



INTERNATIONAL
COMMISSION
OF JURISTS

UNITED NATIONS HUMAN RIGHTS COUNCIL
Special Rapporteur on the situation of human rights defenders

**INTERNATIONAL COMMISSION OF JURISTS (ICJ) RESPONSE TO
THE QUESTIONNAIRE ON THE USE OF LEGISLATION, INCLUDING CRIMINAL
LEGISLATION, TO REGULATE THE ACTIVITIES AND WORK OF
HUMAN RIGHTS DEFENDERS**

Submitted June 2012

Composed of 60 eminent judges and lawyers from all regions of the world, the International Commission of Jurists promotes and protects human rights through the Rule of Law, by using its unique legal expertise to develop and strengthen national and international justice systems. Established in 1952, in consultative status with the Economic and Social Council since 1957, and active on the five continents, the ICJ aims to ensure the progressive development and effective implementation of international human rights and international humanitarian law; secure the realization of civil, cultural, economic, political and social rights; safeguard the separation of powers; and guarantee the independence of the judiciary and legal profession.

ICJ response to the questionnaire on legislation regulating the activities and work of human rights defenders

1. The International Commission of Jurists (ICJ) welcomes the opportunity to respond to the questionnaire prepared by the Special Rapporteur on the situation of human rights defenders concerning the use of legislation, including criminal legislation, to regulate the activities and work of human rights defenders (HRDs). The questionnaire was issued to States, national human rights institutions, non-governmental organisations and regional human rights mechanisms with a view to annexing responses to the Special Rapporteur's report to the United Nations General Assembly in October 2012.

2. This response does not respond to all questions in the questionnaire, nor does it purport to address questions affecting all countries. It is instead focussed on two thematic areas and three countries, namely: (1) global issues relevant to laws affecting judges and lawyers; (2) global issues relevant to laws affecting lesbian, gay, bisexual and transgender (LGBT) individuals and organisations; (3) laws in South Africa; (4) laws in Ethiopia; and (5) laws in Zimbabwe. The ICJ does not express any view concerning the remaining questions posed by the Special Rapporteur, or concerning countries and issues outside the scope of this document.

PART I:

LAWS AFFECTING THE ROLE AND INDEPENDENCE OF JUDGES AND LAWYERS

3. Legal professionals, including judges, lawyers, prosecutors, and paralegals, play an essential role in defending human rights. In some instances, their role may be direct, as when they act to advance the realization of rights in specific cases. In other situations, they may act specially to ensure the fair administration of justice, which is both a human rights objective in itself and a prerequisite for the realization of human rights generally. Legal professionals also act as human rights defenders where their freedom of expression and association constitute indispensable means to facilitate and protect the fulfilment of this role.¹ Accordingly, as part of the protection and facilitation of human rights defenders' work, States must ensure that their domestic law and practice guarantee the right to freedom of expression of judges,² prosecutors³ and lawyers⁴, together with their freedom to form and join associations representing their interests, promoting their professional development and protecting their status and professional integrity, in line with international law and standards. As observed by the Special Rapporteur on the independence of judges and lawyers, the freedom of expression and association of judges and legal professionals constitute important guarantees for their effective and independent functioning.⁵ Hence, the

¹ With regard to defence lawyers specifically, see also, *inter alia*, also see the report of the Special Rapporteur on the situation of human rights defenders, UN Doc A/HRC/13/22 (2009), para 32. See also articles 6 and 9(3)(c) of the *Declaration on Human Rights Defenders*, mentioning "professionally qualified legal assistance".

² See UN *Basic Principles on the Independence of the Judiciary*, Principles 8 and 9; *Draft Universal Declaration on the Independence of Justice*, Article 7; *Bangalore Principles of Judicial Conduct*, Value 4.6 and 4.13; *Universal Charter of the Judge*, Article 12; *Principles and Guidelines on the Right to a Fair Trial and Legal Assistance in Africa*, Principle A(4)(s)-(t); *European Charter on the Statute for Judges and Explanatory Memorandum*, para 1.7; *Recommendation R(2010)12 of the Committee of Ministers to Member States on judges: independence, efficiency and responsibilities*, Article 25; *Beijing Statement of Principles on the Independence of the Judiciary in the LAWASIA Region*, Principles 8-9; *Latimer House Guidelines for the Commonwealth on Parliamentary Supremacy and Judicial Independence*, Guideline VII.3; and *Statute of the Iberoamerican Judge*, Article 36.

³ See UN *Guidelines on the Role of Prosecutors*, Guidelines 8 and 9; *Principles and Guidelines on the Right to a Fair Trial and Legal Assistance in Africa*, Principles F(d)-(e); *Recommendation R(2000)19 of the Committee of Ministers to Member States on the Role of Public Prosecution in the Criminal Justice System*, Article 6; and *Standards of Professional Responsibility and Statement of the Essential Duties and Rights of Prosecutors*, Standard 6 (8th indent).

⁴ See UN *Basic Principles on the Role of Lawyers*, Principles 23-25; *Draft Universal Declaration on the Independence of Justice*, Article 99; *Principles and Guidelines on the Right to a Fair Trial and Legal Assistance in Africa*, Principles I(k)-(l); *Recommendation R(2000)21 of the Committee of Ministers to Member States on the Freedom and Exercise of the Profession of Lawyer*, Principle V.

⁵ Report of the Special Rapporteur on the independence of judges and lawyers, UN Doc A/HRC/11/41 (2009), para 102; and Report of the Special Rapporteur on the independence of judges and lawyers, UN Doc A/64/181 (2009), para 111(a).

realization of these rights for legal professionals also has an indirect impact on the facilitation and protection of all human rights defenders' activities.

Questions 1(c) and 3(b)

- 1(c) Please also indicate what legal or administrative safeguards are put in place to prevent baseless legal action against and/or prosecution of human rights defenders for undertaking their legitimate work.
- 3(b) Please indicate what legal or administrative safeguards are in place in order to ensure that human rights defenders are not discriminated against in the administration of justice, be it through the handing down of disproportionate sentences, the unreasonable prolongation of criminal or other trials, or any other means.

