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**The SRCT’s report to GA77 on the Impact of Counter-Terrorism on Peace-making, Peacebuilding, Sustaining Peace, Conflict Prevention and Resolution:**

**Inputs from Zimbabwe on the negative impacts of counter-terrorism legislation and other measures contrary to international law, which harm collective counter-terrorism efforts and infringe upon human rights, including by impeding the work and endangering development, peacebuilding and impartial humanitarian action and civil society; and on the impact of counter-terrorism frameworks on civil society actors.**

**Submission by Zimbabwe Lawyers for Human Rights**

**Introduction**

Zimbabwe Lawyers for Human Rights (ZLHR)is a not for profit law-based human rights organisation, whose core objective is to foster a culture of human rights, equality and respect for the rule of law in Zimbabwe. ZLHR provides legal defence support to human rights defenders, and conducts strategic impact litigation, education, training, research and advocacy, in all areas of human rights law.

ZLHR presents these submissions on the negative impact of measures and laws being introduced in Zimbabwe under the auspices of countering terrorism, but which are having a profoundly negative impact on civil society and the rule of law.

**Operating Context**

Zimbabwe is set to hold its presidential and parliamentary elections in 2023. Zimbabwe has a history of highly contested and contentious elections which have in the past resulted in disputes, political violence, police brutality, enforced disappearances and extra-judicial killings of citizens. In 2022 there has already been an alarming rise in cases of political violence, political intolerance, hate speech and polarization around the 2022 by-elections.

In such times, Zimbabwe’s diverse civil society plays a critical peacebuilding role across all sectors of Zimbabwean society. Since 2021 however, the government has increasingly imposed administrative crackdowns restricting the operations of non-profit organisations (NPOs), and government spokespersons have accused NPOs of having a regime change agenda and abusing foreign funds for political purposes. On 5 November 2021, the government gazetted the Private Voluntary Organisations Amendment Bill, 2021 (PVO Bill), which seeks to introduce a highly restrictive regulatory framework for NPOs.

**Private Voluntary Organisations Bill**

The PVO Bill was gazetted under the auspices of complying with the Financial Action Task Force (FATF) recommendations on anti-money laundering and counter-terrorism financing. Until March 2022, Zimbabwe had been placed under increased monitoring by the East and Southern Africa Money Laundering Group (ESAAMLG), and is currently rated as ‘partly compliant’ with recommendation 8 on non-profit organisations. Deficiencies identified by ESAAMLG included the need for risk-based assessments, strategies and outreach with the sector, and for policies promoting accountability and good financial governance. However, the proposed Bill does not address these. The Bill does not provide for a proportionate targeted risk-based approach, in consultation with the sector, to identify and address any risks. Zimbabwe also already has an adequate regulatory framework of laws relating to money-laundering and counter-terrorism, which can easily be applied to the sector.

The most concerning provisions of the Bill are:

1. The criminalisation of NPOs for “supporting” or “opposing” any political party or candidate, through funding or otherwise, effectively criminalising civic engagement in political processes;
2. Unfettered unilateral powers given to the Minister of Public Service, Labour and Social Welfare to designate any NPOs deemed to be at “high risk” or “vulnerable to” terrorism abuse in terms of undetermined criteria, without consultation with the sector (which could result in organisations working in sensitive areas such as human rights and governance being arbitrarily designated);
3. The imposition of special measures on such designated organisations, including for them to maintain and provide any information or records (the nature of the information is not determined) and allowing for the Registrar of Private Voluntary Organisations (PVOs) to summarily revoke licencing and dismiss members of the organisation;
4. The requirement for NPOs to apply for approval for “material changes” to their organisation, including for minor changes to an internal constitution, with powers for the Registrar to reverse such changes and deregister an organisation; and
5. Ministerial powers to arbitrarily suspend and replace an organisation’s executive committee with unilaterally appointed provisional trustees that are paid by the funds of the organisation, can run the affairs of the organisation, and can even acquire and dispose of its funds and assets.

ZLHR welcomed the joint communication to the government of Zimbabwe in December 2021 by the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, together with three other Special Rapporteurs, raising these concerns regarding the Bill’s failure to comply with international human rights standards. NPOs presented this communication and made extensive submissions to Parliament and the relevant Ministries, including during the public hearings on the Bill. However, NPO concerns have been wholly disregarded. The government has intensified a widespread crackdown on civic space, and on 7 June 2022 even more restrictive amendments to the Bill were introduced by the Minister of Public Service, Labour and Social Welfare on the National Assembly Order Paper. The Minister is due to formally introduce these amendments in Parliament shortly, at the Committee stage. CSOs are extremely concerned as the Minister’s amendments include:

