elements of the principles are covered by the legislation in both countries?
- What could be the package of policy instruments that are considered to be key for the successful implementation of FOI legislation in South Africa and Zimbabwe?
- What are the existing FOI legislation implementation models adopted by South Africa and Zimbabwe?
    - Who is responsible and what are the responsibilities of FOI legislation implementation in South Africa and Zimbabwe?
- What are the factors considered to be the stimulators of the implementation of FOI legislation?
- What are the factors considered to be the inhibitors of the implementation of FOI legislation?
- What framework can be suggested for the successful implementation of FOI legislation?

1.6 Significance of the study

This section of the study is used by the researcher to persuade the reader of the significance of the study. The study is important in the field of archives, information, and records management because it adds to the existing knowledge base in the area of information access. The current study focuses on FOI legislation implementation, whereas previous studies focused on FOI compliance. The implementation was investigated by comparing the two SADC member states, South Africa and Zimbabwe. It is possible to comply with FOI requirements while failing to implement actual legislation. For example, several countries responded to the UN's call to take reasonable steps to promote transparency by passing legislation that promotes access to public information; however, more effort is needed to fully implement the legislation. By definition, compliance is subjective, and the results of measuring compliance are influenced by the tool

or criteria used to measure compliance. Compliance is sometimes associated with a "tick box" approach, whereas implementation is associated with "putting a decision into effect" or execution. For example, Zimbabwe complies with SADC anti-corruption protocols and the UN in passing legislation to promote FOI; however, the actual implementation is a different story, as the country has received criticism for its handling of FOI legislation.

The framework developed by the study will go a long way toward addressing some of the challenges faced by selected SADC member states in implementing FOI legislation. According to Adu (2018), FOI in selected SADC states is not founded on the principle of "maximum disclosure," as several SADC countries appear to do the opposite of what the actual FOI legislation seeks to achieve. This study could also be used as a benchmarking tool for other countries around the world that want to initiate the process of public participation to strengthen democracy, accountability and public participation. The comparison of how South Africa and Zimbabwe implemented FOI legislation is required in order to use some of the strategies as a model for other countries that are still in the early stages of democratisation.

1.7 Originality of the study

There have been few comparative studies on the implementation of FOI in SADC. The majority of studies in this area focused on FOI legislation and practice compliance rather than implementation. The current study takes a different approach, measuring the performance of FOI legislation implementation in South Africa and Zimbabwe using Article 19's nine principles of FOI legislation as a measuring tool. The researcher is also concerned about the methodological approach taken by several scholars who conducted general research on FOI. Several studies adopted qualitative approach (with the main focus on the content analysis) to this type of research. Geha (2008), for example, used content analysis of legal frameworks and constitutional documents to investigate FOI Acts in Western democracies and the exemptions contained in the Acts. Enweren (2014) investigated the right to know and the implementation of FOI legislation in Nigeria and South Africa using content analysis of relevant books, journal articles, newspapers, and websites. Because few studies used the Delphi design to solicit ideas from experts in the field of FOI, the current study chose to use it. The proposed framework is expected to make a significant contribution to improving the implementation of FOI legislation in South Africa and Zimbabwe. Delphi research is not widely used in the field of records and

archives because the researcher is not aware of any studies that have used Delphi. Delphi Techique was also triangulated with document analysis in this study.

1.8 Scope and delimitation of the study

The research concentrated on Zimbabwe and South Africa. Although the researcher would have preferred to include other SADC countries that passed FOI legislation, this is largely due to the fact that challenges with FOI legislation implementation are not only common at the regional level, but also at the continent level. According to Adu's (2018) most recent study on FOI in Africa, the SADC is made up of 16 countries, with only four passing FOI legislation - South Africa, Zimbabwe, Angola, and Mozambique. However, Angola and Mozambique were left out of this study because they are still lagging behind in terms of progressiveness and FOI publicity. Furthermore, language is a barrier because both countries' official languages is Portuguese. With the inclusion of Angola and Mozambique, the researcher would need to find or appoint a translator to help with the translation of interview transcripts and important documents to be analysed. Furthermore, Botswana is still working on a draft bill (Khumalo, Mosweu & Bhebhe 2016), which is why it was left out of the current study because the current research focuses on existing legislation rather than the bill.

The current study only looked at implementation of FOI legislation at national level rather than organisational implementation. Nkwe (2020) examined the organisational level in South Africa by assessing the compliance of public bodies. In Zimbabwe, the African Network of Constitutional Lawyers (ANCL) (2012) conducted a similar study to examine, among other things, current practice in the supply or provision of information by various government departments. ANCL (2012) relied on AIPPA because Zimbabwe's new FOI legislation was not in place at the time of the study.

1.9 Definition of key terms

This section defines the key terms used in the study. Comprehensive definitions are provided to reduce ambiguity, as different people interpret certain terms differently. The following are definitions of key terms used in the study:

1.9.1 Information

Information is data that has been analysed and synthesised (UNISA 2016). According to Article 19 (2016), FOI legislation should define information as information that comprises all records kept by a public body, irrespective of the manner in which the information is processed, its source, and the date of production. The current study adopts the definition by Article 19 (2016) and further extends the definition to all information that members of the public are entitled to access in terms of relevant FOI legislation.

1.9.2 Freedom of information

Freedom of information in the context of the current study refers to the fundamental human rights entitled to citizens to obtain public information from public institutions. In certain countries, these basic human rights are applied to private institutions, which means that members of the public have the right to access information under the control of private organisations where such information is required to protect human rights. However, legislatures worldwide are having challenges in defining the grounds on which access to information rights can be imposed on privately owned companies. Normally, FOI rights are enshrined in a piece of legislation, which gives effect to the country's constitutional provisions. For example, the rights of access to information in South Africa are covered in the PAIA, whereas the rights of access to information in Zimbabwe are covered in the FIA. Furthermore, freedom of information is specifically quarantined in the Universal Declaration on Human Rights, article 19 to be precise. South Africa and Zimabwe passed FOI laws to give effect to the constitutional rights of access to information and also to comply with Article 19 of the Universal Declaration on Human Rights.

1.9.3 Public body

A public body is a government department or a state-owned entity or any entity established by the government in terms of specific legislation. The PAIA defines a public body as any department or administration in the national or provincial sphere of government or any municipality in the local sphere of government (South Africa 2000). The act further defines the public body as "any other functionary or institution when exercising a power or performing a duty in terms of the constitution or a provincial constitution or exercising a public power or

performing a public function in terms of any legislation." Zimbabwe's FIA draws its definition of a public body from Zimbabwe's Public Finance Management Act (PFMA). According to PFMA, a public body is any body established in terms of any legislation, any entity established by a government, local authority or partially privatised entities.

1.9.4 Record

ICA (2021) and NARSSA (2007) define "record" as "recorded information regardless of form or medium". The PAIA of South Africa's definition of a record is similar to that of the NARSSA. Zimbabwe's FIA does not define record. However, AIPPA defined record as "books, documents, maps, drawings, photographs, letters, vouchers, papers, and any other thing on which information is recorded or stored by graphic, electronic, mechanical, or other means but does not include a computer programme or any other mechanism that produces records". In the context of the study, a record refers to any recorded information that members of the public are entitled to access in terms of FOI legislation or the constitution.

1.10 Research methodology

As Kothari (2004) would put it, research methodology is a way to solve research problems in a systematic manner. For the researcher to be able to carry out research, a clear description of the plan or methodology is necessary. Researchers are normally advised to go through various literature to see the methodologies that have been used by other scholars. This will allow the researcher to become well-versed in the area under investigation as well as identify the type of methodology that will best solve the research problem. What needs to be done, how it will be done, what data will be needed, what information-gathering tool will be used, and how information sources will be selected are all defined by research methodology (Singh & Bajpai 2008). In trying to broadly explain the meaning of research methodology, Kumar (2019) asserts that research methodology can be associated with a map used by a traveller to get to his or her desired destination (research objectives).

Creswell and Creswell (2018) explain that there are three research approaches that are widely used by scholars in the field of social science. Although the current study does not intend to use all the approaches, it is important to know and understand what each approach entails in

order to be able to select the best approach suitable for the research problem. These approaches are described as follows:

> **Qualitative research**: It is an approach to exploring and understanding the meaning individuals or groups attribute to a social or human problem. Those involved in this type of enquiry endorse a way of looking at research that respects an inductive approach, an emphasis on individual meaning, and the importance of reporting on the nature of the situation regardless of its complexity.
>
> **Quantitative research**: It is an approach to examining objective theories by analysing the relationships among variables. Like qualitative researchers, those involved in this type of enquiry have ideas or rather assumptions about testing theories deductively, building in protections against bias, checking for alternative or counterfactual reasons, and being able to generalise and reproduce the results.
>
> **Mixed method research**: It is a means of inquiry involving the collection of both qualitative and quantitative data, integrating the two forms of data, and using distinct designs that may involve philosophical assumptions and theoretical frameworks. The central assumption in this type of investigation is that combining two approaches (qualitative and quantitative) allows the researcher to collect data that goes beyond what either qualitative or quantitative approaches alone can provide (Creswell & Creswell 2018: 4).

Kumar (2019) postulates that the quantitative approach is based on the theory of realism as the approach follows a rigid structure and predetermined set of procedures to explore the phenomenon. Through the use of the Delphi technique, the study relies on the experience and knowledge of the selected experts in the area of FOI. The suitable approach for the study is the qualitative approach. A qualitative approach is selected because it enables the researcher to thoroughly study the phenomenon from the "perspective of insiders". Hennink, Hutter and Bailey (2020) explain that the process of qualitative research has three separate but interlinked phases, namely: the design phase, data collection phase, and analytic phase. The current study has gone through the aforementioned phases of qualitative approach. The data was collected via interviews and document analysis. Semi-structured interviews were used with participants selected through a snowball sampling technique. Semistructured interviews are a form of qualitative interview with a flexible and fluid structure. Bowen (2009) defines document

analysis as a systematic procedure for reviewing or examining documents in all forms (printed or electronic). In a snowball sampling, the researcher asks the first few people he or she interviews (who are often found by chance) to suggest other possible participants who meet the study's criteria (King & Horrocks 2010).

The population of the study consisted of the two countries, namely South Africa and Zimbabwe. The specific focus was on experts in the area of FOI who were selected using predetermined criteria to ensure consistency and justification for selection. Details on the criteria used to select a panel of experts are presented in Chapter Three. Furthermore, Chapter Three presents an extensive discussion of the research methodology employed in the current study.

1.11 Structure of the thesis

The thesis is structured into six chapters as follows:

- CHAPTER ONE: the first chapter lays the groundwork for the rest of the study by providing an introduction and background of the study, contextual setting, problem statement, conceptual framework, purpose, objectives of the study, introduction of research methodology, originality and justification of the study, definition of concepts, and scope and delimitation of the study.
- CHAPTER TWO: the second chapter examines the literature on FOI implementation in general, as well as in South Africa and Zimbabwe in particular. The objectives derived from Article 19’s nine principles guided the themes for the literature review.
- CHAPTER THREE: the research methodology is described in detail in this section. In this regard, the methodology used is thoroughly explained so that the reader understands exactly what data was collected, where it was collected, and how it was collected to allow for a reasonable replication of the study.
- CHAPTER FOUR: the fourth chapter presents the results of the study. The chapter provides the presentation of results obtained from interviews and document analysis.
- CHAPTER FIVE: it discusses the findings and offers a broad interpretation of the findings.
- CHAPTER SIX: the final chapter is a summary of each chapter, including the results and conclusions with references to the problem statement and purpose of the study,

demonstrating that they were met. The study also makes recommendations in the form of a framework to promote FOI legislation implementation. Finally, the chapter speculates on future research that could result from expanding this study.

1.12 Summary of the chapter

The focus of the study was to evaluate the implementation of FOI legislation in South Africa and Zimbabwe against Article 19's nine principles of FOI legislation. Therefore, this chapter laid the foundation by providing the following information: introduction and background to the study; conceptual framework; problem statement and sub problems where an explanation was provided on the necessity to address the challenges faced by FOI in South Africa and Zimbabwe; research purpose and objectives as informed by Article 19's nine principles of FOI legislation; significance or justification of the study, which provides sound reasons why the study was undertaken; originality of the study; scope and delimitation; definition of key terms, which provides the context under which key terms were used in the current study; and a description of the methods of investigation. The next chapter deals with a literature review.

CHAPTER TWO

LITERATURE REVIEW: IMPLEMENTATION OF FREEDOM OF INFORMATION

2.1 Introduction

The previous chapter put things into perspective by laying the foundation on the background to the study; conceptual framework; problem statement; research purpose and objectives; research questions; significance of the study; originality of the study; scope and delimitation; definition of key terms; research methodology; and structure of the thesis. Having set out the background and purpose of the study, it is important to bring the reader up to speed with the previous and current research on the links amongst FOI, public participation, democracy, corruption, accountability, transparency, and good governance. Matthews and Ross (2010) point out that part of the preparation for research is to consider how the topic has been researched, thought about, and written about by other scholars and, most importantly, how the knowledge will help someone to develop and refine his or her current study.

This chapter provides a literature review on the implementation of FOI with the view of triggering debate about the promotion of public participation and trusted governance. Indeed, Marais, Quayle, and Burns (2017) are spot on to suggest that the operationalisation of good governance principles such as transparency and public participation rely on the extent to which citizens are furnished with reliable and current government information. In other words, citizens should have meaningful engagement with government officials by assessing (using the available information) the service that the government is providing and being able to question some of the decisions taken by government leaders. What Marais, Quayle, and Burns (2019) sought to highlight here is the importance of having all government decisions recorded to allow public scrutiny in the future. The notion of having decisions recorded is supported by several pieces of legislation such as the Promotion of Administrative Justice Act (Act No. 3 of 2000), the Public Finance Management Act (Act No. 1 of 1999) and the Municipal Finance Management Act (Act No. 56 of 2003), just to name a few.

In order to understand the importance of FOI in promoting public participation and strengthening governance in a democractic country, this chapter provides discussion on the

implementation of FOI legislation in South Africa and Zimbabwe starting with the oversight or regulation as an important component of the implementation. However, Saez-Martin, Caba-Perez and Lopez-Hernandez (2017) suggest that the regulation of FOI does not guarantee public participation and trusted governance. On the other hand, Erlingsson and Wittberg (2018) posit that the regulation of FOI provides a room for monitoring by several stakeholders, such as scholars and NGOs. Proper monitoring will ultimately translate into the realisation of the most important components of the rationale for regulating FOI, which are public participation and trusted governance. Furthermore, the chapter discusses the policy instruments and processes pertaining to FOI. The current chapter will further discuss factors stimulating and inhibiting the implementation of the FOI. Furthermore, the chapter discusses the responsibility for the implementation of the FOI. Lastly, the chapter looks at the recommendations from the literature regarding the implementation of FOI legislation.

2.2 Purpose of literature review

Hart (2018) defines a literature review as the analysis of existing facts relevant to your research problem. In simple terms, a literature review means locating and summarising studies conducted by other researchers that are related to the current topic (Creswell & Creswell 2018). It is important for the researcher to be knowledgeable about other studies conducted and what research methods were employed, as this will enable the researcher to anticipate challenges attached to selected research methods. Reviewing literature will also give the researcher a broad understanding of the topic under review. Creswell (2014) posits that if the literature review has been thoroughly conducted, the researcher will know beforehand if the chosen topic is worth studying and which specific areas need more attention. Reviewing literature enables the researcher to identify loopholes or areas that need specific attention.

According to Bhattacherjee (2012), the purpose of a literature review is three-fold:

(1) to survey the current state of knowledge in the area of inquiry.
(2) to identify key authors, articles, theories and findings in the area of inquiry, and
(3) to identify knowledge gaps in the research area.

A literature review shares with the reader the amount of scholarly work already conducted relating to the topic under investigation. As Ridley (2012) puts it, a literature review provides

a connection between the sources that the researcher draws on and the position of the researcher. During literature review, the researcher is given an opportunity to engage with other scholars with a common interest. The researcher can also use the literature review to unpack the theories and studies that played a role in the formulation of the current research topic. By its nature, research is centred on the acquisition of knowledge and the collection of facts, which are systematically interpreted in order for others to make sense of the reality they live in. Hart (2018) advises that researchers need to be careful with the selection of literature to express the point properly, as sometimes what appears to be clear and obvious to the researcher can be completely incomprehensible to the reader.

Good research is the one that shows that the researcher is knowledgeable about the topic. Most importantly, a researcher should also be able to know the theories and be able to demonstrate how these theories have been applied in different contexts. When the researchers decide on a problem they think they want to investigate for the research, they may not be thinking broadly about the wider context (Ridley 2012). Researchers should not deny readers the opportunity to hear the perspectives of other scholars who have criticised or supported the phenomenon under study. Hart (2018) posits that a good literature review does not necessarily include everything that has been found; it is rather selective, meaning only the work that is most relevant to the topic under investigation would be presented. Obviously, a lot of information will always be generated from the literature review. However, a researcher must be able to systemically select only the information that will help the reader to navigate and understand the current study. The best way to ensure that the literature presented is relevant to the research problem is to align it with the research objectives.

The literature review must provide a comprehensive picture of the existing knowledge and views relating to the current study. For example, researchers must select the relevant opinions that will explicitly describe the context and background of the study. Paul and Criado (2020) lament that hundreds of research projects have been published using the same old theories, some of which are no longer relevant. Using theories on the basis that other studies in your discipline have used is not enough justification and will deny the researcher an opportunity to identify key research gaps based on the context of the current study. In a study to identify if postgraduate students experience problems in writing thesis literature reviews, Shahsavar and Kourepaz (2020) found that the literature review section of the PhD students' thesis is mainly

based on "authorial voice" and evaluation as opposed to critical thinking. Students frequently reproduce other scholars' work in its entirety without critically analysing it, demonstrating that they have no idea how to organise a literature review.

In this section, literature on the implementation of FOI is reviewed to compare and contrast different sources and scholarly opinions in order to put the current study into context as advised by Matthews and Ross (2010: 93). As guided by research objectives, the literature review covers related studies in the area of FOI. The themes covered in the literature review include FOI implementation oversight, policy instruments and procedures, factors stimulating and inhibiting the implementation of FOI, FOI implementation responsibility, and recommendations from the literature.

2.3 Map of a literature review

Creswell (2016) and Creswell and Creswell (2018) opine that researchers should first design a visual image of literature clusters on topics that illustrate the importance that the current study will add to the existing body of knowledge. Numerous terminologies have been used to refer to a map of literature review. For example, some of the terms used include but are not limited to concept map (Alias & Suradi 2008), bibliographic map (Pincheira & Zuniga 2020), and knowledge map (Balaid, Rozan, Hikmi & Momon 2016). Irrespective of the use of different concepts to depict a map of a literature review, the common ground of these concepts remains common as they all represent the relationship between the idea and the concepts. However, the meaning attached to each concept may differ (Chaterera 2017), depending on the context in which the concept is used. For example, concept mapping is not only used in research; it is largely used in education to identify the relationship between concepts (Novak 1990; Kane & Trochim 2007; Kinchin 2000). The literature map provides a graphical sketch of groupings of not just available but also relevant literature to help the reader understand a broad picture of the entire study. The researcher uses the map of a literature review as a mind map to help the researcher organise ideas about the topic under review.

Several scholars use different styles of literature maps. Some researchers develop the literature map manually without using any technological software, whereas some rely on technological software to develop the map. According to Efron and Ravid (2019), it does not matter what

approach the researcher is taking; what is more important is to ensure that the map is clear and constructively demonstrates the relationship amongst different concepts. The objectives of the study are normally used as a base for a literature map as they hold the central focus of the study under investigation. Chaterea (2017) and Lavanya and Princy (2019) listed a number of open and commercial software that can be used to design a literature map. Such software includes but is not limited to Cmap Tools, FreeFind, MindMup, Sciplore, Coogle and Xmind (Chaterera 2017; Lavanya & Princy 2019).

With the use of a free software application called CmapTools, the researcher was able to create a schematic representation illustrating a map of a literature review as shown in Figure 2.1.

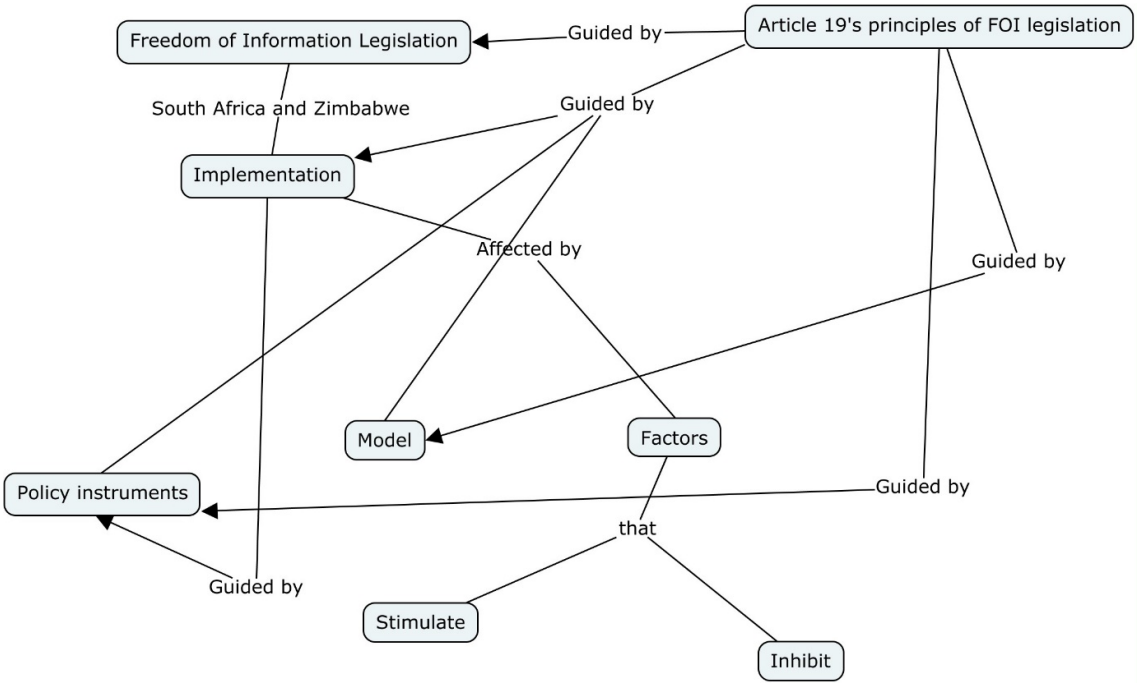

Figure 2.1: Literature review map (synthesised by the researcher)

The CmapTools software was chosen because the tool allows one to link the concepts through a simple "drag and drop" functionality, allowing the exploration of the entire map from one concept to another. According to Canas, Hill, Carf, Lott, Gomez, Eskridge, Arroyo and Carvajal (2004), the objectives of the CmapTools are as follows:

- Low threshold, high ceiling: the system can be learned in a few minutes

- Extensive support for the construction of knowledge models allows users to express their understanding of a domain of knowledge
- Collaboration and sharing: users can collaborate and share knowledge on concepts' construction
- Modular architecture: components can be added or removed without affecting other parts.

As the literature involves the collection of several works by other researchers, the literature map assists the researcher to ensure that topics are orderedly arranged. Arranging literature in an orderly manner is not an easy task (Saurombe 2016).

2.4 Implementation oversight

Article 19's nine principles of FOI legislation laid the basis for a variety of elements considered necessary to be protected by FOI legislation. These elements include: obligation to publish, promotion of open government, limited scope of exceptions, processes to facilitate access, costs, open meetings, and protection of whistle blowers. As noted in the past, the execution of these values has always been below average. Article 19's nine principles indicate that there should be an independent agency to provide impartial support in situations where there are disputes. For example, in terms of the principles, FOI legislation should, in all cases, provide for an individual right of appeal to an independent administrative body for refusing to disclose information. Principle five makes reference to institutions such as ombudsmen or national human rights organisations or any institution specially set up for supervisory purposes. Principle five further provides that the administrative body must be given powers to investigate and fine bodies for obstructive behaviour where warranted. Although the independent supervisory mechanism provided by principle five of Article 19's FOI principles focuses on information refusal, there is an underlying fact that other provisions such as the obligation to publish, promotion of open government, limited scope of expectation, costs, and open meeting require proper regulation by an independent body.

In most countries in the world, FOI is regulated through the organs of state to ensure that members of the public continue to enjoy and exercise their FOI rights. Normally, the regulation of FOI is clearly defined in national legislation. Unlike the Protection of Privacy Legislation

(PPL), the FOI legislation does not have a global directive in terms of the regulation. It is evident that when FOI is properly regulated, members of the public begin to have an interest in requesting access to information with the hope that the request for access will not be denied unreasonably. For example, China observed a significant increase in formal information requests in just two months after the regulation of FOI went into effect (Horsley 2010). Mendel (2003a) asserts that the FOI law is significant in such a way that the Constitution of the country alone cannot be enough to ensure that the right to information is practised respectfully. Countries typically use detailed legislation to give effect to the constitutional obligations for the right of access to information in order to effectively regulate FOI. For example, countries around the world have various cost structures and, if left open, some countries may charge unreasonably high prices to deter requests for information.

Literature indicates that there is a global push by the international community putting pressure on governments to enact FOI legislation. However, little consideration is paid to the establishment of a regulatory body to oversee the implementation of the Act. Having one institution in a country to monitor the implementation of FOI is important as it will not only enforce compliance with the Act but also foster consistent implementation across all government departments, state-owned entities, private companies, and individuals. In most countries, there are debates around the placement of nodal responsibilities, with some arguing that such responsibilities should be under the ministry department supported by committees or task teams (Lemieux & Trapnell 2016). One of the key elements to evaluating the successful implementation of FOI legislation, as has been suggested by Freedom of Information Advocates Network, is an autonomous supervisory body, such as the Information Commission or any other statutory agency set up under the constitution. Moreover, the monitoring institution will decisively deal with delaying tactics and a lack of response to access to information by public officials.

Kabata and Garaba (2019) are of the view that strong political leadership is necessary for the establishment of formal institutions to oversee and enforce the laws that promote openness and embed a cultural shift from a culture of secrecy to one of openness. There is a consensus amongst researchers such as Mutula (2006), Kabata and Garaba (2019), and Asogwa and Ezema (2017) that the absence of supervisory authority for FOI may cause unnecessary secrecy. In fact, Holsen and Pasquier (2012) indicate that the regulatory authority is an essential

component of FOI law because it contributes to the solution of implementation and compliance problems. However, the availability of the regulatory authority will not solve all the problems if such a body is not independent from the influence of the government.

The extent to which an organisation is independent from the government or political interference depends on the process of appointing the executive authority of the organisation. However, the concept of independence is too broad and can mean different things to different people. It is through the independence of the institutions that people will develop trust in the decisions and processes. Recently, South Africa and Zimbabwe have been sparked by rigorous debates around the independence of constitutionally established institutions. If citizens are not pleased with the decisions of the court or with any findings made by legally constituted organisations, they begin to question the integrity, independence, and impartiality of the organisations. An example is found in the case between *Van Rooyen and Others v State and others*. The case dealt with a challenge by Mr. Van Rooyen, who had been convicted by a magistrate court on various counts of theft and sentenced to six years in prison. Mr. Van Rooyen argued that magistrates in South Africa's lower courts are appointed by the Magistrate Commission, which is dominated by political appointees and therefore lacks judicial autonomy as required by the constitution. Table 2.1 shows the proposed elements to be considered when measuring the independence of an oversight mechanism for FOI.

Table 2.1: Proposed elements to consider when measuring the independence of an oversight body for FOI

Formal	That which the organisation possess according to law 1. The length of an oversight body's directors tenure 2. Who funds the oversight body? 3. Who has control over the hiring
Informal	The autonomy an institution has in its day to day functioning 1. Does an oversight body have budget of staff to carry out its mandate? 2. How does the head of an oversight body use discretion?

Source: Holsen and Pasquier (2012: 229-230)

2.4.1 South Africa

For one to understand FOI developmemnts in South Africa, he or she needs to first understand the historical context as explained earlier. Before 1994, South Africa was run by the apartheid regime, which was later declared a crime against humanity by the United Nations. The apartheid government in South Africa was led by National Party (NP) which was established to oppress black majority by developing policies that only fovors the white minority. Following an all-white election in 1948, which saw Dr Danie Malan become the prime minister and immediately set about the task of creating a series of laws that would not only exacerbate established legalised racism but also lay the groundwork for complete political control of the state (McKinley 2014). The founding ideology of apartheid system revolved around denial of socio-economic rights such as FOI to black majority of the people. Hart and Nassimbeni (2018) postulates that apartheid in South Africa was characterised by suppression and manipulation of information which took effect under the umbrella of network of legislation designed to promote secrecy. The underlying premise was that the dissemination of information would have a potential to mobilize black people who might use the same information against the oppressive government.

Information such as the budget and the operations of the state were kept secret by the apartheid regime (Grafchik 2001) and that resulted in a low profile of democracy and public participation in the country. Corruption and maladministration were freely practised without a fear of facing the full might of the law. The situation began to improve slightly after the first Convention for a Democratic South Africa (CODESA) negotiations in 1991 (SAHA 2011; Raligilia 2017) which culminated the interim Constitution of 1993 and the final Constitution of 1996 providing for socio-economic, and civil and political rights (Raligilia 2017). The much-filled 1996 Constitution reversed some of the unjust laws and practices of the past, with the FOI being one of these. 1996 Constitution of the Republic of South Africa lays the foundation for democratic principles and moral values. So far as democratic values are concerned, the Constitution is very explicit in terms of the recourse it seeks to achieve. The preamble of the 1996 Constitution of the Republic of South Africa reads as follows:

> …We therefore, through our freely elected representatives,
> adopt this Constitution as the supreme law of the Republic so
> as to –

- Heal the division of the past and establish a society based on democratic values, social justice and fundamental human rights
- Lay the foundation for a democratic values and open society in which government is based on the will of the people and every citizen is equally protected by the law.

Adeleke and Ward (2015) argue that Section 32 of the Constitution establishes the basis for an open society and further compels both public and private entities to provide members of the public with the requested information. In addition, Section 32 makes provision for not only the passing of national legislation to give effect to the constitutional right of access to information but also for effective steps to reduce administrative and financial burdens on the state.

The PAIA was passed to give effect to the constitutional provisions on access to information. The regulations on FOI are laid down by the PAIA. It is worth noting that, in South Africa, the monitoring and regulatory responsibility of FOI legislation was previously sorted under the South African Human Rights Commission (SAHRC) until the amendment of the Protection of Personal Information Act (POPIA) in the year 2013, which resulted in the establishment of the Information Regulator South Africa (IRSA). In terms of the PAIA, section 83 in particular, read together with section 101 of the Protection of Personal Information Act (Act No. 4 of 2013), the regulatory role of the FOI in South Africa has been shifted from the SAHRC to the IRSA. The SAHRC has already handed over the function of the PAIA to the IRSA. The powers and functions of the IRSA have been provided under section 40 of the POPIA. Section 40 of POPIA sets out the functions of the IRSA, namely: education, monitoring, consultation, complaints, research, codes, and cross-border cooperation. However, and of course, most surprisingly, section 40 of POPIA does not say anything about reporting. Reporting is critical to the work of the IRSA.

Despite the availability of a supervisory institution, organisations such as the Open Democracy Advice Centre (2015) report that access to information in South Africa is not a living reality. That may have been triggered by several challenges faced by the SAHRC in ensuring compliance with the PAIA. The SAHRC (2016/17) lists inadequate funding as one of the reasons for poor implementation of the act. It is hoped that the IRSA will be funded adequately in order for the organisation to ensure full implementation of the PAIA. Arko-Cobbah (2008) posits that sometimes the government feels uncomfortable with the notion of transparency and

would prefer to have other pieces of legislation that prevent the government from being subjected to public scrutiny. In 2003, the South African History Archive (SAHA) was commissioned by the SAHRC to conduct research on the SAHRC's performance on the obligations imposed on it by the PAIA. As part of the research, the SAHA was requested to investigate the following:

1. Whether the SAHRC is best placed to champion the right of access to information as enshrined in the PAIA.
2. If the answer to the above issue is in the affirmative, how should the SAHRC restructure itself to achieve this task?
3. Whether there would be a need for an amendment to the PAIA, the SAHRC Act or/and the Constitution in this regard.

The research revealed that the SAHRC is better suited to oversee the function of PAIA and not the office of the Public Protector (SAHA 2003). Furthermore, the study concluded that an amendment to the Constitution is not necessary as the Constitution caters for the SAHRC to be given additional powers (SAHA 2003). Anecdotal evidence suggests, however, that under SAHRC regulation and monitoring, widespread ignorance of PAIA regulation was observed, not only in government but also in civil society organisations (Dominy 2017).

Access to information remains a fundamental human right as enshrined in the Bill of Rights. To this effect, the Constitution of the Republic of South Africa, as the supreme law in the country, charges the SAHRC with the main human rights mandates, namely: promotion, protection, and monitoring (South Africa 1996). In essence, the SAHRC is still expected to promote, protect, and monitor access to information. Currently, as part of the monitoring mandate, the SAHRC observes that public institutions still fail to comply with the minimum requirement of the PAIA that each entity should designate its deputy information officer (SAHRC 2016/17). Section 17 of the PAIA makes a special provision for each public body to delegate someone to be a deputy information officer (DIO) for the organisation to ensure that the public body is as accessible as reasonably possible for requesters of information. However, the SAHRC's reports to Parliament seem to suggest that some public entities could not comply with that minimum requirement. ODAC (2018) hopes that the IRSA will lead to more freedom of information and more openness, since the organisation has the power to investigate and fine people who have broken the law (PAIA).

Glaser (2016) posits that FOI is a big issue for the state and civil society organisations, and as such, it is important that the final form of the secrecy bill, which was referred back by the president for further consultation, should not be restrictive. However, with the involvement of civil society organisations in South Africa, there have been significant changes in the attitude towards FOI. The problem with FOI law is that sometimes it may be on paper with no implementation, and that may sometimes result in protest action or litigation, as indicated earlier. For example, in South Africa between 2011 and 2012, when civil society organisations and the media tried to access information on the impact of industries and mining activities on the environment, many government and private bodies flatly refused to give access, arguing that such information was sensitive in nature and warranted a high level of protection as a "state secret" (McKinley 2014).

Despite the provision of section 85 of the PAIA which obligates Parliament to make funds available for the implementation of the PAIA, the SAHRC (2016/17) consistently complains about the lack of funding for a successful implementation of the act. This was also confirmed by ODAC (2003) when the organisation argued that the SAHRC has not been able to enforce section 85 of the PAIA and as a result, no specific additional money has been allocated by Parliament to the SAHRC to carry out their PAIA mandate. The issue of poor funding for the implementation of the PAIA is one of the reasons why civil societies campaigned for the establishment of the information commissioner, with several PAIA specialists arguing that the SAHRC should not be the champion of access to information due to power limitations. Neuman (2009) asserts that the appointment of an independent information commissioner will determine the success of the FOI legislation.

Since its establishment, IRSA has been seen in several media publications working hard to set the tone high and sensitise members of the public to the nature of their work. Without necessarily pre-empting and anticipating a great deal, it is hoped that the IRSA would be in a position to use its powers to ensure a comprehensive supervisory role for FOI in South Africa. The mandate of the IRSA has been broadened to also cover the protection of personal information, something which will influence additional resources. Unlike the SAHRC, which monitored FOI through a specialised unit within the organisation, IRSA was specifically set up to regulate FOI. SAHA (2014) has criticised SAHRC for its supervisory role regarding PAIA.

According to SAHA (2014), it still appears that most public entities still tend to have been misled about the PAIA and, in some cases, some public bodies have been so focused on reporting their annual activities to the government rather than to the South African people. Worker and Excell (2014) argue that IRSA has significantly greater authority to enforce the implementation of FOI through internal and public hearings on the appeals against refusal of information, "something the SAHRC cannot do".

The hosting of the 11th International Conference of Information Commissioners (ICIC) by the IRSA, in partnership with the Centre for Human Rights (CHR) of the University of Pretoria (UP) (CHR 2019), demonstrated the extent to which IRSA is well prepared to provide leadership not only in South Africa but also on the African continent. The conference was being hosted for the first time on the African continent under the theme "international cooperation to strengthen public access to information". The conference was attended by local, regional, and international information commissioners from around the world. The importance of conferences in strengthening collaboration has been explicitly described by Asbury (2017). The Conference is a platform of robust engagement on the burning issues in the industry, with a common interest in providing lifelong solutions to such problems. In terms of the regulations of FOI, conferences such as ICIC can be used to do the following: strengthen partnerships with stakeholders such as public entities and civil society organisations; educate public representatives about their roles and responsibilities regarding FOI; develop policies, guidelines, codes of conduct, standards, or regulations; engage meaningfully in the international trends in the area of FOI; set up task teams and elect representatives; debate on the challenges faced by public representatives; and last but not least, for example, the outcomes of the ICIC include the following:

- The adoption of the "Johannesburg Charter" (the first ever charter to be adopted by ICIC since its inception in 2008)
- The IRSA was appointed as Member of the Governance Working Group (something equivalent to the Executive Committee) of the ICIC
- The establishment of the Network of African Information Commissioners (IRSA was appointed as the interim chair of the Network)

According to Lemieux and Trapnel (2016), the opinions of the many professionals who have had the opportunity to enforce and implement the FOI legislation within their own jurisdiction are very important.

Education and training are key to the enforcement of the implementation of FOI. The reality is that if public entities do not know what is expected of them, they are unlikely to be able to deliver the desired outcomes. In 2019 (less than three years since members of the regulator were appointed), IRSA reported that the organisation was able to engage more than 69 public and private bodies as part of the IRSA's mandate to create awareness and provide education to key stakeholders.

2.4.2 Zimbabwe

The 2013 Constitution of the Republic of Zimbabwe (herewith referred to as the 2013 Zimbavwe Constitution) recognises access to information as one of the fundamental human rights worthy of maximum protection (Zimbabwe 2013). Section 62 makes specific provision for the rights of Zimbabweans to have access to the information in the custody of public and private entities. The Access to Information and Protection of Privacy Act (as amended January 2008) was passed to give effect to section 62 of the Constitution. However, anecdotal evidence suggests that there was no balance between the Constitution of Zimbabwe and the Access to Information and Protection of Privacy Act (AIPPA). AIPPA created public unrest with Civil Society Organisations (CSOs) in Zimbabwe, arguing that the legislation is inconsistent with the constitutional provisions of openness and transparency. Since the AIPPA was passed, several amendments proposed by media stakeholders have been rejected until the cabinet succumbed to pressure from CSOs and finally, in 2019, the FOI bill (which is one of the three bills extracted from the AIPPA) was gazetted. The three bills extracted from AIPPA are: the Freedom of Information Bill, the Zimbabwe Media Commission Bill, and the Protection of Personal Information/Data Protection Bill (Murwira 2020). AIPPA was repealed by these three legal instruments.

The passing of the new FOI law in Zimbabwe is what the Media Institute of Southern Africa (MISA) (2020a) described as a significant milestone in Zimbabwe's legislative reform agenda. However, MISA (2020a) is equally concerned that the legislation did not consider some of the

submissions made by citizens during public hearings. For example, MISA (2020a) claims that the following issues were ignored by the new bill:

- Submission by a citizen in Bulawayo that Zimbabwe Media Commission (ZMC) is not appropriate body to handle appeals in cases where access to information was denied.
- Submission by a citizen in Marondera that ZMC is not decentralised to all provinces in Zimbabwe, making it difficult for residents of areas where ZMC is not represented to lodge appeals.

On the other hand, the president of Zimbabwe, Mr. Emerson Mnagangwa, and Minister of Information, Publicity and Broadcasting Services senator, Ms. Monica Mutsvangwa, praised the new law and labelled it as a significant step towards establishing a more accountable, open and transparent government in Zimbabwe.

The 2013 Zimbabwe Constitution provides for access to information in the custody of public and private entities, whereas the AIPPA only focused on public entities. This legislative gap was addressed by the new FOI as the legislation provides for the rights of access to information in the custody of public and private sector. According to section 62, subsection one of the Constitution of Zimbabwe, every citizen of Zimbabwe or a permanent resident, including any juristic person and the Zimbabwean media, has the right of access to any information held by the state or by any institution or agency of government at every level, so far as the information is required in the interests of public accountability. Subsection two further indicates that citizens have the right of access to information held by any person or private entity for the purpose of protecting someone's rights. Although the legislation does not provide detailed information on how private entities are regulated. It was envisaged that the discrepancy in terms of the scope of FOI would be broadly addressed by the new FOI law as this is what the CSOs have been advocating for since the enactment of AIPPA.

According to the African Network of Constitutional Lawyers (2012), since the passing of the AIPPA, there have been numerous gaps in terms of its implementation. It is noted that one of the barriers to the full realisation of access to information in Zimbabwe is the classification of information as provided for by the Official Secret Act (OSA). Access2info (2012) attests that Zimbabwe's AIPPA has been used more to suppress information in the name of privacy than

to make the information available, and Zimbabwe is sometimes not included in counts of countries with FOI. Furthermore, the Africa Freedom of Information Centre (2013) opines that the AIPPA of Zimbabwe was more of a regulatory law than the actual promotion of transparency and openness. It would appear that these challenges, which are linked to the AIPPA, are far from over as MISA (2019) is of the view that the new FOI law has many similarities with the outgoing AIPPA.

The Zimbabwe Media Commission (ZMC) regulates FOI laws in Zimbabwe. In terms of the FIA (which has replaced the AIPPA), ZMC is responsible for hearing appeals relating to FOI. Moreover, ZMC is also responsible for developing FOI regulations in consultation with the relevant government ministry. Although the ZMC has the powers to sanction and order a person to be detained in terms of the Commission of Inquiry Act, the organisations have been criticised for oppressing the right to privacy. Human Rights Watch (2016) reports that the ZMC cannot defend freedom of expression and information because journalists and politicians in the country are subject to arbitrary arrest, harassment, and intimidation when they report or share information about protests. As a matter of fact, it doesn't make sense for the organisation responsible for the oppression of the media to oversee the implementation of FOI. The role that media play in the dissemination of FOI should not be ignored.

2.5 Policy instruments and procedures for FOI

The successful implementation of FOI legislation requires sound policies and procedures. Legislation provides broad details on how FOI is regulated. However, there is a need to have proper policies in place to enforce the legislation at an organisational or departmental level. A country can have good legislation in place, but if the policies and procedures are not in line with the legislation, there will always be problems with the implementation. Policies also help in clarifying some of the elements of the legislation. For people who do not have a legal background, sometimes it becomes difficult to understand the language used in the legislation. The language used in the policy differs from the language used in the legislation because legislation should be legally precise. The Constitutions of South Africa and Zimbabwe are the supreme laws and any legislation, policy, or procedure that is not in line with the constitution is legally invalid (South Africa 1994; Zimbabwe 2013). FOI legislation is developed as a result of constitutional provision. However, the current study argues that a clear policy and procedure

are necessary to ensure successful implementation of FOI legislation. Shehu (2015) argues that some of the failures associated with the implementation of FOI legislation emanated from poor policies and procedures.

In a comparative study of FOI legislation in Botswana, South Africa and Zimbabwe, Khumalo, Bhebhe and Mosweu (2015) assert that restriction of public information in Botswana is observed through practise and policy documentation. Transparency in Botswana is hampered by legislation such as the Public Service Act, the National Security Act and the Corruption and Economic Crime Act (Africa Media Barometer 2009), which makes information disclosure difficult. Secrecy is always associated with national security. However, in some cases, it is abused by those in positions of power. Moses and de Koker (2018) postulate that, while transparency and openness should be encouraged at all costs, the government should not be carried away by the norm of openness and transparency to the detriment of national security. In developing policies and procedures, a balance should be struck between promoting access to information and restricting access to certain information that may cause harm to other people or national security.

Ideally, FOI should be specific in terms of the policies that should be adopted at the departmental or organisational level in order to ensure smooth implementation of FOI. These policies are necessary as they will protect officials from disclosing information. FOI policies can address issues such as information disclosure, records management, confidentiality of certain information, protection of personal information, and any other information that is contentious in the application of FOI. Unlike the PAIA of South Africa, the FIA of Zimbabwe is explicit about policies that are required to foster the implementation of the Act (South Africa 2000 and Zimbabwe 2020). For example, section 5 of the FIA states that every public entity, public commercial entity, or holder of a statutory office shall have an information disclosure policy. The information disclosure policy, as stated by section 5 of the FIA, is an important tool for protecting officials who disclose information for accountability reasons. The provision of an information disclosure policy is a positive move by Zimbabwe. However, MISA Zimbabwe (2019) feels that just a mere policy will not guarantee the release of information voluntarily. Mututwa, Mututwa and Ndlovu (2021) concur that policy inconsistencies in Zimbabwe undermine the information disclosure effort the country is making. Currently,

public officials in Zimbabwe hold the view that they can withhold information by citing the Official Secrets Act as an excuse.

Indeed, da Cruz, Tavares, Marques, Jorge, and Sousa (2016) are correct to suggest that the adoption of FOI legislation alone will not improve transparency, openness, and public participation as long as conditions are not conducive to encouraging publicity and accountability. At an organisational level, public officials should be protected by well-constructed policies. For example, civil society organisations all over the world have been calling for the adoption of policies aimed at protecting whistleblowers who reveal information exposing corruption. If officials do not feel protected from disclosing information, they are highly unlikely to disclose such information for fear of victimisation. Benjamin (2017) opines that the implementation of FOI legislation will work better when helped along by fostering policy prioritisation of transparency within public entities. Benjamin (2017) further indicates that political support should not only be limited to the legislative process but also to the broader policy network of transparency, openness, and public participation. Nkwe and Ngoepe (2021) acknowledge that each country has established a different access mode in as many countries that have passed legislation promoting access to public information.

Some policies are adopted due to an international directive, whereas other policies are adopted because local authorities believe it is the right thing to do. Being a member state of an organisation comes with an obligation to "tow the line" and comply with policy documentation. For example, South Africa is a member state of the OGP, as already indicated. That alone demonstrates that South Africa is committed to adopting policies that promote open government. According to Schnell (2015), participation in international initiatives aided many countries in the adoption of transparency policies because authorities are unable to reject these policies because doing so would be interpreted as a lack of internalisation of critical democratic norms.

2.6 Responsibility of FOI implementation

According to Article 19 (2016), the responsibility to ensure full implementation of FOI legislation in many countries resorts to the government. The government, through its established institutions, should develop mechanisms not only to monitor compliance with FOI

legislation but also to foster its implementation. This is also the case in South Africa as the government, through the IRSA, monitors compliance with the PAIA (IRSA 2019) and the outcomes to foster its implementation are yet to be observed. Due to its (FOI) international recognition, several stakeholders, such as civil society and human rights organisations, also make a meaningful contribution to ensure that those who are not complying with the basic provisions of the FOI legislation are taken to task through litigation. In some instances, political parties are also responsible for ensuring that all rights enshrined in the constitution and specific pieces of legislation are claimed and protected (Darch 2013: 41). Despite the availability of different stakeholders to monitor the implementation of FOI, Van Der Berg (2017) laments that the public sector in South Africa has been consistently poor, with approximately 26% of initial requests and 44% of internal appeals being simply ignored.

Provisions of FOI legislation in most cases have a direct impact on the work of the media. Moreover, the definite role played by the media through information sharing and the exercise of freedom of speech in order to empower citizens is acknowledged by several scholars. Without FOI legislation, the journalists would struggle to do their jobs properly, as FOI is required to give the journalists the right to obtain information. The right to receive and disseminate information is part of freedom of speech, which is provided for by Article 19 of the UDHR. Camaj (2016) warned that the FOI should not be seen as a tool meant to empower journalists only. According to Camaj (2016), members of the public should also use FOI legislation to obtain government information for the protection of their rights.

2.6.1 Regulatory body

The regulatory body for FOI remains key in hasterning the implementation of the legislation. The powers of the FOI regulatory body are normally outlined in the FOI legislation. For example, the POPIA and ZMC Act lay out the powers and functions of the FOI regulatory bodies. The most important role played by the regulatory body is to monitor compliance with the FOI legislation and also ensure that there is successful implementation of the legislation. If the implementation of the FOI legislation is not at a satisfactory level, it can be presumed that the oversight or regulatory body has failed to perform its function. The regulatory bodies can also make a meaningful contribution by providing advice and assistance for members of the public and public officials to understand and be able to comply with the FOI legislation (Holsen

and Pasquier 2012. Sedugwa (2014) examines the oversight mechanism in the respective FOI laws of nine countries, namely: South Africa, Angola, Uganda, Liberia, Nigeria, Guinea, and Rwanda. The study found that Africa has mixed models in terms of oversight bodies as per the FOI legislation in the continent. For example, in Guinea, the human rights organisations serve as an oversight body; in Nigeria, the Attorney General; in Uganda, the Parliament; in Angola, the Monitoring Commission; in Liberia and South Africa, the Independent Commissioner (Sedugwa 2014). For the regulatory body to function without any fear, favour, or predudice, Article 19 (2016) indicates that this organisation must be independent from the control of government or political leaders. The independence of the regulatory body is a contentious issue because the funding model of the oversight bodies complicates its independence.

In an ideal situation, expecting the state-owned entities to implement the FOI legislation with a supervisory body to monitor compliance with the legislation may not yield positive results. The regulatory bodies play an important role by serving as the implementation authority responsible for setting up structures and administrative procedures to facilitate and monitor compliance with the FOI legislation. Wiener and Alemanno (2016) assert that the regulatory bodies should be seen as a democratic way of ensuring there is close monitoring of the implementation of FOI legislation. Wiener and Alemanno (2016) further indicate that the regulatory bodies have been seen to be doing great work in inhibiting the development of undesirable policies aimed at dismantling the rights of access to information. Asogwa and Ezema (2017) are of the view that oversight mechanisms are not able to perform well due to limited financial and human resources.

Many countries with FOI legislation in Africa and around the world have independent regulatory bodies that are in charge of regulating the freedom of information. For example, South Africa has the IRSA, which is in charge of monitoring compliance with the PAIA, whereas Zimbabwe has the ZMC, which is in charge of monitoring compliance with the FIA. Other African countries with regulatory bodies include Nigeria, Kenya, Angola, Ethiopia, and Liberia. For example, the oversight for Nigerian FOI legislation is the Attorney-General of the Federation. Section 26(6) of Nigeria's Freedom of Information Act places an obligation on the Attorney-General of the Federation to ensure that all public institutions comply with the FOI legislation. Similarly, FOI in Kenya is regulated by the Commission on Administrative Justice as per section 20 of the Kenya Access to Information Act. The aforementioned oversight bodies

are responsible for ensuring that there is successful implementation of FOI in their respective countries, and these organisations also assist in administering the FOI appeals to ensure that members of the public are satisfied with the outcomes of their information requests.

2.6.2 Civil Society Organisations

Civil Society Organisations (CSOs) are widely recognised for their outstanding work in addressing issues of injustice and social contracts (Abdi & Madut 2019). The idea of "civil society" dates back to the 18th century, referring to a class of merchants, entrepreneurs, and civil servants who claimed freedom from domination (Daniel & Neubert 2019). Philosophers such as Karl Marx and Friedrich Gegel wrote a lot about civil society in trying to provide a clear description of CSOs. Karl Marx saw that "an exploration of civil society can help to clarify what might otherwise be seen as difficulties within society." Both Marx and Hegel attest that one cannot talk of civil society without the state because the state and civil society "are integrated with each other in a series of interlocking mechanisms" (Neocleous 2020).

The current study adopts the World Bank's (2005) definition of CSOs. According to the World Bank (2005), CSOs can be defined as "a wide array of non-governmental and not-for-profit organisations that have a presence in public life, expressing the interests and values of their members or others, based on ethical, cultural, political, scientific, religious, or philanthropic considerations". Based on the World Bank's definition of CSOs, it would appear that CSOs are expected to have an understanding of social problems as they should be actively involved or present in the public life. Moreover, CSOs must act ethically in advancing the interests of their members and non-members. Burnel and Calvet (2004) are of the view that the central idea which is common to most CSOs is that of an intermediate associational space between state and family, which is occupied by organisations which are independent, enjoy autonomy in relation to the state and are formed on a voluntary basis by members of society to defend and enhance their interests or values. In many countries around the world, CSOs have been at the heart of many democratic projects. Citizens always find comfort from CSOs during a time of political unrest and disputes. Although the work of CSOs is not praised by all political leaders, For example, in Zimbabwe, CSOs had conflicts with the former president, Mr. Robert Mugabe, who consistently referred to them (CSOs) as "agents for regime change".

Despite difficulties in executing their tasks, CSOs continue to play a role in advocating for transparency and openness. In SADC countries such as Zimbabwe, Zambia, Botswana, and Mozambique, CSOs have been working under unreasonable restrictions (Hulse, Gurth, Kavsec, Stauber, Wegner & Weinreich 2018). To some extent, members of CSOs have been subject to threats and arrests. For example, civil society leaders in Zimbabwe face intimidation daily and, to some extent, some individuals are placed on "hit lists" (Naidoo & Doube 2007). According to Naidoo and Doube (2007), legal frameworks such as AIPPA and the Public Order Security Act (POSA) have been used by the government to restrict the work of the CSOs in Zimbabwe. CSOs' work should be promoted by FOI legislation. Section 56 of the Model Law states that the supervisory structure of the FOI legislation should make room for the inclusion of representation from appropriate civil society organisations.

Puddephat (2009) posits that countries such as Mexico, South Africa, and India cannot talk about the success stories of FOI without making reference to civil society organisations. Many governments around the world were pushed to enact laws on FOI due to pressure received from CSOs. Civil society organisations not only push for the adoption of the legislation but also for its full implementation. The Freedom of Information Advocates Network (FOIAnet) developed a tool in the form of a checklist to help CSOs conduct assessments of the extent to which countries have met the required indicators in terms of the implementation of FOI legislation. Individual public authorities must also be checked if they are complying with standard provisions of FOI legislation, such as the appointment of an information officer and provisions of training (See appendix C for a FOIAnet checklist on the implementation of FOI legislation). Unlike government entities, civil society organisations are independent, and this puts them in a better position to challenge the government through mass campaigns and protest actions. Nur and Anderson (2016) observed that civil society organisations operating in democratic countries enjoy what can best be described as a relatively conducive environment to perform their work without intimidation. However, this is not the case in democratic countries such as Zimbabwe as members of CSOs are subjected to threats and intimidation and, to an extent, arrest.

2.6.3 Public institutions

It is common knowledge that FOI legislation requires the state structures from all levels of government, such as ministries, departments, and municipalities, to comply (Darch 2013; Blanke & Perlingeiro 2018). The regulatory body is expected to monitor the extent to which effort is made to implement FOI legislation. FOI legislation is normally passed to be implemented by public bodies. This is also the case with South Africa and Zimbabwe. The responsibilities for FOI are normally enclosed in the FOI legislation of the country. For example, according to the PAIA of South Africa and the FIA of Zimbabwe, the public authorities are duty-bound to assist members of the public with information requests. For example, section 5 of the FIA makes it an obligation to disclose information. Moreover, sections 7, 8, 9, 10, 11, and 12 of the Act provide the roles and responsibilities of the information officer. In terms of the Act, information officers have the responsibility to assist information requesters. The provision of the FIA on the duty of governmental bodies to assist the members of the public to access public information is also applicable in South Africa as the PAIA, particularly sections 19(1) to (4), outlines the obligations of the governmental bodies to render reasonable assistance free of charge to ensure that public information is easily accessible. For example, section 19(1) of the Act provides that if a public body receives a request for access to a public record, the information officer in that public body must render such assistance free of charge as is necessary to ensure that the requester complies with other sections of the PAIA (South Africa 2000).

The biggest difficulty lies in the fact that "access to information" responsibility is normally assigned to the wrong officials. This was also noted by Mojapelo (2017) and Mojapelo and Ngoepe (2017), as the scholars argue that there is an irrational assumption that "access to information" requires someone with a legal background. FOI legislation provides details about who should assist the requesters of information in terms of the Act. For example, Section 17 of the PAIA provides that public entities must assign or delegate someone to be a DIO in order to render public bodies accessible. As per the PAIA, the DIOs are responsible for helping members of the public with information requests. However, what has been observed is that government entities assign the "access to information" responsibility to people with legal backgrounds, as an assumption is that FOI is a legal discipline, requiring legal personnel to perform the function. In a study to investigate the role of SAHRC to records management in

the public sector in South Africa, Mojapelo (2017) emphasised that "access to information" is a records management discipline and should not be viewed from a legal point of view, because this is where the meaning gets lost. Khumalo and Baloyi (2019) postulate that the records management landscape in the ESARBICA region stands to benefit from FOI as there is a strong relationship between archival legislation and access to information legislation.

Assigning the right people to run with FOI will go a long way in demonstrating the government's commitment to openness and transparency. As already emphasised, FOI, by its nature, is about freedom of access to records. This would mean record professionals are expected to implement proper systems to accelerate the retrieval of information to avoid delays. The reality is that if records professionals do not form an integral part of the whole process of accessing information, one way or the other, the entire process may be negatively affected just because the relevant people are side-lined, either intentionally or unintentionally. A huge responsibility is placed on public bodies to comply with the necessary provisions of the Act (South Africa 2000). It is therefore the responsibility of the public entities to ensure that there is some form of collaboration amongst all key stakeholders (both internally and externally) for the benefit of the citizens (Saurombe & Ngulube 2018; Saurombe 2016). However, this is sometimes not possible due to the fact that the governance of FOI and records management may not necessarily be the same even when the two functions have a common goal (Makhura & Ngoepe 2006).

The Model Law on Access to Information for Africa (herewith referred to as the Model Law), which is currently serving as a framework for the development of FOI legislation in Africa, does not provide a clear direction on the criteria to select the information officer and DIOs. According to the Model Law, the head of public bodies must designate the information officer, and if the public entity fails to designate the information officer, the head of the entity will automatically be regarded as the information officer. Section 10(3) of the Model Law charges that the person assigned to be the information officer must be someone who is competent and suitable to perform the duties and functions under the Act (African Commission on Human and People's Rights 2013). Although countries may impose restrictions on the criteria for designating the information officer and DIO by being specific in their respective FOI legislation, it would have been preferable if the Model Law provided a framework that could serve as the basis for such provisions. Model laws are generally not binding, meaning that

failure to comply with these model laws may not result in penalties. This is also the case with the Model Law on Access to Information in Africa. However, the Model Law was developed as a tool to assist African states in the development of sound legislation that is in compliance with regional and international standards.

Public institutions generate large amounts of information ranging from personal records, financial transactions, litigation, contracts and other day-to-day transactions. Information remains a crucial strategic tool for public institutions to continue to fulfil their purpose. It is the responsibility of the public institutions to ensure proper management of the information they create in pursuance of business activities. According to Shah, Peristeras, and Magnisalis (2020), public institutions around the world have been increasingly involved in the adoption of big data to analyse "fine-grained" data in order to generate various opportunities, such as efficient public service delivery, facilitating data-driven decision making for policymakers, improving the digital economy of the country, and fostering public engagement in government activities. Public institutions hold information not for their own benefit, but for the benefit of all citizens (Chaterera 2017). Government can make better decisions by allowing people to have access to information about plans and decisions, which will eventually make the people respect and obey government decisions. In this case, law and order should prevail (Geha 2008).

FOI cannot be properly regulated if public institutions are not taken aboard. Public institutions need to be on the same page as an oversight body in terms of making access to public information a living reality. Pozen (2017) laments that, despite the fact that FOI is becoming an increasingly common symbol of "people's rights to know", the degree of secrecy in the name of national security or state protection continues to increase. Article 19's nine principles of FOI legislation impose a duty on public institutions to disclose the information since such a duty corresponds with the rights of access to public information. In essence, this would mean that public bodies and members of the public must find each other half way in confronting the reality presented by the implementation of FOI legislation. Proactive disclosure is at the core of the concept of maximum disclosure, meaning that public office bearers should not wait until a request for information is made. However, mechanisms should be in place to allow proactive disclosure of any type of information deemed necessary for public consumption.

Darbishire (2010) outlined ways in which public bodies can achieve maximum transparency through proactive disclosure of public information. Darbishire (2010) posits that government publications such as gazettes and social media platforms are effective ways to practise proactive disclosure, as seen to work well in other countries. Moreover, proactive disclosure must be coupled with a commitment to disclose only the information that meets the needs of the users rather than arbitrarily disclosing any non-sensitive information to circumvent accusations of lack of effort towards the implementation of FOI (Lemieux & Trapnel 2016). Article 19 (2017) recommends that public bodies should prioritise the disclosure of information that contributes to improving the lives of the poorest and most vulnerable.

2.6.4 Library and Information Service

The primary role of any Library and Information Service (LIS) is to provide access to information to a wide range of users. Librarians are trained to provide information in different formats. Sturges (2001) claims that libraries provide the service that promises people access to information. Hence, it is not a surprise when the concept of "library" is equated to the concept of "access to information". Regardless of the type of library, the central role of any library is the provision of information. According to ISO: 2789: 2013, there are various types of libraries around the world. Table 2.2 shows the different types of libraries, their definitions, which specify the types of users and funding, and the number of existing libraries. The definitions of specific types of libraries as presented in table 2.2 were endorsed by the International Federation of Library Associations (IFLA). IFLA is an independent, international, and non-governmental organisation representing library associations and individuals across 150 countries around the world (IFLA 2019).

Table 2.2: Types of libraries, definitions and total numbers worldwide and by country

Type	Definition	Total number
National library	National Library is responsible for the acquisition of documents published in the country in which the library is located.	World (2019): 356 South Africa (2018): 3 Zimbabwe (2018): 1
Public library	Public library is a general library that is open to the public. The library is usually financed by public funds. Public library services are free.	World (2019): 405,568 South Africa (2018): 1,879

		Zimbabwe (2018): 10
Community library	Community library is a library that is not part of the formal library system of the area or region and is not managed or completely funded by a local or national government authority. The community library provides service to a local community and may be funded by the community itself, charities, NGOs, and others.	World (2019): 25,393 South Africa: None reported Zimbabwe: None reported
School library	School library is attached to schools below the tertiary level of education, the primary function of which is to support the pupils and teachers of the school. This library may extend its service to the general public.	World (2019): 2.0 M South Africa (2019): 5,423 Zimbabwe (2017): 16,783
Special library	Special library is an independent library covering one discipline or a particular field or a special regional interest.	World (2019): 35,393 (listed under other) South Africa (2018): 128 Zimbabwe: None reported
Academic library	A library whose main interest is to meet the information needs of learning and research. This includes the libraries of institutions of higher learning and general research libraries.	World (2019): 80,212 South Africa (2018): 26 Zimbabwe (2016): 90

Source: ISO 2789: 2013; IFLA (2019)

Table 2.2 provides a snapshot of how information is being disseminated around the world, although a major concern is the number of public libraries in Zimbabwe, especially given the fact that the country has a population of approximately 14.8 million according to world population statistics (World Population Review 2020). The role of public libraries in national development cannot be overemphasised. As Pateman and Vincent (2010) put it, public libraries operate within a strategic context in a broader sense than library programs, as public libraries also promote community empowerment, inclusivity, diversity, and excellence. Public libraries normally provide the service to anyone regardless of affiliation. Denying citizens access to public libraries should be equated to denying citizens access to information. Marginalised communities rely on public libraries for access to information at no cost. According to Hines (2015), libraries, especially public libraries, should be seen as democratic institutions that aim to connect the public with the necessary information as well as provide free and open access to the library for all citizens.

In the year 2014, IFLA and its strategic LIS partners submitted to the United Nations an advocacy document named the Lycon Declaration. The advocacy document was used to positively influence the content of the United Nations post-2015 development agenda. "The declaration called on the United Nations Member States to make an international commitment through the UN 2030 Agenda for Sustainable Development to ensure that everyone has not only access to information but is also able to understand, use, and share the information that is required to promote sustainable development and democratic societies" (IFLA 2017). According to Garrido, Fellows and Koepke (2017), when members of the public are provided with the necessary resources to obtain, exchange, and use information, they are more likely to create effective strategies to resolve issues that are more pressing for them. De Jager (2015) posits that libraries play a role in addressing the inequalities and marginalisation in their respective spaces. For example, academic libraries address inequality and marginalisation affecting students.

If there is ever a reward or any form of recognition for organisations or individuals who are speaking out against censorship or any form of secrecy, this award should be given to librarians. Censorship and secrecy are two concepts that do not sit well within the context of librarianship, as observed in numerous documents such as codes of ethics and policies where library associations around the world advise their members to avoid censorship at all costs. For example, the American Library Association (ALA)'s professional code charges that librarians should promote intellectual freedom by doing the best they can to avoid censorship (ALA 1997). This is also the case with the Library and Information Association of South Africa (LIASA), as the association's code of conduct indicates that members should not exercise censorship but allow free equal access to all sources of information (LIASA 2013). At an international level, IFLA (2016)'s professional code also opposes denial or limitations of access to information or ideas, citing the fact that the central mission of librarians and information workers is to ensure the fulfilment of access to information for personal, educational, cultural, growth, leisure, and economic development. Many professional associations are not compromising when it comes to issues relating to censorship (Duthie 2010).

The internet has changed the way information is accessed. The internet has become the primary source of data, and this has led to a variety of libraries changing the way they promote access to a wide range of information. Information literacy is becoming more important as libraries move from traditional ways of disseminating information to a new digital environment. According to Kingori, Njiraine and Maina (2016), information literacy is becoming an increasingly essential part of public library user education.

2.7 Factors stimulating and inhibiting the implementation of FOI

Just like the implementation of any other legislation, FOI legislation also has factors stimulating and inhibiting its implementation. Several scholars, such as Wakumoya and Mutula (2009), Van der Berg (2017), and Adu (2018), explored factors stimulating and inhibiting FOI in several countries in Africa and abroad. One of the observations seems to suggest that all those factors are common in every country, particularly in African countries. Although each country has its own dynamics, Article 19 (2016) asserts that FOI implementation should be guided by the principles of maximum disclosure, meaning that when the FOI is implemented, there is a common assumption that all the information in the custody of the government should be subject to disclosure.

2.7.1 Factors stimulating the implementation of FOI

Access to public information remains one of the cornerstones of democracy. Zuiderwijk and Jansen (2013) assert that open data policies reinforce the implementation of FOI as part of the government's commitment to openness and a transparent society. Governments in democratic countries are striving to promote transparency in order to nourish the relationship with members of the public and donors. As Bertot, Jaeger & Grime (2010) would attest, transparency and FOI are recognised internationally as essential tools for public participation and trust in government. It is noted that democratic countries sometimes scan the information to be shared with the citizens as some public officials hold an unusual view that sharing too much information may disclose or reveal some maladministration, which could change the voting patterns during the country's general elections. Personal communication with Ledwaba (2019) highlighted that whilst democratic countries pledge to strive for openness and transparency, it is also crucial that an effort be made to increase the literacy level of people to

use different devices to obtain public information. According to Ledwaba (2019), public representatives sometimes keep people illiterate deliberately as part of political machinery to retain political power.

Kabata and Garaba (2019) generally argue that some of the factors that stimulate the implementation of FOI legislation are the aspect of leadership and, to a larger extent, political will. Several reports published by the SAHRC cited the issue of political will as a key factor in stimulating interest in the area of the implementation of the PAIA. For example, the SAHRC (2018) reports that some of the state-owned companies would perform better if there was political will to address the challenges regarding the implementation of the PAIA. Arguably, the fact that FOI legislation has been approved by Parliament or any structure which comprises politicians should be an indication that there is a political will. Several scholars, including Darch and Underwood (2010), Berliner, Ingrams and Piotrowski (2018), and Johnson (2018), believe that FOI is measured by the level of implementation, and that political will is also required during the implementation stage.

Mabillard, Kakpovi and Cottier (2018) assert that the implementation of legislation such as FOI requires the fulfilment of several factors, ranging from local to international. Local factors include political will, the type of government, levels of development and legal system, whereas international factors include the influence of an international Non-Governmental Organisation (NGO) such as Human Rights Watch (HRW), Human Rights Action Centre (HRAC) and Human Rights Without Frontiers (HRWF). Several countries in the world had to implement the FOI legislation as a result of pressure from NGO's. For example, Puddephat (2009) conducted a study to analyse the contribution of civil society organisations to the passing and implementation of FOI legislation in five countries, namely Bulgaria, India, Mexico, South Africa, and the United Kingdom, and the study found that the civil society organisations' contributions have impacted the implementation of FOI in many ways, such as:

- advocacy programmes on legal reforms for FOI,
- participating in the process of drafting the legislation,
- creating awareness of the best practice,
- education and training programmes (these include helping members of the public to understand FOI and how to use legal rights to access information),
- training of public officials on how to handle information requests, and

- most importantly, monitoring the implementation of FOI legislation.

