WHITHER CIVIC SPACE:

An Analysis of Retrogressive Laws in Zimbabwe

ZIMBABWE LAWYERS FOR HUMAN RIGHTS

Fostering a culture of human rights

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WHITHER CIVIC SPACE: AN ANALYSIS OF RETROGRESSIVE LAWS IN ZIMBABWE

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Roselyn Hanzi

Executive Director

Zimbabwe Lawyers for Human Rights

ABOUT ZIMBABWE LAWYERS FOR HUMAN RIGHTS

Established in February 1996, Zimbabwe Lawyers for Human Rights (ZLHR) is a not-for-profit law-based human rights organisation. ZLHR works to foster a culture of human rights in Zimbabwe by encouraging the growth and strengthening of human rights at all levels of Zimbabwean society through the observance of the rule of law. ZLHR is committed to upholding respect for the rule of law and the unimpeded administration of justice, free and fair elections, the free flow of information, and the protection of constitutional rights, human rights, and freedoms enshrined in human rights instruments in Zimbabwe and the surrounding region. We keep these values central to our programming activities. ZLHR holds observer status with the African Commission on Human and Peoples' Rights, is a sustaining partner of the Southern Africa Development Community Lawyers' Association and has affiliate status with the International Commission of Jurists.

ZLHR's aims and objectives are:

1. To strive to protect, promote, deepen and broaden the human rights provisions in the Constitution of Zimbabwe.
2. To strive for the implementation and protection in Zimbabwe of international human rights norms as contained in important sub-regional, regional and international human rights instruments.
3. To strive for the adoption of a Southern African Development Community (SADC) Charter on Human Rights and to develop and/or strengthen the implementing mechanisms.
4. To endeavour to find common ground with and to work alongside other Zimbabwean groups, organisations, activists and persons who share a broadly similar concern for and interest in human rights.
5. To liaise and work with other human rights groups wherever situated but particularly in Southern Africa, and especially those closely linked to the legal profession.
6. To do all other things necessary to promote and protect human rights, the rule of law and the separation of powers in Zimbabwe and the region.

Contents

List of Acronyms

ACHPR — African Charter on Human and Peoples' Rights

ACRWC — African Charter on the Rights and Welfare of the Child

AIPPA — Access to Information and Protection of Privacy Act

ANZ — Associated Newspapers of Zimbabwe (Private) Limited

COVID-19 — Coronavirus

CSOs — Civil society organisations

ESAAMLG — East and Southern Africa Anti—Money Laundering Group

FATF — Financial Action Task Force

GoZ — Government of Zimbabwe

HRDs — Human Rights Defenders

ICCPR — International Covenant on Civil and Political Rights

ICESCR — International Convention on Economic, Social and Cultural Rights

MDC — Movement for Democratic Change

MOA — Miscellaneous Offences Act

MOPA — Maintenance of Peace and Order Act

MOPO — Maintenance of Peace and Order

NDS1 —National Development Strategy One

NDS2 —National Development Strategy Two

NGO — Non-Governmental Organisations

NPOs — Not-for-profit organisations

OECD —The Organisation for Economic Co—operation and Development

POSA — Public Order and Security Act

PVO — Private Voluntary Organisations

UDI — Unilateral Declaration of Independence

UNHRC — United Nations Human Rights Council

UNSR FoAA — UN Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association

WOZA — Women of Zimbabwe Arise

ZCTU — Zimbabwe Congress of Trade Unions

ZLHR — Zimbabwe Lawyers for Human Rights

ZLR — Zimbabwe Law Report

CHAPTER 1

BACKGROUND

1.1 Introduction

A vibrant civil society is essential to creating lasting social change. As the world evolves, so do societal expectations and demands. In this context, civil society actors play a crucial role in advocating for existing and emerging societal expectations to be at the centre of new developments. However, internal contradictions within society stemming from this important role of civil society often arise when civil society actors are perceived as a threat to the state, leading to the closure of civic space. [1] States often engage in a sustained and systematic onslaught against civic space, using various tools, including legal, policy, structural, and institutional frameworks. In the extreme cases, some states go beyond the formal systems to create a hostile environment for civil society to operate in. As aptly put by the United Nations Secretary-General,

> "But in too many places, an open space for this participation is shrinking. Repressive laws are spreading, with increased restrictions on freedoms to express, participate, assemble and associate. Journalists and human rights defenders, especially women, are increasingly threatened. New technologies have helped civil society networks to grow, but they have also given authorities excuses to control civil society movements and curtail media freedoms, often under security pretexts. This shrinking of civic space is frequently a prelude to a more general deterioration in human rights."[2]

The weaponisation of the law to target vocal civic actors and the promulgation of repressive laws have significantly contributed to democratic regression. Notably, and at independence, the new government inherited a number of repressive laws from the colonial government. Unfortunately, some of the laws existed well into independent Zimbabwe and were utilised to deal with dissent.

By definition, civic space appears to be an elusive concept, capable of multiple meanings. However, this does not suggest that the various definitions are inherently dissimilar and incapable of harmonisation. The civic space often refers to the environment, both online and offline, that allows people and groups to freely express themselves, participate, assemble, associate and engage in conversations with each other and with the state on matters that affect them.[3] Such an environment is often the result of multiple factors, including legal, policy, administrative, and cultural, which intersect to determine how civil society can participate meaningfully in various aspects of society.[4]

1 ZLHR, "The Operating Space of Civil Society Organisations in Zimbabwe: A Critical Analysis of the Proposed Regulation of Civil Society" available at https://www.zlhr.org.zw/wp-content/uploads/2022/07/The-Operating-Space-of-Civil-Society-Organisations-In-Zimbabwe-A-Critical-Analysis-of-the-Proposed-Regulation-of-Civil-Society.pdf.

2 António Guterres, United Nations Secretary-General on the occasion of the seventy-fifth anniversary of the United Nations, "The Highest Aspiration A Call to Action for Human Rights." Published in 2020, available at https://www.un.org/sg/sites/www.un.org.sg/files/atoms/files/The_Highest_Asperation_A_Call_To_Action_For_Human_Right_English.pdf.

3 UN, "Guidance Note on the Protection and Promotion of Civic Space" available at https://www.ohchr.org/sites/default/files/Documents/Issues/CivicSpace/UN_Guidance_Note.pdf.

4 ICNL & UNDP, "Legal Frameworks for Civic Space A Primer" available at https://www.undp.org/sites/g/files/zskgke326/files/2021-12/UNDP-ICNL-Legal-Framework-for-Civic-Space-A-Primer-EN.pdf.

A civic space that allows meaningful participation in the political, economic, cultural, and social spheres of society entails the respect, protection, and promotion of multiple rights, including the rights to freedom of expression, freedom of association and assembly, and the right to participate. In addition to the above, the UN High Commissioner for Human Rights has listed five essential elements to create an enabling civic space for civil society actors to engage meaningfully in civic action. These include a supportive legal framework and effective access to justice, a conducive public and political environment, access to information, participation in policy development, planning, and decision making, long-term support and resources for civil society organisations (CSOs).[5] The above elements underscore the indivisibility and interdependence of rights, as the violation of one of the rights aforementioned often undermines the enjoyment of other rights critical for an open civic space.

The civic space in Zimbabwe has historically been a heavily contested arena, pitting the state against civil society. At different points in the country's history, laws have been promulgated that have restricted civic actors' ability to pursue their causes. This publication will delve into some of the laws passed by the Parliament of Zimbabwe since the country's independence that have severely restricted civic space.

1.2 Legal frameworks for the protection of the civic space

As already pointed out in the introduction, an open civic space is a combination of multiple rights recognised in regional and international human rights instruments. Zimbabwe is a party to several regional and international human rights treaties, including the African Charter on Human and Peoples' Rights (ACHPR), the International Covenant on Civil and Political Rights (ICCPR), and the International Convention on Economic, Social and Cultural Rights (ICESCR). As the UN High Commissioner for Human Rights states, an open civic space is not optional but rather a legal obligation imposed on states by international human rights law to respect fundamental freedoms critical to civil society's operation.[6] States are therefore legally obligated to open the civic space as a matter of law, and any conduct or laws to the contrary would amount to a violation of the state's international obligations.

1.2.1 CIVIC SPACE AND THE RIGHT TO FREEDOM OF EXPRESSION

The right to freedom of expression is essential in enabling an operating environment for civic engagement and civic action. Article 19 (2) of the ICCPR provides that,

> "Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice."[7]

The Human Rights Committee in its General Comment No.34 has interpreted the content of Article 19 (2) to mean that the right to freedom of expression entails the right to expression and to receive

5 UN High Commissioner for Human Rights, "Practical recommendations for the creation and maintenance of a safe and enabling environment for civil society, based on good practices and lessons learned A/HRC/32/20" available at https://ap.ohchr.org/documents/dpage_e.aspx?si=a/hrc/32/20.

6 As above.

7 Article 19 (2) International Covenant on Civil and Political Rights.

communications on among other things, political discourse, canvassing, human rights, public affairs and cultural expression.[8]

Implicit in the right to freedom of expression are a free media, right of access to information held by public bodies, and the freedom to canvass for political parties and to express oneself about political issues in general. Although these rights may be limited in terms of Article 19 (3) of the ICCPR, the Human Rights Committee has stated that laws restricting Article 19 must comply with the aims and objectives of the covenant. By extension, laws which restrict the civic space must do so in a manner that is not incompatible with the aims and objectives of the covenant.

The right to freedom of expression is also guaranteed under the ACHPR. Article 9 of the ACHPR guarantees the right to receive information, to expression and to disseminate opinions within the law.[9] This also entails that civic actors do not face reprisals for engaging in civic action.

At the national level, section 61 of the Constitution of Zimbabwe, 2013 guarantees the right to freedom of expression and freedom of the media. Section 61, however, provides an internal limitation clause under which incitement to violence, hate speech, malicious injury to reputation, and unwarranted breach of privacy are deemed limitations on the right to freedom of expression.[10] The right to freedom of expression is also limited in terms of the general limitation clause provided for in section 86 of the Constitution to the extent that the limitation is, however, fair, reasonable, necessary and justifiable in a democratic society.[11]

1.2.2 FREEDOM OF ASSOCIATION AND ASSEMBLY

In addition to the right to free expression, the right to freedom of association and assembly is an important cog in creating an open civic space. Article 22 (1) of the ICCPR provides that,

> "Everyone shall have the right to freedom of association with others, including the right to form and join trade unions for the protection of his interests."

Freedom of association is vital in a democratic society to ensure that individuals and groups can organise, collectively and individually, to engage in civic action. In this vein, the right to freedom of association entails an environment in which political parties, CSOs, friendly societies, churches, and other religious groups can be incorporated or registered with minimal hindrance. The right also presupposes that the regulation of these different groups is not unduly cumbersome or restrictive on their operations. Onerous registration requirements and restrictive compliance regulations violate the right to freedom of association. As will be demonstrated in this paper, the Private Voluntary Organisations (PVO) (Amendment) Act, 2025 is one such piece of law which places an undue burden on charitable organisations operating in Zimbabwe.

In its Res 15/21, the United Nations Human Rights Council (UNHRC) has reaffirmed that, the right to freedom of association and assembly are,

8 Human Rights Committee "General Comment No. 34, Article 19 Freedoms of opinion and expression."

9 Article 9 African Charter on Human and Peoples' Rights.

10 Section 61 (5) of the Constitution of Zimbabwe.

11 Section 86 (2) of the Constitution of Zimbabwe.

> "essential components of democracy, providing individuals with an invaluable opportunity to, inter alia, express their political opinions, engage in literary and artistic pursuits and other cultural, economic and social activities, engage in religious observances or other beliefs, form and join trade unions and cooperatives, and elect leaders to represent their interests and hold them accountable."[12]

As seen above, freedom of association and freedom of assembly are interdependent and inextricably connected. Article 21 of the ICCPR provides that,

> "The right of peaceful assembly shall be recognised. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others."[13]

In its General Comment No.37, the Human Rights Committee has stated that,

> "The right of peaceful assembly is, moreover, a valuable tool that can and has been used for the realisation of a wide range of other human rights, including socio-economic rights. It can be of particular importance to marginalised and disenfranchised members of society. Peaceful assembly is a legitimate use of the public space. A failure to recognise the right to participate in peaceful assemblies is a marker of repression."[14]

General Comment No.37 also provides a useful interpretative value of the right to freedom of assembly in several respects. Among other components, the right to freedom of assembly protects non-violent gatherings both online and offline.[15] Additionally, a gathering cannot be deemed violent merely because organisers of the gathering have failed to meet domestic legal requirements such as insufficient notice to authorities.[16] States are also legally obliged to facilitate rather hinder the exercise of the right to peacefully assemble. At the domestic level, laws such as the Maintenance of Peace and Order Act (Chapter 11:23) (MOPA) and the provisions of section 37 of the Criminal Law (Codification and Reform) Act (Chapter 9:23), (Criminal Code) namely *participating in a gathering with intent to promote public violence, breaches of the peace or bigotry,* that have been routinely used and misinterpreted to prohibit political gatherings and other gatherings of different groups potentially fall foul of the provisions of Article 21 of the ICCPR. In the process, these laws have contributed significantly to the closure of the civic space between 2021 and 2024.