4. Legal professionals fulfil an essential role in safeguarding human rights and the rule of law, including through ensuring access to justice for victims of human rights violations.⁶ The establishment of legal and institutional frameworks for the administration of justice in line with international law and standards, in order to enable their effective functioning, is critical to safeguard against institutional, legalised and other attacks on the activities of human rights defenders. These may include including warrantless legal action and prosecution or discrimination in the administration of justice. They may also include other forms of persecution and harassment of legal professionals, such as in appropriate actions undermining the conditions and security of tenure of judges,

5. The "the independence of the judge is indispensable to impartial justice under the law".⁷ As a fundamental aspect of the rule of law, "[i]t is the duty of all governmental and other institutions to respect and observe the independence of the judiciary".⁸ For judges themselves, international guidelines prescribe a corresponding duty to "uphold and exemplify judicial independence in both its individual and institutional aspects" and to "perform [their] judicial duties without favour, bias or prejudice".⁹

6. As regards the prosecutor, the domestic legal framework and practice should secure and promote their effectiveness, impartiality and fairness in criminal proceedings.¹⁰ In line with international law and standards, States must take effective measures allowing prosecutors to perform their professional functions "without intimidation, hindrance, harassment, improper interference or unjustified exposure to... liability".¹¹ Prosecutors from their side have the duty to "perform their duties fairly, consistently and expeditiously" while upholding human rights, and they must act impartially and abstain from discrimination on any ground.¹² Their function must include supervision over the legality of investigations and they may not initiate or continue prosecution when an impartial investigation shows a

⁶ International Commission of Jurists, Geneva Declaration and Plan of Action on Upholding the Rule of Law and the Role of Judges and Lawyers in Times of Crisis, Declaration and Commentary, ICJ Human Rights and Rule of Law Series No. 3, available at <http://www.icj.org/default.asp?nodeID=349&sessID=&language=1&myPage=Legal_Documentation&id=23803>.

⁷ *Universal Charter of the Judge*, Article 1.

⁸ *UN Basic Principles on the Independence of the Judiciary*, Principle 1. See also *Principles and Guidelines on the Right to a Fair Trial and Legal Assistance in Africa*, Principle A(4) and (5); *Recommendation R(2010)12 of the Committee of Ministers to Member States on judges: independence, efficiency and responsibilities*, Articles 3-25; *Beijing Statement of Principles on the Independence of the Judiciary in the LAWASIA Region*, Principle 4; *Commonwealth Principles on the Accountability of and the Relationship between the Three Branches of Government*, Principles IV; and *Statute of the Iberoamerican Judge*, Article 2.

⁹ *Bangalore Principles of Judicial Conduct*, Values 1 and 2. See also, *inter alia*, *Draft Universal Declaration on the Independence of Justice*, Articles 2-8.

¹⁰ *UN Guidelines on the Role of Prosecutors*, preambular para12.

¹¹ *UN Guidelines on the Role of Prosecutors*, Guideline 4. See also *Principles and Guidelines on the Right to a Fair Trial and Legal Assistance in Africa*, Principle F(a); and *Recommendation R(2000)19 of the Committee of Ministers to Member States on the Role of Public Prosecution in the Criminal Justice System*, Articles 4, 5, 11.

¹² *UN Guidelines on the Role of Prosecutors*, Guideline 12. See also *Principles and Guidelines on the Right to a Fair Trial and Legal Assistance in Africa*, Principles F(h) *et seq.*; *Recommendation R(2000)19 of the Committee of Ministers to Member States on the Role of Public Prosecution in the Criminal Justice System*, Articles 24 *et seq.*; and *Standards of Professional Responsibility and Statement of the Essential Duties and Rights of Prosecutors*, Standard 4.

charge to be unfounded.¹³

7. Lawyers and other legal professionals are also essential for the administration of justice, including realization of the right of those whom they represent to a fair trial in both criminal and civil proceedings. Legal practitioners must be able to counsel and represent their clients in accordance with their established professional standards, without restriction or undue interference.¹⁴

PART II: LAWS AFFECTING LGBT INDIVIDUALS AND ORGANISATIONS

Question 2

(a) Please describe the measures taken, if any, to ensure that your country's national security-related laws (including laws on public order, public safety, respect for morals and counter-terrorism laws) are not used to unduly restrict the scope of activities of human rights defenders.

8. Around the world, the right to freedom of peaceful assembly for lesbian, gay, bisexual and transgender (LGBT) individuals and organisations is severely threatened. Participants in pride parades, equality marches and similar events are often attacked or intimidated by hostile counter-demonstrators. Police protection may be inadequate or non-existent. In some countries, potential threats to the peace by counter-demonstrators are invoked as justifications for the refusal to allow peaceful assemblies, in clear violation of international obligations. In other countries, new or proposed legislation imposing restrictions on the exercise of expression concerning LGBT individuals or sexual orientation issues means that the right to peaceful assembly is equally at risk. Public order and the protection of public morals, both recognized purposes for restrictions in circumscribed circumstances under article 21 of the International Covenant on Civil and Political Rights (ICCPR) are the most frequently cited reasons for such interferences. It is clear is that public order and public morals are being improperly invoked in contravention of their meaning in the ICCPR by public authorities to justify discrimination on the basis of sexual orientation and gender identity. The following are a few recent examples:

9. **Belarus:** In May 2010, the Minsk City Executive Committee denied permission for the Slavic Pride march. Marchers who defied the ban found themselves facing police officers who forcibly prevented the march and assaulted and arrested participants. Those who were arrested were fined for taking part in an unsanctioned public action and then released.¹⁵

10. **Croatia:** In June 2011, the Split Pride parade was attacked by protesters armed with rocks, bottles and tear gas. The protesters screamed, "Kill the faggot!" and "You must die!". Police were apparently unprepared for the violent counter-demonstrators and failed to protect parade participants. At least eight people were injured and a number of people have been arrested.¹⁶ The Prime Minister and President of Croatia condemned the violence.¹⁷ In May 2012, authorities in Split refused permission for the pride parade to occur along its

¹³ *UN Guidelines on the Role of Prosecutors*, Guidelines 11 and 14. See also *Principles and Guidelines on the Right to a Fair Trial and Legal Assistance in Africa*, Principles F(g) and (j); and *Recommendation R(2000)19 of the Committee of Ministers to Member States on the Role of Public Prosecution in the Criminal Justice System*, Article 27.

¹⁴ See Human Rights Committee, General Comment 32, UN Doc CCPR/C/GC/32 (2007), paras 32, 34, 37 and 38 in relation to criminal proceedings. See also, *inter alia*, *UN Basic Principles on the Role of Lawyers*, Principles 1, 2 and 5; *Draft Universal Declaration on the Independence of Justice*, Articles 74-76; and Human Rights Committee, Communication 110/1981, *Antonio Viana Acosta v Uruguay*, UN Doc CCPR/C/21/D/110/1981 (1984), paras 13.2 and 15.