A) Open Government Partnership

The Open Government Partnership (OGP) is an initiative that aims to secure commitments from national governments and civil society organisations to promote transparency and openness with the view to promoting corrupt-free governments and the use of new technologies to reinforce good governance (Fraundorfer 2017). The organisation was founded in 2011 by government leaders and civil society advocates (OGP 2019). Currently, OGP is comprised of seventy-eight countries (see Appendix D for a list of member countries of OGP and the year in which they joined the organisation) and thousands of civil society organisations. Countries which are member states of OGP have observed a positive improvement in the legislative framework to increase open government and transparency in all processes. Being a member of the OGP comes with a number of obligations centred on the promotion of openness and transparency. Moreover, participation in the OGP initiative is purely on a voluntary basis. This would mean that member states understand very well what is required of them as members.

To be a member of OGP, a state or an entity needs to meet the main qualifying requirements that are based on the government's performance across four key areas of open government, namely fiscal transparency, access to information, disclosure of assets by public officials, and citizen participation in government activities (OGP 2019). Moreover, countries are required to pass a value check assessment where they are assessed on the extent to which civil society is engaged in government activities. OGP's 2010-2018 eligibility database, which was published in 2019, indicates that sixty-five countries failed the value check assessment. This demonstrates the extent to which prospective members are scrutinised before joining the initiative (OGP). Of the sixty-five countries that failed the value assessment check, thirty-four are African countries. This recapitulates an underlying fact that African countries are still trapped in a static environment of secrecy, a sense of authoritarian rule, and to some extent, a system of repression marked by a propensity to restrict access rather than the exchange of information. It is against this background why, at this time of writing, African leaders still hold the view that disclosure of information may temper with the possibility of ruling forever and will further trigger more tensions in the country, which will further empower citizens to revolt against the current government. Surprisingly, some of the countries that passed the value check assessment are

still not eligible to join OGP. The table below reflects a snapshot of SADC member state value check assessment results and the percentage in terms of eligibility to join OGP as per the four key areas of open government:

Table 2.3: SADC member states value check assessments results and percentage in terms of eligibility to join OGP

Country	Total Percentage	Value Check	Eligibile to join
Angola	75%	Pass	Yes
Botswana	31%	Pass	No
Comoros	25%	Pass	No
Democratic Republic of Congo	44%	Fail	No
Eswatini (Formaly known as Swaziland)	44%	Fail	No
Lesotho	38%	Pass	No
Madacascar	56%	Pass	No
Malawi	81%	Pass	Yes
Mauritus	50%	Pass	No
Mozambique	75%	Pass	Yes
Namibia	69%	Pass	No
Seychelles	83%	Pass	Yes
South Africa	100%	Pass	Yes
United Republic of Tanzania	63%	Pass	No
Zambia	63%	Pass	No
Zimbabwe	63%	Pass	No

Source: OGP (2019)

As per the table 2.3, and of course, surprisingly, countries such as Botswana, Comoros, Lesotho, Madacascar, Mauritius, Namibia, United Republic of Tanzania, Zambia, and Zimbabwe have passed the value check assessment test but are still not eligible to join OGP. According to OGP (2019), countries are required to earn at least 75% of the total available points. Furthermore, participating countries are required to adopt a high level of open government declaration, deliver a country action plan developed through public consultation,

and demonstrate a commitment to impartial reporting on the progress moving forward (Piotrowsky 2017).

Several scholars, including Piotrowsky (2017), Fraundorfer (2017), and Mosamim and Sugandi (2020), agree on the importance of taking part in open government initiatives to reaffirm commitments to transparency, public participation, and openness. For example, Piotrowsky (2017) is of the view that the initiation of OGP is likely to be one of the reasons why countries increase their undertakings linked to openness and transparency. Even countries that were not doing well before they joined OGP began to realise the importance of public participation, openness, transparency and a corrupt free society. For example, OGP reports that evidence continues to affirm that participation in OGP initiatives resulted in aspirational principles to foster open government and open society for sustainable growth within a broader ecosystem of accountability (OGP 2018; Manolea & Cretu 2013). Afghanistan has also seen significant improvements in efforts to enhance transparency, accountability, and public participation as a result of being a member of OGP (Mosamim & Sugandi 2020). It is evident that participation in the OGP remains one of the fundamental pillars for a responsible government. It is also important to note the fact that the eligible criteria to be a qualified member of OGP require a high level of commitment, punctuated by the desire to adhere to the founding principles of openness and transparency, which sometimes becomes a daunting task for African countries such as South Africa and Zimbabwe.

One advantage of participating in open government initiatives is that countries can learn from one another about how to share a wide range of information with the public without jeopardising the state's security or the privacy of personal information. Manolea and Cretu (2013) report on how participation in OGP influenced national Open Data Policies in two countries, namely Maldova and Romania. According to Manolea and Cretu (2013), the government of Maldova established "a single platform for accessing government data" where every ministry is expected to publish at least three datasets per month. What the government of Maldova is doing is to make it easy for members of the public to get access to some public information without the unnecessary bureaucratic measures as observed in other countries. Until joining the OGP in 2012, Maldova had about 26 datasets, which increased to 334 after joining the OGP. It is evident that there has been significant improvement in Maldova’s dedication to open government, which has been reinforced by the affiliation with OGP.

Member countries of the OGP voluntarily agree to exercise a high level of openness, accountability, and responsiveness to their citizens (Piotrowsky 2017). As for Romania, Manolea and Cretu (2013) report that there has not been enough improvement compared to Maldova as the only undertaking the country has made was to sign the OGP declaration and there has been involvement of key public sector actors from the Ministry of Justice together with a close partnership with civil society.

The OGP's commitment to uphold the principles of open government and transparency is contained in the Open Government Declaration. The Multilateral Open Government Declaration, which has been endorsed by 75 member countries of the OGP, broadly emphasises compliance with the Universal Declaration on Human Rights, the UN Convention Against Corruption and other related international human rights instruments (OGP 2011). The OGP declaration focuses on the timely dissemination of large amounts of information, including raw data, in an easily understood format (Yu & Robinson 2011). In addition to the OGP declaration, other countries such as the United States of America, the United Kingdom, and Australia also passed their own declarations to reaffirm the countries' commitment to transparency and openness (Huijboom & van den Broek 2011). The United State of America has been at the forefront of OGP initiatives because this initiative was pioneered by the former president of the country, Mr. Barack Obama. Alongside other members, Mr. Barack Obama founded the OGP, and the OGP has its largest office in Washington, DC. Within a short space of time (approximately within 100 days in office) after assuming his duties as the President of the United States of America, former President Barack Obama embarked on a project to restore the integrity of the state by introducing measures that were seen as correcting what his predecessor George W. Bush had done for the country (Coglianese 2009). In fact, on his first day in office, Barack Obama issued two memorandums to reaffirm his commitment to transparency and openness (Ginsberg 2011). The Bush administration was perceived to be more secretive, punctuated by the introduction of domestic policies restricting the disclosure of government information.

B) Charter for the Public Service

According to Ohemeng (2010), the idea of a public service charter emerged from the United Kingdom and, because of its effectiveness in ensuring better service delivery, other countries,

including African countries, came on board. Nigussa (2014) reports that countries that adopted a service charter similar to that of the United Kingdom include Argentina, Australia, Canada, the United States, Belgium, Singapore, Malaysia, South Africa, Namibia, Costa Rica, and Samoa. The good thing about public service charters is that the provisions of the document are similar as the majority of the public service charters advocate for better customer-driven public service. Organisations such as the UN, the World Bank, the African Union and the European Union have developed a service charter guide to serve as a guideline for countries on key issues to be covered by the public service charter.

Several countries, particularly African countries that have been through apartheid and the colonial rule periods, have embarked on a process of transformation of public service. As part of the transformation of the public service, most countries developed the service charter to guide public servants in the delivery of public service that is in line with the needs of the people. Most of these service charters are based on the assumption that members of the public are the funders of the public service (Mwania 2015). As a result, the same members of the public deserve to know how public funds are spent. This assumption therefore guarantees the rights of access to information and, subsequently, the public participation in order to strengthen mechanisms for transparency, openness and good governance. For example, at a continental level, Africa developed a Charter for the Public Service in Africa, which was adopted by all African Public Service Ministers during the Third Biennial Pan-African Conference of Ministers of Civil Service held at Windhoek, Namibia on February 5, 2001 (African Public Ministers 2001). Musa (2001) posits that the charter is seen as one of the initiatives by African countries to promote good governance in the delivery of public service in African countries. The Charter for Public Service in Africa serves as a framework for the development of service charters in African countries.

Countries that adopted the Charter for Public Service in Africa include Ethiopia, Swaziland, Tanzania (Mwania 2015), South Africa, Botswana, Nigeria, and Kenya. As observed by Balogun (2003), the public service charters help to deliver the public service that is in line with the Charter for the Public Service in Africa. Public service charters can also be used as a tool to measure the performance of the government in serving the interests of the citizens. Talbot (1999) asserts that before the performance of the government can be measured, it should be

clear what service is actually provided by the government. The service provided by the government is normally enclosed in the service charter.

FOI is common in almost all service charters developed around the world. For example, Article 12 of the Charter for Public Service in Africa highlights the importance of information for meaningful transparency. According to Article 12 of the charter, administrative decisions shall always be taken in a transparent manner and such decisions should be supported by recorded information for accountability purposes. The United Kingdom service charter, which is currently seen as the model for other countries, also mentions the importance of access to information. The Botswana Public Service Charter makes specific provisions on the importance of access to information. For example, section D stipulates that members of the public are entitled to non-confidential information on the operations and activities of the government. Section G of Botswana's Public Service Charter further stipulates that members of the public also have the duty to keep themselves informed. In Kenya, the Kenya Public Service Charter says that when members of the public ask for information, it should be given to them as soon as possible.

In the context of South Africa, the country developed a White Paper on Transforming Public Service (WPTPS), which gave birth to a popular document called "Batho Pele" principles. As Nzimakwe and Mpehle (2012) put it, the WPTPS in South Africa signalled the government's commitment to adopt a high-level citizen-driven service delivery approach. The "Batho Pele" principles of South Africa have been a key strategic tool to measure the performance of the public service in different spheres of government (Khoza 2008; Smith & Mofolo 2009; Nzimakwe & Mpehle 2012). "Batho Pele" principles stipulate that public service should be rendered in a transparent manner. According to "Batho Pele" principles, citizens should be given full and accurate information about public service. As Darch and Underwood (2005) and Marais, Quayle and Burns (2017) would put it, "Batho Pele" principles are one of the tools used to foster public participation. Amongst eight (8) principles set out in the "Batho Pele", two of them, namely: "information" and "openness and transparency", are more focused on promoting access to public information. In terms of information, "Batho Pele" principles provide that citizens are entitled to full and accurate information about public service (Rambuda & Manamela 2016). In terms of openness and transparency, public service should be rendered in a transparent and open manner, making it easy for citizens to access information

in order to improve their lives. "Batho Pele" ideals testify to the idea that information remains a vital resource for citizens to empower themselves and eventually contribute meaningfully to improving the living conditions of ordinary citizens.

As for Zimbabwe, it appear that the country does not have a general public service charter on a national level. However, there are various specific public service charters for various state-owned entities in the country. For example, the Zimbabwe Revenue Authority (ZRA) and the Department of Police have a service charter that lays out the values and standards of the service promised by these institutions to the people of Zimbabwe. The ZRA service charter emphasises the importance of making the relevant information available to clients as an effort to retain the organisation's values of integrity, transparency, and fairness. In a study to examine the ethical practise in the Zimbabwe public sector through content and process analysis, Chigudu (2015) concludes that Zimbabwe needs to consider establishing a clients' service charter in all public sectors. Despite the attempt by the Minister of Public Service in Zimbabwe to guide different ministers to develop and promulgate public service charters, the World Bank (2012) notes that the capacity of the Ministry of Public Service in the country to monitor and evaluate compliance with the service charter still needs to be strengthened.

2.7.2 Factors inhibiting the implementation of FOI

The fact that Adu (2018) opines that FOI in Africa is in "paradox" demonstrates that there might be some factors inhibiting the implementation of FOI legislation. It is anticipated that the current study will look deep into the matter and find the factors inhibiting the implementation of FOI legislation in South Africa and Zimbabwe. Since the FOI legislation was passed in South Africa and Zimbabwe, the courts are being used as the battleground for the implementation of FOI legislation, as indicated earlier. This actually defeats the purpose of having FOI legislation when the implementation of the act is reinforced by the courts of law. In an ideal situation, once the FOI legislation is passed by Parliament, it should send a strong message to public officials that a culture of secrecy should be condemned at all costs. It would seem that getting rid of a culture of secrecy remains a dream as some of the court cases to force the government to disclose information are not in favour of the requesters. For example, in a case between the University College Cork (UCC) and Raidio Teilifis Eireann (RTE), the RTE's request to access the financial records of the UCC was denied, citing that the information

requested contains commercially sensitive material. The High Court of Ireland, in a judicial review, overturned the decision by the Information Commissioner to order the UCC to release the records. According to the High Court (2018), as per the judgement, the decision by the IC "exhibits a number of errors of law".

Some of the factors undermining the founding principles of FOI have been widely expressed in several reports published by organisations such as the ODAC, Freedominfo.org, National Freedom of Information Coalition (NFOIC), African Platform on Access to Information (APAI) and Freedom House. For example, Freedom House (2021) reports that in Zimbabwe, the level of secrecy in the country is very high, to the extent that Zimbabweans only enjoy the freedom of openness and transparency in private discussions. Furthermore, in reporting on the state of FOI in Africa, APAI (2013) is on record to assert that African countries are half way towards where they should be in terms of the implementation of FOI law. Ojo (2010) postulates that the low level of awareness may be part of the reason why Africa is still behind in terms of the implementation of the laws on FOI, as the lack of knowledge about the existence of FOI legislation limits public demand for the existing legislation to be implemented.

Several countries may have passed laws granting citizens access to public information in order to attract investors and be seen by international human rights organisations as countries demonstrating their commitment to promoting transparency and openness. It is ironic that some of the countries that passed FOI legislation are still expected to be pushed before they will disclose government information. In light of the frustrations faced by members of the public in obtaining information in the custody of government entities, it can therefore be argued that Article 19's principle of maximum disclosure is not to be realised anytime soon. However, Mpofu (2014:125) posits that in spite of the low level of adherence to the principle of maximum disclosure, the role of the internet to promote access to information in countries such as Zimbabwe must not be ignored. According to Mpofu (2014), the availability of the internet in the country provides Zimbabweans with an alternative digital public sphere where members of the public discuss issues and share information that they would not ordinarily share in public spaces because of the government's control of information dissemination.

A) Citizenship

The issue of citizenship in Africa has always been a sensitive matter and is sometimes used by governments to allocate resources. Notably, this was the same strategy used by colonial and apartheid regimes in African countries to divide citizens based on their citizenship, although the one used by colonial and apartheid regimes was too deep. Contestation over citizenship has always been an issue of debate, not only in South Africa and Zimbabwe but also in many African countries. Non-nationals are sometimes not able to enjoy their basic human rights in foreign countries. This has been revealed by xenophobic attacks in some of the countries. In most cases, the root cause of xenophobia is the result of the contestation of resources, where ordinary people are of the opinion that resources should first be provided to locals before they are shared with non-nationals. FOI is no exception. Some countries give people the right to access public information based on their citizenship status. Darch (2013) acknowledges that the record has proven that the exercise of FOI in the countries which have passed the law largely depends on the possession of citizenship. This would mean that only citizens are allowed to hold the government accountable. Perhaps the underlying argument would be that citizens pay tax, hence the very same citizens are entitled to demand answers from the government, not the non-nationals. In a court case between *Family Care Limited vs. Public Procurement Administrative Review Board and Others*, the High Court of Kenya ruled that FOI is only enjoyed by Kenyan citizens and not foreign citizens. The court further ruled that FOI is enjoyed by "natural Kenyan citizens and not Kenyan juridical persons such as corporations, or associations" (Georgiadis 2013; Transparency International Kenya 2015).

Several cases have been observed in Africa where leaders would try to exclude their opponents by raising the question of citizenship. Darch (2013) observed that the issue of citizenship in many African countries is a hotly contested agenda used by politicians to silence their opponents, and to some extent, the citizenship of individuals considered to be troublesome is revoked. Manby (2009) concurs that citizenship law in Africa has also proven to be a strong weapon for conservative governments seeking to silence opponents or bar them from participating in elections. For example, a Botswana-born citizen, Mr. John Modise, was denied his right to citizenship after he founded an opposition political party (Whitaker 2005; Balue 2008; Manby 2009). Former Zambian President Frederick Chiluba successfully campaigned for a constitutional amendment to prevent his predecessor, Mr. Kenneth Kaunda, from

launching a political comeback (Whitaker 2005).The Constitution was amended to require that both parents of presidential candidates be Zambian citizens by birth (a move to silence Kenneth Kaunda as his parents are from Malawi). In Tanzania, one of the seasoned and outstanding journalists, Janerali Ulimwengu, had his citizenship withdrawn by the authorities (Onyango-Obbo 2019). Although, the focus of this section is not on political struggles against citizenship but on how citizenship is used as a factor in the suppression of the rights of access to public information.

In the spirit of accountability, the sharing of information should actually not be based on residential status. Birkinshaw (2006) concurs that FOI should go further than conferring rights on citizens, because literally everyone is a citizen of the world. However, this is not the case in other countries. For example, Zimbabwe's FIA and the 2013 Constitution only allow citizens to have access to public information. In terms of section 62 of the Constitution, every Zimbabwean citizen or permanent resident has the right of access to information that is required for public accountability. The Constitution further stipulates that everyone has the right to access private information as long as the information is required to protect someone's constitutional rights. What the 2013 Constitution seeks to suggest is that members of the public who are not permanent residents may not hold the government accountable as they are not allowed to gain access to information in the custody of public entities. The FIA conforms to these constitutional provisions as the legislation cites section 62 of the 2013 Constitution.

Nigeria's 2011 FOI legislation provides for freedom of access to information for Nigerians only (Ojebode 2011), meaning everyone who is not a resident of Nigeria can not request public information as per the Act. However, in countries such as South Africa and the United States of America, freedom of access to public information is extended to non-nationals. For example, in South Africa, both the PAIA and the "guide on How to Use the Promotion of Access to Information Act 2 of 2000" (herewith referred to as the PAIA section 10 guidelines) provide that any person (including non-nationals) is allowed to make a request for access to information under the Act (PAIA) (South Africa 2000; SAHRC 2016/17). The PAIA of South Africa is used in conjunction with the PAIA section 10 guidelines. Section 10 of the PAIA requires the supervisory body (which is currently the IRSA) to compile in each official language a guide on how to use the PAIA within three years of the commencement of the Act. Hence, it is important to always refer to the PAIA guidelines for clarification on key issues pertaining to

the PAIA. In the case of the United States of America, the Freedom of Information Act (5 U.S.C. 552, 1996) provides that everyone (including non-nationals) has the right of access to public information. Kampas (2014) regards the Freedom of Information Act (5 U.S.C 552, 1996) as an "all-empowering act" because the act makes provision for the rights of access to United States federal government information to citizens and non-citizens. Extending the Freedom of Information Act to non-nationals is an unpopular but remarkable step toward reaffirming the commitment to open governance. However, one would not be surprised if the United States of America and South Africa were at the cutting edge of open governance because these two countries are actually the founders of OGP, as stated earlier. It seems that the two countries are leading by example.

Perhaps there is a need to revisit the intention for which the FOI legislation was passed. Mueller (2019) asserts that irrespective of the formulation and contents of the FOI legislation, it is of paramount importance to know whether and to what degree the effects intended by establishing an FOI law are achieved. Burt (2013) argues that FOI legislation usually intends to ensure accountability and transparency. The PAIA is very clear in terms of the intention with which the legislation was passed. For example, Section 9 of the Act states that the Act was passed primarily to give effect to the constitutional right of access to information. Moreover, the PAIA was passed to reaffirm the state's commitment to promoting a culture of human rights and social justice. Ackeman and Sandoval-Ballesteros (2006) postulate that FOI should be founded on the principle of maximum disclosure not only to citizens but also to other residents and interested parties. An assumption here is that public information is for the public and should be treated as such. On the other hand, Pozen (2017) suggests that FOI should constrictively make provisions to prioritise journalists over citizens in order to ease the press's ability to scrutinise government officials. According to Carol (2016), an information request made by a journalist should be given first preference, meaning the request should be moved to the front of the queue, largely because journalists are regarded as "people primarily responsible for the dissemination of information."

B) Fees for access

If there is an agreement that all public records belong to the public, as the name suggests, then why pay a price for something that belongs to you? This is the question that many scholars are

asking with little hope of getting reasonable answers. Even if there is an attempt to justify the answers, the justification still "holds no water" simply because paying for someone to account is absolutely unwarranted. Scholars such as Govender (1995), Grupe (1995), Shepherd and Ennion (2007) and Asogwa and Ezema (2015) questioned the issue of fees, arguing that, most frequently, the government charges unreasonably high fees as a tactic to deny people access to information. The absence of national or international regulations on payments makes things worse as public authorities use their discretion to make decisions on charges. Govender (1995) and Shepherd and Ennion (2007) deplore the fact that the use of access fees in Australia and Ireland has made the rights of access to information too costly for many citizens. Grupe (1995) claims that government agencies in some countries are making public information a "sealable commodity" by deliberately seeking to charge rates that are much higher than the legal copying costs.

In a comparative study to analyse the experiences of the FOI requests submitted to selected police agencies in Canada and the United States of America, it was found that in Canada, public bodies have the right to charge fees for search and preparation time associated with FOI requests and such rights are enclosed in the country's FOI legislation, although this does not materialise in practise as the charges can not be equated to the search and preparation because they are high (Luscombe, Walby & Lippert 2017). This is a testament to the fact that countries around the world should set up measures to control the pricing of access to public information. While the legislation may be used as a tool to provide for stringent measures to control the fees, it is clear that the legislation alone cannot be enough because, in some cases, public officials are acting intentionally beyond the reach of the legislation. Butt (2013) claims that the regulation of fees is a daunting task to administer.

Ironically, members of the public in South Africa are charged access fees to request their own personal information. In South Africa, there are two types of fees to be paid by the requester of information, which are the request fee (to be paid by the requester other than the personal requester) and the access fee (to be paid by all requesters). A request fee is the cost to be paid for just making a request, whereas an access fee covers the cost of finding and copying the required records (South Africa 2000; SAHRC 2016/17). Section 29(1) of PAIA provides that an access fee should only be paid after a notice indicating that a request for access has been granted (South Africa 2000). However, the PAIA provides the minister with the power to

exempt anyone from paying the fees. In terms of section 8 of the PAIA, the minister responsible for the administration of justice in South Africa has powers to: exempt any category of person from paying the fees; determine the ceiling price; determine how the fees should be calculated; and make the determination as to which category records are affected by the fee. As per section 29 of the PAIA, it would seem that South Africa is making an effort to control the pricing. However, whether that translates into practise is what the current study seeks to find out. The practise in South Africa is in line with the Centre for Law and Democracy (CLD) (2015)'s advice that access fees should be centrally controlled to avoid the abuse of powers.

With regard to Zimbabwe, the FIA does not charge a request fee. Unlike the PAIA of South Africa that charges a request fee, Zimbabwe's FIA only charges an access fee. More details about fees are provided in Chapter Four and Chapter Five. A repealed AIPPA charged a request fee. For example, Section 7 of AIPPA indicates that applicants are required to pay the prescribed fees for any record and any service rendered in terms of AIPPA (Zimbawe 2002). According to CLD (2019), the FIA will renew Zimbabwe's commitment to FOI. Nonetheless, CLD (2019) believes that the FIA's fee structure is still unclear. It is yet to be seen how the country will handle fee issues as provided by the FIA.

C) Education and awareness

Depending on how one looks at it, education can be both a motivator and a deterrent to the implementation of FOI legislation. Arguably, when people are educated about basic socio-economic rights and the benefits attached to these rights, they (the people) are likely to claim these rights. Equally, when people are not educated about the same, the chances are high that they may not attempt to claim such rights. As McKinley (2003) would attest, one of the greatest challenges in the implementation of FOI legislation is to make an unfounded assumption that public and private officials are automatically aware and educated about the FOI legislation. FOI can, at times, be complex to understand, especially in developing countries where the concept is relatively new. The government should make an effort to educate people about their rights in general so that people will be in a position to exercise these rights. When the FOI legislation is enacted, it is expected that government officials should introduce education and awareness programmes on the benefits of the Act (Pillai, Athira and Vinod 2018). Education and awareness programmes should not only be limited to ordinary members of the public because public officials may also find it difficult to interpret the legislation.

A variety of statutes demonstrate the importance of education and awareness. For example, Article 19 (2016) emphasises the importance of the promotion of open government by informing the public of their rights. According to Article 19 (2016), FOI law must make specific provision for public education and information sharing regarding freedom of information. It is the government's responsibility to use available resources to ensure that information is communicated in the appropriate medium and in the language that the people understand. Model Law on Access to Information for Africa highlights that African countries should use their oversight mechanisms to promote freedom of information in their respective countries.

Some of the activities to be undertaken by oversight mechanisms to promote freedom of information as suggested by the Model Law on Access to Information for Africa include but are not limited to:

- Ensure that information holders have an obligation to raise awareness and conduct educational programmes on FOI
- Engage the civil society regularly for lifelong collaboration
- Assist the information holders with internal workshops
- Develop training material necessary to advance the promotion of the act.

In a global survey on access to government information laws, Banisar (2006) reports on how education and awareness have hindered the promotion of access to government information around the world. For example, the study indicates that a lack of knowledge within civil society about the FOI legislation affects the implementation of the legislation in Ecaudor. Similarly, there seems to be low awareness of FOI in France (Banisar 2006), South Africa (Asogwa and Ezema 2015) and New Zealand, which resulted in a slow increase in the number of information requests (New Zealand Law Society 2019; New Zealand Ombudsman 2019). A survey conducted by the New Zealand Ombudsman (2019) found that only sixty per cent (60%) of New Zealanders are aware that they can access government information. Darch and Underwood (2005) indicate that information literacy is an underlying prerequisite for informed citizens. Madubuike-Ekwe and Mbadugha (2018) concur that the full implementation of FOI legislation heavily relies on the literate population. Naik (2014) defines information literacy as the set of skills necessary to locate, retrieve, evaluate, and use information. Information literacy

is directly linked to the level of education and awareness because citizens require the necessary level of education to understand how the information is organised.

Although no continent-wide survey has been conducted in Africa to assess the level of awareness of FOI legislation, several scholars, including Dimba and Calland (2003), Kuunifaa (2012), Khumalo, Bhebhe and Mosweu (2017), Madubuike-Ekwe and Mbadugha (2018), and Adedoyin and Oyekunhle (2020), believe that ordinary people in Africa are unaware of the potential benefits that FOI legislation offers. Ngoepe and Mullon (2019) assert that the greatest challenge to the full implementation of e-government in South Africa is the insufficient budget. In a study to assess the state of access to information in Africa using the African Union Model Law as the theoretical foundation, ODAC (2017) found that poor financial resources, which are directly linked to a lack of political will, have negatively affected the implementation of FOI in the following countries: Uganda, Cote d'Ivoire, Kenya, Madacascar, Malawi, Mozambique, Uganda, and Zimbabwe.

The involvement of Civil Society Organisations (CSOs) on FOI education and awareness programmes has been seen to be working very well, especially in developing countries. This was observed in South Africa, where organisations such as ODAC, SAHA, and Nelson Mandela Centre of Memory (NMCM) have done a lot of work in creating awareness about the PAIA and educating people about the legislation. For example, in September 2005, ODAC, working together with SAHRC, announced the launch of South Africa's first ever remarkable award for openness and responsiveness, known as the "Golden Key Award" (Mojapelo & Ngoepe 2017). According to ODAC and SAHRC (2008), the "Golden Key Award" ceremony in South Africa has grabbed the attention of the regional community as the regional media advocacy organisations have shown an interest in running similar awards projects to appreciate organisations that are committed to principles of openness and transparency. With the "Golden Key Award", the SAHRC rewards best-practising institutions, proactive DIOs, and frequent users of the PAIA with the intention of encouraging poor-performing institutions to do better (SAHRC 2014/15). The main concern for the SAHRC (2020/21), SAHRC (2019/20), SAHRC (2018/19), SAHRC (2016/17), and SAHRC (2014/15) every year is that even constitutional institutions, given the nature of their mandate, are expected to take a lead in promoting openness and transparency, but the results are always the opposite. Table 2.4 shows the results of the 2008 "Golden Key Awards" for constitutional institutions.

Table 2.4: Results of 2008 Golden Key Awards for constitutional institution (SAHRC & ODAC 2008: 13)

Constitutional institution	Roadmap	Records management	Internal mechanisms	Resources	Total	%	Rank
Auditor-General	5	6	15	3	29	62	1
Public Service Commission	4	3	12	4	23	49	2
Commission on Gender Equality	0	0	0	0	0	0	0
Independent Electoral Commission	0	0	0	0	0	0	0
Public Protector South Africa	0	0	0	0	0	0	0

As shown in Table 2.4, three institutions, namely the Commission on Gender Equality (CGE), the Independent Electoral Commission (IEC) and Public Protector South Africa (PPSA), scored zero percent (0%) and they were all ranked number zero (0). The SAHRC (2018/19) laments that the continuous low level of compliance with the PAIA by constitutional institutions is disappointing, especially because the SAHRC has made a lot of effort to remind these institutions of their responsibilities. The continuous low level of compliance with the PAIA demonstrates a need for the IRSA to consider having more education and awareness programmes aimed at capacitating democracy institutions.

In terms of the PAIA of South Africa, the regulatory body is required to, within three years of the commencement of the Act, compile a training manual in various official languages for the use of public officials and members of the public to gain a better understanding of the PAIA. McKinly (2003) suggests that the regulatory body's responsibility for awareness and education on the PAIA should also be extended to public and private officials, and not only the regulatory body. Kaka (2016) concurs that public institutions must play their role by undertaking campaigns such as "Know Your Rights" aimed at spreading the word about the PAIA. Similar to the PAIA training manual developed by SAHRC, the SAHA Freedom of Information Programme also developed the PAIA workshop guide, detailing all relevant information for people who are interested in learning how to use the PAIA.

In the case of Zimbabwe, Chitsamatanga and Peter (2016) suggest that the awareness of AIPPA is very low in the country. However, it is anticipated that the recently signed FIA, which has

replaced the notorious AIPPA, will draw more attention and increase people's involvement in creating awareness about the legislation. CSOs in Zimbabwe have not done much to create awareness about the legislation. Instead of educating and creating awareness about the legislation itself, they instead spend much time fighting the government against poor formulation and implementation of the legislation.

2.8 Recommendations from the literature

A good number of scholars, such as Adu (2018), Dominy (2017), Camaj (2016a), Camaj (2016b), Khumalo, Mosweu and Bhebhe (2016), Omotayo (2015), Sheperd (2015), Thurston (2015), Enwerem (2014), Darch and Underwood (2010), Darch and Underwood (2005), and Mendel (2003a), have looked at the implementation of FOI in various countries. Although the focus of the current study is South Africa and Zimbabwe, there is consensus amongst researchers such as Mendel (2003a), Relly (2011), Enwerem (2014), and Asogwa and Ezema (2017) that the challenges of the implementation of FOI in Africa are almost identical in all 13 African countries (Enwerem 2014) that enacted the FOI legislation. According to Ezema and Asogwa (2017) and Enwerem (2014), these challenges include the following: lack of understanding of the FOI law; lack of proper independent oversight mechanism; FOI sub-units in public institutions; consistent non-compliance (especially on proactive disclosure and timely reporting); record-keeping systems; national security; high level of illiteracy; and poor education system. Some of the aforementioned challenges have been dealt with in previous sections of the literature review. Moreover, scholars such as Adu (2018) lament of the FOI in Africa, which it finds itself between a rock and a hard place as a result of political leaders who believe that sharing too much information will harm national sovereignty. Michener and Worthy (2018) posit that literature demonstrates a view that FOI is a political tool to curb corruption and maladministration and that this narrative creates unnecessary anxiety for public officials. Michener and Worthy (2018) go on to say that the fact that literature sympathises with the requestors of information (demand side) rather than public officials (supply side) creates a narrative that a requester is always right and must be given all the requested information.

There is limited literature on the implementation of FOI legislation in Africa according to Article 19 principles (which is the primary focus of the current study). However, several studies

were conducted on the implementation of FOI legislation in line with various principles and models, such as the Johannesburg Principles of Freedom of Information Legislation. For example, in a study to analyse the implementation of the Access to Information Act of Bangladesh in line with the Johannesburg Principles of Freedom of Information, Murad and Hoque (2010) found that social ills such as corruption, secrecy, and poor parliamentary oversight are the biggest obstacles to the implementation of FOI.

The following section looks at the recommendations from the literature in line with the identified challenges as outlined above.

A) Understanding of FOI law and related policy package

Emerwen (2014) recommends that government institutions must clearly study the FOI legislation together with relevant policies in order to clearly understand their role regarding the implementation of the Act. Several confusions emerge when there is a lot of policy documentation and legislative prescripts which are not moving in the same direction. Murad and Hoque (2010) assert that it is normal to have pieces of legislation such as the Official Secrets Act (as it is the case with South Africa and Zimbabwe) for national security reasons. However, a major concern is that this legislation is normally used by public officials for the abuse of power and corruption. In a paper to investigate whether the implementation of the right to information law in Africa is in paradox, Adu (2018) calls for a balancing act aimed at addressing the issue of access to government records and protection of individual privacy but does not suggest that the media must function freely without any fear or favour. The understanding of FOI should not be limited to public officials. To enable efficient implementation, media houses, courts of law and ordinary citizens need to develop an interest in understanding the law. In a study to evaluate the role played by media houses in the implementation process of Nigeria's Freedom of Information Act six years after it was signed into law, Aliyu (2017) found that Nigerian journalists value and understand the FOI Act. However, the usage of the Act by journalists is below average.

A two-day conference on Africa's Regional Acces to Information Conference concluded that there should be mass education and awareness targeting different sections of the society to raise awareness and understanding of FOI law (AFIC 2014). One of the strategies which has been

used by SAHRC in South Africa is the "train the trainer" programme, with the view that those who are empowered with information can go on to empower others. The methodology of "train the trainer" works well, especially with organisations operating in low-resource economies. Other sectors, such as health sectors, also adopted similar methods (Ewert, Baldwin-Ragaven and London 2011; London 2011). Just like any other legislation, users of the FOI legislation require continuous workshops in order to deepen their understanding of the legislation. In most cases, the FOI legislation itself makes it an obligation for the users of the legislation and public officials to be workshopped or be trained on the provisions of the legislation in order to use it effectively. Since the FOI legislation requires the appointment of the information officers who will be responsible for ensuring that information requests are processed, Bamgbose and Etim (2015) recommend that these information officers get adequate training from librarians. In a paper to investigate the role of the library in the implementation of access to information laws in Africa, Bamgbose and Etim (2015) argue that librarians are in a better position to train the information officers because librarians are trained information professionals whose duties include the disclosure of information.

B) Independent oversight mechanism

The implementation FOI legislation works better when there is an independent oversight mechanism. The independence oversight bodies are necessary to provide recourse for information requesters who might believe that the law was incorrectly interpreted in making decisions on their information requests. Countries differ in terms of the oversight mechanisms for FOI. However, two common independent oversight mechanisms are Ombudsmen and Information Commissioner. The legal powers of the aforementioned bodies vary, meaning the powers of Ombudsmen differ from the powers of Information Commissioners. The first FOI ombudsmen was established in Sweden, and today many Information Commissioners around the world work according to the tradition of Ombudsmen (Holsen & Pasquier 2012). Benjamin (2017) recommends that the appointment of not just an independent but also an active Information Commissioner is critical in ensuring that non-compliance or complaints are dealt with by an independent body. However, this oversight body should be capacitated to work independently without any political interference. Lemieux (2020) asserts that a considerable effort should be made by the government to strengthen through legislative and policy documentation the role of Information Commissioners and also that of the oversight of records

and information management. Although this might not be a simple task because most of the Information Commissioners are appointed by politicians. According to LaMay, Freeman, and Winfield (2013), the effectiveness of Information Commissioners will satisfy the requesters of information to the point where they will not even consider referring the complaints to a court of law (as it has already been highlighted that courts are expensive and take a long time to finalise the matter). The question is: how can the Information Commissioner's independence be strengthened? It might not be easy to determine the full independence of the Information Commission, largely because the independence should be looked at from two angles (formal and informal) as suggested by Holsen and Pasquier (2012). Formal independence has to do with independence based on law, and informal independence is the autonomy an institution enjoys based on day-to-day functioning. The reality is that legal independence does not automatically translate into day-to-day functioning independence.

Giraldi and Maggetti (2010) outlined the critical components that determine an organisation's formal and de facto independence in a European context, which may also be applicable to African countries. Table 2.5 provides a summary of Giraldi and Maggetti (2010)'s conceptualisation of independence for regulatory bodies:

Table 2.5: Determination of the independence of regulatory authority (Giraldi and Maggetti 2010)

Type	Dimension	Key issues
Formal	Status of the head or management of the organisation	• The length of term of office (longer terms increase indepencence) • Appointments of officials (whether a single minister or through a more rigorous process) • Is the appointment renewable? Or is it aligned to other public offices? • Is the independence of the organisation

		an explicit requirement?
	Relationship with elected politicians	• Is the independence of the organisation formally stated? • What are its formal obligations? • Under which conditions its decision can be overtuned?
	Financial and organisational independence	• Is the organisation sustained by funds from government or from other sources (such as fees)? • Is the organisation able to determine its internal structure and also determine its staff policy (such as salary structures)
	Compenetcies delegated to the authority	• Is the organisation capacitated to do its work without fear or favour?
De facto	From politicians	• Presence of many veto players and old age (de facto independence can be enjoyed when the agency is old and when there are many roleplayers)
	From regulates	• Participation in European network of agencies.

According to Sedungwa (2014), oversight bodies should perform the following functions: monitor and regulate the implementation of FOI legislation; receive reports from information officers; hear appeals; audit compliance with the legislation; impose sanctions for non-

compliance; report to parliament; promote FOI awareness; and provide advice on how FOI legislation can be strengthened. The greatest challenge with reporting is that the reports produced by oversight bodies are not taken seriously by public authorities or legislators. This is also the case with South Africa, as the SAHRC complains yearly about the lack of implementation of the Commission's recommendations (Mojapelo & Ngoepe 2017).

C) Poor record-keeping

Scholars such as Mojapelo (2020), Mojapelo (2017), Mojapelo and Ngoepe (2017), Khumalo and Baloyi (2019), Lowry (2013), Sebina (2006), Mnjama (2003), looked into FOI and its relationship to record-keeping. For example, in a study to establish the level of alignment between the government's FOI aspirations and their records management readiness for FOI, Lowry (2013) suggests a strong regulatory framework for Kenya, Uganda, and Tanzania under which FOI should operate. Mojapelo (2020) concurs that there is a direct relationship between FOI and records management in the public sector, necessitating collaboration between organisations responsible for records management and those responsible for FOI. On the other hand, Khumalo and Baloyi (2019) assert FOI in the ESARBICA region can benefit records management by increasing employment opportunities for records professionals, promoting the development of records management systems and stimulating training needs for records practitioners.

In a paper titled: "Records management and Freedom of Information: a Marriage Partnership", Mnjama (2003) postulates that a clear direct relationship between FOI and records management requires records managers to be involved in every stage during the formulation and implementation of FOI legislation because every provision of FOI is affected by records management. Failures in record-keeping systems have a direct impact on the successful implementation of FOI legislation (Mojapelo 2020). According to Sebina (2004), a direct symbolic relationship between FOI and records management is clear through observation even in the absence of literature. It is of paramount importance for records professionals to understand FOI legislation and other related policy documentation, and also how records management can assist in ensuring successful implementation of the Act. Effective electronic records management systems provide the best opportunity for the delivery of access to information (Madubuike-Ekwe & Mbadugha 2018).

D) National Security

Scholars such as Madibukwe-Ekwe and Mbadugha (2018), Moses and de Koker (2018), Mendel (2015), and Murad and Hoque (2010) have looked at the balance between the provision of access to government information and the protection of national security. The aforementioned scholars are of the view that national security should be taken into account when disclosing information. However, Article 19 (2016) acknowledges the importance of protecting national security. However, public officials should not abuse the provision of national security by withholding information. In the case of Nigeria, Madibukwe-Ekwe and Mbadugha (2018) recommend the repealing or amending of all existing laws such as the Official Secrets Act, Penal Code, Public Complaints Commission Act, etc., which have been proved to have a negative impact on the successful implementation of the FOI Act. In the case of Australia, Moses and de Koker (2018) posit that Australia is committed to openness and transparency as evidenced by the adoption of FOI legislation and the Information Disclosure Act. However, the Australian government must recognise that complete openness is not possible, and an effort must be made to maintain a balance between openness and protection of national security. Protection of national security would imply that certain classified information should not be disclosed for national security reasons, which some people may regard as a reversal of openness and transparency.

The Tshwane Principles set out guidelines on how law makers can maintain the balance between promoting freedom of information and also protecting national security. The Tshwane Principles also concur with other international standards that total transparency is not possible. When deciding what information to share with the public and what information to keep, issues such as public order, international relations, public health, safety, law enforcement, privacy, and commercial confidentiality should always be taken into account. One of the key areas suggested by the Tshwane Principles is to ensure that the public interest takes precedence over all of the aforementioned concerns. Salau (2017) indicates that most of the FOI legislative frameworks in Africa provide for an overriding rule of the public interest. Article 19 (2016) states that the limited scope of exception should pass a public interest test. Article 19 (2016) states that public interest is making significant contributions to an ongoing public debate,

encouraging public participation in political debate, improving accountability, exposing serious wrongdoing, abusing public office, and benefiting public health and safety.

2.9 Summary of the chapter

The chapter included a discussion of the literature on FOI implementation. The chapter focused not only on South Africa and Zimbabwe, but also on other countries around the world that have passed FOI legislation in order to highlight some international trends. The discussion was organised around research objectives. Based on the discussions presented in this chapter, it is clear that FOI is a global issue with numerous loopholes that must be addressed holistically. The African continent still has a long way to go in addressing the flaws associated with FOI legislation implementation. Although the discussions were strictly limited to the current study's research objectives, other areas such as implementation by government institutions, departments, and local governments may warrant additional research. The current study only looked at FOI implementation at the national level, rather than implementation by public bodies.

According to the literature, challenges associated with FOI appear to be common in Africa. This necessitates significant reform in order to address the previously identified issues. According to the literature reviewed in this chapter, political leaders make little effort to address FOI challenges. FOI implementation will be a monumental task without political "buy-in." Leaders should be conscientious about FOI issues because they are the reason for the failure to promote FOI in general. Although there has been a slight improvement in the adoption of FOI legislation, little effort has been made to ensure its implementation. Finally, some of the factors that impede access to information should be adequately addressed in order for FOI to be fully realised. According to Asogwa and Ezema (2017), FOI in Africa is not feasible unless restrictive measures that impede citizens' access to information are eased or relaxed. The next chapter is about research methodology.

CHAPTER THREE

RESEARCH METHODOLOGY

3.1 Introduction

The second chapter dealt with a review of the literature on the topic under consideration. The literature review was presented in accordance with the study objectives in order to demonstrate a link between the current study and the Article 19's principles, which is the conceptual framework guiding the study. A summary of the research methodology was provided in Section 1.10 of Chapter One. The current section provides specific details and justification for the research methodology chosen. According to Basias and Pollasis (2018), the correct choice of a suitable methodology is an important decision to carry out a successful scientific research and is primarily focused on demonstrating a link between research objectives and the characteristics of valuable research methodologies. In the research methodology, the researcher must take advantage of the opportunity to position the research problem in an appropriate framework, to develop an appropriate approach to solving the problem being studied, to select an appropriate research technique that will lead to appropriate data collection methods, and, finally, to pursue the appropriate unit of study (Ahmed, Opoku & Aziz 2016). The research methodology defines a structured plan of action for resolving a specific research problem and the tools to be used. Quality issues in research are always a source of contention.

According to Bryman (2012), Ngulube (2015), Ahmed, Opoku and Aziz (2016), Dzwigol and Dzwigol-Barosz (2018), and Kumar (2019), research methodology should include the following components:

- A general overview of the research context answers the following questions: What kind of setting? What are the requirements for the study? What ethical considerations were observed?
- The sampling process and justification address the following questions: How was the sample selected? At what point was it selected: at the commencement stage or during the study? How many participants? What are their characteristics? How representative of the population?
- The research procedure and the tools employed.

- Data analysis.

Adequate research methods are required to address a research problem because they not only improve quality but also ensure that the study is comprehensive. To obtain scientifically valid results, Dzwigol and Dzwigol-Barosz (2018) recommend using a variety of methods. The importance of selecting the correct methodology cannot be overstated because it motivates the reader to develop some level of trust in the accuracy of the study's results. The research methodology should reassure the reader by outlining the specific procedure used to identify, select, process, and analyse data about the research topic (University of Witwatersrand 2019). Ngulube (2015) asserts that scientific knowledge is solely dependent on the methodology used to conduct the study.

The researcher acknowledges that there has been contestation of ideas around the issue of concepts in research, with recent scholars such as Ngulube (2020), Leavy (2017), and Creswel and Creswel (2018) arguing that what has been widely described as a research approach is actually a research design. Ngulube (2020) urged researchers to use methodological concepts consistently and consistently. Inconsistent application of research concepts has a negative impact on research in general because it confuses emerging researchers who are still navigating the research journey. The current study will ensure that methodological concepts are consistently applied in order to maintain work quality. Since the main goal of research is to solve scientific problems by learning new things, it is important to explain ideas in a way that is easy for the reader to understand.

Explaining the researcher's method selection is critical because it allows other researchers to see how other scholars have implemented these methods, allowing them to test each method's reliability on various scientific problems. As a result, the goal of this chapter is to present the selection and justification of research methodology. The chapter discusses the justification of the research paradigm, research approach, research design, study population, sampling method, data collection tools that assisted the researcher in answering the research questions, data trustworthiness, ethical consideration detailing how ethical issues were handled, and data analysis. Figure 3.1 summarises the steps taken by the researcher throughout the study.

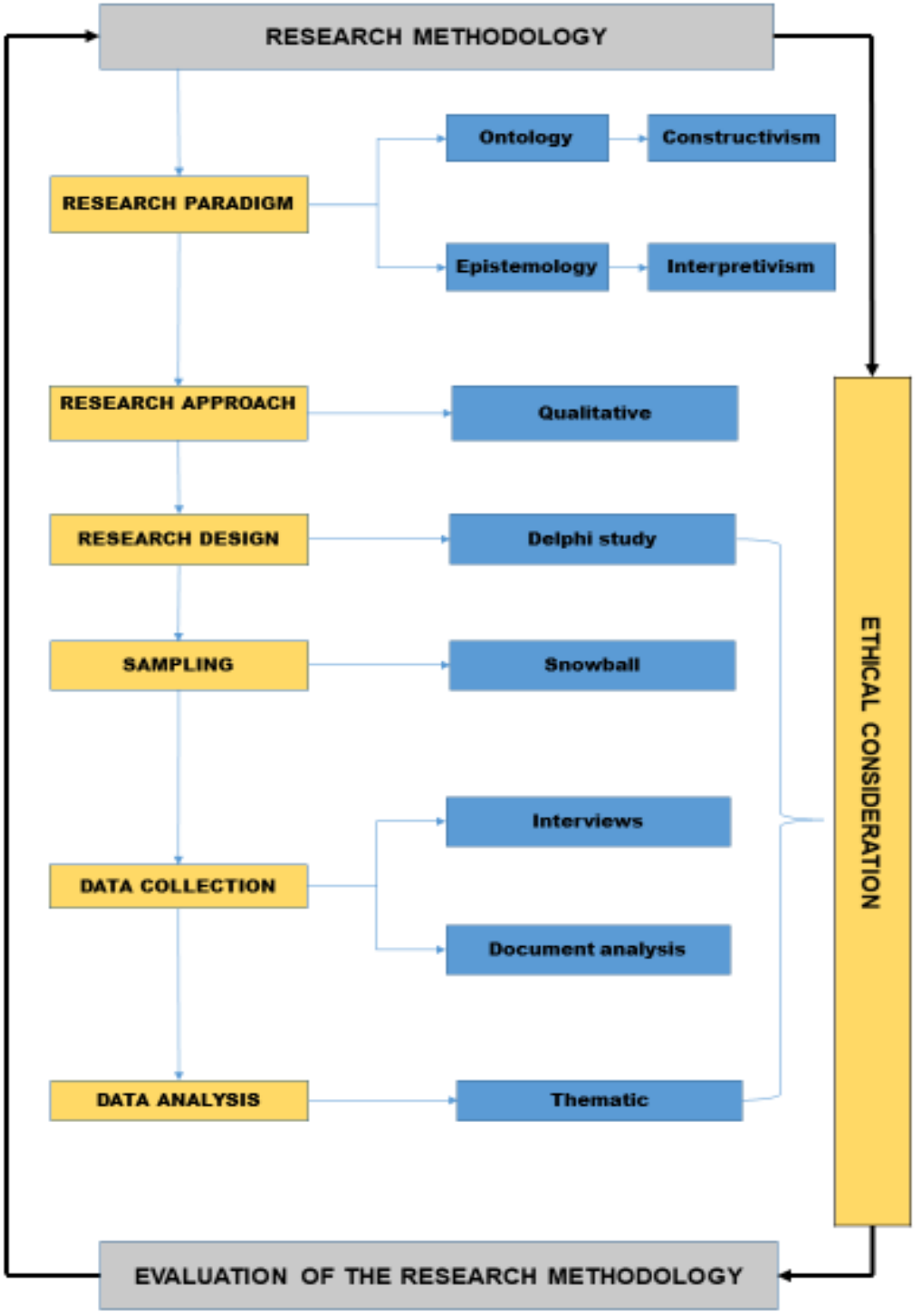

Figure 3.1: Research methodology framework (Researcher 2022)

3.2 Research paradigm

According to Kuhn (1962), a research paradigm is "the set of common beliefs and agreements shared between scientists about how problems should be understood and resolved." Philosophical paradigms are important because they provide a set of beliefs that guide the researcher on what to study, how to study it, and how to interpret the final results (Kivunja & Kuyini 2017). Guba and Lincoln (1998) advise that a researcher should not start an inquiry without being clear about what paradigm best suits the study. According to Guba (1990), research paradigms are shaped by three major questions, and the questions are as follows:

- Ontological: What is the nature of the "knowable"? Or, what is the nature of "reality"?
- Epistemological: What is the nature of the relationship between the knower (the researcher) and the known (or knowable).
- Methodological: How should the inquirer go about finding out knowledge?

The answers provided to the above questions are therefore the sets of basic belief systems or paradigms that might be adopted to guide the study (Guba 1990). A brief overview of all the options is provided before outlining the particular paradigm this study adhered to.

3.2.1 Ontology

Social research begins with ontology, which is described as the researcher's belief about the nature of reality (Rehman & Alharthi 2016; Killam 2013). According to Berryman (2019), ontology is the philosophical study of being. Some of the questions that the researcher will be asking include: what actually exists and what could be true? According to Kivunja and Kuyini (2017), in order to make sense of the reality under investigation, researchers make assumptions about it. Ontology is crucial to research because it helps the researchers make sense and understand the meaning of every unit that constitutes a world. Making assumptions about social reality would help the researcher come up with ways to address the research problem (Kivunja & Kuyini 2017). In ontology, there are two contrasting views or belief systems, namely: objectivism and constructionism, where objectivism holds the view that there is a single reality and constructionism holds the view that reality is socially constructed and therefore there are multiple realities (Antwi & Hamza 2015). The current study is guided by an interpretivist

worldview, which will be discussed in the following section. Interpretivists believe that reality is socially constructed and that there are multiple realities. Interpretivism is associated with constructionism.

Constructionists believe that reality is subject to change. Constructionists believe that an ultimate truth does not exist purely because personal experiences differ from one person to the next. In order to understand the world around us, one needs to study it from the perspective of people's personal experiences. (Kamal 2019). Social actors remain key in determining the meaning of social reality. Constructionism best fits the current study as it deals with experts who are entrusted with the responsibility to unpack their understanding of their social world. As Andrews (2012) puts it, constructionists hold the view that knowledge is created by interaction with individuals who are knowledgeable and may be regarded as experts due to the fact that they devote themselves full time to the subject under investigation.

3.2.2 Epistemology

Epistemology deals with how knowledge is studied. According to Kivunja and Kuyini (2017), epistemology is concerned with the following: the nature and forms of knowledge; how it can be acquired; and how it can be disseminated. Epistemology deals with the question of whether knowledge can be acquired or if it is something that one needs to personally experience. (Kamal 2019). According to Creswell and Creswell (2018), Blaikie and Priest (2017), Flick (2015), Ngulube (2015), Aliyu, Bello, Kasim and Martin (2014), Bryman (2012), Wahyuni (2012), and Kuhn (1962), there are three epistemological perspectives, which are positivism (associated with a quantitative research approach), interpretivism (associated with a qualitative research approach), and pragmatism (associated with a mixed method research approach).

3.2.2.1 Positivism

Positivists hold the view that knowledge of a social phenomenon is based on what can be observed and recorded as opposed to subjective understanding (Matthews & Ross 2010: 27). Positivists argue that the world is subject to unchanging laws and rules of causation and occurance. According to positivists, different researchers are likely to arrive at the same results if they (researchers) observe the same factual problem and apply the relevant statistical tests, provided that they (researchers) adopt similar research procedures (Creswell 2009).

The accepted approach among positivists is to formulate a hypothesis in the form of a question, collect and analyse the empirical data that confirms or contradicts the theory, and then present the findings (Rehman & Alharthi 2016). In positivism, the only way to understand knowledge about social reality is through observation and measurement. The positivist approach is associated with a questionnaire for data collection and experimental design. The Positivist paradigm is a natural science model (Wahyuni 2012; Dieronitou 2014), and has been receiving criticism from social researchers due to its lack of moral judgments (Dieronitou 2014; Rehman & Alharthi 2016). Hence the emergence of postpositivists.

Postpositivist researchers maintain limited communication with the respondents, which makes positivists more objective and independent from the study. Postpositivists dispute the conventional ideas of the absolute thruth of knowledge because they (positivists) contend that researchers should not be positive about their (researchers') claims of knowledge when studying the behaviours and actions of humans (Crewell and Creswell 2018). According to postpositivists, reality exists independently of humans. The ontological position of positivism is that of realism. Ontologically, positivist and postpositivist paradigms hold a common view that social reality can be well understood when studied objectively.

3.2.2.2 Interpretivism

According to interpretivists, reality is socially constructed. Interpretivists argue that truth and knowledge are subjective in nature, and that social reality is not singular or objective, but is rather shaped by human experience and social context (Ryan 2018:8; Bhattacherjee 2012:103). Interpretivists argue that the only way for researchers to understand the truth about social reality is if they maintain contact with the unit of analysis. People’s perceptions of social reality are valued in an interpretive worldview. According to interpretivists, understanding of social reality is ongoing and needs experience and background to make a meaningful construction. Interpretivists prefer to have a face-to-face dialogue (Wahyuni 2012) with people who are attached to the social world. Interpretivist researchers construct new knowledge based on the interpretation of meaningful experiences by the participants. Creswell (2009) contends that interpretivist researchers view research as an inquiry that respects the inductive style, which mainly focuses on individuals' meaning. Interpretive approach is associated with observation, focus groups, and interview for data collection.

3.2.2.3 Pragmatism

Romm and Ngulube (2015) are of the view that pragmatism is a "methodological pluralism" which was given birth out of an attempt to balance the anomaly and bridge the gap between interpretivist and positivist epistemologies. Pragmatists do not see the world as an absolute unity. Pragmatists hold the view that a single approach is not enough to understand social reality. According to Pragmatists, researchers should adopt both qualitative and quantitative approaches to better understand social reality. Pragmatism paradigm has the potential to generate research that can be accounted for (Romm and Ngulube 2015). A challenge with the pragmatism paradigm is that it focuses mainly on the ideas that can be applied practically, rendering the research flexible and disregarding philosophical standing. Pragmatists' worldview aims to study people's actions in order to solve problems. However, pragmatists cannot separate facts from values (Romm 2018). The pragmatic paradigm promotes a relational epistemology, meaning that research relationships are better understood by what the researcher considers appropriate for a particular study (Kivunja & Kuyini 2017).

3.2.3 Selected epistemological perspective for the study

The interpretivism perspective best fits the description of the current study because the researcher is interested in understanding the implementation of freedom of information legislation in South Africa and Zimbabwe through qualitative data collected through interviews with participants who are experts in the area under review. Data gathered through interviews would be supplemented by information gleaned from documents such as legislation, policies, annual reports, and strategic plans. According to Dammak (2015), data collection methods such as interviews and observation are common in the interpretive paradigm, whereas surveys serve the opposite purpose in the positivist model. The researcher admits that context is important in understanding the perspectives of participants. Interprstivists, as defined by Edirisingha (2012), enter the research field with some understanding of the research context but believe that it is not necessary to develop a fixed due to the dynamic and uncertain nature of what is perceived as reality. Reality is constantly changing, necessitating continuous interaction with humans in order to derive a scientific explanation for how reality is subjectively created (van der Meer-Kooistra & Vosselman 2012).

3.3 Research approach

Creswell (2014) defines a research approach as a research plan and procedure that outlines the steps throughout the research process. A well-articulated research approach specifies how data will be gathered, analysed, and interpreted. According to Antwi and Hamza (2015), research is based solely on the underlying assumption that a valid research approach is required for the development of knowledge in a given study. The three most common research approaches in social science are quantitative, qualitative, and mixed methods research (MMR). Creswell (2014) defines quantitative research as a method for "testing objectives by examining the relationship between variables." Quantitative research entails gathering structured data, analysing it, and presenting it numerically.

The qualitative research approach is one in which the researcher is interested in learning how people make sense of their surroundings (Meriam 1998). As Myers points out, unlike the quantitative research approach, it is difficult to generalise data to a large population (2013). The interpretivist approach is used in qualitative research. A qualitative study is conducted by a researcher with the intention of reporting on multiple realities (Creswell 2007), and one of these realities is the presentation of direct quotes extracted from the words of various individual participants (Moustakas 1994).

MMR is the final but not least research approach. The MMR approach is defined by Creswell (2014) and Romm and Ngulube (2015) as a "field of inquiry that uses both quantitative and qualitative research methods to answer research questions in a single study." According to Ngulube (2013), many researchers prefer to use a single method (either quantitative or qualitative) because they believe the two worldviews are incompatible. Creswell (2009), on the other hand, believes that combining qualitative and quantitative research approaches can provide an in-depth understanding of social problems.

According to Blomberg and Volpe (2016), researchers should exercise caution when selecting a research approach because there should be a connection between the purpose of your study, research questions, and research methods. Table 3.1 summarises how to choose a research approach by (Creswell & Creswell 2018):

Table 3.1: Selection of a research approach

If the study seeks…	• Determination • Reductionism • Empirical observation and measurement • Theory verification	• Understanding • Multiple participant meanings • Social historical construction • Theory generation	• Consequences of actions • Problem-centered • Pluralistic • Real-world practice
Then…	Post-positivist	Constructivist	Pragmatic
So...	**Quantitative**	**Qualitative**	**Mixed method**
Therefore…	Experiemental; Non experimental (such as survey); Longitudinal	Narrative; Phenomenology; Grounded theory; Ethnographies; Case study	Convergent; Explanatory Sequential; Exploratory Sequential; Complex design with embedded core designs
Data collection	Instrument data; Observational checklist; Numeric records	Interview; Observation; Document; Records	Multiple form of data drawing on all possibilities

Source: Creswell and Creswell (2018)

Since the current study is guided by an interpretive worldview, a qualitative research approach was used. In order to solve the research problem, the current study requires a qualitative approach. The qualitative approach allows the researcher to directly engage experts through interviews in order to gain a better understanding of reality from the experts' perspective. The researcher looks at the legislative framework, policy packages, implementation model, and factors inhibiting and stimulating implementation to determine the reasons for poor implementation of FOI legislation in South Africa. Qualitative research makes use of a variety of data sources, all of which are open-ended in nature, allowing participants to express themselves freely without being constrained by a predetermined scale of measurement (Creswell & Creswell 2018). According to Creswell (2007), qualitative research, like any other research method, begins with an assumption known as a point of view on a social problem.

3.4 Research design

A research design provides a framework for the collection and analysis of data (Bryman 2012: 46). According to Bhattacherjee (2012), a research design is a comprehensive plan for data collection in an empirical research project. The study is inductive in nature and intends to derive a theory about the phenomenon of interest from the data observed. As indicated, the study is guided by the interpritive worldview because the researcher concurs with the view that realities are multiple, constructed, and holistic (Pickard 2013); the study, therefore, adopts the Delphi technique. The Delphy technique involves the presentation of an interview schedule to a panel of experts in a specific field of study in order to solicit their opinions on a specific matter (Hasson, Keeney & McKenna 2000). The advantage of the Delphi technique is the guarantee of content trustworthiness as the study involves a panel of experts and iterative rounds, as indicated by Shariff (2015: 3). Experts on FOI in South Africa and Zimbabwe were used for data collection. The selection of the experts in the Delphi technique has been widely explored by researchers such as Thangaratinam and Redman (2005), Hsu and Sandford (2007), and Keeney, Hasson and McKenna (2010), with some arguing that the fact that someone has knowledge of a specific subject does not necessarily mean that he or she is an expert. Panellists of experts in the current study were selected in line with the following criteria:

- A panellist member who has taken an active role locally, regionally, or internationally in the area of FOI
- Someone who has published several peer-reviewed research papers in the area under investigation.
- Someone who has presented several papers at national or international conferences
- May be a human rights lawyer, social activist, academic, information professional, or public representative or figure.

The experts who met the criteria were identified using snowball sampling, as explained in the following section. Two rounds of interviews were conducted with the identified participants.

3.5 Population and sampling

While the study's main focus is on two SADC countries, South Africa and Zimbabwe, the researcher focused on FOI experts from both countries. The snowball sampling technique was used to select the FOI experts.The researcher used the snowball sampling technique to identify a few participants who met the predetermined criteria (see section 3.4 for criteria) for inclusion in the study and then asked them to recommend others they knew who also met the criteria (Bhattacherjee 2012). The researcher recognised that since the study was aimed at FOI experts, it might have been difficult to know all of them, hence the use of the snowball sampling technique, in which participants recommended others they knew who would make a meaningful contribution to the study.

3.6 Data collection tools

Since the study takes a qualitative approach, data was gathered through interviews supplemented by document analysis.

3.6.1 Interviews

Interviews were conducted with six (6) selected participants in both countries (South Africa and Zimbabwe). The researcher sent interview requests via email to a selected group of participants he considered to be FOI experts. Microsoft Teams and Zoom were used to conduct the interviews online. The decision to conduct online interviews was made in response to the World Health Organization's (WHO) recommendation that countries around the world (including South Africa and Zimbabwe) maintain social distance in order to limit the spread of Covid-19 (a virus that has claimed many lives worldwide). To validate the Delphi technique results, the researcher conducted two rounds, the first of which served as a "idea-generation strategy" to unpack the issues related to the topic under review, as advised by Keeney, Hasson and McKenna (2001). The open-ended interview questions for the first round were designed to allow the researcher to obtain expert opinion or knowledge in order to better understand the phenomenon under study. Participants were informed that their responses would be kept strictly confidential and anonymous by not including their names.

Instead, the researcher used codes to identify each participant. The importance of anonymity in Delphi research cannot be overstated.

3.6.2 Document analysis

Document analysis, according to Bowen (2009), is a systematic procedure for evaluating documents. The documents' content was examined. The analysis of documents included a desk review of the existing constitutional, national, and international legal frameworks on FOI, as well as studies and reports on the implementation and challenges of FOI in South Africa and Zimbabwe. Existing research on FOI in South Africa and Zimbabwe in comparison to other SADC countries, media information, government gazettes, the current constitution, and other internet publications were used to gain a better understanding of how FOI legislation is implemented in South Africa and Zimbabwe. Secondary sources used to gain a thorough understanding of FOI in South Africa and Zimbabwe include the websites of international and local FOI organisations such as Freedom Info, Human Rights Watch, and Right to Information.

3.7 Data collection procedure – Dephi technique

The Delphi technique allows participants to run the show, which means they drive the process by providing expert opinion on the topic under investigation. Feedback becomes an important element in the Delphi technique process because it allows participants to relook at their answers and review them based on how they feel about their previous response after seeing responses from others. Anonymity is essential in this case to avoid any form of pressure that the participants may feel. As demonstrated by Keeny, Hasson and McKenna (2011), anonymity allows participants to express their own opinions without succumbing to psychological pressure from other experts. Scholars such as Hohmann and Brand (2018) and Shewade, Jeyashree and Kalaiselvi (2017), on the other hand, believe that total anonymity can have an impact on accountability. Experts are not supposed to interact with one another, but rather to respond to issues raised by others. Focus groups are discouraged in Delphi because of their ability to cause social pressure or direct confrontation among participants (Fink-Hafner, Dagen, Douak, Novak & Hafner-Fink 2019).

The researcher followed the steps proposed by Grisham (2008) and Skulmoski, Hartman and Krahn (2007):

- **Selection of experts**: The researcher chose a panel of experts who are thought to be impartial (given their contributions to FOI in their respective countries) and have an interest in the topic under investigation. The selection of experts is a critical component of the Delphi study because expert opinions determine the study's findings. According to Keeney, Hasson and McKenna (2011), some researchers use the following criteria to select experts: specific qualification, number of publications in the area under investigation, geographical location, and years of experience. According to Fink-Hafner, Dagen, Dousak, Novak and Hafner-Fink (2019), minimum qualifications should be defined to guide expert selection. Section 3.4 explained the minimum qualification. To ensure consistency and integrity of the selection, the criteria highlighted by Keeney, Hasson and McKenna (2011) were used to select experts in the current study. Selected experts agreed to participate in multiple rounds of interviews.

- **Informing experts**: The researcher first approached the selected experts to explain the purpose of the study and to see if they were willing to participate. Some of the experts contacted were recommended by other participants. The researchers explained to experts what was expected of them because it was necessary for them to prepare. Participants were told how much time would be required of them. Participants were given detailed information about the research purpose, objectives, and problem in order for them to understand what the study is all about and make an informed decision about whether or not to participate. Some participants asked to see the questions for the first round before committing to participate. At this stage, the researcher should obtain participants' commitment to participate in all sets of rounds; thus, the researcher must explicitly explain the details of the research, including the process to be followed.

- **Delphi round one interview**: The interview and the development of round one questions. Developing questions for round one qualitative interviews is difficult because the researcher wants to ensure that participants have the opportunity to express their opinions freely at this stage. This implies that questions for the first round should be clearly articulated, and the researcher should be cautious and attentive when developing questions. Participants can only offer expert advice if they comprehend the

question. All of the experts have extensive experience in the information industry, making them more qualified to engage the researcher on the topic by providing a solution to the research problem. Round one questions were all open-ended, allowing participants to express their thoughts on the subject. The following questions were asked during the first round of interviews:

- According to literature, there is poor implementation of FOI legislation in your country. What could be the underlying reasons for the poor implementation of FOI legislation in your country?
- With your understanding of the Article 19 principles of FOI legislation and related policy documentation, what are your suggestions for addressing challenges associated with the implementation of FOI legislation in your country?
- Apart from the legislation, what additional provincial or national policies or procedures do you consider to be instrumental in promoting freedom of information in general? Kindly explain why.
- Who or what institution is responsible for FOI implementation at the national level? Would you say that the responsibility for FOI implementation is correctly assigned and why?
- What other organisations (including non-governmental) do you believe can make a significant contribution to ensuring the full implementation of FOI? Kindly explain how these organisations can contribute.

- **Pre-testing the instrument**

Every research project requires the instrument to be tested before the actual study. The pre-testing of the instrument aids in anticipating some of the issues that the researcher is likely to encounter during the actual study. The pre-testing of the instrument in this research allowed the researcher to go over some of the questions that were thought to be unclear. According to Malmqvist, Hellberg, Mollas, Rose and Shevlin (2019), "Pre-testing" or "trying out" the instrument is used to simulate the formal data collection process with small samples in order to identify potential issues with the data collection tool. Pre-testing can provide the researcher with information about the instrument by detecting technical issues with the data collection tool. The current study used

instrument pretesting to determine whether questions were clearly formulated and how long it would take for one participant to respond to all of the questions. Two experts (1 from South Africa and 1 from Zimbabwe) were used as participants in the instrument's pre-testing. To ensure that they are more familiar with key questions relating to the topic, the instrument was pretested with experts who are knowledgeable in the area of FOI. The researcher's response will be determined by the quality of the research questions. In Delphi, instrument pre-testing is optional but highly recommended.

- **Release and analyse round one interview**: The researcher analysed the first round of interview responses. The first round's data were reviewed and used to develop interview questions for the second round.

- **Delphi round two interview**: The interview and the development of round two questions The researcher developed questions for round two based on the opinions or discussions from round one. The researcher directed the research's focus. The feedback from round one was given to the participants in round two, and they were given the opportunity to review their previous response if necessary based on the overall feedback from round one.

