

ZIMBABWE DEMOCRACY INSTITUTE (ZDI) MONTHLY MONITORING REPORT

PVO AMENDMENT BILL & THE AUTHORITARIAN CONSOLIDATION PROJECT IN ZIMBABWE

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About the Zimbabwe Democracy Institute (ZDI)

The Zimbabwe Democracy Institute (ZDI) is a politically independent and not for profit public policy think-tank based in Zimbabwe. Founded and registered as a trust in terms of the laws of Zimbabwe in November 2012, ZDI serves to generate and disseminate innovative ideas, cutting-edge research and policy analysis to advance democracy, development, good governance and human rights in Zimbabwe. The institute also aims to promote open, informed and evidence-based debate by bringing together pro-democracy experts to platforms for debate. The idea is to offer new ideas to policy makers with the view to entrenching democratic practices in Zimbabwe. The ZDI researches, publishes and conducts national policy debates and conferences in democratization, good governance, public policy, human rights and transitional justice, media and democracy relations, electoral politics and international affairs.

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Introduction

The proposed amendments to the Private Voluntary Organisations (PVO) Act have emerged as a central lynchpin in the authoritarian consolidation project of the Mnangagwa administration. The amendments came against a background of increased anti-authoritarian rule pressure mounted by Civil Society Organisations (CSOs), Human Rights Defenders (HRDs), Community Based Organisations (CBOs), students unions, trade unions and residents associations in Southern Africa. CSOs have been viewed as key enablers in the democratic breakthrough and/or transition in Malawi and Zambia in 2020 and 2021 respectively. It is against this background that the government of Zimbabwe seeks to constrict the civic space used by CSOs in a bid to block the Malawian and Zambian precedent from happening in Zimbabwe. The PVO Act therefore represents the state's legal tool or weapon that is aimed at stepping up surveillance, infiltrating and octopus grip on the operations of human rights and democracy defenders in Zimbabwe. This paper argues that the PVO Bill is a conflict igniting factor as the country heads towards the 2023 elections. The paper analyses the PVO Bill paying particular attention on how the Bill emasculates the system of checks and balances exercised by the civil society.

The proposed amendments of the PVO Act comes at a time when Zimbabwe is faced with political and socio-economic crises whose roots can be traced back to the disputed 2018 election results. Politically, the government of President Mnangagwa twelve months before the next 2023 elections appears to have given up on fulfilling the previous 2018 election promises. Annual consumer price inflation in Zimbabwe reached 131.7% in May 2022 from 96.4% in April 2022.¹ This hyperinflationary environment comes against the background of the 2018 election promise by President Mnangagwa to stabilize the macro-economic environment.²

Mimicking a patrimonial state, Zimbabwe is entangled in a leadership crisis across all facets of the economy. The country's public health delivery system continues to nosedive as shown by the never-ending exodus of healthcare personnel. Regardless of the existence of anti-corruption measures, Zimbabwe is currently grappling with the scourge of corruption as shown by lack of political will in the enforcement of such mechanisms. The dysfunctional system of checks and balances through the Constitutional Amendment No.2 Act has resulted in opaque use of the International Monetary Fund (IMF) Special Drawing Rights'

(SDRs) allocation to Zimbabwe of US\$958 million. The parliament is now hamstrung by the Constitutional Amendment No.2 Act from exercising its oversight role in the management and use of public funds as the executive arm of government has become more powerful than the legislature in clear breach of doctrine of the separation of powers.

