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...warns of grave consequences



President Emmerson Mnangagwa



The Bill contains several provisions that fall far short of the requirements of FATF Recommendation 8 and international human rights law standards

Roselyn Hanzi ZLHR Executive Director

ZLHR speaks on proposed anti-NGO law

HARARE-Government should reconsider the Private Voluntary Organisations Amendment Bill, which seeks to curtail the activities of Non-Governmental Organisations (NGOs) under the guise of adhering to international anti-money laundering protocols.

This is according to Zimbabwe Lawyers for Human Rights (ZLHR), which has produced an in-depth analysis of the amendments.

Cabinet in August last year approved the formulation of Private Voluntary Organisations Amendment Bill, which was subsequently published in the Government Gazette on 5 November 2021. The Bill states that the amendments are aimed at:

- Complying with the Financial Action Taskforce (FATF) recommendations made to Zimbabwe including recommendations under

technical compliance raised under Zimbabwe's Mutual Evaluation Report;

- Streamlining administrative procedures for Private Voluntary Organisations (PVOs) to allow for efficient regulation, registration and
- Prohibiting PVOs from political lobbying.

Information, Publicity and Broadcasting Services Minister Senator Monica Mutsvangwa told media practitioners that apart from meeting recommendations of FATF, the amendments would also ban NGOs from political involvement as well as force them "to act in the national interest."

But in an analysis released recently, ZLHR said it is "concerned and disturbed that the pretext of complying with FATF Recommendations is being used to rush through the proposed amendments to the PVO Act, which instead will

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GENEVA-Four United Nations (UN) Special Rapporteurs have warned President Emmerson Mnangagwa against adopting the proposed Private Voluntary Organisations (PVOs) Amendment Bill (PVOs), which they say will inhibit the enjoyment of numerous fundamental rights in Zimbabwe.

The Bill has also been criticised locally for its heavy-handedness in dealing with non-governmental organisations (NGOs), whom the ZANU PF party-led administration has often accused of pushing a regime change agenda at the behest of western countries.

The letter sent by the Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association Clément Nyaletsossi Voule, the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression, Irene Khan, the Special

Rapporteur on the Situation of Human Rights Defenders, Mary Lawlor, and Fionnuala Ní Aoláin, the Special Rapporteur on the Promotion and Protection of Human Rights and Fundamental Freedoms while Countering Terrorism, details the rights that will be inhibited if the Bill is passed into law.

Cabinet adopted the PVO Amendment Bill in 2021, citing the need to adhere to international money laundering treaties and regulations.

Civil Society Organisations (CSOs) have however interpreted it as another means by government to clampdown on their operations, most of which centre around human rights and civil education, two of government's unwanted topics.

"If adopted into law in its current version, this Bill will have grave consequences for the exercise of civil and political rights, including the right to freedom of association of Private Voluntary Organisations (PVOs) in Zimbabwe," reads the letter jointly written by the four UN Special Rapporteurs.

"We further would like to recall that international human rights obligations

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Fact Box

What is the Financial Action Task Force (FATF)?

The Financial Action Task Force (FATF) is a non-treaty inter-governmental body tasked with the promotion of measures to help combat money laundering and terrorist financing (ML/TF). It has developed 40 Recommendations or FATF Standards to measure technical compliance, and 11 Immediate Outcomes, to assess the effectiveness of government measures to combat Money laundering and financing of terrorism.

The FATF has identified activities of Non-Profit Organisations (NPOs) (in the context of Zimbabwe these may be not for profit charitable organisations including non-government organisations, private voluntary organisations, trusts, *universitas*, faith-based organisations, community based organisations) as potentially posing a risk of abuse for money laundering and funding of terrorist organisations. Recommendation 8 and Immediate Outcome 10 are the standards for NPO regulation.

In terms of Recommendation 8, governments are required to:

“...review the adequacy of laws and regulations that relate to non-profit organisations which the country has identified as being vulnerable to terrorist financing abuse. Countries should apply focused and proportionate measures, in line with the risk-based approach, to such non-profit organisations to protect them from terrorist financing abuse...”

