

Mandates of the Special Rapporteur on the rights to freedom of peaceful assembly and of association; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the situation of human rights defenders and the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism

Ref.: OL ZWE 2/2024
(Please use this reference in your reply)

27 November 2024

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the rights to freedom of peaceful assembly and of association; Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on the situation of human rights defenders and Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, pursuant to Human Rights Council resolutions 50/17, 52/9, 52/4 and 49/10.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the **Private Voluntary Organisations (PVO) Amendment Bill**, which was first gazetted in 2021 and reincorporated on 1 March 2024, and which needs to be signed by the President after being passed by both Houses of Parliament on 17 October 2024.

Our mandates have been following closely the discussion at Congress of the PVO. The former Special Rapporteur on the rights to freedom of peaceful assembly and of association, Mr. Voule, in his 2019 visit report ([A/HRC/44/50/Add.2](#)), analysed the PVO Act. He indicated that "the primary framework governing private voluntary organizations is the Private Voluntary Organizations Act, which retains many features of the Welfare Organizations Act from pre-independence times" (para. 86). He also indicated that the PVO Act provided for "an onerous, lengthy and complex registration procedure that requires a significant amount of detailed information (...) and the submission of additional documents at the discretion of the Registrar". Also, in the case of foreign organizations, he expressed his concerns "about allegations in relation to onerous processes, including payment of additional fees, interference with an organization's activities and, in some instances, unilateral termination of memorandums of understanding", which are required for operating in the country (paras. 87-91).

Moreover, in this report, Mr. Voule stated that the PVO Act "grants wide discretionary powers to the Minister of Public Service, Labour and Social Welfare and to the Private Voluntary Organizations Board to interfere in the internal governance of an organization, under different grounds (...) while [it] is silent in providing a time period for the review process and informing the organization of the full reasons for suspending its registration" (paras. 95-96). The report also indicated that "that there is a high level of control and even persecution that certain organizations face that choose not to be registered under the Private Voluntary Organizations Act or align themselves with government views" (para. 98).

In the final section of the report, Mr. Voule recommended to “amend the Private Voluntary Organizations Act in full consultation with civil society and other relevant stakeholders and avoid enacting regressive legislation in the future. In particular to: (i) Adopt a regime of declaration or notification whereby an organization is considered a legal entity as soon as it has notified its existence to the regulating authorities; (ii) Ensure that the registration procedure for national and international organizations is more simple and expeditious; (iii) Abolish the practice of using memorandums of understanding that render the operation of associations burdensome and limit their autonomy and independence; (iv) Avoid interference in the activities of organizations through the use of inspectors; (v) Alleviate reporting requirements; (vi) Facilitate the ability of organizations to access funding and resources without interference; (vii) Avoid the use of excessive sanctions, particularly incarceration, for omissions in law” (para. 125(a)).

In December 2021, we sent a communication to your Excellency’s Government ([OL ZWE 3/2021](#)) to comment on the “Private Voluntary Organisations Amendment Bill, 2021” indicating that, “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.”

According to the information received, the 2021 Amendment Bill was not further studied until this year’s new Parliament introduced a new text for amending the PVO Act. While it is positive that the country wants to review the Act, as it was recommended by Mr. Voule, the new text does not address the specific recommendations presented in the country visit report ([A/HRC/44/50/Add.2](#)) to improve the legal framework, and also seems not to have taken into account the analysis and comments made by special procedures mandates in light of international human rights standards and best practices on the rights to freedom of association ([OL ZWE 3/2021](#)).

According to the information received, different versions of the PVO Amendment Bill have been passed by the Senate and the National Assembly, which has caused confusion and made difficult the analysis presented in the present letter. Section 131 of the National Constitution rules that both Houses of Parliament must pass the same Bill, and that the President must assent to and sign the Bill that both Houses have passed. If there is not one agreed bill among both chambers, there is no clarity of what is the final Bill that the President needs to sign, which fails to meet the essential principles of legal certainty and transparency by which any legislative process should abide. If the letter was already sent for the President’s signature, the lack of public information related to this matter is affecting greatly the public debate and the work of the international community.

If, as the Constitutional provisions allows, the President returns the PVO Amendment Bill to Parliament and a new debate to prepare a consolidated version of the Bill starts, we would recommend the convening of wide consultations with relevant stakeholders, including PVOs, to align the Bill with international standards, including in regard to the protection of the right to freedom of association. We urge your Excellency’s Government to consider initiating a national process of drafting a new Bill, which would include the recommendations by UN special procedures

mandates in the past, and which would include also the Financial Action Task Force (FATF) new updates regarding Recommendations 8 (see below).

