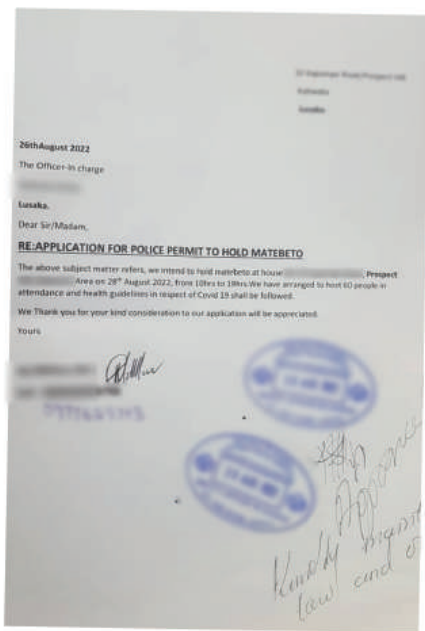




Zambia Law Development Commission



REVIEW OF THE PUBLIC ORDER ACT, CHAPTER 113 OF THE LAWS OF ZAMBIA

PROJECT REPORT



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ZAMBIA LAW DEVELOPMENT COMMISSION

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**TO THE MINISTER OF HOME AFFAIRS AND INTERNAL SECURITY
HONOURABLE JACOB JACK MWIIMBU, M.P**

We are honoured to submit to you in terms of Section 4 of the Zambia Law Development Commission Act, Chapter 32 of the Laws of Zambia, for your consideration the Commission's report on the review of the Public Order Act Chapter 113 of the Laws of Zambia.

**HON. MRS. JUSTICE RUTH CHIBBABBUKA
CHAIRPERSON OF THE ZAMBIA LAW DEVELOPMENT COMMISSION**

About the Zambia Law Development Commission

The Zambia Law Development Commission referred to as 'the ZLDC' or the 'Commission' is a semi-autonomous statutory body established under the Zambia Law Development Commission Act, Chapter 32 of the Laws of Zambia. The primary mandate of the Commission is law reform.

The functions of the Commission are to:

- (i) recommend the revision and reform of the law in Zambia;
- (ii) recommend the codification of unwritten laws in Zambia;
- (iii) review and consider proposals for law reform referred to the Commission by the Minister or the members of the public;
- (iv) hold seminars and conferences on legal issues;
- (v) translate any piece of legislation into local languages; and
- (vi) to research and make recommendations on:
 - a) the socio-political values of the Zambian people that should be incorporated into legislation;
 - b) the anomalies that should be eliminated from the statute book;
 - c) new and more effective methods of administration of the law and the dispensation of justice that should be adopted and legislated;
 - d) the removal of archaic pieces of legislation from the statute book;
 - e) new areas of the law that should be developed which are responsive to the changing needs of the Zambian society.
- (vii) encourage international co-operation in the performance of its functions under this Act; and
- (viii) do all such things incidental or conducive to the attainment of the functions of the Commission.

The Zambia Law Development Commission is headed by a 13-member Commission comprising part-time members appointed by the Minister of Justice. The following are the members of the Commission:

- i. Madam Justice Ruth Chibbabbuka - Chairperson
- ii. Mr Munukayumbwa Munyima - Vice Chairperson
- iii. Dr. O'Brien Kaaba - Member
- iv. Mr Emmanuel Sibonge - Member
- v. Ms. Bubala Chibbonta - Member
- vi. Mrs. Kawama Simumba - Member
- vii. Mrs Chipo Nkhata - Member
- viii. Ms. Mwaka Chizinga - Member
- ix. Dr. Herrick Mpuku - Member
- x. Dr. Dominic Kangongo - Member
- xi. Dr. Bibian Kalinde - Member
- xii. Dr Henry Mbushi, S.C - Member
- xiii. Mrs. Eva Jhala - Member

The Commission Secretariat which is responsible for the day to day running of the Commission is headed by a Director who is also the Commission Secretary. The Director and Commission Secretary is Mrs. Hope M. Ndhlovu-Chanda.

REVIEW AND DRAFTING TEAM

The review and drafting team which was led by ZLDC comprised the following members:

- i) Hope N. Chanda - Zambia Law Development Commission
- ii) Mwiba Mwenda - Zambia Law Development Commission
- iii) Inutu Akolwa - Zambia Law Development Commission
- iv) Lina Jere - Zambia Law Development Commission
- v) Mwila Chikwanda - Zambia Law Development Commission
- vi) Yamikani Ngoma - Zambia Law Development Commission
- vii) Innocent Siachitobe - Zambia Law Development Commission
- viii) Chiluba Kabinga - Zambia Law Development Commission
- ix) Mordecai Mweene - Zambia Law Development Commission
- x) Precious Simuchoba - Zambia Law Development Commission
- xi) Annie Banda - Zambia Law Development Commission
- xii) Noel Chulu - Zambia Law Development Commission
- xiii) Chipego Mugoba - Zambia Law Development Commission
- xiv) Dorica Mpelemba - Zambia Law Development Commission
- xv) Goodson Sinyenga - Ministry of Home Affairs and Internal Security
- xvi) Bwalya C Soko - Ministry of Home Affairs and Internal Security
- xvii) Annie Malaya - Ministry of Home Affairs and Internal Security

- xxviii) Faith Mazhanu - Ministry of Home Affairs and Internal Security
- xxix) Mariah Mulenga - Ministry of Home Affairs and Internal Security
- xxx) Nephas Chifuta - Ministry of Home Affairs and Internal Security
- xxxi) Vincent Malata - Ministry of Home Affairs and Internal Security
- xxxii) Yengwe Kakusa - Ministry Of Justice
- xxxiii) Francis Chilunga - Ministry of Justice
- xxxiv) Rodney Machila - Ministry of Justice
- xxxv) Pelani Ndovi - Ministry of Justice
- xxxvi) Elizabeth M. Silungwe - Ministry of Justice
- xxxvii) Masiliso S Chibumbo - Ministry of Justice
- xxxviii) Chiwala Banda - Zambia Police Service
- xxxix) Eric Sindandumuna - Zambia Police Service
- xl) Felix Shantimba - Zambia Police Service

FOREWORD

Zambia's Public Order Act was enacted in 1955, and one of its purposes is to make provision for the preservation and regulation of public order in the country. The Act has been a subject of much public discussions and there have been subsequent public outcry and court proceedings over the provisions and implementation of the Public Order Act. Some Stakeholders have called for the amendment of the Act while others have called for its repeal and replacement. Much of the debate has been with regard to the provisions of sections 5 to 7 of the Act, which many stakeholders argue infringe upon the fundamental rights and freedoms of expression, assembly and association guaranteed under Articles 20 and 21 of the Constitution.

Article 20 guarantees the freedom of expression, whilst Article 21 guarantees freedom of assembly and association. The Public Order Act has gone through amendments in response to emerging issues. This has largely been attributed to changes in political and social dynamics in the governance systems in Zambia, the region and the world. Notwithstanding the amendments, stakeholders have observed and experienced that the law still impedes on the right of freedoms of expression, assembly and association. The content and the manner of implementation of the Public Order Act in the regulation of public gatherings has been a major cause of much grievance by stakeholders, with many accusing the Police of not being impartial and abusing their powers provided for under the Act.

The review of the Public Order Act Chapter 113 of the Laws of Zambia is important as it will deal with provisions of the Act that stifle the enjoyment of the freedom of assembly, association and expression in the conduct of public assemblies, processions and other forms of public gatherings. It is also significant in the development of a legal framework that guarantees autonomy, to law enforcement agencies, in the policing of public assemblies, processions

and other forms of public gatherings while being anchored on constitutionally guaranteed fundamental rights and freedoms.

To this end, Cabinet approved in principle the review of the Public Order Act. The Ministry of Home Affairs engaged the Zambia Law Development Commission to lead the review process in order to enhance good governance and to strengthen the protection of fundamental rights and freedoms. This Report highlights the review process which included, desk review, call for submissions, stakeholder consultations, and drafting and validation processes. It is our hope as a Commission that this process shall result in the development of a suitable legislative framework that will enhance the promotion and protection of constitutionally guaranteed fundamental rights and freedoms of expression, assembly and association.

Hon. Mrs. Justice Ruth Chibbabuka
CHAIRPERSON
ZAMBIA LAW DEVELOPMENT COMMISSION

TABLE OF CONTENTS

1.0 Introduction.....	14
1.1 Historical Development of Public Order Act.....	15
1.2 Rationale and Significance of the Study.....	17
1.3 General Objective	20
1.3.1 Specific Objectives.....	20
2.0 The Review Process.....	21
2.1. Stakeholder Engagement.....	21
2.1.1. Target Population.....	21
2.1.2. Stakeholder Mapping	22
2.1.3. Call for Submissions	22
2.1.4. Stakeholder Consultative Meetings	24
2.2 The Desk Review.....	25
2.4 Analysis of Data.....	26
2.5. Development of the proposed Draft Public Gatherings Bill	27
2.6. Validation and Finalisation of the draft bill	27
2.7. Process Oversight.....	28
3.0 Literature Review.....	28
3.1 Policy Framework	28
3.2 Legal Framework	28
3.2.1. International and Regional Instruments.....	29
(i) The Universal Declaration of Human Rights.....	29
(ii) The UN International Covenant on Civil and Political Rights (ICCPR)	30
(iii) United Nations 10 Principles for the Proper Management of Assemblies.....	32
(vi) The African Charter on Human and Peoples' Rights.....	37
(vii) African Charter on Democracy, Elections and Governance	38

3.2.2. Domestic Legislation	39
i. The Constitution of Zambia Chapter 1 of the Laws of Zambia	40
ii. The Public Order Act, Chapter 113 of the Laws of Zambia	42
iii. The Zambia Police Act, Chapter 107 of the Laws of Zambia	44
iv. Firearms Act Chapter 110 of the Laws of Zambia	45
v. Preservation of Public Security Act Chapter 112 of the Laws of Zambia.....	46
vi. The Electoral Process Act No.35 of 2016.....	48
vii. The National Anthem Act, Chapter 7 of the Laws of Zambia.....	49
3.3 Administrative Framework.....	50
i. Ministry of Home Affairs and Internal Security	50
ii. The Ministry of Justice	50
c. The National Assembly	51
d. The Judiciary.....	51
e. The Public Protector.....	52
f. Human Rights Commission	52
g. Law Association of Zambia.....	52
h. The Media	53
3.4. International and Domestic Judgments	53
3.4.1. Domestic Judgments.....	54
I. Arthur Wina and Six Others V Attorney General (HP 1878 of 1990) (1991) ZMHC 4 (17 February 1991).....	54
II. Mulundika and 7 Others v People (S.C.Z. Judgment 25 of 1995) [1996] ZMSC 26	55
III. Resident Doctors Association of Zambia and others v Attorney General SCZ No.12 of 2003	56
VI. Law Association of Zambia v the Attorney General, Appeal No. 08/2014	58
V. Sean Tembo (President for the Patriotic for Economic Progress Party) vs the Attorney General 2018 CCZ-007	59
3.4.2. International Judgments.....	61

I. Mlungwana and Others V S and Another (CCT 32/18) [2018] ZACC 45; 2019 (1) BCLR 88 (CC); 2019 (1) SACR 429 (CC) (19 November 2018)	61
II. South African National Defence Union v Minister of Defence, Secretary of Defence and the Chief of the South African National Defence Force Case CCT 65/06 [2007] ZACC 10	63
III. Hague v Committee for Industrial Organisation. 307 US 496 at 515-516 (1939)	64
IV. Russia- Novikova and Others v. Rússia Case Nos. 25501/07, 57569/11, 80153/12, 5790/13 и 35015/13	65
V. Kivenmaa v. Finland CCPR/C/50/D/412/1990	66
VI. Munhumeso and Others V Attorney General. (1994) 1 Z.R.C 284	66
3.5. Comparative Study	67
i. Name and Objectives of the Act	68
(ii) Non-application of the Act.....	71
(iii) Notice of Intention to Hold a Public Meeting	73
(iv) Types of Gatherings	76
(v) Restriction of Public Gatherings	78
(vi) Implementer of the Act (Authorising Authority).....	80
(vii) Register of Notices	81
(vii) Appeals	82
(viii) Penalties.....	84
4.0 ZAMBIA LAW DEVELOPMENT COMMISSION SPECIFIC FINDINGS	86
1. Repeal and Replace the Public Order Act'	86
2. Name of the Act.....	87
3. Application	87
4. Notice	88
5. Types of Gatherings.....	88
6. Restrictions of Public Gathering.....	89
7. Implementer of the Act (Authorising Authority)	90
8. Register of Notices	90

9. Appeals.....	92
4.1 ZAMBIA LAW DEVELOPMENT COMMISSION RECOMMENDATIONS	93
1. Amend or Replacement of the Public Order Act.....	93
2. Name of the Act.....	93
3. Application	93
4. Notice	94
5. Types of Gathering	94
6. Restriction of public gathering.....	94
7. Register of notices	95
8. Implementer of the Act (Authorising Authority).....	95
9. Penalties.....	95
10. Appeals.....	96
5.0 ANNEXES TO THE REPORT ON THE REVIEW OF THE PUBLIC ORDER ACT	112
ANNEX 1	112
ANNEX 2	120
ANNEX 3	128
ANNEX 4	155
ANNEX 5	156
ANNEX 6	174
Annex 7	177
Annex 8	177 <u>91</u>

ACRONYMS

1. AU	African Union
2. BUF	British Union of Fascists
3. CSO	Civil Society Organisation
4. ECHR	European Convention on Human Rights
5. ICCPR	International Covenant on Civil and Political Rights
6. LAZ	Law Association of Zambia
7. LCC	Lusaka City Council
8. NPA	National Prosecution Authority
9. POA	Public Order Act
10. PPSA	Preservation of Public Security Act
11. UDHR	Universal Declaration of Human Rights
12. UN	United Nations
13. UNIP	United National Independence Party
14. ZLDC	Zambia Law Development Commission
15. ZPA	Zambia Police Act

TREATIES.

1. The Universal Declaration of Human Rights.
2. The International Covenant on Civil and Political Rights.
3. United Nations 10 Principles for the Proper Management of Assemblies.
4. European Convention on Human Rights.
5. Freedom of Association and Protection of the Right to Organise Convention.
6. The African Charter on Human and Peoples' Rights.
7. African Charter on Democracy, Elections and Governance.

LEGISLATION

1. The Constitution of Zambia (Amendment), 2016 No.2.
2. The Public Order Act, Chapter 113 of the Laws of Zambia.
3. The Zambia Police Act, Chapter 107 of the Laws of Zambia.
4. Firearms Act, Chapter 110 of the Laws of Zambia.
5. Preservation of Public Security Act, Chapter 112 of the Laws of Zambia.
6. The Electoral Process Act, No. 35 of 2016.
7. The National Anthem Act.

1.0 Introduction

In 1996, the Supreme Court of Zambia delivered a landmark judgment in the case of ***Christine Mulundika and 7 Others vs Attorney General***.¹ This was a case in which the applicants challenged the constitutionality of certain provisions of the Public Order Act then, particularly section 5(4) which required a person intending to assemble or convene a public meeting, procession or demonstration to obtain a permit from the Police. The applicants based their challenge on the fundamental freedoms and rights guaranteed by Articles 20 and 21 of the Constitution. The applicants also challenged the exemption of certain office-holders from the need to obtain a permit. The Supreme Court held that section 5(4) of the Public Order Act contravened Articles 20 and 21 of the Constitution and was therefore null and void. The Court further held that the exemption granted to certain office-holders was discriminatory contrary to Article 23 of the Constitution.

This judgment prompted the amendment of the Public Order Act of 1996 with regards to time within which notice must be given for an event to be held and replaced the requirement for one to obtain a permit with the need to only give notice.

Notwithstanding the landmark Christine Mulundika judgment and the subsequent 1996 amendments to the Public Order Act, the Act has, to date, not been applied in a corresponding manner. To this effect, stakeholders have cited the Act as being a general hindrance to the enjoyment of the fundamental freedoms of assembly, association and expression in Zambia. Stakeholders indicate that the Act presents a challenge for citizens to enjoy the rights and freedoms by allowing the police to either deny the rights or restrict them.

The Act may, therefore, on one hand be misused as a tool to restrict the freedoms of expression and assembly and on the other hand if applied as

¹ S.C.Z Judgment 25 of 1995 [1996] ZMSC 26 (09 December 1996)

intended may be used to ensure that public order is maintained whilst facilitating the enjoyment of the aforementioned rights.

1.1 Historical Development of Public Order Act²

The Public Order Act of Zambia is a legacy of the colonial era. It is said to have been adopted from the Public Order Act of the United Kingdom, which was enacted in 1936 as a reaction to what was known as the Cable Street riots which for many, were the defining moment in anti-fascist politics — when parts of the British Jewish community and their anti-fascist allies took a stand against the British Union of Fascists (BUF) and their leader, Oswald Mosley.

In the 1930s, the British Union of Fascists (BUF) had adopted the black-shirted uniform of their Italian fascist counterparts which they wore at public meetings. A serious riot took place in 1936 when the BUF marched through the Jewish areas of London. The police failed to force a route for the march down Cable Street, where barricades had been erected and the anti-fascists had massed.

The Government concluded that the existing laws and powers available to the police had not been up to dealing with the disorder and passed the Public Order Act 1936. The law was even-handed, targeting both sides. Section 1 addressed the black-shirted BUF: “*any person who in any public place or at any public meeting wears uniform signifying his association with any political organisation or with the promotion of any political object shall be guilty of an offence*”.

Section 5³ was aimed at the antifascists who had stood behind barricades in Cable Street to stop Mosley’s march: “*any person who in any public place or at*

² General information on this part was drawn from the following sources: From; [The Cable Street Riots. On the 80th anniversary of the Cable... | by University of Northampton | History at the University of Northampton | Medium](#); [Public Order Act 1986 \(lawteacher.net\)](#) ; Debates of the Second Session of the 10th Legislative Council , Hansard No 85 (5th July-n19th August 1955, Government Printers Lusaka); The Constitutionality/Necessity of the Public Order Act of Zambia and its Impact on Human Rights in a democratic Zambia: Dissertation by Munakopa Lloyd Sikaulu, UNZA 1995

any public meeting uses threatening, abusive or insulting words or behaviour with intent to provoke a breach of the peace. Shall be guilty of an offence”.