At the regional level, the right to freedom of association and assembly is also protected under the African Charter on Human and Peoples' Rights. The right to freedom of association is provided for under Article 10 of the African Charter as well as under Article 8 of the African Charter on the Rights and Welfare of the Child and Articles 12, 27 and 28 of the African Charter on Democracy, Elections and Governance. In addition, the right to peaceful assembly is provided for under Article 11 of the ACHPR and under Article 8 of the African Charter on the Rights and Welfare of the Child (ACRWC).

12 United Nations Human Rights Council Res 15/21, "The rights to freedom of peaceful assembly and association A/HRC/RES/15/21." Available at https://docs.un.org/en/A/HRC/RES/15/21.

13 Article 21 of the International Covenant on Civil and Political Rights.

14 Human Rights Committee, "General Comment No.37 Article 21: right to peaceful assembly" Available at https://docs.un.org/en/CCPR/C/GC/37.

15 ICNL, "General Comment 37: A short guide for civil society." Available at https://www.icnl.org/wp-content/uploads/HRC-General-Comment-No.-37-guide-vf.pdf.

16 As above.

In its Guidelines on Freedom of Association and Assembly in Africa, the African Commission states that the right to freedom of association is a right that is enjoyed by both individuals and associations.[17] It further states that individuals may not be compelled to join associations and are free to leave such associations.[18]

More importantly, the guidelines provide that associations shall not be required to register more than once and that they are free to be involved in or engage in political, social, governance, human rights and economic discourse at both national and international level. [19] In this vein, laws such as the PVO Amendment Act, 2025 which provide for re-registration of pre-existing associations and entities and seek to proscribe certain activities for civil society organisations clearly violate the right to freedom of association.

With respect to the right to assembly, states have an obligation under the African Charter to put in place laws that facilitate rather than hinder the exercise of this right. The African Commission has also stated that peaceful assembly includes conduct that is offensive and even conduct that temporarily impedes or hinder third parties.[20] In that regard, isolated incidents of violence do not render the gatherings violent. [21]

In its merits decision under Communication 446/13, filed by ZLHR on behalf Women of Zimbabwe Arise (WOZA), the African Commission reaffirmed the right to freedom of association and assembly. It found as follows from paragraphs 154-156,

> 154. The facts in the present Communication portray that the Victims were dispersed, arrested, harassed, and detained on several occasions during their peaceful demonstrations, with trumped up charges against them. On the basis that the Respondent State does not expressly contest this allegation, the Commission relies on its Guidelines on FoAA which require States to ensure the protection of all assemblies, public and private, from interference, harassment, intimidation and attacks by third parties and non-state actors. Specifically, where third parties aim to interfere, harass, intimidate or attack a peaceful assembly, the response of the authorities shall not be to ban or disperse the peaceful assembly, but rather to take measures to protect the assembly and to allow it to proceed.
> 155. Based on the above, the Commission stresses that while laws exist in the Respondent State to protect freedom of assembly with a clear indication of restrictions that should apply, certain measures taken by the Government curtail freedom of expression and assembly and such measures constitute unlawful restriction of the right of freedom to assemble peacefully and to express opinion.
> 156. From the forgoing, the Commission accordingly rules that the restrictions imposed by the Respondent State were not justifiable even though prescribed by law in contravention with Article 11 of the African Charter.

The Zimbabwean constitution provides in section 58 that, every person has the right to freedom of assembly and association, and the right not to assemble or associate with others.[22] Important to note is that, section 58 of the Constitution does not have an internal limitation clause but is only limited in terms of the general limitation clause, that is, section 86 of the Constitution. Several laws exist in Zimbabwe which have a bearing on the right to freedom of assembly and association. Examples include,

17 African Commission on Human and Peoples' Rights, "Guidelines on Freedom of Association and Assembly in Africa" available at https://achpr.au.int/index.php/en/soft-law/guidelines-freedom-association-and-assembly-africa

18 As above.

19 As above.

20 As above.

21 As above.

22 Section 58 of the Constitution of Zimbabwe.

the Criminal Code, MOPA Act, and the PVO Amendment Act. A detailed analysis of some of these laws is carried out in this publication.

This publication will traverse the legislative trajectory that has been undertaken by the Government of Zimbabwe up to 2025 with a particular focus on laws that restrict the civic space.

CHAPTER 2

THE CIVIC SPACE IN ZIMBABWE BETWEEN 1980 & 1990: A BRIEF HISTORICAL OVERVIEW

2.1 Overview

At independence in 1980, laws that existed immediately before the new majority government came to power, succeeded the life of the colonial government by virtue of the Lancaster House Constitution. The Lancaster House Constitution itself contained a Bill of Rights which notably contained the right to freedom of expression and the right to freedom of association. However, the Bill of Rights was suspended by a State of Emergency which existed from 1980 to 1990. In other words, civil liberties were suspended during this period which severely undermined the civic space. The new government also inherited a litany of repressive laws which had been weaponised by the colonial government to restrict civic space for civil society and nationalists who were fighting for independence.

2.2 The Lancaster House Constitution, 1980 and the State of Emergency 1980-1990

Following the protracted guerrilla war, the Lancaster House Constitution was adopted as a culmination of the Lancaster House negotiations and agreement to end the war of independence in Zimbabwe. The Lancaster House Constitution provided for a Bill of Rights which included freedoms of expression[23] , association and assembly.[24] The enjoyment of these rights was however severely curtailed due to the State of Emergency which was initially declared in 1965 by the Smith government immediately before the Unilateral Declaration of Independence (UDI)[25] and, subsequently extended by the new independent government of Zimbabwe on several occasions up to July 1990.[26]

Section 31J of the Lancaster House Constitution empowered the President to declare a state of emergency. Paragraph 1 to Schedule 2 to that Constitution provided as,

> "(1) Nothing contained in any law shall be held to be in contravention of section 13, 17, 20, 21, 22 or 23 to the extent that the law in question provides for the taking, during a period of public emergency, of action for the purpose of dealing with any situation arising during that period, and nothing done by any person under the authority of any such law shall be held to be in contravention of any of the said provisions unless it is shown that the action taken

23 Section 20 of the Constitution of Zimbabwe, 1980.

24 Section 21 of the Constitution of Zimbabwe, 1980.

25 "Rhodesian Prime Minister, Ian Douglas Smith, declares a state of emergency," South African History Online, Towards a People's History available at https://sahistory.org.za/dated-event/rhodesian-prime-minister-ian-douglas-smith-declares-state-emergency#:~:text=Politics%20&%20Society-,Rhodesian%20Prime%20Minister%2C%20Ian%20Douglas%20Smith%2C%20declares%20a%20state%20of,and%20imposed%20limited%20economic%20sanctions.

26 "Zimbabwe to lift state of emergency", United Press International available at https://www.upi.com/Archives/1990/07/18/Zimbabwe-to-lift-state-of-emergency/1253648273600/.

> exceeded anything which, having due regard to the circumstances prevailing at the time, could reasonably have been thought to be required for the purpose of dealing with the situation."[27]

In essence, this provision derogated from the Bill of Rights, particularly, the right to freedom of expression, association and assembly in that the Constitution shielded anyone acting under a law of emergency, from liability for violating the freedoms contained in the Constitution. To compound matters, paragraph 2 of the second schedule provided for "preventive detention" in the interests of defence, public safety or order. These two provisions were read together often to detain political opposition in the 1980s. The case of Dumiso Dabengwa and Lookout Masuku is a case in point. The civic space was therefore severely restricted through emergency laws which were justified on the basis of the interests of public safety or order.

2.3 Law and Order (Maintenance) Act, 1960

The Law and Order (Maintenance) Act of 1960, was inherited from the Smith government by the then new government of Zimbabwe. The purpose of the Act was clear from its inception. As aptly put by Amnesty International, "Its far-reaching provisions created a wide range of political offences and imposed strict limitations on all forms of African political activity and organization."[28] From the 1990s up to the time of its repeal, the Act was weaponised to target trade unionists and journalists to muzzle civil liberties thereby restricting the civic space. One of the notorious provisions of was section 5 (2) (a) of the Act which outlawed the publication of false statements, rumours or reports which were likely to cause fear, alarm or despondency among the public, or any section thereof, or likely to disturb the public peace.[29] This provision was used to arrest journalists Mark Chavhunduka and Julius Choto.

The Act also criminalised failure to give notification of a public gathering or demonstration. Such notification requirements and criminalisation have been reincarnated in subsequent laws, such as the Public Order and Security Act as well as the current Maintenance of Peace and Order Act. The criminalisation of failing to give notice is clearly an affront on civic liberties particularly the right to freedom of association and assembly. As shown above, the history of restricting the exercise of civic space freedoms has persisted despite a progressive and expanded bill of rights contained in the Constitution of Zimbabwe, 2013.

2.4 The Private Voluntary Organisations Act of 1966

The Private Voluntary Organisations Act was passed into law and commenced in September 1967. It has been amended several times, the last of which was the current Private Voluntary Organisations Amendment Act of 2025. It suffices to state however, that, the Act finds its origins during the colonial period. Its purpose historically, has been to create a legal basis for interference in the operations of private voluntary organisations. Of note were the provisions of section 21 of the Act which allowed the Minister to suspend the executive committee of a PVO on nebulous grounds. In 1995, the Minister exercised this power to suspend the executive committee of the Association of Women's Clubs, for which Sekai

27 Paragraph 1 to Schedule 2 of the Constitution of Zimbabwe, 1980.

28 Amnesty International Briefing, Rhodesia/Zimbabwe, March 1976 available at https://www.amnesty.org/fr/wp-content/uploads/2021/06/afr460011976en.pdf.

29 Biti T, "Litigation on Freedom of Expression, Assembly, Protest and Association", PUBLIC INTEREST LITIGATION AND SOCIAL CHANGE IN ZIMBABWE, © Zimbabwe Lawyers for Human Rights 2021.

Holland was Chairperson.[30] The Association had become increasingly critical of the government due to the prevailing economic conditions in the country. Holland and others who had been suspended then filed a case in which Section 21 was declared unconstitutional by the Constitutional Court in the case of *Sekai Holland & Ors v Minister of Public Service, Labour & Social Welfare* 1997 (1) ZLR 186. This power is too excessive and an unnecessary overreach into the operations of CSOs. Unfortunately, this provision has since been reintroduced the 2025 amendment of the Act as will be demonstrated in later chapters.

2.5 Labour relations and the civic space

Part of the grievances against the colonial government which led to the Chimurenga/Liberation struggle relates to the unfair labour practices and laws that anchored minority rule. These laws severely restricted the ability of workers to associate, assemble as well as to engage in collective job action. Although, the newly independent government sought to improve the environment for workers to engage in strike or collective job action, a number of repressive laws were passed which undermined the rights of workers to associate and assemble. These laws were passed in response to several strikes and demonstrations that had taken place in the 1980s and early 1990s.[31] The purpose of the laws was to expand the definition of "essential services" so as to widen the scope of workers who were prohibited from engaging in collective job action.[32] These laws included the Emergency Powers (Maintenance of Essential Services) Regulations, S.I. 160A of 1989 and the Public Services (Maintenance of Services) Regulations S.I. 258 of 1990. However, labour laws underwent various amendments which increasingly strengthened workers' rights. Despite these amendments, there was still no constitutional protection of the right to strike or to participate in collective job action. Judicial pronouncements on the right to strike refused to recognise this right as implicit in the right to freedom of association and assembly already provided for under section 21 of the Constitution of Zimbabwe, 1980. In essence, the civic space for workers engaged in asserting workers' as well as economic rights in an economy that was experiencing collapse particularly in the 1990s, was closing. The state responded heavy-handedly to demonstrations. This galvanised workers under the banner of the Zimbabwe Congress of Trade Unions as well as civil society groups to form the opposition political party, Movement for Democratic Change (MDC).

