

Simplification of the PVO Position Paper

PVO bill...what is it?

The Private Voluntary Organizations Act1 (PVO) provides for the registration of Private Voluntary Organizations and the regulation of donations that such organizations receive.

5 reasons why the PVO bill is bad

1. It is a colonial legislation not suitable for democracies
2. It infringes on the rights provided for in Section 58 of the constitution i.e freedoms of association, movement which are guaranteed in the supreme law. This might make the proposed amendments unconstitutional if they are not properly captured or implemented.
3. It allocates too much power to the Minister, who in the end is also just a political actor!
4. Application process is cumbersome and established to create blockages! Among the requirements are; Lodge application with Registrar of PVO board, application is in complicated format, Registrar then lodges with Board, publicize for public for objections, need to gazette, amendment is treated as new application.
5. Financial Terrorism is a national threat, regulating PVOs alone is reverse targeted terrorism! The law only targets PVOs, therefore government may misuse the law to target PVOs for closure citing them as terrorists' organizations.

Is it all bad?

The limitation should "impair 'as little as possible' the right or freedom in question

1. Adherence to FATF is important and consistent with international best practice
2. Terrorism is real, but are PVOs the main target?
3. What is a country without regulations against foreign funding? Questions of national security...

What should you do?

- Share government proposed PVO bill, the model law and CSO Consortium position widely among your networks and groups.
- Take part in discussions around the PVO bill and share your views with the CSO Consortium via WhatsApp, email, radio discussions call in etc.
- Petition Parliament with your views, Submit written views on the PVO Bill.
- Talk to your local MP and exercise your right and participate in the public hearings.

Advocacy points on PVO regulation

PVO Advocacy matrix

Advocacy Issue	PVO Act	PVO Amendment Bill	PVO Position Paper analysis
Definitional – the definition of the PVO in the proposed law is too broad	‘anybody or association of persons, corporate or unincorporate, or any institution’. By purposes, or objects, such institution or organization must have the following purposes;	Any legal person, legal arrangement, body or association, corporate or unincorporated, or any institution	The new definition is now broader but also more ambiguous in respect legal arrangements
Powers of the Minister	Minister appoints board, The Minister may confirm the decision of the Board or, subject to this Act, give such other decision as in his opinion the Board ought to have given, and may instruct the Board to do everything necessary to give effect to his decision.	The Minister can pass regulations to designate any CSO (exempt or not) which s/he deems to be high risk or vulnerable to be misused for purposes of funding terrorism, terrorist organizations or terrorist causes.	It is clear that these provisions give the Minister arbitrary power to control PVO activities, or determine how they shall operate. Powers of the Minister to make the provisions of the PVO Act apply to such organizations, As a reform measure, the changes fall short of the corporate governance guidelines on statutory boards and the principles underlying the guidelines must prevail.
FATF- anti terrorism	N/A	Does not provide definition for terrorism The Criminal code Section 23 defines Insurgency, banditry, sabotage or	Draws an unjustified or unwarranted link between Zimbabwe CSOs and terrorism. The proposed changes to the law significantly shrink democratic space for

		<p>terrorism and is assumed to take effect for the PVO Bill</p>	<p>civil engagement, diminishes the operational autonomy of the CSO sector and pushes the government ever closer to outright repression and heavy handedness in the CSO sector.</p> <p>A highly intrusive law might thus not be justified in a country with such low risk and high understanding of terrorist financing.</p>
<p>Limitation of rights</p>		<p>The proposed amendment introduces a limitation aimed at serving purposes related to terrorist financing in the interests of defense, public safety, public order, public or the general public interest.</p> <p>Any legal person, legal arrangement, body or association, corporate or unincorporated, or any institution</p>	<p>It is submitted that whilst legal measures to guard against terrorist financing are welcome, the actual provisions of the PVO Amendment Bill proposes strategies not permissible in terms of the constitutional limitation clause,</p> <p>The nature and extent of the measures proposed by the Amendment Bill are too unnecessarily intrusive and unreasonable to be warranted. The limitations make too deep inroads into the rights and operational autonomy of CSOs and such inroads go beyond the level permissible by the constitutional limitation clause.</p> <p>By casting the net too wide to encompass almost all types of CSOs in Zimbabwe, the proposals in the Bill unduly restricts constitutional rights and limit the operational autonomy of the CSO sector</p>

<p>Cumbersome registration process</p>	<p>In terms of section 9(1) of the current PVO Act, the duty to register a PVO falls on the secretary of the organization who has to submit the organization's constitution to the Registrar.</p> <p>The PVO, as per the Act, shall, at its own expense, publish a notice in the prescribed form, in a paper circulating in the area concerned and bring proof of such publication to the Registrar.</p>	<p>The Act in section 9(7) requires that the registration of the PVO be published by the Registrar in the Gazette.</p>	<p>For the reason that the Zimbabwe government prefers national regulation in lieu of self-regulation of the CSO sector, the PVO Act can be considered necessary for such purpose.</p> <p>From a constitutional perspective, the registration framework for PVOs appears more outdated than restrictive; however, it is not highly technical or sophisticated in a manner to restrict entry or to constitute a barrier.</p> <p>Outdated procedural framework must be reconsidered and reviewed so that it does not impinge on administrative justice rights of CSOs.</p>
<p>Criminalization of PVO administration</p>	<p>The PVO Act establishes approximately sixteen (16) conduct or omissions that constitute criminal offences.</p> <p>Harshest criminal penalty is level 5</p>	<p>The proposed bill does not seek to change the conducts punishable as criminal offences, but adds to them the terrorism parts</p> <p>The harshest criminal penalty in the Amendment Bill is a level fourteen fine or imprisonment not exceeding five years or to both such fine or imprisonment.</p>	<p>CSOs call for civil remedies or administrative fines without the option for imprisonment.</p>