It can be noted that the provisions in the 1936 Act⁴ were similar to the Public Order Ordinance of Northern Zambia of 1955. Eight of the ten (10) clauses of the Ordinance were replicated from the UK Law with a minor difference in Clause 3(3) in the Zambian law and an inclusion of clause 8 on penalties for making statements or doing acts intended to promote hostilities between sections of the community. However, unlike the Zambian law the UK law has been substantially modified over time to suit changing circumstances, particularly by the Public Order Act 1986, and is to be further fine-tuned by the Public Order Bill currently before the UK Parliament.⁵

Debates recorded in the Hansard,⁶ reveal that the Public Order Ordinance was proposed in order to give the Northern Rhodesia Government the powers in the UK Act of 1936. On the one hand, it was believed by the United Federal Party Government that the Bill was specifically to contribute towards public confidence and towards ensuring that the rights of individuals are exercisable without the infringement of the rights of others. On the other hand, the African members of the legislative council who were in the minority believed the Bill was introduced to impede the activities of the African National Congress who had shown a tendency of wearing uniforms or flying flags at their meetings.⁷ Objecting to the Bill, Mr. Nabulyato, a member of the Legislative Council stated that he saw no need for bringing the Bill which would have serious repercussions on the people of Northern Rhodesia. From the time of enactment in 1955, the Public Order Act of Zambia has been amended numerous times

³ Section 5 was repealed by the 1986 Act

⁴ In its original form

⁵ Public Order Act of 1986 Introduced in May 2022

⁶ Ibid Hansard No, 85

⁷ Ibid and Dissertation by Sikaulu

with the two amendments of 1996 speaking to the period of time to give notice being the most significant.⁸

In contrast to its Zambian counterpart, what stands out in the evolution of the United Kingdom Public Order Act is the recognition of the changes that have occurred in policing needs connected to public order in the United Kingdom. The first Public Order Act of 1936 was passed in response to a large-scale violent encounter at a political rally, culminating from a build-up of earlier less severe similar incidents. Its successor, the 1986 Act creates a number of public order offences whilst abolishing some common law offences. This enactment was informed by occurrences during the period of its enactment, where there was an evolution from “policing the margins” of society to control riotous behaviour of large blocks of the populations.⁹ Riots arose for various reasons including political protest; in the context of industrial disputes; or as a reaction to feelings of disconnection between different parts of the community.¹⁰

The Public Order Bill of 2022 was introduced into Parliament in the UK in a bid to crack down on protest zealots creating disruption, by increasing the anti-protest powers of the police.¹¹ This followed the observation of a minority of protestors using guerrilla tactics that cause misery to the hard-working public, disrupt businesses, interfere with emergency services, cost millions in taxpayers’ money, divert the police from tackling crime and put lives at risk.¹²

1.2 Rationale and Significance of the Study

Zambia’s Public Order Act was enacted in 1955, and one of its purposes is to make provision for the preservation and regulation of public order in the country. The Act has been a subject of much public discussions and there

⁸Amendments Acts Number 1 and 36 of 1996 respectively.

⁹[Public Order Act 1986 \(lawteacher.net\)](http://lawteacher.net)

¹⁰ Ibid

¹¹[Public Order Bill: The government's new anti-protest law explained \(bigissue.com\)](http://bigissue.com) accessed 11/08/22

¹²[Public Order Bill - Hansard - UK Parliament](http://hansard.parliament.uk) accessed 10/08/2022

have been subsequent public outcry and court proceedings over the provisions and implementation of the Public Order Act, some calling for its amendments and some calling for its repeal.¹³ Much of the debate has been with regard to the provisions of sections 5 to 7 of the Act¹⁴, which many stakeholders argue infringe upon their rights guaranteed under Articles 20 and 21 of the Constitution, respectively.

Article 20 guarantees the freedom of expression, whilst Article 21 guarantees freedom of Assembly and Association. The Public Order Act has gone through amendments in response to emerging issues largely attributed to changes in political and social dynamics in the governance systems of Zambia, the region and the world.¹⁵

Notwithstanding the amendments, stakeholders have observed and experienced that the law still impedes on the right of freedom of assembly. The manner of implementation of the Public Order Act by the Police in the regulation of public gatherings is one of the major causes of much grievance towards the Act, with many accusing the Police of abusing their powers provided for under the Act.¹⁶ The challenges of enforcement of the Public Order Act relate among others, to the requirement to notify the police, the criminal sanctions which accrue based on the absence of such notifications and non-application of the Act fairly across different groups in society. The review of the Public Order Act must therefore provide safeguards against arbitrary decisions by those in authority to avoid abuse in the administration of the law.

The review of the Public Order Act Chapter 113 of the Laws of Zambia is important as it will deal with provisions of the Act that stifle the enjoyment of the freedom of assembly, association and expression in the conduct of public

¹³[lusakatimes.com/2022/07/01/public-order-act-and-the-right-to-assembly-a-case-of-the-planned-protest-by-unemployed-teachers-and-health-workers/](https://www.lusakatimes.com/2022/07/01/public-order-act-and-the-right-to-assembly-a-case-of-the-planned-protest-by-unemployed-teachers-and-health-workers/) accessed on 19/09/22

¹⁴ Section 5-Regulation of assemblies, public meetings and processions. Section 6-Penalty for disobeying a direction or violating conditions of permit issued under section 5. Section 7-Unauthorised assemblies.

¹⁵ On 3rd May, 2020 Cabinet Approved in Principle the review of the Public Order Act

¹⁶[lusakatimes.com/2022/07/01/public-order-act-and-the-right-to-assembly-a-case-of-the-planned-protest-by-unemployed-teachers-and-health-workers/](https://www.lusakatimes.com/2022/07/01/public-order-act-and-the-right-to-assembly-a-case-of-the-planned-protest-by-unemployed-teachers-and-health-workers/) accessed on 19/09/22

assemblies, processions and other forms of public gatherings. It is also significant in the development of a legal framework that guarantees autonomy, to law enforcement agencies, in the policing of public assemblies, processions and other forms of public gatherings while being anchored on constitutionally guaranteed fundamental rights and freedoms.

It is against this backdrop that on 23rd June 2022, the Minister of Home Affairs and Internal Security requested the Zambia Law Development Commission to facilitate the review of the Public Order Act, Chapter 113 of the Laws of Zambia.

During the launch for the review of the Public Order Act, the Minister stated that freedom of assembly is recognised as a human right, a political freedom and a civil liberty and such a right must be protected in a functioning democracy. The Minister further stated that the Constitution of Zambia which is the supreme law of the land, guarantees the right to freedom of expression and freedom of assembly and association which rights must be protected.

In his remarks, the Minister further made reference to the statement made by the President of the Republic of Zambia on the official opening of the First Session of the 13th National Assembly on the need to review the Public Order Act in order to enhance democratic dispensation in the country.

The 8th National Development Plan also reiterates the need to comprehensively conduct constitutional reforms to enhance good governance and strengthen the protection of human rights which are critical ingredients to the wellbeing of citizens and review subsidiary laws to align them with the constitution. It is against this background, that Government identified the need to review the Public Order Act.

1.3 General Objective

The general objective of the review was to facilitate the development of a comprehensive legal framework to govern the convening and regulation of public gathering that facilitate the promotion and protection of human rights and the social and political needs of the Zambian people.

1.3.1 Specific Objectives

The specific objectives were to:

i) Recommend removal from the statute book of archaic provisions of the law that stifle the enjoyment of the freedoms of assembly, association and expression in the conduct of public assemblies, processions and other forms of public gatherings.

ii) Review and document regional and international standards and best practices vis-a-vis public gatherings.

iii) Develop a legal framework that:

- a. Facilitate the realisation and implementation of the freedoms of assembly, association, expression and related rights as guaranteed in the Constitution of Zambia;
- b. Guarantees autonomy to an authorising authority in the regulation of public assemblies, processions and other forms of public gathering; and
- c. Encompasses measures to prevent arbitrary decisions and abuse of the law in its application and enforcement.

2.0 The Review Process

This part of the report presents the review process of the Public Order Act. The review process was conducted using a descriptive study design which helped in understanding the history of the Public Order Act, legal challenges and its application. This part therefore includes a description of the stages that were used to engage stakeholder and to gather submissions from them, constitutes the review design, research population, sampling techniques as well as instruments and tools that were used for collection and analysis of submissions.

2.1. Stakeholder Engagement

Stakeholder engagement is a key component in law review. It helps to ensure that laws are in the public interest by involving those that are affected by the laws. Stakeholder engagement was necessitated by the need to collect ideas, expertise and evidence from stakeholders on the challenges of the provisions of the Public Order Act and possible resolutions to address them.

By consulting all affected parties, stakeholder engagement enhances the inclusiveness and supports the development of a sense of ownership. This in turn strengthens trust in Government and compliance with the laws.

The engagement process is explained below.

2.1.1. Target Population

The Public Order Act affects stakeholders from various sectors of society. The target population for the review process was therefore members of the general public and institutions or organisations identified in an initial stakeholder mapping exercise undertaken by the Commission.

2.1.2. Stakeholder Mapping

The stakeholder mapping exercise was undertaken in order to identify and determine institutions and organizations working in the country's governance sector and those with practical experience with the application of the Public Order Act and the possible gaps in it in order to inform the development of concrete recommendations based on practical stakeholder experiences. The mapping exercise was also utilized to identify stakeholders to request to make submissions to the process and to participate in the national stakeholder consultative meetings.

2.1.3. Call for Submissions

The Commission developed a public call for submissions to guide stakeholder submissions. In order to ensure the widest possible participation, the call made provision for stakeholders and members of the public to make written or oral submissions by sending their submissions to the Commission through the post, email or on WhatsApp messenger in English or in any of the seven (7) major local languages. Stakeholders and members of the public were also encouraged to deposit their submissions at the municipal councils around the country. The call was placed on the ZLDC website, the websites of the Ministries of Home Affairs and Internal Security and Justice and in the public and private electronic and print media which included the Zambia National Broadcasting Corporation (ZNBC) TV and ZNBC radio stations in the seven major local languages, Prime Television Zambia, Zambia Daily Mail and the News Diggers.

In addition, using the purposive sampling technique the call for submissions was sent to institutions purposively selected for their interaction with or knowledge of the application of the Public Order Act. The Commission sent the call to 432 institutions and individuals who comprised the Speaker of the

National Assembly and all Members of Parliament, the judiciary, the Town Clerks and the Councillors in the 10 provincial centres, 40 political parties (being members of the Zambia Centre for Inter-Party Dialogue) civil society organizations, church mother bodies, academia, media, professional bodies or associations, youth organisations, trade and student unions, and various statutory bodies and government departments. The call for submissions was also distributed at the 2022 Agricultural and Commercial show held in Lusaka from the 27th July to 1st August, 2022.

The table below shows information on the call for submissions.

Call for submission		Summary of Submissions received from stakeholders	
Institutions	Letters sent	Stakeholders	Submissions received
Speaker of the National Assembly and all members of Parliament	173	CSOs ¹⁷	16
Town Clerks in the 10 provincial centres	10	Individuals	13
Political parties	40	Political Parties	8
Civil society organisations	51	Statutory bodies	5
Religious organisations	13	Religious Organisations	3
Academia	9	Associations	2
Student unions	12	Council	1
Statutory bodies	42	Trade Unions	1
Trade Unions	13	National Assembly	1
Professional bodies and Associations	33	Judiciary	1
Judiciary	1	Academia	2
Government Ministries and Departments	22		
TOTAL	432		53

¹⁷The Southern African Centre for the Constructive Resolution of Disputes (SACCORD) and the Geneva Centre for Security Sector Governance (DCAF) conducted independent nationwide provincial stakeholder consultations where 376 stakeholder participated broken down as follows: (96) CSOs, (59) Political Parties, (74) media, (24) Senior Citizens, (29) Church, (24) Trade Unions, (5) Academia and 12 Government departments/Zambia Police Service. Further, GEARS Initiative Zambia made the submission on behalf of other 30 CSOs.

2.1.4. Stakeholder Consultative Meetings

National Stakeholder Consultative meeting was held at Mulungushi International Conference Centre from 29th – 30th August, 2022. A total of 129 stakeholders identified during the stakeholder mapping exercise and stakeholders who made written or oral submissions participated at the national consultative meeting.

The purpose of the meeting was to subject the proposed draft bill to stakeholders for comments and to reach consensus on the proposed provisions. In exceptional situations where consensus could not be reached, the decision was made by voting. In addition, the meeting assisted in discovering the point of consensus or shared concerns on the proposed provisions. The ultimate aim of conducting the national stakeholder meeting was to enhance the procedural legitimacy of the review process as the piece of legislation under review had been a subject of debate for a long time.

Law Association of Zambia and Defence and Security Wings

On 8th September, 2022, as part of the stakeholder consultations, the Commission held Roundtable Discussion Meetings with members of the Law Association of Zambia and members of the Defence and Security wings. In place of the physical meeting, the Judiciary opted to send written submission to the Commission. The Defence and Security Wings comprised of representatives from the Zambia Police Service, the Zambia Army and the Zambia Air Force, the Zambia National Service and the Zambia Correctional Service. The purpose of the roundtable meeting with members of LAZ was to solicit views on how they can contribute to the development of the new law as they hold a very special relationship with the judiciary and law enforcement wings. The meeting with representatives of defence and security was aimed at getting submissions regarding the principal Act and the proposed bill with special consideration on the application of the Act.

2.2 The Desk Review

As part of the review process, the review team undertook a desk review of secondary data sources. The desk review process involved gathering and reviewing existing literature on the application and implementation of the Public Order Act; documenting regional and international standards as set out in various applicable treaties and principles on the management of public gatherings and related rights to which Zambia is Party and regional and international best practices. During the desk review, the review team further identified and documented gaps in the application and implementation of the Public Order Act, allied domestic legislation and analysed national, regional and international judicial decisions on the Public Order Act and other similar legislation.

2.3. Comparative Study

During the desk review a comparative study was carried out to review the relevant legislation of selected countries, to serve as benchmarks upon which the state can base evidence based best practice. The countries that were considered in this regard were England (Public Order Act 1986 Chapter 64); Nigeria (Public Order Act, 1979); Sierra Leone (Public Order Act of 1965); Uganda (Public Order Management Act, 2013); Malawi (Malawi Police Act); Brunei (Public order Act Chapter 148 of the Laws of Brunei); South Africa (Regulation of Gathering Act No. 205 of 1993); Kenya (Public Order Act Chapter 56). These jurisdictions were selected because they have legislation addressing issues pertaining to public meetings and processions which address the various issues raised by stakeholders which require to be addressed.

The key areas of focus for the comparative study were based on problematic areas identified by the review team and stakeholders during the consultative meetings. These included the need: to rename the Act; to provide for a shorter notice period; to provide for the acknowledgment of notices; to include provisions relating to spontaneous gatherings; to provide for the restriction of

gatherings; to introduce a provision providing for a register of notices; to provide for an appeals process; the implementer of the Act; and to ensure adherence to the law (compliance).

The desk review report generated was utilised to inform the various stakeholder engagements outline above and the drafting of the proposed Public Gatherings Bill.

2.4 Analysis of Data

The Commission employed thematic and content analysis methods to the data gathered during the desk review and the stakeholder engagement activities. The data was categorised into sections as follows:

- (a) Organisation of submissions from stakeholders-The Commission organised the submissions using a matrix categorised by sections of the Act, name of the stakeholder, proposed amendment and the justification.
- (b) Aggregation of submissions- This stage involved arranging and categorising submissions in accordance with the provisions notes of the principal Act.
- (c) Desk review findings-The analysis involved the selection of relevant literature and other pieces of legislation that were applicable to the review process.
- (d) The findings from the data analysis revealed the current Public Order Act has many gaps in relation to the promotion and enjoyment of the fundamental freedoms of assembly, association and expression as guaranteed in the Constitution. Therefore, these gaps have necessitated the need to repeal and replace the Act in order to respond to the changing needs of the Zambian society. The findings are discussed in detail under ZLDC Specific Findings and Recommendations.

2.5. Development of the proposed Draft Public Gatherings Bill

The desk review report, stakeholder submissions and recommendations from the stakeholder engagements informed the developed and drafting of the proposed draft Public Gatherings Bill.

Further the drafting of the bill was informed by the specific objectives of the review particularly the objective to develop a legal framework that:

- a) Facilitates the realisation and implementation of the freedoms of assembly, association, expression and related rights as guaranteed in the Constitution of Zambia;
- b) Guarantees autonomy to an authorising authority in the regulation of public assemblies, processions and other forms of public gathering; and
- c) Encompasses measures to prevent arbitrary decisions and abuse of the law in its application and enforcement.

Therefore, a human rights based approach to facilitate enjoyment and implementation of the freedoms of assembly, association and expression and related rights as enshrined in the Constitution was employed during the drafting of the bill whilst ensuring the protection of others and the regulation of assemblies as is required and necessary within a democratic society.

2.6. Validation and Finalisation of the draft bill

The proposed draft Public Gatherings Bill was subjected to stakeholder validation at a national stakeholder validation meeting held from 15th -16th September, 2022 at Mulungushi International Conference Centre in Lusaka. Participants at the validation meeting were drawn from stakeholders who participated in the national stakeholder consultative meeting.

2.7. Process Oversight

2.7.1. Technical Committee on the Review of the Public Order Act

In August, 2022, the Minister of Home Affairs and Internal Security Honourable Jack J. Mwiimbu MP appointed a Technical Committee to superintend over and guide the review process. The Technical Committee comprised representatives from the Ministry of Home Affairs and Internal Security, the Ministry of Justice, the Zambia Law Development Commission, academia, civil society organisations and church mother bodies.

The Technical Committee which was guided by its terms of reference reviewed the draft bill and process at various stages and made its recommendations.

2.7.2 Zambia Law Development Commission

As per the requirements of the Zambia Law Development Commission Act and processes the draft review report and proposed draft Public Gatherings Bill were presented to the Commission for its final approval before submission to the instructing Ministry – the Ministry of Home Affairs and Internal Security.

3.0 Literature Review

3.1 Policy Framework

While there is no written policy that has a direct bearing on freedom of assembly and maintenance of public order, successive Governments have made ministerial statements and other pronouncements to this effect.