In concluding this chapter, it is imperative to reiterate that, the government inherited a myriad of laws that were inherently repressive. These laws were later used to crush growing discontent against various civic actors. The increasing discontent culminated in the formation of the opposition party, MDC. The next chapter will illustrate the legislative developments at the turn of the millennium, with a focus on laws that undermined civic space.

30 Human Rights Watch, "Zimbabwe's Non-Governmental Organisations Bill: Out of Sync with SADC Standards and a Threat to Civil Society, December 2004 available at https://www.hrw.org/report/2004/12/03/zimbabwes-non-governmental-organizations-bill/out-sync-sadc-standards-and-threat.

31 M.Gwisai et al, "The Right to Strike in Zimbabwe in the context of the 2013 Constitution and International Law, University of Zimbabwe Law Journal 2018 available at https://uzlj.uz.ac.zw/index.php/uzlj/article/download/3/1/3.

32 As above.

CHAPTER 3

OVERVIEW OF LAWS RESTRICTING THE CIVIC SPACE AT THE TURN OF THE MILLENIUM (2000-2020)

3.1 Overview

In this chapter, the publication discusses key incidents, legislative developments, and major highlights that have affected the operating environment in Zimbabwe post-2000. A number of events impacted the civic space in Zimbabwe. These included the proposed Constitution of Zimbabwe in 2000, enactment of the now-repealed Public Order and Security Act (Chapter 11:17) (POSA), Non-Governmental Organisations Bill, 2005 (NGO Bill), enactment of the now-repealed Access to Information and Protection of Privacy Act (Chapter 10:27) (AIPPA) and the enactment of the Constitution of Zimbabwe, 2013. These legislative developments have shaped the operating space in Zimbabwe both positively and negatively.

3.2 The draft Constitution of Zimbabwe, 2000

Following extensive lobbying by several stakeholders to amend the Lancaster House Constitution, the Government of Zimbabwe established the Constitutional Commission of Zimbabwe, headed by the late Chief Justice Godfrey Chidyausiku. A draft Constitution was prepared by the Commission and submitted to a referendum, scheduled for February 2000. Civil society organisations vigorously campaigned for a 'no' vote on the draft Constitution. In the context of the civic space, the draft constitution disappointingly provided for a very narrow bill of rights.[33] For instance, the draft did not provide for the right to media freedom, which is an essential component of an open civic space. The draft also did not provide for workers' rights to strike.[34]

In essence, therefore, the draft constitution of the Constitutional Commission of Zimbabwe lacked the necessary rights which enabled an open civic space. Furthermore, and to the disappointment of civil society organisations at the time, the so-called second and third generation rights, that is, economic, social and cultural rights, were provided for in the draft constitution as mere national objectives and were not justiciable. As a result, the majority of Zimbabweans voted against the draft constitution. The following years, however, saw regressive legislative developments that severely restricted civic space.

3.3 The Miscellaneous Offences Act of 1964

The Miscellaneous Offences Act was also a relic of the colonial government, inherited by newly independent Zimbabwe. Like most laws during the colonial era, this Act contained vague provisions that were used to target dissenting voices. This pattern continued in independent Zimbabwe. Several civil society activists who had engaged in demonstrations were often arrested on charges of conduct

33 National Constitutional Assembly, "Proposed Draft Constitution of Zimbabwe." Available at https://ntjwg.uwazi.io/api/files/1549877113537l0mzfmdym0i.pdf.

34 As above.

likely to provoke a breach of the peace in contravention of the Miscellaneous Offences Act.[35] On 13 September 2003, ZLHR issued a press statement titled, "FREEDOM OF EXPRESSION IN ZIMBABWE UNDER SIEGE" and commented as follows on the Miscellaneous Offences Act and other repressive laws,

> "AIPPA, together with the Public Order and Security Act (POSA), the Broadcasting Services Act, the Miscellaneous Offences Act (MOA) and the Labour Relations Act (LRA), amongst others, form an axis of repression in Zimbabwe, assaulting the epicentre of the freedom of expression."[36]

Although the Act was repealed by the Criminal Code, some of its provisions were retained and refined in the Criminal Law Code. For instance, the offence under the MOA of *conduct likely to provoke breach of the peace* was reintroduced under section 37 of the Criminal Law Code which proscribes participating in a gathering with intent to promote breaches of the peace or bigotry. As will be shown in subsequent paragraphs, section of the Criminal Law code has been weaponised routinely to target civic groups and dissenting voices, a stark reminder that, the civic space in Zimbabwe has been under constant and systematic attack.

The Public Order and Security Act (Chapter 11:17)

POSA was enacted in 2002 amid increasing social and political unrest in Zimbabwe. Although its stated purpose was for the maintenance of law and order in Zimbabwe, the Act became a tool for prohibiting gatherings, disrupting peaceful assembly and prosecuting civil society actors on various grounds provided for in the Act. Disconcertingly, POSA became a reincarnation of the colonial era and the regressive Law and Order Maintenance Act, 1960.

ZLHR represented many civil society groups and leaders who were arrested under POSA. Several civil society actors were arrested for failing to notify the police of a public gathering in contravention of section 24 of the Act. In 2004, some members of Women Arise Zimbabwe (WOZA), a civic organisation which advocates for women's rights, were arrested for allegedly violating the POSA after they had embarked on a sponsored walk from Bulawayo to Harare to protest against the proposed NGO Bill, which sought to restrict the operations of Non-Governmental Organisations.[37] In 2005, 119 members of the Zimbabwe Congress of Trade Unions (ZCTU) were arrested in Harare for protesting against rising poverty, hunger and economic decline. They were charged under POSA for allegedly contravening section 19 of the Act, which provided that *"any person who, acting together with one or more other persons present with him in any place or at any meeting performs any action, utters any words or distributes or displays any writing, sign or other visible representation that is obscene, threatening, abusive or insulting, intending thereby to provoke a breach of the peace or realising that there is a risk or possibility that a breach of the peace may be provoked shall be guilty of an offence".*[38] In 2009, Zimbabwe Congress of Trade Unions President, Lovemore Matombo and four other members of the ZCTU were also arrested for allegedly

35 Human Rights Watch, *You Will Be Thoroughly Beaten: The Brutal Suppression of Dissent in Zimbabwe*, Volume 18, No. 10(A), November 2006, http://hrw.org/reports/2006/zimbabwe1106/zimbabwe1106web.pdf.

36 ZLHR Press Statement, "Freedom of Expression IN Zimbabwe under siege", 13 September 2003 available at http://archive.niza.nl/docs/200309161332569201.pdf.

37 Amnesty International, "Zimbabwe Human rights defenders under siege." available at https://www.amnesty.org/fr/wp-content/uploads/2021/08/afr460012005en.pdf.

38 Relief Web, "Zimbabwe: Arbitrary detention and judicial proceedings against numerous trade unionists", available at https://reliefweb.int/report/zimbabwe/zimbabwe-arbitrary-detention-and-judicial-proceedings-against-numerous-trade.

failing to notify the police of a gathering in Victoria Falls in contravention of POSA. In October 2017, a lawyer aspiring to be a Member of Parliament, Fadzayi Mahere, was arrested for hosting a soccer tournament in Mount Pleasant, Harare.[39] She was accused of contravening POSA but was later released following ZLHR lawyers' intervention. As seen above, POSA, the principal law regulating gatherings, was routinely weaponised to disperse public gatherings and demonstrations, thereby violating the rights to freedom of association and assembly.

Notwithstanding the evident chilling effect of POSA on fundamental rights, ZLHR successfully obtained a declaration of constitutional invalidity of section 27 of POSA. Section 27 of POSA allowed the regulatory authority to temporarily prohibit gatherings, demonstrations or processions in a district for up to one month. In *Democratic Assembly for Restoration and Empowerment & Others v Newbert Saunyama N.O & Others CCZ-9-18,* the Constitutional Court of Zimbabwe struck down section 27 of POSA by holding that,

> "As stated above, section 27 of POSA grants wide power to the regulating authority to ban all or a class of public demonstrations for a period lasting up to one month.
> The ban imposed is blanket in nature and has a dragnet effect. During the currency of the ban, the rights to demonstrate and to petition peacefully are completely nullified. This includes demonstrations already planned at the time the ban is imposed and those that are yet to be planned. This also includes mass demonstrations and small demonstrations. It includes demonstrations of all sizes and for whatever purpose without discrimination. Like a blanket or a dragnet, it covers or catches them all.
> To the extent that the ban does not discriminate between known and yet to be planned demonstrations, the limitation in s 27 has the effect of denying the rights in advance and condemning all demonstrations and petitions before their purpose or nature is known. It does not leave scope for limiting each demonstration according to its circumstances and only prohibiting those that deserve to be prohibited while allowing those that do not offend against some objective criteria set by the regulating authority to proceed.
> The limitation in s 27 of POSA stereotypes all demonstrations during the period of the ban and condemns them as being unworthy of protection. Stereotyping is a manifestation of bias without any reasonable basis for that bias. To the extent that the limitation in s 27 stereotypes all demonstrations during the period of the ban, it loses impartiality and becomes not only unfair but irrational."[40]

In 2019, POSA was repealed and replaced by the MOPA. The MOPA, however, reintroduces some of the restrictive provisions that were found in POSA. The MOPA continues to be utilised to prohibit gatherings like its predecessor POSA.

3.4 The Non-Governmental Organisations Bill, 2005

In a significant move that threatened civic space, the Non-Governmental Bill was gazetted by the GoZ in 2004. Whilst the stated purpose of the bill was to repeal the Private Voluntary Organisations Act and to provide for the registration of non-governmental organisations, the bill was designed to overreach into the operations of CSOs by, among other things, prohibiting CSOs from receiving foreign funding to carry out activities in the governance space.[41] Section 17 of the NGO Bill provided that,

39 ZLHR Press Statement dated 30 October 2017, "ZLHR Condemns Persecution of Fadzayi Mahere", available at https://www.zlhr.org.zw/zlhr-condemns-persecution-of-fadzayi-mahere/.

40 Democratic Assembly for Restoration and Empowerment & Others v Newbert Saunyama N.O & Others CCZ-9-18.

41 ICNL, "The Zimbabwean Non-Governmental Organisations Bill 2004 and International Human Rights Law/Standards Issues, Analysis and Policy Recommendations, Working Paper for Policy Dialogue with the Government of Zimbabwe and other Stakeholders" available at https://www.icnl.org/wp-content/uploads/Zimbabwe_NGO_Bill_09-04.pdf.

> "No local Non–governmental organization shall receive foreign funding or donation to carry out activities involving or including issues of governance."[42]

Governance issues were defined in section 2 of the NGO Bill as including *"promotion and protection of human rights..."*[43] Had the Bill been passed into law, it would have led to the closure of civil society organisations working on governance issues and relying on foreign funding. Section 17 of the Bill was also clearly contrary to international human rights standards, as it violated the rights to freedom of association and to be incorporated, whether formally or informally. Advocacy efforts and resistance to the Bill often led to arbitrary arrests and detention. As already alluded to above, in 2004, members of WOZA who were on a sponsored walk from Bulawayo to Harare were arrested for protesting against the NGO Bill.

In addition, the NGO Bill placed onerous conditions on civil society organisations, which potentially affected their ability to operate. Article 11 of the Bill required organisations to register annually and to pay annual registration fees.[44] This provision was contrary to the right to freedom of association and the African Commission on Human and Peoples' Rights Freedom of Assembly and Association Guidelines (ACHPR FoAA Guidelines), which provide that associations shall not be required to register more than once. Furthermore, the NGO Bill did not specify the period within which applications for association registration would be determined.[45] This would create uncertainty in the operations of CSOs, thus undermining their right to associate.

The NGO Bill of 2005 reposed excessive powers in the Council, whose composition raised concerns about its independence. Although the NGO Bill was passed by parliament in December 2004, it was fortuitously never signed into law by then President Robert Mugabe. Despite this fact, the NGO Bill had created uncertainty and anxiety in the operations of CSOs at the time.

3.5 The Access to Information and Protection of Privacy Act and media freedom

In 2002, the Access to Information and Protection of Privacy Act (AIPPA) was enacted. The name of the Act was clearly a misnomer, primarily because some of its provisions were weaponised contrary to its stated purpose of providing for the right to access and impart information. The Act violated media freedoms, criminalised journalistic work and contained vague and broad provisions. ZLHR represented several journalists who were arrested for contravening the Act, particularly for "Abuse of journalistic

42 Section 17 of the Non-Governmental Organisations Bill, 2005.

43 Note 41 above.

44 Article 11 of the NGO Bill, 2005, cited by Human Rights Watch in "Zimbabwe Non-Governmental Organisations Bill: Out of Sync with SADC Standards and a Threat to Civil Society Groups" available at https://www.hrw.org/legacy/backgrounder/africa/zimbabwe/2004/12/zimbabwe1204.pdf.

