



REPORT

**OF THE PORTFOLIO COMMITTEE ON PUBLIC SERVICE, LABOUR AND
SOCIAL WELFARE**

ON

**PUBLIC CONSULTATIONS ON THE PRIVATE VOLUNTARY
ORGANISATIONS AMENDMENT BILL [H.B. 10, 2021]**

FOURTH SESSION - NINTH PARLIAMENT

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1.0 INTRODUCTION

The Private Voluntary Organisations Amendment Bill [H.B. 10, 2021] was gazetted on 5 November 2021. It seeks to amend the Private Voluntary Organisation Act [Chapter 17:05] in compliance with the Financial Action Taskforce (FATF) recommendations. Zimbabwe is a member country to the FATF, an intergovernmental organisation founded in 1989 with the major objective of developing policies to combat money laundering and terrorist financing. The country was placed under a monitoring programme in October 2018 to ensure the alignment of laws on private voluntary organisations (PVOs) to Recommendation 8. The key objective of Recommendation 8 is to ensure that non-profit organisations are not misused by terrorist organisations whether as a way for such terrorist organisations to pose as legitimate entities; or to exploit legitimate entities as conduits for terrorist financing, including for the purpose of escaping asset freezing measures; or to conceal or obscure the clandestine diversion of funds intended for legitimate purposes, but diverted for terrorist purposes.

In terms of Section 141 of the Constitution which enjoins Parliament to ensure public involvement in its legislative process and that interested parties are consulted about bills, the Portfolio Committee on Public Service, Labour and Social Welfare conducted public consultations on the Bill. This report summarizes the views of the people of Zimbabwe on the Bill.

2.0 METHODOLOGY

As part of consultations on the Bill, the Portfolio Committee on Public Service, Labour and Social Welfare attended two workshops which were organized by Parliament in collaboration with development partners including; the United Nations Development Programme, Zimbabwe Institute, Southern African Parliamentary Trust (SAPST) and National Association of Non-Governmental Organisations (NANGO). These workshops were attended Members of the Committee, legal experts, civil society organisations (CSOs) and officials from the Ministry of Public Service, Labour and Social Welfare.

The Committee also conducted public hearings on the Bill from 28 February to 4 March 2022. In this regard, the Committee was divided into 2 teams which undertook consultations at 14 different venues across the 10 provinces of Zimbabwe. Group A reached out to a total of 907 people physically comprising of: 49% (452) males, 51% (455) females and 7% (65) being

persons with disabilities. Comparatively, the public hearings conducted by Group B were attended by a total of 987 citizens comprising: 386 males and 601 females. The aggregate reach was therefore, 1894 where 44% were male participants and 64% females.

In addition, virtual hearings were conducted on four (4) radio stations namely; Diamond FM, National FM, Nyaminyami FM, and Skyz Metro FM. Furthermore, the Committee received and analysed several written submissions from interested stakeholders.

3.0 SUMMARY OF FINDINGS

3.1 General Submissions

The public applauded Parliament for the efforts made in reaching out to gather their views on the Private Voluntary Organisations Amendment Bill. However, a call was made to extend the consultations to district level in the future. Participants complained that the Bill was too technical and written in only one language, that is English while some people required the Braille format which made it difficult for them to participate during the public hearings. Parliament was urged to provide sign language interpreters during public hearings to enable everyone to participate, including those with hearing impairments. It was also emphasised that the review of laws be done with a spirit of protecting the country and safeguarding the interests of the citizens. In addition, a call was made upon the Portfolio Committee on Public Service, Labour and Social Welfare to conduct benchmarking visits to other countries before finalising its report on the Bill.

3.2 Highlights of participants views in support of the Bill

Some members of the public supported the Bill stating that PVOs need to be regulated at a higher level since some of them abuse funds from donors for personal gain. It was highlighted that as long as PVOs operate in good faith, sticking to their mandate and transparency they would never be adversely affected by the new amendments. In addition, it was noted that good supervision of non-governmental organisations (NGOs) was necessary to stop them from meddling in politics, in particular by supporting political parties. Furthermore, it was noted that some PVOs were diluting the local culture which resulted in moral decadence, hence there was need for regulation. Finally, the Bill was applauded as it sought to curb terrorism

which had profoundly affected some countries socio-economically, including those on the continent.

3.3 Highlights of participants views NOT in support of the Bill

Civil Society Organisations (CSOs) expressed reservations on the enactment of the Bill in its current form into law. There was a general sentiment that current laws adequately regulate PVOs in terms of accountability and curbing money laundering. These include; the Criminal law (Codification and Reform) Act [Chapter 9:23], Suppression of Foreign and International Terrorism Act [Chapter 11:21], Bank Use Promotion and Suppression of Money Laundering Act [Chapter 24:24], Criminal Procedure and Evidence Act [Chapter 9:07] and Money Laundering and Proceeds of Crime Act [Chapter 9:24], amongst others. Additionally, CSOs indicated that the FATF recommendations no longer mattered as the country had been removed from the monitoring programme. It was also highlighted that the proposed amendments would paralyse civic engagement, compromise independence of PVOs in their operations, especially on advocacy work in line with Constitution. An increase in bureaucratic layers could create room for corruption due to excessive powers granted to administrative authorities. This could result in the hiking of registration fees beyond the reach of many. Furthermore, it was noted that the Bill reverses the spirit of devolution as it centralizes powers in the Minister of Public Service, Labour and Social Welfare and violates freedom of association as enshrined in section 58 of the Constitution.