3.2 Legal Framework

The ‘legal framework’ refers to the laws applicable to the country, governing the rights and obligations of the government and its citizens. The legislative framework is discussed under two components- international and regional instruments, and domestic legislation.

3.2.1. International and Regional Instruments

International human rights instruments can be categorised as global instruments, to which any state in the world can be a party, and regional instruments, which are restricted to states in a particular region of the world.

The International and regional instruments considered in the study are discussed below:

(i) The Universal Declaration of Human Rights

The Universal Declaration of Human Rights (UDHR) articulates the rights and freedoms to which every human being is equally and inalienably entitled. It was proclaimed and adopted by the United Nations General Assembly on 10th December, 1948.

The UDHR is a primary source of global human rights standards, and its recognition as a source of rights and law by states, such as Zambia and the global world, distinguishes it from conventional obligations. It is through these conventional obligations that Zambia is obligated to respect, protect and fulfil the human rights of all its citizens. The provisions of the UDHR are not locally effective if not incorporated into domestic legislation. However, some provisions of the UDHR have attained the status of customary international law and are therefore binding.

The UDHR was formulated to outline the rights and freedoms everyone is entitled to. It declares that human rights are universal – to be enjoyed by all people, no matter who they are or where they live. It also provides both a guide to present action and an evolving set of ideas for future implementation at the national level.

The UDHR is a global road map for freedom and equality protecting the rights of every individual, everywhere. States are bound by one or more multilateral conventions developed from the UDHR concerning human rights and are

obligated to protect, promote and implement all universally recognized human rights and fundamental freedoms, inter alia, by adopting such steps as may be necessary to create all conditions necessary in the social, economic, political, legal as well as other fields.

As far as public assembly is concerned the UDHR in Article 20 (1) provides that everyone has the right to freedom of peaceful assembly and association. For the enhancement of the enjoyment of the right to assemble and associate, the Declaration recognises that everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

Where a person feels that any of their rights have been violated including their right to assemble, the UDHR provides recourse. It stipulates that everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted to him by the constitution or by law.

(ii) The UN International Covenant on Civil and Political Rights (ICCPR)

The International Covenant on Civil and Political Rights (ICCPR) was adopted by the General Assembly of the United Nations on 19th December 1966. It was adopted essentially to promulgate the right of every human being to enjoy and exercise their various liberties and freedoms without fear and hindrance from the Law or any authority.

Zambia is a State party to the ICCPR which she ratified on 10th April, 1984. As a State party to the ICCPR, Zambia is obliged to report periodically on the implementation of the provisions of the ICCPR by responding to recommendations of the United Nations Human Rights Committee and by indicating administrative, judicial and legislative measures which have been developed in order to protect the rights enshrined therein. Among the rights espoused by the ICCPR is the right of peaceful assembly.

The ICCPR recognizes the inherent dignity of each individual and undertakes to promote conditions within states to allow the enjoyment of civil and political rights. Countries that have ratified the Covenant are obligated to protect and preserve human rights and to take administrative, judicial, and legislative measures in order to protect the rights enshrined in the treaty and to provide an effective remedy.

Article 21 of the ICCPR specifically provides:

“The right of peaceful assembly shall be recognized. 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 interest of national security or public safety, public order (order public), the protection of public health or morals or the protection of the rights and freedoms of others”

By Article 21 of the ICCPR, every human being should enjoy the liberty of gathering together with other people and express oneself on any such idea and that at no point in the exercise of this liberty will any hindrance be allowed to prevent persons from enjoying this right.

It must be noted however, that the Article does place a limitation clause on the right to peaceful assembly. This fundamental freedom may be restricted in the interest of the safety and protection of the rights and freedoms of others in a democratic society, public order and safety, public morality and on grounds of public health.

As a state party to the ICCPR, the Government of Zambia has a responsibility to respect and protect the right of peaceful assembly and ensure that no unlawful restrictions hinder its enjoyment.

(iii) United Nations 10 Principles for the Proper Management of Assemblies

In 2014 the Human Rights Council of the United Nations requested the Special Rapporteur on the rights to freedom of peaceful assembly and of association and the Special Rapporteur on extrajudicial, summary or arbitrary executions to prepare a joint report on the proper management of assemblies. The report was published in 2016, and contains a series of practical recommendations on the management of assemblies¹⁸. The Special Rapporteurs report aims at providing guidance on how applicable international human rights standards may be operationalized in domestic law and practice to ensure greater protection of the rights involved.¹⁹ The management of assemblies thus encompasses facilitation and enablement, and is interpreted in the recommendations.

The report presents United Nations 10 principles on management of assemblies that express a common position. These recommendations include:²⁰

1. States shall respect and ensure all rights of persons participating in assemblies;
2. Every person has the inalienable right to take part in peaceful assemblies;
3. Any restrictions imposed on peaceful assemblies shall comply with international human rights standards;
4. States shall facilitate the exercise of the right of peaceful assembly;
5. Force shall not be used unless it is strictly unavoidable, and if applied it must be done in accordance with international human rights law;

¹⁸ <http://freeassembly.net/reports/managing-assemblies/>

¹⁹ <https://www.ohchr.org/en/documents/thematic-reports/ahrc3166-joint-report-special-rapporteur-rights-freedom-peaceful>

²⁰ A step-by-step checklist for monitoring implementation of the practical recommendations on the management of assemblies' report by United Nations Special Rapporteurs Maina Kiai and Christof Heyns (A/HRC/31/66)

6. Every person shall enjoy the right to observe, monitor and record assemblies;
7. The collection of personal information in relation to an assembly must not interfere impermissibly with privacy or other rights;
8. Every person has the right to access information related to assemblies;
9. Business enterprises have a responsibility to respect human rights in the context of assemblies;
10. The State and its organs shall be held accountable for their actions in relation to assemblies.

Whilst the Principles are not binding, they are of persuasive value to Zambia by virtue of it being a member State of the United Nations. For example, Principle No. 2 provides that every person has the inalienable right to take part in any peaceful assemblies and it is the State's obligation to facilitate and protect assemblies. Assemblies, including spontaneous assemblies and counter-protests, should, as far as possible, be facilitated to take place within sight and sound of their target. It further provides that the State's obligation to facilitate extends to taking measures to protect those exercising their rights from violence or interference.

The indicators principle No. 2 further provide that the period for lodging notification of an intended assembly is no longer than several days ideally within 48 hours. Response from the authority to a notice is not required to complete notification or for the assembly to proceed.

The principle further states that no person should be held criminally, civilly or administratively liable for the mere act of organising or participating in a peaceful protest.

Guiding principle 3 states that *“Any restrictions imposed on peaceful assemblies shall comply with international human rights standards”*

The Principle provides that freedom of peaceful assembly is a fundamental right, and should be enjoyed without restriction to the greatest extent possible and that only those restrictions which are necessary in a democratic society in the interests of national security or public safety, public order, the protection of public health or morals, or the protection of the rights and freedoms of others, and are lawful, necessary, and proportionate to the aim pursued, may be applied.

It further provides that the body with authority and responsibility for receiving and responding to notifications is independent of undue interference, and is not granted excessive discretion. The State should not require in law or practice organisers to obtain prior authorization to hold an assembly.

Laws should provide organisers with access to administrative remedies. However, exhaustion of administrative remedies is not a prerequisite for an organiser to seek judicial review.

Guiding principle, no 5 states that *“Force shall not be used unless strictly unavoidable, and if applied it must be done in accordance with international human rights law”*

The principle provides that States/law enforcement officials are obligated under international law to respect and protect, without discrimination, the rights of all those who participate in assemblies, as well as monitors and bystanders. The principle requires that States develop a domestic legal framework for the use of force, especially potentially lethal force, that complies with international standards.

The principle further requires that all feasible steps be taken in planning and conducting an operation related to an assembly to avoid the use of force or, where force is unavoidable, to minimise its harmful consequences. Firearms should never be used simply to disperse an assembly. Further, indiscriminate firing into a crowd is always unlawful and Intentional lethal use of force is only lawful where it is strictly unavoidable to protect another life from an imminent threat.

Guiding Principle 10 states that *“The State and its organs shall be held accountable for their actions in relation to assemblies”*

The principles provide that liability should extend to officers with command control where they have failed to exercise effective command and control.

Observations:

In respect of the key areas of enquiry, the review revealed the following;

Notification Period

It was observed that the notification period under the Public Order Act is at least 7 days. However, the Principles provide that the period for lodging notification of an intended assembly should be no longer than several days and ideally should be within 48 hours.

It is recommended that in line with the observation made under the Principles and international practice, five (5) days’ notice may be adopted instead of seven (7) days as currently provided for in the POA. Five (5) days is practical in the Zambian context because it allows for negotiations and mobilisation by the Police Service. This in effect ensures public safety and order. Furthermore, in order to accommodate notices where it is impracticable to give five (5) days’ notice, provision may be made in the legislation allowing for notices to be given within two (2) days (48 hours) of the event.

Types of Gathering

It was observed that in section 5(4) of the POA, an organiser must provide the police with 7 days’ notice of an assembly before it can be held. Participants of a spontaneous assembly may therefore be liable for the offence of unlawful assembly under section 6 of the Act, for failing to provide such notice. This is contrary to the Principles which state that the State’s obligation to facilitate and protect assemblies includes spontaneous assemblies. And further, notice is not a prerequisite for a spontaneous assembly. Therefore, there is need for the

proposed law to provide for spontaneous gathering in accordance with the principles.

Notice

It was noted that a person who holds a peaceful protest without following the procedure under section 5 of the POA with regards to notice is guilty of an offence. This is inconsistent with the Principles which state that no person should be held criminally, civilly or administratively liable for the mere act of organising or participating in a peaceful protest. Additionally, the principles state that response from the authority to a notice is not required to complete notification or for the assembly to proceed. However, under the POA, a convenor may only proceed with a meeting, procession or demonstration when they receive a response from the Police indicating, among other things, that they will be able to adequately police the event.

It was revealed that the requirement in section 5 of Public Order Act with regards to organisers notifying the police is implemented as a “permit” despite the fact that the terminology used in the Act is “notice”.

The Principles state that the State should not require in law or practice organisers to obtain prior authorization to hold an assembly. Further, laws governing State conduct in relation to assemblies should be drafted unambiguously.

Appeals

It was noted that in section 5(8) of the POA the appeal against the decision of the police lies with the Minister.

It is therefore recommended that the appeal should lie with the Court and not the Minister, as provided in the Act. The Principles support organisers having access to administrative remedies as well as judicial remedies.

(v) Freedom of Association and Protection of the Right to Organise Convention.

The Freedom of Association and Protection of the Right to Organise Convention came into force on 4th July, 1950. The Convention was ratified by Zambia on 2nd September, 1996 and relates to worker/employee relationships and their right to assemble and organise for purposes of furthering and defending their interests.

This Convention emanates from the principle set forth in Paragraph 8 of Article 19 of the Constitution of the International Labour Organisation. It was in consideration of the preamble to the Constitution which declares the *‘recognition of the principle of freedom of association to be a means of improving conditions of labour and establishing peace’*.

The elements pertaining to freedom of association under and right to organise have been addressed in legislation in Zambia such as the Industrial and Labour Relations (Amendment) Act No. 8 of 2008 of the Laws of Zambia; and the Employment Code Act No. 3 of 2019 of the Laws of Zambia and thus need not be repeated in the Public Order Bill.

There is however a need to delete Section 14 of the current Public Order Act providing for penalty for inciting strike.

(vi) The African Charter on Human and Peoples’ Rights

The African Charter on Human and Peoples’ Rights, to which Zambia is party, was adopted by the OAU (now the African Union) in 1981. The Charter is the premier human rights instrument of the African Union. It recognises individual rights as well as peoples’ rights, rights and duties, and some socio-economic rights, in addition to civil and political rights.

In the similar fashion as the UDHR, the Charter promulgates the right to assembly and also provides other rights which enhance the enjoyment of this

right, in recognition of the interdependence of human rights. It is stipulated in the Charter that every individual shall have the right to assemble freely with others. However, the exercise of this right shall be subject to necessary restrictions provided for by law, in particular those enacted in the interest of national security, the safety, health, ethics and rights and freedoms of others.²¹

The Charter further recognizes that every individual shall have the right to free association provided that he abides by the law.²²

Further, promoting the enjoyment of the right to freedom of assembly is the provision in the Charter that every individual shall have the right to freedom of movement and residence within the borders of a state provided he abides by the law.²³ Additionally, every individual shall have the right to leave any country including his own, and to return to his country. This right may only be subject to restrictions provided for by law for the protection of national security, law and order, public health or morality.²⁴

The supervisory mechanism created by the Charter is the African Commission on Human and Peoples' Rights. The African Commission will apply any of the diverse rights contained in the African Charter. This was made clear in the Commission's decision in the celebrated case of **SERAC v Nigeria**,²⁵ where it was made clear that there is no right in the African Charter that cannot be made effective.

(vii) African Charter on Democracy, Elections and Governance

The African Charter on Democracy, Elections and Governance was adopted in 2007 by the African Union as a normative instrument of setting standards for

²¹ Article 11

²² Article 10(1)

²³ Article 12(1)

²⁴ Article 12(2)

²⁵ (2001) AHRLR 60 paragraph 68

better governance across the African Continent.²⁶ It came into force after the ratification of 15 member states in 2012. The Charter seeks to promote and strengthen good governance through the institutionalisation of transparency, accountability and participatory democracy. Zambia is a party to this legally binding instrument.

The Charter obligates State Parties to commit themselves to ensuring that citizens enjoy fundamental freedoms and human rights taking into account their universality, interdependence and indivisibility.²⁷ The Charter further provides that State Parties should undertake to develop the necessary legislative and policy frameworks to establish and strengthen a culture of democracy and peace.²⁸

Other relevant provisions include Article 14(1) which states that: -

“State Parties shall strengthen and institutionalise constitutional civilian control over the armed and security forces to ensure the consolidation of democracy and constitutional order”

As a State Party to the Charter, Zambia is duty bound to ensure that its citizens enjoy the fundamental freedoms and human rights stipulated in the Charter. Further, the Charter obligates member states to ensure that armed forces such as the police uphold democracy and peace whilst maintaining public order.

3.2.2. Domestic Legislation

The review of the Public Order Act took into consideration provisions of the Constitution and allied legislation which have a bearing on the implementation

²⁶Aniekwe, Chika Charles, The 10th Anniversary of the African Charter on Democracy, Elections and Governance: <https://cris.unu.edu/10th-anniversary-african-charter-democracy-elections-and-governance> (accessed on 10/08/22)

²⁷ Article 6

²⁸ Article 11

of the Act. Therefore, the Commission reviewed legislation which may have an impact in the implementation of the proposed law.

i. The Constitution of Zambia Chapter 1 of the Laws of Zambia

The Constitution is the supreme law of Zambia and any other written law, customary law and customary practice that is inconsistent with its provisions is void to the extent of the inconsistency. The Constitution binds all persons in Zambia, State organs and State institutions.

The Constitution provides for national values and principles which among others includes morality and ethics; patriotism and national unity; democracy and constitutionalism; human dignity, equity, social justice, equality and non-discrimination; and good governance and integrity²⁹.

The Constitution further provides that the above national values and principles shall apply to the interpretation of the Constitution, enactment and interpretation of the law.

The Constitution also prohibits discrimination. It states that no person shall be treated in a discriminatory manner by any person acting by virtue of any written law or in the performance of the functions of any public office or any public authority.

Article 11 recognises fundamental rights and freedoms, by providing:

“It is recognised and declared that every person in Zambia has been and shall continue to be entitled to the fundamental rights and freedoms of the individual...”

The Constitution stipulates that these rights and freedoms are to be enjoyed whatever the race, place of origin, political opinions, colour, creed, sex or

²⁹ Article 8 of Chapter 1

marital status of a person. However, this shall be subject to the limitations contained in the Constitution to ensure that the enjoyment of the said rights and freedoms by any individual does not prejudice the rights and freedoms of others or the public interest.

Article 20 provides for protection of freedom of expression. It states that:

“Except with his own consent, no person shall be hindered in the enjoyment of his freedom of expression, that is to say, freedom to hold opinions without interference, freedom to receive ideas and information without interference, freedom to impart and communicate ideas and information without interference, whether the communication be to the public generally or to any person or class of persons, and freedom from interference with his correspondence”.

Article 20(3) (a) derogates from the right to the extent that it is shown that the law in question makes provision that is reasonably required in the interests of defence, public safety, public order, public morality or public health.

Article 21 provides for the protection of freedom of assembly and association. It states that:

“Except with his own consent, no person shall be hindered in the enjoyment of his freedom of assembly and association, that is to say, his right to assemble freely and associate with other persons and in particular to form or belong to any political party, trade union or other association for the protection of his interests.”

However, Article 21(2) derogates from the right to the extent that it is shown that the law in question makes provision that is reasonably required in the interests of defence, public safety or public order. While Article 21 guarantees the right of freedom of assembly and association, the subsection further provides for the regulation of the enjoyment of this right as it is not an absolute right. To this effect, public order, as provided for under the Public Order Act is regulated accordingly.

The Public Order Act is allied to the Constitution as it provides for the regulation of assemblies, public meetings and processions which have a bearing on the freedom of expression and the freedom of association and assembly as provided for in articles 20 and 21 of the Constitution, respectively.

Section 5 of the Public Order Act requires any person who intends to convene a public meeting, procession or demonstration to give a notice of seven (7) days to the police. Further section 5 (7) of the Public Order Act provides that “Where the Police notify the conveners of a public meeting, procession or demonstration that it is not possible for the Police to adequately police any proposed public meeting, procession or demonstration, such public meeting, procession or demonstration shall not be held”.

Further, section 6 creates an offence for any person who convenes a meeting without notifying the police or who convenes the meeting without approval of the police.

The application of the sections of the Public Order Act stated above, have been held by the courts to be in conflict with the rights guaranteed by the Constitution as stated in the case of *Christine Mulundika and 7 Others v. The People S.C.Z. No. 25 of 1995*. Stakeholders have further submitted that the provisions of the Public Order Act have been applied selectively in practice where certain persons or institutions have been allowed to hold public meetings while others have been denied to hold such public meetings.

ii. The Public Order Act, Chapter 113 of the Laws of Zambia

The Public Order Act was enacted into law on 19th August, 1955 for the maintenance of public order. As alluded to in the historical development of the Public Order Act³⁰ . It is a legacy of the colonial era having been adopted from the Public Order Act, 1936 of the United Kingdom.