In terms of Immediate Outcome 10.2, governments are required to show that they have

“...implemented a targeted approach, conducted outreach, and exercised oversight in dealing with PVOs that are at risk from the threat of terrorist abuse.”

Zimbabwe is a member of the East and Southern Africa Anti-Money Laundering Group (ESAAMLG). ESAAMLG is a regional body that carries out mutual evaluations to assess the effectiveness and technical compliance of the member states with the FATF Recommendations or Standards. In its 2016 Mutual Evaluation Report, Zimbabwe was rated as non-compliant with Recommendation 8. Authorities were encouraged to review laws and frameworks, identify NPOs that pose high terrorist financing risks, and apply commensurate measures.

In 2019, Zimbabwe was re-rated as partly compliant with Recommendation 8. It was found that although laws and sanctions were in place, Zimbabwe’s risk assessment of the NPO sector was not comprehensive enough to identify a subset of organizations falling within the FATF definition of NPOs that are at risk for terrorist financing and money laundering. This rating remains the same in the ESAAMLG 2021 review.

Why is ZLHR concerned about the PVO Amendment Bill?

The government is introducing amendments without:

1. Using a risk-based approach to identify, assess and understand the money laundering and terrorist financing risks, in consultation with NPOs,
2. Implementing a targeted approach in relation to NPOs that are at particular risk of terrorist financing and money laundering, as opposed to restricting the whole sector,
3. Having regard to Zimbabwe’s international human rights obligations, particularly in relation to freedom of association,
4. Conducting comprehensive outreach and educational programs to raise and deepen awareness among NPOs.

Debunking FATF myth

Zimbabwe already has laws on anti-money laundering and countering terrorism within and beyond the borders. These include the Criminal Law (Codification and Reform) Act [Chapter 9:23], which has penalties for acts of terrorism within the country, the Suppression of Foreign and International Terrorism Act [Chapter 11:21], the Bank Use Promotion and Suppression of Money Laundering Act [Chapter 24:24], The Criminal Procedure and Evidence Act [Chapter 9:07] and the Money Laundering and Proceeds of Crime Act [Chapter 9:24].

In 2020 the amendment to the Money Laundering and Proceeds of Crime Act was gazetted. This law initially came into effect in 2013 with the objective of suppressing the abuse of the financial

system and to enable the unlawful proceeds of all serious crime and terrorist acts to be identified, traced, frozen, seized and eventually confiscated. The amendment focused on beneficial ownership and unexplained wealth orders. It is pertinent to note that this amendment was passed way after the re-rating of Zimbabwe by FATF in 2019. Zimbabwe was re-rated as partly compliant with Recommendation.

Trashing recommendation of UN envoy:

In 2019, the UN Special Rapporteur on the rights to freedom of peaceful assembly and of association visited Zimbabwe on the invitation of the government of Zimbabwe (GoZ).

In his report, that was presented to the UN General Assembly during the June to July 2020 44th session, he made recommendations on how the GoZ can enhance the right to freedom of association. Contrary to the provisions being proposed in the current draft of the PVO Bill, in paragraph 125(a), the UN SR recommended that the GoZ amends the PVO Act in full consultation with civil society and other relevant stakeholders and avoid enacting regressive legislation in the future. In particular that the GoZ:

- Adopts a regime of declaration or notification, whereby an organisation is considered a legal entity as soon as it has notified its existence to the regulating authorities;
- Ensures that the registration procedure for national and international organisations is more simple and expeditious;
- Abolishes the practice of using memorandums of understanding that render the operation of associations burdensome and limit their autonomy and independence;
- Avoids interference in the activities of organisations through the use of inspectors;
- Alleviates reporting requirements;
- Facilitates the ability of organisations to access funding and resources without interference; and
- Avoids the use of excessive sanctions, particularly incarceration, for omissions in law.