45 Human Rights Watch in "Zimbabwe Non-Governmental Organisations Bill: Out of Sync with SADC Standards and a Threat to Civil Society Groups" available at https://www.hrw.org/legacy/backgrounder/africa/zimbabwe/2004/12/zimbabwe1204.pdf.

privilege." Section 80 (1) (b) of the Act was routinely used to arrest journalists for publishing newspaper articles which were deemed offensive. It provided as follows,

> "A journalist who abuses his or her journalistic privilege by publishing—
> (b) information which he or she maliciously or fraudulently fabricated shall be guilty of an offence and liable to a fine not exceeding level seven or to imprisonment for a period not exceeding two years."

This provision muzzled media freedom by making journalists criminally liable for articles deemed fabricated. Suffice to state that the provision was also couched in vague and broad language and was capable of abuse. In the case of *Lloyd Zvakavapano Mudiwa v The State*, the Supreme Court of Zimbabwe declared the provisions of section 80 (1) (b) of the Act unconstitutional in 2003.

Subsequently, ZLHR filed two communications before the African Commission on Human and Peoples' Rights. In *ZLHR v Zimbabwe*[46] , ZLHR filed a complaint on behalf of Andrew Barclay Meldrum alleging that the GoZ had violated his right to freedom of expression and freedom to disseminate information when it deported him from Zimbabwe in 2003.[47] Mr Meldrum had been resident in Zimbabwe since 1980 until 2003 when he was deported ostensibly for publishing a critical article in the Daily News. Meldrum was also arrested and charged with contravening section 80 (1) (b) of the AIPPA for publishing the said article.[48] He was however, acquitted of the charges.

In its merits decision, the African Commission held that,

> "It should be recalled that the victim's deportation arose from the publication of an article that the Respondent State did not appreciate. The Respondent State resorted to deportation in order to silence him, in spite a court order that he can stay in the country. Admittedly, he is not prevented from expressing himself where ever he was deported to, but vis-à-vis his status in the Respondent State, which is a State Party to the African Charter, his ability to express himself as guaranteed under Article 9 was violated."

Consequent to the declaration by the African Commission that the government of Zimbabwe had violated Meldrum's right under Article 9, it went on to recommend that the government of Zimbabwe rescind its deportation orders against Meldrum and grant him accreditation so that he could resume his work as a journalist.[49]

The second communication filed by ZLHR and partners was the case of *Scanlen and Holderness v Zimbabwe.*[50] In that matter, the complainant complained about the compulsory accreditation of journalists, rather than self-regulation, which had been brought about by the enactment of AIPPA. Furthermore, the complainant argued that compulsory accreditation of journalists, as provided for in section 79 of AIPPA, irrespective of the accreditation agency, violated the right to freedom of expression.[51]

ZLHR also argued that section 80(1)(b) of the AIPPA, which proscribed abuse of journalistic privileges, had a chilling effect on the right to freedom of information and the right to impart information. To

46 Communication 294/2004.

47 As above.

48 Note 46 above, ZLHR v. Zimbabwe, Decision, Comm. 294/2004 (ACmHPR, Apr. 03, 2009.

49 As above.

50 Scanlen v Zimbabwe, Decision, Comm. 297/2005 26th ACHPR AAR Annex (Dec 2008 – May 2009).

51 As above.

the contrary, the government argued that compulsory accreditation of journalists and criminalisation of fabricated news stories was justified in the interests of public order and safety. [52] The African Commission, however, found that sections 79 and 80 violated the rights to freedom of information, to disseminate information, and to opinion, as provided for in the African Charter. In making this finding, the Commission held that, from paragraphs 117-120,

> "117 The Commission therefore finds that the Respondent State's arguments that the accreditation of journalists and prohibition of falsehood are on grounds of public order, safety and for the protection of the rights and reputation of others, to be unsustainable and an unnecessary restriction of the individual's practice of journalists.
> 118. Similarly, by preventing journalists from freely exercising their right to freedom of expression, the Respondent State inevitably violates the freedom of expression of the Zimbabwean society by depriving the society the right to receive information due to the restrictions imposed on the journalists' right to disseminate information.
> 119. The African Commission therefore finds that Section 80 of the Access to Information and Protection of Privacy Act (Chapter 10:27) of 2002, was not necessary, it did not address any legitimate interest such as to require compulsory accreditation of journalists. It reiterated the restrictions imposed by section 79, without giving any justification for such restrictions. The African Commission therefore finds that Section 80 is incompatible with Article 9 of the African Charter on Human and Peoples' Rights.
> 120. The African Commission finds further that while accurate reporting is the goal to which all journalists should aspire, there will be circumstances under which journalist will publish or disseminate information, opinion or ideas, which will contravene other persons' reputations or interests, national security, public order, health or morals. Such circumstances cannot be foreseen during accreditation. In such circumstances, it is sufficient if journalists have made a reasonable effort to be accurate and have not acted in bad faith."[53]

In its recommendations, the African Commission advised the GoZ to repeal the provisions of section 79 and 80 of AIPPA, to decriminalise offences relating to accreditation of journalists and to adopt legislation for self-regulation of journalists.[54]

Regrettably, the Media and Information Commission under AIPPA had extensive powers to cancel the media licences of mass media companies. In 2004, the Commission exercised this power and cancelled the licence of The Tribune newspaper for violating provisions of AIPPA in a sale of shares of the newspaper to another entity. The provision which the media house was alleged to have violated was too restrictive and undermined the right to freedom of information and the right to impart opinions. Disconcertingly, a court application for review of the Commission's decision to cancel the licence was dismissed in the case of *Africa Tribune Newspapers (Private) Limited & Others v The Media and Information Commission and Another HH-139-2004.* In a press statement dated 26 July 2004, ZLHR bemoaned the court's decision as retrogressive. An extract of the statement is reproduced below,

> "Zimbabwe Lawyers For Human Rights is alarmed by the recent High Court decision upholding the closure of the Tribune by the Media and Information Commission under AIPPA. Such a decision is clearly a derogation from the provisions of the African Charter on Humana and Peoples' Rights, the International Covenant on Civil and Political Rights and other international human rights instruments to which Zimbabwe is signatory in which are enshrined fundamental freedoms of expression and the right to access information. The approach adopted by the High Court in interpreting an already prima facie oppressive law appears to be too restrictive and fails to take into account the fundamental rights of the Zimbabwean people..."[55]

In a further assault on media freedoms, the Supreme Court of Zimbabwe dismissed an application to declare as unconstitutional some provisions of AIPPA. The case was brought by Associated Newspapers

52 Note 50 above.

53 Scanlen v Zimbabwe, Decision, Comm. 297/2005 26th ACHPR AAR Annex (Dec 2008 – May 2009).

54 As above.

55 ZLHR Statement dated 26 July 2004 quoted in "Zimbabwe Human Rights Bulletin, Issue No.12" produced by Zimbabwe Lawyers for Human Rights, March 2005.

of Zimbabwe (Private) Limited (ANZ), which produced the Daily News. Part of the challenge with AIPPA is the compulsory requirement for media houses to register and obtain a licence from the Media and Information Commission. In that case, the Supreme Court dismissed the application on the basis of the common law doctrine of "*dirty hands.*"[56] The court found that ANZ had failed to comply with the AIPPA provisions requiring it to register with the Commission. The late Alex Magaisa, in a critique of the ANZ decision published by ZLHR stated that,

"This case is not about the arrogance of the Daily News and its publishers but it is about protecting the rights of citizens to approach the Supreme Court for constitutional protection regardless of the state of their hands. Indeed the guilty also deserve constitutional protection. The "Clean Hands" doctrine is useful as a principle in equity and some aspects of the common law but its extension to the realm of constitutional law is worrying and controversial. The area of fundamental rights is one that the courts must safeguard to ensure that people enjoy their freedoms..."[57]

From the above cases, it can be noted that AIPPA severely restricted the civic space by interfering with media freedom and the ability of journalists to disseminate information. AIPPA was repealed by the Freedom of Information Act in 2020. The Freedom of Information Act, to its credit, does not provide for the compulsory accreditation of journalists or for the notorious offence of abuse of journalistic privileges.

Apart from AIPPA, the offence of criminal defamation as provided for in section 96 of the Criminal Law (Codification and Reform) Act was also utilised to arrest journalists for publishing offensive articles. In the case of *Madanhire & Another v Attorney-General,*[58] the Constitutional Court of Zimbabwe declared the offence of criminal defamation unconstitutional on the ground that it violated the right to freedom of expression. The Court correctly held that,

> "It cannot be denied that newspapers play a vital role in disseminating information in every society, whether open or otherwise. Part and parcel of that role is to unearth corrupt or fraudulent activities, executive and corporate excesses, and other wrongdoings that impinge upon the rights and interests of ordinary citizens. It is inconceivable that a newspaper could perform its investigative and informative functions without defaming one person or another. The overhanging effect of the offence of criminal defamation is to stifle and silence the free flow of information in the public domain. This, in turn, may result in the citizenry remaining uninformed about matters of public significance and the unquestioned and unchecked continuation of unconscionable malpractices.
> The chilling effect of criminalising defamation is further exacerbated by the maximum punishment of two years imprisonment imposable for any contravention of s 96 of the Criminal Law Code. This penalty, in my view, is clearly excessive and patently disproportionate for the purpose of suppressing objectionable or opprobrious statements. The accomplishment of that objective certainly cannot countenance the spectre of imprisonment as a measure that is reasonably justifiable in a democratic society.
> The fact that investigative journalism may on occasion involve the publication of erroneous or inaccurate information does not detract from the reciprocal rights to receive and impart information and ideas without interference."[59]

From the above, it can be noted that the offence of criminal defamation restricted journalists' ability to disseminate information necessary for an open civic space.

56 Associated Newspapers of Zimbabwe (Pvt) Ltd v Minister of State for Information and Publicity & Others SC-111-04.

57 Alex Tawanda Magaisa, "Clean hands? Thou hath blood on your hands": A critique of the Supreme Court judgment in the ANZ case, Zimbabwe Human Rights Bulletin, Issue No. 9, October 2003 produced by Zimbabwe Lawyers For Human Rights.

58 CCZ-2-2015.

59 As above.

In addition to the above, in the case of *Chimakure & Others v Attorney-General,*[60] the Supreme Court of Zimbabwe declared as unconstitutional, the offence of publishing communication to any other person of a false statement with the intention or realising that there is a real risk or possibility of undermining public confidence in the law enforcement agency, the Prison Service or the Defence Forces of Zimbabwe.[61] In striking down the above provision, the Supreme Court held that,

"Experience has shown that it is difficult to excise false statements on matters of public concern such as the performance of law enforcement agents without significantly damaging democratic self-governance. The UNHRC has even gone to the extent of recommending the scrapping of false news provisions from statute books because they "unduly limit the exercise of freedom of opinion and expression". What all this means is that such laws are not deemed necessary in a democratic society. What is clear is that because of the severity of the deleterious effects on the exercise of freedom of expression of the level of the maximum penalty of imprisonment the law is not justified by the objective it is intended to serve. The requirement that there must be a reasonable relationship of proportionality between the means employed and the aim sought to be realised by the measure applied by the State in restricting the exercise of freedom of expression was not met."[62]

The *Madanhire* and *Chimakure* judgments were progressive in asserting the importance of the right to freedom of expression and a free media in a democratic society.

3.6 Criminal Law (Codification and Reform) Act (Chapter 9:23)

The Criminal Code was enacted in 2004. The Criminal Code, consolidated all major criminal offences into one code and effected reforms in the criminal justice system.[63] Although the code has undergone several amendments throughout the years, several of its provisions have been used to target Human Rights Defenders (HRDs) and civil society actors. One of the provisions has already been discussed under media freedom above in the *Chimakure* case. Some major highlight provisions which have been weaponised to infringe on the civic space include sections 22, 33, 36, 37, 41, 46 of the Criminal Code. The offence of undermining the authority of, or insulting, the President is one provision that has been routinely weaponised to arrest and prosecute individuals who are critical of governance issues. ZLHR has represented several individuals who were arrested and prosecuted for allegedly insulting the President.