The PVO Act Amendment Bill and the Authoritarian Consolidation Project

The penchant for use of legislation to capture and control of CSOs by government in Zimbabwe can be traced back to the colonial era. In Rhodesia, the colonial government legislated the Welfare Organisations Act in 1967 which controlled the operations of organisations that were understood to be linked to the national liberation movement (Saki, 2010). The Welfare Organisations of that time were involved in the gathering and dissemination of human rights violations and related information in Rhodesia. However, the emergence and growth of CSOs involved in human rights and democratisation work intensified in the 1990s when the government was embroiled in a myriad of socio-economic challenges. These CSOs started interrogating the capacity of the state to translate the ideals of independence into tangible deliverables (Zhou, 2000). By 1996, the CSOs had upped their game of exerting public accountability pressure on government for democratic space and reforms. In response, the government promulgated the PVO Act as an instrument aimed at curtailing the operating space for NGOs and CSOs. Faced by a critical civil society, the government of Zimbabwe under former President Robert Mugabe devised legal and political tools that targeted and harassed CSOs, NGOs and other pro-democracy movements such as legislative and administrative interference. This was meant to silence and restrict civic activism which emerged for purposes of exerting transparency and accountability pressure on government to deliver its electoral promises to the citizens.³

CSOs and the democratic breakthrough in Zambia

In August 2021 Zambia witnessed an election-enabled democratic breakthrough when the Patriotic Front (PF) party lost the election to the United Party for National Development (UPND). The civil society in Zambia had for a very long time operated in a political and legal context characterised by a fragile and shrinking civic and media space (Civicus, 2021). The fragility and shrinkage of the civic space in Zambia prior to the 2021 election was necessitated

¹ This is further elucidated by Trading Economics: Zimbabwe Inflation Rate. Available at: <https://tradingeconomics.com/zimbabwe/inflation-cpi>

² This and other 2018 election promises can be accessed here: ZimFact. 2018. FACTSHEET: Mnangagwa's economic promises. Available at: <https://zimfact.org/factsheet-mnangagwas-economic-promises/>

³ For more details, see Chikohomero, R. (2018). Civil society organisations can have a pivotal role in #Zimbabwe's transition towards building a democratic nation. Available at: <https://blogs.lse.ac.uk/africaatlse/2018/07/28/civil-society-organisations-can-have-a-pivotal-role-in-zimbabwes-transition-towards-building-a-democratic-nation/>

by the Lungu-led government's legal restrictions which acted as an albatross on Zambia civil society's neck.

Notwithstanding the above civic space obstacles in Zambia ahead of the 2021 elections, the country's civil society played an indispensable watchdog role of exerting public accountability pressure on the election management body to run a transparent electoral process that reflects and respects the will of the people. The African Union Election Observation Mission (AUEOM) to the 12 August 2021 General Elections in Zambia highlighted that there was active participation of the civil society in the electoral process.

The PVO Act [Chapter 17] was enacted in 1996 to govern the CSOs in Zimbabwe. The PVO is defined by the Act as:

"anybody or association of persons, corporate or unincorporate, or any institution, the objects of which include or are one or more of the following that provides for the provision of all or any of the material, mental, physical or social needs of persons or families; the rendering of charity to persons or families in distress; the prevention of social distress or destitution of persons or families; the provision of assistance in, or promotion of, activities aimed at uplifting the standard of living of persons or families; the provision of funds for legal aid; the prevention of cruelty to, or the promotion of the welfare of, animals."⁴

The definition of a PVO implies that CSOs are not spared as they are involved in charity and humanitarian work as well as the promotion and protection of human rights with an aim of improving the standard of living of people. These organisations are found in different sectors such as education and training, women and gender, health, poverty alleviation, good governance, human rights and governance. Examples include Action Aid International Zimbabwe, CARE International Zimbabwe, Zimbabwe Lawyers for Human Rights, Crisis in Zimbabwe Coalition, Zimbabwe Women Lawyers Association, Kubatana, Musasa Project, Katswe Sistahood and others.

The envisaged amendments to the PVO Act are aimed at shrinking the civil society's operating space as the country

heads towards the 2023 elections. The main motive behind the amendment is to avoid the Zambian precedent in Zimbabwe of a democratic breakthrough that came through the indispensable role played by democratic forces.

Crisis of Leadership and Governance: Implications on national development

Zimbabwe is currently embroiled in a matrix of political and socio-economic challenges. On the political front, the ZANU-PF led government is increasingly becoming under public accountability pressure over its failure to fulfill its 2018 election promises such as employment creation, affordable and accessible public healthcare. After the November 2017 coup and the 2018 August 1 shootings, the goodwill enjoyed by President Mnangagwa's first government began to dwindle. The civil society comprised of pro-democracy movements, community based organisations, trade unions, and residents associations as well as student unions started questioning the government's capacity to translate the 'Operation Restore Legacy' ideals into tangible deliverables.