³⁰ Part 1.1. of the report

The objects of the Act are to prohibit the wearing of uniforms in connection with political objects and the maintenance by private persons of associations of military or similar character, and to make further provision for the preservation of public order.

The Act prohibits the organisation or training or equipping of quasi-military groups³¹; unauthorised gatherings and processions³²; and possession/use of weapons in public gatherings³³. It further regulates the holding of public gatherings by requiring that convenors notify the Police Service³⁴. In addition to this, the Act provides penalties for contravening its prohibitions and regulations³⁵.

More specifically, the Public Order Act regulates assemblies, public meetings and processions by providing that every person who intends to assemble or convene a public meeting, procession or demonstration shall give the police service at least seven days' notice of that person's intention to assemble or convene such a meeting, procession or demonstration. It demands that anyone who participates or organises a meeting or procession for which a notification to the police service has not been given or issued may be arrested without warrant and charged with unauthorised assembly.

The Public Order Act prohibits weapons at public meetings and processions as well as engaging in offensive conduct conducive to breaches of peace. It further makes it an offence for any person to wear any uniform or display any flag signifying the association with any political organisation in any public place or at any public meeting.

Among the penalties imposed by the Public Order Act include making statements or doing acts intended to promote hostility between sections of the

³¹ Section 4

³² Section 7

³³ Section 10

³⁴ Section 5

³⁵ Section 6, 7, 15

community under section..., uttering of words or doing any acts or thing whatever with intent to excite enmity between tribe and tribe or more sections of the community on the other hand.

iii. The Zambia Police Act, Chapter 107 of the Laws of Zambia

The Zambia Police Act (ZPA) regulates the composition and administration of the Police Service, its functions, and discipline. It further outlines the powers, duties and privileges of the Zambia Police Service officers, special constables³⁶, and offences by police officers which would be triable by Criminal Courts. It is allied to the Public Order Act as the implementers of the Public Order Act are the Police. The ZPA provides several provisions that can assist in the management of public assembly, particularly relating to the policing of public assemblies. These provisions are in line with Article 193(2) of the Constitution which states that “The Zambia Police Service shall protect life and property, preserve peace and maintain law and order, ensure the security of the people, detect and prevent crime, uphold the Bill of Rights, foster and promote good relationships with the Defence Force, other national security services and members of society, and perform other functions as prescribed”.

It further places a duty on an officer to conduct a search on a person or premises in accordance with prescribed procedures. This provision means that all searches are to be conducted in a manner that does not infringe on a person’s rights. This is provided for more specifically under the Police Instructions 80(3) of the Zambia Police Instructions, 2010 Edition, which among others provides that the search of female detainees should only be done by female officers.

A similar provision on searching for women is provided for in the provision to section 4 of the Public Order Act.

³⁶ The Preamble

The Zambia Police Service is charged with the responsibility of maintaining peace, ensuring order and protecting property and life throughout Zambia. Section 5 of the ZPA, categorically provides for this function and provides that the Police Service is to be employed throughout the country for the preservation of peace, prevention and detection of crime, and the apprehension of offenders against the peace.

The Zambia Police Act expressly prohibits officers from using force than is necessary. Section 24 provides for the use of firearms and stipulates conditions to be observed. For instance, the Act allows the use of a firearm on any person who by force prevents or attempts to prevent the lawful arrest of such person or of any other person; however such use cannot be made unless the police officer has reasonable ground to believe that he or any other person is in danger of grievous bodily harm and that he cannot otherwise effect such arrest or prevent such rescue.³⁷

Additionally, administrative action can be taken against an officer below the rank of assistant superintendent who uses any unnecessary violence on any prisoner or other person with whom he may be brought into contact in the execution of his duty.³⁸

iv. Firearms Act Chapter 110 of the Laws of Zambia

This Act provides for the regulation of firearm licences and certificates, and for the control of the import, export, movement, possession and repair of firearms and ammunition.

Under this Act, where any police officer or authorised officer reasonably believes that a person is in possession of a firearm or ammunition, he may demand such person to produce a firearm licence. ³⁹ According to the Act, an authorised officer is defined as being a person authorised by regulations made

³⁷Section 24(1)(a)(ii)

³⁸Section 30(1)(h)(ii)

³⁹Section 20 and 21 of the Firearms Act

under the Act to exercise the powers or perform the duties conferred or imposed by such provision⁴⁰.

Further section 20 (2) prescribes a penalty for a person who refuses to produce his/her firearm licence in order for a police officer to read it or to show that that person is entitled by virtue of this Act to have the firearm or ammunition in his/her possession without holding a firearm certificate. The Act states that the officer may seize and detain such a firearm or ammunition and may require such person to declare to the officer his/her name and address. However, if he/she refuses to declare or fails to give his/her true name and/or address, he/she shall be guilty of an offence. The section prescribes a penalty of a fine not exceeding four hundred penalty units or imprisonment for a period not exceeding three months for this offence.

By way of contrast, while section 10 of the Public Order Act provides for instances where a person is in the possession of a weapon, it more specifically provides for instances at public gatherings and states that any person who, while present at any public meeting or on the occasion of any public procession, has with him any lethal weapon, otherwise than in pursuance of lawful authority, shall be guilty of an offence.

While the offences may have some similarity, the Public Order Act provides for a different penalty stipulating that a person shall be liable to imprisonment for three months or to a fine of one thousand five hundred penalty units, or to both. (Provide an explanation as to why the penalty is stiffer under the Public Order Act)

v. Preservation of Public Security Act Chapter 112 of the Laws of Zambia

The Preservation of Public Security Act (PPSA) provides for the securing of the safety of persons and property, the maintenance of supplies and services

⁴⁰ Section 2

essential to the life of the community, and the prevention and suppression of violence, intimidation, disorder and crime.

Section 5 of the Act enables the President, for the purposes of preserving public security, to make provision for the prohibition, restriction and control of assemblies.

Section 7 of the PPSA makes it an offence for any person who attends, takes part in or is found at any assembly to be in possession at such assembly of any firearms, ammunition, dangerous weapon, explosive substance or any stick, stone or other dangerous missile. Such person shall be liable upon conviction to imprisonment for a period not exceeding five years.

This offence is similar to an offence under section 10 of the Public Order Act, which states that “any person who, while present at a public meeting or on any occasion of any public procession, has with him any lethal weapon, otherwise than in pursuance of lawful authority shall be guilty of an offence.” However, the penalty provided under the Public Order Act is more lenient, providing imprisonment for three months or to a fine of one thousand five hundred penalty units, or to both.

Section 12 (1) of the PPSA states that “Any person who is found in Zambia wearing, or in possession of, uniforms of armed forces or police forces of any country other than Zambia shall be guilty of an offence and shall be liable on conviction to a fine not exceeding seventy-five thousand penalty units or to imprisonment for a period not exceeding five years, or to both”. This section is similar to section 4 of the POA that prohibits quasi-military organisations.

As is the case with the section above, the POA provides a more lenient penalty stipulating that a person shall be liable on summary conviction to imprisonment for six months or to a fine of three thousand penalty units or to both such imprisonment and fine, or, on conviction by the High Court, to

imprisonment for two years or to a fine of fifteen thousand penalty units, or to both.

vi. The Electoral Process Act No.35 of 2016

The Electoral Process Act provides for a comprehensive process for a general election; provide for the conduct of elections by the Electoral Commission of Zambia and empower the Commission to make regulations in matters relating to elections; provide for the registration of voters and the keeping of voters registers; prescribe the procedures for nominations for elections; provide for the role of presiding officers, election officers and conflict management officers; prescribe the procedure for voting during an election; provide for the accreditation and roles of observers and monitors; criminalise corrupt practices and other illegal practices related to elections and provide for penalties in connection with an election; provide for election petitions and the hearing and determination of applications relating to a general election; provide for voter education; prescribe the electoral code of conduct.

Section 29(1) of the electoral process Act stipulates that “*a public officer and public entity shall give equal treatment to candidates*”. This provision relates to section 5 of the POA that provides for the regulations of public assemblies and how officers appointed to regulate assemblies, processions and such gatherings should give equal treatment with regards to notice and supervision regardless of the standing of a political party.

Further, paragraph 6 of the schedule to the Electoral Process Act provides that “*the Zambia Police Service shall enforce law and order at campaign meetings and processions in order to maintain peace and order; ensure that police officers do not abuse their authority or Government resources to campaign for the benefit of any political party or candidate; refrain from disrupting any campaign, rally or meeting which is legally convened by any political party; and ensure that police officers do not use their office to oppress any political party, candidate or supporter*”.

The above provision appears to be similar to section 5 of the Public Order Act as it requires that any public meeting, procession or demonstration be adequately policed so as to maintain law and order.

In addition, paragraph 2 of the schedule to the Electoral Process Act mandates any person, during an election campaign or election, to promote conditions conducive to the conduct of free and fair elections. However, the provisions of the Public Order Act appear not to create a conducive environment for a person to promote conditions favourable for free and fair elections.

vii. The National Anthem Act, Chapter 7 of the Laws of Zambia

This Act declares the National Anthem, regulates its use, makes any insult to it a crime, empowers the President to make regulations, and provides for matters incidental to or connected with the foregoing

Section 4 states that *“the President may, by statutory instrument, make regulations prescribing the occasions upon which, the persons by whom and the manner in which the National Anthem may be sung; prohibiting, controlling or restricting the use of the National Anthem; constituting offences in relation to any of the matters referred to in the foregoing paragraphs and prescribing penalties in respect thereof”*.

The above provision is similar to section 9 of the Public Order Act which states that the National Anthem shall be played at all public meetings at the time when a public meeting is called to order. As a result, anyone who convenes, presides over, conducts, or addresses a public meeting without playing or singing the official national anthem is guilty of an offence.

3.3 Administrative Framework

i. Ministry of Home Affairs and Internal Security

The Ministry of Home Affairs and Internal Security is a Government institution charged with the responsibility of providing and maintaining internal security in order to promote sustainable social economic development for the people of Zambia. The Ministry ensures quality internal security services in order to create a safe, secure and peaceful environment.

a. The Zambia Police Service

The Zambia Police Service is a national security service established by Article 193(1) (a) of the Constitution and regulated by Zambia Police Act Chapter 107 of the Laws of Zambia.

It is charged with the responsibility of maintaining peace, law and order in the nation in order to protect the rights and freedoms of all citizens in all parts of the country. The Acts that are enforced by Zambia Police Service include the Public Order Act.

ii. The Ministry of Justice

The Ministry of Justice provides legal services, facilitates dispensation of Justice and promotes governance mechanisms in order to uphold good governance principles and practices in Zambia. The development of Bills to replace or amend the Public Order Act; the provision of Legal Aid to indigent members of society on matters pertaining to the implementation of the Public Order Act; and the prosecution of offences committed under the Public Order Act.

The Ministry carries out some of its functions through: Legal Aid Board, the Zambia Law Development Commission and National Prosecution Authority to promote good governance and attainment of Justice in the country.

a. The Legal Aid Board

The Legal Aid Board is a statutory body established by the Legal Aid Act, Chapter 34 of the Laws of Zambia. It is mandated to provide legal aid services in civil and criminal matters and causes to persons whose means are inadequate to enable them to engage practitioners to represent them. The Legal Aid Board Act, consists of the assistance of a practitioner in the steps preliminary or incidental to any proceedings or in arriving at or giving effect to a compromise to avoid or bring to an end any proceedings, and legal representation. Indigent persons negatively affected by the implementation of the Act may seek legal advice and representation from the Legal Aid Board.

b. The National Prosecution Authority

The National Prosecution Authority (NPA) is a statutory body established by the National Prosecution Authority Act No. 34 of 2010. The Authority is in charge of prosecuting people charged with criminal offences. The Authority would therefore prosecute persons who are accused of having committed criminal offences, or persons who are accused of unlawful assembly having committed offences against public order.

c. The National Assembly

The National Assembly of Zambia is the legislative arm of the Government of the Republic of Zambia whose main functions include: legislation, oversight, and budget approval. It is established under Article 62 of the Constitution. The National Assembly will therefore consider any proposed amendments relating to the review of the Public Order Act.

d. The Judiciary

The judiciary is an independent arm of government established under article 118 of the constitution. Its main functions include interpretation of the law and adjudication of civil and criminal disputes.

The Judiciary may interpret and adjudicate on matters relating to enforcement of the Public Order Act

e. The Public Protector

The Public Protector is a Constitutional office established by Article 243 of the Constitution of Zambia. Its mandate is to promote and safeguard the interests and the rights of an individual in his or her quest to receive a public service that is just and fair. The Public Protector may investigate an action or decision taken or omitted to be taken by a state institution in the performance of its functions. The action or decision taken or omitted to be taken is an action or decision which is unfair, unreasonable or illegal or not compliant with the rules of natural justice. Any affected persons with unlawful assembly may make complaints to the Public Protector in order to cause the Public Protector to institute an investigation.

f. Human Rights Commission

The Human Rights Commission is a Constitutional body established by Article 230 of the Constitution of Zambia and regulated by the Human Rights Commission Act Chapter 48 of the laws of Zambia.

The mandate of the Human Rights Commission is to promote and protect human rights for all people in Zambia including the rights related to public gatherings or assembly.

g. Law Association of Zambia

Law Association of Zambia is a statutory body established in 1973 by the Law Association of Zambia Act, Chapter 31 of the laws of Zambia. It is a professional body whose objectives include, amongst others, to consider legislation relating to legal aid and any other ways of securing representations by persons who are unable to secure it. The Law Association of Zambia also undertakes cases that are in public interest in furtherance of its mandate as

evidenced in the case of the Law Association of Zambia v The Attorney General Appeal No. 08/2014 where LAZ challenged the provisions of the current POA as being unconstitutional.

h. The Media

The media includes both electronic and print media. Its role is to disseminate information, and to educate and entertain the public. The media play a major role in protecting and promoting human freedoms by providing a platform to educate the public about their rights and to disseminate information relating to Public Order.

3.4. International and Domestic Judgments

The Judiciary is the arm of government established by the Constitution and is charged with the responsibility for interpreting the laws made by the legislature. It has the power to adjudicate over legal matters and decide on legal disputes through courts. The Judiciary is guided by principles and values as stipulated by Article 118(2) of the Constitution which states that in exercising judicial authority, the Court shall be guided by the following principles:

- a. justice shall be done to all, without discrimination;
- b. justice shall not be delayed;
- c. adequate compensation shall be awarded, where payable;
- d. the values and principles of the Constitution shall be protected and promoted;

There have been a number of cases that have challenged the provisions of the Public Order Act and these cases have generally led to legislative amendment, for instance, in the case of *Mulundika and 7 others v People (S.C.Z. Judgment 25 of 1995) [1996] ZMSC 26*, where the court found that some provisions of the law were unconstitutional. In other cases, the court judgments were instructive as

to the proper interpretation and application of the law. The cases discussed below highlight some of these findings.

3.4.1. Domestic Judgments

I. Arthur Wina and Six Others V Attorney General (HP 1878 of 1990) (1991) ZMHC 4 (17 February 1991).

The facts of this case are that in 1990, President Kaunda held a press conference and announced a Government decision to cancel a planned referendum and hold general elections after a change to the Constitution to allow for multi-party politics. Later the ruling party United National Independence Party (UNIP) announced that no campaign or meetings from other than its party would be held until the Constitution was changed. The Petitioners were not registered parties. After the statement was made the Petitioners reacted to the statement and stated that the statement was contrary to Articles 22 and 23 of the Constitution.

In order to put the position more clearly as to the holding of meetings and campaigns, the Minister of Legal Affairs announced that meetings could be held according to section (5) of the Public Order Act as long as a permit was issued by the police. However, the police, due to the statement made by the President, refused to issue the Petitioners with a permit. The police further argued that they refused to issue a permit to the Petitioners because their party was not registered.

The Petitioners sought declarations from the Minister of Legal Affairs and stated that their rights are likely to be contravened due to the decision that the President had made of not allowing the holding of meetings and campaigns. The Petitioners further requested the Court to make any declaration that it may deem fit for the effective enforcement of the said rights.

The Court ruled in favour of the Petitioners and said that the refusal by the police to grant a permit to the Petitioners constituted a violation of Articles 22 and 23 of the Constitution. Therefore, the decision of the regulating officer was invalid and illegal as the instructions came from above. The Court further stated that there is no need for registration under the Societies Act as the position of an unincorporated body or the society or association is recognized in the law.

The Court also stated that the Regulating Officer is granted with a discretionary power under the Public Order Act, therefore need to exercise the power independently. In this case the Regulating Officer obeyed an instruction from the higher authority which therefore, made the decision null and void. The Court also explained that section 5 (4) of the Public Order Act did not stipulate that in the exercise of his discretion the Regulating Officer shall do so under the instruction from his superiors or higher authority. As in the case of Commissioner of Police v Guord Handas where it was stated that “the exercise of discretionary power when a discretion is vested in an administrative authority or person is that it must be exercised by that very authority or person in its or his own independent judgment and not under directions of others, including Government, to whom the administrative authority or officer is subordinate”.

II. Mulundika and 7 Others v People (S.C.Z. Judgment 25 of 1995) [1996] ZMSC 26

The facts of this case are that the Appellants challenged the constitutionality of certain provisions of the Public Order Act especially section 5(4), which required that any person intending to convene a peaceful assembly to obtain a permit from the police. The Appellants contended that the requirement for a permit was in conflict with the rights guaranteed by Articles 20 and 21 of the Constitution which provide for the protection of the freedom of expression and the freedom of assembly and association respectively.

The Appellants further posed a subsidiary challenge related to the exemption of certain offices from the need to obtain a permit. This was contained in section 5(6) which did not require a permit to be obtained where the public meeting was being convened by or at the request of and intended to be addressed by the President, the Vice-President or any Minister or Junior Minister or the Speaker or Deputy Speaker of the National Assembly. The Appellants contended that this exemption was discriminatory, contrary to Article 23 of the Constitution which provides for the protection from discrimination on the ground of race, etc.

The Supreme Court held in favour of the Appellants in one part, finding that section 5(4) of the Public Order Act contravened Articles 20 and 21 of the Constitution and was therefore null and void. Regarding the subsidiary challenge, the court found in favour of the Respondent, that the exemption granted to certain office-holders did not fall under the categories for discrimination listed in the Constitution, and was therefore valid.