- **Release and analyse round two interview**: The results of the second round of interviews have been analysed and released.

- **Data analysis**: Analytical software is used to organise the responses. Participants were provided with feedback on the central tendencies and levels of dispersion. The following tasks were completed using ATLAS.ti: generate and retrieve codes; manage code connections; generate a code schema graph in a network view; reposition the conceptual structure to fit the data.

- **Presentation and interpretation**: The researcher presented and interpreted data in order to derive meaning from it.

As previously stated, round one feedback was incorporated into the next interview schedule for the next round, in which each panellist is asked to rate how others responded to first-round questions. Panellists were asked if they wanted to comment or change their first-round response based on the consolidated responses.

3.8 Trustworthiness of data

Although many critics are hesitant to acknowledge the trustworthiness of qualitative studies, the mechanisms for ensuring rigour in this type of work have been in place for many years (Shenton 2004). Trustworthiness of data refers to the degree of confidence in data collected and the procedure followed. Good qualitative research should be practical, rigorous, and ethical. However, Tracy (2013) is of the view that conducting rigorous research means that the researcher should not select research methods simply based on convenience and comfortability in using the methods. Arguably, qualitative researchers are actually the main instrument for data collection; therefore, they must take reasonable measures to demonstrate the trustworthiness of the data (Pilot & Beck 2010).

Trustworthiness does not mean that the reader should agree with the findings of the study; it only means that the reader must be able to see the procedure followed throughout the study. Licoln and Guba (1985) suggest that the following criteria can be used to establish trustworthiness in qualitative research: credibility, dependability, conformability, and transferability.

Table 3.2 shows a list of the four criteria that Licoln and Guba (1985) say should be used to decide if data can be trusted, along with the questions that go with them:

Table 3.2: Four criteria in establishing trustworthiness

Credibility	Are the methods adequate to give rise to confidence in the truth of the data and the interpretation of the same?
Transferability	Can the data be applied to other contexts?
Dependability	Would the study findings be repeated if the inquiry were replicated with the same participants in the same context?
Confirmability	Does the data represent the information provided by the participants and that the interpretation of those data was not the figments of the researcher's imagination?

In terms of *credibility*, data collected via interviews have been complemented by data collected via document analysis to minimise the bias that may exist. Bias and equivalent problems are important for qualitative study, although sometimes it is not easy to detect them as they may be hidden. Moreover, the Delphi technique used in the study was comprised of more than one round or set of interviews until a consensus was reached. The use of experts in the field of FOI to share their expertise has helped to ensure rigour in the study. The criteria as outlined under section 3.4 (research design) helped to maintain consistency in the selection of experts across the board. In terms of *transferability*, the researcher provided "rich and dense data" about the phenomenon studied and the research setting, which is contextually sensitive at diverse levels of abstraction. Snowball sampling ensures that the researcher targets the relevant participants who are rich with information required by the study. In terms of *dependability*, every answer and comment were recorded and analysed constructively at a later stage. Moreover, Delphi study researchers normally prefer the use of focus groups. The current study used individual interviews to minimise the pressure that may arise in focus groups. Individual interviews are useful because they allow the participants to express their own opinions without succumbing to pressure or intimidation that could be created by a groups interview. In terms of *confirmability*, the distributions of powers amongst participants were done in such a way that participants did not perceive the researcher as someone with more powers. This was done to avoid the response being driven by the researcher's wish.

3.9 Ethical considerations

Ethical consideration in research is very important, especially in interpretivism research, because the main focus of interpretivism is to explore and understand social reality through a close relationship with participants (Gaus 2017). In addressing the issue of ethical consideration in social research, Flinders (1992) proposes the following frameworks:

Utilitarian – action is moral if it produces greatests results.
Deontological – researchers have the obligation to protect the participants.
Relational – researchers and participants should work out on agreements that are of mutual benefit.
Ecological – careful consideration of the use of language.

The researcher followed the ethical guidelines established by the University of South Africa's (UNISA) 2013 Research Ethics Policy to ensure that issues of research ethics were considered. The UNISA 2013 Research Ethics Policy aims to protect the rights of human participants because the information gathered during the research may jeopardise the participants' privacy and dignity. Since the current study involved human participants, the UNISA 2013 Research Ethics Policy had to be followed.

Furthermore, the provisions of the Research Governance Framework for Health and Social Care (RGFHSC) guided the researcher. The RGFHSC establishes guidelines and principles of good practice for health and social care research. The RGFHSC principles can be applied to all types of research, contexts, and methods (Department of Health 2005). The researcher attended the research ethics workshop and is knowledgeable about research ethics issues. The study has received ethical clearance in accordance with the UNISA research ethics policy (see Appendix F for a copy of ethical clearance). To comply with ethical obligations, the researcher acknowledges all sources cited in the current study in order to ensure that the research report is of high quality and meets academic requirements. The researcher protected the participants' rights, which included the right to withdraw at any time without being forced to provide reasons.

Throughout the study, the researcher ensured that the following moral principles were followed:

- Autonomy: people must be free to make their own informed decisions about participation in research
- Non-maleficence: research must not inflict harm
- Beneficence: research should benefit others
- Justice: people must be treated equally within the research process

The entire study was run through Turnitin software to reduce the similarity index. The similarity index measures the degree of similarity between the information submitted to Turnitin software and that of the original source. All sources used were acknowledged and listed in the reference section to avoid plagiarism.

The findings were presented based on the information gathered from the participants; however, there were times when literature was presented to support or oppose the participants' views. A cover letter outlining the purpose of the research as well as information about the researcher accompanied the interview schedule.

3.10 Data analysis

Data analysis, according to Creswell and Creswell (2018), entails separating and delving deeply into the data collected. According to Kawulich (2004), data analysis is the process of reducing large amounts of data in order to make sense of them. Data is analysed, according to Matthews and Ross (2010: 317), to describe, discuss, evaluate, and explain the content and characteristics of the collected data. "Not everything that counts is countable, and not everything that counts is countable" (Cameron 1963). The current study is guided by this well-known quote by sociologist W.B. Cameron, who believes that the nature and existence of every object in the social world are determined by people's subjective experience and understanding of the world.

The data was analysed using thematic analysis. Thematic analysis is defined by Braun, Clarke, Hayfield and Terry (2019) as a method for systematically identifying, organising, and providing insight into the patterns of meaning across data sets.

The researcher conducted thematic analysis using the steps proposed by Maguire and Delahunt (2017) and Friese, Soratto and Pires (2010):

- *Become familiar with the data*

The audio recordings of the interviews were transcribed into documents by the researcher. The researcher became more acquainted with the data during the transcription process. The lengthy transcription process allowed the researcher to do an in-depth reading of the data, which greatly aided in developing ideas and meaning from the data. The researcher studied the transcripts in order to fully comprehend the data. The transcripts were read and re-read in order to get a general sense of the information contained in the transcripts, as recommended by Maguire and Delahunt (2017). Reading and re-reading the transcripts helped the researcher understand the participants' general ideas and tone (Creswell & Creswell 2018). Since the study is qualitative, data was analysed alongside other aspects of the research. This means that, while the interviews were taking place, the researcher was busy analysing previous interviews and taking notes that could be included in the final report. The researcher advanced to the next stage of data analysis after fully comprehending the data.

- *Generate initial codes*

To reduce data into small chunks of meaning, the researcher used ATLAS.ti to generate codes. The researcher began by creating a project in ATLAS.ti and adding all of the documents to be analysed. ATLAS.ti assigned a number to each document added to the project, and the numbers were sorted in the order in which they were added. To develop quotations, the researcher identified key segments and paragraphs from the documents. A quotation is a significant segment of data that the researcher believes is interesting and important for the research project. Codes were assigned to each quotation. ATLAS.ti software was used to generate these codes. ATLAS.ti software was used to define each code in order to clarify or provide more detailed information about the meaning of each code and how the code is applied. The definitions aided the researcher in ensuring that codes are consistently applied over time.

- *Search for themes*

The researcher grouped the codes into meaningful patterns in relation to the research objectives at this stage. The themes were created manually with the help of the network manager. Some of the related codes were incorporated into the one theme.

- *Review themes*

At this point, the researcher described each theme and linked them together. Codes were examined to see if they were related to the assigned themes, and some were shifted across themes to ensure proper alignment.

- *Define themes*

The researcher added sub-themes to the themes at this stage to give them more meaning. The relationship between the themes was evaluated.

- *Write-up/producing the report*

Memos were exported from ATLAS.ti and pasted into a word document for use in a research report.

3.11 Evaluation of the research methodology

It is critical to assess the research procedure and methods used in the study to determine what worked and what could have been done differently to produce more positive or better results. To increase credibility, methodological triangulation was used (Noble & Heale 2019). Triangulation enables the researcher to collect data in a variety of ways to ensure that the research problem is addressed adequately. As Neuman (2014) and Renz, Carington and Badger (2018) would attest, triangulation in research provides more insights and allows the researcher to properly explain the phenomenon, owing to the fact that the weakness of one method can be mitigated by the strength of the other. Section 3.6 describes in detail how methodological triangulation was used in the study.

It took a long time to collect data in Delphi through two rounds of interviews. The researcher attempted to limit the number of participants to six in the hope that it would be manageable; however, this created some difficulties, particularly in areas where some of the participants refused to cooperate. Waiting for all six participants to confirm the interviews was also difficult

because some were always busy, and the researcher had to make numerous follow-ups to secure a date for the interviews. Other participants preferred that the interview questions be sent to them via email so that they could respond whenever they had time during their hectic schedule. Male participants predominate in the sample. Finding female participants proved to be a significant challenge for the researcher. The researcher wanted to hear from people of different genders. Because the study used snowball sampling, the majority of the participants referred to the researcher were men. The researcher attempted to ask the participants to refer him to female participants but was unsuccessful. It is possible that male experts dominate the field under investigation.

3.12 Summary of the chapter

This chapter discussed research methodology and explained why each method or strategy was selected. The population and sampling for the study were clearly defined. The researcher went on to describe the research design as well as the process of data collection and analysis. This study used methodological triangulation to collect the data needed to answer the research questions. As previously stated, the use of triangulation in the study aided the researcher in ensuring that the study passed the trustworthiness test. In a qualitative study of this type, approaching research questions from multiple perspectives increases the likelihood of rigour. As a result, the use of data gathered through interviews with a panel of experts, supplemented by document analysis, has helped to address potential bias from participants and the researcher. Section 3.7 of the current chapter addressed issues concerning data trustworthiness. The chapter also discusses how ethical concerns were addressed because the study involves human participants. Ethical issues are critical in social research to ensure that the researcher does not cross ethical boundaries that may harm human participants. Finally, the research methods were assessed to determine their strengths, weaknesses, and potential flaws in order to determine what could have been done differently to produce better results. The findings from the interviews and relevant documents that were analysed are presented in the following chapter.

CHAPTER FOUR

PRESENTATION AND ANALYSIS OF DATA

4.1 Introduction

The previous chapter discussed the study's research methodology. In the previous chapter, the following sections were covered: research methodology framework, research paradigms, research approach, research design, target population and sampling, data collection tools, data analysis, data trustworthiness, ethical consideration, data analysis, and evaluation of research methodology. The current study's findings were obtained by employing the research methodology discussed in Chapter Three. Following the description of the research methodology in the previous chapter, the current chapter presents the results of interviews with a panel of experts and analysis of documents such as legislation, policies and procedures, reports, literature, strategic plans, and service charters. Presentation and analysis allow the researcher to present findings in great detail. According to Cunningham (2004), the presentation and analysis of results allows the researcher to share what was discovered in the field with the reader. Data analysis takes time and can be frustrating at times, especially because there are no clear guidelines for how data should be analysed (Azungah 2018). The use of Atlas.ti facilitated the researcher's work by organising data in such a way that it is simple to derive meaning from it.

The Delphi technique was used to collect qualitative data for the study. As stated in Chapter Three, the Delphi technique was combined with document analysis. Loo (2002) suggests that researchers consider using triangulation rather than relying on a single method. The goal of triangulation in Delphi is to ensure that the problem under investigation is thoroughly studied from multiple perspectives in order to present results fairly. The qualitative data was analysed thematically, with the researcher using codes to identify themes that are relevant to the research objectives. The data were analysed using ATLAS.ti software, as explained in Chapter Three. ATLAS.ti software was used to perform the following tasks: managing documents and quotations; creating memos; creating codes; creating document networks; and generating reports. Microsoft Teams was used to record the interviews.

4.2 Data presentation and analysis strategy

The findings of this study are presented in the form of written descriptions, tables, and verbatim quotes. The results are presented in accordance with the outline of the research objectives; however, Delphi results are presented separately for the reader's convenience. It is critical for the reader to see how deliberations unfolded throughout the entire rounds of Delphi study. Document analysis will be used to support the Delphi results. It is necessary to remind the reader of the purpose of the research.The research objectives were inspired by the study's purpose, which was to investigate the implementation of freedom of information legislation in South Africa and Zimbabwe. The study's research objectives are as follows:

- Analyse FOI legislation in South Africa and Zimbabwe to determine the alignment to Article 19's nine principles.
- Evaluate the policy instruments and processes that are considered to be key for the implementation of FOI legislation in South Africa and Zimbabwe.
- Describe the FOI legislation implementation model adopted by South Africa and Zimbabwe.
- Determine factors stimulating or inhibiting the implementation of FOI legislation in South Africa and Zimbabwe.
- Develop a framework to foster the implementation of FOI legislation.

As mentioned in the previous chapter, the data were gathered through two rounds of interviews with a panel of FOI experts. The presentation and analysis of data began by transcribing audio interviews recorded on Microsoft Teams and Zoom platforms. To begin the data analysis process, the researcher read and reread the transcripts. The qualitative data analysis process takes time and requires a thorough understanding of the transcripts in order for the researcher to write down the participants' perceptions of reality. The participants are described in the section that follows.

4.3 Description of participants

Participants' descriptions are critical in Delphi studies because they serve as the foundation for arguing for genuine opinion. According to Keeney, Hasson and McKenna (2011), researchers must keep in mind that opinions cannot be supported by evidence and, in some cases, cannot be proven with any supporting documentation. Since expert opinion provides direction for the study, it is critical to choose relevant people who are extremely knowledgeable in the area under investigation. These experts participate as individuals, not on behalf of any organisation. One issue with organisation representatives is that their impartiality and openness may be compromised, as some may try to only speak on topics that their organisations allow or endorse. The researcher made it clear to participants that they needed to be open and desicevely engage on the questions in their individual capacity because they were chosen based on their expertise rather than as a member or employee of a specific organisation. The roles of the participants were explained in the first email to all participants and were reiterated during the interview to emphasise that their participation is solely in their private or personal capacity.

Before the interview, the researcher explained everything necessary regading the interview. Participants were guided through the entire study to ensure that they understood what the study entailed and how they could contribute to it. Since the information sheet was distributed to the participants prior to the interviews, they were asked if they understood the information contained in it. Participants were also asked to sign and return the informed consent form to the researcher. Participants were also informed that their participation in the study was entirely voluntary and that they could withdraw at any time if they felt uncomfortable during or after the interview.

As stated in section 3.4, the panel of experts in the context of the current study are as follows:

- Panellist member who have taken an active role locally, regionally or internationally in the area of FOI.
- Someone who has published several peer-reviewed research papers in the area under investigation.
- Someone who has presented several papers at national or international conferences

- May be a human rights lawyer, social activist, journalist, academic, information professional, or public representative or figure.

Delphi values anonymity and confidentiality. To ensure that the ethical principle of anonymity was followed, the researcher did not reveal the actual names of the participants. Instead, codes were used to identify each participant. As previously stated, themes were used to categorise the study's findings. The following strategy was implemented:

- Each participant was assigned a code,
- The data collected was sorted according to relevant themes, and
- Categories were named.

Table 4.1 details how the interviews were classified and how anonymity was maintained throughout the study. According to table 4.1, the interview categories included six (6) South African experts and six (6) Zimbabwean experts. Each interview lasted approximately 45 minutes. To maintain confidentiality, the researcher referred to specific participants using the country's acronym name and number. For example, participant 1 from South Africa is referred to as SA1, and participant 1 from Zimbabwe is referred to as Z1.

Table 4.1: Breakdown of participants

Country	Code	Total
South Africa	SA1-6	6
Zimbabwe	Z1-6	6

4.4 Analysis of FOI Legislation using Article 19 Principles

The first research objective was to examine South African FOI legislation to see if it adhered to the provisions of Article 19's nine principles of FOI legislation. As stated in Chapter One, Article 19 established the fundamental principles under which FOI legislation should be drafted. The current research objective's themes were developed using Article 19's nine FOI legislation principles. The principles are as follows: maximum disclosure, obligation to publish, promotion of open government, limited scope of exception, process to facilitate access, costs, open meetings, disclosure takes precedence, and whistleblower protection. For the

purpose of presenting findings, the principles are divided into three categories: implementation responsibility, information disclosure, and access and openness.

4.4.1 South Africa

The following section provides the analysis of the FOI legislation in South Africa against Article 19 principles of FOI legislation.

A) Responsibility for the implementation

Effective implementation of the FOI is dependent on clearly defined roles and responsibilities. Several sections of the PAIA make provision for the roles and responsibilities for the implementation of FOI legislation. This section covers three principles, namely: promotion of open government; open meetings; and protection of whistleblowers. In the context of the current study, the responsibility for FOI implementation covers the monitoring and regulation and also the implementation within the governmental bodies. According to the PAIA, the minister responsible for justice (currently the Minister of Justice and Correctional Service) and the South African Human Rights Commission (SAHRC) (currently the IRSA) share responsibility for regulating and monitoring the legislation's implementation. It is worth noting that the SAHRC is still in charge of promoting respect for, observance of, and protection of human rights, including the right of access to information enshrined in the 1996 Constitution and the PAIA. The powers and responsibilities of the IRSA are outlined in Section 83 of the PAIA and Section 110 of the Protection of Personal Information Act (Act No. 4 of 2013). Among the other functions specified in Section 83 of the PAIA is the responsibility of the IRSA to monitor the Act's implementation. The IRSA is required by Section 84 of the Act to report to Parliament on how the legislation is being implemented by the respective governmental bodies. The other responsibilities are carried by the Minister of Justice and Correctional Services. Section 92 of the PAIA, for example, charges the minister with the responsibility of drafting and approving numerous regulations pertaining to the legislation. The rules could cover things like costs, notices, how the information officer of a public body should use uniform criteria, or any other administrative matter.

At an organisational level, the PAIA provides for the delegation of the information officers and DIOs who will be in charge of ensuring that the legislation is implemented adequately. Section 17 of the Act, for example, requires the information officers (heads of public entities) to "designate a number of persons as deputy information officers" who will be responsible for ensuring that the public entity's records are as reasonably accessible as possible. The DIOs will also be in charge of helping members of the public send in requests for information.

As indicated in Chapter One, the PAIA is regarded as the country's cornerstone for the promotion of access to public and private information. Article 19's principle three enjoins public bodies to promote open government. OGP acknowledges that open government has many definitions. According to Beliax, Guimarães and Machado (2016), the following elements are key to the realisation of open government: effective participation; transparency and accountability; open data; opening and reusing public information; access and simplicity; collaboration and co-creation; inclusivity and diversity. As per Article 19's principle three on open government, public entities must make an effort to promote openness by providing public education and also put measures in place to prevent a culture of secrecy. The passing of the PAIA in South Africa is seen as the country's commitment to promoting open government. For example, in the foreword of the 2017/18 PAIA annual report, the SAHRC asserts that the passage of the PAIA is an important tool towards the realisation of the country's constitutional commitment to transparency and open government. According to Article 19 (2016), the promotion of open government may differ from country to country. However, some of the things that can be done may include training of public officials, incentivising good performance and exposing bad performers, ensuring oversight through annual reports, and criminal penalties for those who wilfully obstruct access to information (this includes those who destroy records illegally).

There are several provisions of the PAIA which seek to promote open government. Firstly, section 10 of the PAIA provides for the SAHRC (which will now be the IRSA) to compile, in various official languages, a guide (herewith referred to as the PAIA section 10 guide) on how to use the PAIA. The guide must explain (in very simple terms) everything that is required for someone who wishes to file a formal request for access to information under the Act. As per section 10 of the Act, the information to be included in the PAIA section 10 guide is: objectives of PAIA; contact details of the information officers and DIOs of every public body; manner

and forms of requests for access to records; how the information officers can assist the requesters; how the SAHRC can be of assistance to the general public; legal route to be followed in cases of failure to successfully deliver as expected in terms of the Act; information relating to section 14 and 51 manuals; information relating to voluntary disclosure of information; information relating to section 22 and 54 notices; and the regulations made as provided by section 92 of the Act. The basis on which the PAIA section 10 guide is developed is informed by the fact that people need to understand the provisions of the Act before they can enjoy the benefits provided under the Act.

Secondly, section 14 of the Act requires all public bodies to compile manuals in at least three official languages explaining to information seekers how a request for access to information can be made. The manual must contain important information such as: mandate, contact details, PAIA section 10 guide, process for requests, records automatically available, service rendered by the public body and how to get access to that service, public participation and recourse. Thirdly, section 17 of the Act places an obligation on information officers (heads of public entities) to "designate a number of persons as deputy information officers" who will be responsible for ensuring that records of the public entity are accessible as reasonably as possible (SAHRC 2014), as indicated earlier. However, the information officers still remain the custodians of PAIA implementation (Nkwe & Ngoepe 2021). DIOs must be accessible by anyone who wants to request information in terms of the PAIA. In addition to the designation of DIOs, the IRSA is expected to capacitate the DIOs and information requesters by conducting training, facilitating education programs, and monitoring the level of compliance with PAIA.

The most critical element of open government is public education and training of officials responsible for handling FOI requests. Section 83 of the PAIA outlines additional functions of the SAHRC (now the IRSA), including that of public education. The IRSA is tasked with the following responsibilities, subject to financial and other resources, under Section 83(2)(a)-(c):

- Develop and conduct public educational programmes in order to make people understand the provisions of the PAIA.
- Encourage both public and private organisations to take part in the IRSA's educational programmes and even to start their own.

- Encourage public and private bodies to share accurate information about their activities on a timely basis.

According to the Article 19 principle of open government, there should be some form of incentive for compliance with FOI legislation. The PAIA does not provide for incentives for compliance with the Act. However, evidence of incentives was seen through the Golden Key Awards event organised by the SAHRC in collaboration with ODAC.

The second aspect covered in this section is the principle of open meetings. Meetings of public bodies are expected to be open to the public (Article 19, 2016). One argument is that information does not always come in the form of a documentary but can also come from meetings and conversations. The PAIA does not make a pronouncement on open meetings. However, there are other pieces of documents or legislative frameworks in South Africa that support open public meetings. For example, in South Africa, there is a document titled "Public Participation Framework" (PPF) which seeks to provide guidelines on public participation. Legislative Sector South Africa (LSSA) (2013) defines public participation as a process where Parliament and provincial legislatures consult the public on specific matters before making decisions. Another promising document is the National Policy Framework for Public Participation, developed by the Provincial and Local Governments of South Africa for Municipalities. However, the government acknowledges that it is a challenge to design and implement an effective form of public participation.

The third component of responsibilities for the implementation deals with the protection of whistle-blowers. In terms of the Article 19 principles, FOI legislation must provide for the protection of whistleblowers. Whistleblower protection is concerned with mechanisms to protect anyone who discloses information about wrongdoing. The PAIA does not have a specific provision on the protection of whistleblowers. The Constitution (as the supreme law), the Protected Disclosure Act of 2000, the Labor Relations Act, the Companies Act of 2008, and the Protection Against Harassment Act of 2011, all include provisions for whistleblower protection. The Protected Disclosure Act, which encourages employees in the public and private sectors to raise concerns about wrongdoing in the workplace, is the main legislation developed specifically for the purpose of protecting whistleblowers.

B) Information Disclosure

This section covers four principles, namely: maximum disclosure; obligation to publish; limited scope of exception; and disclosure takes precedence. The principle of maximum disclosure is formulated on the basis that all information held by public bodies should be accessible not only to citizens but all members of the public, including juristic persons. Section 7 of PAIA narrows the scope of the law because it provides for certain records not to be disclosed. Section 7 of the Act states that records requested for criminal or civil proceedings after the commencement of the proceedings are not covered by the Act. Moreover, according to section 9 of the Act, PAIA intends to:

- Give effect to the constitutional rights of access to any information held by the state or any other person—the right holder component.
- Ensure that the right to access to information is exercised with justifiable limitations aimed at reasonably protecting the rights to privacy, commercial confidentiality, and good governance in a manner that balances the privacy right with other rights in the Constitution—the procedural component.
- The State's constitutional obligation to come up with mechanisms to enable enjoyment by the right holders of efficient access to information as "swiftly, inexpensively, and effortlessly as reasonably possible"—the duty bearer component.

The fact that whatever the information that is to be provided should be for the protection of human rights is against the spirit of maximum disclosure. Maximum disclosure flows from the assumption that public information belongs to people, and, as such, members of the public do need to explain or justify the right to have access to the information (Article 19 2003). Instead, it is the public authority that must provide justification should it wish to refuse access to information.

In terms of the obligation to publish, as the second aspect covered in this section, FOI legislation requires public bodies to widely disseminate any information that may be of public interest in an accessible format and not only focus on the requested information. Section 15 of the PAIA requires information officers in public entities to submit to the minister responsible for the administration of justice (currently the minister of the Department of Justice and

Correctional Service) a list of categories of records that are available automatically without the need for a request under the PAIA on a regular basis.

The third aspect covered in this section is the principle of limited scope of exception. Every FOI legislation has its limitations, meaning not all information can be provided for various reasons. FOI is not absolute and, in some instances, a reason may exist to limit access. FOI legislation is expected to adequately provide for exceptions, and such exceptions should be narrow and subject to "harm" and "public interest" (Article 19 2016). The PAIA contains sections that limit access to information. For example, section 7 of the Act makes an exception for records requested for criminal or civil proceedings. According to section 7(b) of the Act, a further exception is made for information sought for the purpose of civil or criminal proceedings if the request for access is made after the proceedings have begun. If a record is obtained in a manner that violates section 7 of the Act, such a record may not be admissible as evidence in the aforementioned criminal proceedings. Section 12 of the Act provides further provisions for the records not covered by the Act. These records include records of the cabinet and its committees; relating to the judiciary; of a member of parliament or of a provincial legislature. It would appear that the PAIA provides a broad scope for records excluded under the Act.

The PAIA indicates that in certain instances, information may not be disclosed for various reasons. For example, Chapter Four of the PAIA lists the grounds for which access to information may be refused. The grounds listed in Chapter Four of the PAIA include: third-party privacy; certain records of the South African Revenue Service (SARS); third-party commercial information; confidential information; individual and property safety; police dockets in bail proceedings; law enforcement and legal proceedings; records protected from production in legal proceedings; the republic's defense, security, and international relations; and economic interest.

Section 34 (for public bodies) and Section 63 (for private bodies) of the Act provide the grounds on which access to personal information can be refused. The balance between the implementation of the PAIA and the Protection of Personal Information Act (POPIA) becomes more necessary as per sections 34 and 63 of the Act. However, it should be noted that POPIA takes precedence over any other legislation. For example, section 3(2)(a) and (b) of POPIA

provides that "(a) the Act applies to the exclusion of any provision of any other legislation that regulates the processing of personal information and that is materially inconsistent with an object or a specific provision of the Act; (b) if any other legislation provides for conditions for lawful processing of personal information that are more extensive than those set out in chapter 3, the extensive conditions prevail". Section 33 of the Act stipulates that an Information Officer must not refuse access to a public record if the disclosure of the information is within the public interest. According to section 46 of the PAIA, "the public interest outweighs harm". Ngoepe (2021) asks whether the public interest should override all grounds for refusal.

The fourth aspect covered in this section is the disclosure takes precedence principle. According to Article 19 (2016), "Laws which are inconsistent with the principle of maximum disclosure should be amended or repealed". It may be counterproductive to have legislation that restricts access to information on one hand and legislation that promotes access to information on the other hand. The PAIA does not have a specific provision about the repealing of any legislation that seeks to undermine the promotion of access to information (Mosweu, Bhebhe and Mosweu 2016). However, section 5 of the Act provides that the PAIA applies to the exclusion of any provision of other legislation that (a) prohibits or restricts the disclosure of a record of a public or private body; and (b) is materially inconsistent with an object, or a specific provision, of this Act.

C) Information access

This section deals with two principles, namely: process to facilitate access and costs. According to Article 19 (2016), a process to facilitate access must be quick and simple. In cases where access to information is refused, there must be an independent review mechanism. As indicated, the PAIA makes provision for the appointment of information officers who will be responsible for delegating DIOs. The DIOs will be responsible for assiting the information requestors to file applications for information requests. The PAIA also provides a clear set of guidelines on how the Act is used. The Act also provides clear guidelines on the request procedure. Detailed information on how to use the Act is found in the PAIA Section 10 guide. The PAIA Section 10 guide provides all the necessary information needed for information requesters and public officials to gain a better understanding of the Act’s requirements. Section 10 of the Act lists all the key information to be included in the Section 10 guide.

The PAIA further provides guidelines on what should be done in cases where the requested information cannot be found or does not exist. For example, section 23 of the Act indicates that the Information Officer must write an affidavit or affirmation to notify the requestor that the requested information could not be found. Section 23 further provides that if such a record is found at a later stage, the requester should be given a chance to access the record, unless access is refused in terms of the Act.

The PAIA provides for public and private entities to publish manuals which contain information on how to use the Act to access their records (SAHRC 2014). For example, section 14 of the PAIA requires public bodies to publish a manual in at least three official languages to assist information requestors on how information requests can be made. Similarly, section 51 of the Act requires private bodies to compile their PAIA manual containing information on how access to information is facilitated and also the categories of records available in the organisation. Section 51 of the PAIA does not apply to all private bodies.

The other important element of the PAIA, as per Article 19's principle on "process to facilitate access", is an independent review for any refusal. This is to ensure that there is fairness in the application and interpretation of the legislation. Part 4 of the PAIA deals with two separate appeal processes: the first one deals with internal appeals and the second one deals with courts of law. Section 75 outlines the procedure for internal appeals, whereas section 78 deals with applications through a court of law. The Article 19 Principles state that there should be three layers or levels of appeal, which is not the case with the PAIA.

The second component of information access is the fee. According to Article 19 (2016), while it is acknowledged that every law allows for some access fees, such fees should not be used as a tool to steer people away from requesting information. The PAIA provides for the costs to be applied. The PAIA provides for two fees to be paid by the requesters of information, namely: a request fee and an access fee. If a request for access is granted, the requester would be required to pay an access fee, which will be determined by the body to whom a request is made based on the effort required to make the information available. Access fees must be reasonable, according to Sections 7(a) and (b) of the Act, and may include fees for making copies, transcription of the content of a record, postal fees, and time reasonably required to search and

prepare the record for disclosure. Another exemption made by the PAIA is when the request is made for personal information. The information officer of the public body to whom a request for access to information is made must issue a notice requiring the requester, other than a personal requester, to pay a prescribed request fee. Although personal requestors are likely to pay for access fees.

4.4.2 Zimbabwe

The previous section presented the findings of South Africa's PAIA in accordance with the Article 19 principles. The current section concludes the first research objective. The first research objective also called for an examination of Zimbabwe's FOI legislation in light of the Article 19 principles. The researcher focuses on the relevant sections of the legislation that speak to each principle as part of the analysis of FOI legislation in Zimbabwe. The principles, like the previous section, are divided into three categories: responsibility for implementation, information disclosure, and information access.

The current study was carried out at a time when Zimbabwe had just entered a new information era. As previously stated, Zimbabwe passed the new Freedom of Information Act in 2020. The newly enacted FOI legislation is known as the Freedom of Information Act (Act No 1 of 2020). The Zimbabwe Freedom of Information Act (FIA) repealed the most heavily criticised AIPPA, ushering in a new democratic era for Zimbabweans. Since AIPPA was recently repealed, only the FIA was examined for the purposes of this study.

A) Responsibility for implementation

This section covers three principles, namely: promotion of open government; open meetings; and protection of whistleblowers. In terms of the FIA, the minister in charge of information (currently the Minister of Information, Publicity, and Broadcasting) and the Zimbabwe Media Commission (ZMC) share responsibility for enforcing the legislation's implementation. Sections 18 of the FIA, for example, read in conjunction with sections 4 and 8 of the Zimbabwe Media Commission Act (Act No. 9 of 2020), outline the role of the ZMC. For example, according to Section 18 of the FIA, the ZMC is responsible for receiving and processing implementation reports from public bodies. The ZMC, unlike the PAIA, has the authority to

make regulations, but Section 40 of the FIA requires consultation with the minister. On an organisational level, the PAIA and FIA provide for the information officers who will be in charge of ensuring that the legislation is implemented adequately. Section 7 of the FIA states that the information officer handles requests for access to information. Information officers' responsibilities include the following: receiving and information requests; communicating with requestors about the and denying access to information when necessary.

According to the principle of open government, public bodies are required to actively promote open government. The FIA's objectives revolve around the following:

- Give effect to the constitutional rights of access to information
- Enforce voluntary and mandatory disclosure of information
- Promotion of accountability, transparency and good governance.

In addition to its objectives, the FIA has several sections that promote open government. For example, section 4 of the Act places an obligation on every responsible person to create, keep, organise and maintain information. Section 5 of the Act makes it an obligation for public entities to publish information. The principle of open government is concerned not only with the disclosure of information but also with the ability of public entities to make available the information without or with little effort from the requesters.

Public education is regarded as a critical component of open government, which means that members of the public should be empowered through public education so that they are able to exercise their fundamental rights of access to information. Section 3 of the FIA addresses the need to take reasonable steps to educate the public about the provisions of the Act and to ensure that information requesters receive assistance. An assumption here is that once people are informed about the legislation, they will be able to know how the legislation can be used to fulfil their constitutional rights to access information. Public education can be achieved through the use of print media, radio stations (most preferably community radio stations), meetings, television, and workshops.

Section 16 of the FIA makes provision for the information to be provided in an officially recognised language. Language may at times contribute to the low usage of FOI. Section 16 of the Act indicates that the public entities concerned should make a reasonable effort to present

the information in the language of preference of the requester, meaning that, where necessary, the information should be translated.

The second aspect covered under responsibility for implementation deals with open meetings. In terms of Article 19's principle on open meetings, people's rights of access to information include people's rights to know. The FIA does not make provision for open meetings. It's possible that open meetings are already covered by other pieces of legislation or policy documents as is the case with South Africa.

The last component of responsibility for implementation deals with the protection of whistleblowers. One of the primary goals of the FOI legislation is to encourage the disclosure of any information that may expose wrongdoing in government. The FIA does not make provision for the protection of whistleblowers. Although it is normal for several countries not to make provision for protection of whistleblowers in the FOI legislation, It is, however, expected that a policy or legislation be enacted to specifically deal with the protection of whistleblowers against any form of harm or victimisation. In a country that seems to be committed to information disclosure, there is a need for the protection of officials disclosing information under the FOI legislation.

B) Information disclosure

The current section deals with four principles, namely: maximum disclosure; obligation to publish; limited scope of exception; and disclosure takes precedence. As indicated earlier, FOI legislation should be guided by the principle of maximum disclosure. The principle of maximum disclosure suggests that all information in public custody must be disclosed to everyone in the country without the need to explain their specific interest in the information. The FIA was enacted to give effect to the constitutional rights of access to information. The FIA is Zimbabwe's piece of legislation that is expected to be in accordance with the principle of maximum disclosure. There are several sections of the Act that speak to the principle of maximum disclosure. For example, section 3 of the Act outlines the objectives of the Act, which are understood as follows:

a) Give effect to the right to information, as quaranteed by the Constitution

b) Establish voluntary measures to facilitate swift, inexpensive and simple access to information

c) Promote transparency, accountability and effective governance.

Section 3(c) further states that necessary steps should be taken to educate and inform the public about the legislation (FIA), as well as to assist members of the public who wish to exercise their fundamental rights under the Act. Section 5 of the FIA places an obligation on every public entity to have an information disclosure policy. Information disclosure policies are necessary for the full implementation of the FIA in order to avoid a fear of victimisation for having disclosed information that could implicate other senior officials.

Just like any other FOI legislation, Zimbabwe's FIA also provides a list of specific grounds upon which access to information can be refused. Part Four of the FIA provides that access to information may be refused if the information falls within the exemptions as provided in the Act. Exemptions are based on the following reasons: protection of personal information of third parties; protection of confidential information; protection of safety of individuals and property; protection of information in bail proceedings, law enforcement and other legal proceedings; protection of legally priviledged information; protection of defence, security, and international relations of the state; protection of economic interests and financial welfare of the state and commercial interests of public entities; protection of research information of third parties or entities; operation of public entities; manifestly frivolous or vexatious requests, or requests involving substantial and unreasonable diversion of resources.

The other critical component of the principle of maximum disclosure is the retention of records. In terms of the principle of maximum disclosure, the FOI legislation should provide the minimum standards regarding the maintenance and retention of information. According to the principle, there should be sanctions for anyone who tries to obstract access to information or deliberately destroys information with the intent to obstract access. The FIA does not make any provision for the sanctions imposed for deliberate obstraction and destruction of information.

The second aspect covered under information disclosure deals with the obligation to publish. Article 19 (2016) states that the FOI legislation must make it an obligation for public bodies to publish certain categories of records without having to wait for a formal information request.

The FIA is not clear on the obligation placed on public bodies to proactively publish information. However, section 5 of the Act imposes an obligation on public bodies to disclose information that is required for the purpose of public accountability and protection of human rights.

The third aspect deals with a limited scope of exception. As stated previously, exceptions must be clearly defined and narrowly drawn and subject to strict harm and public interest tests. Two components of the FIA deal with the limited scope of exceptions. Firstly, section 6 of the Act indicates that the Act does not apply to information relating to (a) deliberations or functions of the cabinet and its committees; (b) information protected from disclosure in victim-friendly court. Secondly, part IV of the FIA deals with grounds for refusal. For example, part IV highlights that access to records may be refused if access would compromise the following: protection of privacy of a third party; protection of commercial information of a third party and private entity; protection of certain other confidential information of a third party; protection of safety of individuals and property; protection of information in bail proceedings, law enforcement and other legal proceedings; protection of legally priviledged information; protection of defence, security and international relations of the state; protection of economic interest and welfare of the state; protection of research information of third party or entity; operation of public entities. Section 31 of the Act further stipulates that the information officer may refuse a request for access if (a) the request is manifestly frivolous or vexatious; or (b) the work involved in processing the request would substantially and unreasonably divert the resources of the entity.

The last aspect deals with disclosure takes precedence. In terms of the principle on disclosure takes precedence, all the laws that are inconsistent with the FOI legislation should be repealed accordingly. The FIA provides for the repeal of the widely criticised AIPPA. Section 41 of the Act provides that AIPPA shall be repealed. However, section 41(2) states that other statutory instruments made under AIPPA shall remain in force.

C) Information Access

The current section deals with two principles, namely: process to facilitate access and costs. According to the principle on process to facilitate access, information requests should be

processed rapidly and fairly. The principle also states that the FOI law should allow for an independent review of any refusal of information. The FIA outlines the process for information requests.

For example, section 7 of the FIA states that the request for access to information may be submitted to an information officer who will then acknowledge receipt of the request and analyse the request. Section 8 of the Act indicates that the responsible information officer shall, within twenty-one days, have decided whether or not to grant access. Once a decision has been made, the requester should be informed of the outcome of the request. In cases where the requested information is required to safeguard someone's life, the information officer should make a determination within forty-eight hours of the submission on whether the request may be granted or not.

The FIA recognises that in some cases, the requested information may be too large, making it practically impossible for the information to be provided within the twenty-one days as stipulated in section 8 of the Act. Section 9 of the Act states that the information officer of the concerned entity may request an extension of time for a period not exceeding 14 days. Section 9 of the Act provides the reasons under which an extension can be requested, and the reasons are as follows:

- If the request requires a large amount of information or the search is to be done through a large amount of information, which will eventually interfere with the operation of the concerned entity.
- If the consultation cannot be completed within twenty-one days in order to comply with the request.

Section 9 of the Act provides for an appeal to be lodged with the ZMC in cases where the applicant or the requester refuses to give consent for various reasons. An appeal process is outlined in section 36 of the Act.

In cases where the requested information cannot be found, section 12(1) of the Act states that the information officer must, within twenty-one days of the request, notify the requester in writing that the information either cannot be found or does not exist. But section 12(2) says that if the requested information is found after the notification in section 12(1), the information

officer must write to the applicant within 14 days of finding the information and then follow section 8 (response to request) of the Act.

The second part of principle five deals with an independent review for refusal of access to information. Unlike the PAIA of South Africa, the FIA of Zimbabwe does not make provisions for internal appeal. Internal appeals are sometimes necessary because they are resolved within a short space of time as opposed to external appeals. Article 19 (2016) proposes three levels of appeal, namely: within the institution; with an independent body; and lastly, with a court of law. The unavailability of an internal review process by Zimbabwe's FIA limits the opportunities for information requesters in terms of time and fairness. Section 36 of the Act outlines the appeal process to be followed. As per section 36 of the Act, appeals to the Commission should be filed using a prescribed form within thirty days of the date of notification of the decision appealed against. If the appeal is lodged after the expiration date, the Secretary of the Commission shall decide whether to allow or disallow the appeal. A notice should be provided to that effect. The appellants are expected to pay an appeal fee. Section 36(3) states that the request should not be processed until a fee is paid. If an appeal affects a third party, section 37 of the Act states that the secretary of the Commission shall notify the third party concerned as soon as possible (possibly within ten working days of the date of lodging the appeal). According to section 37(4), the third party may make a written representation to the Secretary of the Commission within ten working days. The FIA does not provide for appeal to the court of law as required by Article 19 (2016).

The other aspect covered under information access is the cost. The Principle of cost acknowledges that costs are unavoidable. However, high costs can be avoidable. The FIA makes provisions for costs. For example, Section 17 of the FIA outlines the costs required for access to information. Unlike the PAIA of South Africa, the FIA does not charge the applicants a request fee. Section 17 of the Act only mentions an access fee, which is typically an amount to cover the costs of making copies, searching and preparing information, and, if necessary, translation. This means that setting a price for access fees will be difficult because it will vary depending on what is requested and how much effort is required to make the information available. Section 8(1) states that no search should be conducted until the requester has paid the access fee. According to Article 19 (2016), information should be provided at no or low cost, with the cost limited to reproduction and delivery. The costs should be waived or

significantly reduced for personal information. Section 5 of the Act states that the Minister may, by notice in the Gazette (a), exempt any person or class of persons from paying any fee; (b) specify that no fee may exceed a certain maximum amount; (c) determine the method for calculating any fee; and (d) determine that any fee does not apply to a specific class of information or records. It is presumed that personal records may be some of the categories of records to be exempted from the access fee.

4.5 Delphi results

According to the researcher, data were analysed based on themes generated from research objectives, and Delphi results will address research objectives 2-5 using ATLAS.ti software. Document analysis was used to supplement the Delphi results. The first research objective was met solely through document analysis of FOI legislation and related documentation. The study was divided into two rounds, with the first serving as an idea generation round in which the researcher sought general ideas from the participants. The findings from both rounds are presented by the researcher. The Delphi results are presented separately to clearly outline the outcomes of each round for the reader's benefit in understanding how each round unfolded. The results from South Africa are presented alongside the results from Zimbabwe, but the researcher compares the two to see if there are any similarities or differences in the challenges associated with the implementation of FOI legislation.

Before delving into the findings, the participants' profiles would be outlined. Since the Delphi study relies more on expertise, the participant profile remains important.

4.5.1 Participants profile

Since expert selection is a contentious issue in Delphi, the description of experts becomes critical. What one person considers expert may not be considered expert by another. Section 4.3 outlined the criteria used to select experts in detail. Please see section 4.3 for more information on what constitutes an expert in the context of the current study. The researcher is using his discretion to identify experts in the field of study. The experts (hereafter referred to as participants) selected for the current study have extensive experience in FOI, and their roles are described below:

- **Participant SA1** – is a professor and a former National Archivist. He has over fifteen (15) years of experience in the field of FOI. He contributed to FOI by creating a sensitive information section to handle PAIA requests. He also formed a joint committee with the Department of Justice and Correctional Services. SA1 has done FOI advocacy work and has published several research papers in peer-reviewed journals.

- **Participant SA2** – is a Senior Lecturer with twelve (12) years of experience in the field of FOI. He was the head of the Freedom of Information Programme, and he was in charge of monitoring the PAIA's implementation and compliance. As part of his work, SA2 developed the Monitoring Assessment Tool for the Presidency's Department of Monitoring and Evaluation, which allows government departments to assess their level of compliance with the PAIA. All national and provincial departments were given access to the monitoring tool. Participant SA2 also produced a documentary as an advocacy tool to encourage communities to use the PAIA. He also collaborated with a number of civil society organisations to facilitate PAIA training and to develop PAIA learning materials.

- **Participant SA3** – handles legal costs and is also involved in case law management, which deals with records management. SA3 has over six (6) years of FOI experience, though she is no longer actively involved in FOI matters. Much of her work involves dealing with attorneys and courts. SA3 provided training on the PAIA, POPIA, and records management as part of her contribution to the FOI. SA3 also assists the general public with information requests. Her previous job required her to train DIOs on their PAIA roles and responsibilities. She was involved in the planning, organising, and facilitating the NDIOF.

- **Participant SA4** – is the Head of Leadership and Knowledge Development. He has thirty (30) years of FOI experience. As an activist, SA4 was involved in the PAIA drafting process. He also led an NGO that was outspoken about the PAIA's implementation. His NGO advocated for the PAIA to be amended. SA4 published several research papers on FOI in peer-reviewed journals.

- **Participant SA5** – is the Head of Strategic Support and Governance. He has nine (9) years of experience in the field of FOI. As part of his contribution to FOI implementation, SA4 was given the opportunity to serve as Acting Head of the PAIA unit, where he was tasked with monitoring compliance with the PAIA. He was also responsible for ensuring that the organisation complied with the PAIA's relevant provisions. SA4 also advised some of the public entities on how to comply with the Act. Furthermore, SA4 was in charge of reporting on PAIA implementation issues.

- **Participant SA6 –** is the Head of Research, and he has twenty (20) years of experience in the FOI. In terms of his contribution to FOI implementation, SA6 assisted his employer in developing various policies, including FOI policies. SA6 also wrote several reports for the Parliament. He also contributed to the drafting of the PAIA reports.

- **Participant Z1 –** is a full-time PhD student studying journalism. Z1 has 15 years of experience in the field of FOI. In terms of his contribution to FOI implementation, Z1 published papers in peer-reviewed journals, and in some of his papers, he argues that FOI should be handled from a "Ubuntu" perspective, rather than be treated as if access to information is a privilege. In this case, Ubuntu refers to an approach taken by all role players that is motivated by compassion and humanity. His papers aimed to persuade political leaders to change the narrative and perspective on FOI.

- **Participant Z2 –** is the Executive Director. Z2 has 15 years of experience in the field of FOI. In terms of his contribution to FOI implementation, he participated in the parliamentary portfolio committee's outreach programme. He also contributed written input on areas to be covered in the country's new FOI legislation, which was considered by the legislation's drafters. His organisation is currently involved in a pilot study to test the implementation of the new FOI legislation (FIA).

- **Participant Z3 –** is a Legal Advisor. He has twelve (12) years of experience in the field of FOI. He was involved in the alignment of legislation to the constitution at his previous employer. His department was in charge of coordinating the alignment of legislation with the constitution.

- **Participant Z4 –** He has sixteen (16) years of experience as a Senior Lecturer. Policy development and advocacy are two of his contributions to FOI implementation. He led FOI workshops in the public sector. Z4 also had several papers published in peer-reviewed journals. Z4 uses the media and journalism to advocate for Zimbabweans' right to information.

- **Participant Z5 –** is a Coordinator for the country's leading media organisation. He has twelve (12) years of experience in the field of FOI. Participation in public consultation is one of his contributions to FOI implementation. Z5 was involved in the development of several policies concerning free expression. Z5 also contributed to the development of FOI legislation and was involved in the conceptualisation of the Africa Model on Access to Information Law. He played a key role in lobbying for the repeal of AIPPA, with the common goal of developing broad FOI legislation capable of addressing the country's information hunger.

- **Participant Z6 –** is an Assistant Professor with over five (5) years of experience in FOI. Her contributions to the implementation of FOI include peer-reviewed journal publications, book chapters, and conference presentations at local and international conferences. She uses conferences to advocate for greater openness and transparency in government. Her PhD thesis also examined FOI law. Z6 is a member of several professional organisations dedicated to promoting information freedom.

4.5.2 Round one interviews

For round one, the researcher asked five open-ended questions. Open-ended questions allowed participants to express their expert opinions without restriction in terms of response. The responses from round one also helped the researcher generate ideas for round two interview questions. The following questions were asked:

1. According to literature, there is poor implementation of FOI legislation in your country. What could be the underlying reasons for poor implementation of FOI legislation in your country?

2. With your understanding of the Article 19 principles of FOI legislation and related policy documentation, what are your suggestions for addressing challenges associated with the implementation of FOI legislation in your country?

3. Apart from the legislation, what additional provincial or national policies or procedures you consider to be instrumental in promoting freedom of information in general? Kindly explain why.

4. Who or what institution is responsible for FOI implementation at the national level? Would you say that the responsibility for FOI implementation is correctly assigned and why?

5. What other organisations (including non-governmental) do you believe can make a significant contribution to ensuring the full implementation of FOI? Kindly explain how these organisations can contribute.

4.5.2.1 Poor implementation of FOI

Participants were asked to explain why FOI legislation is not being implemented properly in their respective countries. This question is relevant to all research objectives because it sought to determine whether the cause of poor implementation can be linked to the following: a poor legislative framework, a poor implementation model, or factors inhibiting and stimulating freedom of information. It was necessary for the researcher to seek expert opinion in order to determine whether what was discovered in the literature was the truth about reality. Participants' responses are as follows:

SA1 believes that the way South Africa operates is actually confusing because the PAIA is a constitutional mandate, but it remains an unfunded mandate in government departments. Several departments in South Africa do not invest resources in PAIA implementation, resulting in the legislation's poor implementation. One could argue that the PAIA is not a priority for public entities because funds appear to be directed to other functions deemed more important by senior public officials than the PAIA. SA1 also stated that there is a lack of knowledge about

PAIA responsibilities among political leaders and public officials. Political leaders who do not understand their PAIA responsibilities are unlikely to provide the necessary support for the legislation's implementation.

Every piece of legislation requires political support to be implemented successfully. This is also true for the PAIA, as several scholars, including McKinley (2003), Dick (2005a), and Adams and Adeleke (2016), have advocated for maximum political support to ensure the PAIA's successful implementation. For example, Kabata and Garaba (2019) argue that the government of Kenya demonstrated leadership and political will for FOI by making resources available to develop the country's manual for public entities, developing and supporting the FOI implementation plan, and committing to even more resources to ensure the successful implementation of FOI in Kenya. SA1 backs up what Dimba (2009) said about political will for the PAIA. According to Dimba (2009), there has been little political will in South Africa to implement the PAIA. According to Dimba (2009), the president of the country cannot even make a public announcement or statement on the PAIA, and even ministers (including the minister of Justice and Correctional Services) have not publicly expressed their views on the PAIA. Dimba's remarks from 2009 are still relevant today in 2022. This silence from public officials suggests that PAIA may not be a priority for politicians.

SA1 also stated that there is a direct relationship between the PAIA and the records management service, which means that even the NARSSA, which is in charge of overseeing records management, can contribute to improving the PAIA's implementation. However, SA1 acknowledges that NARSSA's role in the implementation of PAIA would be difficult because NARSSA is not properly placed in government because it reports to the Department of Sports, Arts, and Culture. Having NARRSA report to a government department has weakened the organisation's legislative mandate. SA1 puts it this way:

> *"It is woefully underfunded as it is not strategically placed in the Department of Sports, Arts and Culture."*

NARSSA's legislative powers have been diluted by bureaucracies attached to government departments as a result of its placement under a government department. However, SA1 did not specify where he believes NARSSA will be placed to strengthen its legislative mandate. Ngoepe (2022), on the other hand, made the bold statement that if NARSSA does not pull its socks up, the archival preservation mandate may be transferred to the National Heritage

Council (NHC), while the regulatory role in records management will be transferred to the Auditor-General of South Africa.

On the other hand, SA2 stated that the statement about poor implementation should be qualified, primarily because the PAIA may not be doing enough in comparison to other countries around the world, but South Africa has done quite well in terms of implementation locally. According to SA2, South Africa has the potential to set the pace for FOI implementation in Africa.

SA2 backed up his point by stating that South Africa was the first country to pass FOI legislation, demonstrating the country's commitment to openness, accountability, and transparency. Because the PAIA was passed in 2000, South Africa has 21 years of experience with its implementation. SA2 believes that in the last 21 years, South Africa has learnt a lot about how to best address implementation failures. However, SA2 acknowledges that there may be loopholes here and there, and in some cases, these loopholes are caused by the following: a lack of resources; including human resources; the inability of public entities to designate DIOs; a lack of regulation clarity, particularly for private companies; the design of the law; and the law's poor architecture, which leads to so much unnecessary bureaucracy.

According to SA2, the implementation of FOI requires a significant amount of resources. According to SA2, the SAHRC did well in implementing the PAIA, which was made possible by allocating adequate resources (including human resources). SA2 claims that:

"There was a dedicated budget to conduct annual training for the staff."

Mojapelo (2020), as well as Udombana and Quadri (2020), emphasised the importance of training. The PAIA, like any other technical function, requires awareness and training for successful implementation. According to SA2, institutions must also commit resources to the implementation of records management policies and the SAHRC PAIA implementation manual. SA2 agrees with SA1 that records management in the public and private sectors is directly related to FOI implementation.

Other challenges, according to SA2, may be related to the level of DIOs positions in the public sector. In some cases, the institutions designate the DIOs at a low level, which means that the

PAIA discussions are not included in executive management meetings. DIOs should ideally be at a level that allows them to influence policy direction within the organisation. According to SA2, DIOs can also play a role in obtaining management buy-in, in order to mobilise resources within the organisation. SA2 believes that a 30-day response period to a request is also excessive and goes against the spirit of accountability, openness, and transparency. Members of the public are not always able to wait so long, and the Act's 30-day waiting period may contribute to poor implementation of the Act by discouraging requestors from submitting their requests in the first place. This sentiment was shared by SA3, who believes that the request process can be confusing at times, discouraging other members from submitting requests.

In the case of the private sector, SA2 indicates that regulatory ambiguity contributed to the legislation's poor implementation. The requirement for private companies to develop Section 51 manuals caused considerable consternation. There were some businesses that were exempted from submitting Section 51 manuals. However, because this was confusing for other companies, even those that were exempted continued to submit the manuals, while those who were not exempted did not. This demonstrated a lack of communication on the part of the oversight body (which was the SAHRC). Communication is essential in ensuring the implementation of any piece of legislation or policy in any industry.

According to SA3, government officials have not paid enough attention to the PAIA's implementation and compliance. SA3 agrees with SA1 that there is no political will or executive support in South Africa for the implementation of FOI legislation. FOI is frequently viewed as a tool for exposing wrongdoing rather than as a constitutional right that the state must protect. All participants agree that a lack of resources is a significant impediment to the implementation of FOI legislation. FOI will continue to be poorly implemented in the absence of resources. Some of the PAIA provisions necessitate significant resources for successful implementation. All participants agree that the appointment of DOIs is critical to the successful implementation of the legislation; however SA3 laments that:

> "*no governmental bodies have committed to delegating qualified personnel to fill the role of DOI. Secretaries are sometimes delegated as DOIs*."

A DIO, according to SA3, should understand the legislation and be able to interpret all relevant sections of the legislation. SA3 agrees with SA2 that DOI positions should be at a senior level so that the incumbent can make decisions without having to "consult numerous people within the organisation to get approval." This will also ensure that PAIA issues receive the attention they deserve at management meetings.

All participants are concerned that public officials believe the information in their custody belongs to them (public officials), which can be corrected through public education and awareness. Public officials should be educated on the PAIA in general. Another topic that appears to have piqued the interest of all participants is the recordkeeping systems within government departments and other state-owned entities. Poor recordkeeping leads to poor FOI implementation (Mojapelo 2020), not only in South Africa but globally. In some cases, the government is unable to respond to requests because records cannot be found due to the failure of recordkeeping systems. Dominy (2016) believes that recordkeeping deteriorated significantly after 1994, when the country (South Africa) entered a new democratic dispensation.

According to SA4, in order to understand the challenges associated with FOI implementation, one must first understand how the legislation is implemented in general, though we should not ignore the fact that there is a clear terrible failure of implementation. Poor implementation, according to SA4, cannot be justified because the country has one of the best constitutions in comparison to other African countries. In South Africa, any legislation that contradicts the constitution is considered illegal. Every piece of legislation must pass a constitutional test. The PAIA was established by the 1996 Constitution. According to SA4, the PAIA is a good law, but the greatest challenge, as expressed by all participants, is political will. Policies can be developed, but implementing specific policies and legislation will always be difficult if there is no well-functioning state committed to upholding the rule of law. SA4 asserts that there are factors that must be considered, and these factors are related to the country's history. The country is still struggling with a secrecy culture inherited from the apartheid government. As Harris and Merret (1994) demonstrate, public officials are uneasy with the concept of open government. To them, open government is more like exposing yourself to public scrutiny. SA4, for example, contended that:

"The reality is that the discomfort around who should get access to information was inherited from the apartheid government, and it appears now that the country is paying a significant price for that."

SA5 concurs that public officials are unaware that public information belongs to the public and that access to such information should not be difficult. According to SA5, there is a lack of awareness on the supplier side, as there appears to be an unfortunate assumption that those with information can decide whether or not to share it without regard for policy or legislation. SA5 stated that:

"Rampant corruption in the country is also one of the reasons why there is poor implementation of the PAIA."

SA5 also reaffirmed that FOI implementation can be costly, and that these costs can hinder successful implementation.

SA6 lamented the fact that:

"Parliamentarians should be blamed for a lack of desire to implement the legislation that they are developing."

South Africa, according to SA6, has a multiparty system in place, with representatives from political parties occupying seats in Parliament and being able to participate in parliamentary processes such as passing laws and holding the executive accountable. However, in some cases, Parliamentarians are found to have violated the law and, to some extent, the Constitution, which is the country's supreme law. For example, the Constitutional Court has issued several judgments against the South African Parliament, some of which involve the Parliament's inability to hold the executive accountable. According to SA6, the lack of political will to support the PAIA's implementation must be linked to parliament's failure to hold the executive accountable. According to SA6, FOI is typically not viewed as a non-profit generating expense, particularly in the private sector. S6 explains:

"Private companies normally direct resources to services that have the potential to generate income, and they are of the view that the implementation of FOI legislation does not generate any income."

In the case of Zimbabwe, all participants mentioned the following factors as contributing to poor FOI legislation implementation: lack of transparency; secrecy culture; and poor record-keeping. According to Z1, Zimbabwean public officials are afraid of the unknown when it comes to disclosing public information. According to Z1:

> *"Usually, they use the security reason line as an excuse, which does not really make sense. If you probe further to ask what security threat is there, you will not get any response."*

Z2 concurs that in most cases, the government uses national security as a justification for withholding information. According to Z2, the government has no intention of disclosing public information, which is why FOI in Zimbabwe has not been adequately tested. In fact, Z2 is hesitant to say there is poor implementation because "there is actually no implementation at all," according to him.

According to Z2:

> *"The opaque operations of the government ensure that they always want to keep under wraps government dealings, especially with the outside world and in matters that pertain to tenders and other multi-million dollar deals."*

According to Z3, FOI is poorly implemented in Zimbabwe due to a lack of clear legislation in the country promoting open government. According to Z3, the misalignment of legislation with the constitution has prompted the media industry and civil society organisations to call for the passage of new FOI legislation. According to Z3, the new FOI legislation now conforms to the provisions of the country's 2013 Constitution, but there are still many gaps that Zimbabweans believe should be filled. For example, the Zimbabwean Constitution of 2013 provides for the right to access information in the private and public sectors. This constitutional provision was never implemented because the FIA only provides for access to public information on the basis that such information is required for public accountability. No one knows how to obtain information in the custody of private sector. This means that private companies have the freedom to decide what to do with their data. According to Z3, legislative misalignment with the Constitution has hampered implementation by lowering the level of understanding of the

legislation. Mugari and Olutoala (2018) also noted the government's slow pace in aligning the country's legislation with the new Constitution

The transition from the old constitutional order to the new constitutional order also influenced the implementation of the FOI law in Zimbabwe. Z3 and Z4 believe that the government took its time enacting FOI legislation because AIPPA cannot be considered FOI legislation because the Act focuses on "state protectionism" rather than promoting open government. Mututwa, Mututwa, and Ndlovu (2021) believe that AIPPA was beneficial to government because it allowed political leaders to remain in power without fear of public scrutiny. The FIA makes several changes to address the repressive provisions of AIPPA, which may cause some delays in implementation, owing to the fact that public officials must still become acquainted with the legislation. According to Z4, shifting from a state that promotes information protection to one that promotes access to information will necessitate a shift in public attitudes.

Z1, Z3, and Z4 observe that Zimbabwe should not be regarded as a democratic state, as evidenced by the actions of public officials. Z3 believe:

"The environment in the country is not conducive enough for freedom of expression."

However, Z4 believes that the FIA is worth celebrating even if there is still dissatisfaction with the Act's provisions. Although Z5 believes that many people should celebrate the passage of the FIA, they should do so with the understanding that Zimbabwe is one of the countries with a good legislative framework but no actual implementation. Many political commentators have praised South Africa for having a good legislative framework, but this has been met with a consistent lack of implementation. Participants believe that the country enacts specific legislation to demonstrate to investors and the international community that it is committed to a specific issue, whereas the reality is the inverse. Z5 claims that:

"Zimbabwe's problem is that it gives with one hand and takes with the other."

This means that while the new FOI legislation has been passed, the country will still retain some pieces of legislation that are contrary to the spirit of openness. According to Z5, passing legislation in the country has become something that the country normally does to demonstrate to the international community that they are making a positive move towards openness,

especially given the country's image following what has been dubbed a "military coup" that ousted former President Robert Mugabe in 2017.

Zimbabwe, according to Z5 and Z6, is not ready to implement open government projects. Participants believe that the country's historical developments provide a clear snapshot of how the country does not believe in information sharing. As a result, some legislative mandates are still in line with the Lancaster constitution rather than the 2013 democratic constitution. According to Z6, the 2013 Constitution is very clear in terms of legislation, practice, or conduct. Section 2 of the Constitution, for example, states that any legislation, practice, or conduct that is not in accordance with the Constitution is invalid and should be considered illegal. This means that Zimbabwe did an excellent job in repealing some legislation, such as AIPPA, that did not pass the constitutional test, as suggested by several commentators in the country. According to MISA (2020b), putting controls in place to obstruct the free flow of information, such as censorship, restricting journalist movement, and suppressing access to information and surveillance, is a clear violation of democratic values.

4.5.2.2 Possible solution to challenges

Participants were asked to propose solutions to the challenges associated with the implementation of FOI legislation in their respective countries using their understanding of Article 19 principles of FOI or any policy documentation that they are familiar with. Despite the fact that participants were expected to focus heavily on the Article 19 principles, which outline the procedure that must be followed in order to address challenges to FOI implementation, only a few used the principles as the basis for their arguments. The majority of the responses were based on the participants' personal experiences as well as other policy documentation. SA1 emphasises the importance of admitting that there is a problem with FOI implementation. Similarly, there is a need to recognise that there is no "quick fix." SA1, SA2, SA3, and SA6 believe that investing in training would help improve the situation. According to SA3, there is evidence that where there is awareness and training, the PAIA implementation has resulted in positive improvements. SA3 claims that:

> *"For this reason, there should be systematic and consistent training and awareness about the PAIA, because in most cases, poor implementation is exacerbated by a lack of awareness and training for public officials and members of the public."*

According to participants, the SAHRC has played an important role in promoting access to information rights by educating public and private bodies about the PAIA, their duty to implement the Act, and how their respective organisations can comply with the relevant sections of the Act, but most importantly, by encouraging them to embrace open government in general (SAHRC 2019/20). The Commission also provides numerous training opportunities for members of the public, particularly those from disadvantaged communities, on their rights to information (SAHRC 2019/20).

SA4 and SA5 believe that civil society organisations can make a significant contribution by collaborating with the government on various projects. According to Arko-Cobbah and Oliver (2016), civil society organisations such as labour unions, community-based organisations, professional associations, faith-based associations, and social movements can contribute by enlightening citizens through various means such as workshops, seminars, training manual development, and dialogues. SA4 believes that civil society organisations, whether formal or informal, are generally comprised of people who live together or are close to members of the public, putting them in a better position to study the community at large and understand the areas of concern within the community that require education and awareness. Education and awareness, according to SA3 and SA4, necessitate resources. According to SA3, there appears to be a lack of interest in allocating resources for education and training based on her observations and experiences in various government entities. Despite the fact that all participants agree that without resources, FOI legislation implementation will remain poor.

As previously stated, the primary goal of question two was to determine whether participants believed that the FOI principles outlined in Article 19 were the best tool for addressing FOI implementation challenges. SA2 was the only participant who provided specific details on how these principles can be applied to address the identified challenges. SA2 made several proposals that the government should consider in order to fully implement the PAIA. To begin, SA2 indicates that government officials should fully embrace the principle of maximum disclosure.

He went on to say that:

> *"Public officials in South Africa are not buying in to the notion of maximum disclosure because the first thing government officials do when they receive a request is to first check whether the exception is applicable in denying a request for information."*

SA6 echoed this sentiment, stating that access to information should be regarded as a fundamental human right, and information provision should be regarded as an obligation. SA2 charged that the PAIA itself should be amended to narrow the exception that is applicable within the law. Several South African departments, including the Department of Environmental Affairs, have been proactive in publishing environmental information without waiting for formal requests (Van der Berg 2017). Second, SA2 believes that the PAIA is very clear in terms of Article 19's principle number two on the obligation to publish because the PAIA provides for the publication of section 14 (for public bodies) and section 52 (for private bodies) manuals, but the greatest challenge is that these manuals are poorly or not developed at all by public and private institutions. Third, SA2 asserts that public bodies should have a clear understanding of the promotion of open government, which is the third of the Article 19 principles of FOI. Most public officials believe that openness can only be practised when there is a request for information, which is an incorrect application of the principle because openness should be seen to be practised even when there are no requests for information.

SA1 and SA3 believe that a meaningful sanction for noncompliance should be imposed; however, this must be linked to political will, because the proposed meaningful sanctions may have a negative impact on politicians or high-profile citizens. Sanctions are required for FOI law enforcement. Participants believe that if sanctions are fully enforced, the following misconduct would be avoided: unlawfully destroying records, modifying or refusing to release information; and also assisting in cases where a governmental or private body fails to comply with court orders (Banisar 2005). SA1 and SA3 express concern that, in the absence of sanctions, public officials will continue to be unreasonable in refusing to grant access to records, rendering the FOI law ineffective.

In the case of Zimbabwe, all participants agree that the government should change its general attitude toward free expression. Z5 and Z6 indicate that the passage of the FIA in Zimbabwe

was a step in the right direction because, unlike previously, the country will now be counted among countries with FOI legislation. Although Z5 is concerned that the government's attitude toward free expression is questionable. Z5 and Z6 also stated that the repeal of the draconian AIPPA was long overdue, but that this legislative reform serves as a commitment from Zimbabwe's side to do something about openness and transparency. Z3 argues that having laws such as AIPPA will cause unnecessary confusion. Article 19 principles states that once a new FOI is enacted, all restrictive legislation should be repealed to create a free space for information access. However, passage of legislation does not always imply implementation. In fact, Z5 mentioned in the previous question that Zimbawe is one of the African countries that "gives with one hand and takes with the other" while presenting to the international community that they are making an effort to promote openness and transparency.

All participants agree that the delegation of the information officers to review and process information requests is critical to the realisation of the rights of access to information. Despite the legislative provision for information officers delegation, Z2 claims that some government entities have made no effort to appoint information officers. This is also true in South Africa, where government does not prioritise the appointment of DIOs, and in some cases, junior members of staff are appointed to DIO positions. According to Z4, all relevant stakeholders should exert maximum pressure on the government to force it to implement the legislation. According to Z4:

> *"There is a need to review restrictive laws."*

4.5.2.3 Other policy and legislative instruments

Participants were asked if they knew of any policy instruments that could help with the implementation of FOI legislation. Because other pieces of legislation or policy instruments supplement the FOI legislation, successful implementation of FOI legislation necessitates the use of other policy and legislative instruments. Furthermore, the absence of openness and transparency policies and other legislation allows political leaders to manoeuvre and impose sanctions or victimisation on government officials who disclose information.

SA1 stated that the PAIA is sufficient and that the Act does not require any additional policy. SA1 claims that:

"There should be a pulse rating of the PAIA requests through the government and this can be made possible through the adoption of information technology."