¹⁵ ILGA Europe, *Ban of Slavic Pride 2010 in Minsk*, available at URL <http://www.ilga-europe.org/home/news/latest_news/ban_of_slavic_pride_2010_in_minsk> (last accessed 16 January 2012), 12 May 2010.

¹⁶ "Split Gay Pride Abandoned Amid Riots by 10,000 Anti-Gay Protestors", *UK Gay News*, 11 June 2011, available at URL <<http://ukgaynews.org.uk/Archive/11/Jun/1104.htm>> (last accessed 16 January 2012).

¹⁷ "Croatia President, Prime Minister, Condemn Violence At Gay Pride Parade", *The New Civil Rights Movement*, 12 June 2011, available at URL <<http://thenewcivilrightsmovement.com/croatia-president-prime-minister-condemn-violence-at-gay-pride-parade/politics/2011/06/12/21908>> (last accessed 16 January 2012).

originally scheduled route, citing fears of violence and the inability of the police to protect marchers.

11. **Malaysia:** In November 2011, the police banned the fourth annual Seksualiti Merdeka festival. This was an arts and performance festival celebrating “sexual diversity” originally scheduled to take place in Kuala Lumpur. The reason given for the ban was protection of public order.¹⁸

12. **Moldova:** GenderDoc-M, an LGBT organisation, has been repeatedly denied permission to hold a peaceful demonstration in Chisnau. The Moldovan Government has justified its refusals based on “public morality” and “public order.” The case of *GenderDoc-M v Moldova* is currently pending before the European Court of Human Rights. The ICJ has submitted comments in this case as a third-party intervener.¹⁹

13. **Nigeria:** In November 2011, the Senate adopted a draft Bill prohibiting same-sex marriage and also criminalizing anyone who supports gay clubs, societies, organizations, processions or meetings. The prison term for such an offense is ten years. The Bill is now pending before the House of Representatives.²⁰

14. **Russian Federation:** In October 2010, in the case of *Alekseyev v Russia*, the European Court of Human Rights held that the denial of permission for gay pride parades in Moscow in 2006, 2007, and 2008 violated the right to freedom of peaceful assembly under article 11 of the (European) Convention for the Protection of Human Rights and Fundamental Freedoms.²¹ Despite this judgment, gay pride events continue to be banned, most recently in 2011 in Moscow and St. Petersburg. In May 2011, participants in Moscow who defied the ban and attempted to march were arrested by police. In November 2011, the Vasilestrovskii District Court in St. Petersburg ruled that the earlier denial of permission for Slavic Pride was unlawful and ordered authorities to grant permission for future events.

15. **Serbia:** In September 2011, the National Security Council cancelled the planned Belgrade Pride. Authorities stated that they could not control extremist groups nor protect participants from violent counter-demonstrators. At least three counter-protests had been planned. The previous year, police and marchers were injured and more than 250 arrests were made. Belgrade Pride had previously been banned in 2009.²²

16. **Ukraine:** A draft law tabled in June 2011 has the stated intent of establishing criminal liability for people who promote “sexual relations between persons of the same sex”. The “promotion of homosexuality”, which is not defined, is prohibited. The proposed Bill would amend the Criminal Code, the Law on the Protection of Public Morals, and laws on mass media, television and radio, and publishing. Although primarily aimed at limiting freedom of expression on matters relating to homosexuality, the Bill has obvious implications for freedom of peaceful assembly and freedom of association because it restricts the content of

¹⁸ Human Rights Watch, *Malaysia: Reverse Ban on Sexual Diversity Festival*, 8 November 2011, available at URL <<http://www.hrw.org/news/2011/11/08/malaysia-reverse-ban-sexual-diversity-festival>> (last accessed 16 January 2012).

¹⁹ *GenderDoc-M v Moldova*, European Court of Human Rights Application N° 9106/06, 21 June 2010, third party intervention by the International Commission of Jurists and ILGA Europe.

²⁰ International Commission of Jurists, *Nigeria's Same-Sex Marriage Bill Threatens the Rights of Everyone – ICJ*, 1 December 2011, available at URL <<http://www.icj.org/dwn/database/ICJ%20Press%20Release%20Nigeria.pdf>> (last accessed 16 January 2012).

²¹ *Alekseyev v Russia*, European Court of Human Rights Applications N° 4916/07, 25924/08 and 14599/09 (11 April 2011), available at URL <<http://cmiskp.echr.coe.int/tkp197/view.asp?item=1&portal=hbkm&action=html&highlight=alekseyev%20%7C%20v.%20%7C%20russia&sessionid=84979613&skin=hudoc-en>> (last accessed 17 January 2012).

²² “Serbia considers gay march ban”, *Irish Times*, 30 September 2011, available at URL <<http://www.irishtimes.com/newspaper/breaking/2011/0930/breaking21.html>> (last accessed 17 January 2012); and “Belgrade Gay Pride Banned: Members of the European Parliament Express Deep Regret”, *UK Gay News*, 30 September 2011, available at URL <<http://ukgaynews.org.uk/Archive/11/Sep/3001.htm>> (last accessed 17 January 2012).

all expressive activities.²³

Question 2

(b) Please also indicate in particular how these national security-related laws respect the human right to freedom of expression and opinion.

17. **Hungary:** Three Bills have been introduced in Parliament that would amend both the Constitution and existing laws in order to prohibit the promotion or propagation of “disorders of sexual behaviour”, which is defined to include same-sex relationships. Public events, speeches, and media relating to disorders of sexual behaviour would thereby all be prohibited. The penalties would range from a fine to up to eight-years’ imprisonment. In related information, the Budapest police have refused to issue a permit for this year’s LGBT pride march.

18. **Latvia:** In Riga, a proposed city council regulation would criminalise the propaganda of homosexuality. The Legal Directorate of the Riga City Council, however, has described such a ban as a violation of human rights. No final decision has yet been taken.