Despite several efforts to have the insult law declared unconstitutional for violating free expression, the law remains part of the statute books. Section 36 of the code has also been notoriously used to target those who engage in public demonstrations. It creates the offence of public violence and has been used in such a manner as to violate fundamental rights. Furthermore, section 37 of the code has again gained notoriety for abuse. Section 37 creates the offence of participating in a gathering with the intent to promote public violence, breaches of the peace or bigotry. It would appear that this charge has been the default for individuals and CSOs who gather for various activities, including private meetings, processions, marches, and demonstrations. ZLHR has, over the years, represented hundreds of persons who have faced this offence in the course of civic engagement. Similarly, the offence of disorderly conduct and criminal nuisance provided for in sections 41 and 46 of the code, respectively, have also been weaponised against civil society actors, shrinking the civic space in the process.

In addition, the offence of subverting a constitutional government provided for in section 22 of the code has also been selectively applied to target civic actors for exercising their freedom of expression and

60 Supreme Court 14 of 2013.

61 Section 31 (a) (iii) of the Criminal Law (Codification and Reform) Act (Chapter 9:23).

62 Chimakure & Others v Attorney-General SC-14-13.

63 G.Feltoe, "Commentary on the Criminal Law (Codification and Reform) Act (Chapter 9:23)."

association. In 2016, ZLHR represented Pastor Evan Mawarire who had set up an online movement known as *#ThisFlag*. Through these social media accounts, Mawarire called for a stay-away protest against the deteriorating economic conditions and democratic regression in the country. The movement gained significant coverage and support in Zimbabwe. Mawarire handed himself over to the police on 12 July 2016 and was charged with the offence of inciting public violence.[64] When he appeared in court with ZLHR lawyers, however, the state preferred a new charge of subverting a constitutional government under section 22.[65] ZLHR successfully challenged his placement on remand, arguing that the State could not charge him with subversion without complying with the provisions of sections 50 and 70 of the Constitution.[66] In other words, the state could not, for the first time at initial appearance, charge Mawarire with a new offence without him having been accorded the rights of accused and detained persons provided for in sections 50 and 70 of the Constitution. Consequently, Mawarire was released unconditionally.

Following a country-wide demonstration in January 2019, several activists were arrested and also charged with this offence.

The most recent and perhaps one of the most draconian provisions that has been introduced by an amendment to the code, is section 22A, which provides for the offence of wilfully injuring the sovereignty of Zimbabwe. A detailed analysis of this provision and litigation response will follow in the next chapter.

3.7 Maintenance of Peace and Order Act, 2019

The Maintenance of Peace and Order Act (MOPA) was enacted in 2019, repealing the draconian POSA. The Act has, however, continued to restrict the civic space. Sections 5 to 8 of the Act reincarnate the notification requirements and criminalise the failure to give notice to regulatory authorities of an intended gathering or demonstration. The then UN Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association (UNSR FoAA), Clément Nyaletsossi Voule, stated in 2020 that the Act was not "not conducive to free and unhindered exercise of the right to freedom of peaceful assembly" as it negatively affects the exercise of the rights to FoAA."[67] UNSR FoAA also found that criminalising the failure to notify authorities of an intended gathering or demonstration left no room for spontaneous assemblies on matters of public concern.[68] ZLHR has also represented several HRDs and CSOs who have been arrested and prosecuted for failing to notify authorities of intended gatherings.[69]

64 ZLHR , "The Legal Monitor Edition 351" available at https://www.zlhr.org.zw/wp-content/uploads/2017/01/LM-Edition-351.pdf [Last accessed on 23 November 2025].

65 As above.

66 Note 64 above.

67 UN Human Rights Council, 'Visit to Zimbabwe: Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, A/HRC/44/50/Add.2', https://undocs.org/en/A/HRC/44/50/Add.2 cited in ISHR and ZLHR, "Briefing Paper Universal Periodic Review: The situation of Human Rights Defenders in Zimbabwe" published July 2021 available at https://ishr.ch/wp-content/uploads/2022/05/Zimbabwe-HRD-UPR-Briefing-Paper_FINAL.pdf.

68 Note 51 above https://ishr.ch/wp-content/uploads/2022/05/Zimbabwe-HRD-UPR-Briefing-Paper_FINAL.pdf.

69 State v Sandra Zenda and Kudakwashe Munemo Crb No.BNP 1447-48/22.

In the context of elections, the Act has also been weaponised, particularly against opposition candidates for failing to notify the police of processions and gatherings to canvass for votes.

3.8 Coronavirus containment measures and the civic space

The coronavirus (COVID-19) pandemic significantly altered the civic space both at local and international levels. Zimbabwe declared COVID-19 a formidable epidemic disease under the Public Health Act through the promulgation of Statutory Instrument 77 of 2020. Among other things, SI 77 of 2020 prohibited all gatherings for whatever purpose.[70] The regulations furthermore criminalised those who convened and also those who participated in such prohibited gatherings.[71] Admittedly, COVID-19 wreaked havoc globally, and measures to contain its spread were critical. However, these measures came at the expense of other fundamental rights such as the right to assembly. Joana Mamombe, Cecelia Chimbiri and Netsai Marova were arrested in May 2020 for participating in a demonstration over the lack of social security safety nets for vulnerable members of society affected by COVID-19 regulations.[72] Several people were also arrested for violating COVID-19 regulations, and in some instances, they were arrested while purchasing basic goods and medical supplies. In 2023, however, the regulations were lifted through Statutory Instrument 102 of 2023.

70 Section 5 of Statutory Instrument 77 of 2020 available at https://www.veritaszim.net/sites/veritas_d/files/SI%202020-077%20Public%20Health%20%28COVID-19%20Prevention%2C%20Containment%20and%20Treatment%29%20Regulations%2C%202020.pdf.

71 Note 54 above https://www.veritaszim.net/sites/veritas_d/files/SI%202020-077%20Public%20Health%20%28COVID-19%20Prevention%2C%20Containment%20and%20Treatment%29%20Regulations%2C%202020.pdf.

72 ISHR and ZLHR, "Briefing Paper Universal Periodic Review: The situation of Human Rights Defenders in Zimbabwe" published July 2021 available at https://ishr.ch/wp-content/uploads/2022/05/Zimbabwe-HRD-UPR-Briefing-Paper_FINAL.pdf.

CHAPTER 4

CONTEMPORARY ATTACKS ON THE CIVIC SPACE: MAPPING LEGISLATIVE DEVELOPMENTS BETWEEN 2021 AND 2025

4.1 Overview

Between 2021 and 2025, several legislative developments in Zimbabwe continued to shrink the already restricted civic space. Some of the developments have been adverted to in the previous chapters; a deeper analysis is provided in this chapter. Significant developments include the promulgation of the Cyber and Data Protection Act (Chapter 12:01), the so-called patriotism provisions of the Criminal Code, and the Private Voluntary Organisations (Amendment) Act, 2025, among others. This chapter will provide an in-depth understanding of the legislative trajectory that unfolded between 2021 and 2025 to the extent it impacts the civic space.

4.2 The Private Voluntary Organisations (Amendment) Act, 2025

By way of a background, the regulation of NGOs in Zimbabwe has always been a contentious issue with strong views being expressed both for and against over-regulation. NGOs have always had an uneasy relationship with the government partly due to the unjustified paranoia held by the state that NGOs meddle in politics and governance issues. As seen in the previous chapter, the NGO Bill of 2005 was bulldozed through parliament in a bid to effectively close CSOs working on governance and human rights issues, which by definition included promotion and protection of human rights. The Bill was eventually not passed into law. In 2021, these efforts to regulate CSOs were revived. The Private Voluntary Organisations (Amendment) Bill, 2021 (PVO Bill) was gazetted on 5 November 2021.[73] The PVO Bill was justified on the basis of the need to comply with the recommendations of the Financial Action Task Force (FATF) as well as to prohibit PVOs from political lobbying.[74]

The FATF is a voluntary non-treaty intergovernmental body and a global money laundering terrorist financing watchdog.[75] There are regional FATF-style bodies such as the East and Southern Africa Anti-Money Laundering Group (ESAAMLG). Zimbabwe is a member of the ESAAMLG, which carries out evaluations to assess the effectiveness and technical compliance of the member states with the FATF Recommendations or Standards. It was found to be non-compliant with Recommendation 8 in 2016.[76] Not-for-profit organisations (NPOs) have been identified by the FATF as potentially posing

73 ZLHR, "Analysis of the Private Voluntary Organisations Amendment Bill, 2021" available at <https://www.zlhr.org.zw/wp-content/uploads/2022/07/ZLHR-Analysis-of-Private-Voluntary-Organisations-Amendment-Bill-2021-1.pdf> [Last accessed on 20 November 2025].

74 As above.

75 Available at <https://www.fatf-gafi.org/en/home.html> [Last accessed 23 November 2025].

76 Note 73 above. Recommendation 8 requires governments to review the adequacy of laws regulating NPOs which the country has identified as posing a risk of abuse for money laundering and financing of terrorism. The countries should then put measures which are proportionate in line with risk-based approaches to protect the NPOs.

a risk of money laundering and terrorism financing.[77] According to ZLHR, the PVO Bill contained several draconian provisions which restricted civic space. Firstly, the Bill did not promote self-regulation but instead compelled pre-existing organisations, such as *common law universitas* and trusts which were exempt under the PVO Act, to re-register.[78] The requirement to re-register was also contrary to the African Commission's Freedom of Association and Assembly Guidelines which provide that associations shall not be required to register more than once. The PVO Bill further reincarnated the compulsory re-registration requirement that was in the abandoned NGO Bill of 2005.

In addition, the PVO Bill, of 2021 conferred excessive powers on the Registrar. The Registrar had the power to re-register organisations where there was a material change, including minor changes.[79] Furthermore, there were concerns over the independence of the Registrar given the fact that he was an employee of the Civil Service and thus accountable to the Minister.[80] Other concerns raised about the PVO Bill included vague criminalisation of civil society work for supporting or opposing a political party or candidate during an election, as well as excessive criminal and civil penalties for violating the PVO Bill. The totality of the above factors points to the fact that the PVO Bill was a deliberate tool aimed at stifling civic groups from exercising their right to freedom of association, assembly and expression. Despite strong opposition to the passage of the PVO Bill and recommendations from CSOs, the PVO Bill of 2021 was passed by parliament and sent to the President for assent on 9 August 2023.[81] The President however, sent the PVO Bill back to parliament with reservations in terms of section 131 of the Constitution of Zimbabwe. The PVO Bill of 2021 fortunately lapsed on the eve of the 2023 general elections, that is, on 22 August 2023, by operation of the law.[82]

Following the conclusion of the 2023 general elections, and in his maiden speech to officially open the Tenth Parliament, President Mnangagwa highlighted the need for parliament to "conclude" the PVO Bill among other Bills which were outstanding from the Ninth parliament.[83] Although technically speaking, the PVO Bill, 2021 could not possibly and legally be resurrected as suggested in the speech, the intention to amend the PVO Act was clear.

On 1 March 2024, the Private Voluntary Organisations (Amendment) Bill, 2024 was gazetted once again. In its press statement issued on 23 October 2024, ZLHR condemned the gazetting of the Bill and its subsequent passage through parliamentary processes, stating that,

> "ZLHR is greatly perturbed that the provisions of the PVO Amendment Bill have adverse effects on the operations of CSOs, and ultimately, the impact of the legislation will result in the shutting down of civic space, which has been progressively shrinking since August 2018. The Bill has provisions that legitimise excessive interference by the executive in CSO operations and criminalisation of CSO work and office bearers, including curtailing the freedom of association of CSOs. The Bill also seeks to entrench executive powers in the registration of PVOs through the office of the Registrar.

77 Note 73 above.

78 As above.

79 As above.

80 As above.

81 Veritas, "Bill Watch 34-2023" available at https://www.veritaszim.net/node/6574.

82 As above.

83 State of the Nation Address by President Mnangagwa at the official opening of the first session of the tenth Parliament of Zimbabwe, available at https://www.veritaszim.net/sites/veritas_d/files/SONA%20SPEECH%202023.pdf.

> The PVO Amendment Bill contravenes Zimbabwe's international obligations regarding the right to freedom of association. It completely and wantonly disregards the provisions on association enunciated in the African Commission on Human and Peoples Rights' Guidelines on Freedom of Association and Assembly in Africa. The Bill strikes at the heart of civil society's ability to operate freely and effectively."[84]

The PVO Bill of 2024 was passed into law in April 2025 and became an Act of Parliament. Some of its retrogressive provisions are analysed below.