UN censures Mnangagwa over PVO Amendment Bill



Rabble-rouser...Harare Metropolitan Province Secretary for Provincial Affairs and Devolution Tafadzwa Muguti

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remain fully applicable in the context of counter-terrorism, including in the enactment of measures to counter the financing of terrorism. The financing of terrorism has been a longstanding concern for States as demonstrated by the agreement on the 1999 International Convention for the Suppression of the Financing of Terrorism, aimed at criminalising acts of financing terrorism and which was ratified by Zimbabwe on 29 September 2004.

“The landmark Security Council Resolution 1373 and Security Council Resolution 2462, the first comprehensive resolutions addressing the prevention and suppression of terrorism, financing, demand that Member States ensure that all measures taken to counter terrorism, including measures taken to counter the financing of terrorism [. . .], comply with their obligations under international law, including international humanitarian law, international human rights law and international refugee law.”

Besides, infringing of basic human rights, the PVO Bill will create a landmine infested environment, making it difficult for NGOs to operate in Zimbabwe. Provisions that give the Minister in charge of CSOs the power to replace their boards, suspend or even dissolve them, were cited by the UN Special Rapporteurs as being particularly problematic.

“We are particularly concerned that these provisions may serve as basis for restricting the operation of many NGOs, including human rights groups, currently operating as *universitas* organisations or Trusts under the Deeds Registries Act. . . . Under the new provisions, the Minister will undertake a risk assessment of all PVOs at least once every five years. . . we would like to express grave concerns over the severe penalties imposed by the Amendment Bill, including imprisonment, for non-compliance with the Minister’s prescriptions. We reiterate that circumstances where criminal sanctions apply to associations should remain on an exceptional basis, proportional and narrowly construed,” reads part of the UN Special Rapporteurs.

“This new provision establishes that the Minister may make an application to the High Court to suspend all or any of the members of the executive committee of a registered PVO whenever he/she finds that “it is necessary to do so in the public interest” or where the “maladministration of the organisation is adversely affecting the activities of the organisation.”

Voule, Khan, Lawlor and Aoláin also questioned the vague wording of the PVO Amendment Bill which they argued put CSOs in danger at every step. Of particular concern was the wording on prohibition of ‘supporting or opposing’ any political party or candidate in an election. They sought clarity on what constituted support or opposition, indicating that highlighting voter education, highlighting human rights violations or giving legal assistance could all be regarded as a violation of the law.

“The Bill provides for the cancellation of certificate of registration when the concerned PVO “supports or opposes any political party or candidate in a presidential, parliamentary or local government election or is a party to any breach of [. . .] the Political Parties (Finance) Act, as a contributor of funds to a political party or candidate.

“While under international law, it may be appropriate to regulate the participation of NGOs in fundraising for candidates for public office, the Amendment Bill’s terms are overly broad and vague because the Bill does not specify what constitutes “supporting or opposing any political party.

“Namely, voter education, highlighting the government’s governance and human rights violations, and providing legal representation to political parties or candidates subjected to rights violations could fall into this category,” said the UN Special Rapporteurs.

The UN’s condemnation of the PVO Amendment Bill appears not to have been responded to by government, with indications that President Mnangagwa’s administration is forging ahead to ensure the minimum operation of NGOs over the period leading to the 2023 general elections.

“The Amendment Bill in its current form would lack adequate judicial oversight of many of its regulations on PVOs. In her 2013 report to the UN Human Rights Council, the former Special Rapporteur on the rights to freedom of peaceful assembly and of association stated that “[a]ny restrictions [on organisations] should be subject to an independent, impartial, and prompt judicial review,” noted the UN Special Rapporteurs.

Timeline of Persecution of NGOs

Below, *The Legal Monitor* looks at the relationship between Non-Governmental Organisations (NGOs) on one hand and the government and ruling party on the other. Despite saving

Zimbabwe from collapse, NGOs have frequently come under attack for allegedly interfering in politics, particularly ahead of elections.

June 2008:

Then President Robert Mugabe bans all NGO operations countrywide as the country battles famine ahead of a presidential election runoff. Working hard to avert mass starvation, the NGOs are accused of supporting the opposition MDC party. The ban is lifted after Mugabe wins the disputed runoff election which was boycotted by his main rival Morgan Tsvangirai.