19. **Russian Federation:** Criminal laws have been adopted in Ryazan, Arkhangelsk, St Petersburg, Kostroma, and Siberia. These laws all prohibit public actions or “propaganda” that promote homosexuality, including speech, public demonstrations, displaying posters, and other forms of expression. For example, the St Petersburg law states that: “Public actions aimed at promoting sodomy, lesbianism, bisexuality, and transgenderism toward juveniles are punishable” – namely by fines of up to 500 000 Rubles (approximately 12 800 €). The law defines propaganda as “any uncontrolled and targeted distribution of generally accessible information capable of harming the health and moral and spiritual development of minors”, particularly information that could create “an incorrect perception of social equivalence between traditional and non-traditional conjugal relations”. Activists arrested in Ryazan in March 2009 were convicted. One of them, Irina Fedotova, now has a communication pending before the UN Human Rights Committee. In April 2012, activists in St Petersburg were arrested for violating the law, including demonstrators who marched through town with their mouths taped shut as a form of silent protest. Others had held up posters declaring that “homosexuality is normal.” In addition, a federal law imposing a similar ban has been introduced in the lower house of Parliament.

20. **Uganda:** The Anti-Homosexuality Bill has been reintroduced in Parliament. While much of the attention has rightly focused on the imposition of the death penalty for consensual adult same-sex sexual conduct, another provision of the Bill criminalizes the “promotion of homosexuality”. There are reports that the Bill could be tabled in the current session of Parliament.²⁴

21. **Ukraine:** Draft law 8711 has been approved for a first reading in Parliament. The draft law, which would modify several existing laws, criminalizes the “propaganda of homosexuality”. Homosexuality is defined as sexual relations between persons of the same sex. The explanatory note accompanying the draft law provides that its purpose is to “establish liability for actions that promote sexual relations between persons of the same sex”. The penalties range from a fine to five years’ imprisonment. In May 2012, a Parliamentary Committee issued a recommendation in favour of enactment of the draft law.

²³ Human Rights Watch, *Ukraine: Reject Homophobic Law*, 16 October 2011, available at URL <<http://www.hrw.org/news/2011/10/16/ukraine-reject-homophobic-law>> (last accessed 17 January 2012); and Human Rights Watch, *Ukraine: Letter to Chairman of Parliament Volodymyr Lytovyn Regarding Proposal for a Bill on Banning “Propaganda of Homosexuality”*, 16 October 2011, available at <<http://www.hrw.org/news/2011/10/16/ukraine-letter-chairman-parliament-volodymyr-lytovyn-regarding-proposal-bill-banning->>> (last accessed 17 January 2012).

²⁴ International Commission of Jurists, *Uganda: The International Commission of Jurists Urges Parliament Not to Pass Anti-Homosexuality Bill*, 9 May 2011, available at URL <<http://www.icj.org/dwn/database/Uganda%20AHB%20Press%20Release.pdf>> (last accessed 18 January 2012).

**PART III:
LAWS IN SOUTH AFRICA**

Question 1

- (a) Please indicate if your country has a specific legal framework, laws or regulations that aim to facilitate or protect the activities and work of human rights defenders. Please cite the names of any such laws or regulations in full.
- (b) Please indicate how these laws and regulations are in line with international human rights standards, including, but not limited to, the Declaration on Human Rights Defenders.
- (c) Please also indicate what legal or administrative safeguards are put in place to prevent baseless legal action against and/or prosecution of human rights defenders for undertaking their legitimate work.

22. Relevant laws and regulations in South Africa include:

- Constitution of the Republic of South Africa 1996
- Nonprofit Organisations Act 1997
- Codes of Good Practice for South African Non-Profit Organisations (NPOs)

23. The Constitution of the Republic of South Africa has incorporated and is generally consistent with international human rights law and standards. Section 39(1)(b) requires that a court, tribunal or forum interpreting the Constitution's Bill of Rights must consider international law. Chapter 2 of the Constitution sets out the Bill of Rights, the contents of which reflect the rights contained in the Universal Declaration of Human Rights and which are applicable to all persons, including human rights defenders. Section 7(2) of the Constitution states that South Africa "must respect, protect, promote and fulfil the rights in the Bill of Rights", which is in line with international human rights, including the Declaration on Human Rights Defenders. The rights enshrined in the Bill of Rights may only be limited under section 36.

24. The Nonprofit Organisations Act facilitates the registration of non-profit organisations (NPOs) such as non-governmental organisations, of which most human rights defenders are part. Its purpose is to provide an environment in which NPOs can flourish, and to establish an administrative and regulatory framework for NPOs. The NPO Act repealed the Fundraising Act of 1978, which had been used by the *apartheid* government to suppress the fundraising activities of some organisations.²⁵ Registration is not mandatory. Section 3 requires that every State organ determine and coordinate the implementation of its policies and measures in a manner that promotes, supports and enhances the capacity of NPOs to perform their functions. This provision is in line with the objectives of international human rights standards, including the Declaration on Human Rights Defenders.

25. Safeguards to prevent baseless legal action against HRDs exist through the protection of human rights and fundamental freedoms under the Bill of Rights in the Constitution of South Africa.

Question 2

- (c) Please describe the measures taken, if any, to ensure that your country's national security-related laws (including laws on public order, public safety, respect for morals and counter-terrorism laws) are not used to unduly restrict the scope of activities of human rights defenders.

26. Section 7(3) of the Constitution provides that the rights in the Bill of Rights may only be limited in terms of section 36, and other rights-specific limitations provisions found elsewhere in the Bill of Rights. Section 37 of the Constitution sets out non-derogable rights in cases of states of emergency. Chapter 11 of the Constitution regulates security services.

²⁵ The International Centre for Not-for-Profit Law, *NGO Law Monitor*, at <www.icnl.org/research/monitor/southafrica.html>.

Section 198(c) in Chapter 11 provides that “national security must be pursued in compliance with the law, including international law”.

27. The Protection of Constitutional Democracy against Terrorist and Related Activities Act 2004 (POCDATARA) does not expressly provide measures to ensure that human rights defenders are not unduly restricted from conducting their activities. However, it does recognize, in the preamble, that South Africa is a constitutional democracy where fundamental human rights, such as the right to life and free political activity, are constitutionally enshrined. POCDATARA aims to provide for measures to prevent and combat terrorist and related activities.

28. The Regulation of Gatherings Act 1993 regulates assemblies and processions. It does not expressly provide measures to ensure that human rights defenders are not unduly restricted from conducting their activities. However, the preamble of the Act recognises that every person has the right to assemble with other persons and to express his or her views on any matter freely in public and to enjoy the protection of the State while doing so, and that the exercise of such right shall take place peacefully and with due regard to the rights of others. Sections 5 to 7 regulate circumstances whereby a gathering would be prohibited or prevented. In particular section 5(1) provides the circumstances where a gathering would be prohibited or prevented.²⁶

29. The State of Emergency Act 1997 provides for the declaration of a state of emergency by the President of the Republic. Although it does not expressly provide measures to ensure that human rights defenders are not unduly restricted from conducting their activities, Section 2(3)(a) recognises that no regulations may be made inconsistent with section 37 of the Constitution which, amongst other things, sets out non-derogable rights in the case of a state of emergency.