SA3 concurs that one of the challenges with PAIA requests has been the tendency of government officials to ignore the requests. SA3 asserts that:

"The adoption of ICTs would help a great deal because the system would send reminders for requests that are still to be processed."

McKinley (2021) asserts that 64% of appeals submitted by Access to Information Network were ignored by government bodies.

SA2 and SA5 believe that the POPIA is critical to encouraging the implementation of FOI legislation, particularly because the POPIA established the IRSA. The IRSA was established in accordance with Section 39 of the Protection of Personal Information Act (Act No 4 of 2013). Batho Pele principles, which are one of the most important documents overlooked by public officials, are also critical in promoting openness, accountability, and good governance, according to SA3, SA4, and SA5. SA3 stated the following:

"Although the Batho Pele is not necessarily a binding document, if used adequately, it can promote a culture of openness and transparency in the public sector."

According to SA5, Batho Pele sees information access as one of the eight (8) principles that can transform society by increasing public participation. Citizens would be able to contribute meaningfully to government programmes if they had access to public information. SA5 also stated that institutional frameworks such as strategic plans and institutional governance plans can promote workplace openness and transparency because these documents presents an organization's values and aspirations. A strategic plan is an essential document for any organisation because it outlines the organisation's overall mission, goals, and objectives. When budgets are developed, organisations allocate funds to projects covered in the strategic plan, ensuring that FOI projects are not overlooked.

SA6 stated that legislation such as the Public Finance Management Act (PFMA) and the Municipal Finance Management Act (MFMA) can help with the implementation of FOI

legislation. The PFMA and MFMA encourage public sector accountability. PFMA and MFMA, according to Marutha (2019), seek to regulate financial flows and reduce corruption in the public sector.

In the case of Zimbabwe, Z2, Z4, and Z6 indicate that they do not currently have any policies in place that will aid in the implementation of FOI; however, Z2 suggested that Zimbawe should have a "devolution policy" that will allow for the decentralisation of information dissemination. To avoid bureaucracy, provinces should be autonomous and have their own policy and regulations on information disclosure, according to Z2. On the other hand, Z1 and Z3 argue that there is no need for multiple policies because the legislation and the constitution are sufficient to govern the implementation of FOI. According to Z3, the constitution is very clear in terms of access to information, and the FIA supplements what the Constitution provides. Surprisingly, no one mentioned the FIA-mandated policy on information disclosure.

Z5 claims that he was a member of a government-appointed thematic committee that drafted the media and film industry policy, which was intended to supplement issues of freedom of information, media, cenematography, and film, but that the document is now gathering dust somewhere between the shelves. According to Z5:

> *"This policy was a brilliant initiative because it was intended to address the abnormalities. A lot of things have been put in place. The challenge only lies with the implementation."*

This relates to some participants' comments that passing good legislation and policy is one thing, but putting it into action is quite another. According to Z5, the Zimbabwe Media Commission Act, which aims to reform media regulation, can also aid in the implementation of FOI legislation. The Zimbabwe Media Commission Act is one of three pieces of legislation that have replaced AIPPA, which was previously used to regulate media, privacy, and freedom of information.

According to Z5, the Zimbabwe Media Commission (ZMC), which was previously established by AIPPA, will now derive its powers from the Zimbabwe Media Commission Act, despite the fact that the Act has been widely criticised by media commentators who believe it gives the

minister more powers over the commission, potentially jeopardising ZMC's independence (Tsarwe 2020). Z5 also stated:

> *"The greatest challenge is that public officials still see issues of access to information as an act of charity, and they do not feel any obligation to disclose the information."*

4.5.2.4 Institution responsible for FOI implementation

Question 4 requested participants to identify the institution in charge of FOI implementation at the national level. All South African participants identified the Department of Justice and Correctional Services (DOJCS) as the department in charge of monitoring PAIA implementation. Participants agree that the IRSA exists to provide oversight, but its powers in terms of implementation may be limited. The PAIA and the PAIA guide (2021) entrust the IRSA with the responsibility of monitoring the Act's implementation. According to Participants, the Minister of Justice and Correctional Services is in charge of developing regulations for the Act and ensuring its implementation as required by the Act. Provisions such as fees; any notice required by the Act; uniform criteria to be applied by governmental bodies when making decisions; or any administrative or procedural matter may be included in the regulations (South Africa 2000). The implementation of the Act is not addressed in Article 19 (2016). One might wonder what about the private sector, given that the DOJCS will have no control over private sector implementation. Participants were also asked to indicate whether or not the implementation of FOI is assigned correctly. All participants agreed that the responsibility for FOI implementation at the national level is correctly assigned, citing the DOJCS's responsibility to engage with relevant stakeholders on factors impeding successful implementation of the PAIA. Furthermore, the DOJCS is in charge of the administration of justice.

In the case of Zimbabwe, all participants, with the exception of participant Z5, indicated that the legislation is unclear in terms of legislative authority for the implementation of the legislation. The Act specifies the regulatory authority but does not specify who is responsible for implementation at the national level. According to Z5, the Ministry of Information, Publicity and Broadcasting Service (MIPBS) is in charge of FOI implementation at the national level.

Participants also indicate that the MIPBS is the appropriate minister to oversee the implementation of the legislation because the department recognises the value of information. According to SA5, the department would be able to aid in the implementation of the Act under normal circumstances and in a professional government; however, the observation appears to imply that the same department contributed to the development of draconian legislation such as AIPPA. According to Z5, the MIPBS is supposed to police all government departments regarding information dissemination. Section 5 of the FIA delegates authority to the minister responsible for information to perform the following functions: exempt any person from paying any fee prescribed by the legislation; set a maximum fee limit; determine how the fee should be calculated; and determine that a fee is not applicable to a specific type or class of records. The FIA also requires the ZMC to consult with MIPBS on legislative issues on a regular basis.

Z4 indicates that there is no single institution responsible for implementation at the national level, as responsibility for implementation is shared by all government entities that generate records on a daily basis in the course of business. According to Z4, all public bodies must make an effort to ensure full implementation of the FIA, and failure to do so should result in sanctions. Evidence suggests that when there are no sanctions, there is a lack of implementation.

4.5.2.5 Other organisations

Question five asked if there were any other organisations that participants thought could make a significant contribution to ensuring full implementation of FOI legislation. Participants were then asked to explain how these organisations contribute. The researcher agrees that FOI legislation implementation is a collective responsibility. As previously stated, non-governmental organisations have been seen to make a meaningful contribution to implementation in most countries, with their contribution varying depending on the nature of the organisation. Although the greatest challenge for non-governmental organisations is that some countries, such as Zimbabwe, have not created a conducive environment for the operation of non-governmental organisations.

In the case of South Africa, SA1, SA2, SA3, and SA4 mentioned SAHA and ODAC. According to SA2, SAHA and ODAC are the leading FOI organisations in South Africa, having done significant work in promoting openness, transparency, and good governance. Although ODAC is no longer in operation, SAHA was recently relaunched in 2022. These organisations worked with the SAHRC on a variety of projects aimed at strengthening FOI in the country. For example, SAHRC previously collaborated with ODAC to organise openness and responsiveness awards known as the Golden Key Awards, but the event has since been discontinued. SAHA, on the other hand, has been collaborating with the SAHRC to raise public awareness about the right to access information and train members of the public to use the PAIA (SAHA 2013). According to SA5, access to information is still a human right guaranteed by the Constitution, making the SAHRC responsible for FOI implementation. SA5 agrees with Mojapelo (2020), Adams and Adeleke (2020), and others that the SAHRC still has a constitutional mandate to promote and monitor FOI. Mojapelo (2020) and Adams and Adeleke (2020) argued that the 1996 Constitution empowers the SAHRC to promote respect for, observance of, and protection of all human rights for all people. Access to information is one of the twenty-nine (29) human rights provisions listed in Section 32 of the 1996 Constitution. In addition to the SAHRC, SA5 mentioned the Socio Economic Rights Institute (SERI), Section 27, the Right2Know campaign, and Community Advice Offices South Africa (CAOSA).

According to SA6, the private sector must play a role in FOI implementation. The PAIA affects both the private and public sectors, but the public sector is more likely to comply. Unlike other participants, SA6 believes that the public should exercise extreme caution when dealing with civil society organisations because they are a reflection of society. SA6 asserts that:

> *"If the society that they are representing does not hold high moral standards, that would mean the civil society organisation would also not hold high moral standards."*

Some civil society organisations are funded by the private sector, which compromises their work. According to SA6, the legitimacy of civil society is dependent on where its funds come from. All participants agree that other organisations can contribute by performing the following functions: educating the public about their rights of access to information; training public officials on how to handle PAIA requests; developing training material and implementation

guidelines; putting pressure on political leaders to adhere to PAIA requirements; litigating on behalf of public members; advocacy; collaborating with the SAHRC and the IRSA.

In the case of Zimbabwe, Z1, Z3, and Z4 believe that the Media Institute of Southern Africa (MISA) and the Voluntary Media Council of Zimbabwe (VMCZ) can make a significant contribution by informing the public about the existence of FOI legislation. According to the participants, these organisations can serve as advocates to ensure that FOI receives the attention it deserves. According to Z1, MISA-Zimbabwe has been an active advocate for freedom of expression and access to information in Zimbabwe. MISA (2019), for example, criticised Section 28 of the FIA, claiming that it violates the people of Zimbabwe's constitutionally protected right to know about government borrowings. The 2013 Constitution guarantees the right to access any information held by the state or any public entity in order to enforce accountability. Z2 agrees that MISA-Zimbabwe can be used to test the effectiveness of FOI by making information requests on behalf of the public and following up until the matter is resolved. As previously stated, the bureaucracy associated with information requests can discourage people from filing them.

Z3 added that:

> *"The chapter twelve institutions can also play a role by putting pressure on the government to implement the FOI legislation."*

Z3 went on to say that legal organisations like Zimbabwe Lawyers for Human Rights (ZLHR) and Zimbabwe Human Rights Association (ZimRights) can help with public interest litigation. According to Z3, these organisations are able to litgate on behalf of the general public. Members of the public can also receive free legal representation from ZLHR, which aims to assist citizens in realising their rights without maximising profit from the service rendered.

According to Z5 and Z6, media organisations in Zimbabwe have been vocal in advocating for the right to information. According to Z5, the following media organisations played significant roles: Media Alliance of Zimbabwe (MAZ), Zimbabwe Union of Journalists (ZUJ), and Zimbabwe National Editors Forum (ZNEF). According to Z5, the aforementioned organisations were instrumental in advocating for the repeal of AIPPA, which resulted in the

new FOI legislation. It is not surprising, given that journalists are the primary users of FOI in their daily work. Without FOI, the media would be unable to conduct its business. Z5 also stated that the potential contribution of municipalities in upholding the value of FOI and making information available for public consumption should not be overlooked.

4.5.3 Round two interviews

All experts who took part in the previous round were interviewed again in round two. The purpose of round two interviews was to achieve group consensus on items generated by thematic analysis for round one interviews. The first round of questions were too open-ended to allow the experts to express themselves freely. Round two questions were more specific in order to generate agreement among participants. Round two questions were formulated with the topics and deliberations from the first round. When the majority of experts agreed on a specific issue, it was considered a consensus.

4.5.3.1 Policy package

The second research objective is concerned with the policy package. The objective was to determine whether there are any FOI policies guiding the implementation of the legislation, as well as whether there is any effort to develop these policies.

4.5.3.1.1 Policies

As part of the consensus-building process, participants were asked whether they agreed with the assumption that FOI requires policies (national, provincial, or local) for successful implementation. All South African and Zimbabwean participants agreed that policies are required for the successful implementation of FOI legislation. Some countries have developed open data policies that, when combined with FOI legislation, require public officials to share data on various platforms for public consumption. At the 65th Ordinary Session of the African Commission on Human and People's Rights in 2019, African countries adopted a revised Declaration on Freedom of Expression and Access to Information in Africa (ACHPR). The declaration emphasises the importance of policies and other related measures to promote affordable access to information. According to SA2, the importance of policies was also part of the compliance assessment tool, where the SAHRC would check if state-owned agencies

have policies in place (for example, a records management policy) to support PAIA implementation. According to SA3, the benefit of the policies is that the organisations conduct training regularly to remind employees of their responsibilities, which helps a great deal in ensuring that members of staff always have a better understanding of what is expected of them. However, SA4 added that the development of institutional policies should be accompanied by a willingness to put such policies into action. According to SA4, it is pointless to pass good policies that are not implemented. According to SA5, several organisations rely on PAIA manuals to guide the implementation of the PAIA at an organisational level; however, the challenge with the PAIA manuals is that the document may not carry as much weight as an organisational policy. SA5 added that more things that should be covered by the policy are already covered in the manuals; however, both documents must be used together to foster PAIA implementation. According to SA5 and SA6, several public entities rely on PAIA manuals and do not see the need to develop policies.

The researcher reviewed the SAHRC reports to supplement the participants' views on the importance of FOI policies. According to the SAHRC's PAIA reports, it is clear that the importance of policies cannot be overstated. The importance of policies was highlighted in the 2019/20 and 2020/21 PAIA annual reports, as the reports state that the absence of policies impedes the successful implementation of the PAIA. According to the reports, public entities lack systems and policies in place to implement the PAIA. Similarly, the IRSA indicates in its 2019/20 annual report that it had to put in more effort to develop policies and systems because they previously relied on policies and systems developed by the Department of Justice and Correctional Service. According to Dominy (2017), the lack of comprehensive policies on access to information in South Africa is the result of a lack of political direction and legislative cohesion.

Z4 and Z6 indicate that without policies outlining roles and responsibilities, public officials would not deliver on the citizens' expectations. According to Z4, FOI policies can protect against process abuse. Z5, on the other hand, believes that the legislation is imprecise because the legislation's sole purpose is to give effect to the constitutional obligation of the right to information. The policy's goal is to make the legislation's provisions a reality. Z5 added that policies can close some of the gaps left by ambiguous legislation. Legislation is drafted by lawyers who use legal language that can be difficult for an ordinary citizen to understand;

therefore, having a policy or a guideline to enable better understanding of the law is critical. Policies, according to Z3, simplify what is contained in the legislation by explaining the relevant provisions in simple terms.

It would have been preferable for the researcher to supplement the participants' perspectives with information obtained from regulatory bodies; however, the researcher was unable to obtain important information such as reports and and strategic plans. This demonstrates Zimbabwe's lack of commitment to the principle of obligation to publish. The ZMC's annual reports and strategic plan are not available on the organisation's website. Although the ZHRC publishes its reports on its website for public consumption, there is no indication of the country's policy development status.

Participants were also asked if any policy development was taking place at the organisational level. In the case of South Africa, all participants, with the exception of SA2, indicated that the government is not making an effort to develop FOI policies and instead relies heavily on legislation for implementation. While SA2 acknowledges that the country may not be making the necessary efforts, he believes that Limpopo Province has produced positive results in terms of policy development. According to SA2, the SAHRC discovered that Limpopo is at the forefront of the PAIA compliance because the province invests resources in policy development. Limpopo Provincial Treasury was named the best overall institution and the best deputy information officer in South Africa at the Annual Golden Key Awards Competition in 2011. (Limpopo Provincial Treasury 2011). Before deciding on the award winners, the Golden Key Awards organisers consider a number of factors divided into four categories. Records management, PAIA manuals, internal mechanisms, and resources are among these categories.

Similarly, all Zimbabwean participants stated that public entities are not making an effort to implement policies. This is concerning, according to Z1, because the FIA makes pronouncements on the development of information disclosure policy. The absence of information disclosure policies in government ministries and other public entities indicates a lack of commitment to comply with the legislation. According to Z2, the government's lack of commitment to developing policies demonstrates the government's attitude toward information disclosure. Z5 and Z6 believe that education and awareness are needed because FOI legislation is still new and public officials may not understand their obligation to develop policies.

According to Z6, while Information Officers are expected to understand the legislation, because it is new, people should not assume that they understand every detail.

4.5.3.1.2 Legislative alignment

Participants were asked to comment on the assumption that all legislation or national policies promoting openness should be aligned. All participants from South Africa and Zimbabwe agreed that all legislation and national policies promoting openness should be aligned to allow for efficient FOI implementation. Participants believe that all legislation that seeks to oppose what the FOI advocates for should be repealed. According to SA3, alignment will aid in avoiding overlap, which may result in an oversight on a specific aspect. SA3 also states that the PAIA and the Promotion of Administrative Justice Act (PAJA) complement one another. SA5 and SA6 indicate that aligning transparency and openness legislation will aid in avoiding contradictions and misunderstandings. According to SA3, FOI legislative alignment should extend beyond other pieces of legislation, relevant policies, and the constitution. According to SA4, South Africa's attempt to introduce a "secrecy bill" was a clear indication that the country is unwilling to pass any legislation that promotes a culture of secrecy in government.

In the case of Zimbabwe, all participants agree that FOI legislation in Zimbabwe conflicts with other legislation and that there is an urgent need to ensure alignment and sysnergy for all legislation promoting openness. Participants agree that legislative misalignment can lead to unnecessary confusion and misinterpretation of the law. Z1 and Z2 indicate that the Official Secrets Act, Cybersecurity Act, Interception of Communication Act, and other related laws violate access to information rights. According to participants, the government would sometimes use the aforementioned legislation as an excuse to withhold the requested information. Z1 also stated that all legislation must pass the constitutional test as outlined by the 2013 Constitution. Z3 contends, on the other hand, that the constitution provides a framework that should be supplemented by the alignment of all relevant legislation. According to Z4, there is no ambiguity in the constitutional provision of access to information, but the country is unfortunate to have political leaders who are not willing to align the FOI legislation with clearly articulated constitutional rights of access to public information.

4.5.3.2 FOI legislation implementation model

The researcher wanted to understand the regulatory body's work, the processing of FOI requests, the role of the DOIs from the participants' perspective, and the contribution of the judiciary in relation to the FOI implementation model. The Africa Model on Access to Information lays out the most important elements to be covered by FOI law in Africa, but the law does not place a high priority on implementation. The Africa Model Law on Access to Information aims to provide guidance on the development of new FOI legislation as well as the review of existing legislation (African Commission on Human and People's Rights 2013) In the context of the current study, the FOI implementation model prioritises mandate execution over legal compliance.

4.5.3.2.1 Independence of the regulatory body

Participants were asked if they thought the FOI regulatory body was independent and autonomous. While it is too early to judge, participants for South Africa believe that the organisation's appointment and daily operations, as prescribed by law, demonstrate a high level of independence. While there is some independence, SA1 is dissatisfied with the funding model, claiming that it will erode independence in the long run. Participants believe that as time passes, they will be able to make informed decisions about the IRSA's operational independence. SA2 considers the recent establishment of the IRSA, as well as the appointment of Adv Pancy Tlhakula as Chairperson of the IRSA, to be positive developments. SA2 states that the commissioners must simply carry out their duties as prescribed by law in order to maintain their independence. SA2 also indicates that the IRSA has the opportunity to evaluate how the SAHRC implemented PAIA and determine how they can improve. According to SA2:

> *"The IRSA has the advantage of not having to start from scratch because the SAHRC laid the groundwork."*

SA3 indicates that the IRSA must learn from the SAHRC and avoid repeating some of the SAHRC's mistakes in carrying out its PAIA mandate.

SA4, on the other hand, states that:

> *"The period we are in may be categorised as a transition period where we are all eager to see how things unfold in terms of the independent running of the IRSA because South Africa is well known for taking a lead in terms of political influence on the running of state-owned entities."*

According to SA4, some evidence of political influence was presented before the State Capture Commission of Inquiry, which was established as a result of the Public Protector's remedial action to determine the extent of political influence on the operation of state-owned entities. In light of this, participants are wary of deciding on the independence of the IRSA at this early stage.

The POPIA explicitly stated the IRSA's independence. The Information Regulator is only bound by the law and the Constitution in terms of POPIA. The legislation may broadly explain the organisation's independence, but it can be confirmed in practise when it does its work. Participants believe it is too soon to pass judgement because the IRSA was only recently established to monitor compliance with the PAIA and POPIA. According to POPIA, the IRSA is only accountable to the National Assembly. Section 40 of the POPIA explains the IRSA's powers, duties, and functions in detail. The appointment of Information Commissioners is the most important aspect of independence and impartiality. The Information Commissioners are appointed by Parliament and the President under the POPIA.

In the case of Zimbabwe, participants believe the FOI regulatory body is not independent and autonomous. Participants indicate that there is too much political influence in the organisation's management. Participant Z1 believes that the regulatory body will never be independent, especially since the head of the organisation is appointed by politicians, particularly the president. Z1 claims that:

> *"Parliament is just there to officiate the process, but power lies with the president."*

Z1 goes on to say that if the head of the regulatory body does not comply with the ruling party's demands, he or she may be fired. According to Z2, the law is problematic because it is unclear how the regulatory body will hear appeals. According to Z2, having the ZMC as the FOI

regulatory body is extremely problematic because FOI is about the entire citizenry, not just the media.

Furthermore, the ZMC does not have offices throughout the country because the organisation does not have the capacity to have offices in every province, which may allow the organisation to be easily captured by the state. According to Z3, the commissioners for ZMC are appointed through a parliamentary process by a parliamentary committee comprised of all political parties in Parliament, and this alone determines a significant portion of independence; however, this may not necessarily translate into day-to-day operation of the organisation. The ZMC derives its powers from the Constitution and the Zimbabwe Media Commission Act, though the legislation makes no mention of the organisation's independence. The functions of the ZMC are outlined in Section 249 of the Constitution. According to Z5:

> *"The government is trying its level best to give the impression that the ZMC is independent, but people who have dealt with the organisation directly can tell you with confidence that the way the organisation operates, it is actually not independent."*

According to Z5, the ZMC is highly manipulated because, when it comes to the implementation of the law, there is clear interference from politicians, and when it comes to the formulation of the law, the wider population is sidelined and not given enough opportunity to contribute. Z6 agrees with Z5 that the government attempts to create an unfortunate narrative in which the ZMC is independent, but in reality, the organisation is far from independent.

4.5.3.2.2 Turnaround time and fee structure

To encourage people to submit information requests, request processing should be efficient. Long waiting periods will discourage the public from submitting information requests. Article 19 (2016) requires that information requests be processed as quickly as possible. Participants were polled on their thoughts on the turnaround time for processing information requests as well as the fee structure. Fee structures were also seen as a tool used by politicians to discourage people from making FOI Act requests. As mentioned in the literature review, some countries would charge exorbitant fees as part of a strategy to discourage people from requesting information. Participants in South Africa agree that the 30-day period is excessive; however, they believe that it may be influenced by a variety of factors, such as the government's proper

recordkeeping. According to SA2, the waiting period may appear to be 30 days, but it is actually 60 days because the PAIA allows for an extension if the requested information cannot be found to allow sufficient time to search for the requested information. Article 19 (2016) does not specify a time limit for processing requests; however, countries may use the Africa Model on Access to Information as a framework in determining the waiting period. A reasonable waiting period, according to the Africa Model on Access to Information, is 21 days. According to SA2, 60 days is an excessively long period of time that should be reconsidered in favour of a more reasonable turnaround time. SA2 claims that:

> *"Compared to other FOI legislation, such as the Nigeria Freedom of Legislation Act, the 60-day period may be unbearable for the requesters of the information."*

The Nigeria Freedom of Information Act imposes on public institutions the responsibility of ensuring that requested information is provided within seven days. When records are poorly managed, SA3 indicates that it will not help to reduce waiting times. According to SA3, in her experience, public officials rarely met the 30-day deadline and would always request an extension, which speaks volumes about record management in government entities. SA4 indicates that he does not have the a proposed waiting period, but based on his experience working with the PAIA, the waiting period is excessive and has the potential to discourage requests. According to SA4, public officials are required to respond to requests in a timely manner; however, in some cases, they request extensions, which amounts to an abuse of processes.

Z1 indicates that the turnaround time was previously more than 30 days, and he is unsure if that has changed. According to Z1, the waiting period is excessively long, and the participant believes it was designed to frustrate journalists. Z1 believes that there is no reason for the waiting period to be so long, especially since we all agree that people have the right to access information. However, Z2 indicates that the turnaround time is extremely problematic. Z2 futher indicates that the turnaround time should not be more than two weeks, but rather seven days plus another seven days if the information cannot be found. Z2 believes that the government must demonstrate its commitment to testing the legislation by providing a reasonable turnaround time.

Z2 asserts that:

> *"Processing of requests within a specific timeframe will also depend on the availability of dedicated individuals, especially information officers who are required to handle the requests, but as it stands, many government departments do not have the incumbents."*

According to the FIA, an information officer is any person designated by the principal officer to act on his or her behalf.

According to Z3, the turnaround time is specified in the legislation, but no one follows the provision because most requests are simply ignored. According to Z3, it is clear that government departments are not prepared to process requests quickly. Z4 indicates, on the other hand, that waiting period of 21 working days does not take into account the fact that people work under tight deadlines. Z4 also stated:

> *"For people who are in the media, waiting for 21 working days for you to break the story will not work because by the time you get the information, that information is no longer newsworthy."*

According to Z4, the waiting period should be reconsidered because it violates the spirit of human rights. According to Z4, there are bottlenecks within the department that will keep people waiting until they reconsider their need for information. According to Z4, Zimbabwean laws are designed to withhold information rather than provide it. In contrast to all other participants, Z5 indicates that government officials are working hard to ensure that requests are met. Z5 indicates that the law may provide for a lengthy waiting period, but it should be understood from the perspective of records management because systems must be in place to support access to information. Z5 stated that:

> "*They can reduce the waiting period, but if there are poor recordkeeping systems in place, the situation will remain the same."*

Z6 indicates that the turnaround time is excessive, but it is important to note that they are internationally benchmarked and align with the Africa Model on Access to Information. According to Z6, the law's provision of 21 working days is long, but many government departments are unable to meet it, and obviously, reducing the turnaround time to a shorter

period may not yield positive results because the implementing agencies are unable to meet even a mere 21 days. According to Z6:

> *"Perhaps what needs to be done is to change the government officials' attitude towards the processing of requests."*

Following the passage of new FOI legislation in Zimbabwe, the government should aim to process access to information requests and provide the information within the timeframe specified by MISA (2020b). MISA (2020b) added that information should be actively published rather than waiting for formal information requests, as required by Article 19 Principles.

In terms of the fee structure, all South African participants believe that it is fair and was determined in good faith, because requests can sometimes cost the government money, particularly when information must be reproduced (i.e copies or in other format). According to SA1 and SA3, fees were established as a mechanism to pool resources to support information requests, so they are required. SA3 also states that fees are required to prevent abuse of information requests. SA2 is worried:

> *"Several departments are historically known to use fee estimates to stifle access to information."*

According to SA2, the fee structure should be reconsidered so that it affects private companies and organisations rather than ordinary people making requests. According to SA2, there is no reason to charge a poor person for access to information. The most difficult challenge with fees is that not all requesters can afford to pay the prescribed fees. SA3 recommends that, in order to avoid this disparity:

> *"The fee should not be fixed, but rather be determined based on the requester's financial situation."*

However, determining the requester's financial situation will add to the institution from which the information is requested's already existing an administrative burden. SA5 concurs that fees are excessive, especially for public information. According to SA5, members of the public should not pay for information because they have the right to access it. According to SA5, the

government must absorb the fees because the working class and businesses pay taxes to keep the government entities running. SA6 agrees that, given South Africa's high level of inequality, the flexibility of the FOI request fee should be considered in order to avoid excluding low-income families. According to the International Monetary Fund (IMF) (2020), South Africa has one of the highest levels of inequality in the world.

In the case of Zimbabwe, all participants agree that the turnaround time is excessive and should be reconsidered. According to Z1, the turnaround time decision should take the media into account because most journalists work on deadlines. Waiting a long time for information requests to be processed will have a negative impact on journalists' work. Munoriyarwa (2021) confirmed this, arguing that under the new law, journalists would have to apply and wait a long time for a response on whether their application was approved or rejected. Similarly, the appeals process takes forever and has little chance of success (2021 Munoriyarwa).

According to Z1, some senior government officials use the turnaround time to frustrate journalists, especially when they believe they will be exposed for wrongdoing. Journalists continue to be society's mouthpiece. Putting journalists' access to information on hold is equivalent to putting the entire society's access to information on hold. Z2 proposes that the maximum period be seven days (with a possible seven-day extension), rather than the Act's prescribed 21 working days. The most progressive aspect of the Act concerns information required to protect someone is life or liberty. Section 2 of the FIA states that access to information should be granted within 48 hours if it is believed to be necessary to protect someone is life or liberty. This would imply that the FIA treats information differently depending on its importance. The importance of processing information requests quickly was emphasised in Article 19 Principles. The delegation of DIOs can aid in the expeditious processing of FOI requests. According to the Article 19 Principle, the appointment of relevant officials is required to meet the needs of disadvantaged people who may be unable to read and write. Z3 stated that:

> *"Despite the turnaround time being too long, it is anticipated that the majority of government ministries would not meet the deadlines because the culture of the information holders is still about protecting the information assets of their respective organisations."*

According to Z3, public officials who are not concerned with human rights will not see the need to provide access to the necessary information.

Although Z1 indicates that the FIA is in line with the Africa Model Law on Access to Information in the sense that the FIA only provides for access fees that will assist information holders in covering the costs of reproducing the requested material, all participants for Zimbabwe agree that the fee structure is unreasonable. Z1 believes that the government should simply be reasonable in implementing the costs, and that the ZMC, in collaboration with the minister, should strictly regulate the fee structure to prevent abuse at the departmental level. Z2 indicates that the fee issue should not be considered in the first place because tax payers pay for the existence of government institutions. According to Z2, it is not necessary to charge members of the public any money for access to public information. Z2 and Z6 indicate that government institutions exist to serve the public rather than to profit from the services provided. Given the country's economic situation, participants believe that any cost would stifle citizens' right to access information. Z3 claims that he has no objections to the fee structure established by the law; however, knowing Zimbabwe, this could be abused to protect senior government officials. Z4 indicates that the country needs government initiatives where information can be disclosed without having to wait for formal requests.

4.5.3.2.3 DIOs and relevant skills

Participants were asked if they thought DIOs or any other relevant government official played an important role in the implementation of FOI legislation, and what skills they thought DIOs should have. All participants from South Africa and Zimbabwe agree that DIOs and government officials are critical to FOI implementation. Participants indicate that the role of information officers and DIOs is very clear in the legislation, so these individuals are an important part of the FOI cycle. The DIOs' role is to assist and support information requesters. According to the Africa Model on Access to Information, DIOs have all of the powers, duties, and functions of the information officer, though the incumbent is subject to the information officer's supervision. According to SA1, SA2, and SA4, DOIs play an important role in promoting the implementation of FOI legislation. SA3 also stated that the FOI legislation is sometimes used by people who are considered "illiterate," and that these people would require

assistance in order to realise their rights. SA4 indicates that the critical role of DIOs is very clear, especially as prescribed by law. The law is very clear about the role of DIOs. SA4 indicates that information officers and DIOs are important because they understand the law and can assist requestors. Furthermore, SA4 believes that public officials (particularly the information officers and DIO) would empower PAIA users to understand the law by facilitating workshops and trainings.

Z1, on the other hand, claims that while these people are important according to the law, their actions are sometimes questionable. According to Z1, some information officers believe that their role is to protect information, and in some cases, they use national security to deny citizens access to public information. Z1 continues, saying:

> *"The positions that they are occupying are very critical but can only benefit society at large if they do what the law provides for."*

According to Z3, the DIOs are the implementing officers because the officials keep the legislation in place. Ironically, Z3 laments that the government is making no effort to designate DIOs, which has hampered access to information, particularly for marginalised groups. The Media Alliance of Zimbabwe confirmed this as well. According to the Media Alliance of Zimbabwe (2021), despite the legislative provision for the appointment of information officers to assist information requesters, particularly poor women in the country, Zimbabwe has made no effort to appoint the information officers, making access to information even more difficult for poor women from rural villages. In fact, Z4 states that failure on the part of the DIOs would jeopardise the legislation's implementation. Z5 indicates that information officers are very important because they are the ones who must be at the forefront of ensuring that the law is successfully implemented. Z5 goes on to say that the DIOs must ensure that what is written on paper appears to be done by encouraging law enforcement. Z6 indicates that the law requires the designation of information officers, which indicates that the FOI law recognises the important role that these officials play. According to Z6, if they are given enough room to work, they can make a significant contribution.

Participants agree on the following skills for DIOs: legal; leadership; research; journalism; public relations; recordkeeping or records management; communication; writing. SA3 added that the position of DIOs should be given to people who believe in the concept of human rights,

as her experience working with various DIOs taught her that not all of them do. SA6 added that the DIOs must be dependable and trustworthy because they will be dealing with a variety of people. Some of the people requesting information are likely to be illiterate or have special needs (i.e people who are virsually impaired). This would imply that DIOs should be adequately trained to assist all requesters with varying needs. The PAIA and FIA guarantee access rights to everyone, including people with disabilities or who are illiterate.

4.5.3.2.4 Judges or magistrates

Participants were asked if they thought judges or magistrates had received adequate training to handle FOI requests. Participants agree that judges and magistrates have received adequate training to preside over FOI cases. Judges, according to SA1 and SA2, do not require specialised training to handle PAIA cases because their role is to interpret the law.

SA3 agrees that judges are supreme in the legal hierarchy; however, FOI is relatively new in most African countries and may necessitate extensive training for everyone, including the judges. SA3 also indicates:

> *"There was an attempt in the past for PAIA cases to be heard at magistrate courts, and the SAHRC was tasked with the responsibility of training judges on the handling of PAIA cases."*

The PAIA includes provisions for training of the magistrates. Section 91A (4) of the Act, for example, states that the Chief Justice must develop PAIA training in consultation with the Judicial Service Commission (JSC) and the Magistrate Commission in order to build a strong dedicated pool of properly trained presiding officers. South African judges, according to SA3, have done an excellent job in handling court cases, including PAIA cases. According to SA4, he participated in the development of curriculum for the training of magistrates in the year 2000, and his observation was that the state was doing well in the training of judges. On the other hand, SA5 states that judges are normal human beings like everyone else and may make legal mistakes, but to say they require specialised PAIA training is another story. According to Mckinley (2003), the failure of judges and magistrates to capacitate themselves through FOI training may be blamed for poor FOI legislation implementation because judges and magistrates are relied on to interpret and adjudicate legal appeals. According to McKinley (2003), there will always be challenges to the enforcement of legislation in the absence of an

informed and capacitated judiciary. On the other hand, SA6 indicates that answering the question is difficult because in South Africa, some judges are more informed than others. According to SA6, it is a matter of wanting to learn more about FOI legislation rather than receiving formal training because law school provided them with all of the necessary skills to handle all types of cases.

Participants in Zimbabwe agree that judges and magistrates are well trained to handle FOI cases. According to Z2, the judges have demonstrated their ability to handle FOI-related cases through their handling of various cases. Z1, Z5, and Z6 agree that Law Schools are doing enough to provide judges with the necessary training to interpret the law. The judiciaries of South Africa and Zimbabwe are nearly identical. Both countries' legislatures create legislation through the parliamentatry committee and then submit it to the President for approval. Judges are only involved when the interpretation of the law is required to ensure that justice is served. Judges are also responsible for ensuring that all legislation is constitutionally sound, and if legislation is found to be in conflict with the constitution, judges may order that it be amended. Courts of law, according to Article 19 (2016), should have the authority to issue binding orders to ensure that FOI cases are properly decided. Z3 recognises that continuing education and on-the-job training are always important for everyone, including judges, but this does not imply that their level of training to handle FOI cases is inadequate. What is more important, according to Z3, is that judges be exposed to human rights-based approaches so that they understand the full scope of human rights in order to handle cases appropriately.

4.5.3.3 Factors stimulating the implementation of FOI legislation

As the literature review indicates, there are numerous factors that encourage the implementation of FOI legislation. Despite the fact that these factors vary by country, evidence suggests that African countries have similar FOI stimulators. Several factors encouraging FOI have been broadly laid out in the literature review. This section addresses the participants' perspectives expressed during the first round of interviews. The following factors will be discussed further below: political will, resources, and other considerations.

a) Political will

Participants were asked if they agreed that political will is essential in the implementation of FOI legislation and how the situation in their country is. All South African and Zimbabwean participants agree that political will is essential in the implementation of FOI legislation. Participants believe that without political support, challenges will always exist. Politicians make the decisions. According to SA1, some requests are discussed with ministers before deciding whether or not to grant access. SA1 says that in his experience, he once dealt with a minister who applied his mind to the point where he could provide a reasonable response. SA1 believes that not all ministers will be reasonable in handling FOI matters, which will harm people's freedom of information. According to Nkwe (2021) in a study to investigate compliance with the PAIA in South Africa, a lack of political direction and legislative cohesion, as seen in the Department of Arts and Culture's revised White Paper on archives, is a clear indication that the country still has a long way to go to realise a completely open and transparent society. According to SA2, if the political head has informed his respective department that all requests should be treated equally, it will help with the implementation of the legislation. Furthermore, SA2 indicates that if political leaders make it clear to officials that they support accountability, transparency, and openness, the law may be successfully implemented.

According to SA2, political will goes a long way toward giving DIOs the confidence to process requests knowing they have the support of their political principals. In the event that things go wrong, the DIOs will be confident that he or she will not be in trouble because political leaders have publicly stated their support for FOI. Similarly, SA3 indicates that if politicians publicly show their support for a particular piece of legislation, it will pique the interest of his followers or supporters, who will then support the legislation as well. SA3 believes that while a political will may be written on paper, it appears that political leaders are in denial that access to information is a fundamental human right. It is reported that the South Africa’s Truth and Reconciliation Committee wanted the records of their deliberations to be shared with the general public, but this was not done; instead, the records were locked up at the NARSSA, making it extremely difficult for people to access them (Svard 2022). This is another instance where politicians have their own interpretation of information access rights.

Because political will is about bureaucratic will, SA4 indicates that it is more important than anything else. According to SA4, the country requires political leaders who are willing to support the legislation's goals. SA4 believes that more has been done on paper to demonstrate political support for the legislation's implementation; however, whether this translates into practise will be determined by people who use the legislation on a daily basis to request information. SA4 claims that:

> *"So many requests in South Africa are unsuccessful because the officials can not find the information."*

Although SA4 indicates that requests are unsuccessful, this does not imply that they are being hidden. According to SA4, unsuccessful requests can be attributed to a lack of political will, which includes not only a refusal to disclose the information but also a refusal to put proper systems in place to support the information requests. The PAIA requires public and private entities to report to the regulatory body on the number of requests received, granted, and denied. Year after year, the SAHRC reported a high number of unsuccessful requests, which could be attributed to a lack of political will. Furthermore, the number of PAIA cases heard at the High Court confirms a lack of political willingness to disclose information. A court case involving *My Vote Count vs the President of South Africa, Government Ministers, SAHRC, and political parties*, for example, had to be dealt with by the court due to a lack of agreement among the role players. The High Court ruled in favour of the applicants, stating that the PAIA is unconstitutional because it does not allow access to information about political parties' private funding.

SA5 suggests that political will can also help to reduce victimisation. According to SA5, some public officials are hesitant to share information for fear of being victimised, particularly if the requested information has the potential to expose wrongdoing within the organisation. In this case, political will can provide assurance that public officials, particularly DIOs, are safe from any form of victimisation. According to SA5, successful FOI implementation necessitates DIOs who act without fear, favour, or prejudice. DIOs should be appointed at the senior management level, according to SA5, to demonstrate political support for openness and transparency. Assigning the position of DIO at a low level undermines the entire concept of openness and transparency because the incumbent would be hesitant to challenge the

accounting officers on issues of access to information. This relates to the assertions of SA3 and SA6, who argued that FOI appreciation should be seen through the appointment of DIOs at the senior management level, as required by law, to allow them to engage management at various organisational structures. According to the SAHRC (2020/21), the majority of provincial departments and municipalities failed to publish their section 14 manuals due to a lack of political will.

Z1 asserts that:

> *"Lack of political support has negatively affected the implementation of FOI legislation. In fact, the same lack of political support is blamed for the gap year between the day the 2013 Constitution was passed and the day the FOI was enacted. It took the country so many years to develop sound and reasonable FOI legislation, something which can be classified as a lack of political will."*

This was also confirmed by ZHRC (2022), which argued that political intolerance in Zimbabwe has created a difficult environment for journalism practice. The FIA still contains regressive provisions that restrict the free flow of information, and the fact that the FIA does not completely repeal a widely criticised AIPPA speaks volumes about the lack of political will to have an open and transparent government. Z1 went on to say that this (political will) could be seen during the implementation stage as well. On the other hand, Z2 indicates that, despite the FIA's provision on the appointment of information officers, the participant is unaware of any entity that has made an appointment for a position of an information officer, demonstrating the lowest level of political will. According to Z2, implementing FOI without the key drivers (information officers and DIOs) is more akin to preparing the country for failure. If there was political will, Z2 believes that all government ministries would have the information officers by now. Z3, Z5, and Z6 indicate that there is a fine line between government and politicians because politicians have a significant influence over how government is run.

According to Z4:

> *"You can have all the structures in place and good policies to implement the FOI legislation, but if you do not have the political will, there will always be problems because the legislation may not be implemented."*

Z4 indicates that Zimbabwe has all of the necessary structures to implement the FOI legislation, but the political will is lacking, resulting in the law's poor implementation. According to Z4, while everything appears to be in order on paper, things fall apart in practice due to a lack of interest in ensuring implementation. Z4 claims that:

> *"The government has a siege mentality, believing that the country is under siege by imaginary enemies."*

Z6, on the other hand, believes that people should not ignore the fact that politicians make the law and have the authority to amend or repeal it. According to Z6, politicians are the key drivers because they can withdraw their support if they want to render the legislation ineffective, especially if they feel threatened.

b) Resources

Participants were asked about their view regarding the resources. Except for SA4, all participants agree that the successful implementation of FOI necessitates a significant investment of resources. SA4 contended that:

> *"If the institution has a good recordkeeping system in place and well-trained officials, it can handle information requests with fewer resources."*

According to SA4, proper systems must be in place to support PAIA implementation. SA4 also stated that while providing access to information does not necessitate a large investment in resources, establishing new systems does, so government entities should use their existing resources rather than purchasing new systems or appointing dedicated officials to handle requests. DIOs' work is typically added as responsibility to an already existing position in South Africa as part of a cost-cutting mechanism.

According to SA1, the Covid 19 incident made people realise that the country is not ready to fully implement FOI legislation due to limited access to relevant resources for remotely accessing information. According to SA1, this can also be attributed to a lack of resources at both the government and individual levels. According to the Public Service Commission

(2007), in a study to investigate the implementation of PAIA in South Africa, several entities are unable to develop section 14 manuals in three official languages due to a lack of resources. According to SA2, the government department made a huge mistake by not allocating enough resources for FOI implementation. According to SA3, the following activities are required for FOI implementation: delegation of DIOs (although some legislation does not make this an obligation); training of public officials and members of the public; proper record-keeping; development and translation of manuals and reports (some departments outsource this service); and procurement of electronic systems to enable efficient information requests. The SAHRC mentions in its 2020/21 annual report that municipal manager training produced positive results, but the Commission was unable to sustain the training due to limited funds (SAHRC 2020/21). SA5 indicates that the assumption relates to a green economy in which people are not required to print papers, but this would necessitate a significant investment in infrastructure. SA5 added that appointing human resources necessitates a budget in order to find the right people with the necessary skills. SA5 stated that:

> *"We must also not forget that even time is a resource because one needs time to search for the requested information."*

SA6 concurs that without investing in resources, the country will not be able to implement FOI legislation. According to Mojapelo (2020), the SAHRC appeared to have struggled to adequately provide education and awareness on PAIA due to limited resources, and it is hoped that the IRSA will not face the same issue.

In the case of Zimbabwe, participants agree that ICT necessitates a significant investment in order to make information accessible. Zimbabwe's websites, according to Z1, are out of date. According to Z1:

> *"For example, now if I go online to google a Minister of Information and Broadcasting Service, you may be shocked with the results because the information is not updated online."*

Furthermore, Z1 indicates that several sites still have Mr Robert Mokabe as the country's president, which needs to be addressed. According to Z1, there is a need for an ICT portal where people can get access to information without going through a formal route of information

request; however, such a portal should not be expensive. Z2 on the other hand indicates that it should be considered in the short, medium, and long term. According to Z2, in the short term, you will need structures in place as well as support staff to ensure implementation. According to Z2:

> *"In the mid-term and long term, when structures are in place, it will be about information dissemination in terms of demand."*

According to Z2, the mid and long term would not require additional resources because they would have been established in the short term.

According to Z3, government ministries must have structures in place to support the implementation of FOI. According to Z3, having dedicated people appointed on a full-time basis to assist information requesters will improve the current situation and result in positive outcomes. Participants agree that appointing skilled personnel to handle FOI matters would necessitate resources, which could explain why the country has not made an effort to appoint information officers. Z4 indicates that resources are required to educate people about the legislation. According to Z4, the government must reach out to everyone, including people living in rural areas, in terms of education and awareness about the legislation, which will necessitate significant resources. Z5 and Z6 agree that resources are required to hire skilled personnel. Z6 also stated that resources would be extremely beneficial in allowing online and offline mainstream media space.

c) Strengthening the Non-Governmental Organisations

Participants were asked how they believe NGOs in their respective countries can be strengthened. All participants from both countries (South Africa and Zimbabwe) believe that the government should give non-governmental organisations (NGOs) adequate space to carry out their missions without political interference. Participants believe that the government can collaborate with NGOs on various projects, but that the NGOs should not be interfered with in their work.

NGOs must carefully select their partners, including state-owned entities, in order to maintain their relevance and integrity. SA1 suggests that, if possible, the government may provide NGOs

with resources (e.g., financial) to help them run smoothly and effectively. Although SA2 believes that financial assistance may be problematic because many organisations deal with a broader scope of accountability rather than PAIA. SA2 and SA3 believe that if NGOs worked together more, they would be stronger enough to deal with FOI issues. SA3 added that collaboration with government is critical, but she has observed that the government is unwilling to collaborate with NGOs.

According to SA6, people tend to give more credit to NGOs while overlooking other areas where NGOs are not doing things correctly. According to SA6, some NGOs lack transparency because they fail to disclose information about their funders. Funding comes with expectations, which will lead to interference and influence. The government is becoming increasingly interested in learning about the donors of non-governmental organisations (NGOs) so that it can make informed decisions about which ones can be trusted. According to SA6, the government can help NGOs by providing the requested information and assisting with training and empowerment activities. SA3, SA4, and SA5 all emphasised the importance of training, skills, and capacity. Participants agree that the government must recognise the work of non-governmental organisations (NGOs), particularly when some of their work has assisted the government in addressing socioeconomic issues affecting their respective countries.

In the case of Zimbabwe, participants agree that the role of non-governmental organisations (NGOs) in achieving complete freedom of access to public information cannot be overstated. Participants complain that NGOs have not been given the freedom to operate independently and without interference, but recent events in the country appear to show that the NGOs are winning their battle against the government. All participants agree that NGOs should be financially supported. According to Z1, NGOs must hire skilled workers and, to some extent, lawyers in order to engage in public interest litigation. Z2 agrees that projects like public outreach programmes require a lot of resources and have the potential to bankrupt non-profits. Participants agree that government funding should not be used because it would be an abuse of public resources. Being funded by the government would also increase political interference, which has been identified as a major challenge for the operations of NGOs as pointed out by Z2.

In the absence of state regulation, NGOs, according to Z3, must rely on self-regulation, which includes developing a code of conduct as part of a mechanism to deal with people who act outside the scope of the NGOs code of conduct. Z4 indicates that NGOs can only be strengthened if they are genuine. According to Z4, the issue with NGOs is that some of them were not founded for a good cause. According to Z4, there are numerous NGOs in the country that the government considers enemies, and it may be difficult for the government to support their enemies. "Legitimate NGOs promoting access to information should be empowered." Z4. Z5, on the other hand, agrees with South African participants that NGOs must be transparent in order to gain public trust. According to Z6, the government should invest resources in legitimate NGOs because they have the potential to change people's attitudes toward openness and transparency initiatives. Z6 believes that many people listen to NGOs rather than the government because people's trust in the government is eroding.

d) Other factors

Participants were given the opportunity to suggest additional factors that could encourage the implementation of FOI. Participants mentioned the following factors, some of which were addressed in the literature review: public interest litigation; the involvement of civil society organisations; independent judiciary; a culture of transparency; public education; appreciation of human rights; legislative alignment; proper record-keeping; appointment of DIOs at senior management level; making information disclosure mandatory; financial resources; implementation of sanctions. All participants agree that these factors can encourage the passage of FOI legislation.

4.5.3.4 Factors inhibiting the implementation of FOI legislation

The literature review identified general barriers to the implementation of FOI legislation. This section addresses the factors identified by participants as having a negative impact on the implementation of FOI legislation.

a) Culture of secrecy

A culture of secrecy always has the potential to hinder the successful implementation of FOI. FOI, by definition, provides a mechanism for openness and transparency. By signing the Access to Information Act, the country demonstrates its commitment to openness and transparency; however, a culture of secrecy will always exist if public officials do not embrace the concept of information sharing. Participants were asked how secrecy culture has affected FOI implementation in their countries. All participants agree that all of the issues associated with a secrecy culture are historical in nature.

Participants in the case of South Africa agree that a culture of secrecy has hampered the implementation of FOI legislation. According to all South African participants, the lack of compliance and delays in releasing requested information demonstrate a culture of secrecy. According to SAHRC reports, SA1 and SA3 indicate that some requests are not being addressed. According to SA1, a culture of secrecy in South Africa was seen in the State Capture Commission of Inquiry, where such shocking information was shared. SA1 believes that if the PAIA had been properly implemented, the country would not be where it is today in terms of corruption and political influence over the operations of state-owned enterprises, as revealed by the State Capture Commission of Inquiry. SA2, on the other hand, believes that transparency was never on the agenda of the apartheid government, and that the current government inherited the system from their predecessor. SA2 believes that it will take a long time for South Africa to embrace a culture of secrecy because current leaders have been persuaded that the best way to govern a country is through a culture of secrecy in which voters are not privy to important information that will expose corruption and wrongdoing. SA3 agrees that the country is still recovering from the past, with no indication of when this will end. According to SA3 and SA5, a culture of secrecy is caused by a fear of the unknown because the information holder cannot be certain that the disclosed information will be used for the purpose for which it was requested. SA4 suggests that a culture of secrecy must be linked to a lack of political will. A culture of secrecy, according to SA4, is the root cause of a lack of political will. SA4 blames apartheid for fostering a culture of secrecy. SA4 implies that political leaders are still operating under the apartheid mentality, fearing that the disclosed information will harm the ruling party. According to SA4, South Africa is better than other countries in terms of secrecy because there

is constant effort to deal with a secrecy culture. According to Van der Berg (2017), several departments, such as the Department of Environmental Affairs, actively publish information. SA6, on the other hand, indicates that one issue with government officials is that they are unsure of what they are doing. SA6 went on to say that the public sector is riddled with corruption and maladministration, which has contributed to a culture of secrecy. A society that is committed to fighting corruption, according to Van der Berg (2017), should have mechanisms in place to root out a culture of secrecy.

In the case of Zimbabwe, Z1, Z2, and Z5 indicate that government officials believe they must be secretive for national security and confidential information protection. Z1 states that:

"*National security is more important to them than information access rights.* "

According to Z2, government officials do not consider it a priority to disclose information because the legislation does not require it. Z2 believes that the country's media is highly regulated and this is a demonstration of the country's high level of secrecy because the media has the ability to expose any form of wrongdoing. All participants agree that a culture of secrecy is a barrier to the rights of access to information.

According to Z3, a culture of secrecy is a colonial legacy that has had a significant impact on FOI implementation. According to Z3, the government has not used its authority to foster an environment in which information can be freely shared. Z3 stipulates that information must pass a scrutiny test before it is made available to the public to ensure that people have access to what the government believes should be shared. Z3 also indicates that the government recognises the power that information has to shake political power, so they go to great lengths to control information outlays. "The issue of confidentiality is actually embedded in all public institutions" Z3. According to Z3, the government is constantly attempting to strike a balance between access to information and secrecy, but in most cases, a culture of secrecy triumphs over a culture of transparency and openness. MISA (2018) conducted a study to assess the state of access to information in Zimbabwe, and the study discovered that the Postal and Telecommunications Regulatory Authority of Zimbabwe (POTRAZ) is Zimbabwe's most secretive public institution. The study discovered, for example, that POTRAZ does not even

have an official website where citizens can access information without going through a formal information request route.

On the other hand, Z4 indicates that Zimbabwe is leading the way in terms of a culture of secrecy. According to Z4, the government is hesitant to share information because of the country's rampant corruption. "You can not even get information about education; you will be told to go to district office, and when you get there, they will refer you to head office." All of this is done to discourage you from obtaining the information." Z4. According to Z4, the government does not want to be transparent in everything they do because the goal is to keep the public in the dark about how the government operates. According to Z4, this culture of secrecy has contributed significantly to the development of an unethical culture in which political leaders or those with political ties can steal public resources with impunity because ordinary people are unaware of the processes and systems in place to protect them. Z4 goes on to say that in Zimbabwe, you can not even get information about how the government works, let alone information that is not harmful, and that the regulatory body is to blame because it has not done enough to foster a culture of transparency. ZMC is not transparent and may be unable to promote a culture of secrecy if they are not transparent. ZMC is unable to publish information on their website such as annual reports, strategic plans, and other critical information. Z4 indicates that the ZHRM is the only organisation that has expressed a willingness to publish information about their projects and activities, but other departments are unable to share even information that should be easily accessible on the website. "In fact, at one point, President Robert Mugabe attacked the ZHRC, indicating that the commission is being overly open by disclosing so much information to the public." Z4. In terms of proactive disclosure, it appears that ZHRC is outperforming ZMC.

Both Z5 and Z6 agree that a culture of secrecy has hampered the implementation of FOI legislation. According to Z5, public officials always want to hide everything to avoid public scrutiny, which may be related to the country’s level of corruption. According to Z5, public officials do not believe in openness and transparency, preferring to invest in resources to protect information rather than share it. According to Z6, a culture of secrecy was a stumbling block for the country to even finalise the new FOI legislation, and it will obviously be a significant challenge for public entities to fully implement the legislation. According to Z6, CSOs must exert greater pressure on the government to fully implement the legislation.

b) Lack of capacity by Civil Society Organisations

Participants were asked to comment on the assumption that a lack of capacity on the part of CSOs can hinder the successful implementation of FOI legislation. All participants agree that CSOs serve as watchdogs and require resources to do so. According to the participants, CSOs can hold the government accountable; advocate for openness and transparency; conduct public interest litigation; and provide public education and awareness. In light of this, the participants believe that CSOs require capacity to perform the aforementioned functions. According to SA1, CSOs, journalists, and academics are the primary users of PAIA.

SA1 believes that there is a need to empower CSOs because they frequently act on behalf of ordinary citizens. According to SA2, there are several cases in South Africa where CSOs have succeeded in exerting pressure on the government. Participants agree that CSOs require both financial and human resources to carry out their missions. Taking the government to court would require a significant investment of time and money. According to SA2, organisations such as ODAC, SAHA, Amabhungane, Mail & Gurdian, and Right2Know Campaign have made significant contributions to the implementation of FOI legislation by acting as advocates and initiating notable court cases against state-owned entities. ODAC and SAHA, for example, collaborated with the SAHRC on a number of PAIA projects. Furthermore, the aforementioned organisation was instrumental in enforcing PAIA through litigation (Klaren 2010).

According to SA3, civil society organisations have played and continue to play a role in ensuring that the government accounts for all transactions. According to SA3, CSOs have always used PAIA to promote accountability in the public sector. "In South Africa, there is a culture of putting every legislation to the test through litigation," as seen when the Public Protector report was challenged in court to determine whether the Public Protector's office's remedial actions were binding or not. According to SA3, CSOs continue to play an important role in putting the PAIA to the test through litigation so that the public can see the extent to which the legislation is binding; however, access to justice in South Africa is not for free as it requires significant resources.

According to SA3:

> *"There was a case, I think at the Supreme Court of Appeals, where the court lambasted the government by saying that the fact that the government department still relies on some of the sections of the PAIA demonstrates how the government is still stuck in an apartheid culture of secrecy. I think it was SAHA that took the matter to court."*

According to SA3, the CSOs is at the forefront and centre of the FOI, and they must be supported in order to continue doing the good work that they are doing. "I understand that some public officials do not get along with civil society organisations, but they must also understand that these organisations are here to protect and promote human rights." SA3.

SA4, on the other hand, believes that CSOs require resources because they must frequently challenge government decisions. Similarly, SA5 considers CSOs to be "public protectors of some kind." According to SA5, if CSOs are empowered, they will be able to exert pressure on the government to ensure that information is made available to the public whenever it is requested. According to SA5:

> *"They could also play a role in creating awareness about the legislation and how it should be implemented."*

SA6 also expressed the belief that resources are required for CSOs to do their work effectively. According to SA6, if CSOs are not well resourced, the government will be too relaxed knowing that they are not being scrutinised, reversing all FOI gains. According to the National Development Agency (NDA), CSOs in South Africa require capacity in the following areas: adequate training, policy development, infrastructure, and financial resources.

In the case of Zimbabwe, Z1 indicates that organisations such as MISA-Zimbabwe and the Zimbawe Union of Journalists have been doing an excellent job in promoting the successful implementation of FOI legislation, but they will be unable to do so if their resources run out. According to Z1, MISA-Zimbabwe assisted members of the Zimbabwe Union of Journalists who were arrested, but one can only imagine how much money is spent to ensure that law enforcement officers release them.

Z1 denotes that:

> *"My observation is that MISA is a bit capacitated to stand for freedom of information rights in Zimbawbe, but there are many other organisations that do not have the capacity."*

Z2 and Z5 argue that CSOs should put the law to the test and challenge the government by making more access to information requests. According to Z2, if the requests are not made, measuring the successful implementation of the legislation will be difficult.

CSOs, according to Z3, are non-state actors who hold the government accountable to ensure that legislation is successfully implemented. Z3 asserts that:

> *"In some instances, the CSOs are watchdogs; they are capacity builders; they are whistlers; sometimes they are financiers; sometimes they are agenda setters; they are capacity builders; so it is against this background that I believe the CSOs need to be capacitated to perform their roles and responsibilities."*

According to Z3, if CSOs are not capacitated, the FOI will not be operationalised. On the other hand, Z4 indicates that CSOs in Zimbabwe have been doing excellent work, but they clearly do not have the capacity to cover the entire country, so they sometimes focus on only the issues that they can handle with their limited resources. According to Z4, based on the work that the CSO has already done in terms of FOI, it can be argued that they could have done more if they had more resources. According to Z6, the majority of ordinary citizens are no longer interested in requesting information, necessitating the intervention of CSOs to submit requests on their behalf. According to Z6, in a country like Zimbabwe, where the economy is struggling, CSOs are also struggling financially, making it difficult to hold the government accountable. One can only imagine what would happen to ordinary citizens if CSOs are also in financial difficulty. Public information is supposed to be available for free, but current practises necessitate considerable effort (and, to some extent, financial resources) to obtain access to information, particularly when access is denied for no apparent reason.

c) Lack of awareness and public education

Education and awareness are required for people to understand their rights to information. Participants were polled on their thoughts on the assumption that a lack of awareness and education is one of the most significant barriers to the successful implementation of FOI legislation. All participants agreed that education and awareness are essential for the successful implementation of FOI legislation. SA1 indicates that the government made more efforts to educate and raise awareness about the PAIA, but there is still work to be done because the successful implementation of the legislation is dependent on the people's knowledge of the legislation. SA1 recalls a time when he was asked to provide management training and the people had a negative attitude toward the training. According to SA1, people's attitudes toward the PAIA must change in order to foster an environment conducive to education and awareness.

SA2 believes that while CSOs have done a lot to raise awareness about FOI, there is still a need for more education for DIOs, who are the key drivers of the legislation. According to SA2 and SA4, many people are still not aware of the existence of legislation that allows people to access information from both the public and private sectors, which means that all key stakeholders must pull up their socks and do more advocacy work on the legislation. SA2 went on to say that a large portion of the population is not aware of the PAIA in general, which is why "the new office of the IRSA is going to play a major role in rolling out advocacy programmes to enable more knowledge about PAIA." Despite the fact that the legislation mandates the oversight body to educate the public about their right to access information, SA3 and SA6 believe that education and awareness should not be limited to government. According to SA3 and SA6, CSOs and the media industry can work with the government to educate the public about their rights, including the right to information. However, SA5 indicates that ordinary citizens may not even know how to handle FOI requests, and in this case, they would need to be workshoped on how to submit a request. According to SA5, some people who do not have a legal background may find it difficult to interpret the Act.

In the case of Zimbabwe, all participants agree that a lack of education and awareness is a major impediment to the legislation's successful implementation. Z1 indicates that, given the country's literacy level, the majority of Zimbabweans are unaware of their rights under the FIA. According to Z1, because the government is not making an effort to educate the public about

their rights, NGOs can step in to fill the void and empower the people. According to Z4, the Parliamentary outreach programmes revealed a lack of interest on the part of members of the public in the rights to information. According to Z4, low attendance at parliamentary outreach programmes demonstrates that people are not interrested in being trained or empowered about FOI. It is possible that people are unaware of their rights to information because they do not attend government-organized trainings. On the other hand, Z5 believes that the government is content when people are unaware of their rights because it means they will not come forward to assert those rights. This would imply that the government is purposefully underinvesting in education and awareness as part of their machinery to deny citizens' access to information.

Z6 agrees that in order for people to assert their rights, they must first understand what they are entitled to. ZHRC reports that it was able to cover up to 42 different areas for human rights education and training by employing various strategies such as focus groups, informal discussions, and the distribution of educational materials. According to Z6, the country has seen numerous developments, such as new legislation, which necessitates education and awareness. In Zimbabwe in 2020, the Zimbabwe Human Rights Association (ZHRA) held 21 human rights workshops, though it is unclear whether FOI education was included.

4.6 Summary of the chapter

To obtain the information needed to answer the research questions, this study used methodological triangulation. The information gathered from interviews and documents was coded, analysed, and presented. As explained in Chapter Three, issues of research ethics were followed throughout the study. The final research objective was not covered separately because it is related to the framework and will be addressed in Chapter Six. Some of the information pertaining to the previous research objectives was addressed in the literature review, in which the researcher highlighted some of the recommendations from various scholars. Furthermore, in round one, participants were given the opportunity to recommend potential solutions.

Based on the results presented, it is clear that the implementation of FOI legislation in South Africa and Zimbabwe is stumbling due to a number of challenges, including legislative misalignment, a lack of political will and adequate resources, a lack of skills, and a lack of proper education and awareness. Despite the involvement of CSOs and NGOs, it is clear that

more needs to be done to ensure that FOI legislation is fully implemented. In the case of Zimbabwe, there is still a lack of interest in accepting that citizens have the right to hold the government accountable by requesting information about government dealings, whereas members of the public also have the right to request information from the private sector in order to protect their rights. Despite the fact that all participants agree that CSOs play an important role in addressing FOI challenges, there is overwhelming evidence that the situation has not improved because FOI legislation requires a collaborative effort from all key role players.

CHAPTER FIVE

INTERPRETATION AND DISCUSSION OF THE FINDINGS

5.1 Introduction

The previous chapter provided a detailed analyses and presentation of data gathered through interviews. The findings presented in Chapter Four are interpreted and discussed in this chapter. The interpretation of results is an important component of any research project because it attempts to engage the reader by unpacking the results obtained from the participants in simple terms. The information obtained from participants may not be in a language that the reader understands, necessitating the researcher's interpretation and discussion of the results in order to derive meaning from the participants' perspectives. During data interpretation, the researcher establishes trust with the reader by outlining in detail the relationships and processes as they were experienced by the participants. According to Ngulube (2015), if the analysis is not done properly, the researcher will be unable to adequately interpret the data. Furthermore, Neuman (2014) believes that if data interpretation is not done correctly, there is a high possibility of erroneous conclusions. According to Leavy (2017), the researcher should ask the following two questions following data analysis:

- What does the data mean?
- What could be the implications of the current study?

Researchers should ensure that they interpret exactly what the participants said without changing the data during the interpretation. Until the researcher interprets the collected data, it remains ambiguous to the reader. According to Ngulube (2015), data interpretation is an important part of qualitative research because it involves the interpretation of empirical evidence gathered from participants. The primary objective of data interpretation is to derive meaning from collected data. The research objectives continue to serve as the guiding framework for the study's structure. It is for this reason that data is interpreted and discussed objectively.

The findings are thus interpreted and discussed in light of the research objectives and in accordance with the presentation in Chapter Four.

5.2 FOI legislation's alignment to Article 19's nine principles

The first research objective was to examine the FOI legislation to determine its alignment with the Article 19 principles of FOI legislation. The findings from Chapter Four would be interpreted thematically in accordance with the principles. The interpretation of the South African and Zimbabwean results is discussed separately.

5.2.1 South Africa

The following section interprets the PAIA's alignment to Article 19 Principles of FOI legislation. As stated in Chapter Four, the principles are classified into three categories namely: responsibility for implementation; information disclosure; and information access.

5.2.1.1 Responsibility for the implementation

In terms of responsibility for the implementation at the regulatory and monitoring levels, the study discovered that the Minister of Justice and Correctional Service and the IRSA share responsibility for monitoring and regulating the PAIA's implementation. It was also discovered that the SAHRC has the responsibility to monitor the observance of human rights, which includes the right to information. This would imply that both the IRSA and the SAHRC should collaborate with the Minister of Justice and Correctional Service to ensure that the legislation is fully implemented. In its 2020/21 PAIA annual report, the SAHRC stated that the commission made several recommendations to the Minister of Justice and Correctional Services to reform the PAIA (SAHRC 2020/21), reaffirming the department's legislative authority over the PAIA. The minister also has the authority to exempt some private companies from publishing section 51 manuals as required by the PAIA. For example, with effect from 2016, the Minister of Justice and Correctional Service exempted certain private bodies from having to compile manuals.

Based on the PAIA and the POPIA, one could conclude that the IRSA's responsibilities in terms of legislation enforcement are limited. The development of regulations that will provide more clarity and instruction is a critical component of enforcing the legislation, although this role has been assigned to the Minister of Justice and Correctional Service. The Minister of Justice

and Correctional Services has the following powers: to exempt anyone from paying the prescribed fee; to set the selling price for a fee; to determine how a fee should be calculated; and to exempt any record from any fee. Based on the powers granted to the minister to regulate fees, it appears that the IRSA does not have the authority in that area. The Minister of Justice and Correctional Services is also responsible for the development and approval of regulations. Section 92 of the PAIA, for example, states unequivocally that the Minister may make regulations regarding any matter required or permitted by the Act by publication in the Gazette. Fee regulations, uniform and consistent criteria to be applied by information officers, and any administrative or procedural matter required by the legislation are all part of the regulations. In comparison to the IRSA, the minister has more regulatory powers under the Act.

On an organisational level, the PAIA calls for the appointment of DIOs to ensure that the legislation is properly implemented as part of open government initiatives. Section 17 of the Act, for example, provides for the designation and delegation of DIOs. The provision for the designation of DIOs also complies with open government requirements of the Article 19 principles. The provision for the designation of DIOs indicates that the government is willing to assist members of the public in making information requests as simple as possible. The PAIA requires the public to have access to the DIOs. As previously stated, the DIOs continue to be the organisational custodians of FOI. The PAIA and the IRSA's Section 10 guide both provide a general overview of the role of DIOs. The DIOs are given all organisational responsibilities for the implementation of the PAIA, but the information officers (who are the accounting officers under the Act) remain accountable for the legislation's implementation. Section 19 of the legislation requires the information officer to assist those who request information. According to the Act, it is the responsibility of the information officers to ensure that the DIOs do their jobs by assisting information requesters. Furthermore, the PAIA guide states that the DIOs will handle PAIA requests and communicate with the requestors.

Open government in general is a broad concept, but Article 19 (2016) specifies two key elements to consider: public education and measures to combat or reduce a culture of secrecy. In a broader sense, the passage of the PAIA is seen as the country's commitment to open government. The question is whether that translates into action. Several PAIA provisions promote open government, and those sections were broadly outlined in Chapter Four. Section 10 of the PAIA, for example, calls for the creation of a section 10 guide. The Section 10 guide

is significant in that it can be used to educate the public about the PAIA. The guide provides a simple explanation of the processes for information requests and lays out all of the necessary procedures for people to exercise their constitutional right of access to information. The PAIA also calls for the creation of manuals outlining how members of the public can submit information requests.