1

July 2009:

Mugabe threatens to reimpose ban on NGO operations, again accusing them of anti-government activities.

2

February 2012:

Ahead of a crucial election, then Masvingo Provincial Governor, Titus Maluleke bans more than 50 NGOs operating in the province. Accompanied by police and military commanders, Maluleke accuses NGOs of using food and other aid to turn people against the ruling ZANU PF party.

3

June 2017:

Then First Lady Grace Mugabe says NGOs are not welcome in Zimbabwe, claiming they “disturb our politics”. She adds the NGOs should leave because their support is no longer necessary following a bumper maize harvest.

4

October 2017:

Robert Mugabe says Western funded NGOs would not be allowed to observe elections scheduled for 2018, accusing them of being sympathetic to the opposition. Mugabe doesn’t get to implement the decision after he is removed in a coup in November of the same year.

5

March 11, 2019:

Government, through the Masvingo District Administrator (DA), suspends the operations of Community Tolerance Reconciliation and Development Trust (COTRAD), a local NGO supporting thousands of vulnerable people in Masvingo province.

In a letter to COTRAD, the DA instructs the organisation not to carry out any activities “of any kind” in the jurisdiction of Masvingo District pending an investigation into the registration and approval issues of the organisation. Denford Halimani of Zimbabwe Lawyers for Human Rights (ZLHR) files an urgent chamber application in the High Court challenging the DA’s decision. High Court Judge Justice Loice Matanda-Moyo on 20 March 2019 rules that the ban is illegal and COTRAD should continue to operate.

6

October 2020:

President Emmerson Mnangagwa reveals plans to use legislation to tighten the screws on NGOs, announcing during a State of the Nation Address that Zimbabwe plans to review regulations governing the operations of NGOs. “The conduct of some non-governmental organisations and private and voluntary organisations who operate outside their mandates and are out of sync with the government’s humanitarian priority programmes remain a cause for concern. This august House will therefore consider the Private Voluntary Organisations Amendment Bill to revamp the administration of NGOs and PVOs and correct the current anomalies,” he said in signs of growing tensions between NGOs and government.

7

March 2021:

Public Service, Labour and Social Welfare Minister Professor Paul Mavima says government plans to deregister more than 400 NGOs he accuses of being “dormant”.

8

June 2021:

Ruling ZANU PF party’s acting Political Commissar Patrick Chinamasa pushes for deregistration of the majority of “3500” NGOs operating in Zimbabwe, accusing them of trying to topple the government. “Very few of them are helping to build schools, clinics, to give livelihoods to our people...All of them are employed to achieve regime change in Zimbabwe,” Chinamasa said. Some NGOs describe the threats as “criminal”.

9

June 2021:

Masvingo Provincial Development Coordinator Jefta Sakupwanya issues a notice ordering NGOs in the province to renew their Memoranda of Understanding or face deregistration. He accuses NGOs of dabbling in politics.

10

June 30, 2021:

Harare Provincial Development Coordinator Tafadzwa Muguti writes a letter to NGOs, PVOs, Trusts, Faith-Based Organisations and CSOs stating that all operations and clearance of NGOs is now domiciled in his office and directed them to submit their workplans for 2021 to his office. Muguti also invited all NGO country directors for a courtesy call.

11

July 9, 2021: Masvingo Provincial Development coordinator Jefta Sakupwanya summons NGOs operating in the province to a meeting to discuss their operations despite COVID 19 restrictions banning face to face meetings. NGOs rebuff his latest threats.

12

July 30, 2021:

On behalf of Zimbabwe Human Rights NGO Forum and Crisis in Zimbabwe Coalition, Tonderai Bhatasara of Zimbabwe Lawyers for Human Rights (ZLHR) files an urgent chamber application challenging the arbitrary actions by Muguti purporting to ban NGOs in Harare. In the application, ZLHR asks the High Court to interdict anyone from enforcing, interfering, suspending or stopping operations of NGOs, Trusts, Civil Society Organisations and Faith-Based Organisations or in any way acting on the contents of the press statement issued on 29 July by Muguti.