30. The Defence Act 2002 does not expressly provide measures to ensure that human rights defenders are not unduly restricted from conducting their activities. Although the Act explains, in Chapter 14, the roles of the Defence Force during a state of emergency, this does not address measures to ensure that human rights defenders are not unduly restricted from conducting their activities.

31. The South African Police Services Act establishes the South African police force, the functions of which are set out in section 201(2)(a) of the Constitution. The Act does not expressly provide measures to ensure that human rights defenders are not unduly restricted from conducting their activities. Section 24 makes provision for the police to execute court orders limiting the rights of persons who have contravened POCDATARA.

32. The Criminal Procedure Act 1977 does not expressly provide measures to ensure that human rights defenders are not unduly restricted from conducting their activities.

33. The Protection of Information Bill, which has been dubbed the “Secrecy Bill”, is not yet law. However, there are concerns within the South African human rights community that, if enacted in its current form, it will serve to limit the rights and freedoms of human rights defenders who advocate against matters deemed to relate to state secrets, or who raise concerns regarding such matters. The Bill is aimed at the protection of certain information from destruction, loss or unlawful disclosure. The Bill currently states that interpretation of the legislation must have regard, *inter alia*, to the freedom of expression, the right of access to information and the other rights and freedoms enshrined in the Bill of Rights; and be consistent with article 19 of the International Covenant on Civil and Political Rights (ICCPR) and South Africa’s other international obligations.²⁷ However, the Bill does not include a

²⁶ Section 5(1) provides that: “When credible information on oath is brought to the attention of a responsible officer that there is a threat that a proposed gathering will result in serious disruption of vehicular or pedestrian traffic, injury to participants in the gathering or other persons, or extensive damage to property, and that the Police and the traffic officers in question will not be able to contain this threat, he shall forthwith meet or, if time does not allow it, consult with the convener and the authorized member, if possible, and any other person with whom, he believes, he should meet or consult, including the representatives of any peace committee or police community consultative forum in order to consider the prohibition of the gathering”.

²⁷ See note 25 above.

public interest defence for human rights defenders and persons who report on information that the State may classify as classified.

Question 2

(d) Please also indicate in particular how these national security-related laws respect the human right to freedom of expression and opinion.

34. Section 2 of the Constitution states that the Constitution is the supreme law of the land and that all law that is inconsistent with it is invalid. Section 7(2) of the Constitution further states that South Africa “must respect, protect, promote and fulfil the rights in the Bill of Rights”. Section 16(1) recognizes and protects the constitutional right to freedom of expression. This right may be limited under sections 16(2) and 36 of the Constitution, which means that the right does not extend to propaganda for war; incitement of imminent violence; or advocacy of hatred based on race, ethnicity, gender or religion, and that constitutes incitement to cause harm. The full extent to which the freedom of expression may be limited has been subject to recent public debate in South Africa.²⁸

35. POCDATARA does not expressly address respect for the right to freedom of expression and opinion. The preamble notes that South Africa is a constitutional democracy where fundamental human rights, such as the right to life and free political activity, are constitutionally enshrined.

36. The Regulation of Gatherings Act recognizes that every person has the right to assemble with other persons and to express his or her views on any matter freely in public and to enjoy the protection of the State while doing so.

37. The State of Emergency Act does not expressly address respect for the right to freedom of expression and opinion. Although section 2(3)(a) recognises that no regulations can be made inconsistent with section 37 of the Constitution, the right to freedom of expression is *not* a non-derogable right under section 37 of the Constitution.

38. The Defence Act does not expressly address respect for the right to freedom of expression and opinion. The same can be said with respect to the South African Police Services Act and the Criminal Procedure Act.

39. In its current form, the Protection of Information Bill limits the right to freedom of expression or opinion (as explained in para 33 above). The Bill currently does not provide for a public interest defence.

Question 3

(a) Please describe the measures taken, if any, to ensure that provisions of the criminal code, or other national laws, are not ambiguous or too broad to allow their arbitrary use, thereby restricting the activities of human rights defenders.

40. Although the Protection of Information Bill has been revised, concerns remain regarding the absence of a public interest defence for persons who express an opinion concerning information they obtain regarding government activities, which may be classified by the State. The absence of such a defence may allow for the arbitrary use of the law to restrict the activities of human rights defenders.

²⁸ Debates relating to the extent to which the right to freedom of expression can be limited have emerged following the controversial painting by Brett Murray of President Jacob Zuma entitled ‘The Spear’. The ruling party, the African National Congress, brought an urgent court application in this regard. The application has since been withdrawn. See ANC to withdraw spear case, <<http://www.citizen.co.za/citizen/content/en/citizen/local-news?oid=282425&sn=Detail&pid=146826&ANC-to-withdraw-spear-case>>.

Question 3

- (b) Please indicate what legal or administrative safeguards are in place in order to ensure that human rights defenders are not discriminated against in the administration of justice, be it through the handing down of disproportionate sentences, the unreasonable prolongation of criminal or other trials, or any other means.

41. Section 34 of the Constitution provides that everyone has the right to a fair and public hearing before a court or, where appropriate, another independent and impartial tribunal or forum. Section 35 provides the rights of arrested, detained and accused persons in accordance to international human rights standards on a fair trial. Section 38 requires that a court, tribunal or forum must, when interpreting the Bill of Rights, “promote the values that underlie an open and democratic society based on human dignity, equality and freedom; consider international law; and, may consider foreign law”.

42. The Promotion of the Administration Justice Act (PAJA) seeks to give effect to section 33 of the Constitution, which makes provision for the right to just administrative action. The PAJA requires administrative action to be lawful, reasonable and procedurally fair. It also requires that written reasons for administrative decisions be provided.

Question 4

- (a) Please indicate if your country has specific laws or administrative rules governing the registration, functioning and funding of non-governmental organisations. Please cite the names of any such laws or regulations in full.

43. There are generally no laws that restrict NGOs from seeking and securing funding within the limits of the law, including foreign funding.

44. The Nonprofit Organisations Act and its Regulations facilitate the registration and functioning of non-profit organisations.

45. Under the Financial Intelligence Centre Act 2001 (FICA), NGOs that operate as non-profit trusts are regarded as accountable institutions in terms of FICA. Such institutions are required to register with FICA, and to notify the Centre of any changes to its registration details. The Centre is empowered to issue directives to ensure monitoring and compliance with FICA. Inspectors appointed under the Act may enter and inspect any premises of an accountable institution and, in certain instances, may direct persons to appear for questioning, produce documents and furnish information. Inspectors may also open any strong-room or safe and use any computer system on the premises to access data. Accountable institutions failing to register with or provide information to the Centre are liable to prosecution and, upon conviction, to a fine of up to 100 million South African Rand (approximately 95 000 EUR) or a maximum of 15 years’ imprisonment.

Question 4

- (b) Please explain how these legal or administrative provisions comply with your country’s international human rights obligations regarding the right to freedom of association.

46. Section 18 of the Constitution provides for the right to freedom of association.

47. Although the Nonprofit Organisations Act and its Regulations do not expressly provide for the right to freedom of association, its legal framework provides for an environment conducive to the work of NPOs, as well as an administrative and regulatory framework for NPOs. In so doing, the Act encourages the right of freedom of association of NGOs.

48. The purpose of FICA is to establish a Financial Intelligence Centre and a Counter-Money Laundering Advisory Council for the purpose of combating money laundering activities and the financing of terrorist and related activities. As such, the aim of FICA is

predominately financial in nature and does not expressly address the right to freedom of association, neither does it restrict it.

Question 5

- (a) Are there criminal or other legal or administrative sanctions for human rights defenders who undertake activities on an individual basis or while the association they are members of is unregistered?
- (b) If such a legal framework exists, does it restrict the type of activities that human rights defenders can undertake? If yes, please provide further details.

49. There are currently no such sanctions applicable in South Africa.

Question 6

Please indicate the measures taken, if any, to ensure that internal security and official secret-related laws are not used to deny freedom of information to human rights defenders and to prosecute them for their efforts to seek and disseminate information on the observance of human rights standards.

50. Section 7(3) of the Constitution provides that the rights in the Bill of Rights may only be limited in terms of section 36, and rights-specific limitation provisions found elsewhere in the Bill. Section 37 of the Constitution provides for non-derogable rights in cases of state of emergency. Chapter 11 of the Constitution regulates security services. Section 198(c) in Chapter 11 provides that “national security must be pursued in compliance with the law, including international law”. In the implementation of internal security, the State must therefore adhere to the principles of the Constitution.

51. The Promotion of Access to Information Act gives effect to section 32 of the Constitution concerning the right of access to information. Persons are permitted access to information that is held by the State, together with any information that is held by another person and that is required for the exercise or protection of any rights.

52. The Protection of Information Bill may be used to deny freedom of information to human rights defenders and to prosecute them for their efforts to seek and disseminate information on the observance of human rights standards – see further para 33 above.

Question 7

- (a) Please indicate the measures taken, if any, to avoid the use of defamation, slander or blasphemy laws to unduly restrict the right to freedom of opinion and expression of human rights defenders.
- (b) How is it ensured that such laws, as well as laws on printing, publication and censorship, comply with international human rights standards and do not target human rights defenders carrying out their legitimate work?

53. Section 16(1) of the Constitution recognizes and protects the constitutional right to freedom of expression. This right may be limited in terms of section 16(2), as explained in para 34 above.

**PART IV:
LAWS IN ETHIOPIA**

Question 1

- (a) Please indicate if your country has a specific legal framework, laws or regulations that aim to facilitate or protect the activities and work of human rights defenders. Please cite the names of any such laws or regulations in full.
- (b) Please indicate how these laws and regulations are in line with international human rights standards, including, but not limited to, the Declaration on Human Rights Defenders.

(c) Please also indicate what legal or administrative safeguards are put in place to prevent baseless legal action against and/or prosecution of human rights defenders for undertaking their legitimate work.

54. Relevant laws and regulations in Ethiopia include:

- Constitution of Ethiopia 1994: article 10 recognizes that human rights are inviolable and inalienable; and the human and democratic rights of Ethiopian citizens shall be respected. Enshrined in Part One of the Constitution are human rights and Part Two defines democratic rights. Article 9 provides that the Constitution is the supreme law of the land.
- The Proclamation to Provide for the Registration and Regulation of Charities and Societies (CSP), which facilitates the work of NGOs.

55. The Constitution makes provision for the promotion and protection of human rights and democratic freedoms as stated in Parts One and Two. Article 10 recognizes that human rights are inviolable and inalienable; and that the human and democratic rights of Ethiopian citizens shall be respected. Article 9 provides that the Constitution is the supreme law of the land. These human and democratic rights are in line with human rights standards, including the Declaration on Human Rights Defenders.

56. The CSP legal framework regulates NGOs and requires that they be registered in order to operate. However, the CSP restricts from meaningful participation in human rights activities those NGOs that receive more than 10 percent of their funds from foreign donors. This is due to the fact that the CSP only permits NGOs to receive only 10 percent of its funds from foreign donors. The domestic fundraising opportunities in Ethiopia are reported to be extremely limited thus the CPS indirectly restricts local NGOs and has the effect of rendering international NGOs illegal.²⁹ Such restrictions contravene with international human rights and standards, including the Declaration on Human Rights Defenders. They do not conform with the guarantees of the rights of freedom of association and other fundamental freedoms, since prima facie they are disproportionate to any legitimate purpose.

57. CSP grants to the Civil Society Agency (CSA), the body that regulates registration and facilitates the work of NGOs, broad powers that permit it to interfere in the work of NGOs. Article 85 of the Proclamation permits the CSA to enter the premises of any civil society organisation (CSO) without a court-ordered warrant; search the property; take-away original documents and interrogate employees.³⁰ The CSA may thereby confiscate sensitive and confidential documentation at any time, thus intimidating and hindering the work of human rights defenders. Furthermore, the CSP permits government monitoring of NGOs. Article 59(6) of the CSP gives the General Assembly of the CSA the power to decide on the dissolution of a CSO. Article 59(1) empowers it to enact and amend the rules of a CSO. The CSA also has the power to suspend or revoke the license of a registered CSO if the CSO in question has failed to comply with the CSP. The complexity and number of obligations set out in the Proclamation make it nearly impossible for CSOs to adhere to all of the provisions of the Proclamation.³¹ The power to suspend or revoke licenses thereby provides the Government with a powerful tool to arbitrarily dissolve organizations.³² Under section 102 of the CSP, NGOs may also be fined for failing to disclose the source of their funding and the amount of funding received. This has had a highly negative impact on the effective functioning of NGOs.³³

²⁹ Ethiopian Human Rights Council, *Impact of the CSO Proclamation on the Human Rights Council*, July 2011, p 4.