4.0 SPECIFIC SUBMISSIONS ON THE PROPOSED AMENDMENTS

4.1 Clause 1: short title of the Bill

There were no objections to the title of the Bill in all the ten provinces.

4.2 Clause 2: Interpretations

The public noted the following as fundamental amendments which should be captured in the interpretation clause:

- a) The terms “legal person” and “legal arrangement” were considered to be unclear and it was proposed that they be defined to avoid legal uncertainty.
- b) “collecting contributions from the public or outside the country” should be defined in order to comply with the international law of legality;

- c) Section 2(3) should make provision for a risk assessment procedure to be undertaken before designating a type of legal entity as ‘high risk’ or ‘vulnerable’ to misuse for terrorist financing in line with Recommendation 8 of the Financial Action Taskforce (FATF).

4.3 Clause 3: Creation of the Office of the Registrar of Private Voluntary Organisations

This Clause creates a stand-alone office of the Registrar of Private Voluntary Organisations which shall be competent to employ its own staff who will be part of the Public Service. There was a view that the Social Welfare Department under which the registration of PVOs is currently domiciled is not operating efficiently, thus the new Office of the Registrar of PVOs should not be placed under the Ministry of Public Service Labour and Social Welfare. Concerns were also raised regarding the lack of procedure for appointment of the Registrar and the officers and their roles. Stakeholders noted the need for self-regulation of PVOs with their own Registrar who is independent from the Public Service. Emphasis was made on ensuring that powers of the Registrar do not erode the powers of the PVOs Board. A proposal was also made to review and strengthen the PVOS Board which currently consists of 12 members who are appointed by the Minister of Public Service, Labour and Social Welfare, 6 each from PVOs and Government Ministries. Instead, stakeholders requested that the majority of the PVOs Board members be appointed by PVOs themselves following a set criterion and that representation of the Executive be minimal on the PVOs Board.

4.4 Clause 4: Registration fees

The clause amends section 9 of the Private Voluntary Organisations Act by providing for the payment of a prescribed fee for registration of PVOs. The public noted that:

- a) It was appropriate that the PVOs intending to register approach the Social Welfare Department for direction on areas which needs assistance;
- b) Registration fees must not be prohibitive and burdensome for any organization, in particular smaller organisations.
- c) The fee must be equally and fairly employed to all organisations.
- d) The application process should be simple, with minimal documentation required.
- e) There should be clear and limited grounds for rejection, with the ability to appeal the decision.

4.5 Clause 5. Prohibition of Involvement of PVOs in Political Affairs

The clause amends section 10 of the PVO Act by criminalizing PVOs that support or oppose a political party or candidates or finances a political party or candidate. The public indicated that NGOs should not be allowed to aid local communities on the basis of political background. Some food distribution programmes by NGOs were allegedly used for political campaigning instead of assisting all vulnerable people. Hence, it was necessary to curb such malpractices.

However, concern was raised that this clause violates the right to freedom of association provided for in section 58 of the Constitution read together with Section 67(2)(d). In this regard, it was recommended that the Bill clearly specify what supporting or opposing a political party or candidates entails.

4.6 Clause 6: Re-registration or Amendment of Registration due to Material changes

The clause introduces a requirement for PVOs to re-register where there are material changes relating to the constitution, change in ownership or control or variation in the capacity of a PVO. The public recommended that:

- a) PVOs should not be required to register more than once;
- b) The requirement for associations to obtain permission from authorities before revising their internal management structures or rules constitutes undue interference by the government in the internal affairs of PVOs.

4.7 Clause 7: Ministerial Powers

This Clause introduces new provisions relating to the suspension of the Executive Committee in circumstances where it appears to the Minister of Public Service, Labour and Social Welfare on information supplied to him or her in respect of any registered private voluntary organisation that the organisation has ceased to operate in furtherance of the objects specified in its constitution; or the maladministration of the organisation is adversely affecting the activities of the organisation; or the organisation is involved in any illegal activities; or it is necessary or desirable to do so in the public interest. These provisions are very similar to the provisions in section 22 of the Private Voluntary Organisations Act, the main difference being that under the proposed provisions the Minister is required to act in pursuance of an order of the High Court instead of making the decision himself or herself. This is in line with the principles of the transparency and accountability and good administrative justice.

Stakeholders highlighted that the Bill vested too much power in the Minister which reversed the spirit of devolution and may lead to misgovernance and corruption. It was noted that the Clause bestowed upon the Minister unfettered powers to interfere in the internal management of PVOs. A proposal was made to place these powers on the PVOs Board instead or to make use of readily available institutions such as the Zimbabwe Anti-Corruption Commission to deal with transparency issues.