15

July 14, 2021:

While addressing the 363rd ordinary session of the ruling ZANU PF party’s Politburo in Harare, President Mnangagwa warned NGOs that they were under surveillance claiming that they were no longer adhering to their mandate and stated that government will proceed to deregister any organisation found in the wrong. President Mnangagwa also urged his ZANU PF party supporters to be vigilante and expose NGOs operating in their communities.

13

July 29, 2021:

Muguti issues a press statement effectively banning all NGOs which reportedly did not comply with his directive and lists 40 NGOs which complied with his command. Muguti says those who failed to comply with his directive will be stopped from conducting operations with immediate effect until they fully comply with the policy.

14

August 31, 2021:

Information, Publicity and Broadcasting Services Minister Senator Monica Mutsvangwa tells media practitioners that Cabinet has approved the formulation of the Private Voluntary Organisations Amendment Bill, 2021 that would give President Mnangagwa’s government powers to suspend, penalise or sanction boards if it feels they are not operating within the so-called confines of the law.

16

September 17, 2021: High Court Judge Justice Esther Muremba orders Muguti and some government agents to stop interfering with or stopping the operations of NGOs, Trusts, Civil Society Organisations (CSOs) and Faith Based Organisations (FBOs). In her judgment, Justice Muremba rules that Muguti has no power to issue the directives which he handed out targeted at the NGOs as he has no power whatsoever to supervise their operations. The Judge interdicts Muguti, Senator Oliver Chidawu, Hon. July Moyo, Hon. Kazembe Kazembe and Hon. Paul Mavima and all their agents or anyone acting on their behalf from enforcing, interfering with, suspending or stopping operations of NGOs, Trusts, CSOs and FBOs or in any way acting on the contents of the press statement dated 29 July 2021 issued by Muguti.

17

November 5, 2021:

Clerk of Parliament Kennedy Chokuda publishes Private Voluntary Organizations Amendment Bill, HB 10, 2021 in a Government Gazette dated 5 November 2021.

18

November 11, 2021:

While in Gokwe, President Mnangagwa called on people in rural areas to be on the look-out for some NGOs which he claimed to have set base in communities with ulterior motives. He claimed that there are some NGOs that are bent on interfering in Zimbabwe’s internal matters under the guise of offering humanitarian aid and urged people to report them to Ministers of State in their provinces.

20

December 17, 2021: Four United Nations (UN) special rapporteurs write a letter to President Mnangagwa expressing serious concern over the PVO Amendment Bill designed to control the activities of non-profit entities in Zimbabwe. In the letter, the four UN special rapporteurs say if adopted into law in its current version, the PVO Amendment Bill will have grave consequences for the exercise of civil and political rights, including the right to freedom of association of NGOs in Zimbabwe.

ZLHR speaks on proposed anti-NGO law

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result in the undue targeting of PVOs, and other civil society organisations and non-government organisations not previously required to register under the PVO Act. The proposed PVO Amendment Bill will result in government over-regulation, and ultimately the curtailment of human rights and fundamental freedoms.”

“The Bill contains several provisions that fall far short of the requirements of FATF Recommendation 8 and international human rights law standards,” said ZLHR. **Below is a summary of the shortcomings that were flagged by ZLHR.**