The PVO Amendment Act retained many of the provisions of the lapsed PVO Bill of 2021. The PVO Amendment Act is a classic case of bad legislative drafting. Key concerns that have been raised include the vague registration requirements and excessive powers of the Registrar and the Minister. Section 6, which provides for the registration of PVOs, does not provide an exhaustive list of requirements for organisations applying for registration.[85] This creates uncertainty for many CSOs which were required to register. To add to this uncertainty, for a substantial period after the enactment of the PVO Amendment Act, there were no regulations which stipulated detailed registration requirements, such as the "prescribed fee" in section 6, yet organisations were expected to apply for registration within ninety days.[86] The prescribed fee was only gazetted on 29 August 2025 after the ninety-day transitional period, within which organisations were expected to apply for registration, had lapsed.[87]

The requirement for re-registration of NGOs that were already operating lawfully is itself problematic and an affront on fundamental rights to association. The PVO Amendment Act requires "pre-existing charitable entities"[88] to re-register in accordance with the provisions of section 14 (Transitional provisions of the Act). As already highlighted, the ACHPR Guidelines on FoAA clearly state that organisations already operating shall not be required to register more than once. Pre-existing charitable entities, such as trusts registered in the Deeds Registry and common law *universitas,* should have been exempt from the requirement to re-register.

Tied to the above is the requirement for a PVO to re-register in certain circumstances where there are material changes.[89] Material changes are defined in section 13A(1) of the PVO Amendment Act and include any change with respect to the beneficial ownership or of the private voluntary organisation concerned, by virtue of the transfer of the certificate of registration of the organisation to another PVO or to another person (not being a PVO).[90] The requirement to re-register under section 13A is onerous and unnecessary. It also violates the right to freedom of association.

84 ZLHR Press Statement, "RAPID DEMOCRACY REGRESSION IN ZIMBABWE AS SENATE FAST-TRACKS, WITHOUT DEBATE AND PASSES REPRESSIVE PVO AMENDMENT BILL" available at https://www.facebook.com/ZimbabweLawyersforHumanRights/posts/press-statement23-october-2024rapid-democracy-regression-in-zimbabwe-as-senate-f/1063250662254334/.

85 ZLHR, "Analysis of CSOs Private Voluntary Organisations Amendment Bill, HB 2, 2024."

86 Section 6 of the Private Voluntary Organisations (Amendment) Act, 2025.

87 Statutory Instrument 82 of 2025.

88 Pre-existing charitable entity is defined in the Act as an entity (whether a trust, body, or association of persons corporate or unincorporate or any institution), that immediately before the commencement of the Private Voluntary Organisations Amendment Act, 2024, lawfully operated in Zimbabwe for the achievement of objects which, by virtue of that amendment, render it liable to be registered as a private voluntary organisation under this Act.

89 Section 13A of the PVO Amendment Act, 2025.

90 Section 13A (1) of the PVO Amendment Act, 2025.

The PVO Amendment Act confers excessive and unfettered powers on the Minister responsible for administering the Act. The Minister has excessive power to interfere with CSOs' operations. In terms of section 21 of the Act, the Minister has powers to suspend the executive committee of a PVO on the grounds that the organisation has ceased to operate in furtherance of its objectives.[91] A number of issues arise from this power. Even if an organisation were to cease to operate in furtherance of its objectives, that is an issue for the membership of the organisation to take the necessary steps to resolve that deviation. The executive committee and the membership of the organisation are also not given an opportunity to be heard prior to the suspension. Suspension of the executive committee of an organisation is clearly too drastic a measure as it violates the right to freedom of association.

In addition, this provision is a reintroduction of section 21 of the old PVO Act which was declared unconstitutional in the case of *Sekai Holland v Minister of Labour, Social Welfare & Public Service 1997 (1) ZLR 186 (S).* Disconcertingly, the Minister has arrogated powers to appoint provisional trustees to run the affairs of the organisation whose executive committee he would have suspended.[92] The acts of those provisional trustees have legal effect, provided they are done in good faith.[93] More alarmingly, the provisional trustees may be given authority by the Minister to sell or acquire any of the organisation's assets. Again, the membership of the concerned organisation has no say in this process. Although there is some level of judicial oversight when the executive committee is suspended, this does not save the provision from being an affront to the right to association.

The Registrar of PVOs is given excessive powers under the PVO Amendment Act. The Registrar has the power to determine applications for re-registration following material changes to the organisation, to cancel registration, and to consider proposed amendments to registration certificates.[94] This the Registrar can do without recourse to the PVO board. Furthermore, the Act does not provide any recognisable or objective criteria for the Registrar to determine applications for registration. By the stroke of a pen, the Registrar may reject an application for cancellation at will; this is undesirable.

Of particular concern are the various criminal offences created by the PVO Amendment Act. Trustees of "sanctionable trusts"[95] who fail to comply with the Registrar's notice to register within 30 days are liable to criminal liability and to excessive penalties.[96] The PVO Amendment Act also vaguely criminalises organisations that support or oppose any political party or candidate in a presidential, parliamentary or local government election.[97] Strangely, criminal liability accrues to national-level office bearers who are required to pay a share of a fine that would have been imposed on the organisation.[98] Attributing criminal liability to national-level office bearers in such circumstances is contrary to established criminal law principles, particularly those found in section 9 of the Criminal Code. The totality of the above

91 Section 21 of the PVO Amendment Act, 2025.

92 Section 21 (2) of the PVO Amendment Act, 2025.

93 Section 21 (3) of the PVO Amendment Act, 2025.

94 Section 9 of the PVO Amendment Act.

95 A sanctionable trust is defined in section 5 of the Act as a trust that may be dealt with by the Registrar in terms of subsection (7) on the basis that it is reasonably suspected of being in violation of subsection (2).

96 Section 5 of the PVO Amendment Act.

97 Section 11 of the PVO Amendment Act.

98 As above.

factors demonstrates that the PVO Amendment Act is grossly intrusive into the affairs of PVOs and constitutes a significant barrier to an open civic space.

4.3 The Cyber and Data Protection Act (Chapter 12:01)

The Cyber and Data Protection Act (the Act) was enacted in 2021. The preamble to the Act provides that the Act is meant to, among other things, amend sections 162 to 166 of the Criminal Code.[99] In addition, the Act's preamble proposes to provide for data protection with due regard to national interest. As will be demonstrated in this chapter, section 164B of the Act in particular, has been weaponised to muzzle free expression and free media.

The offence of cyber-bullying and harassment created by section 164B of the Act has been routinely utilised to target citizens commenting on governance issues, participating in political debates on social media platforms, as well as journalists and media houses during the course of their work.

Section 164B of the Act provides that,

> "Any person who unlawfully and intentionally by means of a computer or information system generates and sends any data message to another person, or posts on any material whatsoever on any electronic medium accessible by any person, with the intent to coerce, intimidate, harass, threaten, bully or cause substantial emotional distress, or to degrade, humiliate or demean the person of another or to encourage a person to harm himself or herself, shall be guilty of an offence and liable to a fine not exceeding level 10 or to imprisonment for a period not exceeding ten years or to both such fine and such imprisonment."

Whilst this offence is meant to deal with cyber-bullying, ZLHR has represented several individuals who have been arrested for engaging in public discourse. On 15 November 2022, a student at the Mutare Polytechnic College was arrested and charged with cyber-bullying as defined in section 164B of the Act. It was alleged that Jaji had sent an abusive voice note on a WhatsApp group, accusing the ruling party and its members of being rotten.[100] Prior to this, in May 2022, ZLHR represented Emmanuel Mangunda of Chegutu, who was arrested and charged with cyber-bullying. The allegations against him are that Mangunda had sent an image which depicted the President's head, which police officers alleged was derogatory of the President.[101]

Similar arrests occurred in subsequent years. In 2024, Precious Dinha, an opposition political activist, was arrested for cyber-bullying in contravention of section 164B of the Act. The allegations against her stemmed from a heated political debate she had with a member of the ruling party on a local residents' WhatsApp group. The heated debate had taken place in the context of an upcoming local government by-election.

Section 164 of the Act proscribes the transmission of data messages to incite public violence or damage to property. In 2025, however, journalist Blessed Mhlanga, who had interviewed a ruling party member, Blessed Geza, was arrested and charged with this offence. The allegations against him were that he had

99 Preamble, Cyber and Data Protection Act.

100 ZLHR Press Statement, "Zim Makes Yet another Data Protection Act-Related Arrest as Authorities Intensify Snooping on Social Media" available at file:///C:/Users/User/Downloads/Zim%20Makes%20Yet%20another%20Data%20Protection%20Act-Related%20Arrest%20as%20Authorities%20Intensify%20Snooping%20on%20Social%20Media%20_%20ZLHR.html.

101 As above.

broadcast the interview in which Blessed Geza had made statements which were intended to incite members of the public to commit public violence in Zimbabwe.[102] The interview in question had been broadcast by Heart and Soul TV, which was also jointly charged with Mhlanga. Again, ZLHR has been representing Mhlanga and Heart and Soul TV in their criminal trial to protect the right to expression and media freedom.

Whilst section 164 of the Act seeks to prohibit transmission of data which incites violence or damage to property, it is deeply regrettable that it has been used to arrest and prosecute a journalist and a media house in the course of their work. Journalists play an important role in disseminating information, which is central in a democracy. The net effect of this arrest on media freedoms and the right to freedom of expression is clearly dire.

Section 164C of the Act is couched in broad language and may be subject to abuse. The provision prohibits the transmission of false data messages intending to cause harm.[103] It would appear that this provision is couched in a manner that is almost similar to the notorious section 80 of the now repealed AIPPA, which was used to target journalists. The falsity or otherwise of a message should not militate against the right to freedom of expression. As rightly stated by the Supreme Court in the *Chimakure* case cited above,

> "Freedom of expression finds its true meaning when its enjoyment is protected from interference by Government. The Constitution recognises the fact that people tell lies in a variety of social situations for different reasons. Lies are not necessarily without intrinsic social value in fostering individual self-fulfilment and discovery of truth. For that reason the Constitution protects against State interference the rights of every person to speak or write and communicate or publish to others what he or she thinks. These rights are part of the "freedom" or "liberty" guaranteed by the Constitution."[104]

Targeted surveillance and interception of communications of civic actors often create insecurity and violate their right to privacy. Section 11(1) of the Act provides that data controllers[105] shall not process sensitive information[106] unless the data subject[107] has given written consent.[108] Section 11 (5) of the Act, however, permits the processing of sensitive information without the consent of the data subject where the processing is necessary to comply with national security requirements.[109] In essence, this provision

102 ZLHR Press Statement, "Fresh Crackdown Against Dissent as ZRP Arrest Mhlanga over Geza's Utterances" available at https://www.zlhr.org.zw/fresh-crackdown-against-dissent-as-zrp-arrest-mhlanga-over-gezas-utterances/.

103 Section 164C of the Cyber and Data Protection Act.

104 Chimakure & Others v Attorney-General SC-14-13.

105 In terms of Section 3 of the Cyber and Data Protection Act, "Data controller" refers to (a) any natural person or legal person who is licensable by the Authority; (b) includes public bodies and any other person who determines the purpose and means of processing data.

106 Sensitive information is defined in Section 3 of the Cyber and Data Protection Act as information or any opinion about an individual which reveals or contains the following—racial or ethnic origin, political opinions, membership of political association, religious beliefs or affiliations, gender etc. It also includes, health information, and genetic information.

107 Section 3 of the Act defines a data subject is an individual who is an identifiable person and the subject of data.

108 Section 11 (1) of the Cyber and Data Protection Act.

109 Section 11 (5) (d) of the Cyber and Data Protection Act.

allows, state security to process information without the consent of the data subject. To buttress this point, section 11(4) of the Act provides that,

> "The Minister responsible for the Cybersecurity and Monitoring Centre, in consultation with the Minister, may give directions on how to implement this section with respect to sensitive information affecting national security or the interests of the State."

The above provision shows that information is processed, and such processing is justified on the basis of national security or the interests of the State. In this regard, civic actors may be targeted for surveillance and monitoring and have their data collected and processed without their knowledge or consent.

From the above analysis, one can conclude that the Act contains provisions that have been prone to abuse to target voices critical of governance issues. Invariably, this has undermined civic actors' ability to do their work, as they face arrest.

4.4 The so-called "patriotic provisions" of the Criminal Law (Codification and Reform) Act, 2023

In 2023, the Criminal Code Amendment was passed into law. The Criminal Code Amendment Act introduced section 22A, euphemistically referred to as the "patriotic provisions", which provides for the crime of wilfully injuring the sovereignty and national interest of Zimbabwe. Section 22A(2)[110] and 22A(3)[111] of that Act are of particular concern.