The purpose of the manual is to guide information requestors through the information request procedure. This is consistent with the principle of open government in that the PAIA promotes public education and empowerment; however, the SAHRC consistently reports non-compliance with Section 14 of the PAIA (Mojapelo 2017). The SAHRC (2014/15; 2016/17; 2018/19; 2019/20; 2020/21), for example, reports that continuous low compliance with Section 14 manual is very concerning, especially since Section 14 manual is regarded as an important tool that encourages information sharing platform in order to build an informed citizenry. In contrast to other sections of the PAIA, failure to comply with Section 14 of the Act is a criminal offence, but no sanctions have been imposed to date. According to Mojapelo (2020), the newly established IRSA will provide "light at the end of the tunnel" by imposing penalties and sanctions for non-compliance. Section 51 of the Act requires private entities to compile a manual within six months of the commencement of the Act or the formation of the private entity in question. The manual should include contact information, a description of the PAIA Section 10 guide, categories of records that are available automatically without the need for a request, the process for requesting information, and any other information that is prescribed. Despite the fact that not all private entities are required to comply with Section 14 of the PAIA (SAHRC 2014/15).

According to Mojapelo (2017) and Nkwe and Ngoepe (2021), the best approach that has been seen to be used by several entities is the delegation of DIO responsibility to someone with a background in records management. The study established that, the PAIA requires DIOs to be someone at the senior management level. A challenge for other public entities not to designate records managers may be because many records managers in the public sector are reported to be ranked at the junior level, despite South African archival legislation requiring records managers to be appointed at the senior level (Ngoepe 2016). According to Darch and Underwood (2005), one of the barriers for successful implementation of PAIA is poor record-keeping systems in the public sector. This was also confirmed by Mojapelo (2020). It is

presumed that the assignment of records mangers for DIOs role would improve the situation. Despite the availability of the DIOs to assist the requesters, the reality in South Africa is that ordinary citizens do not take advantage of the opportunities provided by PAIA to scrutinise government. For example, van Wyk (2019) postulates that ordinanry citizens have lost hope for PAIA due to absence of legal training and lack of resources to take legal action to enforce or fully enjoy the benefits of the Act.

The commitment of South Africa to open government is reaffirmed in the 04th OGP National Action Plan 2020-2022. According to the action plan, some of the country's open government success stories include the creation of an accessible portal of environmental management information[1], the launch of an open budgeting portal[2], and a pilot national data initiative called Open Data South Africa[3]. PAIA requires public disclosure of requested information relating to environmental risks deemed significant enough to outweigh any exemption to information disclosure (Adams & Adeleke 2016). According to Section 64 of the PAIA, a record may not be refused if it can be demonstrated that its "disclosure would reveal a serious public safety or environmental risk." Data sharing is required for researchers to create useful tools that communities can use to access information. To support information sharing and dissemination, open government necessitates the use of ICTs. Plantinga and Adams (2021) are concerned that a normative approach to open data assumes that the majority of people have access to ICT, which is not the case in developing countries like South Africa. According to Sebina and Grand (2014), access to information laws and records management have the potential to propel e-Government to new heights in Africa; however, one challenge has been that not everyone has access to ICT tools, which are the most critical tools for obtaining information.

Furthermore, the PAIA assigns the IRSA the responsibility of educating and training public officials on the legislation. The study established that, under Section 83 of the Act, the IRSA is responsible for developing and implementing educational programmes to make people aware of and understand the provisions of the Act. Section 83 also states that both public and private entities are encouraged to participate in educational programmes. The PAIA recognises that

[1] https://egis.environmental.gov.za/
[2] https://vulekamali.gov.za/
[3] https://opendataza.gitbook.io/toolkit/

without education, people may be unable to use the legislation to exercise their constitutional rights. The legislation simply states that government entities should invest in education and awareness campaigns to encourage the use of the legislation.

South Africa intends to "train, develop, and support citizens and local data intermediaries/champions on using open government data for civic engagement and social innovation," according to the 4th OGP National Action Plan (South Africa 2020). IRSA, as part of its strategic objectives, commits to developing and implementing educational awareness programmes to promote the protection of personal information. However, little is said about educational programmes for the PAIA. It appears that the newly established IRSA is still relying on the SAHRC to implement some of the PAIA's basic requirements. The South African Human Rights Commission Act (Act No 40 of 2013) gives the SAHRC a broad mandate. The SAHRC is responsible for promoting human rights respect among all citizens, as well as protecting and monitoring human rights in the country. The SAHRC is required to protect and promote all human rights enshrined in Chapter Two (2) of the 1996 Constitution. As previously stated, Section 23 (Chapter 2) of the 1996 Constitution recognises access to information as a fundamental human right.

According to Article 19 (2016), the FOI legislation must include incentives. The study established that the PAIA makes no pronouncement on incentives; however, there is evidence that SAHRC has demonstrated a commitment to incentivise public entities which were found to be in compliance with the legislation (PAIA). These incentives were visible through the Golden Key Award event, which was hosted by the SAHRC in collaboration with ODAC. The event's primary objective was to recognise government departments, DIOs, and private institutions for best practises in promoting openness and transparency. However, the SAHRC has since discontinued the Golden Key Awards, and because this is not provided for by the PAIA, it is unclear whether the IRSA will continue with this "openness and responsiveness award" event (ODAC & SAHRC 2008). Applying incentives for good performance is one component of a strategy for reducing or combating a culture of secrecy. In the absence of legislative incentives, it is reasonable to conclude that not enough has been done to combat a culture of secrecy.

The other aspect is about open meetings. According to Article 19 (2016), the FOI legislation must encourage public participation by creating an environment in which people can meaningfully participate in public meetings in order to participate in decision making. Furthermore, Article 19 (2016) recognises that the issue of open meetings may be addressed by separate legislation or policy rather than FOI legislation. This is also true of the PAIA, as the Act makes no mention of open meetings; however, Dimba (2009) claims that the initial draft of the PAIA did include a provision for open meetings, but it was later removed. Open meetings are covered by FOI legislation in some countries, including the United States. For example, the Virginia Freedom of Information Act states that all public body meetings must be open to the public, except for special purposes such as employment, disciplinary matters, real estate acquisition, privacy protection, business discussions, consultation with legal counsel, and so on. New Jersey also has a separate law governing open public meetings (Piotrowsky 2007).

The study discovered that South Africa does not have a specific policy or piece of legislation that allows for open public meetings; however, the legal framework in South Africa recognises public participation. Similarly, in practice, there is an appreciation for public participation. The National Assembly (NA) and the National Council of Provinces (NCOP) are tasked by the 1996 Constitution with ensuring that members of the public participate in the NA and NCOP's legislative and other processes, including their committees. The most recent example is the President's consultation with the public and the Judicial Service Commission (JSC) on the Land Expropriation Bill and the appointment of the Chief Justice. Article 19 (2016) permits closed meetings if there are compelling reasons to do so. The study also discovered that the SAHRC and other organisations hold public hearings on occasion. Furthermore, Parliament broadcasts its seatings so that members of the public can watch the proceedings; the only problem is that members of the public do not participate in the discussions. Expert interviews revealed that when the government provides mechanisms to involve the public in decision making, there is always a lack of enthusiasm from the public.

The study established that, the South African Legislative Sector (SALS), which is comprised of Parliament and all nine provincial legislatures developed a document called the Public Participation Framework (PPF), which provides guidelines for public participation. Public participation is another component of open meetings. Open public meetings are an important

tool for deepening democracy because it is through public meetings where public participation is realised. In a democratic country, members of the public see themselves as a unit within the system made up of so many units. According to the observation, several politicians include "public participation" in their political manifestos, but this does not translate into implementation when they are elected to positions of power. This is also the case in South Africa, where the ruling African National Congress (ANC) promised in its 2021 political manifesto to develop accessible participatory budgeting systems in which communities and workers are involved throughout the process.

In addition to the PPF, it was established that South African local government relies on the National Policy Framework for Public Participation. Local government is still an important branch of government because it is the first and most accessible institution to citizens. The local government provides services such as water, electricity, sewage, and roads to communities. Protests are frequently held to express people's dissatisfaction with local government's lack of service delivery. When the municipality does not have enough money to meet all demands, public consultation is required to ensure that both the municipality and the people understand each other. As a result, documents such as the National Policy Framework for Public Participation are required to guide how the public should be consulted. According to the Department of Provincial and Local Government (now the Department of Cooperative Governance and Traditional Affairs), community participation can only be fully realised when there is an increased level of information. The National Policy Framework recognises that people should have access to information so that they can engage public officials on important issues.

The final aspect relating to responsibility for implementation deals with the protection of whistleblowers. According to Article 19 (2016), FOI legislation must provide for the protection of whistleblowers, which means that people should be protected for disclosing information. The study established that the PAIA does not include a provision on the protection of whistleblowers, however, there is a separate piece of legislation in South Africa that provides for the protection of whistleblowers. A specific legislation providing for the protection of whistleblowers is the Protected Disclosure Act (Act 26 of 2000). The Protected Disclosure Act (PDA), also known as the Whistleblower Act, provides for the protection of individuals who reveal information about corruption, maladministration and abuse of resources in the public

and private sector. As Corruption Watch (2015) would attest, the PDA ensures that organisations deal with the message rather than the messenger with the goal of eliminating temptations to conceal any form of criminal behaviour in the workplace. Section 2(1)(a) states, for example, that the Act's goal is to protect an employee, whether in private or public, from being subjected to any type of disciplinary hearing or administrative action as a result of disclosing information about criminal behaviour in the workplace. In the event of an occupational hazard, the PDA provides remedies under Section 4 of the Act.

Furthermore, other pieces of legislation with specific provisions dealing with whistleblower protection include the 1996 Constitution (as the supreme law), the Labor Relations Act of 1995, the Companies Act of 2008, and the Protection Against Harassment Act of 2011. Whistleblowers are protected under several sections of the Constitution. Section 9(1), for example, states that everyone is equal before the law and is entitled to equal protection and other legal benefits. Furthermore, section 16(1) guarantees freedom of expression, which includes the ability to impart and receive information. This section confirms that people should not face administrative action for disclosing or passing on information about wrongdoing. Finally, section 23(1) states that everyone has a right to a fair labor practice. Guidelines on fair labor practices are broadly explained by the Labor Relations Act (Act No 66 of 1995). Sections 185, 186, 187, and 191 of the Labor Relations Act (LRA) deal specifically with whistleblower protection. Section 185, for example, states that every employee has the right not to be unfairly dismissed or subjected to unfair labour practises. Section 186 defines unfair dismissal and unfair labour practise broadly. On the other hhand, section 159 of the Companies Act (Act No. 71 of 2008) provides for the protection of whistleblowers in private companies. Section 159(a), for example, states that an employee must be protected for having disclosed the information.

The passage of the Freedom of Information Act is expected to usher in a new era of collaborative effort in combating corruption and other related wrongdoing. Despite the availability of legislative provisions protecting whistleblowers, several political commentators and activists believe that South Africa is not doing enough to protect whistleblowers. Their arguments are motivated by a series of events in which whistleblowers have been persecuted and, in some cases, murdered for exposing serious crimes and corruption. For example, in 2019, the Public Protector's office was shocked by the attempted assassination of Thabiso Zulu, a

known informant on political killings in Kwazulu-Natal province (Zama 2019). This would imply that there is a problem with how these pieces of legislation are being implemented.

Apart from the Constitution and legislation, South Africa is a signatory to a number of international organisations and regional instruments that promote effective whistleblowing protection. For example, the South African government ratified the United Nations Convention Against Corruption (UNCAC). South Africa is also a signatory to the African Union Convention on Preventing and Combating Corruption.

5.2.1.2 Information Disclosure

This section covers four principles namely: maximum disclosure, obligation to publish, limited scope of exception, and disclosure takes precedence. Based on the information provided in Chapter Four, it is clear that the PAIA does not conform to the basic requirements of the principle of maximum disclosure. The PAIA narrow the scope of the law by requiring certain types of records not to be disclosed. As previously stated, the principle of maximum disclosure is based on the assumption that all information should be accessible to the general public. Section 7 of the PAIA states unequivocally that records requested for criminal or civil proceedings after the proceedings have begun are not covered by the Act. The law's scope is expected to be broad in order to create an information hub for the public to use. Furthermore, the principle of maximum disclosure does not require the requesters to provide reasons for their information request. Under the PAIA, anyone can request information from public bodies without providing a reason. The greatest challenge with the PAIA is that a reason for the request should be provided if the request is for information held by private entities or another person other than the state.

Section 9 of the PAIA, for example, states that the Act intends to give effect to the constitutional rights of access to any information held by the state or by another person that is required for the exercise or protection of any rights. Section 9 of the Act states that in order for members of the public to obtain information from another person, they must provide evidence that the information is indeed necessary for the protection of rights. This could be because the government does not want to have complete control over private entities. The fact that requestors are required to provide reasons for their request violates the fundamental requirements of maximum disclosure principles.

According to the Act, anyone seeking access to information must demonstrate a "substantial element of need." This means that if members of the public are unable to provide the reason for the request, the information holder has the right (under the PAIA) to refuse to provide the requested information. According to Mutula and Wamukoya (2009), the principle of maximum disclosure affirms that access to public information is a right, not a privilege, and that members of the public should not even provide the reason for requesting the information; however, the PAIA makes the provisions on maximum disclosure on few selected records. It is worth mentioning that the PAIA's mandate is derived from Section 32 of the 1996 Constitution. Section 32 of the 1996 Constitution states that everyone has the right to access any information held by the state or another person for as long as the information is required for the exercise of rights protection. Perhaps this is why the PAIA requires members of the public to demonstrate that the information is required for the protection of rights, especially when the information is requested from another person other than the state.

In terms of the obligation to publish, the Article 19 principle requires that legislation provide for proactive disclosure by requiring information holders to disseminate information without waiting for formal requests. It is possible that some information that would be beneficial to the general public is not requested for a variety of reasons. The assumption is that members of the public are unfamiliar with all of the types of information held by public entities; thus, public officials should meet members of the public halfway by taking reasonable steps to disseminate some of the important information without waiting for a formal request. According to the World Bank (2004), FOI advocates for two rights: the right to request information and the right to receive information.

The PAIA provides for the information to be disclosed automatically without the need for formal requests; however, the Act is not clear on what records should be disclosed automatically. Section 15 of the PAIA has one limitation in that it does not specify which records may be disclosed automatically. While Principle 2 on the obligation to publish does not dictate what should be covered by FOI legislation as records automatically available for access, it does specify some of the categories of records that must be considered due to their importance in strengthening democracy and public participation. Article 19 (2016) is very clear about which records should be automatically disclosed in the absence of a formal request.

According to the Article 19's principles, the following categories of information should be covered by FOI legislation:

- Operational information regarding the functions, including objectives, organisational structures, standards, achievements, manuals, policies, and procedures.
- Financial information such as information about costs, audited accounts, licenses, budgets, revenue, spending, and contracts.
- Information on requests, complaints or other direct actions which members of the public body may take in relation to the public body.
- Guidance on how members of the public may submit their input on major policy and legislative proposals.

People are more likely to initiate formal requests for access to specific information if they know which public entity has those records. Information about how public bodies function and make decisions, as well as the types of records they keep, is critical in ensuring open government. Some of the advantages of proactive disclosure, according to van der Berg (2017), are as follows:

- Reduce a number of formal information requests from the public.
- Reduces the level of corruption and subsequently strengthens democracy and public participation.

It would have been more progressive if PAIA required public bodies to automatically disclose specific categories of records, as suggested by Article 19's "obligation to publish" principle. Simply stating that some types of records should be disclosed automatically without specifying which types would not produce positive results. Formal requests, in reality, take time and, at times, a lot of resources. Providing a list of records that should be automatically made available may go a long way towards ensuring accuracy and consistency, allowing all public bodies to be measured in terms of their compliance with the obligation to publish.

Regarding the limited scope of exception, Article 19 (2016) acknowledges that there may be instances where information may be withheld for various reason, however the scope for exceptions should be narrow to avoid abuse from public officials. In Chapter Four, the sections of the PAIA that limit access to information were broadly discussed. For example, section 7 of

the Act, states that records requested for criminal proceedings should not be disclosed. The most serious concern is the scope of exception as provided in section 12 of the Act. According to section 12 of the PAIA, the following records are not covered by the Act: those of the cabinet and its committees; those of the judiciary; and those of a member of parliament or a provincial legislature. Based on section 12 of the Act, it can be concluded that the PAIA provides a broad scope for records excluded under the Act. Citizens typically use FOI to protect their constitutional rights; thus, limiting access to certain records may be inconsistent with the citizen's constitutional rights. For example, SAHA (2013) contends that the PAIA can be used to protect the rights of access to housing. Section 76 of the 1996 Constitution guarantees the right to adequate housing, and the government is charged with ensuring that this constitutional right is realised.

The grounds for refusing access to information are listed in Chapter Four of the PAIA. The study established that, Chapter Four of the PAIA broadens the scope of exception. The PAIA is expected to promote access to information, as opposed to, promotion of exeptions. The rights of access to any information is recognised by the Constitution of South Africa. For example, Section 32 of the Constitution of South Africa provides that "everyone has the right of access to (a) any information held by the state; and (b) any information held by another person and required for the exercise of any rights" (South Africa 1996; Baboolal-Frank & Adeleke 2017). This constitutional provision implies that citizens have a right to information that impact their rights. Section 32 of the Constitution was written with the primary goal of promoting a culture of transparency and accountability.

Some of the grounds for refusal listed in chapter four of the PAIA (part 1 for public bodies and part 2 for private bodies) are contrary to the spirit of promoting access to information. Section 44 of the PAIA, for example, states that access to records may be denied if they contain "an account of a consultation, discussion, or deliberation that has occurred, including, but not limited to, minutes of a meeting, for the purpose of assisting in the formulation of a policy or taking a decision in the exercise of a power or performance of a duty conferred or imposed by the law" (South Africa 2000). This provision proposes that records of public consultations or deliberations about policies may be refused, implying that the PAIA is somewhat "paradoxical." According to Nkwe and Ngoepe (2021), the implementation of FOI in South Africa is fraught with difficulties such as requests being ignored, poor recordkeeping, a time-

consuming process for information requests, and public officials' resistance to pro-active disclosure.

Public consultation exemplifies democracy. According to the PAIA preamble, even in a democratic society, access to certain records may be restricted on the grounds that if such information is disclosed, it may cause harm. According to the Act, the information officer has the authority to determine whether the disclosure of the information will cause any harm. Similarly, the PAIA requires the information officer to ensure that the requestor's access to information rights are protected during the process of refusing access to records.

The other contentious aspect of the PAIA is how to strike a balance between promoting access to information and protecting third-party personal information. Although personal information protection can be adequately addressed by separate legislation, there is a need to strike a balance between access to information and ensuring that personal information is not compromised. In South Africa, the Protection of Personal Information Act establishes clear guidelines for the processing of personal information. To respond to the question of how to strike a balance between freedom of information and privacy protection, Ngoepe (2021) believes that one of the mechanisms for striking a balance between the two conflicting values (access to information and privacy protection) is for access to information legislation to clearly acknowledge that limited exceptions to disclose information are normal in every democratic country, as is the case with PAIA.

The last aspect of information disclosure deals with the principle on disclosure takes precedence. South Africa emerged from a period of covert apartheid rule. In order to maintain power, the National Party enacted a number of laws that were used to conceal the workings of government. Lefebvre (2017) cite Protection of Information Act (Act No 84 of 1982) as one of the laws used by apartheid government to discourage access to public information, although the Act became irrelevant in the context of the new era post 1994. The passage of the PAIA would have been expected to result in mechanisms for repealing some apartheid laws, paving the way for new open, transparent, and accountable government. However, the study discovered that the PAIA lacks a provision for repealing secretive laws. The issue with secrecy laws is that they have the potential to empower those in positions of executive authority to abuse public funds. Indeed, Lefebre (2017) is correct in stating that all legislation enacted

during apartheid that seeks to undermine the PAIA should be repealed and replaced with laws consistent with South Africa's constitutional rights to information. Given the country's recent history, the passage of the PAIA is viewed as a necessary step toward strengthening ties between ordinary citizens and those in positions of power.

South Africa's 1996 Constitution declares that any laws or actions that are inconsistent with the Constitution are invalid (South Africa 1996). According to Ebrahim (2010), a Constitution is a supreme law, and all laws must pass a constitutional test. Another document that needs to be updated is the Minimum Information Security Standard, which was approved by the government in 1996 as the country's information policy (Klaren 2002). Since 1994, the country has seen many changes in terms of openness, transparency, accountability, and good governance. It is clear that apartheid laws were enacted to prevent the black majority from participating in government decision making. According to Mendel (2008), most secrecy laws are incompatible with FOI laws because they were enacted before the commitment for transparency existed. This is also true in South Africa, where legislation such as the Protection of Information Act (Act No. 84 of 1982) was enacted before the country achieved democracy.

Article 19 (2016) acknowledges that several countries, particularly those with secrecy laws, use secrecy laws to punish officials who disclose information in a reasonable manner. The eighth principle states that officials should be shielded from such sanctions. The development of information disclosure policies, as in other countries, can help to protect information disclosure. The PAIA is vague about the protection that officials have for disclosing information. It is critical to have a specific provision that protects officials who are reasonably disclosing information in accordance with the PAIA. This will help to weaken secrecy laws because some secrecy laws include provisions for sanctions for disclosing secret information. Obtaining this level would be a monumental task, especially given that the PAIA does not grant full access to all records.

5.2.1.3 Information Access

This section deals with two principles namely: process to facilitate access and costs. The PAIA specifies the procedure for obtaining information from private and public bodies. Although the appeals process is clear, the legislation does not provide for three layers of appeals as suggested

by Article 19 (2016). The Section 10 guide, which was created in accordance with Section 10 of the PAIA, is an important tool that contains all of the necessary information regarding the access to information procedure. Furthermore, the legislation provides for the designation of DIOs who will be responsible for assisting information requesters, including those who are disadvantaged or have special needs. DIOs play a critical role in ensuring that the public's right to access information is fulfilled without difficulty. The delegation of DOIs by public bodies may be viewed as a government mechanism to bring information closer to the people.

The study established that the PAIA also provides for the creation of section 14 (for public bodies) and section 51 (for private bodies) manuals. Public bodies are required by the PAIA to publish section 14 manuals in at least three official languages to assist information requestors on how to request information from the entity. The procedure to be followed by information requesters should be clearly stated in the manual. There are eleven official languages in South Africa. Perhaps it would have been preferable if the PAIA manuals had been written in all eleven official languages. Although having all eleven official languages represented could be costly, the legislation only requires the manual to be written in three official languages. The Act does not specify which languages must be included; however, this may vary from province to province depending on which tribe is represented. For example, public entities in Gauteng province may consider developing manuals in English, Isizulu, and Afrikaans, whereas public entities in Free State province may consider developing manuals in English, Southern Sotho, and most likely Afrikaans. Provinces such as Limpopo, where various tribes such as Venda, Tsonga, and Pedi must be covered, may face difficulties, particularly because English is used as a medium of instruction in South Africa.

According to the PAIA, the section 14 manual must include enough information to facilitate a request to access records within the entity. Furthermore, the manual must include a detailed description of which categories of records are available automatically and which are only available through formal request. The minister has the authority to exempt any entity from submitting the aforementioned manual. Section 14(5) of the PAIA states that the minister may exempt any public entity or category of public entities from submitting section 14 PAIA manuals for security, administrative, or financial reasons. This provision may be applicable to private entities rather than public entities. The provision exempting other public entities from

publishing the manuals may be abused, as are other sections of the Act, particularly when left too open without any subclause to ensure more stringent measures to prevent abuse.

Similarly, the PAIA mandates the creation of section 51 manuals for private entities. Section 51 manuals are similar to section 14 manuals in content, but section 51 focuses on the operation of private entities. Section 51 of the PAIA requires private entities to compile a manual containing sufficient detail to facilitate a request for access to the entity's records within six months of the Act's commencement or the entity's coming into existence as previously stated. The entity must also provide a description of the records it maintains. Section 51(4) empowers the minister to exempt any private entity or category of private entities from compiling section 51 PAIA manuals. This emphasises the minister's powers under the PAIA to determine whether or not entities are covered by the Act, which may have an impact on the Act's consistency in the long run.

The SAHRC's request for other private bodies to be exempted from the provision of section 51 of the Act was approved by the Minister of Justice and Correctional Services in order to enforce section 51(4) of the PAIA, though it has since expired on 31 December 2020 and there is no information to confirm whether it has been extended or not. The Section 10 PAIA guide included a list of private entities that must compile a Section 51 manual. Table 5.1 displays the categories of entities as well as the annual turnover for specific categories of entities required to compile Section 51 manuals:

Table 5.1: List of categories of private entities required to comply with section 51 of PAIA

Industry	**Annual Turnover**
Agriculture	R2 million
Mining and Quarrying	R10 million
Manufacturing	R10 million
Electricity, Gas and Water	R10 million
Construction	R5 million
Retail and Motor Trade and Repair Service	R15 million
Wholesale Trade, Commercial Agents and Allied Service	R25 million

Catering Accommodation and Other Trade	R5 million
Storage and Communications	R10 million
Finance and Business Service	R10 million
Community, Special and Personal Service	R5 million

Source: SAHRC (2014)

The waiting period as provided by the PAIA is lengthy because the legislation provides for 30 days with a possible extension of another 30 days, totaling 60 days. This is contrary to the principle of "process to facilitate access" enshrined in Article 19 principles. Article 19 (2016) states that the process for facilitating access must be quick and simple. Furthermore, the PAIA provides a clear guideline on what should be done if the requested information cannot be found or does not exist. According to the Act, the information officer must write an affidavit or affirmation to notify the requestor that the requested information was not found. The Act also states that if such a record is discovered later, the requester should be given a chance to access it, unless access is denied under the Act.

The appeals process, which is expected to be handled at three levels, is another critical component of the process to facilitate access. Article 19 (2016) states that in the event of a refusal to provide information, an independent review should be conducted to ensure that the requestors are satisfied with the results of their requests. The PAIA only handles appeals at two levels: within the organisation and to a court of law. Section 74 of the PAIA allows both the requestor and a third party to file an appeal against the decision of a public entity's information officer. Internal appeals are clearly outlined in Section 75 of the Act. When there is no amicable solution, a court can be approached for relief. Internal appeals must be filed within sixty (60) days of receiving the refusal of the original PAIA request, though late appeals may be accepted if the requestor shows good cause for the delay. If the appeal requires that notice be given to a third party for reasons such as disclosure of personal information of third party, disclosure of confidential information, or disclosure of other related information, the appeal must be filed within 30 days of the notice being given to that third party. According to section 75(3)(a), a requester filing an appeal must pay a fee if one is available, and the appeal will not be processed if the fee is not paid. According to Section 77(3), the relevant authority must rule on the internal appeal as soon as reasonably possible.

According to the PAIA, if the requester is not happy with the outcomes of the internal appeal, they can seek relief from a court of law. Article 19 (2016) provides for an appeal through an oversight body before the matter is brought to court; however, the PAIA does not provide for the second layer of appeal through the oversight body. According to section 78(1), a requester or third party may apply to court for appropriate relief only after exhausting all internal appeal processes and still being dissatisfied with the results. It is expected that the newly established IRSA will handle appeals that could not be resolved internally. According to Robinson (2016), complaints to the IRSA can only be filed after the requestor has exhausted all internal appeal procedures. The establishment of the IRSA in terms of POPIA is a step in the right direction in ensuring a quick and efficient resolution of the matter before it is taken to court. It appears that the SAHRC was unable to facilitate the appeals. Internal appeals typically involve a senior person reviewing the information officer's decision and deciding whether or not the information officer's decision is correct.

Evidence suggests that appeals can sometimes yield positive outcomes. For example, in 2020, after two requests for access to records were denied on the first attempt, two appeals were lodged at Department of International Relations and Cooperation, and access was eventually granted (SAHRC 2019/20). A clear and fair appeal system can encourage people to trust the system. According to Hazel and Worthy (2010), some countries use an appeal system to assess FOI performance. In an ironic twist, van der Berg (2017) reports that preliminary evidence suggests that 44 percent of internal appeals are ignored. Internal appeals, on the other hand, produce positive results, according to the SAHRC (2018/19; 2019/20). The PAIA is typically invoked by vulnerable ordinary citizens whose rights have been violated for a variety of reasons. As a result, internal appeals may best serve the requesters' interests in avoiding a lengthy legal process in court. According to van der Berg (2017), the court process can be time-consuming and costly.

Internal appeals do not always produce positive results. To address this gap, the PAIA gives information requesters the option of seeking relief from a court of law if they are dissatisfied with the outcome of their appeal. The reality is that not everyone can afford legal fees, and waiting for a court decision can be agonising. Indeed, Dugard (2008) is correct in stating that access to justice includes not only physical access to courts, but also the ability to present and

effectively hear your case before a magistrate or judge. Even if the PAIA does not allow for an appeal to an independent body, it is worth noting that the SAHRC has been receiving complaints about the refusal of information by state and private entities (SAHRC 2019/20), and more complaints are expected to be forwarded to the SAHRC in the future. In terms of POPIA, the IRSA has the same authority as the High Court (Robinson 2016). As a result, scholars such as Mojapelo (2020) and Adams and Adeleke (2020) argue that the IRSA has more powers than the SAHRC.

The PAIA is concerning because appeals can only be made to national government departments, provincial government departments, and municipalities. According to SAHRC (2014), other public entities (national, provincial, and municipal) do not have an internal appeal process. This means that if a request for information is denied by any public body other than the national government department, provincial government department, and municipality, the only recourse is to seek the intervention of an independent body or go to court. Having the court hear the PAIA appeal will obviously prolong the process. McKinley (2003) believes that if the judiciary is the next stop after a refusal from the department or municipality, judges should receive extensive PAIA training so that they can approach FOI cases from a human rights perspective. A decision in *South African History Archive Trust (SAHA) v South African Reserve Bank (SARB)*, which imposed a court award against SAHA, provided evidence that courts may not be adequately capacitated to handle PAIA cases. If you win a court case in South Africa, you should be awarded your costs; however, Chamberlain (2019) believes that PAIA cases should be treated differently, especially because imposing costs awards will be a significant burden on poor litigants. Internal appeals, unlike court proceedings, are resolved quickly and at no cost. According to Sebina (2009), it is obvious that every appellant wishes to have their appeals dealt with expeditiously, which may not be the case if the matter is taken to court for adjudication. Section 77(2)(a) of the PAIA states that an internal appeal decision must be made as soon as reasonably possible (not more than 30 days).

Cost issues are one of the most contentious aspects of the FOI legislation. People have mixed feelings about whether they should pay to file information requests or not. As previously stated, Article 19 (2016) recognises that costs cannot be avoided because handling some FOI requests comes at a cost to the information holder. According to the study, PAIA has a flexible cost structure. According to Article 19's cost principle, the only reasonable costs would be those for

record reproduction. Cost issues continue to be one of the most significant barriers to people gaining access to information through FOI legislation in many countries.

As a result, costs are expected to be kept as low as possible in order to encourage people to submit information requests (Article 19 2016). Indeed, Ebrahim (2010) is correct in asserting that there should be a balance between the rights of access to information and the financial difficulties that public bodies face. In some cases, it takes a significant amount of resources to make requested information available. Given South Africa's socioeconomic situation, direct costs for access to information may disadvantage citizens who are unemployed. Although the PAIA attempts to address this issue by establishing different fees for different categories of people based on their economic status. Requesters who earn less than R14,712 per year (if single) or R27,192 per year (if married or in a life partnership), for example, are exempt from paying the request fee. The latter would go a long way toward ensuring that a large segment of the South African population uses the PAIA to protect their socioeconomic rights. According to a StatsSA (2018) survey, approximately half of South African adults live below the upper bound poverty line (UBPL).

As stated in Chapters Two and Four, the PAIA requires information requesters to pay two separate fees: a request fee and an access fee. The IRSA's new PAIA section 10 guide does not specify the amount to be paid for the request. In simple terms, the request fee is the money paid by the requester to file information request. The previous PAIA section 10 guide stated that the request fee for public bodies is R35 and the request fee for private bodies is R50 (SAHRC 2014). It is worth noting that a request would not be processed if a mandatory fee of R35 (for public bodies) or R50 (for private bodies) was not paid (Sebina 2009; Nkwe & Ngoepe 2021), unless a requester is exempted under the Act. Requesters earning less than R14,712 per year (if single) or R27,192 per year (if married or in a life partnership), for example, are exempt from paying the request fee. This would imply that people may be denied access to records on the bassis if they are unable to pay the mandatory fee. Furthermore, the principle of costs in Article 19 states that there should be no costs for requests. As a result, it can be concluded that the PAIA's request fee violates the cost-sharing principle enshrined in the Article 19 principles. It is unjust to pay a request fee when you are unsure whether your request will be granted.

According to the Act, if a request for access is granted, the requester must pay an access fee that is determined by the body to whom the request is made based on the effort required to make the information available. Section 7(a) and (b) provide, for example, that the access fee must be reasonable and may include a fee for making copies, transcription of the content of a record, postal fee, and reasonable time required to search and prepare the record for disclosure. Furthermore, according to the PAIA section 10 guide (2021), the information officer or DIO of a private or public body may charge fees for the following: request fee payable by the person making the request; reproduction of documents; transcription; information search and preparation; postage or any electronic transfer. The most difficult challenge with the latter is when a large volume of information is requested. According to Dick (2005b), SAHA was charged more than R5000 for 30 files in 2003. The R5000 access fee included the money required by the Act for search, preparation, and copying (Dick 2005b).

The PAIA also provides an exemption when a request is made for personal information. Section 22(1) of the Act states that the information officer of the public body to which a request for access to information is made must issue a notice requiring the requester, unless it is a personal requester, to pay a prescribed request fee. A personal requester is defined by the PAIA as "a requester seeking access to a record containing personal information about the requester." Given the nature of the PAIA, it is critical not to take an "all size fits all" approach, which means that some special cases must be handled differently to accommodate everyone, especially when it comes to finances. This is also true in countries such as Canada, where fees are based on the type of information requested (Luscombe, Walby & Lippert 2017). Indeed, Sorensen (2003) is correct in arguing that some form of financial relief should be provided under the PAIA.

5.2.2 Zimbabwe

The following section provides the interpretation of FIA's alignment to Article 19 Principles of FOI legislation.

5.2.2.1 Responsibility for implementation

The FIA, like the PAIA of South Africa, specifies the roles and responsibilities of the various stakeholders. According to the study, the information minister (currently the Minister of Information, Publicity, and Broadcasting) and the Zimbabwe Media Commission (ZMC) share responsibility for enforcing the implementation of the legislation. The FIA and the Zimbabwe Media Commission Act, for example, define the ZMC's role. On the other hand, several sections of the FIA give the Minister of Information, Publicity, and Broadcasting specific powers. Section 17 (5) of the FIA, for example, gives the minister the authority to exempt any person or class of persons from any prescribed fee. The minister also has the authority to determine which categories of records are exempt from the fees. Furthermore, Section 40 of the legislation assigns the minister the responsibility to contribute to regulations. Regulations are developed by the ZMC in consultation with the Ministry of Information, Publicity, and Broadcasting, according to the legislation.

The difference between the PAIA and the FIA is that regulations for the PAIA are made by the Minister, whereas regulations for the FIA are made by ZMC. As previously stated, one of the critical components or mechanisms put in place to promote legislation implementation is regulation. Regulations are more precise and can provide clear guidelines for relevant stakeholders to follow. According to the FIA, the ZMC has limited powers in terms of oversight for the implementation of legislation, as some of the powers must be carried out by the relevant ministry. The minister's roles and responsibilities may be shared because the minister has a seat in parliament and also serves as a cabinet member, giving his powers more weight than the ZMC commissioners' powers. Ministers are ideally politicians who are occasionally loyal to their political parties because they are deployed by them. Most of the time, they will follow party lines out of fear of being re-deployed or removed from their positions. It is for this reason why politics or political influence have the potential to impact FOI regulation.

The study also found that information officers play an important role in implementing the FIA at the organisational level. Several sections of the FIA reaffirm that the information officers continue to be the primary custodians of the legislation, as everything dealing with the legislation passes through the information officers' office. In terms of the FIA, the information officers have quite a few roles and responsibilities to fulfil. Section 7 of the FIA, for example,

states that the information officers are in charge of handling information requests. Second, Section 8 of the Act requires the information officer to respond to the information request within thirty-one days of receipt, and in the response, the information officer must indicate whether the request is granted or denied. According to the Act, there will be no implementation without the information officers, who are responsible for acting as a liaison between information requesters and information holders. If a citizen wishes to make an information request, the first person he or she should contact is the information officer, who is authorised to assist the requester and provide advice when necessary. Since the right to information applies to all citizens, information officers play an important role in ensuring that everyone (including illiterate or disadvantaged citizens in the country) benefits from the right to information.

The FIA regulation broadly explains the role of the information officers. In terms of the regulations, the information officers are responsible for the following:

- Ensures that those applying for their personal information have their identities checked and confirmed.
- Obtain the necessary information from the applicants to ensure that the requested information is located.
- Advise the applicants when necessary.
- Alert the applicants if the requested information is already published, as this may save time and resources.
- Develop the information disclosure policy, which will serve as a guideline for the disclosure of information.
- Assist those who have difficulty reading and writing.

Based on the description of the role of the information officers provided above, it is reasonable to conclude that the implementation of the legislation may be halted in the absence of these officials. Surprisingly, several government agencies are operating without the incumbents.

The legislative provision on the appointment of information officers is viewed as a public body's effort to promote open government. Several policy documents can be used to commit to open government; however, FOI legislation can also be used to reaffirm the country's commitment to openness and transparency. Open government has increasingly captured the attention of the global community in recent years. Scholars agree that open government is an

important tool for increasing public participation, transparency, accountability, and responsiveness (Gil-Garcia, Gasco-Hernandez & Pardo 2020; Ruijer, Detienne, Baker, Groff, Meijer 2019; Piotrowsky 2017).

While meaningful openness and transparency are central to open government, the passage of FOI legislation can be interpreted as a commitment to open government. Many countries define open government as citizens' freedom to access public information and their ability to participate in decision making. Collaboration between public institutions and members of the public can be greatly facilitated by the use of ICT. FOI legislation can encourage open government by including provisions such as providing training for public officials, incentivising good performance, exposing poor performance, ensuring oversight through annual reports, and enforcing penalties.

The study established that the FIA charges the information holder with the responsibility of creating, keeping, organising, and maintaining information in the interest of public accountability and for the exercise or protection of somone’s right. Zimbabwe public entities, like all public entities around the world, generate a large volume of records on a daily basis. FOI law recognises the state as a repository of information that can be used to improve people's lives (Darch & Underwood 2010). These records should be well-organised so that they are easily accessible when needed. According to Mojapelo (2017) and Mojapelo (2020), records management is not viewed as an important component of FOI, which is one of the reasons why FOI is collapsing in most countries due to poor recordkeeping. Public officials must understand that in order to be efficient and easy to retrieve, information must be organised using appropriate principles and guidelines. In a study to investigate how records management in the Eastern and Southern African Branch of the International Council on Archives (ESARBICA) can be used for the benefit of the enactment of FOI legislation, Khumalo and Baloyi (2019) conclude that FOI legislation in ESARBICA can benefit from records management if the following factors are considered: appointment of qualified personnel, implementation of upgrading of e-records management systems, allocation of adequate resources and political will to support records management. As a result, it may not be sufficient for the FIA to simply that the responsible person must create, keep, organise, and maintain records. These gaps in legislation may render the legislation ineffective or provide an excuse for those in political office to withhold information. It would have been reasonable to expect the Act to require that

records be created, kept, organised, and maintained in accordance with the approved systems and procedures.

Zimbabwe, like any other country in the world, has a National Archival Institution in charge of supervising the creation, use, maintenance, and disposal of public records (Mutsagondo & Chaterera 2014). As a result, Mojapelo (2020) contends that there is a need for organisations charged with monitoring FOI to collaborate with organisations charged with monitoring records management in the public sector. Without making it a requirement, public entities may refuse to make the information available. According to Chaterera (2016a), an obligation to publish information is an important component of transparency because it can lead to the development of a responsible government committed to improving its processes and implementing sound policies that seek to improve the lives of its citizens. As previously stated, the provision of information disclosure is also a commitment by the government to make information available to citizens; however, such clauses should be supported by sound and properly constructed regulations to guide policymakers. Grimmelikhujsen, John, Meijer and Worthy (2018) discovered that FOI makes a significant contribution to increasing transparency.

As previously stated, public education and measures to combat a culture of secrecy are two critical components of open government. According to Article 19 (2016), public entities must educate everyone involved in the information cycle and implement measures to ensure that a culture of secrecy is eradicated. It serves no purpose to have FOI legislation in a government that is shrouded in secrecy. When a FOI legislation is approved by parliament, one might argue that it is a step toward eradicating a culture of secrecy; however, observation reveals that a culture of secrecy still exists in some countries with the legislation. Most importantly, the government's effort to empower the people through public education so that they are better able to use the legislation demonstrates a commitment to openness and transparency. Ordinary citizens may struggle to understand FOI legislation at times, necessitating continuous and consistent intervention from public officials through mass and public education. The extent to which members of the public use FOI legislation appropriately should be determined by their knowledge of the legislation. As a result, provisions for public education in FOI legislation are required for the benefit of information requesters.

According to the findings of the study, the FIA promotes public education. For example, Section 3 of the Act's objectives provides for public education to inform the public about their rights under the Act. Section 3 also states that public entities must provide the necessary assistance to members of the public who wish to exercise their right to access information.

The FIA makes no definitive statement or pronouncement regarding the combating of a secrecy culture. Legislation, regulation, or policy documentation can address a culture of secrecy. The practise can also demonstrate that a culture of secrecy has been adequately addressed. A practise in Zimbabwe appears to indicate that there is still a culture of secrecy in the country, as evidenced by the reluctance to approve the new FOI legislation. In countries struggling to ensure successful legislation implementation, a culture of secrecy is always at the top of the list. Chisaira (2019) concludes in a study to analyse access to information law for transparency and open governance in the wildlife sector that it is critical to eliminate a culture of secrecy regarding access to information on environmental justice and wildlife conservation as this will go a long way in retaining public trust in the space of worldlife conservation. There is an unfortunate assumption that a culture of secrecy is sometimes motivated by a desire to safeguard vital information (Apeloko 2021). When journalists and civil society organisations are denied access to critical information that has the potential to expose corruption, a culture of secrecy emerges (Apeloko 2021).

To improve access to information for all citizens, the study determined that the FIA requires information to be provided in the language of the requester's choice. If the entity does not have the information in the requester's preferred language, the entity from which the information is requested must translate the information; however, the costs of translating the information into the requester's preferred language must be borne by the requester. The goal is to prevent public entities from incurring financial losses as a result of translation costs. According to Van Gompel and Steyaert (2002), simply making information available is insufficient because language can render the information useless. Although it may be difficult in countries with many official languages, such as South Africa and Zimbabwe. Information can make a meaningful contribution to serving its purpose if it is presented in the language that the requester understands. South Africa, for example, has eleven (11) official languages, whereas Zimbabwe has sixteen (16) official languages.

The other aspect of implementation responsibilities is open meetings. Public bodies exist to serve the public interest. Zimbabwe, like every other country in the world, is subject to taxation. Members of the public have the right to know how their taxes are being spent in order to hold public officials accountable while also coming up with ideas to improve governance. While relevant documentation can provide information about how public funds are spent, properly scheduled meetings can provide more clarity. Public participation is still an important component of openness and transparency. Public participation can be strengthened through open public meetings. As Chikova and Chilunjika (2021) demonstrate, citizens' perspectives should be seen as making a significant contribution in all policy development areas, not just during elections. In a democratic country, public participation is critical to establishing trust. It could be argued that if there is nothing to hide, maintaining openness and transparency should be simple. Most importantly, allowing those who do not have the information to ask questions and make input on public service.

According to the open meeting principle, members of the public should be notified of a meeting in advance so that they can prepare and contribute meaningfully to the meeting. Meetings in this context refer to official gatherings of public entities. A notice of the meeting must also be accompanied by the relevant documentations that will assist members of the public in thoroughly preparing for the meeting. Some meetings are quite intense and require extensive preparation in order to fully participate. Despite the provisions for open meetings in Article 19 principles, the study found that the FIA lacks such a provision. It is possible that open meetings are addressed in other policy or legislative directives.

It is worth noting that the Zimbabwean Parliament adopted a proposal in 1999 to make Parliament proceedings open to the public (Makumbe 2005). This means that Parliament's and its committees' operations should be open to the public in order to inform and solicit public opinion on proposed changes and the implications of public policy. It is a common practise for countries to hold open meetings with no policy documentation to back it up. If the FOI legislation does not provide for open meetings, this does not necessarily mean that they do not occur. Alabama, in the United States, has open meeting legislation. The legislation is known as the Alabama Open Meetings Act (AOMA), and it allows the public to attend meetings of governing bodies, governmental agencies, boards, commissions, and institutions (USA 2005).

The Public Order and Security Act (POSA), which sought to prohibit public gatherings unless a seven-day notice was provided, is considered repressive legislation in Zimbabwe. This law went against the spirit of public participation. POSA was one of the laws that was expected to be repealed by the new FOI legislation due to its ability to stifle freedom of expression, but it has since been repealed by a new legislation known as the Maintenace of Peace and Order Act (MOPB). Ironically, many people still believe MOPB is as oppressive as POSA. POSA was actually used to shut down political rallies organised by opposition parties, according to Mututwa, Mututwa, and Ndlovu (2021). MOPB is one of the pieces of legislation in Zimbabwe that will make it nearly impossible for the country to achieve complete openness and transparency because the legislation contradicts what the FOI legislation intends to achieve.

The twenty-first century brings with it a number of expectations regarding information freedom. Members of the public must have access to audio and video streaming of government meetings, according to Freedominfo (2016). This will allow them to share the clips with friends, family, and colleagues after the meeting, allowing for debate and interpretation of what happened. FOI guarantees citizens access to information in any format or medium (Omotayo 2015). To some extent, FOI entails making meetings available for public participation. Stewart (2019) agrees that digital technology has advanced, making it easier for government to engage citizens through email, videoconferencing, online chatrooms, text messaging, and social media.

Closed meetings not only undermine public trust, but they also impede journalistic work. If open meetings are not held, journalists will be unable to attend meetings in order to ask questions aimed at holding the government accountable. In 1930, a group of journalists in Arkansas, United States, campaigned against closed meetings (Watkins 1984). According to Stewart (2019), open meetings and open records laws have been established in many countries. As part of the democratic process, public participation entails active participation in public meetings. According to the Open Budget Survey 2019, Zimbabwe's public participation rate is 33/100. As a result, it can be concluded that public participation in Zimbabwe is insufficient to spark debates about open meetings.

The final point is about protecting whistleblowers. Where FOI legislation exists, officials are afraid of being exposed, resulting in less corruption. People who disclose information in order to expose corruption, on the other hand, must be protected by FOI legislation. Individuals who

expose corruption or wrongdoing should be protected from any legal, administrative, or employment-related sanctions or harms, according to principle nine. Because they are accustomed to secrets being embedded in so many activities in public service, African countries are resistant to the idea of protecting whistleblowers. On a positive note, several African countries are gradually enacting legislation to protect whistleblowers. There have been few cases in Africa where those who sanction, harm, or victimise whistleblowers have felt the full force of the law.

The study discovered that the FIA does not protect whistleblowers. It appears that Zimbabwe lacks specific legislation or policy that protects whistleblowers; however, it is worth noting that section 14(2) of the Prevention of Corruption Act attempts to address this gap by making it an offence to threaten or deter someone from providing information about corrupt activities. Furthermore, the Government's economic policy document, National Development Strategy 1 (2021-2025), promises that "systems shall be put in place to protect whistleblowers who report corruption through the enactment of an Act of Parliament on the protection of whistleblowers" (Republic of Zimbabwe 2020). However, as promised by the National Development Strategy, no specific legislation has been enacted to date. In a country with a high rate of victimisation, such as Zimbabwe, there is a need for comprehensive legislation to protect whistleblowers, because what is found in some pieces of legislation is merely a piecemeal approach that does not help in addressing whistleblower victimisation. Article 19 (2016) agrees that enacting a comprehensive law that covers all key related aspects of criminal, civil, administrative, and labour law is the best approach. Before the information could be shared, the law should guarantee that those sharing it would be protected, as is the case in some countries. Since protection is not always possible, Article 19's principle on whistleblower protection states that there must be a provision for information disclosure to be done anonymously. In South Africa, just for an example, the government and some businesses have a hotline number that members of the public can call to report suspected corruption anonymously, and they are not required to share your personal information. According to reports, since the anti-corruption hotline was established in South Africa in 2004, it has been praised for its role in identifying and prosecuting approximately 3 655 people (Department of Government Communication and Information Systems 2018).

Zimbabwe is ranked 23 out of 100 on the Corruption Perception Index, indicating that corruption is widespread in the country. Countries with a high level of corruption are far less likely to make a concerted effort to protect whistleblowers. Whistleblowing is an important mechanism that countries use to encourage citizens to report instances of corruption. When corruption is suspected, citizens can use FOI legislation to request information about the suspected matter. Chiyangwa, Simbrisio, Nyoni and Nyoni (2020) lament the lack of effort in Zimbabwe to pass comprehensive legislation dealing with whistleblower protection because currently no one knows what should happen to whistleblowers after exposing corruption or maladministration in the public or private sector.

According to Chimbari (2017), whistleblowers in Zimbabwe are not legally protected, which is exacerbated by repressive laws such as the Official Secrets Act, which seeks to prevent public sector employees from disclosing some of the activities taking place in their respective organisations. Official secrets legislation is always a barrier to whistleblower protection in almost all countries with FOI legislation. The case of David Shalyler, a former MI5 Intelligent Officer in the UK who was charged and ultimately convicted under the Official Secrets Act for sharing state secrets with the guardian, is an example of how official secrets legislation can impede whistleblower protection (Mendel 2003b). Zimbabwe is a signatory to a number of regional and international frameworks and protocols that recognise the value of whistleblowing and the need for its protection (Transparency International Zimbabwe 2021). Zimbabwe, for example, is a signatory to the following frameworks: Southern African Development Community (SADC)'s Protocol against Corruption; the African Union Convention on Preventing and Combating Corruption; and the United Nations Convention Against Corruption (UNCAC) (Transparency International Zimbawe 2021; Matsheza, Kututwa and Chimhini 2004).

These frameworks lay the groundwork for countries to protect informants and witnesses in cases of corruption. For example, SADC's anti-corruption protocols state that there should be systems or measures in place to protect individuals who expose corruption in good faith. Similarly, the African Union Convention on Preventing and Combating Corruption requires member states to enact legislation aimed at protecting corruption informants and witnesses. One could argue that Zimbabwe does not comply with the aforementioned frameworks due to the lack of clear legislation on whistleblower protection. The country (Zimbabwe) also do not

conform to the principle of whistleblower protection enshrined in Article 19. Article 19 (2016) requires officials to be shielded from any form of sanction for disclosing corruption, unethical behaviour, or maladministration in good faith. These officials should be protected even if they disclosed information that is not subject to disclosure and was disclosed in good faith.

5.2.2.2 Information disclosure

The current section addresses four principles: maximum disclosure, obligation to obligation, limited scope of exception, and disclosure takes precedence. According to Sharma and Bhadauria (2017), the principle of maximum disclosure encapsulates the fundamental reasons for the FOI legislation. The roots of maximum disclosure are usually found in the Constitution. Section 62 of the Zimbabwe's 2013 Constitution grants citizens, permanent residents, legal persons, and the media access to any information held by the state or any institution. The information should be disclosed if it is required for the sake of public accountability, the protection of rights, or the information is about the requester. Furthermore, the 2013 Constitution states that national legislation should be enacted to give effect to the constitutional rights of access to information; however, the Constitution also states that restrictions on access to information may be imposed in the interest of defence, public security, or professional confidentiality. The FIA reaffirms the aforementioned constitutional obligations; however, the Constitution itself fails to recognise the fundamental principle of maximum disclosure in the sense that it establishes a precedent that information should be accessed if there is an element of need. The principle of maximum disclosure does not require people to justify why they need the information.

According to the FIA, if the requestors are unable to demonstrate that the information is required for public accountability or for the protection of someone's rights, the information may be withheld. According to Article 19 (2016), the information holder, not the requestor, is expected to justify why the information could not be disclosed. The requirement that information requesters justify their requests would give information holders more leeway to deny access to information even when the refusal is completely unreasonable. The principle of maximum disclosure asserts that information belongs to the people and that those people cannot be forced to justify why they need access to their information. The principle of maximum disclosure, according to Bharti (2018), requires public bodies and authorities to disclose

information about acts, policies, procedures, plans, and strategic documents with the common understanding that members of the public have a legitimate right to know.

The disclosure policy provision in the FIA supports the principle of maximum disclosure. The policy has the potential to make a significant contribution to reducing any form of victimisation for individuals who disclose information that may implicate political leaders. Several international organisations, including the World Health Organization and the United Nations, have information disclosure policies that they use to reaffirm to member states their commitment to ensuring transparency and openness within the organisation. One of the criteria for joining OGP is a commitment to information disclosure, which Zimbabwe currently does not meet. The new FOI legislation is expected to improve the country's eligibility to join the OGP.

The study also discovered that the FIA's grounds for refusal are broadening the scope for refusal. The reasons for exceptions as provided by the FIA were listed in Chapter Four. The list clearly shows that the FIA's grounds for refusing access to information are far too broad, contradicting the principle of maximum disclosure. According to the principles of maximum disclosure, the scope of exceptions must be limited in order to avoid abuse by information holders. Some of the information covered by the scope of the exception may be required to empower citizens. For example, the government may have a public interest in disclosing information about the operations of public entities. According to the FIA, information about the operations of public entities is among the information that is not required to be disclosed.

The FIA does not provide for sanctions for deliberate obstruction and deletion of information; however, the Freedom of Information Regulations state that anyone who unlawfully alters or defaces, blocks and erases, destroys or conceals information with the intent of preventing its disclosure is liable to a fine of up to level 6 or imprisonment for up to one year if found guilty. It is critical to read the FIA alongside the regulation because some important information may not be covered in the legislation. Unlike the legislation, the regulations provide the most recent developments as they are reviewed by the relevant ministry on a regular basis. Sanctions, according to Article 19 (2016), are necessary to restore respect for the right to information. The sanctions outline how to discipline anyone who refuses to provide the requested information.

The second aspect of information disclosure is concerned with the principle of the obligation to publish. The principle of the obligation to publish seeks to maintain the balance between information demand and supply. It would be extremely difficult to ensure full FOI implementation if public officials were not required to publish the information. Principle two recognises the role of public officials in the FOI value chain. Public bodies are encouraged to publish information without waiting for a formal request under these principles. This means that a group effort should be made to identify some of the information that could be shared with the public without the need for a formal request.

As previously stated, some members of the public do not believe requests for information under FOI legislation will result in positive outcomes, especially given previous experiences in which requests were simply turned down unreasonably or ignored. To achieve public participation, public bodies must make a significant effort to demonstrate their commitment to openness and transparency. Indeed, IBE (2021) may be correct in suggesting that the government should take reasonable steps to encourage public entities to disclose and provide access to public information that can benefit society in terms of transparency and accountability.

Obligation to publish may be difficult for Zimbabwe to meet because the country is unable to publish even basic information such as annual reports, strategic plans, operational plans, and other related documents. The researcher was unable to obtain these documents from public entities' websites. This would imply that Zimbabwe does not meet the fundamental requirements of the duty to publish principle. It could be argued that in order to gain access to these records, you must first go through a formal process, which may take some time before a final decision is made. Publishing information on the website is an effective strategy for directing requesters to the internet before they submit formal requests.

The study further established that the FIA is not clear in terms of what categories of records to be published proactively rather than waiting for a formal information request. As previously stated, Article 19 (2016) provides guidance on some of the types of records that must be published on a regular basis. However, the FIA does not routinely make any determination on specific category to be published routinely. Section 5 of the Act requires public entities, public commercial entities, or holders of statutory office to have a written information disclosure policy that will be used as a guide for disclosing information in the interest of public

accountability or when exercising a right. The problem with Section 5 of the Act is that it does not specify whether some information should be disclosed automatically without the need for a formal information request. The information disclosure policy may be available, but if no provision is made for which categories of records should be disclosed automatically, the FIA will be in violation of Article 19's duty to publish principle. As things stand, it is unclear what the content of the information disclosure policy will be. Section 5 of the FIA would be more effective if combined with extensive training for public officials, who are frequently viewed as gatekeepers to the realisation of free access to public information.

The FIA regulations address the issue of obligation to publish. For example, the FIA regulations places an obligation on public entities or commercial entities to proactively publish information about the following: description of its functions; a list of departments and agencies and what each department is doing; addresses; operating hours; records held in the departments; and the type of service rendered by the entity. The aforementioned categories of records, as specified by the FIA regulation, are necessary for members of the public to understand how public entities operate. One argument is that before making a formal information request, one should have preliminary information about how a public entity operates. This will most likely save time because the necessary information will be obtained from the relevant public entity. In terms of transparency and openness, proactive publication would go a long way toward restoring public trust. Obligation to publish benefits not only requesters but also public entities by reducing bureaucratic costs while attempting to meet all necessary obligations (Neuman and Excell 2006). If a large amount of information is automatically published online, the number of information requests that the entity is supposed to deal with on a daily basis will be reduced. In the absence of such an obligation in the legislation or regulation, public entities do not feel compelled to proactively publish the information.

The third aspect under information disclosure deals with the limited scope of exception. As previously stated, there will always be limitations to human rights, including the right to information. There may be compelling reasons for public officials not to disclose certain categories of information in some cases. According to Principle 4, such exceptions must be clearly and narrowly defined, and must be subject to strict harm and public interest tests. Exceptions are occasionally covered by legislation other than FOI legislation (Mendel 2015). Under principle four, there are strict three-part tests to be met in order to justify the refusal of

information and they are as follows: letigitame aim justifying exception; refusal must meet substantial harm test; overriding of public interest. These elements were discussed in detail in Chapter Four.

The study discovered that the FIA allows for a broad range of exceptions. Two parts of the legislation address the scope of exceptions. Section 6 of the Act, for example, provides for records that are not covered by the legislation, such as deliberations or functions of the cabinet and its committees; and information protected from disclosure in victims friendly courts. The argument in this case is, of course, that there is a need to ensure that there is no influence or interference in the operation of cabinets and courts of law. Second, section IV of the Act addresses grounds for refusal. Based on these two components of the legislation, it is clear that the Act's scope of exception is too broad and needs to be narrowed in order to be consistent with the Article 19 principle of limited scope of exception.

While the Act specifies the grounds for denying access to information, it is silent on the balance between harm and public interest. According to Article 19 (2016), the public interest should take precedence over potential harm caused by information disclosure. For example, if disclosing a third party's personal information will help the state combat social ills like corruption or wrongdoing, such information should be disclosed, with the public interest taking precedence over narrow goals. Interests such as national security, according to Mendel (2015), should also be considered. Some countries use national security as an excuse to refuse to give information to non-nationals. Although issues such as national security are complex and lack a universal definition (Mendel 2015). The legislation must protect the public interest while also ensuring that the release of the information causes no harm. The public interest provision is covered by FOI legislation in several countries, including South Africa, Nigeria, the United Kingdom, and Canada (Neuman & Excell 2006). Section 11 of Nigeria's FOI legislation, for example, states that no information should be withheld if the public interest in disclosing the information outweighs the harm that disclosure is likely to cause (Omotayo 2015). This means that before the information can be denied on the basis of grounds for refusal, it must first pass the public interest test.

The FIA was expected to bring about more progressive provisions to address some of the unreasonable provisions of the repealed AIPPA. For example, AIPPA required public bodies

to use public interest to justify the refusal to release information, which runs counter to Article 19's principle of limited scope of exception (Darch & Underwood 2010). What made AIPPA more difficult was that the Act did not provide a clear definition of what constitutes a public interest. Another problematic aspect of AIPPA was the provision for excluding a wide range of information from disclosure. The passage of the FIA was supposed to close these loopholes and clear up the confusion caused by the AIPPA. The FIA's provisions on the scope of exception are currently open to abuse by public officials. According to the Africa Model Law on Access to Information, public bodies can refuse access to information if it can be demonstrated that the release of the information would cause harm that outweighs the public interest. However, the FIA does not take this into account.

The final aspect under information disclosure deals with disclosure takes precedence. Any piece of legislation or policy documentation that discourages the disclosure of information should be repealed under FOI legislation. In some cases, this is legislation enacted before the country achieved democracy. To encourage information disclosure, officials should not face sanctions for disclosing information under FOI legislation. Mendel (2008) posits that almost all states have secrecy laws, which necessitates a mechanism to address this challenge in order to make freedom of information work. If the FOI Act does not provide for the repeal of other secrecy laws, the reality is that information disclosure will be subject to these secrecy laws because they still exist in terms of the law (Klaren 2002).

The study established that the FIA provides for the repealing of the widely criticised AIPPA. For example, section 41 of the Act states that AIPPA shall be repealed; however, all statutory instruments made under AIPPA shall remain in force as if they they had been made under the appropriate provision of the FIA. One of the FIA's goals is to repeal AIPPA [Chapter 10: 27] in order to strengthen Zimbabwe's protection of access to information rights. One might wonder why the legislation is not repealed along with all of the statutory instruments passed under the Act, because these instruments may not support a culture of transparency or may be inconsistent with the 2013 Constitution. In the presence of AIPPA, several academics and activists were of the view that Zimbabwe does not qualify to be counted among countries with FOI legislation because AIPPA advocates the polar opposite of what FOI legislation should advocate for.

Despite the fact that the FIA repealed the widely criticised AIPPA, a number of other laws are expected to be repealed alongside AIPPA. According to Mututwa, Mututwa, and Ndlovu (2020), the repeal of AIPPA was long overdue because it was supposed to occur immediately after Zimbabwe successfully drafted the 2013 Constitution. Political leaders have stated in their campaigns that if elected, they will repeal AIPPA, but evidence suggests that they have failed to deliver on their promises. Legislation such as the Public Order and Security Act (POSA) (now Maintenance of Peace and Order), the Official Secrets Act, and the Interception of Communications Act are undemocratic and should be reviewed to create a welcoming environment for information sharing. The POSA has been repealed by new legislation titled the Maintenance of Peace and Order Act (Act No 9 of 2019). These laws, according to Makaye and Dube (2013), are intended to discourage active public participation. It took many years for Zimbabwe to repeal other laws that were incompatible with the 2013 constitution; therefore, it is expected that it will take many years for Zimbabwe to repeal other secrecy laws.

According to Korte (2014), many countries enacted secrecy laws during Cold War as measures to curb espionage. As time passes, these laws become obsolete and must be revised. The context in which the secrecyc laws were passed is different to the current situation. In Zimbabwe, secrecy laws such as POSA were passed as a result of Law and Order Maintenance Act (LOMA) of 1960. LOMA was used by colonial masters to infringe people's freedom of expression, movement and association. The intention to pass POSA was to repeal LOMO, however, several commentators believe that POSA contains even more repressive provisions than the legislation it is intended to replace as previously stated. One can argue that the country is making one step forward and two steps backward in terms of disclosure takes precedence.

5.2.2.3 Information access

The current section covers two principles namely: process to facilitate access and costs. According to Article 19 (2016), the request for information should be processed speedily and fairly. To ensure fairness in the access to information process, public bodies must make it easier for requesters to submit information requests. If requesters are unhappy with the results of their requests, they must be able to file an appeal with an independent body to have the request reconsidered. This is done to ensure that the decision to deny access to information is made fairly and impartially. At times, the grounds for denying access to information can be

ambiguous, resulting in legal error or misinterpretation. Officials may refuse access to information for no apparent reason at times. To instil trust in the process, the access to information process must be subjected to an independent review. This section delves into two critical aspects of Principle 5, namely the process to facilitate access and the appeal mechanism. The study discovered that the FIA makes several provisions concerning the process of facilitating access and the appeal procedure, which were highlighted in Chapter Four.

The request for information should be submitted to the information officer, according to Section 7 of the Act. The FIA, in outlining the process to facilitate access, also includes timelines that information officers must follow when handling information requests. Timelines are required to ensure that requests are processed in a timely and equitable manner, as required by Article 19. (2016). Section 8 of the Act imposes on the information officer the responsibility of making a decision on the information request within twenty-one days of receiving it. The study discovered that information requests are handled differently depending on their importance. For example, under the Act, information needed to save someone's life is given a short deadline to ensure that it is given the priority that it deserves. According to the FIA, information needed to save or protect someone's life or liberty must be released within 48 hours. The FIA's timelines for releasing information required to protect someone's life or liberty are similar to those provided by Kenyan and Malawian law, which also requires the information to be released within 48 hours (Adeleke 2018).

By studying Section 8 of the FIA, one can argue that not all requests are treated equally in terms of waiting time. From an ethical and "spirit of Ubuntu" standpoint, this may be viewed as one of the FIA elements that emphasise that the legislation is somehow people-driven, which means that people's desperation and diverse information needs are treated in accordance with their level of significance. The FIA provision on information pertaining to the protection of someone's life is consistent with the Model Law on Access to Information for Africa (herewith referred to as Africa Model Law). Section 15(2) of the Africa Model Law on Access to Information states that if a request for information is deemed necessary to protect someone's life or liberty, such information should be provided within 48 hours of the request. With the recent Covid-19 pandemic outbreak, several countries were seen relaxing waiting periods and prioritising requests for health-related information. On the other hand, some countries have used the Covid-19 pandemic as a weapon to limit access to information, citing Covid-19-

related protocols such as observing social distance and restricting large gatherings (Richter 2021). Richter (2021) believes that during the Covid-19 pandemic, public entities must strive to maintain a balance between public health protection and freedom of information. "How can the balance be maintained?" is perhaps the question that anyone may ask. Maintaining a balance between two human rights that are expected to be protected at all costs can obviously be difficult.

The successful implementation of section 8 of the FIA requires the information officers who are committed to human rights. The FIA tries to emphasise that information officers must be reasonable in their handling of requests. Before making a decision, information officers must study the request and consult with all parties to ensure that all human rights, including the right to life, are protected. Several countries make the mistake of allowing for immediate disclosure of information while failing to impose the disclosure mandate on agencies accused of violating civil liberties (Roberts 2006). The FOI legislation should include strict time limits in accordance with the Article 19 principles. Section 8 of the FIA adheres to Article 19 Principles.

The FIA also allows for an extension if the requested information cannot be found within the time frame specified. One could argue that the Act's extension may lengthen the process because it adds time to the processing of requests. Others may argue that this will protect access to information rights by ensuring that the requested information is found and granted. Denying access to information because it could not be found would be counterproductive to the effort to achieve information freedom. Section 9 of the Act states that the information officer may request a 14-day extension; however, there must be a reason for the extension to avoid abuse from information officers. According to Section 9, the reasons may include a large amount of information that will interfere with the normal operation of the concerned entity, as well as if the request requires consultation that will take more than twenty-one days. If the requester is dissatisfied with the extension, the Act allows them to file an appeal with the ZMC. This means that the information officer must consult with the requester before deciding on an extension. The extension will give the information officer more time to find the needed information. Information requesters are more likely to refuse extensions if they lack confidence in the system itself. Other reasons that information requesters may refuse to give consent for extension include a desperate need to obtain the information they require to protect their rights. If the twenty-one-day period specified in section 8 and the fourteen-day period specified in

section 9 elapse before notices on the decision of the request could be provided, it could be assumed that the request is deemed refusal under section 10 of the Act. This means that if the information requester does not receive a response from the information officer within the timeframes specified in sections 8 and 9 of the Act, he or she may file an appeal with the Commission.

When records management systems are inadequate, a significant amount of time will be spent attempting to locate records, and a decision will be made later that the requested records are missing or do not exist at all, which may not necessarily be the case. Scholars including Chaterera (2016), Dewah (2018), Nengomasha and Chikomba (2018), and Dewah, Mpala and Huni (2020) have conducted research on the state of records management in Zimbabwe's public sector. According to the aforementioned scholars, records management is not prioritised in Zimbabwe, resulting in an insufficient infrastructure to support all types of records. If the information could not be located for a variety of reasons, the Act requires the information officer to notify the requester. It is necessary to notify the requesters so that they can make an informed decision about what should happen next.

The appeals are dealt with in the second stage of the process to facilitate access. Appeals may be filed with the ZMC under the FIA. In this case, the ZMC would act as an independent body reconsidering the requests denied by the information officer. The study established that FIA does not pronounce on the internal appeals. Internal appeals are necessary as they are handled by a more senior member of the entity, such as the Minister or Director General. According to Mendel (2008), internal appeals give the public entity the opportunity to reconsider its refusal to disclose and have the matter handled by a more senior official within the entity. The FIA is in conflict with Article 19 (2016) because it only allows for an appeal to the independent body, denying requesters the opportunity to exhaust all internal processes before approaching the independent body. According to Banisar (2021), only a few countries have internal appeal. Not all entities are subject to internal appeal in countries where there is internal appeal. For example, internal appeals are only available in government departments in South Africa, as previously stated.

Sections 36, 37, and 38 of the Act outline the appeals process. Section 36 addresses the procedure for filing an appeal with the ZMC; Section 37 addresses notice to and representation

by a third party; and Section 38 addresses the appeal decision. Every stage of the appeal has a deadline. For example, under Section 36 of the Act, an appeal must be filed within 30 days of the decision being appealed. Section 37(4) allows the third party to make a written representation to the Commission's Secretary within ten working days. In most cases, ten working days from the date of notice to the third party and representation by the third party is reasonable, as it encourages the information officer to act quickly on the request.

The study further established that there is a possibility for information requesters to be charged for lodging an appeal. Section 37(3), for example, states that an appeal must be accompanied by a prescribed fee (if any and if fee is payable). According to the Act, failure to pay an appeal fee will results in the appeal being sidelined until the fee is paid. Although the FIA has not stated whether an appeal fee will be charged, it is reasonable to assume that one will be charged. The regulations governing the Freedom of Information Act are also silent on the appeal fee. The appeal fee differs from the standard request or access fee, and some may argue that it has the potential to discourage requesters from filing an appeal.

The Act also allows for late appeals for valid reasons to be determined by the ZMC. The appeal process has been clearly explained in accordance with the Act, as required by Article 19. (2016). This provision is progressive in that it promotes human rights centeredness by demonstrating that people's right to appeal should not be denied solely because their appeal was submitted late. An appeal indicates that the requester is committed to obtaining the requested information. After how long an appeal is submitted should not necessarily be used against the requesters.

According to principle number five, the second layer of the appeal should be handled by independent bodies that are expected to be impartial. In this case, impartiality can be determined by the appeals process as well as the powers vested in the body. The appointment of the heads of the body is also significant in determining whether the incumbent can act without fear, favour, or prejudice. Most of these powers are derived from the Constitution, which is regarded as the supreme law of the land. Because FOI appeals in Zimbabwe are handled by the ZMC, it is important to determine whether the body is sufficiently independent to provide the appellant with fair and sound recourse. The ZMC was established in accordance with Section 284 of the Zimbabwean Constitution. The Chairperson of the Commission is

appointed by the President in consultation with the Committee on Standing Rules and Order, according to the Zimbabwean Constitution. The fifth principle states that the appointment of the head of an independent body should be made by representative bodies, such as an all-party parliamentary committee, and that the process should be open to the public.

The court of law is another crucial component of the appeals process. FOI should allow for appeals to be heard in a court of law if the appellant is dissatisfied with the decision of the independent body (the Commission in the case of Zimbabwe). The study discovered that the FIA does not provide for appeals to be taken to a court of law; however, this does not prevent anyone from seeking recourse in court. It would have been preferable if the Act provided for requesters to file a court appeal against the independent body's decision. Unlike any other body, citizens trust courts because they are only subject to the constitution and the law.

The other aspect of information access concerns costs. Costs should not be the reason why people do not make FOI legislation requests. When setting prices for requests and access, there must always be an effort to be reasonable. It would be a contradiction for a country to promote open government while charging members of the public a high price for access to the same records that are expected to be made available freely. According to Roberts (2000), three ways in which FOI can be weakened (based on Canadian experience) are as follows: reduction of "necessary spending (spending not directly related to the production of service)," transfer of government functions to private contractors, and government attempts to sell information. According to Roberts (2000), FOI administration necessitates a budget, which should be borne by the government because failure to do so renders the freedom of information ineffective. If the government fails to absorb the costs of freedom of information, the requesters will have to dig deeper into their pockets to cover the costs.

The study established that the FIA makes provisions for the costs. The FIA has the advantage of not charging applicants a request fee, which allows it to comply with the requirements of the Article 19 Principle on costs. Article 19 (2016) states that public bodies are not permitted to charge any fee for requests. The access fee is the only fee that can be charged, and it should be reasonable. Section 17(1) of the FIA states that applicants should be notified of any fee (if any) for access to information before the request is processed further. The Act requires that no information be provided if the required fee has not been paid by the applicant. According to

the Act, if the search takes longer than expected, the information holder may request that the applicant pay an additional fee. Additional fees may be unreasonable at times because the search may take longer due to poor information management systems within the public body. The applicants should not be penalised for the public body's poor systems.

According to the Act, the prescribed fee may cover the following costs: copies, time, translation, and inspection. It is worth noting that the Minister of Information, Publicity, and Communications has the authority to waive the fee for anyone or any category of records. As previously stated, the minister and the ZMC share responsibility for the regulation of freedom of information in Zimbabwe. Article 19 (2016) includes a fee waiver, which is thought to be an effective strategy for encouraging citizens to file more information requests. The researcher addressed the disadvantage of fees in Chapter Two, pointing out how the fees can discourage people from filing requests. Since it is widely assumed that information belongs to the people, it would be more reasonable for the same people to gain access without paying a dime. There is another belief that providing access to information may impose a financial burden on the information holder, and thus the applicants must bear the costs. In any case, the costs must be kept as low as possible so that members of the public see them as a means to keep public offices running rather than a strategy devised by public officials to keep their cards close to their chests.

The provision for the minister to waive the fee indicates that the government does not intend to use the fees to discourage requests for information. According to Mendel (2008), there is no problem with access fees because they are an internationally accepted practice; however, a legislative provision for a fee waiver should be included as it has been identified as one of the means to encourage requests. Fee waivers are typically linked to requests for public interest. In the context of Zimbabwe, Mututwa, Mututwa and Ndlovu (2021) argue that the fee may be deterrent to applicants because it will make it difficult for journalists and individuals in financial hardship to benefit from FOI law. In a country like Zimbabwe, where the socioeconomic situation deteriorates on a regular basis, access fees may deny a large segment of the population access to information.

5.3 Policy instruments and processes for the implementation of FOI legislation

A good piece of legislation without supporting policies and procedures is futile. There are two kinds of policies: national policies and organisational policies. These policies are essential for the implementation of FOI legislation; however, the current study focuses solely on organisational policy. An organisation's commitment to FOI implementation can be seen in the adoption of various policies aimed at embracing transparency within the organisation. The adoption of FOI-related policies demonstrates that an organisation supports FOI legislation. In light of this, it is critical for organisations to not only rely on FOI legislation, but also to have policies in place that instruct employees on how to successfully implement the legislation.

5.3.1 Policy instruments

In a paper to explore the theory and practice of open data in comparison to FOI legislation, Noveck (2017) argues that FOI has its limitations because the legislation is more focused on litigation rather than participation. Ideally, FOI legislation gives members of the public legal standing to claim their rights, but it lacks mechanisms to encourage public participation by shifting the relationship between the state and ordinary citizens from monitorial to collaborative (Noveck 2017). In contrast to open data, the ability to share information through FOI legislation is contingent on the willingness of the authority, and in cases where the information is unreasonably denied, requesters can file an appeal or even approach a court of law for recourse (Zuffoba 2020). For these reasons, policies covering the entire spectrum of information access are required to enable efficient openness and transparency. Policies are very clear because they provide concrete steps on what needs to be done to comply with the relevant legislation.

Relevant policies, such as records management policies, disclosure policies, and any other policies promoting openness and transparency, can help to support FOI implementation. A disclosure policy in an organisation demonstrates the organization's willingness to open up information for public consumption. Several organisations are unable to comply with the FOI because they lack the necessary policies. According to Dominy (2017), a lack of synergy between legislation such as the PAIA and the NARSSA Act has a negative impact on

constructive policy development because it adds to the existing confusion among public officials.

In 2020/21 PAIA annual report, the SAHRC listed the absence of policies pertinent to the implementation of the PAIA as one of the challenges hindering the successful implementation of the Act. Consultation with some of the government institutions revealed that there is no records management policy in place to ensure proper and sound recordkeeping (SAHRC 2020/21). It is clear that public officials rely on PAIA manuals to render access to information services as there are no policies in place. Similarly, it appears that no effort is being made in Zimbabwe to develop policies in accordance with the FIA. Policies are, by definition, authoritative. Based on the findings, it is clear that neither public nor private entities see a link between policies and FOI legislation, as policy development remains relatively low and shows no signs of improvement. Unlike in South Africa, it gets worse in Zimbabwe because the FIA mandates disclosure through its provision on information disclosure policy. The PAIA of South Africa does not make policy pronouncements, but the SAHRC recognises the importance of policies in driving the implementation of FOI legislation. Some of the policies that organisations can create may cover aspects of open data that are required to supplement FOI legislation. Open data policies require public officials to share data across multiple platforms for the benefit of the general public, without having to wait for information requests.

Clear policies and procedures can help to resolve the conflicting values of protecting personal information and promoting access to information. Ngoepe (2021) outlines some of the conflicting values of privacy protection and freedom of access to information that can be addressed by organisational policies to avoid organisational confusion. The findings indicate that the SAHRC's compliance assessment tool considers policies to be a critical component of FOI compliance. This would imply that organisations must develop policies in order to meet the requirements of FOI legislation. The willingness to implement policies is the most important aspect because passing good policies without implementing them is pointless. Participants alluded to the importance of policies in outlining roles and responsibilities for government officials, particularly information officers and DIOs.

FOI only provides for legal standing on the rights of access to information but it does not provide a detailed information on the role and responsibilities for government officials to

enforce the legislation. A clear description of the roles and responsibilities will ensure that the processing of requests is handled thoroughly. Ideally, FOI legislation requires the information holder to disclose the information; however, the results show that in the absence of such a requirement, the information holder will not feel obligated to disclose the requested information. The findings also show that the organisation's position regarding information disclosure can be confirmed through policies.

When policies and procedures are clearly defined, information requests are processed more efficiently. Organisational policies fill some of the gaps in legislation that may exist. The legislation's provisions may be overly broad, requiring each organisation to localise the provisions for successful implementation. The FOI regulatory bodies encourage organisations to put in place policies that can be used to hold public officials accountable. According to the literature, reasonable policies and practises can promote organisational transparency; however, many organisations adopt privacy policies rather than information disclosure policies. This could be related to participants' belief that public officials have a role to play in protecting public records. It appears that privacy protection is more important than information disclosure. Policies can be used to establish specific guidelines for when and what information should be disclosed.

In general, policies outline a plan of action for monitoring the actions of personnel within organisations. There is a need for proper documentation in the form of policy to ensure that FOI legislation integrates with organisational strategies. Despite all of the benefits of policy documentation, the study discovered that government entities in South Africa and Zimbabwe are making no effort to develop FOI policies. This would imply that government officials do not see the need for policies, as the study discovered that they rely more on legislation. The study also discovered a lack of synergy between relevant legislation, such as archival legislation and FOI legislation, which has a negative impact on policy development. According to Freedominfo (2015), one of the barriers to transparency is the resistance and secrecy culture, as well as bureaucratic policies that aim to make access to requested information more difficult. The fact that government institutions are not developing policies to support FOI legislation indicates a lack of desire to address government confusion and bureaucracy.

5.3.2 Legislative alignment

When FOI legislation is passed, it is expected that an effort will be made to repeal the policies or legislative prescripts in order to ensure some form of alignment and avoid confusion. In some cases, policies or legislation would be reviewed to ensure that there are no contradictions in the legislation. South Africa and Zimbabwe, like any other country, still have laws that restrict people's access to information, and such laws must be reviewed to ensure alignment with the FOI legislation. According to the study, both countries are not doing enough to repeal some secrecy laws in order to ensure easy access to information. South Africa, for example, retains secrecy legislation such as the Protection of Information Act. The PAIA is supposed to make a pronouncement on the repeal of such legislation, but that is not the case because the Act is silent on the subject.

The study also established that legislation that supplements one another must be used in tandem. South Africa's PAIA and PAJA, for example, are closely related and can be used in tandem to achieve information freedom. PAIA deals with the right to access information, whereas PAJA deals with the right to be informed about administrative action taken against someone. Both pieces of legislation discuss the right to obtain information in order to protect one's rights. Mojapelo (2020) and Dominy (2017) both emphasised the importance of legislative alignment in enabling more collaboration between institutions performing similar functions. For example, the realisation of the right to information is dependent on the state of records management; thus, it is critical for the IRSA or the ZMC to collaborate with the National Archives to ensure that systems to promote access to information are put in place.

When the South African Parliament attempted to pass the Protection of State Information Bill (also known as the secrecy bill) in 2011, it demonstrated a lack of commitment to legislative alignment. Those in favour of the bill stated that it was intended to supplement the PAIA's implementation. The PAIA advocates for information disclosure, whereas the secrecy bill advocates for information non-disclosure, so they are not the same thing. On the other hand, the fact that the President did not sign the bill into law may indicate that South Africa is unwilling to pass another secrecy law.

In the case of Zimbabwe, it was discovered that legislation such as the Official Secrets Act, Cybersecurity Act, and other related laws infringe on the right to information. These laws have the potential to complicate the implementation of FOI legislation. Participants emphasised that public officials may occasionally cite some of these laws to justify why the information could not be disclosed. Furthermore, in Zimbabwe, as in South Africa, any piece of legislation must pass the constitutional test. This means that all legislation must be in accordance with the Constitution, and those that are not are declared invalid.

5.4 FOI legislation implementation model

The researcher wanted to understand the FOI implementation model from the perspective of participants. Article 19's principles also serve as a foundation for developing legislation and policies that promote openness and transparency. The principles are guided by international and regional law and standards. The principles lay the groundwork for outlining best practises in FOI legislation (Article 19 2012). Furthermore, the Africa Model on Access to Information lays the groundwork for important aspects to be considered when implementing FOI. The researcher examined four components of the FOI implementation model: regulatory body independence; turnaround time of information requests and fee structure; DIOs and relevant skills; and enforcement by judges or magistrates.

5.4.1 Independence of the regulatory body

The Africa Model on Access to Information emphasised the independence and autonomy of the FOI regulatory body; however, independence and autonomy may be in writing and not translated into day-to-day operations of the organisation. The experts were tasked with making their own decisions based on how they understand independence versus how organisations function. The independence of the oversight mechanism was spelled out in part four (particularly Division 2) of the Africa Model on Access to Information. Section 53(3) of the Africa Model on Access to Information states that the oversight mechanism must develop its own rules, procedures, and code of conduct to govern its operations. In the case of South Africa, all participants agree that the establishment of the IRSA was a positive step.

The study discovered that while the regulatory bodies for FOI in South Africa and Zimbabwe meet the legal independent criteria, the two organisations fall short on some practise independence criteria. While participants from South Africa agree that the function and appointment of the Information Commissioner is an important component of independence, they are dissatisfied with the funding model, which they believe may jeopardise independence in the long run. According to the POPIA, the President appoints the chairperson of the IRSA on the recommendation of a parliamentary committee comprised of all party representatives in the National Assembly.

Parliamentary proceedings in South Africa are transparent because they are broadcasted on national television. Furthermore, interviews for high-level government positions, such as IRSA, are made public. The appointment of the IRSA for South Africa is in accordance with the Africa Model on Access to Information. For example, the model suggests that the appointment be made public, as was the case with the appointment of South Africa's Information Commissioner. When it comes to the funding model for regulatory bodies, the Article 19 principles and the Africa Model are deafeningly silent.

When analysing the oversight body's independence, it is critical to consider not only the independence in terms of law, but also the independence in practise or operational terms. The study discovered that, while it is still too early to judge, the IRSA is already showing positive results while the ZMC is showing some negative results. Participants believe that the IRSA can learn more from the SAHRC about how to operate independently of any state arm. According to Staunton, Adams, Anderson, Croxton, Kamuya, Munene and Swanepoel (2020), POPIA has transferred oversight of the PAIA from the SAHRC to the newly established IRSA. SAHRC's FOI operation was never interfered with, and cases were handled without fear, favour, or prejudice. Despite the fact that the Commission has always complained about a lack of resources to carry out its mandate. According to Holsen and Pasquier (2012), a lack of resources (both financial and human) can have a negative impact on the oversight body's independence and impartiality.

For the appointment of Information Commissioners, Zimbabwe follows the same procedure as South Africa. Members of the Zimbabwe Media Commission (ZMC) are appointed by the President from a list provided by a parliamentary committee, according to the Zimbabwe Media

Commission Act (Act No 9 of 2020). According to Article 19 (2016), the appointment of the Information Commissioner should be made by a parliamentary committee comprised of representatives from all political parties. According to the study, the appointment of ZMC commissioners follows a fairly transparent process that includes a press advertisement, shortlisting, and interviews by a parliamentary committee. Zimbabwe's parliamentary proceedings are broadcasted live on national television. This would imply that by appointing the Information Commissioners in public, ZMC would meet a significant portion of the independence requirement. The study discovered that, in practice, ZMC is subject to political influence, which has previously harmed its independence and autonomy. Since FOI legislation is new in Zimbabwe, the ZMC's independence would be evaluated on a regular basis. It remains to be seen whether ZMC will yield to political pressure in the monitoring and regulation of FOI legislation. Participants reported several instances in which members of the ruling ZANU-PF successfully influenced some of the decisions made by the country's independent commissions. Normally, a lack of resources attracts political influence. According to the Africa Model on Access to Information Law, oversight bodies should be given adequate funding to avoid external influence.

According to MISA (2019), the Zimbawe Media Commission Act is incompatible with the 2013 Constitution in terms of independence. Section 235 of the 2013 Constitution, for example, states that independent commissions are accountable to the government, but the Zimbabwe Media Commission Act appears to give the Ministry of Information, Publicity, and Broadcasting Service more power, stating that the commission cannot make substantive decisions without consulting the minister (MISA 2019). According to MISA (2019), the Zimbabwe Media Commission Act itself jeopardises the ZMC's independence and autonomy. The situation in Zimbabwe is the least similar to that of South Africa, as one could argue that the repeal of AIPPA, which resulted in the development of three separate pieces of legislation, can also be viewed as a transition period. It remains to be seen whether the ZMC will bow to political pressure on issues concerning information freedom. Participants believe that the Zimbabwe Human Rights Commission (ZHRC) would do a better job of overseeing FOI than the ZMC because the Constitution clearly states that the ZHRC is the organisation entrusted with the protection and promotion of human rights. As previously stated, access to information is a universally recognised human right.

As things currently stand, it is clear that ZMC is conflicted because the organisation regulates the media while also regulating access to information. Having ZMC as the FOI regulatory body creates the impression that access to information is always about media, which is not always the case. MISA (2020c) agrees that the ZHRC is properly positioned to handle freedom of information appeals. According MISA (2020c), access to information is still a human right, and the ZHRC deals with human rights issues, putting it in a better position to handle human rights complaints.

5.4.2 Turnaround time and fee structure

The study found that the turnaround time for processing requests in South Africa and Zimbabwe is excessively long. The turnaround time specified in the PAIA and the FIA may work against journalists or citizens who are under time constraints. Furthermore, vulnerable citizens may find it difficult to wait such a long time before gaining access to the records they require to protect their human rights. Article 19 (2016) requires that requests be processed quickly and in a short period of time. This means that requesters should be notified of the outcomes of their requests as soon as possible so that they can assess whether they are satisfied with the results. Participants acknowledge that other factors such as recordkeeping could have influenced the decision to impose a 30-day waiting period. The Africa Model on Access to Information Law stipulates a 21-day waiting period. Turnaround time would not be an issue if proper processes are in place to support information requests. The findings also revealed that the 30-day waiting period can be extended for another 30-days, bringing the total to 60 days, which is excessive. According to Dominy (2017), processing PAIA requests is time consuming and labour intensive. Perhaps the 60-day period is justified by the fact that determining whether or not to grant access to information takes a significant amount of time and skill because there are numerous factors to consider, and in some cases, legal experts are consulted to ensure that the right decisions are made.

Members of the public use FOI to protect their human rights. Waiting 60 days before your rights are protected would have a negative impact on the requesters of the information, causing them to lose trust in the legislation. According to the study, the most reasonable turnaround time is seven (7) working days, which is also applicable in other countries. One of the most important issues in terms of accelerating the processing of information requests, according to

Article 19 (2016), is the designation of responsible officers to assist information requesters. DIOs and information ifficers play an important role in ensuring that information requests are processed as quickly as possible. Despite the 60-day waiting period, the study found that DIOs are still struggling to meet deadlines. Even if the waiting period is reduced to seven (7) working days, it appears that the situation may worsen. DIOs training is critical to ensuring that they deliver as expected under the law.

The study discovered that when DIOs are properly trained, there are positive outcomes in terms of request processing. The reality is that processing information requests is time-consuming and requires a variety of skills, including legal, records management, customer service, interpersonal, and time management (Mojapelo 2020). Furthermore, the IRSA (2021) specifies that DIOs should have institutional knowledge. According to Sebina and Grand (2014), records management skills provide an incentive for the successful implementation of FOI law.

On the other hand, the FIA mandates a 21-day waiting period, which is consistent with the provisions of the Africa Model on Access to Information Law, but participants believe it is still excessive. According to the findings of the study, the FIA treats information differently depending on its importance. According to FIA, if the requested information is believed to have the potential to safequard someone's life or liberty, such information should be granted within 48 hours. This legislative provision is one of the most progressive provision as it highlights that there should be proper analysis when reviewing FOI requests. DIOs, as the FOI custodians, should be properly trained to determine whether the requested information qualifies to be regared as the information that will save someone's life or not. Although this might be against the the spirit of "maximum disclosure." According to Article 19's maximum disclosure principle, the requester is not required to provide a reason or explain why they want the information. The question is, how can government officials tell if the information has the potential to save someone's life if the requester does not justify the request? The findings show that Zimbabwe FOI legislation is against the principle of maximum disclosure.

The study found that the waiting period of 21 days can be extended by 14 days, and if no response is received after the extension, it can be assumed that the request is "deemed refusal." However, the Act does not specify how the deemed refusal should be handled in order to avoid abuse of the process from public officials. Appeals must be filed within 30 days of receiving

notification of the decision being appealed. This means the requester will have to wait for ZMC to finalise the appeal. According to the Media Alliance of Zimbabwe (2021), delays in processing requests render the requested information obsolete by the time it is released. Delays in processing information requests have the potential to undermine the FOI law's effectiveness (Adeleke 2018). According to Noveck (2017), FOI in practise focuses on granting access to the requested information, whereas open data focuses on publishing information for everyone to reuse. According to Article 19 Principles, FOI legislation should not only focus on the requested information. Public entities should make an effort to make information available for reuse by anyone without having to go through the formal route of information requests (Article 19 2015). Sharing information on a specific platform for public consumption will help to reduce the costs that information requesters would be required to pay when making formal requests.

In terms of fee structure, the study discovered that the fee structure in South Africa is fair but could be improved especially in relation to access fee, whereas the fee structure in Zimbabwe is unfair. The economic conditions in both countries have an impact on this. Participants believe that a fee structure is required for the government to gather resources to support FOI requests. The fees associated with FOI requests will also ensure that members of the public do not abuse the process. This would imply that FOI requests would only be made for vital information. Participants agree that while the fee may violate the principle of maximum disclosure, it is necessary to equip government entities to handle requests. What is troubling is the request fee, especially for South Africa, which is charged for submitting a request. According to the Africa Model Law, requesters should not be charged for submitting a request or for the time spent searching for information. According to Africa Model Law and Article 19 principles, the only fee that is required is the fee for the reproduction of the requested information. Charging a fee for a request is unfair because it is unknown whether the requested information will be granted or not. If the request for information is denied, the request fee must be refunded to the requester, according to PAIA.

The study discovered that the fee is disputable. Members of the public have the right under PAIA to appeal the fee decision to a court of law or even file an internal appeal. This would add to the requester's burden because it would require him or her to pay legal fees. Ordinary citizens who cannot afford legal fees would rely on internal appeals, and if the results are not favourable, the requester would be forced to pay the full amount charged. One participant

suggested that the fee be determined based on your economic status rather than fixed in order to encourage the poor to file information requests. According to the participant, the wealthy should pay higher fees than the poor. This will, however, entail a significant amount of administrative work for the information holder, potentially delaying the processing of information requests.

All participants for Zimbabwe agree that the fee structure is unreasonable and should be reconsidered in light of the country's economic situation. Participants believe that tax payers are already funding the public institution's existence. Participants believe that public information should be made available to citizens at no cost. Public officials are entrusted with the responsibility of managing information, but this does not imply that they own it. Participants understand the Africa Model's fee provisions, but they strongly believe that such fees should be eliminated as part of an effort to encourage all citizens to request information.

Portals that allow free access to information without going through the normal request route can help with cost-cutting measures. As previously stated, Zimbabwe does not meet the eligibility criteria for membership in the OGP, which is why open data initiatives such as an information sharing portal would be a futile task for the country, especially when led by people who do not believe in information sharing. ICTs provide numerous opportunities for citizens to engage in more cost-effective ways by accessing and disseminating information via the internet. The most significant issue with using ICTs to share public information in countries like South Africa and Zimbabwe is that it may exacerbate inequality because not everyone has access to ICT resources. Sehlapelo (2018) discovered in a study to investigate the theoretical underpinnings of the national ICT policies implemented by SADC countries that building an information society is an important agenda for SADC countries such as South Africa and Zimbabwe, but its achievement is dependent on human capacity, infrastructure and economic status.

In terms of the FIA, there are various fees that information requesters must pay. The FIA, for example, provides for the following: Fee for making copies; fee for the time spent searching for and preparing information; fee for translation. The fee for search time is inconsistent with the requirements of the Africa Model on Access to Information, which states that a requester should not be charged a fee for time spent by an information holder searching for the requested

information. While the FIA mandates that information be provided in the requester's preferred language, the Act mandates that such costs be carried by the requester. For example, under section 16(1) to (2) of the FIA, the information must be provided in the requester's preferred language, and if the entity does not have the information in the requester's preferred language, the entity concerned must make an effort to translate it and recover the costs from the requester. Although CSOs such as MISA (2020b) have expressed concern that this provision would discourage people from rural villages from requesting information, one could argue that translation services may be costly to the information holder, and that the costs should be borne by the requester. On the other hand, taxpayers fund the existence of public institutions, so they cannot afford to pay for public service when they pay taxes every month to sustain the public service.

5.4.3 DIOs and relevant skills

The study found that government officials, particularly DIOs, play an important role in FOI implementation. DIOs roles and responsibilities are typically outlined in FOI legislation. Policies and guidelines can also be used to define roles and responsibilities. DIOs enforce the implementation of the legislation by assisting requesters in filing information requests. The DIOs can be viewed as advisors because they provide advice to ensure that members of the public have access to information. The principles of Article 19 impose on public entities the obligation to publish information as well as the obligation to assist requesters. The presence of DIOs would ensure that this fundamental principle is followed. FOI legislation would be difficult and ineffective to implement without DIOs. As a result, the participants believe that failure on the part of the DIOs would bring the implementation of FOI legislation to a halt. People entrusted with the responsibility of ensuring full FOI implementation, such as DIOs, should be human rights champions who believe in all human rights concepts. It is critical for the DIO to place human rights protection at the top of his or her priority list.

Despite all of the good work that DIOs can do to ensure that legislation is fully implemented, the study found that neither country prioritises the appointment of DIOs. When DIOs are appointed, they do not have the support of the organisation's executive management. Senior government officials appear to be unappreciative of DIOs' efforts. This would imply that a significant amount of work would be required to obtain management buy-in on how the DIOs

would benefit the organisation. According to FIA, the study established information can only be requested in writing, which is in conflict with the Africa Model Law. Section 7(1), for example, requires the person requesting information to submit a written request. According to the Africa Model Law, information requests can be made orally, but the information officer must reduce the oral request to writing and provide the requester with a copy of the request.

According to the study, DIOs should have the following skills: legal, leadership, research, journalism, public relations, recordkeeping or records management, communication, and writing. The aforementioned skills are critical in ensuring that DIOs assist members of the public in realising their right to information. The implementation of FOI legislation necessitates legal expertise to interpret the law and ensure that no violations occur. According to the study, the role of DIOs is delegated to officials with legal backgrounds, which can be problematic because these individuals lack other skills such as records management. While participants agree that all of the aforementioned skills are required, they also recognise that one DIO may not have all of the skills because DIOs are experts in specific areas with specific academic qualifications. A DIO who is a Human Rights Lawyer, for example, may not have records management skills; similarly, a DIO who is a Record Specialist may not have legal skills. This would mean that on the job training is necessary for the purpose of equipping the DIOs to do their work properly.

The PAIA and FIA guarantee access to information rights to everyone, including people with disabilities or who are illiterate. The study determined that DIOs should be able to assist all requestors, including those with special needs. Although the FOI legislation may limit some of the DIOs' responsibilities. In Zimbabwe, for example, visually impaired requestors may wish to submit an oral request, but they may be denied because the legislation only accepts written submissions. People with disabilities do not appear to have or enjoy the same rights as other ordinary citizens. People with disabilities, like any other human being, should be able to exercise their political, social, economic, and human rights in a democratic society. The FOI legislation is expected to pronounce on the reasonable support required for people with disability. Mhiripiri and Midzi (2020) contend that in disasters such as the Covid-19 pandemic, people with disabilities are frequently vulnerable due to a lack of support from relevant stakeholders such as the government. The dissemination of information was critical in keeping people informed about measures to keep the spread of the virus to a minimum, but even

organisations such as the World Health Organization (WHO) would conduct the briefing without a sign language interpreter, demonstrating the WHO's lack of support for people with disabilities. There is a need for DIOs to be honest and to treat all requests fairly, regardless of who is requesting the information.

5.4.4 Judges or magistrates

Judges or magistrates play an important role in providing recourse for information requesters who believe that the information holders did not handle their requests appropriately. According to the SAHRC (2019/20), 185 court applications were filed as a result of internal appeals being denied by the South African Police Service (SAPS). Aside from policies and regulations, court decisions can provide guidance by influencing how the government handles future requests (Fink 2018). According to Brobbey, Excell, Kakuru and Tilley (2011), there are few cases that have been referred to courts in South Africa and Uganda. According to Brobbey, Excell, Kakuru and Tilley (2011), CSOs in South Africa have been very vocal about the redesign of the adjudication structure. Cases can be heard before the Magistrate's and High Courts under the PAIA. Through the adjudication of refused information requests, judges and magistrates are the last hope for assisting with the interpretation of the Act. A fully capacitated judiciary is required to handle access to information cases expeditiously.

It is unavoidable to use the courts to enforce PAIA and FIA. Courts are recognised as the third and most important layer of appeal as per the Article 19 (2016). As it usually happens, it is expected that FOI requests will be denied by the information holders. The crucial question is whether judges or magistrates hearing FOI cases are properly trained to enforce the law. As stated in Chapter Two, it appears that courts have become a battleground for FOI legislation. There is evidence of numerous freedom of information requests that had to be resolved in court because a specific entity was not ready to freely share the information without a court order. In some cases, the entity will appeal the court order all the way to the highest level of the court, which is the Constitutional Court.

Mriyoga (2011) advocated for the provision of jurisdiction for Magistrates Courts to handle PAIA matters by arguing that such will be a positive reform to bring access to information rights close to the poor. Access to Magistrates courts is less expensive than access to other

courts such as the High Court. According to the new Rules Board for Courts of Law in South Africa, PAIA cases can be heard at both the High Court and the Magistrate Court (South Africa 2019). If there is a magistrate who has received PAIA training, the cases can be heard at the Magistrate court. Litigation is an unavoidable part of the fight for a completely open society. One difficulty with litigation is that courts are not accessible to everyone, particularly the poor. Village Courts are used in developing countries such as Bangladesh to provide equal access to justice. Although, according to a study conducted by Bhuiyan, Islam and Salam (2019), judges of Bangladesh's Village Courts do not receive adequate training.

The study found that, while the PAIA requires Magistrates to be trained, they do not necessarily need specialised training to handle FOI cases. In terms of their understanding of the law, participants believe that judges are well respected in society. Furthermore, participants agree that the level of training that judges receive at Law School adequately prepared them to handle any case, including FOI cases. In contrast, the PAIA specifically states that Magistrates must attend PAIA training before they can handle PAIA cases. There is no evidence that such training was provided; however, several PAIA cases in South Africa were heard at High Court, which could be due to Magistrates' lack of training. For example, in a case heard at the High Court between the Centre for Applied Legal Studies and the Department of Justice and Correctional Service, the department failed to provide a notice on the decision of the request within 30 days, as required by the PAIA. In the aforementioned case, the Centre for Applied Legal Studies asked the court to declare the deemed refusal and internal appeal dismissal unlawful.

According to Adeleke and Adams (2019), the media industry has used the courts effectively to challenge access to information practices. When journalists are denied access to information, they usually go to court to argue that they need access to information in order to report accurately and properly. A responsible government will obviously encourages the media to report accurately and objectively. The Freedom of Information Act is a tool for ensuring that accurate information is obtained so that the media can report accurately and objectively.

Participants agree that judges have done well in handling FOI cases because they have ruled in favour of the applicants in several cases. Although it is not always the case that the applicants are satisfied with the court order, legal systems allow for an appeal. Participants agree that

training is important; however, this does not preclude judges or magistrates from hearing FOI cases if they have not received PAIA or FIA training. Such training is required for personal development and can be provided as a refresher course.

5.5 Factors stimulating the implementation of FOI legislation

In Chapter Two, numerous general factors that encourage the implementation of FOI legislation were discussed. The current section provides the interpretation on factors stimulating the implementation of FOI legislation from the participants' perspective.

5.5.1 Political will

In the context of the current study, political will refers to politicians' willingness to support the implementation of FOI. Support can be provided in a variety of ways, including making resources available, advocating for a specific policy direction, or putting pressure on fellow politicians to implement all sections of the legislation. According to the findings, there is selective implementation of FOI legislation, which means that public officials only implement a subset of the legislation. Polital will can assist in ensuring that the law is fully implemented in this case. Politicians in Zimbabwe and South Africa can be considered legislators because they represent their political parties in Parliament. In an ideal world, politicians should be able to provide maximum support for the legislation that they have recommended to the President for approval.

Ironically, the findings show that political will is insufficient in both countries. This could be due to the fact that FOI has the potential to expose wrongdoing, which could lead to investigations or commissions of inquiries, as well as possible sanctions or arrest. Against this backdrop, politicians believe that FOI legislation will be their ultimate downfall, affecting their support base. Political will is possible, but evidence suggests that it can be realised only in countries with good governance. One of the difficulties with political will is that it is not static and is subject to change over time. Furthermore, politicians' terms of office are limited, which has a negative impact on consistency in terms of political support. Political support should not be tied to a political term of office, but should be applied consistently and indefinitely. The only way to ensure continuous political will is to institutionalise political support in all entities.

Scholars like Khumalo and Baloyi (2019), Madubuike-Ekwe and Mbadugha (2018), Sebina and Grand (2014), and Calland and Bentley (2013) have all emphasised the importance of political will. According to Transparency International (2015), politicians should use their influence for the greater good rather than for personal gain. While there is no scale for measuring political will, Transparency International (2015) claims that the following characteristics can be used to assess political will: government initiatives; degree of analytical rigour; mobilisation effort; long-term public commitment; allocation of resources; application of credible sanction; learning and adaption.

Transparency initiatives in developing countries have been hampered by structural and political barriers. Lack of political will can always manifest in a country where a culture of secrecy is entrenched because, by definition, a culture of secrecy is a lack of acceptance for transparency. Participants agree that political will is essential for FOI legislation implementation, particularly because political leaders have significant influence in changing society's perspective. Recognising that politicians make decisions, participants believe that obtaining their support would mean securing resources for the implementation of FOI legislation. Perhaps political will can be more effective if FOI legislation requires political leaders to guarantee political support. The PAIA and FIA make no pronouncement on political support; however, the legislation states that public entities must ensure that there are no red tapes in place to discourage people from accessing information.

South Africa and Zimbabwe are both victims of what can best be categorised as the misappropriation of public funds. Politicians seek to amass wealth through the use of the public purse. According to Nyoni (2017), corruption can take the form of bribery, fraud, embezzlement, extortion, abuse of power, and nepotism or favouritism. In a study to evaluate the effects of FOI laws on perceived government corruption, Vadlamannati and Cooray (2017) found that FOI legislation has made a significant contribution in detecting corruption activities in government. Tinarwo, Mzizi, and Zimano (2019) add that corruption can be categorised into the following: systemic, political, grand, or petty. The passage of FOI is expected to combat corruption, as Adu (2018) predicted. As Berliner, Ingrams and Piotrowski (2018) put it, FOI legislation aims to reduce corruption by strengthening accountability mechanisms and enforcing public scrutiny. According to Adu (2018), simply giving citizens access to information will not reduce corruption if the conditions for accountability and public scrutiny

are weak. Due to political influence, evidence suggests that the legislation has not made a significant contribution to combating corruption in Africa. Escaleras, Lin and Register (2010), for example, used 128 countries as a sample to investigate the relationship between FOI legislation and corruption. The study found that there is no significant relationship bwteeen FOI and corruption in developed countries. Tavares (2007), on the other hand, claims that countries with FOI legislation see a significant improvement in combating corruption. When FOI legislation is in place, public officials are less likely to abuse public funds because they are aware that their actions could be exposed through the use of FOI legislation. According to Nkwe and Ngoepe (2021), poor implementation of FOI legislation can lead to impunity for corruption.

The greatest challenge is that politicians are in charge of the government entities. For example, the premier of the province is the chairperson of the ruling party in that province. On the other hand, the ministers of government departments are members of the ruling party's National Executive Committee (NEC). These indivisuals are the executive authority for their respective entities by default. If these individuals are unwilling to provide support for the implementation of FOI legislation, there will always be challenges that will necessitate the intervention of Parliament. Parliament's role in South Africa and Zimbabwe is to pass laws, perform oversight, and hold the executive accountable. However, in most cases, Parliament fails to uphold its constitutional obligation to hold the executive accountable because it is made up of representatives from various political parties who are there to protect their political party interests.

Scholars such as Zirugo (2021) and Alfandika and Ukpojivi (2020) have questioned the state's attitude toward freedom of expression. According to Zirugo (2021), despite the fact that the press is the vehicle for freedom of expression, the country (Zimbabwe) appears to marginalise the press, limiting freedom of expression and, as a result, freedom to receive and disseminate information. On the other hand, Alfandika and Ukpojivi (2020) believe that Zimbabwe's media remains undemocratic, reversing the country's realisation of freedom of expression. Access to information is an important component of freedom of expression. For this, article 19 of the UDHR included freedom of information as part of the broader freedom of expression. According to Van der Berg (2017), the right to free expression directly promotes transparency, and the two together can make a significant contribution to detecting and exposing corruption.

Corruption in the public sector can be reduced if public officials are aware that citizens have constitutional rights to information. FOI promotes public control over public resources because there is little abuse of public resources where access to information is effective (Salau 2017).

In the case of Zimbabwe, there is a consensus that more pressure is needed on the government to promote openness. Adeleke (2018) agrees that the evidence suggests that successful FOI implementation in the majority of African countries occurred as a result of public pressure through the use of all relevant legal avenues. The biggest issue in Zimbabwe is that the media is not allowed to operate freely and without fear. Because they are the primary consumers or users of FOI legislation, the press and other civil society organisations can exert significant pressure on the government. This can only occur in a normal environment where they are free to operate. In Zimbabwe, the media is heavily regulated, making it difficult for media companies to challenge the government's FOI decisions.

Fear of the unknown sustains a culture of secrecy. Members of the public hold the information not for themselves but for the general public (Madubuike-Ekwe & Mbadugha 2018), which means that the legitimate owner can "demand" it at any time. The researcher uses the term "demand" to indicate that the government cannot refuse to provide access to records as required by FOI legislation. The reality is that when you request, there is a chance that your request will be rejected, but when you demand, there is a high likelihood that you will receive what you demand (it could be that you are the respective owner or you have the control of the outcomes).

The study also discovered that where there is political will, the custodians of FOI, which are the DIOs, do their work with confidence, without fear, favour, or prejudice. No one wants to step on the toes of political leaders, just like no other public official does. The willingness of politicians to accept transparency and openness will eventually trickle down to junior staff members, restoring trust among ordinary citizens. Politicians are naturally influential. As a result, one could argue that politicians have the ability to influence their constituents. To combat corruption, politicians must use their influence to promote the realisation of total transparency and complete openness. Furthermore, the study found that political will goes a long way toward reducing victimisation in the public sector. Victimisation occurs when there are no clear policies to back up the decisions. Participants believe that public officials sometimes lack the courage to disclose information as required by FOI legislation due to fear

of being victimised, particularly when the information has the potential to expose worse. Journalists may be able to expose corruption through FOI if they are given the freedom to do their work without political interference. Evidence suggests that intimidation and detention of journalists have diluted the role of journalists in Zimbabwe. Journalists are in charge of gathering, writing, and disseminating critical information (Okon & Ezike 2017). Although Ojo (2010) contends that the media industry in some countries has negatively impacted FOI campaigns by portraying access to information as being about the media, which is not always the case. FOI legislation have the potential to provide journalists with a legal basis to work without or with limited challenges.

When operating freely, media can be the institutions of "checks and balances" or "corruption watchdogs." Against this backdrop, it can be argued that opening up information for public access without opening up space for free press is a "paradox," as explained by Adu (2018). FOI has the potential to build or destroy the future of anyone who is found to have broken the law or broken his or her oath of office, not just politicians. This is why there is a lack of political will in the area of FOI. African countries are catching up in terms of passing FOI legislation, but they are still lagging in terms of ensuring that politicians are not left out. Several scholars, including Mojapelo (2020), Inokoba (2014), Madubuike-Ekwe and Mbadugha (2018), and Ojo (2010), have identified political will as one of the primary reasons why FOI in Africa is collapsing. According to Madubuike-Ekwe and Mbadugha (2018), a lack of political stems primarily from a fear that sharing too much information will expose government failure.

5.5.2 Resources

The study found that the implementation of FOI legislation necessitates a significant investment of resources. The issue of resources is linked to political will in the sense that political will results in adequate and sufficient resource allocation. One might argue that the passage of FOI legislation would be accompanied by adequate resource allocation for the relevant entities to implement; however, this is not always the case, as several countries with FOI legislation have complained about a lack of resources. For example, the SAHRC frequently complains about a lack of resources to ensure the successful implementation of legislation. According to Darch and Underwood (2005), public officials will sometimes hide behind resources, claiming that there are no resources to support information requests when in

fact resources are available. It is generally assumed that a lack of resources to put FOI legislation into effect would deprive citizens of their right to know.

According to the study, resources can be used for the following purposes: appointment of skilled personnel for DIO positions, training of government officials and members of the public, technology infrastructure, record reproduction, translation service, converting information into specific format, staff incentives, records management systems, and litigation. SAHRC (2020/21) cites a lack of resources for manual development and translation as one of the reasons for government departments' noncompliance. According to the IRSA (2021), the person appointed as the DIO should be given adequate time and resources to carry out his or her duties.

Meeting the demands of information requestors would necessitate a sufficient staff to handle information requests. According to the study, the government is not allocating enough resources for the implementation of FOI legislation for a variety of reasons. As a result, DIOs are unable to assist requesters. Low-level DIO appointments can also be attributed to a lack of resources. It is possible that government entities lack the resources to appoint or delegate specific individuals to handle information requests. Rather than appointing a specific person to handle the information request, they would make the DIO's role an addition to an already existing position. Nauman and Calland (2007) confirmed this. PAIA and FIA do not require public entities to appoint specific individuals to handle information requests; instead, the legislation allows for the assignment or delegation of such responsibility.

However, under the PAIA, the accounting officer of a particular entity automatically becomes the information officer. The benefit of appointing a specific person is that the incumbent will spend the majority of his or her time dealing with FOI issues. Furthermore, full-time DIOs will mobilise resources within the organisation. The study established that DIOs have no influence over budget allocation because they are junior members of staff who do not attend executive meetings. According to Nkwe's (2020) research, a lack of dedicated resources in the public sector has hampered the development of PAIA manuals. Nkwe (2020) also expressed concern that a lack of adequate resources would perpetuate noncompliance with the law.

Khumalo and Baloyi (2019) believe that the lack of clear electronic records management policies in Zimbabwe has a negative impact on accountability. Mojapelo (2020), on the other hand, discovered that South Africa's poor state of records management necessitates an immediate intervention of the IRSA as a pathway to strengthen accountability through promotion of access to information. Citizens in a democratic country entrust the government with the responsibility of governing. It is the government's responsibility to ensure equal distribution of services to all citizens while also accounting for every cent spent. Despite the fact that African countries lag behind in terms of e-Government adoption, they recognise that e-Government has the potential to improve accountability. According to Sebina and Grand (2015), FOI promotes e-Government, which strengthens mechanisms for accountability, transparency, and good governance. E-government creates an environment in which citizens see themselves as collaborators within the governance structure, with the responsibility of monitoring how government works so that resource abuse can be detected early on. It should be noted that e-Government necessitates significant resources. According to Tsabedze and Kalusopa (2018), "e-governance cannot be explained without mentioning ICT and e-records management."

SAHRC (2019/21) states that a lack of resources in the public sector for manual development and translation, which has a negative impact on compliance with the basic provisions of PAIA requires immediate intervention. This is despite the IRSA's (2021) assertion that those responsible for implementing PAIA should be given adequate time and resources to do so. It is clear that the IRSA recognises the importance of adequate resources for the successful implementation of FOI. Even Article 19 (2016) acknowledges that resources are required to achieve total open government. It can thus be argued that the lack of investment in resources to implement FOI in South Africa and Zimbabwe reflects a lack of willingness to grant people access to information. Participants agree that ICT platforms are required to ensure continuous and reliable access to information, particularly during a health crisis such as Covid-19. According to the World Bank (2022a), 68.2% of South Africans had access to internet in 2019 whereas only 25.1% of Zimbabweans had access to internet in in the same year (World Bank 2022b).

5.5.3 Strengthening the Non Governmental Organisations

Globally, the rights-based approach to NGOs appears to have worked well (Relly & Pakanati 2021). The NGOs have been extremely helpful in getting the relevant entities on board to implement FOI legislation; however, there has always been a question about how these NGOs can be strengthened to continue their good work. It appears that if NGOs are weakened, the challenges associated with FOI implementation will worsen. According to Vadlamannati and Cooray (2017), the presence of NGOs makes FOI more effective and meaningful. Many local, national, and international NGOs rely on donations and grants to survive. This is also true in South Africa and Zimbabwe, where the survival of NGOs is dependent on donor funds. Sometimes the funds available are insufficient to cover all planned projects.

The World Bank (1995) defines NGOs as an organisation independent from government that seeks to alleviate suffering, promote the interests of the poor, and carry out community development projects. According to Arhin, Kumi and Asams (2018), NGOs must have the following five key characteristics: NGOs should be formal and professional; they should not seek profit; they should be independent of government; they should be self-governing; and participation should be entirely voluntary. In South Africa and Zimbabwe, NGOs have been playing critical role in poverty alleviation, ensuring social justice, and advocating for citizens' socioeconomic rights. Although their work have been widely criticised by politicians who have made a variety of allegations against the existence of some of the NGOs. Aside from financial assistance, the government could do more to support the work of NGOs. As Shava (2019) points out, accountability and transparency in government would be difficult to achieve in the absence of NGOs.

The study established that the NGOs play an important role in the implementation of FOI legislation. Participants agree that NGOs must be given the freedom to carry out their missions free of political interference. The most difficult challenge for NGOs is that they usually try to please their donors in order to secure future funding. Participants believe that it is sometimes necessary for the government to accept and appreciate the work that NGOs do to promote compliance with FOI legislation. NGOs' work includes the creation of learning materials, workshops, advocacy, and public interest litigation. All of this necessitates sufficient funds,

which may be difficult to obtain without the assistance of donors because NGOs do not generate profit from their work. SAHA receives sponsorship and funding in South Africa from organisations such as the Foundation for Human Rights, the City of Ekurhuleni, the National Heritage Council, the National Lotteries Commission, and the Open Society Foundation. Organisations such as MISA, on the other hand, receive funds from members who pay a membership fee. The reality is that funds generated by members are not always sufficient.

Participants agree that government assistance is about more than just money. Participants agree that government funding may not be feasible in countries such as South Africa, where the government does not impose stricter restrictions on the formation of NGOs. There are numerous NGOs that serve various purposes and may require government funding. Anecdotal evidence suggests that when NGOs receive government funding, they tend to be weak and avoid doing work that may not be appreciated by the government. Furthermore, participants agree that collaboration between NGOs and democratic institutions can make a significant contribution to the implementation of FOI legislation.

Institutions established under Chapter Nine (South Africa) and Chapter Twelve (Zimbabwe) of the Constitution are independent institutions. According to the constitution, South Africa's chapter nine institutions are as follows: SAHRC, Public Protector, Auditor General of South Africa, Commission for Gender Equality, Commission for the Promotion and Protection of the Rights of Cultural, Religious, and Linguistic Communities, Independent Electoral Commission; For Zimbabwe, chapter twelve institutions as provided by the constitution are: The Zimbabwe Electoral Commission (ZEC); Zimbabwe Human Rights Commission (ZHRC); Zimbabwe Gender Commission (ZGC); Zimbabwe Media Commission (ZMC); and National Peace and Reconciliation Commission (NPRC). The following are the mandates of these democratic institutions as stated in their respective constitutions:

- Promote human rights and democracy.
- Protect the constitution.
- Promote accountability, transparency and good governance.
- Observe the state and other institutions' adherence to democratic values and principles.

Unlike in other developing countries, NGOs in South Africa operate freely, but government recognition is insufficient. In a study to investigate anti-NGO measures in Africa, Musila

(2019) includes Zimbabwe on a list of countries that attempted to restrict the establishment and operation of NGOs. The Zimbabwean government attempted to introduce the Non-Governmental Organization (NGO) bill, which was intended to be used to eliminate some human rights organisations (Human Rights Watch 2004). Without providing evidence, the government claimed that some NGOs are abusing western donors in order to support the opposition party (Human Rights Watch 2004).

5.5.4 Other factors

Aside from the aforementioned factors, there are others that may encourage the implementation of FOI. Participants agreed that the following factors can help to stimulate FOI legislation implementation: public interest litigation; involvement of civil society organisations; independent judiciary; a culture of transparency; public education; appreciation of human rights; legislative alignment; proper record-keeping; appointment of DIOs at senior management levels; making information disclosure mandatory; financial resources; imposing sanctions. All participants agree that these factors can encourage the passage of FOI legislation. Public interest litigation, for example, has been seen to be critical in the implementation of FOI legislation in South Africa and Zimbabwe. CSOs have been working very hard to litigate on behalf of citizens in order to promote the implementation of the legislation. As a result, one could argue that public interest litigation can be successful when presided over by an independent judiciary. South Africa and Zimbabwe follow the precedents doctrine, which states that a decision made by a higher court overturns a decision made by a lower court. In South Africa, for example, no other court would overturn the Supreme Court of Appeal's decision except the Constitutional Court. However, the independence of the judiciary in Zimbabwe and South Africa has recently come under scrutiny. For example, Zimbabwean Chief Justice Malaba issued a memorandum in 2020 requiring Zimbabwean judges to seek approval from superiors before passing judgement. Legal experts in the country have criticised the contents of the memorandums, claiming that such practice is unconstitutional. Similarly, in South Africa, the Constitutional Court was attacked for ruling in favour of President Cyril Ramaphosa, stating that he is not required to disclose his bank statement (affectionately known as the CR17 bank statement), which is thought to contain records of illegal payments to several public officials, including judges.

According to the findings of the study, sanctions are also required for the successful implementation of the FOI legislation. Banisar (2006) considers the provision of sanctions to be one of the pillars of democratic accountability in the sense that public officials will view the implementation of legislation as an obligation rather than a choice. In a study to examine the effectiveness of Nigeria's FOI Act in combating corruption, Aligwe, Ngochukwu, and Nwafor (2017) discovered that extrajudicial sanctions are imposed on journalists who use the legislation to track corruption, discouraging people from using the legislation. High-ranking government institutions are required to exert pressure on public entities to prioritise implementation. According to Neuman and Calland (200), the person in charge of implementation must be sufficiently senior in order to ensure that extraordinary decisions are made to facilitate implementation.

The study established that in order to sustain democracy, information holders must be convinced that transparency is a good thing. Transparency creates an environment in which information can be freely shared without restriction. Voters entrust public officials with the responsibility of managing public funds responsibly. In general, public officials are expected to be transparent by disclosing all relevant information about transactions and important decisions. Citizens have the right to be informed about government decisions. According to Chaterera (2016)'s research, poor recordkeeping systems in Zimbabwe impede transparency, which is caused by a lack of political will to provide adequate resources. Participants also emphasised the importance of poor recordkeeping systems, citing how poor recordkeeping undermines citizens' rights to information.

5.6 Factors inhibiting the implementation of FOI legislation

This section interprets the factors identified by participants as impeding the implementation of FOI. Participants with varying levels of FOI experience were given the opportunity to discuss the factors they believe have hampered the successful implementation of FOI legislation. Participants come from diverse backgrounds such as journalism, law, academia, strategic development, and human rights, allowing them to weigh in on ideas from a variety of perspectives based on their knowledge of reality. According to Lemieux and Trapnell (2016), some of the barriers to FOI implementation include policy prioritisation, a lack of resources, government bureaucracy, and a lack of skills. According to Banisar (2006), some of the factors

include a culture of secrecy, the adoption of secret laws, delays in the processing of information requests, and fees. The current section will only discuss factors that were repeatedly raised by participants, namely a culture of secrecy, a lack of capacity on the part of CSOs, and a lack of awareness and education.

5.6.1 Culture of secrecy

A culture of secrecy allows for the exploitation of state resources. Public officials would continue to embrace secrecy if no clear policies and procedures were in place. Several pieces of legislation were used by colonial masters to enforce a secretive culture. The passage on FOI is one of democratic countries' strategies to end a culture of secrecy, but it has not yielded positive results because public officials still believe they are not required to disclose information. Although it is still difficult to deal with a culture of secrecy decisively, this is largely due to the fact that some African leaders believe that members of the public should not know everything about government operations. Some leaders are uncomfortable leading a society that is empowered by access to a diverse range of information. The danger of leading an empowered society, according to them, would be a threat to their term of office because voters would be better equipped to make informed decisions. As a result, despite the passage of FOI legislation, politicians have shown little enthusiasm for its implementation. According to Fink (2018), the government restricts access to certain types of records in order to protect privacy rights or to strike a balance between transparency and potential harm.

The study found that a culture of secrecy has hampered the achievement of complete openness in South Africa and Zimbabwe. Participants believe that the secrecy culture in both countries is historical in nature, and that in order to understand the root cause, one must study the history of both countries. Several factors can indicate secrecy, including reluctance to implement legislation, resource allocation, passing or reluctance to repeal secrecy legislation, control of information flow, media regulation, and a lack of interest in developing openness and transparency policies. It was discovered that some government entities do not even have official websites where the public can access information. It is possible that there is insufficient ICT infrastructure to support information sharing via websites. Chikomba, Rodriques, and Ngoepe (2021) discovered that Zimbabwe had not invested much in proper ICT infrastructure to support digital records. The absence of an official website indicates that the organisation is

unwilling to proactively disclose information, as required by Article 19 (2016) and the Africa Model Law.

The study found that some of the information requests are simply ignored. Requests were ignored in South Africa, according to SAHRC reports. According to SAHRC (2019/20), PAIA requests are simply ignored with no explanation. Some requests are granted outside of the timeframe specified by the Act (SAHRC 2019/20). Adu presented broad examples of the paradoxical nature of access to information in Africa (2017). According to Adu (2018), FOI in Africa is expected to promote human rights, reduce corruption, and promote openness and transparency; however, the results of FOI legislation appear to be the opposite of what was expected, with a culture of secrecy persisting. A culture of secrecy provides a scapegoat for information holders who refuse to grant access to information.

Darch and Underwood (2010) argue that when debating the issue of culture of secrecy, it is important to remember that enacting legislation that grants people access to information is a step toward a culture of openness. According to Darch and Underwood (2010), FOI laws provide a framework for citizens' access to a wide range of information by explaining and laying out the rules. For these rights to be realised, citizens must seize the opportunity and submit requests to test the effectiveness of the systems. However, this has been a significant challenge because, as previously stated, information requests are simply ignored. MISA (2018) discovered that handwritten requests were not responded to, implying that disadvantaged families in Zimbabwe's rural areas are far from benefiting from freedom of information. According to Mojapelo and Ngoepe (2017) and Nkwe and Ngoepe (2021), information requests in South Africa are consistently met with ignorance, as reported by SAHRC on an annual basis. Ignoring requests can be viewed as one component of a secrecy culture, especially when the reasons for ignorance are only known to the formation holder. The study further discovered a failure on the part of public and private institutions (in South Africa) to communicate effectively with requestors.

The study also discovered numerous pieces of legislation and policy documentation require complete overhaul. Legislation such as the Protection of Information Act, the Minimum Information Security Standards Act, the Public Order and Security Act, and the Official Secrets Act undo the gains made by the PAIA and FIA. The government's reluctance to repeal these

laws reflects an obvious culture of secrecy. A culture of secrecy is not always in black and white, but can be observed through practice. It is therefore critical that when evaluating the level of secrecy, consideration be given to how public officials work. The study discovered, for example, that delays in releasing requested information can be linked to a culture of secrecy. One could argue that a secretive culture is a betrayal in the sense that people entrusted with managing information on behalf of citizens are now unable to share the information for a variety of reasons, including covering up crimes and corruption.

It is worth noting that South Africa is better compared to Zimbabwe in that proactive disclosure is required by law in various public entities. Department of Environmental Affairs, for example, proactively publishes environmental information; however, in 2016, the Centre for Environmental Rights (CER) wrote to the Department of Mineral Resources, requesting that the Information Officer remove restrictions or limitations relating to certain categories of persons to whom the department makes listed records automatically available. According to CER, the following environmental records should be included in the section 15 declaration: environmental authorization; environmental management programmes and plans. Some secretive cultures in Zimbabwe are institutionalised through policies, while others are simply ingrained in human behaviour, particularly political principals. Furthermore, a culture of secrecy is observed through bureaucratic processes aimed at frustrating information requestors. It is worth noting that some countries with FOI legislation did so as a result of CSO pressure, as was the case in Zimbabwe. It could be argued that countries with a culture of secrecy embedded in their policies and practices were not prepared to implement FOI laws.

5.6.2 Lack of capacity by Civil Society Organisations

One cannot discuss the gains of freedom of information without mentioning the role of civil society in putting pressure on governments to ensure that these rights are fully realised. Some CSOs have also been forced to close their doors due to a lack of operating funds. This is due to the nature of the work done by CSOs, which necessitates adequate resources in the form of funds and human capacity. CSOs, unlike government institutions, lack bureaucratic structures, allowing them to play a larger role in the country's social, political, and economic development without delay. There are numerous CSOs with various missions; however, the current section

focuses on CSOs that advocate for socioeconomic rights, particularly those that focus on the realisation of the right to information.

The study found that while CSOs are critical to the implementation of FOI legislation, the greatest challenge remains a lack of resources. The lack of adequate resources has made the work of CSOs extremely difficult, which is likely to jeopardise FOI in general. Capacity building is required for CSOs to perform all of these functions. However, in some countries, CSOs are not allowed to operate freely. Angolan CSOs, for example, are not in a position to publish or advocate for human rights in public due to the level of hostility they would face from the government (Darch & Underwoodd 2010). This is also the case in Zimbabwe, as the study found that CSOs do not have complete freedom.

According to the study, if given the freedom to operate, CSOs have the potential to play a significant role in testing the legislation, as is the case in other countries. According to Madubuike-Ekwe and Mbadugha (2018), most FOI cases in Nigeria are initiated by CSOs seeking information for the purposes of accountability, transparency, and good governance. According to Calland (2017), poor communities in South Africa may not benefit from the PAIA without the intervention of organisations such as ODAC. Furthermore, SAHA has been critical in testing the PAIA implementation, despite the fact that the organisation is frequently met with consistent resistance from the government to disclose the requested information (Nkwe & Ngoepe 2021). Litigation is one thing that costs CSOs a lot of money, especially when cases are appealed all the way to the Supreme Court. As previously stated, CSOs receive funding from donors, which makes the funding model unsustainable because donors have varying priorities (MISA 2019). If CSOs are unable to generate their own funds, they will never know whether they will continue to exist because their existence is dependent on whether or not the donors are satisfied with the return on investment. The study found that people no longer have faith in FOI requests, which necessitates CSOs to step in and assist requestors. However, CSOs are sometimes accused of having their own agenda. For example, Hearn (2001) conducted a study to investigate the uses and abuses of civil society in Africa. The study found that social groupings in Africa are influenced by Northern states as a mechanism to maintain the status quo.

The study further found that there are initiatives by South Africa to capacitate CSOs whereas Zimbabwe lags behind in this regard. The Nonprofit Act, which makes it an obligation for public entities to develop policies aimed at promoting and supporting CSO initiatives, conceptualises the South African government's capacity and support for CSOs. One of the most significant actions taken by South Africa was the passage of the Nonprofit Organizations Act, which reaffirmed the country's support for CSOs (Act No 71 of 1997). The Nonprofit Organizations Act makes the state responsible for ensuring the continued existence of CSOs. Section 3 of the Nonprofit Organizations Act, for example, states that organs of state must coordinate and implement policies in a manner that promote, support, and enhance the capacity of CSOs. Furthermore, the country is taking positive steps to empower CSOs through the National Development Agency (NDA). The NDA is a government agency that reports to the National Assembly. The organisation seeks to alleviate poverty by providing financial assistance to civil society organisations. NDA has done an excellent job of training CSOs in South Africa. In a study to investigate funding constraints and challenges of CSOs in South Africa, NDA (2013) discovered that there is a need for diverse funding of CSOs in order to make funding sustainable. NDA (2013) goes on to say that consistent and reliable funding from donors can sustain the the work of CSOs for a longer period of time, which will benefit disadvantaged families. The risk of relying on a single donor is that if the donor's interests change and funds are diverted to other organisations, the CSOs will collapse or have a negative impact on their work.

CSOs in Zimbabwe are regulated by The Private Voluntary Organisation Act. The legislation requires CSOs to be registered. This legislation makes it illegal for CSOs to operate before they are registered, and registration itself is complicated and difficult (Kabonga, Zvokuomba & Musara 2021). According to social commentators, the PVO Act was intended to stymie civil society's work. Participants believe that, even in the midst of PVO, there has never been a conducive environment for CSOs to operate freely. Due to the sheer lack of a conducive environment for the operation of CSOs in Zimbabwe, some CSOs leaders have gone into hiding for fear of being attacked by state security forces (Cloudburst Group 2021). If CSOs are not allowed to operate freely in a democratic country, it indicates that the government itself has no intention of assisting CSOs.

5.6.3 Lack of awareness and public education

The concept of education and awareness is based on the idea that in order for people to claim their rights, they must first be made aware of those rights. There is overwhelming evidence that FOI implementation failed due to a lack of education and awareness. Education and awareness are required for both the provider and the receiver of information. The IRSA and the ZMC are responsible for informing the public about their right to access information. All participants agree that education and awareness are obstacles to the effective implementation of FOI legislation. Participants believe that the government should invest more money in education and training to provide people with the necessary skills and knowledge to handle information requests. The information officers and DIOs should be adequately trained to understand their roles and responsibilities. Furthermore, the Model Law on Access to Information states that the oversight mechanism is responsible for educating the public as part of the promotion of access to information.

According to (McKinley 2021), a continued lack of education and awareness, as well as a lack of adequate resources, have severely limited people's access to information in South Africa. This was also confirmed by participants, who believe that people must be aware of and understand their rights before they can assert them. The adoption of FOI in most African countries is new, necessitating public education to prepare both information holders and requesters. Participants agree that education and awareness cannot be left to the government alone, but must be addressed by the entire society. There is evidence that CSOs in South Africa and Zimbabwe played an important role in educating the public about socioeconomic rights. The current study, for example, discovered that CSOs in South Africa, such as ODAC and SAHA, had collaborated with the SAHRC to educate the public about the PAIA. These CSOs also contributed by developing guidelines and materials that beginners could use to better understand how citizens can claim their rights through PAIA. The study also established that the SAHRC has played an important role in educating DIOs.

It is worth noting that Article 19 also requires the provision of education and training (2016). PAIA requires the IRSA to conduct education and training programmes to educate people about their right to access information. On the other hand, the FIA makes no educational pronouncements. It is possible that education and awareness about FOI legislation is covered

by other laws. Legislation supports one another. In South Africa, for example, POPIA supplements PAIA in the sense that POPIA establishes the IRSA. Furthermore, in Zimbabwe, the Zimbabwe Media Commission Act supplements the FIA by establishing the Zimbabwe Media Commission. According to section 29(15) of the Zimbabwe Media Commission Act (Act No 9 of 2020), the ZMC is charged with the responsibility of facilitating trainings, education, and research, as well as the awarding of scholarships for the purpose of improving employees' skills and knowledge.

In Zimbabwe, organisations such as Zimbabwe Lawyers for Human Rights (ZLHR) have been actively involved in public training and awareness on human rights issues. Despite the contributions of the aforementioned CSOs, participants agree that more needs to be done to raise awareness about FOI, particularly given the amount of development in the area that requires people to be well informed about these developments. In South Africa, where the legislation was passed many years ago, public awareness of the legislation remains a challenge (Khumalo, Mosweu & Bhebhe 2016). Since FOI is relatively a new concept in some African countries, there is still room for improvement, so there are occasional developments. For example, one could argue that Zimbabwe only recently entered the FOI space because the AIPPA was never recognised as legislation promoting access to information. In this regard, Zimbabwe can learn from countries like South Africa, which have been in the game for far too long. Similarly, Gambia only recently passed the Freedom of Information Act in July 2021, confirming Mojapelo's (2020) assessment that African countries are moving slowly in reaffirming their commitment to transparency and openness.

The study established that, ordinary citizens may be unaware of how to file information requests. Participants believe that the media, as the primary beneficiary of the FOI law, can also contribute by educating the public about their rights to information. According to McKinley (2014), despite the fact that the PAIA was celebrated in South Africa, the legislation remains ineffective due to a significant lack of public awareness and education. According to Banisar (2005), the issue of education and awareness is not limited to South Africa, as Sweden (the first country in the world to enact FOI legislation) is also facing similar difficulties. In order to address the challenges of awareness and education, the Swedish government launched the "Open Sweden Campaign" in 2002, with the goal of increasing public sector transparency and raising public awareness and knowledge about openness (Banisar 2006; Banisar 2005).

The study also discovered that a lack of education and awareness is sometimes caused by a lack of interest on the part of members of the public in participating in properly scheduled education and awareness activities undertaken by the government. For example, in Zimbawe, the Parliamentary Outreach Programme revealed Zimbaweans' lack of interest in participating in the programmes. When assessing the level of education and awareness, it is also necessary to consider whether people are interested in learning more about the legislation. According to Hamooya (2009)'s research, there is a direct relationship between education level and archival collection usage in Zimbabwe. A similar conclusion can be drawn regarding FOI, namely that if people are educated about their rights as outlined in FOI legislation, they will be empowered to assert those rights.

The study further established that education and awareness is not a priority for Zimbabwe government. This is related to the practice of government officials withholding public information. Participants believe that government officials in Zimbabwe are purposefully underinvesting in education and awareness as part of a strategy to systematically deny citizens' access to information. Section 243(1) of the 2013 Constitution mandates the ZHRC to promote awareness and respect for human rights, among other things. According to the ZHRC's annual report, the Commission was able to cover up to 42 different areas through education and training strategies such as focus groups, informal discussions, and the distribution of educational materials. It is worth noting that the ZHRC focuses on the full range of human rights, including the right to information. The ZHRC, like the SAHRC, cannot be divorced from the right to information.

5.7 Summary of the chapter

This chapter provided an interpretation of the findings presented in Chapter Four in accordance with the study's research objectives. The findings of the study appear to agree with the literature's assumption that the implementation of FOI in South Africa and Zimbabwe faces numerous challenges such as legislative loopholes or misalignment, a lack of education and awareness, a culture of secrecy, a lack of political will, and so on. For the legislation to be successfully implemented, both countries must reflect and come to terms with why the legislation was enacted in the first place. When the FOI legislation is passed, one would assume

that the government is willing to grant the people access to information; however, the reality suggests the opposite because it takes a significant amount of effort for people to enjoy the benefits of access to information. The following chapter will include a summary of the findings, a conclusion, and recommendations. The framework developed will be discussed in the following chapter to provide guidance on how South Africa and Zimbabwe can successfully implement FOI.

CHAPTER SIX

SUMMARY OF FINDINGS, CONCLUSION AND RECOMMENDATIONS

6.1 Introduction

The findings of the study were presented in Chapter Four, and Chapter Five dealt with the interpretation of the findings. As part of the concluding remarks, the current chapter provides the summary of findings together with the conclusion and recommendations. In this last chapter, the researcher also seizes the opportunity to make recommendations for future research. According to Biggam (2015), summary, conclusion and recommendations is the last part and puzzle of the thesis, and some of the elements which are required to be outlined in this chapter include a summary of findings and a subsequent conclusion based on research objectives, as well as recommendations. According to Nenty (2009), the summary of findings, conclusion, and recommendations chapter allows the researcher to summarise thoughts and present final words on the research problem. Furthermore, the final chapter of the research highlights areas that other researchers may look into in the future. According to Faryadi (2019), a researcher should not be selfish about their work and should strive to leave room for other researchers to challenge or support your research in whatever way they see fit. The researcher must also explain how the findings are relevant to the body of knowledge's industry. The doctoral thesis' final product is a recommendation that will make a significant contribution to the industry and body of knowledge. The study created a framework to address concerns about the implementation of FOI.