- Does not promote self-regulation - The Bill seeks to bring trusts and common law *universitas* organisations (currently exempt) under the Act. This will have a devastating impact on most of the NPO sector, as the Act is already very restrictive and most of the affected organisations have not been able to register in the past. Civil society has been advocating for enabling legislation that will promote self-regulation in the sector, as has been the case in other countries around the world.
- Consolidation of regulation of PVOs in Registrar’s office (a civil service functionary) - Although there is a PVO Board (whose composition is heavily dominated by executive appointees), the Bill bestows more power in the office of the Registrar. The Registrar controls the re-registration of organisations if there are material changes after the initial application or after minor changes. The Registrar’s office forms part of the Public Service. In essence, it is the Civil Service which is controlled by the President. The Civil Service reports to the President. This can potentially affect the independence of PVOs as they will self-censure to prevent antagonising their regulators.
- Excessive executive control over affairs of NPOs - The Minister has extensive powers to arbitrarily interfere with the operations and activities of NPOs by designating any type of entity as “high risk” for terrorist financing and subjecting those entities to, as yet undetermined, money laundering or terrorism financing (ML/TF) measures. The Minister also has broad discretionary powers to replace a PVO’s executive committee with provisional members who are given wide powers to interfere with the internal affairs of a PVO.
- In conflict with existing labour and criminal procedure and criminal laws - The Minister can cause the summary dismissal of an employee or office holder of a PVO. This does not allow for due process and the presumption of innocence before drastic punitive criminal penalties are imposed. Further, there appears to be little synchronisation with existing laws on money laundering and suppression of terrorism.
- The risk assessment process is not compliant with FATF Recommendation 8 and outcome 10. There is a failure to include civil society actors in the risk assessment processes. In addition, the criteria used for the assessment and the designation process is overly vague and broad, and the process lacks accountability.
- Lack of security for continued operations of NPOs - There is a requirement to apply and potentially re-register with the Registrar of PVOs when there are, even minor, organisational changes. The relationship between the power of the Registrar on re-registration and the PVO Board is not well articulated. It creates an opportunity for a government functionary to refuse registration to NPOs working on legitimate human rights, good governance and rule of law initiatives. There is no clarification on the status of NPOs pending the outcome of registration processes, which should be a simple notification process and legal status presumed until declared otherwise. The Bill gives the Minister broad discretion “on information supplied to him” to suspend and replace a PVO’s executive committee with provisional members (paid by the funds of the organisation, and able to make any decisions on behalf of the organisation - including disposal of assets, upon approval by the Minister.)
- Criminalisation of civil society work and punitive civil liability - The Bill seeks to criminalise NPOs on very vague grounds as “supporting or opposing any political party or candidate in a presidential, parliamentary or local government election”. This can potentially affect civil and political rights. More particularly, Section 67 of the Constitution that guarantees political rights. The Bill allows for the imposition of civil penalty orders requiring defaulting PVOs to pay a fixed penalty amount in addition to any other criminal or non-criminal penalties imposed under the Act or any other law. The numerous penalties imposed under the act amount to arbitrary over-regulation of the sector.
- Curtails freedom of association - There is a requirement to disclose foreign funding. The Bill allows for the Minister to make regulations for PVOs to disclose sources of funding from outside of Zimbabwe.

ZLHR Holds Regional And International Solidarity Meeting On Private Voluntary Organisations Amendment Bill, 2021

ZIMBABWE Lawyers for Human Rights (ZLHR) and domestic and global civil society partners held a solidarity meeting on 10 February 2022 with United Nations special mechanisms, regional and international partners to raise its grave concerns with recent efforts by the government of Zimbabwe to restrict civic space.

Of concern was the gazetting of the repressive Private Voluntary Organisations Amendment Bill 2021 (the PVO Bill) on 5 November 2021, under the guise of complying with international standards on anti-money laundering and counter-terrorism.

ZLHR welcomed the joint communication to the President of Zimbabwe by four UN Special Rapporteurs on freedom of peaceful assembly and association; on freedom of opinion and expression; on the situation of human rights defenders; and on the protection of human rights while countering terrorism that was sent on 17 December 2022, which clearly stated that the Bill does not comply with the international law standards on anti-money laundering and counter-terrorism set by the Financial Action Task Force (FATF).

The UN thematic experts further stated that the proposed PVO Amendment Bill violates fundamental rights to freedom of association and expression. International experts from the Global Non-Profit Organisation Coalition on FATF also confirmed during the solidarity meeting that the Bill does not conform with the FATF standards. If passed in its current state, it will result in a negative rating by the regional FATF-style body, resulting in further trade restrictions for Zimbabwe.