As most of the texts of the PVO Amendment Bill are very similar to the one that was presented in 2021, we urge your Excellency's Government to review and carefully consider communication [OL ZWE 3/2021](#) sent in 2021 and ensure that the new text complies with international standards. Some initial concerns are included below, but the broad analysis is included in the mentioned letter:

- The amendments under the Bill require all non-profit associations, including trusts, collecting or receiving funds for prescribed charitable purposes to be registered as PVOs under the Act. As mentioned in the 2021 communication, “these provisions may serve as basis for restricting the operation of many non-governmental organizations (NGOs), including human rights groups, currently operating as *universitas* organizations or Trusts under the Deeds Registries Act.” As it was mentioned in the 2021 communication, any re-registration requirement is at odds with international standards and best practice and is disproportionately burdensome to the right to freedom of association.
- Any person involved in the management or control of an organisation that should be registered under these provisions, or collecting funds from the public without authorisation, shall be liable to very serious criminal offences which carry prison sentences of six months to two years. In their 2021 communication, mandate holders expressed “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 exceptional, and sanctions should be proportional and narrowly construed.
- The Bill allows the Minister to arbitrarily designate certain “persons, legal arrangements, bodies, associations or institutions” as being vulnerable to or at high risk of misuse by terrorist organisations. The Bill mentions the need to do risk assessments at least every 5 years, but such assessments would not be conducted with input from the non-profit sector, contrary to the FATF recommendations. The Bill empowers the Minister to require the registration of PVOs as well as other “additional or special requirements, obligations or measures”. If they fail to do so, they can face severe criminal penalties including high fines or years’ imprisonment.
- The bill keeps very broad and unclear the grounds for rejection of a registration application, as well as the provisions allowing the Registrar to cancel the certificate of registration. Also, it maintains the requirement for PVOs to re-register if there is a ‘material change’ in its constitution, which was included in the letter as problematic due to the burden it influx to associations.
- The Bill also keeps the worrisome provisions that not only allows the Minister to arbitrarily suspend the executive committee of an organisation

and replace it with provisional trustees appointed by the executive, but also allow state authorities to ‘cooperate’ with foreign counterparts that could open the door for monitoring and surveillance of NGOs activities abroad.

- Although the new Bill makes relevant clarifications regarding the prohibitions of political partisanship for PVOs, and reduces fines, it remains very problematic that it maintains the general prohibition, including the criminal offence of supporting or opposing any political party or candidate in any election, among others.

Besides, there are some new provisions that are also relevant to highlight:

- It is positive that the Bill is lessening certain penalties such as for the criminal offence of PVOs supporting or opposing a political party or candidate; now a \$2000 fine rather than an imprisonable offence. However, it still seems disproportionate.
- Also, it seems positive that the new Bill provides for appeals of the Registrar's decisions on applications for registration or amendment, among others, to the Minister within 14 days, and if rejected, to the Administrative Court within a further 14 days. However, even if the appeal is upheld, it cannot be overturned or substituted, the matter is referred back to the Registrar on limited grounds.
- It is also positive that the new Bill introduces some transitional provisions, but they seem to lack clarity. The new bill provides that organisations falling into the prescribed categories are required to register within 30 days of the Act coming into force, or within 30 days of the commencement of its activities, whichever is later. But it does not provide a timeframe within which the Registrar must reach a decision on the registration application.
- The inclusion of provisions on proliferation financing and the use of weapons of mass destruction offences are highly irrelevant to the non-profit sector (including new offences leading to imprisonment for more than 35 years). The requirement to share information on and liability of ‘beneficial owners’ and ‘controllers’ of organisations, and a new exemption from registration for state-sponsored entities, introduction of limited transitional provisions for registration lack clarity.
- The new Bill includes ‘Principles of PVOs’, which are vague and could be interpreted in a restrictive or discriminatory manner against certain organisations and be used to reject applications or cancel certificates of registration. Besides, they require that sensitive information be shared or used to request actions that could undermine the sustainability of the sector, such as requiring that organisations refuse donations from “illegitimate” sources, are sensitive to cultural values and norms, and are politically non-partisan.