As a result of the court judgment, the Public Order Act was amended by Act No. 36 of 1996, through the substitution of the requirement to obtain a permit with the requirement to provide the police with notice of the intention to convene a public meeting. The provision in the Act exempting certain office holders from the requirement to notify the police of the intention to hold a public meeting subsists.

III. Resident Doctors Association of Zambia and others v Attorney General SCZ No.12 of 2003

This is a case where the Petitioners appealed against the decision of the High Court which decided that they had breached section 6(7) of the Public Order Act which prohibited the holding of public meetings, processions or demonstrations, where the police notify the conveners, that they cannot

adequately police such events and the denial by the High Court to award them with damages after having found that the police had violated the Act.

The facts of the case are that the evidence which was before the lower court was that the Petitioners gave a written notification to the Commanding Officer of Lusaka, that the Petitioners would hold a public procession, in order to raise public awareness on the pathetic situation prevailing in public hospitals and the poor conditions of doctors. However, the police refused the notification on the ground that they had information that the event would cause breach of peace.

The Appellants went ahead to hold a procession but they were intercepted by the Zambia Police and some Petitioners were even arrested. The Petitioners in their argument contended that their freedom of expression and their freedom of assembly and association as guaranteed by Articles 20 and 21 of the Constitution had been violated. They also contended that the Police action in its entirety was in breach of the Public Order Act. The Petitioners further stated that they complied with all the requirements of section 5 of the Public Order Act.

The High Court held that the Petitioners breached section 6 (7) of the Public Order Act which prohibited the holding of Public meetings, processions and demonstrations. However, the petitioners were not satisfied with the decision of the High Court and appealed to the Supreme Court.

The Supreme Court held in favour of the Petitioners and stated that the rights to freedom of expression and assembly were not only fundamental but central to the concept and ideal democracy. The police flagrantly violated the Public Order Act and consequently, infringed the Petitioners' rights as enshrined in Articles 20 and 21 of the Constitution. The Supreme Court further held that the State's action impeded the citizen's enjoyment of their Constitutional freedoms and awarded the Petitioners with both general and exemplary damages and costs.

VI. Law Association of Zambia v the Attorney General, Appeal No. 08/2014

The Law Association of Zambia challenged the provisions of the Public Order Act. In their argument the Law Association of Zambia contended that sections 5 and 6 of the Act were unconstitutional as they contravened the freedom of expression and the freedom of association and assembly as enshrined in Articles 20 and 21 of the Constitution, respectively.

The Appellants stated that section 5 of the Act requires a person intending to convene a public meeting to provide the police with seven days' notice of such intention; and authorises the police to impose conditions on the meeting which could affect the date and duration of the meeting, persons permitted to speak at the meeting, and matters to be discussed; and where the police notify the conveners of a meeting that it is not possible for the Police to adequately police it, such meeting shall not be held. Section 6 of the Act provides a penalty for disobeying a direction or violating conditions of permit issued under section 5.

It was argued that in its current form, section 5 of the Act still presents a legal barrier to the full enjoyment of the rights conferred by Articles 20 and 21 of the Constitution, in that it still requires the giving of advance notice which in essence and practice amounts to a request for permission. It was further argued that section 5 of the Act contains no provisions that would rule out the possibility that permission to assemble and speak may be refused so that the freedoms are denied altogether on arbitrary or improper grounds. Reasons for so arguing were that the Public Order Act does not have an inbuilt mechanism for ensuring that the wide discretionary powers conferred upon the regulating officer are exercised with reasonableness.

In their answer, the Respondent stated that the rights and freedoms guaranteed under Articles 20 and 21 of the Constitution are not absolute. The respondent maintained that the Public Order Act is an essential piece of

legislation for purposes of maintaining public order, which in turn is essential for the enjoyment of other rights enshrined in the Constitution.

The court held that in its current form, section 5(4) of the Public Order Act is not unconstitutional since there is no requirement for the convener of a public meeting, procession or demonstration to apply for a permit. The only requirement is for notice. The requirement for notice is necessary, as this is the only way the Police can perform their regulatory function and maintain law and order in our society. The Court further held the view that the grievance procedure introduced in Section 5(8) and (9) of the Act addressed the concern regarding guidance and effective control of the regulating officer. The grievance procedure provides that any person aggrieved by a decision of the regulating officer may appeal to the Minister and if not satisfied by the decision of the Minister, to the High Court. However, the court dispelled the notion that under Section 5 (6) of the Act, the Police were at liberty to refuse a proposed public meeting, procession or demonstration without suggesting a reasonable alternative date in the very near future even though Section 5(6) of the Act does not set a time limit.

V. Sean Tembo (President for the Patriotic for Economic Progress Party) vs the Attorney General 2018 CCZ-007

The facts of this case are that the Ministry of Local Government purchased forty-two (42) fire trucks at higher price. The Petitioner reacted to this purchase due to a lot of controversy and attracted a sharp criticism from a number of citizens. They complained that the Ministry wasted public funds on the fire trucks which were overpriced and corruptly acquired. The Petitioner decided to mount countrywide protests against the acquisition of the fire trucks. However, the protest in Lusaka was intercepted by the police officers on the ground that the Petitioner had not obtained permission from the Lusaka City Council (LCC).

The Petitioner argued that by law, there is no need to obtain authority to demonstrate from the Lusaka City Council but only obliged to notify the Zambia Police of the protests and that the Petitioner had complied with the requirements of Public Order Act.

The Petitioner contended that the requirement by the Zambia Police to obtain permission from the Lusaka City Council was in conflict with the Petitioner's constitutional right of the freedom of expression, assembly and association as is in Articles 20 and 21 of the Constitution. Accordingly, Article 20(1) of the Constitution entitles any individual in Zambia the right to freedom of expression, the right to hold information, opinions and receive ideas without interference. Further, the Petitioner argued that the Zambia Police are public officers with the strict mandate of performing their functions within the confines of the law.

Therefore, the Respondents argued that their action was on the ground that the Petitioner had not obtained permission from the Lusaka City Council. Further, the Respondents contended that the Petitioner did not comply with the Local Government Regulations 1(b) and 19 of the Second Schedule section 61 of the Local Government Act as read with Article 141(1) of the Constitution. The Respondent also argued that even if the Petitioner may have notified the Zambia Police of the protest the Petitioner was also supposed to obtain permission from the Lusaka City Council which is responsible for the use of all public roads. Respondents further argued that the police acted in accordance with Articles 20 (3) (a) and 21 (2) (a) of the Constitution to ensure public safety.

The High Court held that the action by the police in preventing the Petitioner's protest was unlawful and amounted to a violation of Articles 20 and 21 of the Constitution. Further, the High Court stated that the decision to prevent the Petitioner from proceeding with the protest using the Local Government Regulations that do not have any legal effect on the rights to freedom of association and expression amounted to an abuse of police power, hence

unconstitutional. The Court further stated that the Petitioner be awarded with general and exemplary damages and costs.

3.4.2. International Judgments

The Judicial decisions in foreign jurisdictions where the courts have pronounced themselves over statutes that are kindred to the Zambian Public Order Act as well as the freedom of association and assembly were also reviewed, as these can serve as evidence-based best practice. The cases discussed below highlight some of these findings.

I. Mlungwana and Others V S and Another (CCT 32/18) [2018] ZACC 45; 2019 (1) BCLR 88 (CC); 2019 (1) SACR 429 (CC) (19 November 2018)

The applicants asserted that the criminalisation of the failure to give notice or adequate notice as required by section 12(1)(a) of the Regulation of Gatherings Act is unconstitutional and an unjustifiable limitation of the right to assembly, demonstration, picket and petition as provided for under section 17 of the Constitution. The respondents contended that section 12(1) (a) of the Regulation of Gatherings Act is constitutionally valid. Their primary contention is that the section does not limit any rights in the Bill of Rights because it amounts to mere regulation (the mere legislative regulation of gatherings to facilitate the enjoyment of the right to assemble peacefully and unarmed, demonstrate, picket and petition may not in itself be a limitation). Alternatively, to the extent that this Court found that there was a limitation, the respondents argued that the limitation was justifiable. The respondents submitted that the purpose of the limitation is ultimately to ensure peaceful protests. They explained that notice allows for proper planning for the deployment of police, and that the deployment of police in turn reduces the risk of disruptive protests. Not giving notice or giving inadequate notice, it was

argued, undermines the police's ability for effective monitoring of gatherings to avert possible violence.

The Court, in its judgment stated that section 12(1) (a) goes beyond mere regulation. The criminal sanction in section 12(1) (a) deters the exercise of the right in section 17. The possibility of a criminal sanction prevents, discourages, and inhibits freedom of assembly, even if only temporarily. The convener is obliged to give prior notice to avoid criminal liability. This constitutes a limitation of the right to assemble freely, peacefully, and unarmed. If a convener is deterred from organising a gathering, then in the ordinary course (save for the rare spontaneous gathering) a gathering will not occur.

The Court further stated that a limitation of a right in the Bill of Rights needs to be justified. This justification analysis "requires a weighing-up of the nature and importance of the right(s) that are limited together with the extent of the limitation as against the importance and purpose of the limiting enactment". The respondent's argument is undercut by firstly, lack of resources or an increase in costs on its own cannot justify a limitation of a constitutional right. Secondly, there is a tenuous link between the criminalisation and the achievement of section 12(1) (a)'s ultimate purpose of preventing violent protests. Thirdly, although the level of criminal activity is clearly a relevant and important factor in the limitations exercise, it is not the only factor relevant to that exercise. One must be careful to ensure that the alarming level of crime is not used to justify extensive and inappropriate invasions of individual rights. Finally, the respondents have not argued that the failure to give notice is indefensible in a constitutional democracy and should, therefore, be punished for that reason.

The Court held that section 12(1) (a) is not "appropriately tailored" to facilitate peaceful protests and prevent disruptive assemblies. The right entrenched in section 17 is simply too important to countenance the sort of limitation

introduced by section 12(1) (a). Moreover, the nature of the limitation is too severe and the nexus between the means adopted in section 12(1) (a) and any conceivable legitimate purpose is too tenuous to render section 12(1) (a) constitutional. This is even more so when regard is had to the existence of less restrictive means to achieve section 12(1) (a)'s purpose. Section 12(1) (a) is unconstitutional.

II. South African National Defence Union v Minister of Defence, Secretary of Defence and the Chief of the South African National Defence Force Case CCT 65/06 [2007] ZACC 10

This case concerned disputes regarding collective bargaining that arose between the South African National Defence Force and the South African National Defence Union, the union that represents between a third and a quarter of all the members of the Defence Force.

In this matter, Justice O'Regan J writing for the majority, explained the intersection between various rights afforded by the Constitution that relate to the freedom of expression, association and assembly:

“freedom of expression is one of a ‘web of mutually supporting rights’ in the Constitution. It is closely related to freedom of religion, belief and opinion (section 15), the right to dignity (section 10), as well as the right to freedom of association (section 18), the right to vote and to stand for public office (section 19) and the right to assembly (section 17). These rights taken together protect the rights of individuals not only individually to form and express opinions, of whatever nature, but to establish associations and groups of like-minded people to foster and propagate such opinions. The rights implicitly recognise the importance, both for a democratic society and for individuals personally, of the ability to form and express opinions, whether individually or collectively, even where those views are controversial.”

III. Hague v Committee for Industrial Organisation. 307 US 496 at 515-516 (1939)

In this matter, the Jersey City Director of Safety, was authorised under a local ordinance to refuse a permit to assemble in public if he reached an individual decision based on his own judgment that it would help to forestall riots, disturbances, or other forms of disorder. The Director (Hague) used this authority to deny a permit to members of the Committee for Industrial Organisation, who sought to organise workers into a labour union and requested access to the streets and parks of Jersey City for that purpose. The Committee for Industrial Organisation argued against the constitutionality of the ordinance.

The primary holding of the Court was that the government may regulate the privilege to express views on national questions in public streets and parks, but it may not withhold this privilege altogether.

Mr Justice Roberts stated:

"Wherever the title of streets and parks may rest, they have immemorially been held in trust for the use of the public and time out of mind, have been used for purposes of assembly, communicating thoughts between citizens, and discussing public questions. Such use of the streets and public places has, from ancient times, been a part of the privileges, immunities, rights and liberties of citizens. The privilege... to use the streets and the parks for communication of views on national questions may be regulated in the interest of all; it is not absolute, but relative and must be exercised in subordination to the general comfort and convenience and in consonance with peace and order, but it must not, in the guise of regulation, be abridged or denied."

IV. Russia- Novikova and Others v. Rússia Case Nos. 25501/07, 57569/11, 80153/12, 5790/13 и 35015/13

The applicants planned solo static demonstrations ('solo pickets'). Under the Russian Federal Law prior notification was required for group events, possibly followed by a negotiation procedure if the authorities opposed the event organiser's choice of venue and timing. The demonstrations were terminated by the police. The applicants argued that the responses of Russian authorities to their solo pickets were disproportionate, and constituted violations of the right to freedom of expression and freedom of assembly and association.

In its decision, the Court reiterated that in order to fall within the scope of Article 10 or 11⁴¹ of the European Convention on Human Rights, "interference" with the exercise of the freedom of peaceful assembly or the freedom of expression does not need to amount to an outright ban but can consist in various other measures taken by the authorities. The terms "formalities, conditions, restrictions [and] penalties" in Article 10(2) must be interpreted as including, for instance, measures taken before or during an assembly and those, such as punitive measures, taken afterwards.

⁴¹ Article 10 (1) Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This Article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises.

(2) The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.

Article 11- (1) Everyone has the right to freedom of peaceful assembly and to freedom of association with others, including the right to form and to join trade unions for the protection of his interests.

(2) No restrictions shall be placed on the exercise of these rights other than such as are prescribed by law and are necessary in a democratic society in the interests of national security or public safety, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others. This Article shall not prevent the imposition of lawful restrictions on the exercise of these rights by members of the armed forces, of the police or of the administration of the State.

The impugned measures entail a violation of Article 10 of the Convention unless they are prescribed by law, pursued at least one of the legitimate aims mentioned in Article 10(2) and were necessary in a democratic society. The Court held that there had been a violation of Article 10 of the Convention, and that

V. Kivenmaa v. Finland CCPR/C/50/D/412/1990

In this matter, the Finnish government arrested the complainant for convening a public gathering without notice to protest against a visiting foreign Head of State. When assessing the impact this had on the right in article 21 of the ICCPR, the Committee held that—

“a requirement to notify the police of an intended demonstration in a public place six hours before its commencement may be compatible with the permitted limitations laid down in article 21 of the ICCPR. The Committee notes that any restrictions upon the right to assemble must fall within the limitation provisions of article 21. A requirement to pre-notify a demonstration would normally be for reasons of national security or public safety, public order, the protection of public health or morals or the protection of the rights and freedoms of others. Consequently, the application of Finnish legislation on demonstrations to such a gathering cannot be considered as an application of a restriction permitted by article 21 of the ICCPR.”

VI. Munhumeso and Others V Attorney General. (1994) 1 Z.R.C 284

The Petitioner and others challenged section 6 (6) of the Law and Order (Maintenance) Act⁴² for holding public procession for which a permit under section 6(2) of the Act had not been obtained. The Petitioners further contended that section 6 was ultra vires to sections 20 and 21 of the Constitution⁴³ of

⁴² Section 6(6) of the Law and Order (Maintenance) Act of Zimbabwe.

⁴³ Article 20 and 21 of the Constitution of Zimbabwe

Zimbabwe which proved for fundamental freedom and in consequence, the charge was bad in law.

The particulars of the case are that, Petitioner and others notified the Police Officer in Command to hold a peaceful public processions and gathering on the street, but the Police did not grant them the permit. However, the Petitioner and others went ahead with their peaceful public processions and gathering, but they were halted by Officers of the Zimbabwe Republic Police that the procession was illegal.

The Petitioners in their argument contended that the right to demonstrate in the form of a procession touches directly to the freedom of expression and freedom of assembly as provided under sections, 20 and 21 of the Constitution.

The Court of Appeal ruled in favour of the Petitioners and stated that section 6 of the Act contains provisions that are not reasonably justifiable in a democratic society in the interests of public safety or public order. The discretionary power of a regulating authority is uncontrolled where the authority can issue a direction prohibiting the right to form a public procession not related to public safety or public order. The Freedom of expression and assembly are vitally important rights and these rights lie at the foundation of a democratic society, they are the basic conditions for the progress of society. The right of freedom of assembly is often exercised by persons taking part in public processions and protects. In conclusion, the Court found that the Act contravened articles 20 and 21 of the Constitution and was therefore null and void.

3.5. Comparative Study

A comparative study was carried out to review the relevant legislation of selected countries, to serve as benchmarks upon which the state can base evidence based best practice. The countries that were considered in this regard were England (Public Order Act 1986 Chapter 64); Nigeria (Public Order Act,

1979); Sierra Leone (Public Order Act of 1965); Uganda (Public Order Management Act, 2013); Malawi (Malawi Police Act); Brunei (Public order Act Chapter 148 of the Laws of Brunei); South Africa (Regulation of Gathering Act No. 205 of 1993); Kenya (Public Order Act Chapter 56). These jurisdictions were selected because they have legislation addressing issues pertaining to public meetings and processions which address the various issues raised by stakeholders which require to be addressed.

The key areas of focus for the comparative study were based on problematic areas identified by the review team and stakeholders during the consultative meetings. These included the need: to rename the Act; to provide for a shorter notice period; to provide for the acknowledgment of notices; to include provisions relating to spontaneous gatherings; to provide for the restriction of gatherings; to introduce a provision providing for a register of notices; to provide for an appeals process; the implementer of the Act; and to ensure adherence to the law (compliance).

i. Name and Objectives of the Act

England

Public Order Act 1986 Chapter 64 of England

Objectives of the Act

The objects of this law are to among others: abolish the common law offences of riot, rout, unlawful assembly and affray and certain statutory offences relating to public order; to create new offences relating to public order; to control public processions and assemblies; to control the stirring up of racial hatred; to provide for the exclusion of certain offenders from sporting events; and to repeal certain obsolete or unnecessary enactments; and for connected purposes.

The first Public Order Act of 1936 which is read together with the Act of 1986 has similar objects to the Public Order Act of Zambia, namely, to prohibit the wearing of uniforms in connection with political objects and the maintenance by private persons of associations of military or similar character; and to make further provision for the preservation of public order on the occasion of public processions and meetings and in public places.

Nigeria

Public Order Act of Nigeria 1979

Objectives of the Act

The Act responsible for regulating public order in Nigeria is the Public Order Act, 1979. It repeals and replaces all public order laws in the States of the Federation and provides for, *inter alia*, the maintaining of public order, the prohibition of the formation of quasi-military organisations and the regulation of the use of uniforms.

Brunei

Public Order Act Chapter 148 of the Laws of Brunei

Objectives of the Act

The Act is responsible for the preservation of public order in Brunei

Kenya

Public Order Act Chapter 56 of the Laws of Kenya

Objectives of the Act

An Act of Parliament to make provision for the maintenance of public order, and for purposes connected therewith.

Sierra Leone

Public Order Act, 1965 of Sierra Leone

Objectives of the Act

The Act that is responsible and regulates public order in Sierra Leone is the public order act of 1965. It consolidates and amends the law relating to public order and provides for, among others the carrying of offensive weapons, processions and breach of public order.

Uganda

Public Order Management Act, 2013 of Uganda

Objectives of the Act

The Act on Public Order in Uganda provides for the regulation of public meetings, duties and responsibilities of the Police, Organisers and Participants in relation to public meetings to prescribe measures of safeguarding public order and for related matters.

South Africa

Regulation of Gatherings Act No. 205 of 1993 of South Africa

Objectives of the Act

This Act provides for the regulation of the holding of public gatherings and demonstrations at certain places.

Malawi

Police Act of Malawi

Objectives of the Act

An Act to provide for the organisation, administration and the general powers, duties and functions of the Malawi Police Service; to make provision for the functioning of the Police Service Commission and for the recruitment, appointment, promotion and discipline of police officers; to establish an Independent Complaints Commission as a specialised body to receive and hear complaints by the public against police officers and make recommendations thereon; to make provision for the regulation of public order in relation to public assemblies, processions and demonstrations and at football matches; to make provision for community policing; to provide for a lay visitors scheme to enable lay persons in the community make inspection visits to police stations to check conditions of persons there detained; and further to provide for connected and ancillary matters.

Observation

In the countries above, it was observed that Sierra Leone, Nigeria, Kenya, England and Brunei have the same name of the Act as is the case in Zambia, namely, Public Order Act, whilst in Uganda, it is named the Public Management Act, and in South Africa, the Regulation of Gatherings Act. Malawi does not have a specific Public Order Act. However, public meetings are regulated by the Police Act.

(ii) Non-application of the Act

Brunei

Generally, the law in Brunei requires any person intending to convene any public meeting to give a notice, the law therefore applies to everyone. However, section 9 (4) of the Act, states that “*the Minister may, by order published in the Gazette, exempt any class of meeting or procession, from all or any of the provisions of this section.*” This provision exempts any person or organisation that has been published in the Gazette from obtaining a permit required for holding of meetings and processions in public places.

Sierra Leone

In Sierra Leone, the Public Order Act applies to everyone. However, the Public Order Act, 1965 empowers the Governor-General to exempt certain classes of persons from operation of the Act. Section 21. (1) provides that *“The Governor-General may from time to time by Order exempt from the operation of this Part or any provisions thereof, any general or particular class of person’s subject to any terms or conditions as he may by such Order impose.”*

Kenya

The Kenya the Public Order Act applies to all persons intending to convene a public meeting. However law section 2 under Interpretation, provides exemptions under what is called *“excluded meetings”* as follows: *“excluded meeting”* means— (a) any meeting convened and held exclusively for the lawful purposes of any public body; or (b) any meeting of the members of any registered organisation, whether corporate or unincorporated, convened in accordance with the constitution of the organisation and held exclusively for the lawful purposes of that organisation; (c) any meeting of the members of any trade union convened and held exclusively for the lawful purposes of that trade union; (d) any meeting convened and held exclusively for social, cultural, charitable, educational, commercial or industrial purposes; (e) any meeting of the organs of a political party, convened in accordance with the constitution of the party and held exclusively to discuss the affairs of the party; (f) impromptu *“meet-the-people”* tours by Members of Parliament and councillors;

Observation

It was observed that the countries above do not create a provision for application of the Act. However, their laws make provision for exceptions and exclusions of particular categories of persons or organisations from writing a notice or obtaining a permit required for holding of meetings and processions in public places. It was further noted that the *Zambian Public order provisions* on exemptions and application is not sufficient. Therefore, it is recommended that the proposed law should have provisions to exempt certain classes of people or organisations (i.e. the President, Vice President, and funeral gatherings) from notifying the law enforcement agencies for holding of meetings and processions in public places.

(iii) Notice of Intention to Hold a Public Meeting

England

Section 11 of the UK Act provides that any person requiring to hold a public meeting shall give a notice in advance before holding the said meeting unless it is not reasonably practicable to do so. This provision exempts any public processions that are traditionally or commonly held. The notice must also specify the date, the time, the name and address of a person intending to hold the said meeting. The Notice must be delivered to a police station in the police area in which it is proposed the procession or meeting will start.

The notice under this provision requires that the police are given six days' written notice of any procession or, if that is not reasonably practicable, as soon as delivery is reasonably practicable.

Nigeria

The Nigerian law provides that persons desiring to convene a Public gathering or form any procession in any public road should apply for a licence to the Governor within 48 hours before the occurrence. Having been satisfied with the application, the Governor is required to direct any superior police officer to issue a licence specifying the name of the licensee and the details of the assembly, not later than 24 hours before the public meeting.⁴⁴

The Act further provides that if the Governor is unsatisfied with the application, they are required to convey the refusal to issue the licence in the stipulated time. The Act however, does not expressly state that the governor or superior officer should give reasons for the refusal.

Sierra Leone

In regard to the processions, the Act provides that any person that intends to take part or takes part in organising or holding any procession shall notify the commissioner of police in writing and failure to give such a notification be guilty of an offence. This gives each and every person an equal opportunity to hold or participate in processions.

Uganda

In the Ugandan Act an organiser of a meeting is required to give notice in writing signed by the organiser or his or her agent to the authorised officer of the intention to hold a public meeting, at least three days but not more than fifteen days before the proposed date of the public meeting⁴⁵.

The Act further provides that *“where it is not possible to hold the proposed public meeting for reasons that—*

⁴⁴Section 1(2)

⁴⁵ Section 5 of the Public Order Management Act 2013

(a) notice of another public meeting on the date, at the time and at the venue proposed has already been received by the authorised officer; or

(b) the venue is considered unsuitable for purposes of crowd and traffic control or will interfere with other lawful business,

The authorised officer shall, in writing within forty-eight hours after receipt of the notice, notify the organiser or his or her agent that it is not possible to hold the proposed public meeting and the notice shall be delivered to the organiser's address as stated in the notice of intention to hold a public meeting."

Malawi

Section 96 of the Malawi police Act provides that, where it is intended to hold an assembly or a demonstration the convener shall give notice in writing, of not less than forty-eight hours and not more than fourteen days to the District Commissioner concerned with a copy to the officer in-charge of the police station concerned.

South Africa

The Law in South Africa like that in Zambia requires Notice to hold a public assembly. Section 3(3)⁴⁶ provides that the convener of a gathering shall give notice in writing of the intended gathering to the responsible officer concerned.

Further, it states that the Convener shall not later than seven days for the date on which the gathering is to be held, give notice to the responsible officer and if such notice is given less than 48 hours before the commencement of the gathering, the responsible officer may by notice to the convener prohibit the gathering.

The Act further provides for what the notice will contain, it provides that;

⁴⁶Regulation of Gathering Act No. 205 of 1993

- (1) The Notice shall contain the name, address and contact details of the convener;
- (2) Name of the organisation on his behalf the gathering is convened;
- (3) The purpose of the gathering;
- (4) The time, duration and date of the gathering;
- (5) The place where the gathering will be held;
- (6) The anticipated number of participants;
- (7) The proposed number and, where possible, the names of the marshals who will be appointed by the convener, and how the marshals will be distinguished from the other participants in the gathering.

Observation

The general thread in all the countries looked at with regard to a notice is that for any person to hold a public meeting, they are required to give notice to the responsible officer. The notice is also attached with conditions and if the conditions are not adhered to, the public meeting may not take place. Further, these countries provide for shorter periods within which a notice must be given. For example, Malawi provides for 48 hours for a person to give a notice.

(iv) Types of Gatherings

Malawi

“Part 9 of the Malawi Police Act provides for different types of public assemblies such as processions, rallies, public meetings, and spontaneous gathering. It defines public assembly as an assembly of more than fifteen persons in or on any public place or premises or on any public road.

South Africa

The South African law regulates public gatherings, spontaneous gathering and demonstrations. Section 1 defines gathering as any assembly, concourse or procession of more than 15 persons in or on any public road. Further section 12 (1) of the Regulations and Gatherings Act, provides that any person who-

(a) convenes a gathering in respect of which no notice or no adequate notice was given in accordance with the provisions of section 3.

(2) It shall be a defence to a charge of convening a gathering in contravention of subsection (1)(a) that the gathering concerned took place spontaneously.

Uganda

The Ugandan law provides for public meetings. It defines a public meeting as a gathering, assembly, procession or demonstration in a public place or premises held for the purposes of discussing, acting upon, petitioning or expressing views on a matter of public interest.

Section 7 makes provision for spontaneous public meeting and defines it as an unplanned, unscheduled or unintended public meeting.

Observation

In the countries above, it was observed that the laws define a public meeting or assembly to include processions, rallies, gatherings. These laws therefore regulate different types of gathering and provide for exceptions with regards to gathering not regulated under the Acts. The reviewed laws further provide for spontaneous gathering which is considered as an unplanned or unintended gathering that may happen at any time and anywhere without notice.

It was noted that the current Zambian Public Order Act similarly regulates different types of public meetings and provides for an exception of public meetings not covered under the Act. It was further observed that the Zambian Public Order Act has no provision for the arising of spontaneous gatherings and demonstrations.

(v) Restriction of Public Gatherings

England

Section 12 gives the police the power to impose conditions on processions, including specifying the route that it shall take or prohibiting it from entering a particular area. However, where such conditions are not sufficient, section 13 empowers the chief officer of police to prohibit the holding of a public meeting where such an officer reasonably believes that the holding of public processions in that district or part of may result in serious public disorder.

Sierra Leone

The law in Sierra Leone with regard to restrictions of public gatherings provides that the commissioner of police by order of writing the power to give notice, disallow the holding of the procession or impose conditions as he shall think fit on any procession where in his opinion the interest of defence, public order, public safety or public morality so require. If the commissioner of police is not satisfied with the reasons given as to why a procession must be held, he has the power to disallow it whilst giving reasons in a stipulated time.

Uganda

When it comes to restrictions of gatherings the Ugandan Act provides that an authorised officer or any other police officer of or above the rank of inspector,

may stop or prevent the holding of a public meeting where the public meeting is held contrary to the Act⁴⁷.

Malawi

Section 99 of the Malawi Police Act provide that, where the agreement is not reached regarding the contents of the notice, or on the conditions regarding the conduct, of an assembly or a demonstration, the authorising officer may, if there are reasonable grounds, of his own accord or at the request of the officer in-charge of police, refuse a request for the assembly or demonstration or impose conditions with regard to the holding of the assembly or demonstration to ensure protection of the general public.

Brunei

Section 5(1) provides for Prevention and prohibition of gathering. It states 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, injury to participants or other persons or extensive damage to property and that the Police will not be able to contain the threat, he shall forthwith meet or, if time does not allow it, consult with the convener or authorised members and any other person with whom, he believes, he should meet or consult, including representatives of any peace committee or police community consultative forum in order to consider the prohibition of the gathering”*.

(3) *If the responsible officer decides to prohibit the gathering, he shall notify the convener, authorised member and every other person with whom he has so met or consulted, of the decision and the reasons thereof.*

⁴⁷ section 8 Public Order Management Act 2013

Observation

The above provisions with regard to restrictions of public gathering empowers relevant authorities to restrict or disallow public gatherings where there are threats to life, public disorder, defence or property. These provisions appear to be similar with the provisions of the Public Order Act of Zambia which equally provides for circumstances under which the right to freedom of assembly may be derogated from.

(vi) Implementer of the Act (Authorising Authority)

Uganda

The Inspector General of Police or an authorised officer shall have the power to regulate the conduct of all public meetings in accordance with the law. Section 5 provides that any person intending to convene a meeting shall give a notice to the authorised officer.

Kenya

In Kenya the obligation to maintain public order at public meetings is placed on the regulating officer. A regulating officer is defined as an officer-in-charge of the police station in the area in which a proposed public meeting is proposed to be held, or in the case of a public procession, the police officer-in-charge of the police station in the area in which the procession is proposed to start and to end.

Sierra Leone

In Sierra Leone the obligation to implement the Public Order Act is placed on the Commissioner of Police. The Commissioner of Police includes the principal officer of the Sierra Leone Police Force, any police officer authorised by him to exercise any of his powers under this Act and any other person appointed by the Governor-General by Notice in the Gazette to exercise and perform any or

all of the powers and functions assigned to the Commissioner of Police under this Act⁴⁸.

England

In England, the obligation to maintain public order at public meetings is placed in the police. A person intending to convene a public meeting is required to give notice of the same to a police station within the area that they intend to hold the meeting⁴⁹.

Observation

It was observed that the authorising authority in the implementation of the public Order Act and issues pertaining to maintenance of public order are a reserve of the police service. This is similar to the provision of the Zambian Public Order Act which places an obligation on the police to implement the Public Order Act.

(vii) Register of Notices

Uganda.

The Public Order Management Act 2013, an authorised officer to keep a register of all notices. Section 11 provides that *“An authorised officer shall keep a public register of all notices received under this Act, and the register shall be open for inspection by any person during working hours”*.

Kenya.

The Public Order Act Chapter 56 under Section 14 provides that *“The regulating officer shall keep a public register of all notices received under subsection (2).”*

⁴⁸ section 1 of Public Order Act of 1965

⁴⁹ Section 11 of the Public Order Act of 1986

Observation

It was observed that Uganda and Kenya provide that the authorised officer must maintain a register of notices that should be available for inspection by any person during working hours. To this effect, the Zambian law ought to provide for a register of notices and the register must be available for persons to inspect at any time during working hours.

(vii) Appeals

Nigeria

Section 1(5) of the Public Order Act provides for an appeal process for any decision made by a police officer, Commissioner or any superior police. It provides that an aggrieved person may appeal to the Governor within 15 days of a decision made by Commissioner or any Superior police. If aggrieved by a police officer, the person may appeal to the Commissioner or Superior police and have the right to appeal to the Governor whose decision is final. The provision further provides that, the Governor or the Commissioner of Police shall give a decision on any appeal lodged not later than 15 days after the date of its receipt.

Brunei

Section 16B of the Public Order Act⁵⁰ provides that aggrieved parties may make an appeal to the Minister who has the final say.

Uganda

Section 6(4) of the Public Management Act provides that a person aggrieved by the decision of an authorised officer may, within 14 days of receiving a notice specified in the Act, appeal to the Magistrate Court.

⁵⁰ Chapter 148 of the Laws of Brunei

South Africa

Section 6(5) of the Regulations of Gatherings Act provides that any person whose rights may be affected by the holding of a gathering or by its prohibition, may apply to an appropriate court to strike out or amend any condition as it deems fit.

Malawi

Section 102(1) of the Malawi Police Act provides where a condition is imposed in respect of an assembly or a demonstration or when an assembly or a demonstration is prohibited in accordance with Act, the aggrieved party may apply to the High Court.

Observation:

It was observed that the countries reviewed under the comparative study varied with regard to the appeal process. Malawi, South Africa and Uganda make provision for an appeal to a competent Court while in Nigeria and Brunei, aggrieved parties appeal to the Governor and Minister respectively. It was further observed that Kenya, England and Sierra Leone do not have a provision for an appeal process for the refusal to hold a public gathering by an authorised officer, in their Public Order Act.

Similarly to the Public Order Act in Brunei, Section 5(8) of the Public Order Act in Zambia provides that unsatisfied conveners may appeal to the Minister as this portfolio function is vested in the Minister by virtue of the Statutory Functions Act⁵¹.

⁵¹ Chapter 4 of the laws of Zambia

(viii) Penalties

England

Section 13(7) of the Public Order Act 1986 provides that a person who organises a public procession that is prohibited by the Act is guilty of an offence and is liable on conviction to imprisonment for a term not exceeding 3 months or to a fine or two both. The Act further provides for offences and penalties that include taking part or inciting another person to take part in a prohibited public procession, acts intended or likely to stir up racial hatred and violent disorders.

Nigeria

Section 3 of the Act provides that any person taking part in the convening, collecting or directing of an assembly deemed to be unlawful under the Act shall be guilty of an offence and is liable on conviction to a fine or imprisonment for 6 months or to both such fine and imprisonment. The Act further provides for penalties for offences that include acting disorderly in a public assembly, meeting or procession; wearing any uniform or displaying any flags that are in contravention to the provisions of the Act; and the formation of quasi-military organisations.

Brunei

Section 12 of the Act provides that any person who takes part in any unlawful group shall be guilty of an offence and is liable to a fine and imprisonment for one year. The Act further provides for offences and penalties relating to the formation of quasi-military organisations, firearms and ammunition, disturbance in public places and the abetment and failure to report an offence.

Uganda

In Uganda, the Public Management Act does not provide for penalties but cross references to offences and penalties provided for in the Penal Code Act⁵². For instance, Section 8(4) of the Act provides that an organiser who holds a public meeting without any reasonable excuse and fails to comply with the conditions under the Act commits an offence of disobedience of statutory duty and is liable on conviction to a penalty for that offence under the Penal Code Act.

South Africa

Section 12 of the Regulation of Gatherings Act provides for offences and penalties. It provides for offences that include, the convening of a gathering in respect of which no notice or no adequate notice was given in accordance with the Act; and contravention or failure to comply with any provision in the Act in regard to the conduct of a gathering or demonstration. Any person who contravenes the provisions of the Act is guilty of an offence and on conviction liable to a fine or to imprisonment for a period not exceeding one year or to both such fine and such imprisonment.