ZLHR is gravely concerned that the Bill will restrict and close down the operations of many charitable organisations, including humanitarian, faith-based and development organisations, and will negatively impact on the communities who depend on their work. It will create legal uncertainty by delegitimising non-government organisations (NGOs) currently operating lawfully as trusts and associations, requiring their registration with the Registrar of Private

Voluntary Organisations (PVOs), and requiring re-registration of NGOs that make organisational changes, leaving their status pending (re)registration unknown.

The proposed provisions will result in over-regulation of the sector, by imposing arbitrary civil penalties as well as criminalising NGOs on such vague grounds as supporting or opposing political parties or candidates, in violation of their civil and political rights; or for unauthorised collection of charitable funds from the public or from outside the country.

The PVO Bill if passed will allow for gross interference by the executive in NGOs' operations and internal affairs. The Minister of Public Service, Labour and Social Welfare, will be given unfettered discretionary powers to designate and impose harsh measures on particular organisations deemed to be at high risk of terrorism abuse on the basis of undetermined criteria. The Minister will be allowed to suspend and replace NGOs' executive committees on "any information provided" that there has been "maladministration" or if "it is in the public interest", with provisional trustees exercising all executive committee functions and even disposing of organisations' assets and funds. Such unchecked powers may be open to abuse.

As highlighted in the UN Special Rapporteurs' communication, the government is introducing these amendments without following the FATF counter-terrorism standards. The FATF standards require consultation with the non-profit sector to identify, assess and understand any terrorism financing risks in the sector. Any risk mitigation measures should be implemented in a targeted and proportionate manner, targeting only specific NGOs at particular risk, as opposed to restricting the whole sector.

Measures must also comply with Zimbabwe's international human rights obligations, particularly respecting NGOs' rights to freedom of association. The proposed provisions are not targeted, necessary or proportionate, as Zimbabwe already has laws, with frameworks

and penalties, to address money laundering and acts of terrorism. These laws can be applied to NGOs, as with all other sectors. The application of additional penalties on a sector that is at low risk is discriminatory and unnecessary.

In summary, the proposed PVO Amendment Bill will result in undue targeting and restriction of NGOs' operations, as a result of: over-regulation, arbitrary criminalisation, and punitive civil liability being imposed; lack of security for continued operations of NGOs; and excessive executive interference in internal affairs of NGOs. This will result in restriction of legitimate charitable activities and services reaching vulnerable beneficiaries of humanitarian, human rights and development organisations. Ultimately, this proposed law will lead to the curtailment of human rights and fundamental freedoms, particularly freedom of association.

ZLHR urgently calls upon the government of Zimbabwe:

- To withdraw the PVO Amendment Bill 2021 from parliamentary processes pending comprehensive review in consultation with the non-profit sector.
- To conduct genuine legislative and policy reform for a framework that enables an open and conducive operating environment for civil society and human rights defenders, in accordance with the Constitution and international law, and that promotes self-regulation.
- To consult with civil society organisations to understand any real risks of terrorism abuse or money-laundering in the non-profit sector.
- To apply only reasonable and proportionate mitigation measures to address any terrorism risks, applying existing anti-money laundering and counter-terrorism laws and frameworks where necessary.

ZLHR Urges Government to Implement UPR Recommendations

ZIMBABWE Lawyers for Human Rights (ZLHR) urges the Zimbabwean government to fully embrace the progressive recommendations that were proposed by United Nations (UN) member states in Geneva on 26 January 2022 during the UN Human Rights Council-led Universal Periodic Review (UPR) 'Interactive Dialogue Session'.

The UPR is a special peer review mechanism led by the UN Human Rights Council to examine the human rights records of all the 193 member states of the UN. It was established in 2006 when the UN General Assembly created the UN Human Rights Council. The UPR process aims to improve the human rights situation in all nations of the world by providing a platform for member states to make recommendations, and review each other, to encourage adherence to human rights best practices.