- The new Bill provides that the Registrar has broad discretion to reject an application for an amendment based on any adverse consequences for the ‘defence, public safety, public order, public morality, public health, or general public interest of Zimbabwe’, and to require the organisation to reverse the change or reregister or accept the application subject to conditions.
- The version of the Bill passed by Senate also, confusingly, has transitional provisions in the ‘Schedule’ providing that pre-existing charities can submit their registration applications within three months of the Bill coming into force, and that these applications shall be submitted to and considered by the Board. The timeframe for consideration of the application, and status of its activities pending issuance of a registration certificate, is again unclear.
- It is not clear either if the Bill abolishes the Board, as it seems to, given that several provisions still include the Board’s intervention for the review of applications sent by pre-existing charities, as mentioned above.

If approved as is, the new law would further distance Zimbabwe from its international obligations regarding the promotion and respect of human rights. That is why we would call for the approved text not to be approved without including the recommended provisions that could make the amendment more aligned with the international standards of protection of the right to freedom of association.

We emphasize that international human rights obligations remain fully applicable in the context of counter-terrorism, including in the enactment of measures to counter the financing of terrorism. In accordance with Security Council resolution 2462, Member States must “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, since the 2021 Bill was gazetted, not only did the FATF [update its guidance on recommendation 8](#), trying to limit its unintended consequences of restricting legitimate non-profit activities, but it also removed Zimbabwe from its grey list. Despite these developments, the [2024 Bill](#) has, like its previous version, been justified as necessary to address terrorism and money laundering in the non-profit sector. The measures proposed are highly disproportionate and unnecessary, amounting to gross interference in the privacy, freedom of association and operations of NGOs. They are not taken from a risk-based approach, with targeted measures addressing real risks, but will instead limit the legitimate activities of all non-profit organisations. But specifically, the measures proposed do not take into account the update made by the FATF.

Any legislation and government policy relevant to associations must clearly define the scope of the powers granted to regulatory authorities. Moreover, international best practice dictates that regulatory authorities should undertake to implement such law and policy in an impartial manner and with a view to protecting and securing the right to freedom of association. States should consult associations

and their members in a meaningful and inclusive way when introducing and implementing any regulations or practices concerning their operations (CCPR/C/GC/34, para. 18). We recall that the Guidelines on Freedom of Association and Assembly of the African Commission on Human and Peoples' Rights also stipulate that national legislation on freedom of association shall be drafted to facilitate and encourage the establishment of associations and promote their ability to pursue their objectives. Such legislation shall also be created with meaningful consultation with civil society (para. 7).

In reviewing the Bill, it will be important to ensure wide, inclusive and substantial consultations. The more diverse the consultation process with organizations and entities that could be affected by the legislation, the more likely it is that it will be truly aligned with the reform needs of the sector. Also, the update made by the FATF on recommendation 8 indicates that “countries focus is on engaging and consulting with civil society about mitigation measures and legislation and importance of continuous dialogue” (para. 54). This means that the general recommendation, that for sure will be addressed in new country reviews, indicates that countries should maintain ongoing and regular dialogue with the sector to “maintain up-to-date understanding of risks, understand self-regulatory measures and related internal control measures in place within NPOs, and develop an adequate policy response. This could take the form of standing consultation forums, conferences or committees between a range of government agencies (oversight bodies, law enforcement agencies and the FIU, for example) and a range of participants from NPO sectors (see chapter 4 on multi stakeholder dialogue)” (see [ECNL analysis](#), Dec 2023).

We offer our support for the review of any legal or administrative regulations, so that Your Excellency's Government can ensure that the country's regulations are aligned with international standards and obligations assumed at the international level.

As it is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention, we would be grateful for your observations on the following matters:

1. Please provide any additional information and/or comment(s) you may have on the above-mentioned comments.
2. Please indicate what measures are being taken to review the PVO Amendment Bill in light of the above-mentioned observations and to ensure it is fully aligned with international human rights standards, including the rights to freedom of association and freedom of expression and opinion, as well as with FATF's updated recommendation 8.
3. Please explain what measures have been taken to ensure substantive and comprehensive consultation and outreach with civil society, human rights defenders and other relevant stakeholders, including PVOs, throughout the process of drafting the Bill.

This communication, as a comment on pending or recently adopted legislation, regulations or policies, and any response received from your Excellency's Government will be made public via the communications reporting [website](#) after 48 hours. They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

Please accept, Excellency, the assurances of our highest consideration.

Gina Romero

Special Rapporteur on the rights to freedom of peaceful assembly and of association

Irene Khan

Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression

Mary Lawlor

Special Rapporteur on the situation of human rights defenders

Ben Saul

Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism