



**PORTFOLIO COMMITTEE ON JUSTICE LEGAL AND
PARLIAMENTARY AFFAIRS**

REPORT

ON THE DEATH PENALTY ABOLITION BILL [H.B 5, 2023]

FIFTH SESSION - 10th PARLIAMENT

MAY 2024

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1. Introduction

The Constitution of Zimbabwe, under Section 141, imposes a duty upon the Parliament to actively engage the general public during its legislative processes and ensure that all interested stakeholders are consulted on Bills under consideration for enactment into law. In fulfillment of this constitutional obligation, the Parliament of Zimbabwe, through the Portfolio Committee on Justice, Legal and Parliamentary Affairs in conjunction with the Thematic Committee on Human Rights, conducted public consultations from the 6th to the 11th of May 2024 to solicit the views of the citizenry on the proposed Death Penalty Abolition Bill. This Bill, which was gazetted on the 14th of December 2023, seeks to abolish death penalty by amending the existing statutes that provide for the imposition of death penalty.

2. Background

The death penalty is a complex legal process that involves the lawful execution of an individual as punishment for a crime. It requires careful consideration of evidence, mitigating factors, and legal standards to ensure fairness and justice. Ethical and moral deliberations also shape public discourse on the issue. In Zimbabwe, the death penalty has been a longstanding and divisive issue. While enshrined in the constitution, it has not been carried out since 2004, and a de facto moratorium has been in place since then. Public opinion remains divided, with some advocating for its retention as a deterrent and others arguing for its abolishment on human rights grounds.

In 2020, a private member's bill titled the "Death Penalty (Abolition) Bill" was introduced in the Zimbabwean Parliament. This bill seeks to abolish the death penalty and replace it with life imprisonment, reflecting a growing momentum

towards reevaluating the use of capital punishment and aligning the country's legal framework with evolving international norms and human rights standards.

3. Methodology

The Portfolio Committee on Justice, Legal and Parliamentary Affairs, in collaboration with the Thematic Committee on Human Rights, conducted a comprehensive public consultation process on the proposed Death Penalty Abolition Bill. The Committee was divided into two teams, with Team A covering Mashonaland West, Midlands, Bulawayo, Matebeleland North, and Matebeleland South, and Team B covered Mashonaland Central, Harare, Mashonaland East, Manicaland, and Masvingo. The consultations involved focused group discussions across 10 venues in the country's 10 provinces, as well as the receipt of written submissions from various stakeholders. This multi-pronged approach ensured that the views and perspectives of the general public were thoroughly captured, in line with the constitutional obligation to engage the citizenry in the legislative process.

4. Overview of the Consultations

The comprehensive public consultation process conducted by the Portfolio Committee and Thematic Committee reached a total of 866 participants. The demographic breakdown consisted of 56.1% men, 44.4% women, and 1.8% persons living with disabilities. While the turnout was relatively low in some areas, potentially due to the public's reluctance to participate in such consultations, the committee nonetheless managed to gather valuable and insightful contributions. These submissions were carefully considered and deliberated upon by the Committee in the development of their comprehensive report.

5. Public Submissions

The public consultation process undertaken by the Portfolio Committee and Thematic Committee was widely commended, with the citizenry applauding Parliament's proactive approach in soliciting community perspectives on the proposed legislative amendments. The public hearings elicited a broad spectrum of views, with a general consensus emerging that the Bill should align the country's legal framework with prevailing international human rights standards.

Majority of the public in support of the Bill submitted that the principle behind the Bill is noble and just, considering factors such as the vacancy of the Executioner for more than 20 years, and the world view that the threat of the death penalty doesn't cause any noticeable reduction in capital crimes. It was their opinion that a combination of penal and restorative justice would do recommendable.

In addition to this, it was further submitted that the President of Zimbabwe, His Excellency Dr E.D Mnangagwa, has strongly opposed the death penalty for many years stating that it is a flagrant violation of the right to life and dignity. Therefore, it was their opinion that measures should be taken to abolish the death penalty and replace it with alternative sentences like life imprisonment with hard labour.

The public also urged Government to abolish the death penalty, saying it is not our culture but a relic of the colonial era. It was their opinion that in our Zimbabwean culture killing is not an acceptable form of punishment hence compensation is used when a person is killed (*kuripa ngozi*). Furthermore, the death penalty has no established deterrent effect and it makes judicial errors irreversible.

It was also submitted that most people who are sentenced to death in murder cases comes from poor and under-privileged backgrounds hence they cannot afford the best lawyers to represent them and often rely on legal aid provided by the state.

Moreover, majority of the men who attended the hearings averred that the application of the death penalty is discriminatory in nature. It was their opinion that gender is certainly a factor in determining whether or not a person convicted of murder will be sentenced to death. They further submitted that section 48 of the Constitution states that only men between the ages of 21 and 70 can be sentenced to death. Therefore, no women can be sentenced to death hence there is need to abolish capital punishment so as to maintain the gender balance mantra.

However, members of the public who were against abolishment of death penalty stated that statistics have shown that in countries where the death penalty is not in force; murder, rape, terrorism, drug abuse and violent crimes are very common because the punishment for such crimes is not deterrent enough. They added that many convicts get out of prison on parole and amnesty then goes on to commit the same crime again. They furthered averred that the absence of a hangman is not an enough reason to abolish the capital punishment.

6. Committee Observations

The Committee observed the following:

- i. The majority of the public were in support of abolishment of death penalty
- ii.

7. Committee Recommendations

The Committee therefore recommends the following:

i.

8. Conclusion

While the minority voiced dissenting views predicated on the principle of "an eye for an eye," the general consensus appears to be one of cautious optimism. The Bill's provisions, when scrutinized through the lens of international human rights norms and Zimbabwe's own constitutional commitments to rehabilitative and restorative criminal justice reform, demonstrate a concerted effort to realign the penal system with more progressive and humanistic approaches. The legislation's emphasis on rehabilitation, reintegration, and the preservation of human dignity resonates with the public's desire for a criminal justice system that is both just and compassionate. By eschewing a myopic focus on retribution, the Bill signals Zimbabwe's commitment to addressing the root causes of criminal behavior and empowering offenders to become productive members of society.