Sierra Leone

Section 4(3) of the Public Order Act, 1965 provides that any person who holds a public meeting in contravention of the Act, shall be guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding six months or both. The Act includes penalties for offences such as throwing of missiles, drunkenness and riotous conduct.

Kenya

Section 5(11) of the Public Order Act provides that any person who takes part in any public meeting or public procession deemed to be an unlawful under the

⁵² Penal Code Chapter 120 of the Laws of Uganda

Act, or holds, convenes or organises such meeting or procession shall be guilty of the offence of taking part in an unlawful assembly under the Penal Code⁵³ and liable to imprisonment for one year. The Act further includes penalties for the use of offensive weapons at public meetings and processions; and the formation of organisations for the purpose of usurping the functions of the police or military forces.

Malawi

The Police Act of Malawi provides for penalties for offences that include the use of weapons at assemblies and demonstrations; disorderly conduct at football matches and the wearing of apparel that resembles any uniforms worn by members of the Police Service or members of the defence force.

Observation

It was observed that in all the countries under review, the Public Order Act provided for various offences and penalties. Common in nearly all the Acts was the penalty for holding a public gathering without a notice or permit which carried a fine or imprisonment ranging from 3 months to 1 year. It was further observed that where the Act did not provide for penalties it crossed referenced to the Penal Code that provided for similar offences.

4.0 ZAMBIA LAW DEVELOPMENT COMMISSION SPECIFIC FINDINGS

The Commission makes the following specific findings based on the submissions received during the national stakeholder consultative meeting, and the findings from the desk review.

1. Repeal and Replace the Public Order Act'

The findings of the review process revealed that the provisions of the Public Order Act of Zambia impede the enjoyment of the freedom of assembly,

⁵³ Laws of Kenya, Chapter 63

association and expression in the conduct of public assemblies, processions and other forms of public gatherings notwithstanding the amendments that it has undergone. Further the Act does not adhere to the international instruments analysed above which provide that every person has the inalienable right to take part in any peaceful assemblies and places an obligation on the State to facilitate and protect assemblies. It was the stakeholder's submission that the Public Order Act is colonial legacy and was meant to curtail the freedom of assembly and association and should therefore be repealed and replaced.

2. Name of the Act

The findings from the comparative study revealed that countries like Sierra Leone, Nigeria, England, Kenya and Brunei had the same name of the Act as Zambia, while Uganda has Public Management and South Africa had a Regulations of Gatherings. Malawi does not have a specific public order Act, however, public meetings are regulated by the Police Act.

During the stakeholder consultations, it was submitted that there was need for the name of the Public Order Act to change, as it was indicative of an intention to curtail the exercise of the freedom of association and assembly rather than to facilitate it, and that it had a colonial connotation. The majority of submissions from stakeholders were to rename the Act as the "Public Gatherings Act".

3. Application

The findings revealed that the Public Order Act of Kenya, the Public Order Act of Sierra Leone and the Public Order Act of Brunei provided that the laws on Public order apply to anyone who intends to convene a public gathering, processions or demonstration. However, the law in the above countries provided for exemptions and exclusions of particular categories of persons, or organisations from giving notice of an intention to hold a public gathering or

obtaining a permit. These include Kenya, Sierra Leone and Brunei. Further stakeholders submitted that the Act should apply to everyone who intends to convene a public gathering, processions and demonstration except certain categories of persons or organisation (i.e. the President, Vice President and Ministers). They added that during campaign periods no one should be exempted from the application of the Act.

4. Notice

The findings revealed that countries like England, Uganda, Kenya, South Africa required a person intending to hold a public meeting, gathering or procession to give notice to the responsible officer. The notice was also subject to conditions and if the conditions were not adhered to, the public meeting may not take place. Further, these countries provided for shorter periods within which a notice must be given. For example, Malawi provided for 48 hours for a person to give a notice, England provided for a 6-day notice while Uganda provided for 3 days' notice. The findings further revealed that the United Nations 10 Principles for the Proper Management of Assemblies provides that the period for lodging notification of an intended assembly is no longer than several days but ideally within 48 hours.

Stakeholders were of the view that notice to hold a public gathering should be given within 72 hours while others submitted that a 5-day notice was more practicable.

5. Types of Gatherings

The findings revealed that most of the countries provided for different types of public gatherings, these included meetings, processions, demonstrations and spontaneous gatherings. International instruments and treaties provide that States have the obligation to facilitate and protect assemblies which include spontaneous assemblies, simultaneous assemblies and counter-protests. Countries such as Uganda, England and Malawi provided for

spontaneous assemblies in their laws. Further, stakeholders submitted that the proposed law should provide for provision on different types of gathering like multiple concurrent assembly (simultaneous assembly) Protests (demonstrations) and spontaneous assembly.

It was also noted that the definition of simultaneous assemblies found in the Guidelines on Freedom of Association and Assembly of the African Commission on Human and Peoples rights was more encompassing and therefore the need to adopt it in our Bill.

6. Restrictions of Public Gathering

The comparative study revealed that countries such as England, Brunei, Sierra Leone and Uganda provided for restrictions of public gatherings, or for conditions to be imposed on the holding of a public gathering, based on concerns relating to the maintenance of public order or public safety.

Article 21 of the ICCPR provides that the freedom of association and assembly may be restricted in the interest of the safety and protection of the rights and freedoms of others in a democratic society.

In *Hague v Committee for Industrial Organisation*. 307 US 496 at 515-516 (1939), the primary holding of the Court was that the government may regulate the privilege to express views on national questions in public streets and parks, but it may not withhold this privilege altogether.

During stakeholder consultations, it was submitted that section 7 of the Public Order Act which provides for unauthorised assemblies gives the police excessive discretion to prevent a person from exercising their right to hold a public gathering for reasons that are many times falsified, such as insufficient man-power. Others submitted that once a notice of intention to hold a public gathering is given, the organiser should be allowed to proceed to hold the meeting without restriction, but the police should avail themselves to maintain law and order.

7. Implementer of the Act (Authorising Authority)

The findings revealed that in Uganda, Kenya, Sierra Leone, and England the implementer of the Act is the police. Further, the 10 principles for proper management of assemblies recognise the role that law enforcers play in facilitation and maintaining order at public meetings. The majority of the stakeholders also submitted that the proposed law must be implemented by the police, because issues of public security and maintenance of order are the preserve of the police service and other security wings.

8. Register of Notices

The findings revealed that Uganda and Kenya required the authorised officer to maintain a register of notices that should be available for inspection by any person during working hours. However, the legislation considered did not provide for the form in which the register should appear.

Stakeholders submitted that there was need to adopt the practice in Zambia, as it would promote transparency by allowing conveners to establish whether there is indeed a prior notice to hold another gathering at the same venue, on the same date and at the same time. Further, the information in the register may be used to collect data that could inform legislative and policy development.

Penalties

The Public Order Act in Zambia provides for several offences that include; convening or presiding a public meeting where the National anthem has not been played; having in possession weapons at public meetings and processions; acting in a manner conducive to breaches of peace; and organising or taking part in an assembly deemed to be unlawful by the Act.

The Act also provides for a general penalty of imprisonment for three months or to a fine of one thousand five hundred penalty units, or to both for the

offences aforementioned. The Act further includes the offence of organising or training or equipping quasi-military organisations of which a person found guilty is liable to imprisonment for six months or to a fine of three thousand penalty units or to both such imprisonment for the quasi military organisations.

The findings revealed that some of the offences provided in the Public Order Act are duplicated in the Penal Code Act. These include the prohibition of quasi-military organisations under section 4 of the Public Order Act which is similar to the offence of unlawful drilling, which is provided for under section 66 of the Penal Code Act and offensive conduct conducive to breaches of peace under section 11 of the POA which is similar to the offence of use of insulting language the Penal Code.

The findings also revealed that all the countries in the Comparative Study provided for penalties for offences such as unlawful assembly, formation of quasi-military organisations and the possession or use of weapons in public gathering.

During the stakeholder consultations, stakeholders submitted that there was a need to include a penalty for unlawful assembly in the proposed law. However, stakeholders were of the view that the penalty should not be a punitive custodial sentence but rather community service or probation.

Further, stakeholders submitted that there was need to include a provision prohibiting the wearing of an attire that is in connection with the defence force and security officers at public gatherings. Though section 182(3) of the Penal Code provides for the prohibition of wearing an official uniform, stakeholders were of the view that there was a need to include the offence in the proposed law so as to address a specific mischief that has occurred in past where uniforms in connection with defence were worn at public gatherings to intimidate people.

Additionally, stakeholders submitted that the proposed law should include a provision prohibiting the possession of a firearm or weapon at a public gathering, other than in the course of duty, so as to ensure public safety.

9. Appeals

The Public Order Act provides that aggrieved parties may appeal to the Minister. If unsatisfied with the Minister's decision, an aggrieved party may appeal to the High Court. Stakeholders were of the view that appeals should not be handled by the Minister who is an interested party and subject to political interference but rather, aggrieved parties should appeal directly to the High Court and subsequently to the Constitutional Court. Other stakeholders felt that the appeal should go to the Magistrate in charge of the district instead of the Minister. It was noted in the Comparative Study that Malawi provides for an appeal to the High Court while both South Africa and Uganda appeal to a Magistrate Court. The findings further revealed that in Nigeria and Brunei, aggrieved parties appeal to the Governor and Minister respectively.

The desk review revealed that the ICCPR's Monitoring Body- the Human Rights Committee stipulates in its General Comments,⁵⁴ that States parties must ensure independent and transparent oversight of all bodies involved with peaceful assemblies, including through timely access to effective remedies, including judicial remedies. The UN Principles for the proper management of assemblies further specifically stipulate that exhaustion of administrative remedies is not a prerequisite for an organiser to seek judicial review or the applicable judicial remedy.

⁵⁴ See Human Rights Committee General Comment No. 37 (2020), CCPR/C/GC/37 of 17 September 2020.

4.1 ZAMBIA LAW DEVELOPMENT COMMISSION RECOMMENDATIONS

Based on its findings, the Commission makes the following recommendations:

1. Amend or Replacement of the Public Order Act

It is recommended that the Public Order Act Chapter 113 of the Laws of Zambia be repealed and replaced as it does not facilitate the enjoyment of the right to assembly, association and expression as guaranteed in the Constitution.

2. Name of the Act

It is recommended that the Zambian Public Order Act should be renamed as “The Public Gatherings Act” because this name facilitates the exercise of the freedom of association and assembly rather than to restrict it, and is specific as to what the Act seeks to regulate.

3. Application

It is recommended that the proposed law should make provisions which speaks to who the proposed bill applies to and the classes of meetings to be regulated under the proposed law. It should also make provision for classes of meetings or persons that are not regulated by the proposed law, further, the proposed law must provide for classes of meetings and persons exempted under the proposed law. It is the Commission’s further recommendation that the proposed law exempts the President and the Vice President from issuing a notice to convene a public meeting as the President and Vice President continue to execute executive functions in accordance with the Constitution Article 81.⁵⁵

⁵⁵80 (8) Where Parliament is dissolved under clauses (3) and (4), the President shall, until the President-elect assumes office, continue to perform the executive functions, in accordance with Article 104.

4. Notice

It is recommended that the law should provide that any person intending to hold a public gathering must give a notice of the intention, at least 5 days before the meeting. However, where 5 days' notice is not practicable, that person may give 2 days' notice. The law must also provide the form of the notice.

5. Types of Gathering

It is recommended that the proposed law should regulate meetings, demonstration and processions, and have a provision on spontaneous gatherings and multiple concurrent gatherings, and place an obligation on the authorised officer to facilitate the holding of such gatherings where practicable. It is further recommended that the definition of Spontaneous assemblies be adopted from the Guidelines on Freedom of Association and Assembly of the African Commission on Human and Peoples rights to read: “assemblies that occur as immediate reaction to events, and planned assemblies that necessarily occur within a tighter deadline that that required relative to notification”.

6. Restriction of public gathering

It is recommended that the word restriction be replaced with limitation to include circumstances under which the holding of a public gathering may be limited. The term restriction is not in the spirit of the promotion of the right to assemble, the term limitations is more suitable. These provisions should be consistent with Articles 20 and 21 of the Constitution as well as tenets of democracy.

The authorised officer should be obligated to provide reasons for the restriction in writing, and the convener should be invited to address the reasons given, and to proceed with the holding of the public gathering.

7. Register of notices

It is recommended that the authorised officer should be obligated to maintain a register of notices. The register must be available for inspection by members of the public during working hours. Further, the form of the register of notices should be incorporated in the schedule of the Bill and not left to the discretion of the Minister to be prescribed.

8. Implementer of the Act (Authorising Authority)

It is recommended that the proposed law be implemented by the Zambia Police Service.

9. Penalties

It is recommended that the proposed law must include a penalty for unlawful assembly to compel organisers to notify the police of a public gathering and to ensure adherence to the law. The penalty should include the option of a fine, community service and probation. Further, the penalties for offences which also sit in other laws such as the Firearms Act and Penal Code Act, should be in cross reference with the penalties sitting in the other laws.

It is further recommended that the proposed law should repeal the offence relating to the singing of the National Anthem as the National Anthem Act empowers the President to prescribe the occasions upon which the National Anthem may be sung.

10. Appeals

While it is noted that administrative measures expedite the process of hearing grievances, there is need to ensure that there is impartiality, both real and perceived, in the appeal process. It is therefore recommended that the appeals should lie to the Magistrate in charge of a district and must be lodged within 24 hours of the refusal by the authorising officer and heard within 48 hours of being filled. In case of dissatisfaction with the decision of the Magistrate, the appeal should follow the same channel as any matter which graces the Subordinate Court but within a stipulated time frame.

The table below shows the summary of the comparisons of other jurisdictions with the POA Act.

NAME OF THE ACT	Public Order Act, 1986 Chapter 64 of England	Public Order Act, of Nigeria 1979	Public Order Act Chapter 56 of the Laws of Kenya	Public Order Act, 1965 of Sierra Leone	Public Order Act Chapter 148 of the Laws of Brunei	Public Management Act, 2013 of Uganda	Regulations of Gathering, No. 205 of 1993 of South Africa
COUNTRIES	England (UK)	Nigeria	Kenya	Sierra Leone	Brunei	Uganda	South Africa

Note: Malawi does not have a public order Act therefore public maintenance is regulated by the Malawi police act.

OBJECTIVES	This law aims to, among other things, abolish the common law offenses of riot,	In Nigeria, the Public Order Act, 1979, is the	An Act of Parliament to make provision	The Public Order Act of 1965 governs and regulates	The Act is responsible for the preservation	The Act on Public Order in Uganda specifies the	This Act Regulates the holding of public
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	<p>rout, unlawful assembly, and affray, as well as some statutory public order offenses; create new public order offenses; regulate public processions and assemblies; prevent the incitement of racial hatred; provide for the exclusion of certain offenders from sporting events; and repeal certain obsolete or unnecessary enactments; and for related purposes.</p>	<p>law in charge of controlling public order. All public order laws in the States of the Federation are repealed and replaced by this act, which also establishes rules for the wearing of uniforms and other matters related to maintaining public order.</p>	<p>for the maintenance of public order, and for purposes connected therewith.</p>	<p>public order in Sierra Leone. It consolidates and amends the law governing public order, including provisions for carrying offensive weapons, processions, and public order violations.</p>	<p>of public order in Brunei.</p>	<p>rules governing public meetings, the obligations of the police, organizers, and attendees in relation to public meetings, as well as other matters.</p>	<p>gatherings and demonstrations in specific locations.</p>
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COUNTRIES	England	Nigeria	Kenya	Sierra Leone	Brunei	Uganda	South Africa
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APPLICATION	<p>Section 9 (4) of the Public Order Act Chapter 148, of the laws of Brunei, states that “<i>the Minister may, by order published in the Gazette, exempt any class of meeting or procession, from all or any of the provisions of this section.</i>” This provision exempts any person or organisation that has been published in the Gazette from obtaining a permit required for holding of meetings and procession in public places.</p>	<p>The Public Order Act, 1965 empowers the Governor-General to exempt certain classes of persons from operation of the Act. Section 21. (1) provides that “<i>The Governor-General may from time to time by Order exempt from the operation of this Part or any provisions thereof, any general or particular class of person’s subject to any terms or conditions as he may by such Order impose.</i>”</p>
COUNTRIES	Brunei	Sierra Leone

Note: under this section following countries England, South Africa, Uganda and Nigeria do not have Application or exemptions.

<p>NOTICES/ PERMISSION/ LICENCES</p>	<p>Section 11 of the UK Act provides that any person requiring to hold a public meeting shall give a notice in advance before holding the said meeting unless it is not reasonably practicable to do so. This provision exempts any public processions that are traditionally</p>	<p>The Nigerian law provides that persons desiring to convene a Public gathering or form any procession in any public road should apply for a licence to the Governor within 48 hours before the occurrence. Having been satisfied with the application, the</p>	<p>In regard to the processions, the Act provides that any person that intends to take part or takes part in organising or holding any procession shall notify the commissioner of police in</p>	<p>In the Ugandan Act an organiser of a meeting is required to give notice in writing signed by the organiser or his or her agent to the authorised officer of the intention to hold a public meeting, at least three days but not more than fifteen days before the proposed date of the public meeting⁵⁷.</p>	<p>The Law in South Africa like that in Zambia requires Notice to hold a public assembly. Section 3(3)⁵⁸ provides that the convener of a gathering shall give notice in writing of the intended gathering to the responsible officer concerned.</p> <p>Further it states that the Convener shall not later than seven days for the date on which the gathering is to be held, give notice to the responsible officer and if such notice is given less than 48</p>
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⁵⁷ Section 5 of the Public Order Management Act 2013

⁵⁸ Regulation of Gathering Act No. 205 of 1993

	<p>or commonly held. The notice must also specify the date, the time, the name and address of a person intending to hold the said meeting. The Notice must be delivered to a police station in the police area in which it is proposed the procession or meeting will start. The notice under</p>	<p>Governor is required to direct any superior police officer to issue a licence specifying the name of the licensee and the details of the assembly, not later than 24 hours before the public meeting.⁵⁶</p> <p>The Act further provides that if the Governor is unsatisfied with the application, they are required</p>	<p>writing and failure to give such a notification be guilty of an offence. This gives each and every person an equal opportunity to hold or participate in processions.</p>	<p>The Act further provides that “<i>where it is not possible to hold the proposed public meeting for reasons that—</i></p> <p><i>(a) notice of another public meeting on the date, at the time and at the venue proposed has already been received by the authorized officer; or</i></p> <p><i>(b) the venue is considered unsuitable for purposes of crowd and traffic control or will interfere with other</i></p>	<p>hours before the commencement of the gathering, the responsible officer may by notice to the convener prohibit the gathering.</p> <p>The Act further provides for what the notice will contain, it provides that;</p> <p>(1) The Notice shall contain the name, address and contact details of the convener;</p> <p>(2) Name of the organisation on his behalf the gathering is convened:</p> <p>(3) The purpose of the</p>
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⁵⁶Section 1(2)

	<p>this provision requires that the police are given six days' written notice of any procession or, if that is not reasonably practicable, as soon as delivery is reasonably practicable.</p>	<p>to convey the refusal to issue the licence in the stipulated time. The Act however, does not expressly state that the governor or superior officer should give reasons for the refusal.</p>		<p><i>lawful business,</i></p> <p><i>The authorised officer shall, in writing within forty eight hours after receipt of the notice, notify the organiser or his or her agent that it is not possible to hold the proposed public meeting and the notice shall be delivered to the organiser's address as stated in the notice of intention to hold a public meeting."</i></p>	<p>gathering;</p> <p>(4) The time, duration and date of the gathering;</p> <p>(5) The place where the gathering will be held;</p> <p>(6) The anticipated number of participants;</p> <p>(7) The proposed number and, where possible, the names of the marshals who will be appointed by the convener, and how the marshals will be distinguished from the other participants in the gathering.</p>
COUNTRIES	England	Nigeria	Sierra Leone	Uganda	South Africa

Note: That section 96 of the Malawi police Act provides that, where it is intended to hold an assembly or a demonstration the convener shall give notice in writing, of not less than forty-eight hours and not more than fourteen days to the District Commissioner concerned with a copy to the officer in-charge of the police station concerned.