³⁰ *Ibid*, p 6.

³¹ *Ibid*.

³² *Ibid*.

³³ See Amnesty International, *Ethiopia: Human rights work crippled by restrictive law*, 12 March 2012, at <http://www.amnesty.org/en/news/ethiopia-human-rights-work-crippled-restrictive-law-2012-03-12> (accessed 31 May 2012).

Question 2

- (a) Please describe the measures taken, if any, to ensure that your country's national security-related laws (including laws on public order, public safety, respect for morals and counter-terrorism laws) are not used to unduly restrict the scope of activities of human rights defenders.
- (b) Please also indicate in particular how these national security-related laws respect the human right to freedom of expression and opinion.

58. Although the Constitution recognizes human and democratic rights, national security related laws are used by the State to unduly restrict the scope activities of human rights defenders.

59. The Ethiopian Government has used the Anti-Terrorism Proclamation 2009 to severely and unlawfully limit the right to freedom of expression and opinion. By way of example, in January 2012, three journalists and two opposition politicians were given prison sentences ranging from 14 years to life imprisonment under Ethiopia's anti-terrorism laws.³⁴ According to reports, Ethiopia's broad anti-terror law "renders someone subject to punishment of up to 20 years in prison for simply publishing statements that could indirectly encourage terrorism". So far, more than 100 people have been detained under this law, including journalists and opposition activists.³⁵ The Ethiopian authority use these security laws to intimidate and persecute any opposition to its rule.³⁶

Question 3

- (a) Please describe the measures taken, if any, to ensure that provisions of the criminal code, or other national laws, are not ambiguous or too broad to allow their arbitrary use, thereby restricting the activities of human rights defenders.

60. Section 9 of the Constitution states that "any law, customary practice, an act of an agency of government or official that contravenes the Constitution is invalid". This implies that all laws must comply with the principles of the Constitution.

61. The definition of a terrorist act under article 3 of the Anti-Terrorism Proclamation is overly broad, such that it may be arbitrarily used to restrict the activities of human rights defenders. Article 3 defines a terrorist act as being committed by any person or group "intending to advance a political, religious or ideological cause by coercing the government, intimidating the public or section of the public, or destabilizing or destroying the fundamental political, constitutional or, economic or social institutions of the country".

Question 3

- (b) Please indicate what legal or administrative safeguards are in place in order to ensure that human rights defenders are not discriminated against in the administration of justice, be it through the handing down of disproportionate sentences, the unreasonable prolongation of criminal or other trials, or any other means.

62. Article 19 of the Constitution sets out the rights of those who are arrested; and article 20 the rights of the accused. Article 37 makes provision for right of access to justice.

Question 4

- (a) Please indicate if your country has specific laws or administrative rules governing the registration, functioning and funding of non-governmental organisations. Please cite the names of any such laws or regulations in full.

³⁴ Human Rights League of the Horn of Africa, 2 February 2012, at <http://humanrightsleague.com/2012/02/ethiopias-anti-terrorism-laws-must-not-be-misused-to-curb-rights-un/> (accessed 31 May 2012).

³⁵ The Daily Activist, 20 October 2011 <http://www.thedailyactivist.com/human-rights-journalists-arrested/>

³⁶ See <http://www.aljazeera.com/news/africa/2011/06/2011630165542923490.html>,

(b) Please explain how these legal or administrative provisions comply with your country's international human rights obligations regarding the right to freedom of association.

63. As discussed at para 57 above, the Proclamation to Provide for the Registration and Regulation of Charities and Societies addresses such rules.

64. Although the right to freedom of association is provided for in article 31 of the Constitution, the effect of the CSP legal framework is such that NGOs have been forced to close down or have struggled to continue with their activities. As noted in para 56 above, this prevents meaningful participation in human rights activities for NGOs that receive more than 10 percent of their funds from foreign donors. As noted by Amnesty International: "during 2008, before the law was passed, the Ethiopian Women Lawyers Association (EWLA) provided free legal aid to over 17,000 women in addition to other activities that tens of thousands of participants benefited from. Today, EWLA is barely functioning, with limited legal aid for women provided by volunteers".³⁷

Question 5

- (a) Are there criminal or other legal or administrative sanctions for human rights defenders who undertake activities on an individual basis or while the association they are members of is unregistered?
- (b) If such a legal framework exists, does it restrict the type of activities that human rights defenders can undertake? If yes, please provide further details.

65. The CSP makes it mandatory for NGOs to register with the CSA within 3 months of their formation (sections 64(2) and 65(4)). Failure to register within the prescribed period is a ground for cessation of the operations of an NGO (section 65(4)).

66. By limiting the foreign funding that an NGO may receive to 10 percent, the CSP has severely restricted the activities of human rights defenders. Amnesty International has reported that NGOs in Ethiopia struggled to operate as a result of this restriction.³⁸ These restrictions have also negatively impacted upon the basic reporting capabilities of human rights defenders regarding human rights issue, as reported by Human Rights Watch.³⁹ Human Rights Watch reports that "two former leading rights organisations, the Ethiopian Women's Lawyers Association (EWLA) and the Human Rights Council (HRCO, formerly EHRCO), have had to slash their budgets, staff, and operations. Their bank accounts, which the government arbitrarily froze in December 2009, remain frozen".⁴⁰

Question 7

- (a) Please indicate the measures taken, if any, to avoid the use of defamation, slander or blasphemy laws to unduly restrict the right to freedom of opinion and expression of human rights defenders.
- (b) How is it ensured that such laws, as well as laws on printing, publication and censorship, comply with international human rights standards and do not target human rights defenders carrying out their legitimate work?

67. The preamble of the Mass Media Proclamation 2008 emphasizes the provisions of the Constitution regarding respect for the right to freedom of expression and opinion, and the prohibition against censorship. In so doing, it exhibits compliance with international human rights law and the activities and work of HRDs. However, article 41(1) provides for grounds upon which media "may incur joint criminal or civil liability with the responsible person under Article 41 of the Penal Code for a criminal offence committed through the mass media

³⁷ See note 33 above.