The public healthcare system remains on a downward trend as the healthcare personnel continue to move out from the country in search of greener pastures particularly in the United Kingdom where there is better remuneration in the health sector.⁵ In 2021, more than 2 000 medical personnel left Zimbabwe over poor remuneration by the government.⁶ The government has failed to fulfill its promise of improving the wages of the healthcare personnel in Zimbabwe's public health sector.

In the context of all this, corruption appears to be thriving in Zimbabwe due to the emasculation of anti-corruption mechanisms. The continued prevalence of corruption in Zimbabwe is a clear testament to the weakened anti-corruption mechanisms in form of state legal instruments and institutions. For instance, the Zimbabwe Anti-Corruption Commission (ZACC) in 2020 made a report that the National Pharmaceutical Company (Nat Pharm) allegedly violated procurement rules when it acquired equipment and chemicals for Covid-19 and Deputy Health Minister John Mangwiro unsuccessfully steered a related tender to a firm that offered inflated prices.⁷ Nevertheless, no arrest and prosecution has since been effected to Mangwiro.

The above same scenario happened with former Minister of Health Dr Obadiah Mangwiro in 2020 when he was arrested on corruption charges involving US\$42 million contract to a firm outside the pharmaceutical sector. He was never

⁴ Section 2 (1) PVO Act

⁵ See *France 24*. 2022. Zimbabwe healthcare bleeds amid mass nurse exodus. Available at: <https://www.france24.com/en/live-news/20220516-zimbabwe-healthcare-bleeds-amid-mass-nurse-exodus>.

⁶ This was highlighted by Zimbabwe's Health Services Board (HSB). Reported by *BBC*. 2022. Zimbabwe's clinics struggle for

nurses after exodus to the UK. Available at: <https://www.bbc.com/news/world-africa-60524576>.

⁷ For a detailed report, see Freedom House. 2022. Zimbabwe. Available at: <https://freedomhouse.org/country/zimbabwe/freedom-world/2022>.

prosecuted except being dismissed from his government position. This speaks volume about the weakened anti-corruption mechanisms in Zimbabwe and thereby painting a picture of leadership and governance crisis in the country.

On the economic front, Zimbabwe continue to be in debt distress spelt out by huge external arrears to official creditors. In addition to this is extreme poverty⁸ and longstanding structural constraints that are an outcome of the government's failure to implement necessary political and economic reforms that are critical for high and inclusive economic growth and set the stage for engagement and reengagement with the international community.⁹ Inflation continue to be on an upward trend thereby putting basic commodities' prices beyond the reach of many. In April 2022, Trading Economics reported that Zimbabwe's annual consumer price inflation jumped to 131.7% in May 2022 from 96.4% in April 2022 and this rising inflation has eroded workers' wages and salaries.



Zimbabwe's IMF Special Drawing Rights (SDRs) Expenditure: Non-existent transparency and accountability measures

In August 2021, Zimbabwe received its allocation of SDRs that amounted to US\$958 million from the International Monetary Fund (IMF).¹⁰ The government highlighted that it was going to use the funds in a transparent, accountable and prudent manner. It said:

The funds will provide a huge stimulus to the economy and will be used prudently, with accountability and transparency to support projects in the following areas: investments in social sectors namely health, education, and the vulnerable groups; productive sectors value chains; infrastructure

The macroeconomic environment of Zimbabwe is also hamstrung by an unstable currency exchange rate. The runaway exchange rate between the local ZWL\$ and the US\$ is making the business environment difficult for local and external investors. As of 24 May 2022, the Zimbabwean RTGS dollar traded at ZWL\$290.8876 to US\$1. Amid this runaway exchange rate, it is imperative that there should be a more transparent and market-driven price process which amounts to liberalizing the exchange rate.