110 Section 22A(2) of the Criminal Law (Codification and Reform) Amendment Act provides as follows, (2) Any citizen or permanent resident of Zimbabwe (hereinafter in this section called "the accused") who, within or outside Zimbabwe actively partakes (whether himself or herself or through an agent, and whether on his or her own initiative or at the invitation of the foreign government concerned or any of its agents, proxies or entities) in any meeting whose object the accused knows or has reasonable grounds for believing involves the consideration of or the planning for—
(a) military or other armed intervention in Zimbabwe by the foreign government concerned or another foreign government, or by any of their agents, proxies or entities; or
(b) subverting, upsetting, overthrowing or overturning the constitutional government in Zimbabwe; shall be guilty of wilfully damaging the sovereignty and national interest of Zimbabwe and liable to—
(i) the same penalties as for treason, in a case referred to in paragraph (a);
(ii) or the same penalties as for subverting constitutional government, in a case referred to in paragraph (b).

111 Section 22A(3) of the Criminal Law (Codification and Reform) Amendment Act provides as follows, Any citizen or permanent resident of Zimbabwe who, within or outside Zimbabwe, intentionally partakes in any meeting whose object or one of whose objects the accused knows or has reasonable grounds for believing involves the consideration of or the planning for the implementation or enlargement of sanctions or a trade boycott against Zimbabwe (whether those sanctions or that boycott is untargeted, or targets any individual or official or class of individuals or officials, but whose effects indiscriminately affect the people of Zimbabwe as a whole or any substantial section thereof) shall be guilty of wilfully damaging the sovereignty and national interest of Zimbabwe and liable to— (i) (ii) a fine not exceeding level 12 or imprisonment for a period not exceeding ten years, or both; or alternatively on the motion of the prosecutor, to any one or more of the following, if the offence is attended by aggravating circumstances referred to in subsection (4) or (6)— A. termination of the citizenship of the convicted person, if the convicted person is a citizen by registration or a dual citizen: Provided that the convicting court shall not impose this penalty if it would effectively render the convicted person stateless; B. cancellation of the permanent resident status of the convicted person, if the convicted person is a permanent resident; or C. prohibition from being registered as a voter or voting at an election for a period of at least five years but not exceeding fifteen years; or D. prohibition from filling a public office for a period of at least five years but not exceeding fifteen years, and, if he or she holds any such office, the convicting court may declare that that office shall be vacated by the convicted person from the date of his or her conviction, unless the tenure of the public office in question is regulated exclusively by or in terms of the Constitution— in consideration of the sentence the court must have regard to the impact of the meeting and whether or not sanctions or trade embargo were imposed.

The above provisions constitute a brazen violation of the right to freedom of expression, association and assembly. The provisions also lack precision, and are wide, vague and capable of being abused.[112] The provisions also vaguely criminalise Zimbabwean citizens who participate in meetings with foreign governments. Quite clearly, this has a chilling effect on the right to freedom of expression, association and assembly, rights of which form the core of an open civic space. The Criminal Code Amendment Act also appears to seemingly muzzle or punish those who report on human rights abuses at regional and international fora.[113]

In addition, the penalties provided for contravening the above provisions fail the constitutional muster. These penalties range from the death penalty, termination of citizenship if it is citizenship by registration or dual citizenship, and prohibition from being registered as a voter or voting at an election for period of at least five years.[114] The death penalty could only be imposed on a person convicted of murder in aggravating circumstances as provided for in the Constitution.[115] Furthermore, in December 2024, the Zimbabwe government abolished the death penalty through the enactment of the Death Penalty Abolition Act, 2024.

The Criminal Code Amendment also proposed terminating citizenship, though this requires strict requirements. These are provided for in section 39 of the Constitution of Zimbabwe. Termination of citizenship for contravening the patriotism provisions is therefore unconstitutional. The penalty of prohibition from registering to vote or voting at an election for at least five years is again without any legal basis. The constitution provides the procedure for such prohibition or disqualification, and contravening the so-called patriotism provisions is not a ground for depriving voters of their rights.

As highlighted above, the penalty provisions lack constitutional standing and violate the citizenship, civil, and political rights guaranteed by the Constitution of Zimbabwe.

In concluding this chapter, it is worth noting that the pattern of passing repressive legislation to close civic space has persisted. Despite the advent of a progressive bill of rights in Chapter 4 of the Constitution, the laws analysed in this chapter betray a deliberate effort to undermine fundamental freedoms to expression, association and assembly. Notably, ZLHR has been at the forefront of utilising litigation as a tool to push back against efforts to restrict the enjoyment of these rights during the period 2021 to 2025. The enactment of the PVO Amendment Act and the "patriotism provisions" of the Criminal Code Amendment Act constituted a heavy onslaught against CSOs particularly those operating in the governance and human space. In the next chapter, this publication will analyse some of the interventions to push back against the deteriorating operating environment for CSOs in Zimbabwe.

112 ZLHR Press Statement, "ZLHR Condemns Passing of Patriotism Provisions in Criminal Law (Codification and Reform) Amendment Bill in National Assembly" available at https://www.zlhr.org.zw/zlhr-condemns-passing-of-patriotism-provisions-in-criminal-law-codification-and-reform-amendment-bill-in-national-assembly/.

113 ZLHR, "The Operating Space of Civil Society Organisations in Zimbabwe: A Critical Analysis of the Proposed Regulation of Civil Society" available at https://www.zlhr.org.zw/wp-content/uploads/2022/07/The-Operating-Space-of-Civil-Society-Organisations-In-Zimbabwe-A-Critical-Analysis-of-the-Proposed-Regulation-of-Civil-Society.pdf.

114 Section 22A (3) (ii) of the Criminal Law (Codification and Reform) Amendment Act.

115 Section 48 of the Constitution of Zimbabwe, 2013.

CHAPTER 5

AN ANALYSIS OF ZLHR'S INTERVENTIONS TO PUSH BACK THE SHRINKING CIVIC SPACE 2021-2025

5.1 Overview

Recent threats to the civic space through the enactment of laws from 2021 to 2025 have come through a more nuanced approach by the government. As seen in the preceding chapter, the legislation has been justified on various grounds. The PVO Amendment Act, for instance, was justified on the grounds of complying with the recommendations of FATF. However, a seemingly legitimate purpose has been used to interfere with CSOs' operations through the law. More alarmingly, the law has sought to do even that which the FATF has said it cannot do or that which the FATF has not recommended. The so-called patriotism provisions have also been justified on the grounds of protecting the country's sovereignty and image, another seemingly legitimate purpose. The provisions, however, are in stark contrast with the stated objective. Furthermore, data protection and the protection of individuals from slanderous and harmful content are legitimate purposes for law-making. The reality, however, is that certain provisions in the Cyber and Data Protection Act, as analysed in Chapter 4, have been weaponised to target journalists and citizens who express dissenting opinions, particularly in the context of governance and electoral issues.

Some of ZLHR's interventions are not repeated in this chapter, as they are apparent from the cases reported in the previous chapters. This chapter will analyse some of the interventions implemented to push back against the shrinking space during the period 2021-2025.

5.2 The Media Alliance case

On 13 June 2025, the High Court of Zimbabwe struck down the provisions of section 22A(3) of the Criminal Code Amendment Act of 2023 and declared them unconstitutional and in violation of sections 39, 58, 61(1) and 67(3) of the Constitution of Zimbabwe.[116] The court however refused to strike down the provisions of section 22A(2) of the Act. The case, brought by ZLHR on behalf of Media Alliance of Zimbabwe and journalist Zenzele Moyo, challenged both sections 22A(2) and (3) of the Act.

The attack on section 22A(2) of the Act alleged that the provision was broadly worded, vague and consequently unconstitutional.[117] The complaint also asserted that section 22A(2)(i) of the Act, which imposed the death penalty, was in violation of section 48 of the Constitution and was, to that extent, unconstitutional.[118] In essence, the complaint alleged that section 22A(2)(a) and (b) of the Act did not define with sufficient precision and clarity what the offence entails and further that, the death penalty

116 Media Alliance of Zimbabwe and Another v Minister of Justice, Legal and Parliamentary Affairs N.O and Another HH-315-25 available at <https://veritaszim.net/sites/veritas_d/files/HH%20315-2025%20Media%20Alliance%20Zim%20%20v%20Min%20of%20Justice.pdf> [Last accessed on 25 November 2025].

117 As above.

118 Note 116 above.

provision was inconsistent with section 48 of the Constitution. Section 22A(2)(b) of the Act would have been clearer with the addition of the words, "by unconstitutional means" as provided for in section 22 of the code. This omission left a huge gap, such that citizens who engage in legitimate meetings would be arrested for subverting a constitutional government. It also appears that section 22A(2) of the Act is not necessary, given that sections 20-22 of the Criminal Law code already provide for the offences relating to unconstitutional removal of government.

The Minister justified the provisions of section 22A(2) of the Act on the grounds that it was defined with sufficient clarity and precision. Furthermore, the Minister stated that there was no overlap between section 22A and section 22 of the Criminal Code.[119] In other words, the Minister asserted that the new section 22A now included a new species of the offence, that is "actively partaking" unlike section 22 of the Act. With respect to the penalty provision, it was argued that, the court still retained discretion to order the appropriate sentence due regard to the circumstances of the matter.[120]

With respect to section 22A(3) of the Act, it was argued on behalf of the applicants that the section was too broad, vague and consequently unconstitutional. Section 22 A (3) of the Act, so the argument went, infringed upon the right to freedom of expression (section 61), freedom of association and assembly (section 58), right to vote and to stand for political office (section 67(3)), and citizenship rights (section 39).[121] Individuals who participate at regional and international fora where Zimbabwean issues are discussed could potentially be criminally liable under this provision. Such was the nature of the imprecision of the provision. On the other hand, the Minister argued that this provision was constitutional. The Minister also argued that no citizen has the right to conduct himself in the manner proscribed by section 22A(2) and (3) of the Act. It was incumbent upon any nation to protect its sovereignty and national interest, so the argument went.[122]

In dismissing the application to declare the provisions of section 22A(2) invalid, the court held that the object of the meeting with a foreign government to plan military intervention against Zimbabwe was clearly inimical to the country's interests.[123] The court also dismissed the argument by the applicants that the omission of the words, "by unconstitutional means" in section 22A(2)(b) rendered the provision too wide and vague and therefore unconstitutional, holding that, the context and import of sections 22A(2)(a) and (b) was the removal of government by unlawful means.[124] Section 22 of the Act even defined unconstitutional means. The context, therefore, was an unlawful removal of government. This was, however, despite the ordinary grammatical meaning of the section not providing for the words "by unconstitutional means." On the basis of the above reasoning, the court dismissed the challenge to section 22A (2) of the Act.

119 As above.

120 As above.

121 As above.

122 As above.

123 As above.

124 As above.

The further challenge to section 22A(2) of the Act on the grounds that it violated section 48 of the Constitution also fell away as, at the time of the hearing of the Media Alliance case, the Death Penalty Abolition Act had been signed into law in December 2024, abolishing the death penalty.[125]

With respect to section 22A(3) of the Act, the court upheld the applicants' argument. The court found that section 22A(3) was unconstitutional. Unlike the provisions of section 22A(2) of the Act, which define "actively partaking" in a meeting, section 22A(3) criminalises "intentionally partaking" in meetings. The phrase "intentionally partake" in is not defined. This creates uncertainty. The court commenting on this provision correctly held that,

> ''This is a serious offence that has been placed under the genus of acts of treason in CHAPTER III of the Criminal Law Code, which attract severe penalties. There was therefore need for precision in its description. A mistake such as the one highlighted, if it was a mistake at all, creates confusion. It goes beyond mere semantics. It goes to the very essence of what it is that is being criminalised. Is it mere attendance or participation? What level, scope or extent of participation? A journalist wishing to cover such a meeting is likely to think twice before proceeding to the meeting. That hesitation does not augur well for the rights enshrined in s 58 and 61 of the Constitution. The confusion, vagueness, imprecision or ambiguity could have been cleared by a separate definition of the term "intentionally partake" along the same lines as that for "actively partake"

The court also correctly declared as unconstitutional section 22A(3) on the grounds that some of the penalty provisions violated sections 39, 61(1) and 67(2) of the Constitution.

The declaration of invalidity of section 22A (3) of the Act is subject to confirmation by the Constitutional Court of Zimbabwe. The confirmation proceedings were set down for hearing on 10 September 2025 before the Constitutional Court. Judgment in that matter was reserved, and as at the time of writing this publication, the judgment has not yet been handed down.