6.2 Summary of research findings

The study found that the South African and Zimbabwean governments should change their approach to FOI in general. To begin, both the PAIA and the FIA require amendments in order to be consistent with the Article 19 principles of FOI. The researcher compared the PAIA and the FIA to Article 19's nine principles, discussing each one separately to see if the legislation addressed some of the important issues raised by the principles. While other sections of the legislation in both countries meet the requirements of the Article 19 principles, many others must be reviewed holistically. In some cases, specific sections are only partially aligned.

When comparing the two pieces of legislation, keep in mind that PAIA, as previously stated, applies to both the public and private sectors, as the legislation has broadly explained. The FIA, on the other hand, provides little information on how the private sector can promote access to information. Both pieces of legislation clearly define the roles and responsibilities of all key players in the FOI process in terms of imposing sanctions, providing necessary training for members of the public and the information officers, reporting to Parliament on legislation implementation, naming and shaming non-compliant institutions, handling appeals, and a variety of other functions aimed at improving implementation. In addition to the oversight mechanism, the PAIA and FIA empower the Department of Justice and Correctional Services (South Africa) and the Ministry of Information, Publicity, and Publication (Zimbabwe) to monitor and enforce FOI legislation implementation. The PAIA charges the Minister of Justice and Correctional Service with developing and improving the regulation, whereas the FIA delegated regulation drafting and approval to ZMC (although in consultation with the relevant ministry). At the organisational level, both the PAIA and the FIA make decisions on the appointment of the information officers, who are expected to assume full responsibility for the legislation's implementation. Unlike the FIA, the PAIA goes on to provide for the appointment of DIOs, whose job it will be to engage members of the public directly and assist them with all aspects of FOI requests.

Both pieces of legislation include provisions for appeal as required by Article 19 principles, but not at three levels, leaving some critical elements out. It should be noted that legislative reform is only one component of realising the rights to information; the majority of the contribution comes from implementation. Article 19 requires three layers of appeals, which neither the PAIA nor the FIA provide. For example, the PAIA establishes two levels of appeals: within the department and through the courts. Since the IRSA was only recently established, it is expected that it will handle the external appeals. On the other hand, the FIA only allows for one level of appeal, which is the external appeal with ZMC. Unlike the PAIA, applicants who are dissatisfied with the outcome of their requests cannot have their applications reviewed internally under the FIA. The FIA only allows the ZMC to handle the appleals externally, which may prolong the process.

Both PAIA and FIA do not fully comply with the 19’s Principles of Information Disclosure. By prohibiting the disclosure of certain records, both the PAIA and the FIA clearly limit the

scope of the law. Article 19 (2016) states that all information held by public bodies must be disclosed; however, this is not the case with the PAIA and the FIA because the scope of exception as prescribed by the two laws is too broad.

Second, the study presented several case studies in which CSOs played an important role in putting pressure on the government to implement FOI legislation. For example, organisations such as ODAC and SAHA have independently joined forces to ensure that South Africans' access to information rights are fully realised. Similarly, organisations such as MISA-Zimbabwe and the Zimbabwe Media Alliance made significant contributions to advocating for legislative changes that would allow the country to achieve full access to information rights. Despite the role that CSOs have played in promoting the implementation of FOI legislation, the study concluded that the government has not done enough to support CSOs. The relationship between government and CSOs is still not at the required level, particularly in Zimbabwe, where CSOs are not treated fairly by the country's authorities. The government appears to view CSOs as adversaries rather than partners.

Political will to address challenges of FOI is also questionable in both countries. Political will have the ability to address all problems, including education, limited resources, bureaucracies, withholding information for no reason, and others. According to the study, politicians are decision makers who can make things happen by imposing sanctions on those who obstruct the implementation of legislation. It was determined that politicians are unwilling to support the legislation's implementation because it may have a negative impact on them in the future, particularly in countries such as South Africa and Zimbabwe, where corruption remains arguably high. The study discovered a lack of political will in Zimbawe's FIA formulation, which can be interpreted as an indication that implementation will be difficult as well. The time it took the country to pass legislation after the Constitution was approved also demonstrates a lack of political will. To demonstrate political will, when the Constitution is approved by parliament and provides for the enactment of FOI legislation, such legislation should be passed within a short period of time.

It was determined that resources are required for the full realisation of the right to information. Participants agree that implementing FOI requires significant resources. Surprisingly, the government does not commit the necessary resources to FOI implementation. Due to budget

constraints, several public entities are unable to establish a separate FOI unit. Furthermore, public entities are unable to employ full-time information officers to assist information requesters. The lack of full-time information officers demonstrates that the support provided by the officers cannot be guaranteed indefinitely because the incumbents are not appointed on a full-time basis. The study discovered that in some cases, the roles of information officers and DIOs are assigned to people who lack the necessary skills to handle information requests. This could be due to a lack of resources to employ the right people on a full-time basis. If the organisation values the implementation of FOI legislation, it will not be difficult to redirect funds from other budget items to the implementation of FOI legislation.

6.3 Conclusion about research objectives

The study's overarching purpose was to explore the implementation of FOI legislation in South Africa and Zimbabwe against the Article 19's nine principles of FOI legislation. It is clear from the study that the FOI legislation alone does not solve the underlying problems because passing of the legislation does not translate into the automatic implementation. Efforts must be made to ensure that the legislation is implemented. The following research objectives guide the conclusion of the research findings:

- Analyse FOI legislation in South Africa and Zimbabwe to determine the alignment with Article 19's nine principles.
- Evaluate the policy instruments and processes that are considered to be key for the implementation of FOI legislation in South Africa and Zimbabwe.
- Describe the FOI legislation implementation model adopted by South Africa and Zimbabwe.
- Determine factors stimulating or inhibiting the implementation of FOI legislation in South Africa and Zimbabwe.
- Develop a framework to foster the implementation of FOI legislation.

6.3.1 Alignment with the Article 19's nine principles

The study found that the FOI legislation in South Africa and Zimbabwe does not meet some of the requirements of the Article 19 principles. If the FOI legislation does not comply with some of the Article 19 Principles, it can be concluded that the legislation is inadequately drafted. While the study discovered that some areas or sections of the legislation are commendable, it also discovered that there is a need for legislative review to close identified loopholes. It does not imply that the legislation must be identical to the principles; however, some fundamental elements proposed by the principles must be included in order for the legislation to meet international standards. It is worth noting that some of the elements proposed by the principles are covered by other legislation, not necessarily the FOI legislation. In South Africa, for example, issues concerning whistleblower protection, as proposed by Article 19 principles, are addressed by separate legislation rather than the PAIA.

When Article 19 examines FOI legislation in any country, it considers all of the elements covered by the principles. Similarly, when countries examine their FOI legislation, they look to see if it meets the requirements outlined in the Article 19 principles. For example, in 2015, Article 19 reviewed Asia's FOI laws. The following are some of the elements that the Article 19 evaluated the legislation against: scope, appeals, proactive disclosure, disclosure upon request, exemptions and protection of whistleblowers (Article 19 2015). The study discovered that the FOI framework in China, India, Indonesia, Mongolia, Nepal, South Korea, Taiwan, and Thailand complies with the requirements of proactive disclosure because there is a provision for a comprehensive list of information to be proactively disclosed. The study also found that in Pakistan, only information related to legislation, rules and regulations, notifications, by-laws, manuals, and orders with legal force must be proactively disclosed at a reasonable cost.

There is overwhelming evidence that the failure on the implementation of the FOI legislation is sometimes caused by legislative loopholes. For example, the study found that after realising that there is poor implementation of POPIA and PAIA in South Africa, CSOs made several recommendations on how FOI can be strengthened. One of the proposals was to include the establishment of the IRSA in the POPIA. Other proposals made by CSOs included amending PAIA to include an expediting mechanism to reduce the timeframe to 17 days or less (Richter 2005), as proposed by Article 19. This is also the case with Zimbabwe as the CSOs advocated for a review of the AIPPA which resulted in the new FOI legislation aimed at addressing some

of the anormalies of the AIPPA, although, some CSO commentators and scholars are still not happy with the legislation, arguing that it can be further improved to strengthen mechanisms for access to public information.

On a positive note, it has been discovered that several sections of the PAIA and FIA are commendable. For example, the PAIA and FIA provide for both the public and private sectors, which is commendable because the legislation recognises that information in the cosutody of private sector can also be necessary to protect someone's rights. According to the FIA, this is one of the remarkable progressive steps taken by the country to reverse the unjust provision of the AIPPA. In comparison to other FOI legislation in Africa, the PAIA of South Africa is described as the regional gold standard by other scholars. However, due to a lack of education and awareness about the legislation, implementation remains a challenge. Although South Africa's challenges in implementing the PAIA are not unique, many other countries, including Zimbabwe and Nigeria, face similar challenges.

Furthermore, the FIA has some progressive provisions. For example, the legislation requires the release of information believed to have the potential to save someone is life or liberty within 48 hours. According to the FIA, the time it takes to release information is determined by the importance of the information requested. In Zimbabwe, proactive disclosure presents a significant challenge. The researcher had difficulty obtaining critical information such as online reports, strategic plans, and policies. South Africa is doing well in terms of proactive disclosure because wide range of information is freely available on government websites.

6.3.2 Policy instruments and processes for the implementation of FOI legislation

It is clear from the study that both South Africa and Zimbabwe lack adequate policies and processes to address FOI legislation implementation. It has been stated that the successful implementation of FOI requires constructive policies that provide clear guidelines for role players in the information cycle. Policies can also address issues of victimisation, which has been identified as a significant barrier to free information disclosure.

Participants from Zimbabwe, for example, expressed concern about the negative attitude displayed by political leaders, which may amount to victimisation. Evidence suggests that

neither country has policies in place to supplement the legislation, as the study discovered that the PAIA and the FIA have several loopholes that must be addressed as soon as possible. Although the FIA requires the development of information disclosure policies, there is no evidence that such policies do exist in government departments or public entities in Zimbabwe. In South Africa and Zimbabwe, access to information matters are covered in some policies such as the records management policy, the ICT policy, or any other related policies, but this is insufficient to encourage the implementation of FOI legislation. According to the findings of the study, government entities rely on section 14 manuals whereas private entities relies on section 51 manuals to provide access to information. As things stand, the legislation provides for a section 14 and 15 manual, but it cannot be as authoritative as the policy.

The PAIA section 10 guide provides a clear guideline on what public officials must do to handle information requests and to assist requestors throughout the request until a final decision is made; however, the PAIA section 10 guide may not assist the information officer at the organisational level on how to effectively handle PAIA requests. As a result, more detailed policies and procedures are required to hold information officers accountable when things go wrong. Furthermore, enacting a policy at the organisational level sends a strong and clear message that the organisation is committed to disclosing information and that anyone who discloses information by following all necessary procedures will be protected and will not face any type of sanction or victimisation for legally disclosing any information. FOI policies confirm an organisation's legal standing or position on openness, accountability, and transparency.

Lack of FOI policies will also disadvantage people with special needs, as they require policy documentation to protect their rights of access to information. However, such policies may be burdensome for Zimbabwe because the results show that there is little effort to accommodate people with disabilities. According to the FIA, only formal written requests can be made, which is disadvantageous for people who cannot read or write. To address this issue, oral requests supported by policy documentation are required. The findings also show that a lack of FOI policies in Zimbabwe may have contributed to rural women's lack of access to information, as several entities do not see the need to delegate information officers to assist them.

6.3.3 FOI legislation implementation model

The study also looked at the FOI implementation model, which looked at regulatory body independence; fee structure and turnaround time; DIOs and relevant skills; and judges and magistrates. In terms of operation, it is clear that both South Africa and Zimbabwe use a decentralised model in which individual departments or entities handle information requests on their own and regulatory bodies can intervene if the requesters are dissatisfied with the results of the requests. The regulatory body is expected to meet the criteria for legal and operational independence. The IRSA and the ZMC, for example, meet the legal independence criteria; however, the ZMC's operation raises some concerns about its independence.

Furthermore, it makes no sense for the ZMC to regulate both the media and the freedom of information. In the context of the current study, legal independence includes the appointment of Information Commissioners, which is viewed as the most important component of legal independence. In terms of the POPIA, the Chairperson and other members of the IRSA must be appointed by the President in consultation with the National Assembly (Parliament). As observed, the appointment process is transparent, as the interviews are broadcasted on national television. Similarly, in Zimbabwe, the President appoints the Chairperson and the other eight members of the ZMC in consultation with the Committee on Standing Rules and Orders. Despite the independence of the regulatory body as required by the law, it appears that ZMC is not complying with FIA regulation.

In terms of fee structure and turnaround time, the study determined that the access fee for South Africa is reasonable; however, the request fee is not reasonable and should be eliminated because it violates the spirit of the Article 19 cost principle. In the case of South Africa, there is an attempt to centralise fees, as the PAIA section 10 guide clearly outlines the figures; however, individual departments and entities retain the authority to set access fees. Zimbabwe has also attempted to centralise fee determination; however, the challenge is always the access fees, which are normally determined by the implementing agency. For example, FIA indicates that in addition to the access fee, there may be additional costs covering the agency's time spent searching for the information.

Both countries' turnaround times appear to be too long and require some revisions. The study concludes that seven (7) days is a reasonable amount of time to wait because there should be a sense of urgency in handling the requests, especially since members of the public request information for a variety of reasons. The FIA's waiting period for information needed to save someone is life is commendable because it clearly indicates that requests should be prioritised based on their importance. According to FIA, if the requested information is believed to have the potential to endanger someone is life or liberty, it should be provided within 48 hours. Fees in Zimbabwe are unjust because of the country's economic situation. Although fees are sometimes required to ensure that the information holder does not bear the burden of spending additional money to reproduce the requested information. The study concludes that Zimbabwe should implement a fee waiver system in which fees are determined based on your economic status.

DIOs are critical to ensuring full implementation of FOI legislation; however, evidence suggests that the government has not prioritised DIO delegation. The decentralised model adopted by both countries could explain the lack of delegation of dedicated personnel to deal with access to information issues. Individual departments or entities make their own decisions about who can be delegated for a DIO's position. In cases where these indivisuals are appointed, they are not only dealing with FOI issues. Furthermore, the entities that appoint DIOs do not provide the resources required to ensure that their work is done effectively. DIOs are sometimes appointed at low salary levels, which limits their influence within the organisation.

While it is acknowledged that judges and magistrates do not necessarily require specialised FOI training, they should consider refresher courses or training to gain a better understanding of the legislation. These courses will keep them up to date on the latest developments in FOI legislation. Although the PAIA requires judges to attend PAIA training before presiding over PAIA cases, the majority of PAIA cases were heard at High Court rather than magistrates. Likewise, the FIA does not require magistrates or judges to attend FIA training. Furthermore, the FIA failed to recognise the judiciary as a player in information access. For example, it is a common practice that the judiciary reviews some FOI requests where the requesters are dissatisfied with the results but the FIA only allows for external appeals to the ZMC, leaving out the judiciary. This is a testament to the fact that the legislation itself does not recognise the judiciary as a role player.

6.3.4 Factors stimulating or inhibiting the implementation of FOI

The study established that the following factors stimulate the implementation of FOI legislation: political will, resources, strong NGOs. The study concludes that, despite the political will having the potential to ensure successful implementation of the FOI legislation, there is still lack of political will on the part of of politicians to support the implementation of FOI legislation. Lack of political will also has a negative impact on resource allocation because if politicials do not approve the FOI, they tend to become reluctant in committing resources. As a result, public entities tend to implement the legislation with limited resources as is the case with South Africa and Zimbabwe. Other factors influencing FOI legislation implementation include: public interest litigation; involvement of civil society organisations; an independent judiciary; a culture of transparency; public education; appreciation of human rights; legislative alignment; proper record-keeping; delegation of DIOs at senior management levels; making information disclosure mandatory; financial resources; implementation of sanctions; consequence management; and reward for compliance.

On the other hand, factors inhibiting the implementation of FOI legislation include a culture of secrecy, a lack of capacity by the CSOs, and also lack of awareness or education. These factors have hampered the implementation of FOI legislation in South Africa and Zimbabwe. For example, the study discovered that there is still a culture of secrecy in South Africa and Zimbabwe, making it difficult for information to be shared without conflict or court intervention. The lack of interest in repealing some of the repressive legislation also contributes to the culture of secrecy.

It is clear that politicians in South Africa and Zimbabwe are unaware of their societal influence. Politicians have supporters. This implies that politicians have the ability to influence their supporters. There are few cases in South Africa and Zimbabwe where politicians publicly declared their support for FOI, not even a president. The fact that political leaders lack the courage to publicly discuss FOI indicates that their level of willingness is questionable. The study emphasised the importance of the FOI legislation in combating corruption. This could add to the reasons why politicians, particularly politicians perceived to be corrupt, do not support transparency initiatives for fear of having their corrupt activities exposed. A lack of political will also complicates the work of information officers and DIOs. It appears that

Parliament in both countries, as the only institution with the authority to hold the executive accountable, is failing to do its job in holding political leaders accountable for failing to implement FOI legislation.

6.4 Recommendations

The following recommendations are made in order to successfully implement FOI legislation in South Africa and Zimbabwe:

6.4.1 Alignment with the Article 19's nine principles

From the study, it is clear that the FOI legislation in South Africa and Zimbabwe needs to be reviewed holistically in order for legislation to be aligned with Article 19's FOI legislation principles. Several aspects of the legislation that must be reviewed include: maximum disclosure, the process to facilitate access, the appeal mechanism, costs, open meetings and the repealing of other legislation which are not consistent with the FOI legislation. Some of the sections must be added to the legislation because the legislation is silent on specific aspects. For example, both the PAIA and the FIA are both silent on open meetings. This would imply that the new section on open meetings should be added to the legislation, unless a separate piece of legislation is required. Other sections are covered, but they need to be amended to meet the requirements of Article 19 principles. In terms of maximum disclosure, Zimbabwe's FIA only covers citizens for public accountability. According to the Act, only citizens can use the legislation to obtain information from the government if such information is required for public accountability. As required by Article 19, this provision must be extended to all members of the public (including non-citizens). According to the principle of maximum disclosure, the FOI should cover everyone, regardless of nationality or citizenship status. Furthermore, the principle of maximum disclosure requires that no reason be provided to request access to information, but the FIA has not taken this into account because the legislation requires that requesters provide a reason for their requests. Other specific sections that need to be amended have been discussed in Chapters Four and Chapter Five.

In addition to reviewing the legislation, the government should consult other relevant documents, such as the Africa Model on Access to Information Law, which provides detailed

information on the specific elements of the Article 19 Principles. South Africa and Zimbabwe can also benchmark with other countries that appear to be doing well in terms of legislative development and implementation. Benchmarking will help to ensure that all important aspects of the principles are addressed adequately.

There is a need to obtain a buy in from the management and politicians as they are the final decision makers in terms of the legislative process. This would mean that politicians would need to be educated about the legislative gaps with the shared understanding that once they are aware of the gaps, they will be able to provide political support for the legislation to be reviewed through a smooth parliamentary process.

6.4.2 Policy instruments and processes for the implementation of FOI legislation

Government and private entities (in South Africa) should work together to develop FOI policies and procedures. These policies and procedures will direct how information officers and DIOs handle information requests. The policies will also aid in the protection of individuals who may face victimisation as a result of information disclosure. The FIA mandates information disclosure policies, but there appears to be no evidence of such policies in public bodies. The aforementioned policies do not replace the PAIA-mandated section 14 and 51 manuals. Policies and procedures will supplement the information in Sections 14 and 51 of the Manuals.

As part of monitoring compliance with FOI legislation, the regulatory body must visit affected public bodies on a regular basis to see if there are policies and procedures in place to guide FOI legislation implementation. Public entities that lack policies and procedures should be reported to the appropriate parliamentary committee for intervention and potential sanctions. Furthermore, regulatory bodies can join in and provide the necessary assistance to ensure that policies and procedures are developed. Regulatory bodies can provide assistance in a variety of ways, including training and workshops, allocating necessary resources, and collaborating on specific projects.

Policies must clearly state the entity's stance on FOI. The following elements should be included in the policy: commitment to information disclosure, protection for employees who disclose information, roles and responsibilities, education and training, review procedure,

records management and related policies. Policies must also show the entity's commitment to supporting the country's openness initiatives, which are part of the OGP initiatives.

The PAIA of South Africa must make it mandatory for public and private entities to develop access to information policies. This will provide DIOs with clear guidelines for interpreting and implementing the legislation. Because the policies will be developed internally by the public bodies themselves in consultation with the relevant stakeholders, they will bring public officials closer to the legislation. DIOs should also be involved in policy development to ensure that they do not fall behind.

The IRSA of South Africa and the ZMC of Zimbabwe must incentivise entities that are performing well in terms of compliance, as this will serve as motivation and encourage organisations that are not complying to make an effort to comply. Events similar to the NIOF can be held in both countries to reward good performers in terms of legislative compliance and implementation.

6.4.3 FOI legislation implementation model

The decentralised model of implementation adopted by South Africa and Zimbabwe can work better if an effort is made to address the issues raised. Regulatory bodies, for example, are expected to do their work without fear, favour, or prejudice, and they must meet the legal and operational independence criteria in order to oversee the implementation of FOI legislation. The regulatory bodies must be empowered to review decisions made by the implementing agencies; however, the implementing agencies must be given adequate time to complete their tasks.

The study clearly shows that the ZMC is unable to cope with FIA regulation; therefore, in the absence of a dedicated regulatory body, it is recommended that the ZHRC take over the role of FOI oversight from the ZMC. This will ensure that FOI requests are handled properly by a body trusted by the Zimbabwean people. ZHRC has already demonstrated some degree of independence and is committed to sharing information about the organisation's programmes, which ZMC does not.

Both countries' turnaround times and fee structures must be reviewed. The request fee should be abolished in South Africa because it does not promote access to information as the legislation suggests. In Zimbabwe, the regulatory body must impose stricter measures to ensure that the access fee is kept as low as possible in order to encourage people (including marginalised groups) to submit FOI applications. The turnaround time of 30 days for South Africa and 21 days for Zimbabwe is excessive and should be reduced to 7 days to ensure that requests are processed as quickly as possible. Reducing the waiting period sends a strong message that the government is committed to processing requests as quickly as possible.

The PAIA and FIA must include provisions for the appointment (as opposed to delegation) of DIOs. To assist information requestors, DIOs with relevant skills should be appointed. To ensure consistency and quality in the appointment of incumbents, IRSA and the ZMC should provide a clear guideline on the appointment of DIOs. Regulatory bodies must also implement "train the trainer" programmes to provide information officers and DIOs with the necessary training to enable them to conduct public trainings and workshops.

6.4.4 Factors stimulating or inhibiting the implementation of FOI legislation

The regulatory bodies should capitalise on factors that encourage the implementation of FOI legislation and ensure that these factors receive the attention they deserve. These factors include political will, resources, public interest litigation, the involvement of civil society organisations, an independent judiciary, a culture of transparency, public education, an appreciation of human rights, legislative alignment, proper record-keeping, the appointment of DIOs at the senior management level, the mandatory disclosure of information, the implementation of sanctions, the management of consequences, and the reward for compliance.

There is a need for mass education to educate political leaders about the importance of FOI. Politicians must comprehend the relationship between FOI legislation and open government. South Africa is already an OGP member in good standing. South Africa commits in the 2020/22 National Action Plan to increasing citizen awareness and capacity to use all avenues available to access government information, both individually and collaboratively. The awareness and capacity must also be extended to politicians who sometimes become gatekeepers.

The government should allocate funds to the implementation of FOI legislation. Anecdotal evidence suggests that when organisations have a dedicated unit dealing with FOI issues, the implementation of FOI legislation works well. According to the study, some government departments will delegate officials who will partially deal with FOI matters, but this has not resulted in positive results because these officials also focus on other matters other than FOI. The existence of a FOI standing unit will also justify the need for the head of the FOI unit to be a member of the executive, allowing FOI issues to be discussed at the executive level within the organisation. For the legislation to be successfully implemented, the head of the FOI unit must mobilise resources at the executive management level and also work hard to influence policy direction.

In order to address FOI-related issues, the regulatory body must collaborate with all relevant stakeholders. In this case, relevant stakeholders include CSOs advocating for FOI, national and provincial archival institutions, institutions supporting democracies, parliament, and the relevant government ministry. Collaboration will ensure that no organisation falls behind in promoting FOI legislation implementation. The regulatory bodies rely on these organisations to play their part in ensuring that the rights to information are realised. CSOs, for example, must continue to put pressure on the government; archival institutions must work hard to improve the state of records management in the public sector; institutions supporting democracy must use their powers to investigate any wrongdoing and report to Parliament; and Parliament must hold the executive accountable through its structures.

Freedom of information is a human rights issue that necessitates cooperation between regulatory bodies and human rights organisations. To advance freedom of information, IRSA and ZMC must collaborate with SAHRC and ZHRC. Although with Zimbabwe, it is proposed that the regulatory responsibility for the FIA be shifted from ZMC to ZHRC. Furthermore, collaboration is critical to achieving information freedom and should be prioritised. The benefit of collaboration is that it allows you to work on huge project collaboratively without having to spend a lot of money.

Events such as conferences, workshops, exhibitions, annual lecturers, tours, and roadshows can help to strengthen these collaborations. To increase public interest in FOI, all relevant stakeholders must collaborate on joint projects.

Sanctions under the Freedom of Information Act must be implemented. Both the PAIA and the FIA contain provisions for sanctions; however, Banisar (2016) notes that no sanction has been imposed on any entity for noncompliance. Furthermore, according to Lamieux and Trapnel (2016), most countries where FOI legislation provides for sanctions, they are rarely used. The regulatory bodies, in collaboration with all relevant stakeholders, must ensure that sanctions are enforced.

6.5 Proposed framework

The study's fifth objective was to develop a framework to encourage the implementation of FOI legislation in South Africa and Zimbabwe. The study developed a framework, which will be presented in this section. The aim of the framework is to help government address challenges associated with the implementation of FOI legislation. The framework will also help the government develop proper systems for implementing FOI legislation. The current section presents and discusses the proposed framework (see figure 6.1), which is derived from the study's research findings as presented in Chapters Four and Five, as well as information obtained from the literature review as broadly discussed in Chapter Two of this study. This framework was developed in the context of South Africa and Zimbabwe, but it can be applied to any country with a context similar to South Africa and Zimbabwe.

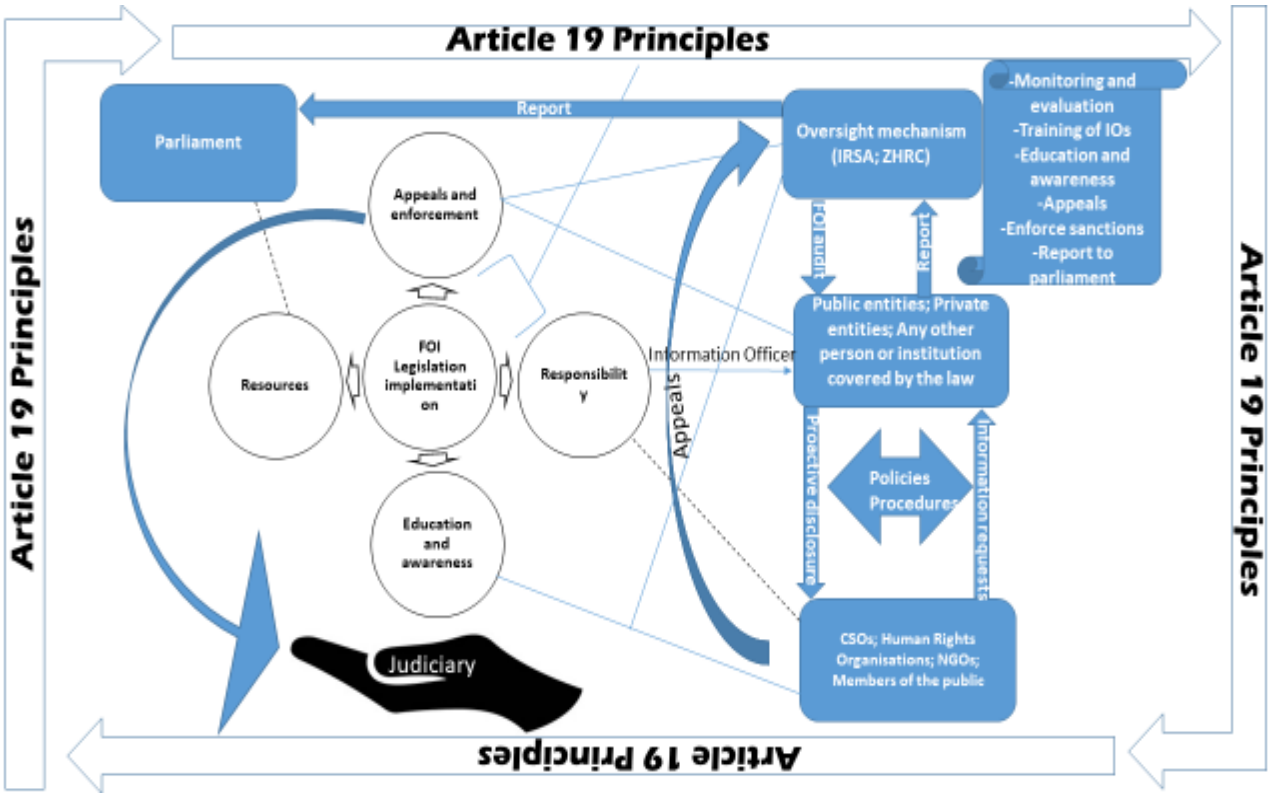

Figure 6.1: FOI legislation implementation framework

The framework is explained below:

6.5.1 FOI legislation

As shown in figure 6.1, the implementation of FOI legislation necessitates a number of components, including resources, clearly articulated roles and responsibilities, education and awareness, monitoring and oversight, and enforcement. When the aforementioned elements are taken into account, there would be smooth implementation of both the PAIA and the FIA. Key role players are identified in the framework.

6.5.1.1 Resources

The successful implementation of FOI legislation necessitates a significant investment of resources. The implementing agencies require resources such as human resource capacity and financial resources to acquire proper information management systems that allow for efficient retrieval of information upon requests. The significance of DIOs cannot be overstated. As illustrated in the framework, implementing agencies, such as government departments and

private entities appoint (rather than simply delegate) a dedicated personnel to handle information requests, and this individual must be appointed at the senior management level so that he or she can influence policy development within the organisation. Full-time DIOs are necessary for the successful implementation of the legislation. The appointment of a dedicated DIO will necessitate significant resources. Furthermore, records management has been identified as a barrier to the successful implementation of FOI legislation. To support the implementation of FOI legislation, government and private entities must establish proper records management systems. Furthermore, more resources should be invested in education and training to ensure that all responsible officials understand their roles and responsibilities.

Parliament can also play a role in ensuring that resources for the implementation of FOI legislation are made available. The FOI audit as proposed in the framework allows the regulatory body to determine whether the report submitted by the implementing agency accurately reflects the reality on the ground. The regulatory body will report to Parliament after the audit. In turn, Parliament will study the report and act on the regulatory body's recommendations.

6.5.1.2 Appeals and enforcement

Appeals cannot be avoided because they are one mechanism used by information requestors to ensure that their requests are judged fairly. It is always in the interest of justice to have a new neutral person look at your request and likely endorse or overturn the previous verdict. Internal and external appeals are both required. Internal appeals occur in government and private organisations and should be handled by the most senior member of the organisation. External appeals are handled by the IRSA (for South Africa) and the ZMC (for Zimbabwe), though Zimbabwe appeals are proposed to be handled by the ZHRC. The importance of independence and impartiality in handling appeals cannot be overstated, so the ZHRC can be entrusted with the appeals, as opposed to the ZMC. External appeals are the only hope for the request that were refused. It is critical that the appeals are resolved quickly in order to provide prompt relief. If the requestors are still dissatisfied with the oversight body's decision, they have the opportunity to have their case heard in court before a judge or magistrate (as shown in figure 6.1), which must be provided for by the PAIA and the FIA.

6.5.1.3 Responsibility

As stated on the framework, the implementation of FOI is a collective responsibility. The implementing agencies, such as government departments, state-owned entities, and private entities, are only tasked with enforcing the legislation and encouraging information disclosure, but everyone is ultimately responsible for ensuring that the legislation is fully implemented. Implementing agencies (information holders) must sometimes be pressed to implement specific pieces of legislation. If other stakeholders are not happy with how requests are being handled, they may file a complaint with a regulatory body or a court of law. As a result, CSOs and NGOs are critical in putting pressure on the government to fully implement the legislation. CSOs may also participate in public-interest litigation. The regulatory body must also examine the reports submitted by the implementing agencies and conduct annual audits to verify the information contained in the reports.

6.5.1.4 Education and awareness

For the FOI legislation to be fully implemented, education and awareness about the legislation are required. Oversight and regulatory bodies must collaborate with relevant stakeholders to ensure that both information holders and information requestors are properly properly trained. As previously stated, education works both ways. Meaning, DIOs who are in charge of processing information requests need education and training, and on the other hand, the ordinary citizens who are filing information requests also need to be workshoped about their rights and how they can use the legislation to fully realise their rights. CSOs can assist in developing material and curriculum. Members of the public will obviously not use the legislation if they are not aware of their rights as enclosed in the PAIA and the FIA.

6.6 Final conclusion

The implementation of FOI in South Africa and Zimbabwe is stalled and requires immediate attention. While South Africa is acknowledged to be better in terms of implementation, there are numerous areas of concern that require attention in order for members of the public to fully enjoy the rights of access to information from both public and private sectors as prescribed by the PAIA. On the other hand, it appears that recent developments in the area of FOI have not

changed the situation, as members of the public continue to be denied access to information. A widely criticised AIPPA that was repealed by the new FIA retains influence because the FIA does not completely repeal the AIPPA. Furthermore, the government's attitude toward FOI must be viewed holistically. Mass education is critical to ensuring that everyone in both countries understands the FOI law and does not confuse it with other laws such as privacy laws, secrecy laws, and national security laws.

Reference list

Abdi, FA & Madut, KK. 2019. How can civil society support reconciliations and civil engagement in Somalia? *Human Geographies* 13(2): 139-151.

Access2info. 2012. Access to information Law: overview and statutory goal. Available at: https://www.right2info.org/access-to-information-laws (Accessed 18 February 2019).

Ackeman, JM & Sandoval-Ballesteros, IE. 2006. The Global Explosion of Freedom of Information Laws. *The Administrative Law Review* 58(1): 85-130.

Adams, R & Adeleke, F. 2020. Protecting information rights in South Africa: the strategic oversight role of the South African Human Rights Commission and the Information Regulator. *International Data Privacy Law* 10(2): 146-159.

Adams, R & Adeleke, F. 2016. Assessing the potential role of open data in South African environmental management. *The African Journal of Information and Communication* 19: 79-99.

Adebayo, M & Akinyoade, A. 2013. Access to information and transparency: Opportunities and challenges for Nigeria's FOI Act 2011. *Access to Information in Africa, Law, Culture and Practice, Afrika-Studiecentrum Series* 27: 261-285.

Adeleke, F. 2013. Constitutional domestication of the right of access to information in Africa: Retrospect and prospects. *Access to Information in Africa: Law, Culture and Practice* 83-105.

Adeleke, F & Adams, R. 2019. An inconvenience marriage: media freedom and access to information in Africa: the South African perspective. In *Freedom of Information and Democratic Governance in Nigeria*, edited by A, Adekunle. Lagos: Nigerian Institute of Advanced Legal Studies:11-39.

Adeleke, F & Ward, R. 2015. The interrelation between human rights norms and the right of access to information. *ESR Review* 16(3): 7-9.

Adom, D, Hussein, EK & Joe, AA. 2018. Theoretical and conceptual framework: mandatory ingredients of quality research. *International Journal of Scientific Research* 7(1): 438-445.

Adu, KK. 2018. The paradox of the right to information law in Africa. *Government Information Quarterly* 35(4): 669-674.

Africa Freedom of Information Centre. 2013. *Analysis of Zimbabwe's Access to Information and Protection of Privacy Act, 2008*. Kampala: AFIC.

African Commission on Human and People's Rights. 2019. Declaration of Principles on Freedom of Expression and Access to Information in Africa. Available at: https://www.achpr.org/public/Document/file/English/Declaration%20of%20Principles%20on%20Freedom%20of%20Expression_ENG_2019.pdf (Accessed 31 March 2022).

African Commission on Human and People's Rights. 2013. Access to Information for Africa. Available at: https://www.right2info.org/resources/publications/instruments-and-standards/africa_model-law-on-ati-for-africa_2013 (Accessed 21 March 2021).

Africa Freedom of Information Centre. 2014. Africa Regional Access to Information Conference Concludes with Strong Recommendations. Available at: https://africafoicentre.org/africa-regional-access-to-information-conference-concludes-with-strong-recommendations/ (Accessed 12 january 2021).

African Media Barometer. 2009. Botswana 2009. Available at: library.fes.de/dpf-files/nueros/Africa-media/07370.pdf (Accessed 21 March 2021).

African Network of Constitutional Lawyers. 2012. National Study on Access to Information in Zimbabwe. Cape Town: ANCL. Available at: https://www.researchgate.net/publication/282571812_National_study_on_access_to_information_in_zimbabwe (Accessed 19 June 2019).

African Platform on Access to Information. 2013. Access to Information in Africa: Examining progress since the APAI Declaration. Wundhoek: APAI. Available at: www.africanplatform.org/fileadmin/Content/PDF/Resources/Publications/ATI-in-Arica_01.pdf?msclkid=475aa0f6c1621ecb482909c63801532 (Accessed 11 May 2021).

African Public Service Ministers. 2001. Charter for the Public Service in Afric, adopted by the 3rd Bennial Pan-African Conference of Ministers of Civil Service. Available at: https://www.westerncape.gov.za/Text/2005/6/charter_for_the_public_service4.pdf?msclkid=e08874edc15b11ecac3d23430014649d (Accessed 19 May 2021).

African Union. 2003. African Union Convention on preventing and combating corruption. Available at: Au.int/en/treaties/african-union-convention-preventing-and-combating-corruption (Accessed 24 September 2018).

Ahmed, V, Opoku, A & Aziz, Z. (eds). 2016. *Research methodology in the built environment: A selection of case studies*. New York: Routlege.

Alfandika, L & Akpojivi, U. 2020. Contestation of ideas: Media activism and media democracy in Zimbabwe. *African Journalism Studies* 41(2): 33-48.

Alias, M & Suradi, Z. 2008. Concept maping: a tool for creating a literature review. *Proceedings of the 3rd International Conference on Concept Mapping* 3: 66-99.

Aligwe, HN, Ngochukwu, NS & Nwafor, KA. 2017. Social media use pattern and the image implication among university undergraduate students in South East, Nigeria. *International Digital Organisation for Scientific Research Journal of Humanities and Social Sciences* 2(2): 231-249.

Aliyu, RY. [Sa]. *Responses of Selected Media Houses to the Implementation of Nigeria's Freedom of Information Act*. Nsukka: Communication Studies Forum.

Aliyu, AA, Bello, MU, Kasim, R & Martin, D. 2014. Positivist and non-positivist paradigm in Social Science Research: Conflicting Paradigms or Perfect Partners? *Journal of Management and Sustainability* 4(3): 79-95..

American Library Association. 1997. Code of Ethics of the American Library Association. Available at: www.ala.org/advocacy/sites/ala.org.advocacy/files/content/proethics/codeofethics/Code%20of%20Ethics%20of%20the%20American%20Library%20Association.pdf (Accessed 21 May 2020).

Andrews, T. 2012. What is Social Constructionism? *The Grounded Theory Review* 11(1): 39-46.

Antwi, KS & Hamza, K. 2015. Qualitative and quantitative research paradigms in business research: A philosophical reflection. *European Journal of Business and Management* 7(3): 217-225.

Apeloko, O. 2021. Freedom of information and human right protection: an exploration of Nigeria Specimen. *Global Media Journal* 19(37): 1-8.

Archival platform. 2015. State of Archives: an analysis of SA's National Archival System. Available at: http://www.archivalplatform.org/news/entry/executive_summary/ (Accessed 22 May 2015).

Arhin, AA, Kumi, E, Adam, MAS. 2018. Facing the bullet? Non-Governmental Organisations (NGOs) responses to the changing and landscape in Ghana. *VOLUNTAS: International Journal of Voluntary and Nonprofit Organisations* 29(2): 348-360.

Arko-Cobbah, A. 2008. The right of access to information: opportunities and challenges for civil society and good governance in South Africa. *IFLA Journal* 34(2): 180-191.

Arko-Cobbah, A & Oliver, CD. 2016. South Africa's Access to Information Legislation and Socio-Economic Rights: Civil society and meaningful engagements as a drivers. *Mousaion* 34(1): 149-172.

Article 19. 2017. Open Development: Access to Information and the Sustainable Development Goals. Available at: https://www.article19.org/resources/open-development-access-to-information-and-the-sustainable-development-goals/ (Accessed 19 April 2020).

Article 19. 2016. The public's right to know: principles on right to information legislation. Available at: https://www.article19.org/data/files/RTI_Princiles_Updated_EN.pdf (Accessed 22 May 2021).

Article 19. 2015. Asia Disclosed: A review of the Right to Information across Asia. London: Article 19. Available at: https://www.article19.org/data/files/medialibrary/38121/FINAL-Asia-Disclosed-full.pdf (Accessed 17 March 2022).

Article 19. 2003. Freedom of Information Training Manual for Public Oficials. Available at: https://www.article19.org/data/files/pdfs/tools/foitrainersmanual.pdf (Accessed 03 May 2021).

Asbury, EA. 2017. The importance of conference attendance in developing research collaborations. *Whitreia Nursing and Health Journal* 24: 59-62.

Asogwa, BE & Ezema, JI. 2017. Freedom of access to government information in Africa: trends, status and challenges. *Records Management Journal* 27(3): 318-338.

Asogwa, FN, Ibe NMA & Orji-Egwu, AO. 2021. Freedom of Information Act and Journalism in Nigeria 2011-2021: A review of a decade of utilisation and practice. *The Melting Pot* 6(1): 34-50.

Azungah, T. 2018. Qualitative research: deductive and inductive approaches to data analysis. *Qualitative Research Journal* 18(4): 383-400.

Baboolal-Frank, R & Adeleke, F. 2017. The limitation of the discovery rules of Court against the right of access to information in South Africa. *Revista Direito GV* 13(3): 1029-1051.

Balaid, A, Rozan, MZA, Hikmi, SN & Momon, J. 2016. Knowledge maps: A systematic literature review and directions for future research. *International Jouranal of Information Management* 36: 451-475.

Balogun, J. 2003. The African Public Service Charter: Implementation Modalities, Capacity-Building Implications and Regional Follow-up Mechanisms (Working paper, United Nations Economic Commission for Africa, African Union, Addis Ababa, Ethiopia).

Balue, BB. 2008. Good V the Attorney Generel: Some Reflections on the National Security Dilemma in Botswana. *University of Botswana Law Journal* 7: 153-172.

Bamgbose, OJ & Etim, IA. 2015. Accessing government information in Africa through the right to know: the role of the library. Available at: ifla-test.eprints-hosting.org/id/eprint/1221/1/114-bamgbose-en.pdf (Accessed 16 August 2021).

Banisar, D. 2006. Freedom of information around the world 2006: A Global survey of access to information laws. Available at: Freedominfo.orgwww.freedominfo.org/wp-content/uploads/documents/global_survey2006.pdf (Accessed 24 September 2018).

Banisar, D. 2005. Effective open government: improving public access to government information. Available at: https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2069870 (Accessed 18 December 2021) .

Basias, N & Pollasis, Y. 2018. Quantitative and qualitative research in Business and Technology: Justifying a Suitable Research Methodology. *Review of Integrative Business and Economics Research* 7(1): 91-105.

Benjamin, L. 2017. Freedom of Information Acts in the Developing World. *International Journal of Bahamian Studies* 23: 7-4.

Bentley, K & Calland, R. 2013. The impact and effectiveness of transparency and accountability initiatives: freedom of information. *Development Policy Review* 33(1): 69-87.

Berliner, D, Ingrams, A. & Piotrowski, SJ. 2018. The future of FOIA in an Open Government Agenda for Freedom of Information Policy and Implementation. *Villanova Law Review* 63: 867-894.

Berryman, DR. 2019. Ontology, Epistemology, Methodology, and Methods: Information for Librarian Researchers. *Medical Reference Service* Quaterly 38(3): 271-279.

Bertoni, E. 2012. Freedom of Information. Three harmless words? The role of the media and access to information laws. *Derecho Comparado de la informacion* 19: 29-94.

Bertot, CJ, Jaeger, PT & Grimes, JM. 2010. Using ICTs to create a culture of transparency: E-government and social media as openness and anti-corruption tools for societies. *Government Information Quarterly* 7: 264-271.

Bertot, CJ, McClure, CR, Quinn, A and Shuler, JA. 2011. Biowatch South Africa and the challenges in enforcing its constitutional rights to access to information. *Government Information Quarterly* 28(4): 542-552.

Bharti, S. 2018. A critical analysis how RTI ensures transparency and good governance with special reference to protection to whistle blower. *Supremo Amicus* 3: 573-583.

Bhattacherjee, A. 2012. *Social science research: principles, methods, and practices*. Florida: University of South Florida.

Bhuiyan, MS, Islam, MS & Salam, MF. 2019. Access to Justice through Village Court for Rural Poor: The Case of Bangladesh. *International Journal of Publication and Social Studies* 4(1): 1-10.

Biggam, J(ed). 2015. *Succeeding with your masters dissertation: a step-by-step handbook*. New York: McGraw Hill.

Birkinshaw, P. 2006. Freedom of Information and openness: Fundamental human rights. *Administrative Law Review* 58(1): 177-218.

Blaikie, N & Priest, J. 2017. *Social Research: Paradigms in Action.* Cambridge: Polity Press.

Blanke, HJ & Perlingeiro, R. 2018. *The Right of Access to Public Information: An International Comparative Legal Survey*. Berlin: Springer.

Blomberg, LD & Volpe, M. 2016. *Completing Qualitative Dissertation: A Road Map From Beginning to End*. Singapore: SAGE.

Bowen, GA. 2009. Document analysis as a qualitative research method. *Qualitative Research Journal* 9(2): 27-40.

Braun, V, Clarke, V, Hayfield, N & Terry, G. 2019. Thematic analysis. *Handbook of Research Methods in Health Social Science* 843-860.

Brobbey, V, Excell, C, Kakuru, K & Tilley, A. 2011. Actice and passive resistance to openness: the transparency model for freedom of information acts in Africa-three case studies. Avaulable at: https://foip.saha.org.za/upholds/images/Active%20and%20Passive%20Resistance%20to%20Openness_Africa2012.pdf (Accessed 17 January 2021).

Bryman A. 2012. *Social Research Methods*, 4th ed. New York: Oxford University Press.

Bui, YN. 2014. *How to write a Master's thesis*. Los Angeles: SAGE.

Burnell, P & Calvert, P. 2004. *Civil Society in Democratisation*. Southgate: Frank Cass and Company.

Burt, MD. 2013. Is the Freedom of Information (Scotland) Act's charging regime in need of change? A snapshot of the Scotish experience. *Journal of the Archives and Records Association* 34(2): 200-213.

Butt, S. 2013. Freedom of Information Law and its Application in Indonesia: A Preliminary Assessment. *Asian Journal of Comparative Law* 8(1): 1-42.

Calland, R. 2017. Access to Information and constitutional accountability: Ruffling feathers in South Africa. *Verfassung und Recht in Ubersee/Law and Politics in Africa, Asia, and Latin America* 50(4): 367-389.

Calland, R & Bentley, K. 2013. The impact and effectiveness of transparency and accountability initiatives: freedom of information. *Development Policy Review* 31: 69-87.

Camaj, L. 2016a. Government's use and misuses of freedom of information laws in Emerging European democracies: FOI law's impact on news agenda-building in Albania, Kosovo, and Montenegro. *Journalism and Mass Communication Quarterly* 93(4): 923-945.

Camaj, L. 2016b. From 'window dressing' to 'door openers'? Freedom of Information legislation, public demand, and state compliance in South East Europe. *Government Information Quaterly* 33: 346-357.

Cameron, WB. 1963. *Informal sociology: a casual introduction to sociological thinking*. New York: Random House.

Canas, AJ, Hill G, Carff, R, Suri, N, Lott, J, Gomez, G, Eskridge, TC, Arroyo, M & Carvajal, R. 2004. CmapTools: A knowledge modelling and sharing environment. Proceedings of the First International Conference on Concept Mapping, Pamplona, Spain, 14-17 September, edited by AJ Canas, JD, Novak and FM, Gonzalez. Pamplona, Volume 1: 125-133.

Cannataci, JA, Zhao, B, Torres, VG, Monteleone, S, Bonnici, JM & Moyakine, E. 2016. *Privacy, free expression and transparency: redefining their new boundaries in the digital age*. Paris: UNESCO Publishing.

Centre for Human Rights. 2019. International Conference of Information Commissioners 2019: Conference Statement. Available at: https://www.chr.up.ac.za/news-archive/1374-international-conference-of-information-commissioners-2019-conference-statement?msclkid=9b3a808ec0b211ec8bc45a1b072731eb (Accessed 12 April 2021).

Centre for Law and Democracy. 2015. Tanzania: Note on the Draft Access to Information Act, 2015. Available at: www.law-democracy.org/live/wp-content/uploads/2015/05/ATI-Law-analysis.rev_.pdf (Accessed 12 May 2012).

Centre for Law and Democracy. 2019. Zimbabwe: Analysis of the Freedom of Information Bill, 2019. Available at: https://www.law-democracy.org/live/wp-content/uploads/2019/11/Zimbabwe.ATI_Sep19.Analysis.pdf (Accessed 12 May 2020).

Chaterera, F. 2016a. Maping public records in Zimbabwe: the road to good governance, accountability, transparency, and affective service delivery. *Journal of the South African Society of Archivists* 49: 116-136.

Chaterera, F. 2016b. Managing public records in Zimbabwe: the road to good governance, accountability, transparency and effective service delivery. *Journal of the South African Society of Archivists* 49: 116-139.

Chaterera, F. 2017. A framework for access and use of documentary heritage at the National Archives of Zimbabwe. PhD thesis. University of South Africa, Pretoria.

Chester, G & Neelameghan, A. 2006. Information professional: Knowledge and Skills Development for Serving the Marginalized and Rural Communities. *Webology* 3(3): 1-5.

Chiduza, L & Makiwane, PN. 2016. Strengthening locus stand in human rights litigation in Zimbabwe: An analysis of the provision in the new new Zimbabwean Constitution. *Potchefstroomse Elektonise Regsblad* 19(1): 1-29.

Chigudu, D. 2015. Towards improvement of ethics in the public sector in Zimbabwe. *Journal of Governance and Regulation* 4(1): 103-111.

Chikomba, A, Rodrigues, A & Ngoepe, M. 2021. Management of digital records in selected financial services parastatals in Zimbabwe. *Information Development* 37(2): 245-257.

Chikova, R & Chilunjika, A. 2021. Public Participation and the Governance of Mineral Resources in Zimbabwe. *International Journal of Law and Public Policy* 3(1): 11-18.

Chimbari, P. 2017. Public Sector Corporate Governance in Zimbabwe: the Nexus Between the Zimcode and State Owned Enterprices. *International Journal of Economics, Commerce and Management* 5(7): 212-221.

Chisaira, LT. 2019. Acces to information laws, environmental rights and public participation in the wildlife sector. *University of Zimbabwe Law Journal* 2(1): 62-75.

Chitsamatanga, JRM & Peter, C. 2016. The influence of AIPPA on Access to Politically Related Information as Perceived by Voters in Ward 8 of Chinhoyi District, Zimbabwe. *Journal of Educational Policy and Enterpreneurial Research* 3(11): 66-84.

Chiyangwa, S, Mutongi, C, Nyoni, T, Nyoni, SP. 2020. Whistleblowers blowers protection frameworks in Zimbabwe. *JournalNX* 6(9): 274-282.

Cloudburst Gorup. 2021. Zimbabwe Civil Society Assessment. Available at: pdf.usaid.gov/pdf_docs/PA00XM8W.pdf (Accessed 08 February 2022).

Corruption Watch. 2015. The Whistleblower's Handbook. Available at: https://www.corruptionwatch.org.za/wp-content/uploads/2015/05/Corruption-Watch-Whistleblowers-handbook.pdf (Accessed 19 February 2022).

Coglianese, C. 2009. The transparency president? The Obama administration and open government. *Governance* 22(4): 529-544.

Creswell, JW. 2016. *20 Essential Skills for the Qualitative Researcher.* Thousand Oaks: SAGE.

Creswell, JW. 2014. *Research design: Qualitative, quantitative and mixed method Approaches*. Los Angeles: SAGE.

Creswell, JW. 2009. *Research Design: Qualitative, Quantitative and Mixed Method Approaches*. Los Angels: SAGE.

Creswell, JW. 2007. *Qualitative inquiry and research design: choosing among five approaches*. Thousand Oaks: SAGE.

Creswell, JW & Creswell, JD. 2018. *Research design: Qualitative, Quantitative and Mixed Methods Approaches*. Los Angeles: SAGE.

Cunningham, SJ. 2004. How to write a thesis. *Journal of Orthodontics* 31: 144-148.

Da Cruz, NF, Tavares, AF, Marques, RC, Jorge, S & Sousa, L. 2016. Measuring local government transparency. *Public Management Review* 18(6): 866-893.

Dammak, A. 2015. Research paradigms: Methodologies and compatible methods. *Veritas* 6(2): 1-14.

Daniel, A & Neubert, D. 2019. Civil society and social movements: conceptual and challenges in Africa contexts. *Critycal African Studies* 11(2): 172-192.

Darbishire, H. 2010. Proactive Transparency: The Future of the Right to Information? Washington DC: World Bank. Available at: https://elibrary.worldbank.org/doi/abs/10.1596/25031. (Accessed 02 May 2020).

Darch, C. 2013. The problem of access to information in African Jurisdictions: constitutionalism, citizenship, and human rights discourse. In *Access to Information in Africa: Law, Culture and Practice,* edited by R Calland and F Diallo. Leiden: Brill Publishers: 27-54.

Darch, C & Underwood, PG. 2010. *Freedom of information and the developing world: The citizen, the state and models of openness*. Oxford: Chandos Publishing.

Darch, C & Underwood, PG. 2005. Freedom of information legislation, state compliance and the disclosure of knowledge: The South African experience. *The International Information and Library Review* 37(2): 77-86.

Darnolf, S & Laakso, L (eds). 2003. *Twenty Years of Independence in Zimbabwe: From Liberation to Authoritarianism*. Houndmills: Palgrave Macmillan.

De Jager, K. 2015. Using a New ISO Standards to Measure the Impact of the Lyon Declaration. Paper presented at IFLA WLIC 25-21 August, Cape Town, South Africa. Available at: library.ifla.org.za?1074/1/088-jager-en.pdf (Accessed 21 May 2020).

Department of Government Communication and Information Systems. 2018. Anti-corruption hotline yielding results. Available at: https://www.sanews.gov.za/features-south-africa/anti-corruption-hotline-yielding-results (Accessed 12 March 2022).

Department of Health. 2005. *Research Governance Framework for Health and Social Care*, 2nd edn. London: Department of Health.

Department of Provincial and Local Government. 2007. National Policy Framework for Public Participation. Available at: https://pmg.org.za/policy-document/35/ (Accessed 07 November 2021).

Dewah, P. 2018. Records management consultancy service in Zimbabwe: The consultants' view. *Journal on Librarianship and Information Science* 50(1): 68-76.

Dewah, P, Mpala, N & Huni, P. 2020. Consequences of corruption in a public university as a tool for concealing malpractice. *ESARBICA Journal* 39(1): 46-64.

Dick, A. 2005a. Power is information: South Africa's Promotion of Access to Information Acr in Context. In: Context: Nature, Impact and Role: 5th International Conference on Conceptions of Library and Information Sciences, CoLIS 2005. Glascow, UK, 4-8 June 2005, *Proceedings*. Berlin: Springer: 212-225.

Dick, A. 2005b. Power is Information: South Africa's Promotion of Access to Information Act in context. *Mousaion* 23(1): 1-18.

Dieronitou, I. 2014. The Ontological and Epistemological Foundation of Qualitative and Quantitative Approaches to Research: With a particular preference to content and discourse analysis of textbooks. *International Journal of Economics, Commerce and Management* 2(10): 1-17.

Dimba, M. 2009. The power of information: Implementing the right to information laws. *SA Crime Quaterly* 2009(30): 21-26.

Dimba, M & Calland, R. 2003. Freedom of information law in South Africa: A country study. Available at: https://www.humanrightsinitiative.org/programs/ai/rti/international/laws_papers/south africa/Calland%20&%20Dimba%20-%20FOI%Country%20Study.pdf% (Accessed 04 August 2020).

Dlodlo, A. Keynote address by the Minister of Communication Ayanda Dlodlo (MP) at the SADC ICT Ministers Meeting – 7 September 2017. Available at: https://www.gov.za/speeches/minister-ayanda-dlodlo-sadc-ict-ministers-meeting-7-sep-2017-0000?msclkid=fc8cfd26c07e11ec98add967c064d5f7 (Accessed 20 March 2020).

Dominy, G. 2017. The effects of an administrative and policy vacuum on access to archives in South Africa. *Archival Science* 17(4): 393-408.

Dugard, J. 2008. Courts and the Poor in South Africa: A critique of systemic failure to andvance transformative justice. *South African Journal on Human Rights* 24(2): 214-238.

Duthie, F. 2010. Libraries and the Ethics of Censorship. *The Australian Library Journal* 59: 85-94.

Dzinesa, GA. 2012 *Zimbabwe's constitutional reform process: challenges and prospects*. Wynberg: Institute for Justice and Reconciliation. Available at: https://media.africaportal.org/documents/IJR_Zimbabwe_Constitutional_Reform_OP_WEB.pdf (Accessed 13 May 2021).

Dzwigol, H & Dzwigol-Barosz, M. 2018. Scientific research methodology in management sciences. *Financial and credit activity: problems of the theory and practice* 2(25): 423-437.

Ebrahim, F. 2010. The Promotion of access to Information Act – a blunt sword in the fight for freedom of information? MA dissertation, University of Cape Town, Cape Town.

Edirisingha, P. 2012. Interpretivism and Positivism (Ontological and Epistemological Perspectives). Available at:

hppts://prabash78.wordpress.com/2012/03/14/interpretivism-and-positivism-ontological-and-epistemological-perspectives/ (Accessed 17 May 2021).

Efron, SF & Ravid, R. 2019. *Writing the literature review: a practical guide*. New York: The Guilford Press.

Enwerem, 2014. The Right to Know and the Implementation of Freedom of Information Legislation: Case Studies of Nigeria and South Africa. MA Dissertation, Central European Univerity, Budapest.

Erlingson, GO & Wittberg, E. 2018. They walk the talk-But do they walk the walk? *Scandinavian Journal of Public Administration* 22(4): 3-20.

Escaleras, M, Lin, S & Register, C. 2010. Freedom of information acts and public sector corruption. *Public Choice* 145(3): 435-460.

Etikan, I, Musa, SA & Alkassim, RS. 2016. Comparison of convenience sampling and purposive sampling. *American Journal of Theoretical and Applied Statistics* 5(1): 1-4.

Eve, E. 2009. *Democratization in Zimbabwe*. PhD thesis, Georgetown University, Washington, DC.

Ewert, EG, Baldwin-Ragaven, L & London, L. 2011. Training trainers in health and human rights: implementing curriculum change in South African health sciences institutions. *BMC Medical education* 11(1):1-15.

Faryadi, Q. 2019. PhD Thesis Writing Process: A Systematic Approach—How to Write Your Methodology, Results and Conclusion. *Creative Education* 10(4): 766-783.

Fink, K. 2018. Opening the government's black boxes: freedom of information and algorithmic accountability. *Information, Communication and Society* 21(10): 1453-1471.

Fink-Hafner, D, Dagen, T, Doušak, M, Nuvak, M & Hafner-Fink, M. 2019. Delphi Method: Strength and Weaknesses. *Metodološki zvexki* 16(2): 1-19.

Flick, U. 2015. *Introducing research methodology: A beginner's guide to a research project*. London: SAGE

Flinders, DJ. 1992. In search of ethical guidance: constructing a basis for dialogue. *Qualitative Studies in Education* 5(2): 101-115.

Foti, J, Acres, S, Falla, R, Hickle, J, Galang, K, Tuths, P, Bluma, S, Monaco, J, Bernhard, M & Banks, B. 2019. Open Government Partnership Global Report: Democracy Beyond the Ballot Box: volume 1. Washington DC: OGP. Available at: https://idl-bnc-idrc.dspacedirect.org/handle/10625/58009 (Accessed 16 February 2020).

Fraundorfer, M. 2017. The Open Government Partnership: Mere Smokescreen on New Paradigm? *Globalizations* 14(4): 611-626.

Freedominfo. 2016. FOI Notes: India, US, Open Meetings of the Future, Malaysia, UK, Canada, More. Available at: www.freedominfo.org/2016/05/foi-notes-india-us-open-meetings-of-the-future-malaysia-uk-canada-more/ (Accessed 11 March 2022)

Freedominfo. 2015. Groups Call on Zimbabwe to Prove More Transparency. Available at: www.freedominfo.org/regions/africa/zimbabwe/ (Accessed 18 July 2019).

Freedominfo. 2014. Making Transparency Policies Work. Available at: www.freedominfo.org/2014/10/making-transparency-policies-work/ (Accessed 27 January 2022).

Freedom House. 2021. Freedom in the worls: Zimbabwe. Available at: https://freedomhouse.org/country/zimbabwe/freedom-world/2021?msclkid=ec80e1e0c16011ecb4edef9ec76169ba (Accessed 20 April 2021).

Friese, S, Soratto, J & Pires, D. 2018. Carrying out a computer-aided thematic analysis with ATLAS.ti. MMG working paper 18-02, ISSN 2192-2357. Available at: https://pure.mpg.de/rest/items/item_2582914_5/component/file_2582912/content (Accessed 03 November 2021).

Garrido, M, Fellows, M & Koepke, L. 2017. The State of Access to Information and Development in the United Nations 2030 Agenda, in *Development and Access to Information*, edided by M Garrido and SWyber. Den Haag: IFLA: 15-49.

Gaus, FG. 2017. An interpretivism perspective of institutional practives on alied health program student retention at public community coleges in Texas. PhD thesis, Texas A & M University-Corpus Christi, Corpus Christi.

Geha, CS. 2008. Freedom of information: Bridging the Gap Between the Citizens and the State. PhD thesis, American University of Beirut, Beirut.

Georgiadis, KM. 2013. The emerging Jurisprudence on the Right of Access to Information in Kenya. Available at: https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2257151 (Accessed 27 April 2020).

Gil-Garcia, JR, Gassco-Harnandez, M & Pardo, TA. 2020. Beyond transparency, participation, and collaboration? A reflection on the dimensions of open government. *Public Performance and Management Review* 43(3): 483-502.

Ginsberg, WR. 2001. *Obama Administration's Open Government Initiative: Issues for Congress.* Washington DC: Congressional Research Service.

Giraldi, F and Maggeti, M. 2010. The independence of regulatory authorities. In Levi-Faur, D (eds.), *Handbook of Regulation*. Cheltenham: Edward Elgar, pp. 1-21.

Glaser, D. 2016. *Assessing the performance of South Africa's constitution*. Stockholm: International Institute for Democracy and Electoral Assistance.

Global Campaign for Free Expression. 2017. *Open development: access to information and sustainable development goals.* London. GCFE. Available at: https://www.article19.org/resources/open-development-access-to-information-and-the-suitable-development-goals/ (Accessed 20 July 2019).

Govender, K. 1995. Access to information: enforcement mechanisms and fees. *SA Public Law* 10(2): 346-355.

Grafchik, W. 2001. The participation of civil society and the legislatures in the formulation of the budget, in *Public participation in democratic governance in South Africa, edited by FG* Huston. Pretoria: Human Science Research Council: 83-139.

Grant, C & Osanloo, A. 2014. Understanding, selecting, and integrating a theoretical framework in dissertation research: creating the blueprint for your "house". *Administrative Issues Journal: Connecting Education* 4(2): 12-26.

Gray, DE. 2004. *Doing research in the real world*. London: SAGE.

Grimmelikhujsen, S, John, P, Meijer, A, & Worthy, B. 2018. Do Freedom of Information laws increase the transparency of government? A pre-registered replication of a field experiment. *Journal of Behavioural Public Administration* 1(2): 1-10.

Grisham, T. 2008. The Delphi technique: a method for testing complex and multifaceted topics. *International Journals of Managing Projects in Business* 2(1): 112-130.

Grupe, FH. 1995. Commercialising public information: A critical issue for governmental IS professionals. *Information and Management* 28(4): 229-282.

Guba, EG. 1990. *The paradigm dialogue*. Now Delhi: SAGE.

Guba, EG & Licoln, YS. 1998. Competing paradigms in qualitative research, in *The landscape of qualitative research: theories and issues,* edited by NK Denzin and S Licoln. Thousand Oaks: SAGE: 195-220.

Hamooya, C. 2009. Awareness and usage of archival information at the National Archives of Zimbabwe. *Zambia Library Association Journal* 24(1&2): 44-52.

Harris, V & Merret, C. Towards a Culture of Transparency: Public Rights of Access to Official Records in South Africa. *American Archivists* 57: 680-692.

Hart, C. 2018. *Doing a literature review: releasing a research imagination.* London: SAGE.

Hart, G & Nassimbeni, M. 2018. The value of information in South Africa's new democracy. *Library Management* 39(5): 322-335.

Hasson, F, Keeney, S & McKenna, H. 2000. Research guidelines for Delphi survey technique. *Journal of advanced nursing* 32(4): 1008-1015.

Hatchard, J. 2001. Some lessons on constitution-making from Zimbabwe. *Journal of African Law* 45(2): 210-216.

Hatchard, J. 1991. The Constitution of Zimbabwe: towards a model for Africa? *Journal of African Law* 35(1/2): 79-101.

Hazel, R & Worthy, B. 2010. Assessing the performance of freedom of information. *Government Information Quaterly* 27(4): 352-359.

Hearn, J. 2001. The 'uses and abuses' of civil society in Africa. *Review of African Political Economy* 28(87): 43-53.

Hennink, M, Hutter, I & Bailey, A. 2020. *Qualitative research methods*. Los Angeles: SAGE.

Hines, SS. 2015. Connecting individuals with social services: the library's role. Paper presented at World Library and Information Congress (WLIC): 81th IFLA congress, Ssouth Africa. Available at: https://www.ifla.org/files.org/files/assets/reference-and-information-service/publications/512-hines-en.pdf (Accessed 21 May 2020).

Hohmann, MP & Brand, JC. 2018. Research pearls: expert consensus based evidence using the Delphi method. *The Journal of Arthroscipic and Related Surgery* 34(12): 3278-3282.

Holsen, S & Pasquier, M. 2012. Insight and oversight: the role of Information Commissioners in the implementation of Access to Information Policies. *Journal of Information Policy* 2: 214-241.

Horsley, JP. 2010. Update on China's Open Government Information Regulation: Surprising Public Demand Yielding Some Positive Results. Available at: www.freedominfo.org/2010/04/update-on-china-open-government-information-regulations/ (Accessed 11 February 2019).

Hsu, CC & Sandford, BA. 2007. The Delphi technique: making sense of consensus. *Practical Assessment, Research and Evaluation* 12(10): 1-8.

Huijboom, N & Van den Broek, T. 2011. Open data: an international comparison of strategies. *European Journal of ePractice* 12(1): 4-16.

Hulse, M, Gurth, L, Kavsek, H, Stauber, V, Wegner, D & Weinreich, J. 2018. Civil society engagements in regional governance: A Network Analysisis of Southern Africa. Discussion paper No 30/2018. Available at: https://www.die-gdi.de/uploads/media/DP_30.2018.pdf (Accessed 19 April 2020).

Human Rights Watch. 2019. *Human Rights Watch World Report 2019: Events of 2018*. USA: Human Rights Watch. Available at: http://www.hrw.org/sites/default/files/world_report_download/hrw_world_report_2019.pdf (Accessed 30 January 2019).

Human Rights Watch. 2016. *Freedom of expression in Zimbabwe*. Available at: https://www.hrw.org/world-report/2017/country-chapters/zimbabwe (Accessed 18 February 2019).

Human Rights Watch. 2004. Zimbawe's Non-Governmental Organisations Bill: Out of Sync with SADC Standards and a Threat to Civil Society Groups. Available at: https://www.hrw.org/legacy/backgrounder/africa/zimbabwe/2004/12/zimbabwe1204.pdf (Accessed 18 January 2021).

Ibe, EC. 2021. Freedom of Information as a fundamental right under African law. *African Journal of Law and Human Rights* 5(1): 71-81.