⁸ The Zimbabwe National Statistics Agency (ZIMSTATS) noted that in April 2022 Zimbabwe's Food Poverty Datum Line (FPL) for one person was ZWL\$8 366. The total Consumption Poverty Line (TCPL) for one person stood at ZWL\$11 363. Available at: <https://zero.pindula.co.zw/inflation-poverty-datum-line-continue-going-up-zimstat/>.

⁹ For further elucidation, see a report by the International Monetary Fund (IMF). 2022. IMF Executive Board Concludes 2022 Article IV Consultation with Zimbabwe. Available at:

<https://www.imf.org/en/News/Articles/2022/03/24/pr2288-zimbabwe-imf-executive-board-concludes-2022-article-iv-consultation>.

¹⁰ The Ministry of Finance and Economic Development confirmed to have received the SDRs from IMF. For more details, see Zimbabwe SDR Utilisation Plan. Available at: http://www.zimtreasury.gov.zw/index.php?option=com_content&view=article&id=234:zimbabwe-special-drawing-rights-utilisation-plan&catid=83&Itemid=613.

investments and foreign currency reserves and a contingency fund.¹¹

Eight (8) months down the line the nation is yet to get an account of what and how the funds are being expended vis-à-vis the laid down funds utilization plan produced and disseminated by the country's treasury department. This erodes public confidence on the central government's handling of public resources.

5. In 2022, SDR disbursements of US\$145 million (equivalent of ZWL\$ 18.85 billion) will go towards the social, agriculture, industry and infrastructure sectors as shown in Table 2 below.

Table 1: Projected 2022 SDR Disbursements (US\$ millions)

Projected 2022 SDR Disbursements	US\$ million
Investments in social sectors (Health - NMS (US\$35m) and Education (US\$10m))	45
Agriculture support (Export revolving fund for agriculture (US\$30m)-Cash Guarantee to banks) and smallholder farmer irrigation schemes (US\$20m)	50
Industry Support - (Retooling/revolving fund for new equipment and replacement for the value chains-Cash Guarantee to banks)	30
Infrastructure Development - Housing Development (US\$10m) and Gold Centres (US\$10m)	20
Total	145

Source: Ministry of Finance and Economic Development

Ministry of Finance and Economic Development
29 November 2021

Conclusion

The impending promulgation of the PVO bill is earmarked at constricting the operating space for civic organisation as the country enters the electoral cycle ahead of the 2023 elections. This comes against a backdrop of the facilitating role played by the civil society and other democratic forces in Zambia's 2021 democratic breakthrough. The imminent amendment of the PVO Act is yet another strategy by President Mnangagwa's administration to deter the repeat of the Zambian precedent in Zimbabwe by curtailing the operating space for NGOs and CSOs which play a fundamental role in mobilising democratic forces for a democratic breakthrough. The government of Zimbabwe's response to the operations of CSOs comes at a time when the country is grappled with a leadership crisis across all facets of the economy as shown by continued deterioration of the public healthcare system, unending corruption as well as lack of transparency and accountability in the management of public finance such as the case of IMF SDRs.

Recommendations

Cognizance of the importance of transparency and public accountability in advancing sustainable development, the ZDI in line with its aim to advance democracy, development, good governance and human rights in Zimbabwe offers the following recommendations for considerations by stakeholders:

To the Government of Zimbabwe

- ✓ Publish timely data on usage of IMF SDRs allocation to the country.
- ✓ Strengthen systems of checks and balances and tightening anti-corruption measures for ensuring that state resources do not serve partisan interests.
- ✓ Consider the input made by citizens across the country during the PVO Amendment Bill public hearings and stop the promulgation into law of the Bill.

To the Civil Society

- ✓ Demand transparency and accountability on expenditure of IMF's allocation of SDRs to Zimbabwe as of May 2022.
- ✓ Intensify lobby and advocacy on stopping the enactment of PVO Amendment Bill into law, end corruption and provision of a robust public healthcare delivery system.

To the Media

- ✓ Investigate and report on expenditure of SDRs from Zimbabwe against the funds utilization plan developed by the Ministry of Finance and Economic Development in November 2021.

¹¹ See 8 above.