In summary, the High Court judgment as seen above is a progressive step in reaffirming fundamental human rights which are under threat by repressive legislation. It is hoped that the declaration of invalidity will be confirmed and that the provisions of section 22A(3) will be struck down. They are not justified in a democratic society that is based on openness and fairness.

5.3 Responses to the PVO Amendment Act, 2025

As already highlighted above, the PVO Amendment Act contains regressive provisions that amount to an overreach and an unjustified intrusion into the affairs of CSOs. Despite concerns raised by CSOs, regional and international human rights bodies, the Act was passed into law in April 2025.

The first major legal intervention occurred in May 2024 following the chaotic public hearings into the then PVO Amendment Bill. The joint portfolio committee on public service, labour and social welfare and the thematic committee on gender development supposedly convened public hearings on the Persons with Disability Bill and the PVO Amendment Bill from 13 May 2024 to 17 May 2024. The public hearings were to be convened at different venues across Zimbabwe.

On 17 May 2025, in Harare, the hearings into the PVO Amendment Bill were violently disrupted by unknown individuals. These individuals were reacting to a contribution made by one of the participants opposing the PVO Amendment Bill. Police officers were called in and restored order. But this was, however, after the members of the joint parliamentary portfolio committee had fled the

125 As above.

venue. The disruptions, which appeared choreographed, were also witnessed at other venues in Mutare, Masvingo, Chinhoyi and Gweru. Subsequently, ZLHR wrote to the Speaker of Parliament, calling for the reconvening of the public hearings and for the Bill not to proceed to the next stage in Parliament. This was to afford members of the public attending these hearings any opportunity to reasonably and adequately express their views on the provisions of the PVO Amendment Bill as provided for in section 139, as read with section 141 of the Constitution. The PVO Amendment Bill, however, proceeded to the next stages notwithstanding the above.

Consequently, ZLHR filed a constitutional application in the matter of *Farai Maguwu and Others v Parliament of Zimbabwe.*[126] In that application, the applicants narrated the violent disruption of the PVO Amendment Bill hearings and alleged that the hearings failed to meet constitutional requirements. The applicants further argued that Parliament had failed to fulfil its constitutional obligations under sections 139 and 141 of the Constitution in respect of the public hearings into the Bill. The applicants further sought an order compelling parliament to reconvene the public hearings in accordance with the Constitution. The hearing of the matter was set down for 9 October 2024. At the hearing of the application, however, the matter was struck off the roll on the basis that it was not ripe for argument. The court was of the view that, even if it were accepted that the hearings were disrupted, the President still retained the power to refuse to assent to the Bill. In essence, the argument went, the applicants ought to have waited until the Bill became law before mounting a challenge.

Following the enactment of the PVO Amendment Act in April 2025, a court application for a declaration of constitutional invalidity was filed in the High Court at Harare in May 2025, challenging certain provisions of the PVO Amendment Act. In the application filed on behalf of ZLHR, the applicant seeks the declaration of constitutional invalidity of section 4, section 5 as read with section 9 (5), section 6, section 13A, section 14, and section 21, of the PVO Act [Chapter 17:05] (as amended by the PVO Amendment Act). An analysis of these provisions has been carried out in the previous chapter and shall not be repeated in this section.

It suffices to state, however, that the court application challenges the Act on the various grounds, including that the Minister and Registrar wield excessive powers contrary to the right to associate and assemble. Furthermore, the constitutional challenge alleges that the Act has gaps that render it void for vagueness. In addition, the Act has been challenged on the grounds that certain provisions contradict each other, creating a lacuna in the law that violates the administrative rights contained in section 68 of the Constitution. The compulsory re-registration requirements are also subject of the challenge on the basis that they violate the right to freedom of association and the right to equal treatment and benefit of the law. The matter is still ongoing as at the time of writing this publication.

In August 2025, another application was filed in the case of *Passionate Fuza & Another v Parliament of Zimbabwe.*[127] This application is a sequel to the *Maguwu case* referred to above and essentially repeats the same arguments. The only difference, however, relates to part of the relief sought. In particular, the new application seeks relief declaring the PVO Amendment Act invalid on the grounds that it was not enacted in accordance with the constitutional provisions on public hearings set out in sections 139 and 141 of the Constitution. The matter is still before the courts as at the time of publication.

126 Constitutional Court Zimbabwe Application 20 of 2024.

127 Constitutional Court of Zimbabwe Application 36 of 2025.

5.4 Responses from regional and international mechanisms

There has been ongoing concern from regional and international mechanisms about laws passed that restrict civic space. In August 2023, the United Nations mandates of the Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association; the Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions; the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression and the Special Rapporteur on the Situation of Human Rights Defenders wrote a letter to the GoZ raising concerns over the enactment of the Criminal Law (Codification and Reform) Amendment Act which contained the "patriotism provisions." The mandates expressed concern over the broad language used in the provisions and their potential for a high risk of arbitrary or unlawful decisions, contrary to the standards related to the right to freedom of expression, freedom of association and of peaceful assembly.[128] With respect to the criminal penalties, the mandates stated they lacked legitimate aim, legality, necessity, and proportionality and were inconsistent with Zimbabwe's international obligations.[129]

Following the passage of the abandoned PVO Amendment Bill, 2021 by Senate in 2023, UN Special procedures also called upon the President to reject signing of the Bill into law.[130] This communication by the Special Procedures was a sequel to the analysis by the UN experts in 2021 and a letter to the President in which they raised concerns about the Bill's chilling effect on fundamental rights and its negative impact on civic space. Fortunately, the President refused to sign the Bill as assented to by Parliament and returned the same with reservations.

Various other international organisations and international CSOs have also expressed concern over the PVO Amendment Act. The law is retrogressive and an affront to the civic space, which is necessary in a democratic society.

128 Mandates of the Special Rapporteur on the rights to freedom of peaceful assembly and of association; the Special Rapporteur on extrajudicial, summary or arbitrary executions; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Rapporteur on the situation of human rights defenders, "Ref.: OL ZWE 1/2023" available at <https://www.veritaszim.net/node/6584> [Last accessed on 20 Dcember 2025].

129 As above.

130 OCHCR, "UN experts urge President of Zimbabwe to reject bill restricting civic space" available at <https://www.ohchr.org/en/press-releases/2023/02/un-experts-urge-president-zimbabwe-reject-bill-restricting-civic-space?mkt_tok=Njg1LUtCTC03NjUAAAGLpE1usJjlT7yPrefhx0c4n-S0H8Oj-tfg_mc4jt1YppXq-GILxPSb6BWS-WPmuBHGi1FWJzdy7C6sN845i_ls3Pvz9-0P2mpEdCybq71v0TnePNfQ> [Last accessed on 20 November 2025].

CHAPTER 6

CONCLUSION AND RECOMMENDATIONS

6.1 Overview

In this chapter, this publication summarises the major highlights in the operating space of civil society in the period 2021 to 2025. The legislative trajectory the government of Zimbabwe has taken in regulating civic space has been deeply regrettable. Having said that, the publication makes several recommendations to several stakeholders to open the civic space for a more vibrant democratic society.

6.2 Conclusion

The legislative developments from 2021 to 2025 in the context of the civic space have been disconcerting. As seen in this publication, there has been a deliberate process aimed at crippling civic engagement, through, among other ways, onerous and restrictive regulation of PVOs and the arrest and prosecution of individuals who express divergent opinions. In the face of these real threats, the law has become a tool to resist efforts to further shrink civic space. The *Media Alliance judgment* being a case in point where the strategic litigation has successfully been used to strike down unconstitutional laws.

The PVO Amendment Act of 2025 is a regrettable piece of legislation in the current constitutional framework, anchored on fundamental human rights. It is a brazen violation of human rights and an unjustified overreach on the operations of PVOs, which complement the government in several respects. The Act is not consistent with Zimbabwe's own international obligations and international human rights law.

Furthermore, media freedoms should not be violated under the guise of dealing with messages that incite violence. As seen above, the arrest of journalists under the Cyber and Data Protection Act is a stark reminder of the dark days of AIPPA, where journalists were routinely arrested for allegedly abusing journalistic privileges.

An open civic space demands that freedoms of expression, association and assembly, among other rights, be respected, protected and promoted as they are necessary in a democratic society.

6.3 Recommendations

As highlighted in the introduction to this publication, an open civic space is a legal obligation that states must comply with. Laws, practices and conduct that restrict the civic space violate the state's own international obligations under international human rights law. To this end, it is imperative that laws regulating civic space facilitate rather than hinder the enjoyment of human rights. It has been argued elsewhere that countries with greater respect for human rights tend to experience higher levels of economic and human development.[131] An open civic space requires not only respecting fundamental

131 Open Government Partnership, "Actions to Protect and Promote the Civic Space." Available at https://www.opengovpartnership.org/actions-for-a-secure-and-open-civic-space/.

freedoms but also adopting policies that protect it. The Organisation for Economic Co-operation and Development (OECD) recommends that governments adopt civic space protection as a national policy priority to counter democratic backsliding.[132] At the local level, as Zimbabwe transitions to National Development Strategy 2 (NDS 2) from NDS 1, it is recommended that civic space protection should be a policy priority with specific activities planned and indices for measuring, monitoring and evaluation compliance.

To this end, it is recommended that the government repeal laws that infringe the right to freedom of expression and the media, such as the "patriotism provisions" of the Criminal Code Amendment Act. Furthermore, the weaponisation of the Cyber and Data Protection Act, as well as the Criminal Law (Codification and Reform) Act, to target journalists should be avoided to create an enabling environment for a thriving media with different opinions. Limits to the right to freedom of expression and media freedom should be for a legitimate purpose, proportionate, and justified in a democratic society based on openness, justice, human dignity, equality, and freedom.[133] In addition, any limitations to these rights should be consistent with regional and international human rights law. Stronger whistleblower protection frameworks should be put in place whilst also reinforcing existing ones to protect investigative journalists from reprisals better. In this vein, the arrest and prosecution of journalists for publishing stories in the public interest, such as those exposing corruption, poor governance, and human rights abuses, should have no place in a democratic society.

Laws regulating CSOs' operations should not be unduly burdensome or impede their operations. The ACHPR Guidelines on FoAA provide useful tools for regulating CSOs. At the core of the guidelines is the need to protect the right to freedom of association and assembly. In that regard, onerous registration or re-registration requirements violate the right to freedom of association and assembly. Furthermore, laws regulating CSOs should be subject to extensive public consultation, with meaningful debate and input.[134]

Having said the above, it is recommended that provisions requiring re-registration of pre-existing organisations should be removed from the statute books. As highlighted earlier, such requirements violate international best practices and standards. Furthermore, provisions of the PVO Act, as amended, granting excessive powers to the executive, such as powers to suspend executive committees of organisations and unfettered powers to reject applications for registration, are not consistent with international human rights standards.[135] They constitute an unjustified intrusion into CSOs' operations and, in the process, violate freedom of association.

The criminalisation of CSOs and the individuals involved in their work should be avoided. For instance, provisions criminalising failure to apply for registration by sanctionable trusts, and those criminalising national-level office bearers for the vaguely worded offence of supporting a political party or candidate,

132 Organisation for Economic Co-operation and Development, "Practical Guide for Policymakers on Protecting and Promoting Civic Space" available at https://www.oecd.org/content/dam/oecd/en/publications/support-materials/2024/11/practical-guide-for-policymakers-on-protecting-and-promoting-civic-space_4e394a55/Civic%20Space%20Highlights%20Brochure_V2.pdf.

133 Open Government Partnership, "Actions to Protect and Promote the Civic Space." Available at https://www.opengovpartnership.org/actions-for-a-secure-and-open-civic-space/.

134 ZLHR, "The Operating Space of Civil Society Organisations in Zimbabwe: A Critical Analysis of the Proposed Regulation of Civil Society" available at https://www.zlhr.org.zw/wp-content/uploads/2022/07/The-Operating-Space-of-Civil-Society-Organisations-In-Zimbabwe-A-Critical-Analysis-of-the-Proposed-Regulation-of-Civil-Society.pdf.

135 As above.

are too excessive. The latter offence, in particular, lacks the legality, clarity, legitimate aim, necessity, and proportionality that are mandatory in the formulation of criminal offences. To this extent, the provision violates the right to equal protection and the benefit of the law.

As Zimbabwe progresses, it is recommended that the government must abandon any further efforts to enact laws that restrict civic space, particularly those that inhibit CSOs' ability to operate freely and without fear of criminalisation or de-registration.