It is a unique mechanism designed in a manner that ensures that all countries are treated equally when their human rights records are assessed. States are assessed periodically, at least every four and half years, when their implementation of state recommendations on human rights compliance made in the previous cycles is monitored.

On 26 January 2022, Zimbabwe's human rights record was examined by the UPR Working Group at its Third Cycle review meeting held in Geneva, Switzerland. The Zimbabwean delegation was led by Justice, Legal and Parliamentary Affairs Minister, Hon. Ziyambi Ziyambi. The review was based on:

1. a national report consisting of information provided by the Zimbabwean state;
2. the reports of independent human rights experts and groups (Special Procedures), human rights treaty bodies and other UN entities; and
3. the information contained in the reports of other stakeholders, such as national human rights institutions, regional organisations and civil society groups.

ZLHR and 67 other civil society organisations (CSO) contributed to

the stakeholders report through a joint CSO stakeholder submissions report on the human rights situation in Zimbabwe. Ahead of the review, this report was further developed into an advocacy charter with at least 84 CSOs.

During the Interactive Dialogue session, UN member States provided extensive recommendations for the improvement of the human rights situation in Zimbabwe and the alignment of the nation's domestic laws with its international obligations. Some of the recommendations include: the establishment of an Independent Complaints Mechanism to investigate and address human rights violations by members of the security services; the adoption of swift measures to end impunity for human rights violations; the protection and strengthening of the civic space in the country; and the adoption of legislation that is designed to protect Human Rights Defenders (HRDs) and the promotion and protection of the right to freedom of peaceful assembly and of association.

Zimbabwe was urged to stop the arbitrary arrest and detention of journalists, students and other HRDs. Importantly, UN members recommended that Zimbabwe amend the Private Voluntary Organisations Act in consultation with civil society, and abandon the Private Voluntary Organisations Amendment Bill, to open up civic space in the country. UN member states also recommended the extension of voting rights to prisoners and the Zimbabwean diaspora. In addition, member states urged Zimbabwe to guarantee the independence of the judiciary and ensure that elections are free and fair.

Significantly, member states recommended that Zimbabwe ratify the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which would criminalise torture in Zimbabwe. 166 of the 193 United Nations member states have adopted the Convention and of the fifty-five African countries, Zimbabwe and Tanzania are the only two that have neither signed nor ratified the Convention. Unfortunately the Zimbabwean delegation stated Zimbabwe already has adequate domestic laws to address torture. Zimbabwe was also urged to reconsider its position on

treatment of sexual minorities. The Zimbabwean delegation was however receptive to recommendations for the state to abolish the death penalty in Zimbabwe, and to criminalise the practice of child marriages.

Zimbabwe was also commended by member states for its efforts in protecting and advancing the rights of persons living with disabilities, adopting measures that are designed to combat the scourge of Gender-Based Violence and for providing free COVID-19 vaccines to the general population. Despite these positive developments, member states recommended that Zimbabwe take swift action to address the outstanding human rights issues in the country from the previous and current cycles.

On 28 January 2022, the Troika —countries leading the review of Zimbabwe by the UN Human Rights Council— announced that of the 264 recommendations made, Zimbabwe had supported (accepted) 127, 39 were noted (rejected), and 98 had been deferred. The government has until the 50th session of the Human Rights Council, currently scheduled for June or July 2022, to accept or reject the deferred 98 recommendations. ZLHR welcomes the acceptance by the state of 127 recommendations, and calls upon the Zimbabwean authorities to urgently accept the outstanding recommendations.

In light of the comprehensive recommendations that were made during the Third UPR Cycle review of Zimbabwe, ZLHR calls upon Zimbabwean authorities to;

1. Accept all the outstanding progressive recommendations made by other UN members states ahead of the adoption of the final report during the 50th Human Rights Council Session;
2. Reconsider its position on the rejected recommendations before the 50th Human Rights Council Session;
3. In the meantime, take urgent action to implement robust measures that will improve the human rights situation in Zimbabwe and align its domestic laws with its international human rights obligations.