* 1. Criminalisation of individuals involved in operating a charitable organisation not registered under the Private Voluntary Organisations Act (PVO Act). There are no transitional provisions protecting the status of organisations operating lawfully as trusts or associations pending registration under the Act, nor provisions establishing a clear process or timelines for registration. This will render thousands of organisations unlawful upon the passing of the Act, creating a humanitarian and human rights crisis.
	2. The Minister will maintain unilateral discretion to designate any NPO as being at high risk of terrorism or money-laundering abuse, and to pass regulations imposing specific monitoring and supervision measures on them. There are still no provisions for a risk-based approach or consultation with the NPO sector in the designation process.
	3. Repeal of the PVO Board, which previously retained some decision-making powers with members of the NPO sector, concentrating excessive power in the Registrar of Private Voluntary Organisations to regulate and interfere in the operations of NPOs.
	4. Powers will be granted to the President or a designated Minister to enter into extraterritorial agreements with foreign governments for the exchange of information, the monitoring of operations, and investigations into the sources of funding of PVOs registered in other countries. These powers go well beyond the FATF recommendations, and appear to be an attempt to impose extraterritorial surveillance and restrict local NPOs from registering correspondent offices in other countries.
	5. It amends other Acts to introduce new provisions, notably on proliferation financing, including an offence of prohibiting the financing of proliferation of weapons of mass destruction, carrying a fine of up to 25 million US dollars, and imprisonment for at least 35 years. These amendments have no specific relevance to the PVO Act, and seem to have been introduced to create an impression that the executive’s objective in amending the PVO Bill is to strengthen counter-terrorism and anti-money laundering laws in accordance with the FATF recommendations.
	6. The Bill introduces principles regulating the conduct of PVOs, including for PVOs to refuse and report donations from “illegitimate” and “immoral” sources (no definition is provided); for PVOs not to “conduct themselves in a politically partisan manner” and not to use “resources to benefit members of a particular affiliation or mak[e] any test of the political allegiance of its beneficiaries”; to prioritise employment of Zimbabwean citizens and residents; and to adhere to the “cultural values and norms” of the communities in which they operate. The vague principles may be used in a discriminatory manner to deregister, refuse registration and impose civil penalties on disfavoured NPOs associated with foreign funding partners.
	7. The Bill criminalises charitable and human rights activities that may be conducted in good faith, such as fundraising or crowdfunding without authorization (for example during humanitarian crises); operating an unregistered charitable organization (even though, as mentioned above, there are no transitional provisions to protect vulnerable beneficiaries being supported by such organisations after the passing of the Bill); or conducting activities that support any political party or candidate (even where political party members have been provided with support because they have been specifically persecuted and subjected to rights violations due to their political affiliation). It introduces harsh civil and criminal penalties, and specifically allows for multiple penalties to be imposed for the same administrative offences.
	8. The Bill provides limited judicial or other remedies to challenge these unilateral decisions and penalties imposed by the Registrar and the Minister.

The amendments extensively revise the Bill, introducing new provisions that were not there when the Bill was taken for public hearings, violating the public’s constitutional right to be consulted and to participate in lawmaking. The Bill, as amended, also contravenes international human rights standards and will have serious detrimental impacts on collective counter-terrorism efforts, civic space, access to humanitarian support services, and conflict prevention and resolution measures ahead of the 2023 elections. It indicates that counter-terrorism laws and measures will be deliberately misused against civil society organisations, human rights defenders and other actors, labelling them as terrorists, in a bid to stop them from carrying out their human rights work.

**Other measures against CSOs**

Prior to the PVO Bill having been enacted into law, state authorities are already engaging in increased regulation and reprisals against NPOs. The Registrar of PVOS and Registrar of Trusts have suspended any new registrations of organisations, charitable organisations have been closed down on procedural technicalities, organisations have been barred from entering and accessing communities in rural areas without Memoranda of Understanding and fees being paid to the District Councils, lawful NPO meetings have been closed down and organisers arrested, NPOs are being subjected to increased surveillance, registered PVOs have been subjected to raids, and NPO officers and their beneficiaries have been subjected to intimidation and harassment. State authorities, including the president, continue to publicly issue thinly veiled threats against NPOs, accusing them of financial improprieties and of facilitating a regime change agenda. Such state conduct has negatively impacted NPOs’ activities and will restrict them from playing the key oversight role they have played during past elections.

**Conclusion**

ZLHR is extremely concerned that counter-terrorism is increasingly being used as a justification to introduce authoritarian laws and measures that will instead result in the state clamping down on civic space in Zimbabwe in the pre-electoral period. Such a gross misapplication of the FATF standards will result in less accountability, increased money laundering, terrorism, and conflict, in Zimbabwe. The deregistration, silencing and incapacitation of NPOs will mean they are unable to play their critical watchdog roles of highlighting and challenging illicit financial flows and corruption in the country; as well as promoting the rule of law, and conducting peacebuilding, conflict resolution and providing humanitarian support.