However, some members of the public supported the clause as it empowered the Minister to ensure that PVOs stick to their mandates and do not engage in maladministration. This was in view of the notion that some PVOs diverted their mandates and without regulation this may disturb the peace, order and good governance of the country.

4.8 Clause 8: Identification, Appreciation and Assessment of Risks

The clause repeals and replaces section 22 of the PVO Act. It provides for risk assessment of PVOs to be conducted by the Minister in cooperation with the Financial Intelligence Unit at 5 yearly intervals, to identify organizations at risk or vulnerable to terrorism abuse. In this regard, stakeholders recommended that:

- a) The risk identification assessment procedure and criteria should be clearly stated;
- b) The Minister **must** include PVOs in the risk assessment process in line with Recommendation 8 of the FATF;

4.9 Clause 9-11: Civil Penalties

These clauses incorporate section 22A and the Schedule to the Private Voluntary Organisations Act. They make provision for the Registrar to impose civil penalty orders to non-complying PVOs and require defaulting PVOs to pay a fixed penalty amount. Stakeholders recommended that the penalties be proportionate to offences in order to prevent over-regulation.

5.0 COMMITTEE OBSERVATIONS

The Committee made the following observations:

5.1 The purpose of registering PVOs through the Registrar is to facilitate accountability and transparency on who does what when and where.

5.2 Criminalizing the involvement of PVOs in politics is meant to remind them of their core mandate, that is for developmental purposes rather than to support or oppose political parties or candidates or finance a political party or candidate.

5.3 Registration fees is meant to assess or measure the financial capacity of PVOs to operate upon registration.

5.4 The creation of the Office of the Registrar of PVOs is meant to promote sound administration of PVOs, including the maintenance of proper records of registration details and their areas of operation.

5.5 Ministerial powers are meant to encourage PVOs to adhere to their mandates and minimise cases of maladministration.

5.6 The provision for the Registrar of PVOs to impose civil penalties is necessary in order to ensure that PVOs comply and adhere to the Act and the Constitution.

5.7 A majority of the PVOs currently operating in the country are not registered and outside the administration of the Ministry of Public Service, Labour and Social Welfare.

5.8 There was politicisation of the public hearings by CSOs as they deliberately misrepresented information pertaining to the objective of the Bill as they claimed that it sought to ban PVOs. Also, a majority of the CSOs were paying some money to the public in order to influence them to reject the Bill.

5.9 There was a lot of interest expressed by the CSOs as evidenced by their behaviour when they followed the Committee to every public hearing venue and submitted the same contributions as a way of pushing their agenda to reject the Bill.

5.10 Stakeholders complained that the Bill was too technical and written in only one language that is English while some people required the Braille format which made it difficult for them to participate in the public consultations.

5.11 The non-payment for public hearing venues by the Administration of Parliament in advance compromised the work of Committee.

6.0 COMMITTEE RECOMMENDATIONS

The Committee made the following recommendations:

6.1 The close involvement of the Office of Registrar in the operations of PVOs as the regulatory authority.

6.2 The cancellation of a certificate or licence of any PVO that deliberately fails to stick to its

mandate or participate in politics.

6.3 That government Ministries in collaboration with Parliament translate all Bills and Acts into the sixteen languages stipulated in Section 6 of the Constitution to facilitate understanding and effective participation by all stakeholders in the law- making process by December 2022.

6.4 Parliament in collaboration with other stakeholders intensify educational and publicity campaigns on Bills, public hearings and other programmes in both urban and rural areas.

6.5 The Administration of Parliament must make sure all public hearings venues are paid for in advance in order to avoid inconveniences.

7.0 CONCLUSION

The Portfolio Committee on Public Service, Labour and Social Welfare exhorts the Ministry of Public Service, Labour and Social Welfare in conjunction with other government departments to expeditiously implement provisions of the Bill, once passed by Parliament and ascended to by the President. Stakeholders at all levels are also encouraged to abide by the law at all times in order to promote harmony, unity and the development of Zimbabwe.

APPENDIX 1

Place	Male	Female	Persons with Disabilities	Total

Highfield, Harare	50	80	25	155
Rusape, Vhengere Hall	85	65	15	165
MASVINGO – Masvingise Business Centre,	120	80	15	215
MUTOKO - Kapondoro Business Centre	83	44	10	137
CHINHOYI	57	93	-	150
KARIBA - Nyamhunga Stadium (4 March 2022)	57	93	-	150
GURUVE – Ruyamuro Business	40	42	-	82
ZHOMBE - Zibagwe RDC	41	74	-	115
BULAWAYO - Selbourne Hotel	69	78	-	147
BULAWAYO - Emakhandeni Hall	47	92	-	139
BEITBRIDGE - Lutumba Village Hall	52	112	-	164
GWANDA - Gwanda Mishies Hotel	35	90	-	125
TSHOLOTSHO – Council Offices	13	21	-	34
JOTSHOLO – Jotsholo Recreational Ground	89	92	-	181