Information Regulator South Africa. 2019/20. Annual Report for the 2019/20 financial year. Available at: https://inforegulator.org.za/wp-content/uploads/2020/07/ANR-2019-2020-InformationRegulatorSA.pdf (Accessed 29 March 2022).

Information Regulator South Africa. 2018/19. Annual Report 2018/19 financial year. Available at: https://inforegulator.org.za/wp-content/uploads/2020/07/ANR-2018-2019-InformationRegulatorSA.pdf (Accessed 13 April 2020).

Ingrams, A & Piotrowski, S. 2020. Open Government – A long way ahead for Afghanistan – A general Analysis on Action Plan (2017-2019). *Open Journal of Political Science* 10(01): 106-123.

Inokoba, PK. 2014. Freedom of Information Act and democratic consolidation in Nigeria: Prospects and Challenges. *International Journal of Development and Sustainability* 3(12):2258-2271.

International Council on Archives. 2021. The Universal Declaration on Archives Terminology. Available at:

https://www.ica.org/sites/default/files/ica_uda_terminology_0.pdf (Accessed 19 March 2019).

International Federation of Library Associations. 2019. Library Map of the World. Available at: https://librarymap.ifla.org.map (Accessed 16 May 2020).

International Federation of Library Association. 2017. The Lyon Declaration. Available at: https://www.ifla.org/publications/node/11146 (Accessed 21 May 2015).

International Federation of Library Association. 2016. IFLA Code of Ethics for Librarianship and other Information Worker. Availalble at: https://www.ifla.org/publications/node/11092 (Accessed 21 May 2020).

International Monetary Fund. 2020. South Africa: Bridging the Income Divide. Available at: https://blogs.imf.org/2020/02/07/south-africa-bridging-the-income-divide/#:~:text=By%20IMFBlog%20South%20Africa%20suffers%20among%20the%20highest,40%20percent%20possess%20only%207%percent%20of%20income (Accessed 06 November 2021).

International Organisation for Standardization 2789: 2013. 2013. Information and documentation – International library statistics. Geneva: ISO.

Iyer, V. 2001. Freedom of Information: Principles for legislation. *Media Asia* 28(1): 17-22.

Johnson, CP. 2018. The influence of freedom of information law on journalism practice (A study of ESBS, FRCN, DREAM FM, NTA. PhD Thesis, Godfrey Okoye University Ugwuomu Nike, Enugu.

Jordaan, N. 2019. Zimbabwe crisis could spill into neighbouring countries: Human Rights Watch. *Times Live* 18 January [Online]. Available at: https://www.timeslive.co.za/news/south-africa/2019-01-18-zimbabwe-crisis-could-spill-into-neighbouring-countries--human-rights-watch/ (Accessed 30 January 2019).

Kabata, V & Garaba, F. 2019. Leadership and political will for implementation of the access to information (ATI) Act (2016) in Kenya. *Records Management Journal* 29(1/2): 117-133.

Kabonga, I, Kwashirai, Z & Musara, E. 2021. Legislative Frwamework for Civil Society in Zimbabwe's "Second Republic": A Sociological Review. International Journal of African Renaissance Studies – Multi-, Inter-and Transparency. Available at: https://doi.org/10.1080/18186874.2021.1994863 (Accessed 30 March 2021).

Kaka, JC. 2016. Implementation of the Promotion of Access to Information Act in the Department of Sport, Art and Culture in Limpopo Province. Masters Dissertation, University of Limpopo, Polokwane.

Kamal, SSLBA. 2019. Research paradigms and the philosophical foundations of a qualitative study. *International Journal of Social Sciences* 4(3): 1386-1394.

Kampas, PS. 2014. Should Everyone Know Everything: The Freedom of Information Act vs. Governmental and National Security. *Journal of Biosecurity, Biosafety and Biodefense Law* 5(1): 129-152.

Kane, M & Trochim, WMK. 2007. *Concept mapping and evaluation*. Thousand Oaks, CA: SAGE.

Karen, J. 2002. National Information Insecurity-Constitutional issues regarding the protection of disclosure of information by public officials. *South African Law Journal* 119(4): 721-732.

Kawulich, BB. 2004. Data analysis techniques in qualitative research. *Journal of research in education* 14(1): 96-113.

Keeney, S, Hasson, F & McKenna, HP. 2001. A critical review of Delphi technique as a research methodology for nursing. *International Journal of Nursing Studies* 38(2): 195-200.

Keeney, S, Hasson, F & McKenna, HP. 2011. *The Delphi technique in nursing and health research*. Oxford: Willey-Blackwell.

Khoza, VL. 2008. The implementation of the Batho Pele principles from patients experiences. PhD thesis, University of South Africa, Pretoria.

Khumalo, NB & Baloyi, C. 2019. The possible benefits of freedom of information laws to records management landscape in the ESARBICA region. *Information Development* 35(2): 176-190.

Khumalo, NB, Bhebhe, S & Mosweu, O. 2016. A comparative study of freedom of information legislation in Botswana, South Africa and Zimbabwe. *Mousaion* 34(4): 108-131.

Killam, L. 2013. *Research terminology simplifies: Paradigm, Axiology, ontology, Epistemology and Methodology*. Sudbury: Laura Killam.

Kim, SP, Holigan, J, Cho, N, Oh, CH & Eikenberry, AM. 2005. Towards participatory and transparent governance: Report on the sixth global forum on the reinventing government. *Public Administration Review* 65(6): 646-654.

Kinchin, IM. 2000. Concept mapping in Biology. *Journal of Biological Education* 34(2): 61-68.

King, N & Horrocks, C. 2010. *Interviews in qualitative research*. Thousands Oaks: SAGE.

Kingori, G, Njiraine, D & Maina, S. 2016. Implementation of information literacy programmes in public libraries. *Library Hi Tech News* 33(2): 17-22.

Kirwood, C. 2002. The promotion of access to information act and the national archives of South Africa Act: a comparative analysis of the previous and present statutes governing access to information. *ESARBICA Journal* 21(2).

Kisoon, C. 2010. Ten years of access to information in South Africa: Some challenges to the effective implementation of PAIA. Johannesburg: ODAC.

Kivunja, C. & Kuyini, AB. 2017. Understanding and applying research paradigms in educational context. *International Journal of Higher Education* 6(5): 26-41.

Klaren, J. 2002. National Information Insecurity – Constitutional Issues regarding the Protection and Disclosure of Information by Public Officials. *South African Law Journal* 119(4): 721-732.

Korte, B. A popular hero in a popular cinema. *Helhen. Heroes. Heroes* 1: 68-77.

Kothari, CR. 2004. *Research Methodology: Methods and Technoqies*. New Delhi: New Age International.

Kuhn, TS. 1962. *The structure of scientific revolution*. Carnifolia: The University of Chicago Press.

Kumar, R (ed). 2019. *Research Methodology: A step by step guide for beginners*. 5th ed. Los Angels: SAGE.

Kuunifaa, CD. 2012. Access to information legislation as a means to achieve transparency in Ghanaian governance: Lessons from the Jamaican experience. *International Federation of Library Association and Institutions* 38(2): 175-186.

LaMay, CL, Freeman, RJ & Winfield, RN. 2013. Breathing Life into Freedom of Information Laws: The Challenges of Implementation in the Democratizing World. Available at: https://ciaotest.cc.columbia.edu/wps/ned/0028984/f_0028984_23532.pdf (Accessed 13 August 2021).

Lavanya, B & Princy, AA. 2019. A Nomological Design of Conceptual Framework with Deeep Learning Algorithm. *International Journal of Computer Science and Information Security* 17(8): 52-60.

Lawal, OA, Adedoyin, A & Oyekuhle, RA. 2020. Nigeria Freedomm of Information Act: an investigation of its level of acceptance (a case study of Ilron Metropolis) Nigeria. *Information Technologist(The)* 16(2): 177-184.

Lawulich, BB. 2004. Data Analysis Techniques in Qualitative Research. *Journal of Research in Education* 14(1): 96-133.

Leavy, P. 2017. *Research design: Quantitative, Qualitative, Mixed Methods, Art-Based, and Community-Based Participatory Research Approached*. New York: The Guilford Press.

Ledwaba, L. 2019. Keeping people illiterate to retain power. Personal conversation on 10 May 2019.

Lefebvre, S. 2017. Reconcilling democracy and protection of state secrets in South Africa. *International Journal of Intelligence and Counter Intelligence* 30(3): 491-521.

Legislative Sector South Africa. 2013. Public Participation Framework for the South African Legislative Sector. Available at: https://sals.gov.za/wp-content/uploads/simple-file-list/ppf.pdf (07 May 2021).

Lemieux, V. 2020. Transparency in the 21st century: the role of records in achieving public access to information, protecting fundamental freedoms and monitoring sustainable development. In *A Matter of Trust: Building Integrity into Data, Statistics and Records to Support the Achievement of the Sustainable Development Goals*, edited by A Thurston, London: University of London Press: 173-188.

Lemieux, VL & Trapnell, SE. 2016. *Public Access to Information for Development: A guide to effective implementation of right to information laws*. Washington DC: The World Bank.

Library and Information Association of South Africa. 2013. LIASA Code of Ethics and Conduct. Available at: https://www.liasa.org.za/page/code_ethics (Accessed 21 May 2020).

Limpopo Provincial Treasury. 2011. Press Release – Limpopo Provincial Treasury wins the 2011 Annual Golden Key Awards Competition as the Best overall institution and the Best Deputy Information Officer in South Africa. Available at: www.limtreasury.gov.za/lim_admin_trea/pages/sites/treasury_lim/documents/mediarelease/media%20 (Accessed 13 January 2022).

Lincoln, YS & Guba, EG. 1985. *Naturalistic inquiry*. Carlifonia: SAGE.

London, L. 2011. Training trainers in health and human rights education and training. *South African Journal of Bioethics and Law* 4(2): 106.

Loo, R. 2002. The Delphi method: a powerful tool for strategic management. *An International Journal of Police Strategies and Management* 25(4): 762-769.

Lowry, J. 2013. Freedom of Information and government records in Kenya, Uganda and Tanzania. *Archives and Manuscript* 44(1): 23-32.

Luscombe, A, Walby, K & Lippert, RK. 2017. Brokering Access Beyond the Border and in the Wild: Comparing Freedom of Information Law and Policy in Canada and the United States. *Law and Policy* 39(3): 259-279.

Mabillard, V, Kakpovi, BG & Cottier, B. 2018. Access to information in Benin: a case study. *International Review of Administrative Sciences* 86(1): 134-151.

Madubuike-Ekwe, NJ & Mbadugha, JN. 2018. Obstacles to the implementation of Freedom of Information Act, 2011 in Nigeria. *Journal of International Law and Jurisprudence* 9(2): 96-109.

Maggetti, M. 2007. De facto independence after delegation: A fuzzy-set analysis. *Regulation and Governance* 1(4): 271-294.

Maguire, M & Delahunt, B. 2017. Doing a Thematic Analysis: A Practical Guide, Step-by-Step Guide for Learning and Teaching Scholars. *All Ireland Journal of Higher Education* 9(3): 3351-33514.

Makaye, P & Dube, B. 2013. Zimbabwe: the challenge of Democracy from below, 1980 to 2013. *International Journal of Political Science and Development* 2(10): 227-236.

Makhura, M & Ngoepe, M. 2006. Assessing the extent of compliance with regard to National Archives and Records Service of South Africa Act and Promotion of Access to Information Act: Implication for good governance and accountability. *ESARBICA Journal* 25: 128-138.

Makumbe, J. 2005. Zimbabwe. *South African Journal of International Affairs* 12(1): 219-236.

Malmqvist, J, Hellberg, K, Mollas, G, Rose R & Shevlin, M. 2019. Conducting the Pilot Study: A Neglected Part of the Research Process? Methodological Findings Supporting the Improtance of Piloting in Qualitative Research Studies. *International Journal of Qualitative Methods* 18: 1-11.

Manby, B. 2009. *Struggle for citizenship in Africa*. New York: Open Society Institute.

Manolea, B & Cretu, V. 2013. The influence of the Open Government Partnership (OGP) on the Open Data discussions. *European Public Sector Information Platform (2013/10)*.

Marais, DL, Quayle, M & Burns, JK. 2017. The role of Access to Information and Public Participation in Governance: A case study of Access to Policy Consultation Records in South Africa. *African Journal of Public Affairs* 9(6): 36-49.

Martins, OB, Luke, AI, Chima, OA, Chinaza, U & Williams, EE. 2020. Journalists Perception of the Freedom of Information Act (FOIA) in Nigeria: A study of Journalists in Imo State. *Media and Communication Currents* 4(2): 108-128.

Martin, M. 2014. Right to information laws: Impact and implementation. *Transparency International.* Available at: https://www.transparency.org/files/content/corruptionqas/Right_to_information_laws_-_impact_and_implementation_2014.pdf (Accessed 28 July 2020).

Marutha, N. 2019. The application of legislative frameworks for the management of medical records in Limpopo Province, South Africa. *Information Development* 35(4): 551-563.

Matsheza, P, Kututwa, N & Chimhini, SB. 2004. Analysis of the notice of amendment to the Non-Governmental Organisations Bill, 2004. *International Journal on Civil Society Law* 2: 147-152.

Matthews, B & Ross, L. 2010. *Research methodology: a practical guide for social science.* United Kingdom: Pearson.

Mauyakufa, FT & Pradhan, A. 2018. Censorship as a Regressive Developmental Instrument for Radio Television Broadcasting Service in Zimbabwe, In International Conference on Industrial Engineering and Operations Management, Proceedings. Washington DC, USA.

McKinley, TD. 2021. Democracy and the right to know in South Africa's capitalist transition, in *Destroying Democracy: Neoliberal capitalism and the rise of authoritarian politics*, edited by M Williams and V Satgar. Johannesburg: Wits University Press: 148-162

McKinley, TD. 2015. Secret and power in South Africa, in *A fragile democracy: twenty years on (New South African Review 4),* edited by GM Khadiagala, P Naidoo, D Pillay & R Southball. Johannesburg: Wits University Press: 150-168.

McKinley, TD. 2014. Secrecy and power in South Africa. New South African Review 4: 150-166.

McKinley, TD. 2003. The state of access to information in South Africa. Centre for Study of Violence and Reconciliation, July 2003. Available at:

https://www.humanrightsinitiative.org/programs/ai/rti/international/laws_papers/southafrica/McKinley%20-%20FOI%20in%20Soutth%20Africa.pdf (Accessed 19 July 2019).

Media Alliance of Zimbabwe. 2021. Women and Access to Information: barriers and opportunities in Freedom of Information Act. Available at:

https://mazw.org.zw/women-and-access-to-information-barriers-and-opportunities-in-freedom-of-information-act/ (Accessed 29 January 2021).

Media Institute of Southern Africa. 2020a. New Information Law should set pace for repeal of other draconian laws. Available at: https://zimbabwe.misa.org/2020/07/02/new-information-law-should-set-pace-for-repeal-of-other-draconian-laws/ (Accessed 04 September 2020).

Media Institute of Southern Africa. 2020b. Analysis of covid-19 regulation vis-à-vis freedom of expression in the SADC region. Harare: MISA.

Media Institute of Southern Africa. 2020c. MISA Transparency assessment: the citizen's analysis of government openness in Southern Africa. Lusaka: MISA. Available at: https://data.misa.org/api/files/1629105376208qzzooupx11.pdf (Accessed 06 April 2022).

Media Institute of Southern Africa. 2020d. Lack of access to information, its implications on vital institutions in Zimbabwe. Available at: https://zimbabwe.misa.org/2020/10/03/lack-of-access-to-information-its-implications-on-vital-institutions-in-zimbabwe/ (Accessed 30 March 2022).

Media Institute of Southern Africa. 2019. Shocking Freedom of Information Bill gazetted. Available at: https://zimbabwe.misa.org/2019/07/05/shocking-freedom-of-information-bill-gazetted/ (Accessed 18 May 2021).

Media Institute of Southern Africa. 2018. Zimbabwe transparency assessment 2018: The Citizens' analysis of government openness. Available at:

https://data.misa.org/api/files/16185937920030r3or14624h.pdf (Accessed 03 February 2022).

Mendel, T. 2020. Analysis of the Kyrgyz Legal Framework for the Right to Information. Available at: wfd kg-ati-framework-analysis eng-v9.pdf (mediadilogue.kg) (Accessed 18 February 2022).

Mendel, T. 2015. Designing right to information laws for effective implementation. Washington DC: The World Bank.

Mendel, T. 2008. *Freedom of information: a comparative legal survey*. Paris: UNESCO.

Mendel, T. 2003a. Freedom of information legislation: progress, concerns and standards. *Global Corruption Report 2003*: 57-61.

Mendel, T. 2003b. The Johannesburg Principles: Overview and Implementation. Available at: https://www.article19.org/data/files/pdfs/publications/jo-burg-principles-overview.pdf (Accessed 29 July 2021).

Meriam, SB. 1998. *Qualitative research and case study applications in education*. San Francisco: Jossey-Bars Publishers.

Meyer-Resende, M. 2011. *Democracy reporting: International*. Berlin: Democracy Reporting International.

Mhiripiri, NA & Midzi, R. 2020. Fighting for survival: persons with disabilities's activisim for the mediatisation of COVID-19 information. *Media International Australia* 178(1): 151-167.

Michener, G & Bersch, K. 2013. Identifying transparency. *Information Polity* 18(3): 233-242.

Michener, G & Worthy, K. 2018. The Information Gathering Matrix: A Framework for Conceptualizing the Unse of Freedom of Information Laws. *Administration and Society* 50(4): 476-500.

Millar, L. 2003. The right to information-the right to records; the relationship between record keeping, access to information, and government accountability. Available at: http://www.humanrightsinitiative.org/programs/ai/rti/articles/record_keeping_ai.pdf (Accessed 28 September 2018).

Mnjama, N. 2003. Records management and Freedom of Information: a marriage partnership. *Information Development* 19(3): 183-188.

Mojapelo, M. 2020. Strengthening public sector records management through the Information Regulator in South Africa. *Journal of the South African Society of Archivists* 53: 90-102.

Mojapelo, M. 2017. Contribution of selected chapter nine institutions to records management in the public sector in South Africa. Masters Dissertation, University of South Africa, Pretoria.

Mojapelo, M & Ngoepe, M. 2017. The role of the South African Human Rights Commission to records management in the public sector in South Africa. *Journal of the South African Society of Archivists* 50: 28-55.

Mosamim, P & Sugandi, YS. 2020. Open Government – A long way ahead for Afghanistan – A general analysis on Action Plan 1 (2017 – 2019). *Open Journal of Political Science* 10: 106-123.

Moses, LB & de Koker, L. 2018. Open secrets: Balancing operational secrecy and transparency in the collection and use of data by national security and law enforcement agencies. *Melbourne University Law Review* 41(2): 530-570.

Moustakas, C. 1994. *Phenomenological research methods*. Thousand Oaks: SAGE.

Moyo, J. 2009. Academic freedom and human rights in Zimbabwe. *Social Research: An International Quaterly* 76(2): 611-614.

Mpofu, S. 2014. Memory, National identity, and freedom of expression in the information age: disclosing the taboo in the Zimbabwean public sphere. In *Human Rights and Ethics Concepts, Methodologies, Tools, and Applications,* edited by Information Resource management Association. Hershey: IGI Global: 1763-1777.

Mriyoga, L. 2011. Information without power? Exploring the challenges and opportunities in the usage of the Promotion of Access to Information Act no 50 of 2000 (PAIA) as a potent tool for advancing socio-economic justice in South Africa. PhD thesis, University of Cape Town, Cape Town.

Mueller, CE. 2019. Evaluating Freedom of Information Laws: Objectives, Approaches, and Practical Considerations. *International Journal of Public Administration* 42(12): 1020-1030.

Mullon, PA & Ngoepe, M. 2019. An integrated framework to elevate information governance to a national level in South Africa. *Records Management Journal* 29(1/2): 103-116.

Munoriyarwa, A. 2021. When watchdogs fight back: resisting state survilience in everyday investigative reporting practices among Zimbabwean journalists. *Journal of eastern African Studies* 15(3): 421-441.

Murad, MH & Hoque, KA. 2010. The Right to Information Act in Bangladesh: An Analysis in the Light of Johannesburg Principles of Freedom of Information Legislation. *IIUC Studies* 7: 73-90.

Murwira, Z. 2020. Cabinet approves AIPPA repeal. *The Herald* [online]. Available at: https://www.herald.co.zw/cabinet-approves-aippa-repeal/ (Accessed 04 September 2020).

Musa, SA. 2001. Charter for Public Service in Africa. Staretgies for implementation in Nigeria. *African Administrative Studies* 57: 77-86.

Mutsagondo, S & Chaterera, F. 2014. Mirroring the National Archives of Zimbabwe Act in the context of electronic records: lessons for ESARBICA states. *Information Development* 32(3): 224-259.

Mutula, SM. 2006. Freedom of information in the SADC region: implication for development and human rights. *Library review* 55 (7): 440-449.

Mutula, SM & Wakumoya, JM. 2009. Public sector information management in east and southern Africa: Implications for FOI, democracy and integrity in government. *International Journal of Information Management* 29(5): 333-341.

Mwania, KN. 2015. Influence of customer service charter on service delivery: A case of Nairobi City Water and Sewerage Company in Kenya. MA Dissertation, University of Nairobi, Nairobi.

Myers, MD. 2013. *Qualitative research in business and management*. London: SAGE.

Naderifar, M, Goli, H & Ghaljaei, F. 2017. Snowball sampling: a purposeful method of sampling in qualitative research. *Strides in Development of Medical Education Journal* 14(3): 1-4.

Naik, MM. 2014. Importance of information literacy. *International Journal of Digital Library Service* 4(3): 92-100.

Naidoo, K & Doube, C. 2007. The Crisis for Civil Society in Zimbabwe. *International Journal of Civil Society Law* 5(2): 83-88.

National Archives and Records Service of South Africa. 2007. *Records management policy manual*. Pretoria: NARSSA.

National Development Agency. 2020. Requirements for transforming the civil society sector in South Africa. Available at: https://www.nda.org.za/assets/resources/CF82441_4FA0-41EE-AB69-4DB10CD0384A/Requirements_for_transforming_CSOs_in_SouthAfrica-ResearchReport.pdf (Accessed 08 February 2022).

National Development Agency. 2020. South African Government Funding to Non-Profit Organisations: "What is the investment value?" Available at:

https://www.nda.org.za/assets/resources/97BB1A6D-430C-421F-9595-E018FB203EA5/SA_NPO_Funding_Government_1.pdf (Accessed 08 February 2022).

National Development Agency. 2013. Funding constraints and challenges faced by civil society in South Africa. Johannesburg: NDA.

National Development Agency. 2008. Review of the state of the civil society organisations in South Africa. Available at: https://www.nda.org.za/assets/resources/CF824421-4FA0-41EE-AB69-4DB10CD0384A/Review-of-CSOs-in-SA-NDA-Audit-of-CSOs1.pdf (Accessed 05 May 2022).

Ndenje-Sichalwe, E & Ngulube, P. 2009. Records management and access to information: Key to fostering accountability, good governance and protection of human rights in Tanzania. *ESARBICA Journal* 28(10): 4-19.

Nderi, A. 2008. Freedom of information is democracy's cornerstone, *Pambuzuka News, 18 September* [Online]. Available at: https://www.pambazuka.org/governance/freedom-information-democracys-cornerstone (Accessed 21 February 2019).

Nengomasha, CT and Chikomba, A. 2018. Status of EDRMS implementation in the public sector in Namibia and Zimbabwe. *Records Management Journal* 23(3): 252-264.

Nenty, HJ. 2009. Writing a quantitative research thesis. *International Journal of Educational Science* 1(1): 19-32.

Neocleous, M. 2020. From civil society to the social. *British Journal of Sociology* 46(3): 395-408.

Network of Freedom of Information Advocates. 2017. What is freedom of information? Available at: https://foiadvocates.net/ (Accessed 21 March 2019).

Neuman, L. 2009. *Enforcement model: content and context*. Washington DC: Banco Mundial.

Neuman, L. 2002. *Access to information: a key to democracy*. Jamaica: Carter Centre.

Neuman, L & Colland, R. 2007. *Making Access to information law work: the challenges of implementation*. Columbia: Columbia University Press.

Neuman, L & Excell, C. 2006. Key considerations in reforming the Jamaica Access to Information Act, in *Access to Information: Building a culture of transparency*, edited by The Carter Centre. Atlanta: The Carter Centre:15-25.

Neuman, WL. 2014. *Social research methods: qualitative and quantitative approaches*. 7th ed. Harlow: Pearson.

New Zealand Ombudsman. 2019. Access to government information. Available at: https://www.lawsociety.org.nz/_data/assets/pdf_file/0014/140216/Access-to-government-information-ombudsman.pdf (Accessed 02 August 2020).

New Zealand Law Society. 2019. Survey shows lack of awareness of freedom of information. Available at: https://www.lawsociety.org.nz/news-and-communications/latest-news/news/survey-show-lack-of-awareness-of-freedom-of-information (Accessed 02 August 2020).

Ngoepe, M. 2022. Archival Landscape in South Africa. Presentation at the virtual seminar of the Society of American Archivists, 24 March 2022. Available at: youtube.com/watch?v=o_4-ElrQBqE (Accessed 30 March 2022).

Ngoepe, M. 2021. Balancing and reconciling the conflicting values of information access and personal data laws in South Africa, in *Information Knowledge and Technology for Development in Africa*, edited by DN Ocholla, ND Evans and J Britz. Cape Town: OASIS: 71-84.

Ngoepe, M. 2016. Records management models in the public sector in South Africa: Is there a flicker of light at the end of the dark tunnel? *Information Development* 32(3): 338-353.

Ngulube, P. 2020. Theory and theorising in Information Science Scholarship, in *Handbook of Research on connecting research methods for information science research*, edited by P Ngulube. Hersbey: IGI Global: 18-39.

Ngulube, P. 2018. Overcoming the difficulties associated with using conceptual and theoretical frameworks in heritage studies. In: Ngulube, P (ed) *Handbook of research on heritage management and preservation*. PA: IGI Global.

Ngulube, P. 2015. Trends in research methodological procedures used in knowledge management studies. *African Journal of Library, Archives and Information Science* 25(2): 125-143.

Ngulube, P. 2013. Blending qualitative and quantitative research methods in library and information science in Sub-Saharan Africa. *ESARBICA* 32: 10-23.

Ngulube, P. 2005. Research procedures used by Masters of Information Studies students at at the University of Natal in the period 1982-2002 with special reference to their sampling techniques and survey response rates: A methodological discourse. The International Information and Library Review 37: 127-143.

Ngulube, P & Mathipa, ER & Gumbo, MT. 2015. Theoretical and conceptual frameworks in the social and management science, In *Addressing research challenges: Making a*

headway in developing researchers, edited by ER Mathipa & MT Gumbo. Noordwyk: Mosala-MASEDI Publishers and Booksellers cc: 43-66.

Nigussa, F. 2014. A Critical Analysis of the Conceptualization and Implementation of Citizens' Charters: Case Studies from UK, India, South Africa and Ethiopia. *Public Policy and Administration Research* 4(1): 50-59.

Nkwe, M. 2021. Compliance with Freedom of Information Legislation by public bodies in South Africa. MA Dissertation, University of South Africa, Pretoria.

Nkwe, M & Ngoepe, M. 2021. Compliance with freedom of information legislation by public bodies in South Africa. Government Information Quaterly 38(2): 101567. https://dioi.org/10.1016/j.gig.2021.101567.

Noble, N & Heale, R. 2019. Triangulation in research, with examples. *BJM Journals* 22(3): 67-68.

Novak, JD. 1990. Concept mapping: A useful tool of science education. *Journal of Research in Science Teaching* 27(10): 937-949.

Noveck, BS. 2017. Rights-Based and Tech-Driven: Open Data, Freedom of Information, and the Future of Government Transperency. *Yale Human Rights and Development Law Journal* 19: 1-46.

Nur, S & Anderson, F. 2016. Free Access to Information and a vibrant civil society as a cornerstones for sustainable development. *Thematic Report: The Varieties of Democracy Institute* 1-34.

Nyoni, T. 2017. The cause of corruption in Zimbabwe. *International Journal of Advanced Research and Publications* 1(5): 285-291.

Nzimakwe, TI & Mphehle, Z. 2012. Key factors in the successful implementation of Batho Pele Principles. *Journal of Public Administration* 47(1.1): 279-290.

Odinkalu, C & Kadiri, M. 2014. Making progress on freedom of information in Africa. *Open Society Justice Initiative.* Available at: http://sadc.einnews.com/article/218347625/uQA5Ov1OcpT2onXp (Accessed 28 March 2019).

Ohemeng, FLK. 2010. The new Charter System in Ghana: the 'holly grail' of public service delivery. *International Review Administrative Sciences* 76(1): 115-136.

Ojebode, A. 2011. Nigeria's Freedom of Information Act: Provisions, Strengths, Challenges. *African Communication Research* 4(2): 267-284.

Ojo, E. 2010. Freedom of information: current status, challenges and implications for news media. Available at: http://www.unisco.org/new/fileadmin/MULTIMEDIA/HQ/CI/WPFD2009/pdf/wpfd2010_backgroung_World+Press+Freedom+Day+2010+Presentation+-+EO.pdf (Accessed 25 May 2019).

Okon, GB and Ezike, MO. 2017. Freedom of Information Act: A study of Level of of Awareness, Practice and Challenges among Journalists in Umuahia, South-East, Nigeria. *International Journal of Communication: an Interdisciplinary Journal of Communication Studies* 22: 58-72.

Omotayo, FO. 2015. The Nigeria freedom of information law: Progress, implementation challenges and prospects. Available at: https://digitalcommons.unl.edu/cgi/viewcontent.cgi?article=3192&context=libphilprac (Accessed 03 March 2022).

Onyango-Obbo, C. 2019. Tanzania sins against journalists in ways Kenya and Uganda don't. *The east African* [Online]. Available at: Https://www.theeastafrican.co.ke/oped/comment/Tanzania-sins-against-journalist-in-kenya-uganda-don't/434750-5228004-format-xhtml-uvhn8g/index.html (Accessed 27 April 2020).

Open Democracy Advice Centre. 2018. *Why you need to know about the Information Regulator*. South Africa: ODAC. Available at: www.opendemocracy.org.za/index.php/blog/177-what-you-need-to-know-about-the-information-regulator (Accessed 13 February 2019).

Open Democracy Advice Centre. 2017. State of Access to Information in Africa. Available at: https://www.corruptionwatch.org.za/wp-content/uploads/2018/04/ODAC-Brochure-Draft.pdf?msclkid=24d1cdb3c16c11ecad3f6a26c86217d9 (Accessed 19 July 2020).

Open Democracy Advice Centre. 2015. *Accessing Information? What we know from user experience*. South Africa: ODAC.

Open Democracy Advice Centre. 2003. *The Promotion of Access to Information Act: commissioned research on the feasibility of the establishment of an Information Commissioner's office*. Cape Town: ODAC.

Open Democracy Advice Centre & South African Human Rights Commission. 2007/2008. The Golden Key Awards: Openness and Responsiveness Aawards. Available at:

https://www.sahrc.org.za/home/21/files/Reports/Golden%20Key%20Awards%202007-2008.pdf (Accessed 06 August 2020).

Open Government Partnership. 2019. Eligibility criteria and OGP values check assessment. Available at: https://www.opengovernmentpartnership.org/process/joining-ogp/eligibility-criteria/ (Accessed 08 March 2020).

Open Government Partnership. 2018. Global Report: Collective Results on Open Government and OGP. Available at: https://www.opengovernmentpartnership.org/campaigns/global-report/collective-results-open-government-ogp/ (Accessed 28 February 2020).

Open Government Partnership. 2011. Open Government Declaration. Available at: https://www.opengovpartnership.org/process/joining-ogp/open-government-declaration/ (Accessed 08 July 2020).

Pateman, J & Vincent, J. 2010. *Public Libraries and Social Justice*. London: Ashgate Publishing.

Paul, J & Criado, AR. 2020. The art of writing literature review: What do we do and what do we need to know? *International Business Review* 29(4): 101717.

Pickard, AJ. 2013. *Research Methods in Information*. 2nd ed. Londonl: Facet Publishing.

Pillai, AV, Athira, A & Vinod, K. 2018. Awareness of Right to Information Act 2005: A study in rural Kerala. International Journal of Pure and Applied Mathematics 118(20): 4113-4122.

Pilot, DF & Beck, CT. 2010. *Essential of Nursing Research: Appraising Evidence for Nursing Practice.* Philadelphia: Wolters Kluwer Health.

Pincheira, R & Zuniga, F. 2020. Environmental Kuznets curve bibliographic map: a systematic literature review. *Accounting and Finance* 1-26.

Piotrowsky, S. 2007. Open public meetings in New Jersey: history and current issues. *Open Government: a journal on Freedom of Information*. 3(1): 52-63.

Piotrowski, SJ. 2017. The "Open Government Reform" Movement: The case of the Open Government Partnership and U.S. Transparency Policies. *American Review of Public Administration* 47(2): 155-171.

Piotrowsky, SJ, Zhang, Y, Lin, W & Yu, W. 2009. Key issues for implementation of Chinese open government information regulations. *Public administration review* 69: 129-135.

Plantinga, P & Adams, R. 2021. Rethinking open government as innovation for inclusive development: Open access, data and ICT in South Africa. *African Journal Science, Technology, Innovation and Development* 13(3): 315-323.

Ploch, L. 2008. Zimbabwe: 2008 elections and implications for US policy. Washington, DC: Congressional Research Service. Available at: https://apps.dtic.mil/sti/pdfs/ADA488760.pdf (Accessed 20 April 2021).

Pozen, DE. 2017. Freedom of Information beyond the Freedom of Information Act. *University of Pennsylvania Law Review* 165(5): 1097-1158.

Puddephat, A. 2009. *Exploring the role of civil society in the formulation and adoption of Access to Information Laws: The cases of Bulgaria, India, Mexico, South Africa, and the United Kingdom*. Washington, DC: World Bank.

Raligilia, KH. 2017. The impact of CODESA talks on the socio-economic rights of the majority of South Africans. MA Dissertation, University of Pretoria, Pretoria.

Rambuda, MG & Manamela, R. 2016. Provision of information in South Africa: issues of bias, access, transparency and accountability. *Proceedings of the South African Association of Public Administration and Management*. Available at: ulspace.ul.ac.za/bitstream/hamdle/10386/1642/18%20Rambuda.pdf?sequence=1&Allowed=y (Accessed 18 June 2020).

Rehman, AA & Alharthi, K. 2016. *An Introduction to Research Paradigms. International Journal of Educational Investigations* 3(8): 51-59.

Relly, JE. 2012. Freedom of information law and global diffusion: Testing Rogers's model. *Journalism and Mass Communication Quarterly* 89(3): 431-457.

Renz, M, Carington, JM & Badger, TA. 2018. Two Strategies for Qualitative Content Analysis: An Intramethod Approach to Triangulation. *Qualitative Health Research* 28(5): 824-831.

Republic of Zimbabwe. 2020. National Development Strategy 1 (2021-2025). Available at: https://veritaszim.net/sites/veritas_d/files/NDS.pdf (Accessed 12 March 2022).

Richter, M. 2005. Affirmation to realisation of the right of access to information: Some issues on the implementation of PAIA. *Law, Democracy and Development* 9(2): 219-234.

Richter, A. 2021. Balancing protection of public health and freedom of information in times of COVID-19. *Journal of Digital Media and Policy* 12(1): 27-46.

Ridley, D (ed). 2012. *The literature review: a step by step guide for students*. 2nd ed. London: SAGE.

Right2Info. 2012. Access to Information Laws: Overview and statutory goals. Available at: http://www.right2info.org/access-to-information-laws (Accessed 22 March 2019).

Roberts, A. 2006. Open Government: The Challenges Ahead. In *Access to Information: Buidling a Culture of Transparency*, edited by The Carter Centre. Atlanta: The Carter Centre: 133-144.

Romm, N & Ngulube, P. 2015. Mixed methods research. In Mathipa ER & Gumbo MT. *Addressing research challenges: making headway for emerging researchers.* Noordwyk: Mosala-MASEDI Publishers.

Romm, NR. 2018. *Responsible research practice: Revising Transformative Paradigm in Social Research*. Switzerland: Springer.

Ross, TJ. 2009. A test of democracy: Ethiopia's mass media and freedom of Information proclamation. *Penn State Law Review* 114: 1047-1077.

Ruijer, E, Dietienne, F, Baker, M, Groff, J & Meijer, AJ. 2019. The politics of Open Government Data: Understanding Organization Responses to Pressure for more Transparency. *American Review of Public Administration* 50(3): 260-274.

Ryan, G. 2018. Introduction to positivism, interpretivism and critical theory. *Nurse Researcher* 25(4): 41-49.

Saez-Martin, A, Caba-Perez, C & Lopez-Hermandez, A. 2017. Freedom of information in local government: rhetoric or reality? *Local Government Studies* 43(2): 245-273.

Salau, AO. 2017. The right of access to information and national security in the African regional human rights systems. *African Human Rights Law Journal* 17(2): 367-389.

Sasaki, M. 2019. *Comparative research*. Thousand Oaks: SAGE.

Saurombe, NP. 2016. Public programming of public archives in the East and Southern Africa Regional Branch of the International Council on Archives (ESARBICA): Towards an inclusive and integrated framework. PhD thesis, University of South Africa, Pretoria.

Saurombe, N & Ngulube, P. 2018. To collaborate or not to collaborate, that is the question: Raising the profile of public archives in east and southern Africa. *Information Development* 34(2): 162-181.

Schnell, S. 2015. Mimicry, persuasion, or learning? The case of two transparency and anti-corruption policies in Romania. Public Administration and Development 35: 277-287.

Sebina, P. 2009. Freedom of Information: erosion of the archive? *Journal of the Society of Archivists* 30(2): 147-165.

Sebina, PMIM & Grand, B. 2014. Freedom of Information and Records Management: Towards Effective e-Government Accountability Paradigm in Africa? In *Digital Access and E-Government: Perspectives from Developing and Emerging Countries*, edited by Sebina, PMM, Moahi, KH & Bwalya, KJ. Hearshey: IGI Global: 94-100.

Sebina, PMIM. 2006. Freedom of Information and records management: a learning curve for Botswana. PhD Thesis, University of London, London.

Sebina, PMIM. 2004. Freedom of Information, Records Management and Good Governance. Any symbolic Relationship? *ESARBICA Journal* 23: 45-50.

Sedugwa, G. 2014. Analysis of oversight mechanisms in Africa. Available at: www.freedominfo.org/2014/03/analysis-oversight-mechanisms-africa (Accessed 16 August 2021).

Sehlapelo, MCAM. 2018. A framework for building an information society for selected countries in the Southern African Development Communities. PhD thesis. Pretoria, University of South Africa.

Shah, SIH, Peristeras, V & Magnisalis, I. 2020. Government (Big) Data Ecosystem: Definition, Classification of Actors, and Their Roles. *International Journal of Computer and Information Engineering* 14(4): 102-114.

Shahsavar, Z & Kourepaz, H. 2020. Postgraduate students' difficulties in writing their thesis literature review. *Cogent Education* 7(1): 1-11.

Shariff, N. 2015. Utilizing the Delphi survey approach: A review. *Journal of Nursing Care* 4(3): 246.

Sharma, M & Bhadauvia, SS. 2017. Right to Information: Pros and Cons. *International Journal of Advance Research and Innovation Ideas in Education* 2(6): 901-620.

Shava, E. 2019. Accountability of non-government organisations in poverty alleviation programmes. *Africa Insight* 49(1):122-136.

Shenton, AK. 2004. Startegies for ensuring trustworthiness in qualitative research projects. *Education for Information* 22: 63-75.

Shehu, AO. 2015. Impact of Government-Media Relation on Development Communication in Nigeria. Available at: https://kwaracails.edu.ng/ijoh/papers/2015/impact_of_government_media_relationship_on_development_communication_in_nigeria.pdf (Accessed 10 August 2021).

Sheperd, E. 2015. Freedom of information, right to access information, open data: who is at the table? *The Round Table* 105(6): 715-726.

Shepherd, E & Ennion, E. 2007. How has the implementation of the UK Freedom of Information Act 2000 affected archives and records management service? *Records Management Journal* 17(1): 32-51.

Shewade, HD, Jeyasheree, K, Kalaiselvi, S, Palanivel, C & Panigrahi, KC. 2017. Competency-based tool for evaluation of community-based training in underdraduate medical education in India-a Delphi approach. *Advances in medical education and practice* 8: 277-286.

Shyllon, O. 2018. The Model Law on Access to Information for Africa and other regional instruments: Soft law on human rights in Africa. Pretoria: Pretoria University Law Press.

Singh, KY & Bajpai, RB. 2008. *Research methodology: techniques and trends*. New Delhi: APH Publishing Corporation.

Skulmoski, GJ, Hartman, FT & Krahn, J. 2007. The Delphi for Graduate Research. *Journal of Information Technology Education* 6(1): 1-21.

Smith, W & Mofolo, MA. 2009. Making use of Batho Pele principles to improve service delivery in municipalities. *Journal of Contemporary Management* 6(1): 430-440.

Sorensen, R. 2003. Impact of South Africa's Promotion of Access to Information Act after three and halve years: A perspective. *ESARBICA Journal* 22: 50-63.

South Africa. 2019. Promotion of Access to Information Act 2 of 2000 Rules of Procedures for Application to Court in terms of the Promotion of Sccess to Information Act 2 of 2000. Republic of South Africa Government Gazette Volume 42740, No 34.

South Africa. 2009. Municipal Finance Management Act (Act No. 56 of 2003). Republic of South Africa Government Gazette Volume 464, No 26019.

South Africa. 2000. Promotion of Access to Information Act (Act No. 2 of 2000). Republic of South Africa Government Gazette Volume 416, No 20852.

South Africa. 2000. Promotion of Administrative Justice Act (Act No. 3 of 2000). Republic of South Africa Government Gezette Volume 416, No 20853.

South Africa. 1999. Public Finance Management Act (Act No. 1 of 1999). Republic of South Africa Government Gazette Volume 404, No 19814.

South Africa. 1996. The Constitution of the Republic of South Africa (Act No 108 of 1996).

South Africa. 1982. Protection of Information Act (Act No. 84 of 1982). Republic of South Africa Government Gazette Volume 204, No 8248.

South African History Archive. 2014. SAHRC reiterates supremacy of PAIA. Available at: https://www.saha.org.za/news/2014/April/sahrc_reiterates_supremacy_of_paia.htm (Accessed 20 April 2021).

South African History Archive. 2013. SAHA and SAHRC deliver 2nd community training for Soweto residents on PAIA. Available at: https://www.saha.org.za/news/2013/February/saha_and_sahrc_deliver_2nd_community_training_for_soweto_residents_on_paia.htm (Accessed 09 January 2022).

South African History Archive. 2013. Using PAIA to promote housing rights: a guide to using the Promotion of Access to Information Act to advocate for access to adequate housing. Available at: https://www.saha.org.za/docs/publications/FOIP_pub/Using_PAIA_to_Promote_Housing_Rights/PAIA_HS_WEB_02_Aug_2013.pdf (Accessed 15 February 2021).

South African History Archive. 2011. CODESA negotiation begin in December 1991 – a significant transitional step towards a democratic South Africa. Available at: www.saha.org.za/news/2011/December/codesa_negotiation_began_in_december_1991_a_significant_transitional_step_towards_a_democratic_South_Africa.htm (Accessed 13 April 2020).

South African History Archive. 2003. Strengthening the role of the South African Human Rights Commission in relation to the Promotion of Access to Information Act: A report by the South African History Archive. Available at: https://www.humanrightsinitiative.org/programs/ai/rti/international/laws_papers/southafrica/hrc_final_report.pdf?msclkid=7f39032cc0a911ec80e4347ed7506ae1 (Accessed 09 February 2021).

South African Human Rights Commission. 2020/21. *Promotion of Access to Information Act Annual Report 2020/21*. Johannesburg: SAHRC.

South African Human Rights Commission. 2019/20. *Promotion of Access to Information Act Annual Report 2019/20*. Johannesburg: SAHRC.

South African Human Rights Commission. 2018/19. *Promotion of Access to Information Act Annual Report 2018/19*. Johannesburg: SAHRC.

South African Human Rights Commission. 2016/17. *Promotion of Access to Information Act annual report 2016/17*. Johannesburg: SAHRC.

South African Human Rights Commission. 2014/15. *Promotion of Access to Information Act Annual Report 2014 - 2015*. Johannesburg: SAHRC. Available at: https://www.sahrc.org.za/home/21/files/SAHRC%20PAIA%20Annual%20Report%20FINAL.pdf (Accessed 06 August 2020).

South African Human Rights Commission. 2014. Guide on how to use the Promotion of Access to Information Act 2 of 2000. Available at: https://www.gov.za/sites/default/files/gcis_documents/SAHRC-PAIA-guide2014.pdf (Accessed 16 June 2021).

Southern African Development Community. 1995. SADC declaration on the role of information and communication in building the Southern African Development Community. Johannesburg: SADC.

Southern Rhodesia. 1979. Report of the Constitutional Conference. Available at: https://peacemaker.un.org/sites/peacemaker.un.org/files/ZW_791221_LancasterHouseAgreement.pdf (Accessed 19 April 2020).

Spahiu, I. 2015. Courts: An Effective Venue to Promote Government Transparency-The Case of the court of Justice of the European Union. *Utrecht Journal of International and European Law* 31: 5-24.

Statistics South Africa. 2018. Men, Women and Children: Findings of the Living Conditions Survey 2014/15. Pretoria: Stats SA.

Staunton, C, Adams, R, Anderson, D, Croxton, T, Kamuya, D, Munene, M & Swanepoel, C. 2020. Protection of Personal Information Act 2013 and data protection for health research in South Africa. *Information Data Privacy Law* 10(2): 160-179.

Stewart, DR. 2019. Open Meetings and Open Records Laws. *The International Encyclopedia of Journalism Studies*. Available at: https://onlinelibrary.wiley.com.doi/epdf/10.1002/9781118841570.iejs0111 (Accessed 11 March 2022).

Sturges, P. The Library and Freedom of Information: Agent or Icon? *Alexandria* 13(1): 3-16.

Svard, P. 2022. The South African Truth and Reconciliation Commission and the Use of its Documentation: An analysis. Social Science Research Council Working Papers 33. Available at:

https://www.diva-portal.prg/smash/get/diva2:1627345/FULLTEXT01.pdf (Accessed 04 April 2022).

Talbot, C. 1999. Public Performance – Towards a New Model? *Public Policy and Administration* 14(3): 15-34.

Tavares, SC. 2007. *Do freedom of information laws decrease corruption?* Rochester: Rochester Institute of Technology. Available at: https://mpra.ub.uni-muenchen.de/3560/1/MPRA_paper_3560.pdf (Accessed 31 March 2022).

Thangaratinam, S & Redman, CW. 2005. The Delphi technique. *The Obstetrician & Gynaecologist* 7(2): 120-125.

Thurston, A. 2015. Access to reliable public records as evidence for freedom of information in Commonwealth Africa. *The Round Table* 104(6): 703-713.

Tinarwo, J, Mzizi, V and Zimano, F. 2019. The relationship between Corruption and Economic Development Lessons from Zimbabwe's public Enterprises. Conference paper.

Tracy, SJ. 2013. *Qualitative Research Methods: Collecting Evidence, Crafting Analysis, Communicating Impact*. Pondichery: SPI.

Transparency International Zimbabwe. 2021. World Whistleblowers Day 2021. Available at: https://www.tzim.org/wp-content/uploads/2021/06/Press-Statement-WWBD-2021.pdf (Accessed 29 July 2021).

Transparency International Kenya. 2015. Article 35 of the Constitution of Kenya 2010. *Adili 155*. Available at: https://tikenya.org/wp-content/uploads/2017/06/adili-155-access-to-information-in-kenya.pdf (Accessed 27 April 2020).

Transparency International. 2015. Building Political Will: Topic Guide. Available at: https://www.transparency.org/files/content/corruptionqas/Topic_Guide-_Political_Will.pdf (Accessed 14 January 2022).

Tsabedze, V & Kalusopa, T. 2018. Towards a framerork for e-records readiness in support of e-government in Eswatini. *ESARBICA* 37: 39-68.

Tsarwe, S. 2020. Understanding Zimbabwe's Political Culture: Media and Civil Society. In *The History and Political Transition of Zimbabwe*, edited by SJ Ndlovu-Gatsheni and P Ruhanya. Cham: Palgrave Macmillan: 117-132.

United States of America. 1967. Freedom of Information Act (5 U.S.C 552).

University of South Africa. 2016. *Basic Archives and Records Management Course*. UNISA: Pretoria.

University of Witwatersrand. 2019. Research support: Research methodology. Available at: https://libguides.wits.ac.za (Accessed 26 April 2019).

Udombana, NJ & Quadri, KM. 2020. Institutional Framework on the Right to Information in Selected Juristictions. *Beijing Law Review* 11: 244-261.

Vadlamannati, KC & Cooray, A. 2017. Transparency pays? Evaluating the effects of the freedom of information laws on perceived government corruption. *The Journal of Development Strudies* 53(1): 116-137.

Van der Berg, S. 2017. Strengthening access to information institutions to promote a culture of transperncy. *South African Journal on Human Rights* 32(2): 167-192.

Van der Meer-Kooistra, J & Vosselman, E. 2012. Research paradigms, theoretical pluralism and the practical relevance of management accounting knowledge. *Qualitative research in accounting and management* 9(3): 245-264.

Van Gompel, R & Steyaert, J. 2002. Going beyond access: accessibility of government information in the electronic age. *In Intercultural Communication 23 Conference and General Assembly IAMCR:* 22-26.

Van Rooyen & Orther v State and Orther. 2002 (8) BCLR 810 (CC).

Van Wyk, T. 2019. Accessing information in South Africa, In *Freedom of Information and social science research design*, edited by K Walby & A Luscombe. Abingdon: Routlege: 24-37.

Van Wyk, T. 2016. Don't blame the librarian if no one has written the book: My vote counts and the information required to exercise the franchise. *Constitutional Court Review* 8(1): 97-154.

Wahyuni, D. 2012. The research design maze: Understanding paradigms, cases, methods and methodologies. *Journal of Applied Management Accounting Research* 10(1): 69-80.

Walby, K & Luscombe, A. 2017. Criteria for quality in qualitative research and use of freedom of information requests in the social sciences. *Qualitative Reearch* 17(5): 537-553.

Watkins, JJ. 1984. Open Meetings under Arkansas Freedom of Information Act. *Arkansas Law Review* 38(2): 268-358.

Whitaker, BE. 2005. Citizens and Foreigners Democratization and the Politics of Exclusion in Africa. *African Studies Review* 48(1): 109-129.

Wiener, JB & Alemanna, A. 2016. Comparring regulatory oversight bodies in the US and EU: The office of information and regulatory affairs in the US and the regulatory scrutinity

board in the EU. In *Comparative Administrative Law*, Rose-Ackerman, S & Lindseth, P (Eds). Northampton: Edward Elgar.

Worker, J & Excell, C. 2014. *Requests and Appeals Data in Right to Information Systems: Brazil, India, Jordan, Mexico, South Africa, Thailand, United Kingdom and United States*. Washington DC: The World bank.

World Bank. 2022a. Individuals using the internet (% of population) – South Africa. Available at: https://data.worldbank.org/indicator/IT.NET.USER.ZS?locations=ZA. (Accessed 03 February 2022).

World Bank. 2022b. Individuals using the internet (% of population) – Zimbabwe. Available at: https://data.worldbank.org/indicator/IT.NET.USER.ZS?locations=ZW. (Accessed 03 February 2022).

World Bank. 2012. Zimbabwe's Public Administration Review: Initial reflection on Public Sector Reform to support the economic and social recovery of Zimbabwe. Washington DC: World bank.

World Bank. 2005. *Issues and Options of Improving Engagements between the World Bank and Civil Society Organisations*. Washington DC: The World Bank. Available at: siteresources.worldbank.org/CSO/Resources/Issues_and_Options_PUBLISHED_VERSION.pdf (Accessed 17 April 2020).

World Bank. 2004. *Legislation on freedom of information: trends and standards*. Washington DC: World Bank.

World Bank. 1995. A Practical Guide to Operational Collaboration between The World Bank and Non-governmental Organisations. Available at: https://documents1.worldbank.org/curated/en/814581468739240860/pdf/multi/page.pdf#:~:text=%2A%20The%20World%20Bank%20defines%20NGOs%20as%20poriva te,international%20NGOs%20in%20a%20variety%20of%20different%20ways (Accessed 17 January 2022).

World Population Review. 2020 World Population by Country. Available at: https://worldpopulationreview.com (Accessed 11 January 2021).

Worthy, B. 2017. *The politics of freedom of information: how and why governments pass laws that threaten their power*. Oxford: Oxford University Press.

Yu, H & Robinson, DG. 2011. The New Ambiguity of Open Government. *UCLA Law Review Discourse* 59: 178-209.

Zama, Z. 2019. Non protection for whistleblowers as report taken on review – Public Protector. *Radio 702*, 28 October 2019. Available at: www.702.co.za/articles/365203/no-protection-for-whistleblowers-as-report-taken-on-review-public-protector (Accessed 07 July 2021).

Zimbabwe. 2020. Zimbawe Media Commission Act (Act No 9 of 2020).

Zimbabwe. 2020. Freedom of Information Act (Act No 1 of 2020).

Zimbabwe. 2007. Access to Information and Protection of Privacy Act (Act No. 20 of 2007). Harare: Government of Zimbabwe.

Zimbabwe Human Rights Commission. 2022. ZHRC laments increase in political intolerance. Available at: https://www.zimbabwesituation.com/news/zhrc-laments-increase-in-political-intolerance/ (Accessed 15 March 2022).

Zimbabwe Human Rights Association. 2020. Annual Report 2020. Available at: https://www.zimrights.org.zw/wp-content/uploads/2021/12/ZimRights-2020-Annual-Report.pdf (Accessed 05 April 2022).

Zuffoba, M. Do FOI laws and open government data deliver as anti-corruption policies? Evidence from a cross-counry study. *Government Information Quarterly* 37(3): 1-27.

Zuiderwijk, A. & Jansen, M. 2013. Open data policies, their implementation and impact: A framework for comparison. *Government Information Quarterly* 31: 17-29.

Zurigo, D. Subordinating Freedom of Expression to Human Gignity: Promoting or Undermining Journalism-A Case of Zimbabwe. *African Journalism Studies* 42(2): 43-58.

APPENDICES

Appendix A: Principles guiding the study: Article 19's nine principles of FOI legislation

According to Article 19 (2016), the following principles, if adhered to, will result in the successful implementation of FOI legislation as they are regarded as globally recognised good practice:

Number	Principle	Description
1	Maximum Disclosure	**"Freedom of information should be guided by the principle of maximum disclosure"** The principle of maximum disclosure is grounded on the belief that information held by public bodies should be accessible by members of the public (regardless of their status, i.e., citizens or non-citizens).
2	Obligation to Publish	**"Public bodies should be be under an obligation to publish key information"** Public bodies are required not only to provide access to what has been requested but also to voluntarily publish and disseminate a wide range of documents of significant public interest.
3	Promotion of Open Government	**"Public bodies must actively promote open government"** Promoting an open and transparent culture within government is critical to realising freedom of information.
4	Limited Scope of Exception	**"Exceptions to the right to access information should be clearly and narrowly drawn and subject to strict harm and public interest tests"** The exception clause in the FOI law is always one of the most difficult parts to compile. However, the issue of whether an information can be a legitimate exception should be determined by a series of tests:

		• Whether the information relates to a legitimate aim listed in the law (such as national security, protection of privacy, etc.)? • Whether the disclosure would do substantial harm to that particular aim? • Whether the harm to the aim is greater than the public interest in having the information?
5	Process to Facilitate Access	**"Request for information should be processed rapidly and fairly and an independent review of any refusal should be available"** To ensure compliance with the legislation, public bodies must establish a process for members of the public to follow when requesting information, and someone must be designated to handle or process such requests. The law must also provide for strict time limits to ensure that the requested information is provided within a short period of time. In cases where the information cannot be provided, an explanation should be provided in writing to the requester of the information. Most importantly, the requesters should be given an opportunity to appeal the decisions if they are not happy with the outcome of their request.
6	Cost	**"Individuals should be deterred from making requests for information by excessive costs"** The cost of gaining access to information should be structured in such a way that it does not contribute to the difficulty people experience in accessing the information. Public information should be provided free of charge, although if a fee is required for various reasons, it should be kept to a minimum.
7	Open Meetings	"Meetings of public bodies should be open to the public"

		As part of freedom of access to information, members of the public enjoy the right to know what the government is doing for the country. This is where public participation comes in.
8	Disclosure takes Precedence	**"Laws which are inconsistent with the principles of maximum disclosure should be amended or repealed"** FOI legislation should make provisions for the repeal of other pieces of legislation which are against the spirit of promoting access to a wide range of information. Officials who disclose information in good faith should be protected by law.
9	Protection of Wistle Blowers	**"Individuals who release information on wrongdoing – whistleblowers – must be protected"** FOI legislation must protect people who disclose information about wrongdoing or corruption from possible harm or any form of sanction.

Appendix B: The list of organisations that participated in the drafting of the Tshwane principles

- Africa Freedom of Information Centre (Kampala/ Africa)
- Africa Policing Civilian Oversight Forum (APCOF) (Cape Town/ Africa)
- Alianza Regional por Libre Expresion e Informacion (Americas)
- Amnesty International (London/ global)
- Article 19, the Global Campaign for Free Expression (London/ global)
- Asian Forum for Human Rights and Development (Forum Asia) (Bangkok/ Asia)
- Centre for National Security Studies (Washington DC/ Americas)
- Central European University (Budapest/ Europe)
- Centre for Applied Legal Studies (CALS), Wits University (Johannesburg/ South Africa)
- Centre for European Constitutionalisation and Security (CECS), University of Copenhagen (Copenhagen/ Europe)
- Centre for Human Rights, University of Pretoria (Pretoria/ Africa)
- Centre for Law and Democracy (Halifax/ global)
- Centre for Peace and Development Initiatives (Islamabad/ Pakistan)
- Centre for Studies on Freedom of Expression and Access to Information (CELE), Palermo University School of Law (Buenos Aires/ Argentina)
- Commonwealth Human Rights Initiatives (New Delhi/ Commonwealth)
- Egyptian Initiative for Personal Rights (Cairo/ Egypt)
- Institute for Defence, Security and Peace Studies (Jakarta/ Indonesia)
- Institute for Security Studies (Pretoria/ Africa)
- International Commission on Jurists (Geneva/ global)
- Open Democracy Advice Centre (Cape Town/ South Africa) and
- Open Society Justice Initiative (New York/ Global)

Appendix C: FOIAnet checklist on FOI legislation implementation

Table 1: Overall Framework for Implementation

Question/Issue	Yes/No	Remarks
1. Has the government established an RTI nodal agency? (If yes, comment on its roles and responsibilities.		
2. Has the government established an independent Right to Information (RTI) oversight mechanism, such as an information commission? (If yes, comment on its work and how effective it has been).		

Table 2: Implementation by Individual Public Authorities

1. Has the authority appointed an information officer who is responsible for RTI implementation? (If yes, comment on how the mandate functions).
2. Does the authority have an RTI implementation plan? (If so, comment on the extent to which such a plan has been operationalised).
3. Has the authority developed or issued guidelines for receiving and responding to information requests? (If yes, comment on their usage).
4. Does the authority prepare annual reports, including statistics on requests? (If yes, probe for the availability of the latest report and the period it relates to, otherwise note any hindrances to that effect).
5. Has the authority provided RTI training to information officers? (If yes, comment on when the most recent training programme was conducted).

Appendix D: List of OGP member states and the year they joined the organisation

Country	Year
1. Afhghanistan	2017
2. Albania	2011
3. Argentina	2012
4. Armenia	2011
5. Australia	2015
6. Azerbaijan	2011
7. Bosnia and Herzegovina	2014
8. Brazil	2011
9. Bulgaria	2011
10. Burkina Faso	2016
11. Cabo Verde	2015
12. Canada	2011
13. Chilie	2011
14. Colombia	2011
15. Costa Rica	2012
16. Côte d'Ivoire	2015
17. Croatia	2011
18. Czech Republic	2011
19. Denmark	2011
20. Dominican Republic	2011
21. Ecuador	2018
22. El Salvador	2011
23. Estonia	2011
24. Finland	2012
25. France	2014
26. Georgia	2011
27. Germany	2016

28. Ghana	2011
29. Greece	2011
30. Guatemala	2011
31. Honduras	2011
32. Indonesia	2011
33. Ireland	2013
34. Israel	2011
35. Italy	2011
36. Jamaica	2016 No action plan
37. Jordan	2011
38. Kenya	2011
39. Kyrgyz Republic	2017
40. Latvia	2011
41. Liberia	2011
42. Lithuania	2011
43. Luxembourg	2016
44. Malawi	2013
45. Malta	2011
46. Mexico	2011
47. Maldova	2011
48. Mangolia	2013
49. Montenegro	2011
50. Morocco	2018
51. Netherlands	2011
52. New Zealand	2013
53. Nigeria	2016
54. North Macedonia	2011
55. Norway	2011
56. Pakistan	2016

57. Panama	2012
58. Papua New Guinea	2015
59. Paraguay	2011
60. Peru	2011
61. Philipines	2011
62. Portugal	2017
63. Romania	2011
64. Senegal	2018
65. Serbia	2012
66. Seychelles	2018
67. Siera Leone	2013
68. Slovak Republic	2011
69. South Africa	2011
70. South Korea	2011
71. Spain	2016
72. Sri Lanka	2015
73. Sweden	2011
74. Tunisia	2014
75. Ukraine	2011
76. United Kingdom	2011
77. United States	2011
78. Uruguay	2011

APPENDIX E: African countries with Freedom of Information Law and the year adopted (African Freedom of Exchange 2021; Banisar 2004)

Country	The name of the law	Year
Angola	Law on Access to Administrative Documents	2002
Burkina Faso	Access a 1'Information Publique et aux Documents Administratifs	2015
Cote d'Ivoire	Access a 1'Information d'Interet Public	2013
Ethiopia	Freedom of Mass Media and Access to Information	2008
Guinea	Droit d'Access a 1'Information Public	2010
Kenya	Access to Information Law	2016
Liberia	Freedom of Information Act	2010
Malawi	Access to Information	2017
Morocco	Access to Information	2016
Mozambique	Regulamento da Lei do Direito a 1'Informatçaõ	2015
Niger	Charter on Access to Public and Administrative Documents	2011
Nigeria	Freedom of Information Act	2011
Rwanda	Access to Information Law	2013
Sierra Leone	The Right to Access Information Act	2013
South Africa	Promotion of Access to Information Act	2000
South Sudan	Right of Access to Information	2013
Sudan	Freedom of Information Law	2015
Tanzania	Access to Information	2016
Togo	Acces a l'Information et la Documentation Publique	2016
Tunisia	Access to the Administrative Documents of Public Authorities	2011
Uganga	The Access to Information Act	2005
Zimbabwe	Access to Information and Privacy Protection Act	2002

APPENDIX F: Ethical clearance

UNISA university of south africa

DEPARTMENT OF INFORMATION SCIENCE ETHICS REVIEW COMMITTEE

28 April 2020

Dear Mr Makutla Mojapelo

DIS Registration #: Rec-20042028

References #: 2020-DIS-0010

Name: M Mojapelo

Student #: 90396294

Decision:

Ethics Approval from 28 April 2020 to 28 April 2024

Researcher(s): Mr Makutla Mojapelo
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Implementation of freedom of information legislation in South Africa and Zimbabwe.

Qualifications: Doctoral Study

Open Rubric

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The ***low risk application*** was reviewed and expedited by the Department of Information Science Research Ethics Committee on 28 April 2020 in compliance with the Unisa Policy on Research Ethics and the Standards Operating Procedure on Research Ethics Risk Assessment. The proposed research may now commence with the provisions that:

1. The researcher(s) will ensure that the research project adheres to the values and principles expressed in the UNISA Policy of Research Ethics.
2. Any adverse circumstances arising in the undertaking of the research project that is relevant to the ethicality of the study should be communicated in writing to the Department of Information Science Ethics Review Committee.
3. The researcher(s) will conduct the study according to the methods and procedures set out in the approved application.
4. Any changes that can affect the study-related risks for the research participants, particularly in terms of assurances made with regards the protection of participants' privacy and the confidentiality of the data should be reported to the Committee in writing, accompanied by a progress report.
5. The researcher will ensure that the research project adheres to any applicable national legislation, professional codes of conduct, institutional guidelines and scientific standards relevant to the field of study. Adherence to the following South African legislation is important, if applicable: Protection of Personal Information Act, no. 4 of 2013; Children's Act no. 38 of 2005 and the National Health Act, no. 61 of 2003.
6. Only de-identified research data may be used for secondary research purposes in future on condition that the research objectives are similar to those of the original research. Secondary use of identifiable human research data requires additional ethics clearance.
7. Research must consider rules for engagement that are in line with observing COVID 19 regulations.
8. No field work activities may continue after the expiry date of **28 April 2024**. Submission of a completed research ethics progress report will constitute an application for renewal of Ethics Research Committee approval.

Note:

*The reference number **2020-DIS-0010** should be clearly indicated on all forms of communication with the intended research participants, as well as the Committee.*

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Yours sincerely

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APPENDIX G: Interview schedule (first round interview)

The study titled "IMPLEMENTATION OF FREEDOM OF INFORMATION LEGISLATION IN SOUTH AFRICA AND ZIMBABWE" is purely for the purpose of completing a PhD study at Unisa and not for anything else. The information you provide as a participant will be treated with confidentiality, and all participants will remain anonymous. Your name is not going to appear anywhere in the document. The researcher will instead use codes to denote each participant. This set of questions are for the first round of interviews, which are designed to elicit your thoughts on critical issues pertaining to the implementation of Freedom of Information (FOI) in your country. The first round serves as the basis for idea generation and you are encouraged to provide detailed information with examples where necessary to ensure that other participants (experts) comprehend and apprehend your responses. They will be able to comment and, where possible, review their previous answers with the common goal of reaching a consensus amongst participants.

INTERVIEW QUESTIONS

Participants' profile

1. What is your current position and how many years of experience do you have in the area of FOI (Kindly do not mention the name of the organisation/company/department for anonymity reason)?

2. What contribution have you made to the implementation of FOI legislation in your country?

Interview questions

6. According to literature, there is poor implementation of FOI legislation in your country. What could be the underlying reasons for poor implementation of FOI legislation in your country?

7. With your understanding of the Article 19 principles of FOI legislation and related policy documentation, what are your suggestions for addressing challenges associated with the implementation of FOI legislation in your country?

8. Apart from the legislation, what additional provincial or national policies or procedures you consider to be instrumental in promoting freedom of information in general? Kindly explain why.

9. Who or what institution is responsible for FOI implementation at the national level? Would you say that the responsibility for FOI implementation is correctly assigned and why?

10. What other organisations (including non-governmental) do you believe can make a significant contribution to ensuring the full implementation of FOI? Kindly explain how these organisations can contribute.

APPENDIX H: Interview schedule (second round interviews)

Thank you for participating in the first round of interviews. The information you supplied in round one assisted the researcher in developing questions for the round two interview. The researcher strives to reach an agreement among the participants on the main issues raised in the round one interview. Before you are asked questions for round two, the researcher will first provide you with feedback from the first round to share key issues raised by other participants.

Policy instruments

1. What is your view on the assumption that FOI legislation requires policies (national, provincial, or local) for successful implementation?

2. Based on your answer to question number 3, how is the situation at organisational level in terms of policy development?

3. Any comment regarding the assumption that there should be alignment for all the legislation seeking to promote openness?

FOI legislation implementation models

4. What are your thoughts on the independence and autonomy of the regulatory body for FOI in your country?

5. What is your view on the turnaround time for processing requests and the fee structure?

6. In your view, would you say that government officials (i.e., deputy information officers (DIO) play a crucial role in the implementation of FOI? If so, what qualities or skills do you believe the DIO should have?

7. Would you say that the level of training received by the judges and magistrates is sufficient to preside over FOI cases? Kindly explain.

Factors stimulating the implementation of FOI legislation

8. How do you respond to the assumption that political will is key in stimulating the implementation of FOI legislation and how is the situation in your country?

9. What else would you say can stimulate the implementation of FOI legislation?

10. What is your take on the assumption that the implementation of FOI legislation requires a great deal of resources (i.e. financial and human resources)?

Factors inhibiting the implementation of FOI legislation

11. How has a culture of secrecy contributed to the poor implementation of FOI legislation?

12. What is your view regarding the assumption that lack of capacity on the part of civil society organisations can inhibit the implementation of FOI legislation?

13. What is your take on the assumption that lack of awareness and education constitute one of the greatest challenges for the successful implementation of FOI legislation?

14. How do you believe non-governmental organisations in your country can be strengthened to foster the implementation of FOI legislation?