³⁸ Amnesty International Annual Report 2012, *Ethiopia*, at <<http://www.amnesty.org/en/region/ethiopia/reort-2012>>.

³⁹ See Human Rights Watch World Report 2012, p 123, at <<http://www.hrw.org/world-report-2012>>.

⁴⁰ *Ibid*, pp 123 and 124.

or a civil damage caused by the media". This may result in the State being able to target human rights defenders carrying out their legitimate work in reporting of human rights violations.

Question 8

Please indicate if any other type of legislation is used to regulate the activities of human rights defenders in your country and how the application of the legislation mentioned affects the activities of human rights defenders. Please cite the names of any such legislation in full.

68. Chapter IV of the Penal Code of Ethiopia 1957 includes participation offences relative to publications. Article 41 of the Penal Code is referred to in Article 41 of the Mass Media Proclamation. On the face of it the legislation will not affect the work of human rights defenders if applied legitimately.

**PART V:
LAWS IN ZIMBABWE**

Question 1

- (a) Please indicate if your country has a specific legal framework, laws or regulations that aim to facilitate or protect the activities and work of human rights defenders. Please cite the names of any such laws or regulations in full.
- (b) Please indicate how these laws and regulations are in line with international human rights standards, including, but not limited to, the Declaration on Human Rights Defenders.
- (c) Please also indicate what legal or administrative safeguards are put in place to prevent baseless legal action against and/or prosecution of human rights defenders for undertaking their legitimate work.

69. Relevant laws and regulations in Zimbabwe include:

- Constitution of Zimbabwe 2000, which provides for human rights and freedoms applicable to everyone, including human rights defenders.
- Private Voluntary Organisations (PVO) Act 1966, applicable to NGOs which, under the Act, are classified as private voluntary organisations.
- Code of Procedure for the Registration and Operations of Non-Governmental Organizations in Zimbabwe 2007.

70. The Constitution is currently in the process of being amended. Although it currently provides for the protection of human rights and fundamental freedoms certain articles providing for rights contain a limitation clauses allowing for the restriction of the right.

71. The PVO allows for illegitimate and disproportionate restrictions on the activities of human rights defenders and as such contravenes international human rights law standards, especially the Declaration on Human Rights Defenders. The PVO makes it mandatory to be registered prior to commencing or continuing with any work or from seeking any financial assistance from any source (section 6(1)(a) and (b)). Failure to register carries penalties in the form of fines or imprisonment (article 6(3)(3a)). Furthermore, registration is a laborious process, which requires an NGO to publish the notice of its application for registration in the local newspapers at its own expense to allow persons to lodge objections with the Registrar (section 9).

Question 2

- (a) Please describe the measures taken, if any, to ensure that your country's national security-related laws (including laws on public order, public safety, respect for morals and counter-terrorism laws) are not used to unduly restrict the scope of activities of human rights defenders.

(b) Please also indicate in particular how these national security-related laws respect the human right to freedom of expression and opinion.

72. The Public Order and Security Act has been used by officials to restrict the right to freedom of expression, association and assembly. Amnesty International has reported that police have used the Public Order and Security Act to undermine political activities of the opposition party and failed to act when human rights abuses were committed by a gang associated with Zanu-PF at MDC political gatherings.⁴¹ Such actions are inconsistent with international human rights standards, which require protection of the right to freedom of assembly. Article 23(8) of the Act authorizes government authorities to request that NGOs submit a register of the attendees of a meeting to the regulatory authority. This may allow for the monitoring by government officials of the internal management and governance of an NGO, by requiring a register of attendees.

Question 3

(a) Please describe the measures taken, if any, to ensure that provisions of the criminal code, or other national laws, are not ambiguous or too broad to allow their arbitrary use, thereby restricting the activities of human rights defenders.

73. The Criminal Law (Codification and Reform) Act has been used to arbitrarily arrest human rights defenders and to restrict the rights to freedom of expression, association and assembly. For example, in February 2012, Munyaradzi Gwisai, a lecturer at the University of Zimbabwe, was arrested and convicted under section 22(2)(a)(i) of the Act for arranging a seminar looking into the revolts in Egypt and Tunisia.⁴²

74. The Interception of Communications Act permits the State to intercept communications, including electronic, without a court order (section 6(1)). This power is open to abuse and may be used to intimidate and harass human rights defenders. Although not a matter directly linked to the aforementioned legislation, in March 2011, Vikas Mavhudzi was arbitrarily arrested for a comment that he made on the social network, Facebook, regarding the Arab Spring.⁴³

Question 4

(a) Please indicate if your country has specific laws or administrative rules governing the registration, functioning and funding of non-governmental organisations. Please cite the names of any such laws or regulations in full.
(b) Please explain how these legal or administrative provisions comply with your country's international human rights obligations regarding the right to freedom of association.

75. The PVO Act prohibits any NGO to conduct any activities or source any funding until such a time that it has been registered (section 6(1)), thus proving to be an obstacle to the right to freedom of association and expression. Failure to register carries penalties in the form of fines or imprisonment (section 6(3)(3a)). Furthermore, registration is a laborious process, which requires an NGO to publish the notice of its application for registration in the local newspapers at its own expense to allow persons to lodge objections with the Registrar (section 9). The difficulty of the processes may discourage smaller NGOs. The Act also grants wide discretionary powers to the registration authority.

⁴¹ See Amnesty International, Annual Report 2012, at <www.amnesty.org/en/region/zimbabwe/report-2012>.

⁴² Freedom Now, 'Munyaradzi Gwisai, et al. Zimbabwe', at <www.freedom-now.org/campaign/munyaradzi-gwisai-et-al/>.

⁴³SW Radio Africa news - The Independent Voice of Zimbabwe, 4 March 2011, at <<http://www.swradioafrica.com/news040311/byoman040311.htm>>.

Question 5

- (a) Are there criminal or other legal or administrative sanctions for human rights defenders who undertake activities on an individual basis or while the association they are members of is unregistered?
- (b) If such a legal framework exists, does it restrict the type of activities that human rights defenders can undertake? If yes, please provide further details.

76. The PVO Act prohibits any NGO to conduct any activities or source any funding until such a time that it has been registered. Failure to register, and undertaking activities whilst the NGO has not been registered, carries penalties in the form of fines or imprisonment (section 6(3)(3a)). This may limit organisations that are not yet registered and may need to conduct responsive activities in an emergency situation, or those who are still waiting for the finalization of the registration process, which does not stipulate maximum time periods.