<p>SPONTANEOUS GATHERINGS</p>	<p>Section 7 of the Public Management Act states that:</p> <p><i>(1) The notification required under section 5 shall not apply to a spontaneous public meeting.</i></p> <p><i>(2) An authorised officer may direct any person participating in a procession meeting to disperse where_</i></p> <p><i>(a) notice of another public meeting at the same venue, date and time has already been received by the authorised</i></p>	<p>Section 12 (1) of the Regulations and Gatherings Act, provides that any person who-</p> <p><i>(a) convenes a gathering in respect of which no notice or no adequate notice was given in accordance with the provisions of section 3.</i></p> <p><i>(2) It shall be a defence to a charge of convening gathering in contravention of subsection (1)(a) that the gathering concerned took place</i></p>
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	<p><i>officer; or</i></p> <p><i>(b) the venue is considered unsuitable for purposes of traffic or crowd control; or</i></p> <p><i>(c) will interfere with other lawful business.</i></p> <p><i>(3) For purposes of this section, “spontaneous public meeting” means an unplanned, unscheduled or unintended public meeting.</i></p>	<i>spontaneously</i>
COUNTRIES	Uganda	South Africa

Note: England, Brunei, Nigeria, Kenya and Sierra Leone do not have Spontaneous Gatherings.

Part 6 of the Malawi Police Act provides for Spontaneous assembly or demonstration. Section 110 provides that, it is a defence to a charge of convening an assembly or a demonstration in contravention of part IX of the Malawi Police Act and that the assembly or demonstration was relevant and took place unexpectedly.

<p>RESTRICTION OF GATHERINGS</p>	<p>Section 12 gives the police the power to impose conditions on processions, including specifying the route that it shall take or prohibiting it from entering a particular area. However, were such conditions are not sufficient, section 13 empowers the chief officer of police to prohibit the holding of a public meeting were such an officer reasonably believes that the holding of public processions in that district or part of may result in serious public disorder.</p>	<p>The law in Sierra Leone with regard to restrictions of public gatherings provides that the commissioner of police by order of writing disallow the holding of the procession or impose conditions as he shall think fit on any procession where in his opinion the interest of defence, public order, public safety or public morality so require. If the commissioner of</p>	<p>Section 5(1) provides for Prevention and prohibition of gathering. It states that <i>“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, injury to participants or other persons or extensive damage to property and that the</i></p>	<p>When it comes to restrictions of gatherings the Ugandan Act provides that an authorised officer or any other police officer of or above the rank of inspector, may stop or prevent the holding of a public meeting where the public meeting is held contrary to the Act⁵⁹.</p>
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⁵⁹ section 8 Public Order Management Act 2013

		<p>police is not satisfied with the reasons given as to why a procession must be held, he has the power to disallow it whilst giving reasons in a stipulated time.</p>	<p><i>Police will not be able to contain the threat, he shall forthwith meet or, if time does not allow it, consult with the convener or authorised members and any other person with whom, he believes, he should meet or consult, including representatives of any peace committee or police community consultative forum in order to consider the prohibition of the gathering”.</i></p> <p><i>(3) If the responsible officer decides to prohibit the gathering,</i></p>	
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			<i>he shall notify the convener, authorised member and every other person with whom he has so met or consulted, of the decision and the reasons thereof.</i>	
COUNTRIES	England	Sierra Leone	Brunei	Uganda

Note: South Africa, Nigeria and Kenya

REGISTER OF NOTICE	The Public Order Act Chapter 56 under Section 14 provides that <i>“The regulating officer shall keep a public register of all notices received under subsection (2).”</i>	The Public Order Management Act 2013, mandates an authorised officer to keep a register of all notices. Section 11 provides that <i>“An authorised officer shall keep a public register of all notices received under this Act, and the register shall be open for inspection by any person during working hours”.</i>
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COUNTRIES	Kenya	
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Note:

APPEALS	Section 1(5) of the Public Order Act provides for an appeal process for any decision made by a police officer, Commissioner or any superior police. It provides that an aggrieved person may appeal to the Governor within 15 days of a decision made by Commissioner or any Superior police. If aggrieved by a police officer, the person may appeal to the Commissioner or Superior police and have the right to appeal to the Governor whose decision is	Section 16B of the Public Order Act ⁶⁰ provides that aggrieved parties may make an appeal to the Minister who has the final say.	Section 6(4) of the Public Management Act provides that a person aggrieved by the decision of an authorised officer may, within 14 days of receiving a notice specified in the Act, appeal to the Magistrate Court.	Section 6(5) of the Regulations of Gatherings Act provides that any person whose rights may be affected by the holding of a gathering or by its prohibition may apply to an appropriate court to strike out or amend any condition as it deems fit.
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⁶⁰ Chapter 148 of the Laws of Brunei

	final. The provision further provides that, the Governor or the Commissioner of Police shall give a decision on any appeal lodged not later than 15 days after the date of its receipt.			
COUNTRIES	Nigeria	Uganda	Brunei	South Africa

Note: Section 102(1) of the Malawi Police Act provides where a condition is imposed in respect of an assembly or a demonstration or when an assembly or a demonstration is prohibited in accordance with Act, the aggrieved party may apply to the High Court.

PENALTIES	Section 13(7) of the Public Order Act 1986 provides that a person who organises a	Section 3 of the Act provides that any person taking part in the convening, collecting or	Section 5(11) of the Public Order Act provides that any person who takes part	Section 12 of the Act provides that any person who takes part in any	Section 4(3) of the Public Order Act, 1965 provides that any person who holds a public meeting in	Section 12 of the Regulation of Gatherings Act provides for offences and penalties. It provides for offences
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	<p>public procession that is prohibited by the Act is guilty of an offence and is liable on conviction to imprisonment for a term not exceeding 3 months or to a fine or two both. The Act further provides that a person who takes part or incites another person to take part in a prohibited public</p>	<p>directing of an assembly deemed to be unlawful under the Act shall be guilty of an offence and is liable on conviction to a fine or imprisonment for 6 months or to both such fine and imprisonment. The Act further provides for penalties for offences that include acting</p>	<p>in any public meeting or public procession deemed to be an unlawful under the Act, or holds, convenes or organises such meeting or procession shall be guilty of the offence of taking part in an unlawful assembly under the Penal Code⁶¹and</p>	<p>unlawful group shall be guilty of an offence and is liable to a fine and imprisonment for one year. The Act further provides for offences and penalties relating to the formation of quasi military organisations, firearms and ammunition, disturbance</p>	<p>contravention to a fine or to imprisonment for a period not exceeding six months or both.</p>	<p>that include, the convening of a gathering in respect of which no notice or no adequate notice was given in accordance with the Act; and contravention or failure to comply with any provision in the Act in regard to the conduct of a gathering or demonstration. Any person who contravenes the provisions of the Act is guilty of an offence and on conviction</p>
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⁶¹ Laws of Kenya, Chapter 63

	<p>procession commits an offence and is liable on conviction to imprisonment for a term not exceeding 3 months or to a fine or to both.</p>	<p>disorderly in a public assembly, meeting or procession; wearing any uniform or displaying any flags that are in contravention to the provisions of the Act; and the formation of quasi military organisations.</p>	<p>liable to imprisonment for one year.</p>	<p>in public places and the abetment and failure to report an offence.</p>		<p>liable to a fine or to imprisonment for a period not exceeding one year or to both such fine and such imprisonment.</p>
COUNTRIES	England	Nigeria	Kenya	Uganda	Sierra Leone	South Africa

5.0 ANNEXES TO THE REPORT ON THE REVIEW OF THE PUBLIC ORDER ACT

ANNEX 1

SUMMARY OF WRITTEN STAKEHOLDER SUBMISSION

PUBLIC ORDER ACT SUMMARY OF SUBMISSIONS

SECTIONS	SUBMISSIONS	FINDINGS
Preamble	<p>The preamble is not constitutional and democratic.</p> <p>The word Regulate to be replaced with Facilitation.</p> <p>The Preamble should clearly show that the Act will facilitate the enjoyment of the right to freedom of expression, peaceful assembly and association.</p>	<p>Only Seven (7) out of fifty three (53) submissions commented on the preamble of the POA. All the submissions want the preamble to be repealed and replaced in order to conform to the Constitution and the tenets of democracy.</p>
Section 1 Short title	<p>The name of the Public Order Act should be changed.</p>	<p>Out of 53 submissions only 8 commented on the short title and proposed change of name as follows:</p> <p>4 submissions proposed to change the title to” public Gathering Act”; “Public Regulation Act” ;</p>

		“Public Security and Order Act”; and “Public Assemblies Act”; “Public Order Management Act”.
Section 2 Interpretation	The interpretation section should be amended to include definition of new words and broadening the definitions of existing words.	Nine (9) submissions commented on the interpretation section to include and broaden the following definitions: organizer, public meeting, public place, stakeholders, riot, demonstration, notice, define and differentiate public assemblies to be regulated, public gathering, Broaden the definition of the word “Uniform”, gathering, and law enforcement official.
Section 3 Prohibition of uniforms and flags in connection with political objects	Section 3, was not adopted instead of most submissions proposed to repeal the provision as it is not Constitutional.	Ten submissions commented on section 3. Therefore, 5 submissions propose to repeal the provision and 3 proposed repeal and replacement of the provision to make it responsive to democratic tenets to allow participants to display symbols and wear party regalia of their registered organisations.
Section 4 Prohibition of quasi-military organisations	Section 4 was not adopted, the submissions on the section proposed repeal and replacement of the provision.	Only three (3) submissions commented on section 4 proposing repeal and replacement. The provision should be aligned to political parties while stating clearly that no political party shall organise, train and maintain a party security

		wing
Section 5 Regulation of assemblies, public meetings and processions	Section 5 was the most contentious provision where a number of submissions criticised the provision seeking repeal and replacement to enhance freedom of assembly, expression and association.	<p>Twenty three (23) submissions commented on the provision as follows: Five(5) submissions proposed the notification period should be reduced to 48 hours from initial Seven(7) day;</p> <p>Nine (9) submissions proposed mere notification of the police without waiting for response from them, the procession can be held; Six(6) submissions proposed for the introduction for the prescribed form for notification to be introduced as a schedule; two submissions proposed that lack of notifying the police should not result in a criminal offence; Three(3) submissions proposed that feedback timeframe of lodging a notice to the police and should not be less than 48 hours.</p> <p>The overall observation to the submissions on this provision seek to repeal and replace the provision to enhance the enjoyment of the freedom of assembly, expression and association in conformity with the Constitution.</p>
Section 6	Section 6 should be repealed and	Nine (9) submissions commented on this

<p>Penalty for disobeying a direction or violating conditions of permit issued under section 5</p>	<p>replaced as it is unconstitutional</p>	<p>provision, where three(3) submissions proposed that the provision should not criminalise acts emanating from this provision hence offences from the public order Act should be prescribed in the penal code Act.</p> <p>One (1) submission propose punishment of erring law enforcement officers.</p> <p>Five (5) submissions propose that the provision should be repealed and replaced so as to re-align it with the constitution.</p>
<p>Section 7 Unauthorized Assemblies</p>	<p>Section 7 was not adopted hence seeking to be repealed and replaced</p>	<p>Five (5) submissions commented on the provision where Five (5) submissions advocate for repeal and replacement, whilst one submission proposed that the side not to this provision should read as “ assemblies, meetings, gatherings, protests, demonstrations without notice” unlike in its current form.</p>
<p>Section 8 Exemptions</p>	<p>Section 8 was not adopted in its current form hence seeking amendments to the provision to avoid discrimination.</p>	<p>Eleven (11) submissions commented on this provision, where seven(7) submissions propose that all registered churches and religious organizations be exempted from notifying the</p>

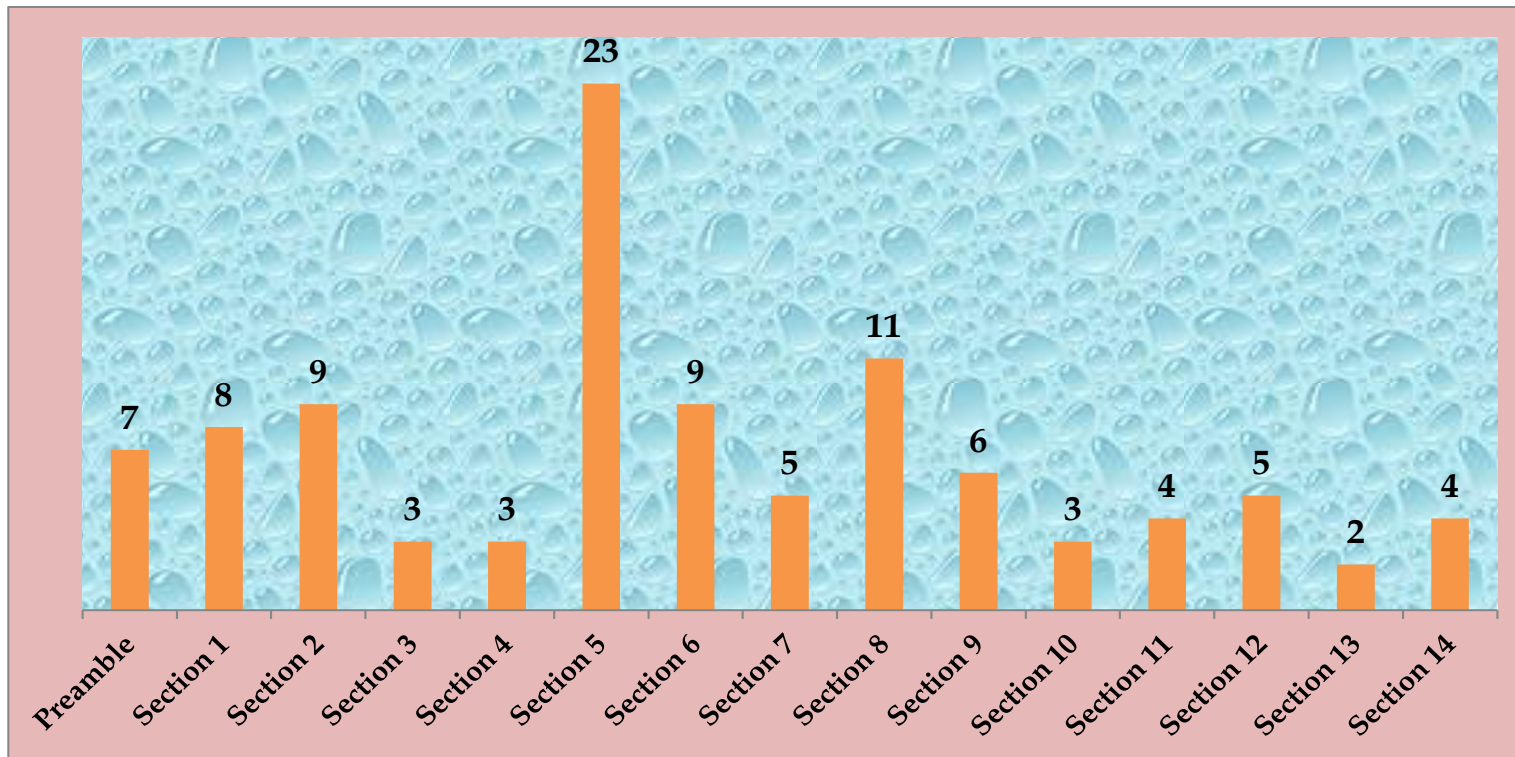
		<p>police.</p> <p>Two (2) submissions proposed that, the Minister should not be given powers to exempt churches and religious organisations.</p> <p>One (1) submission proposed that ZEMA should be exempted from notifying the police during its meeting concerning environmental matters.</p> <p>One (1) submission proposed that political elected positions should be exempted except during election campaign period.</p>
Section 9	Section 9 was adopted in its current form whilst others did not adopt it hence seeking repeal and replacement to the provision to avoid discrimination against certain religious groupings who do not believe in singing the National Anthem.	<p>Six (6) Submission comment on this provision where Four (4) submissions propose that the national Anthem should be sung at the commencement of any public gathering while observing a level of decorum and political parties should be allowed to lift their symbols while putting on their regalia. The official who disobeys this provision shall be guilty of an offence.</p> <p>Two (2) Submissions proposed that the provision should be repealed because it is unconstitutional to make people sing the National anthem without</p>

		respecting their religious believes.
Section 10 Prohibition of weapons at public meetings and processions	Section 10 was adopted while seeking amendments.	Three (3) submissions commented on the provision where two (2) submissions proposed that the provision should be maintained in its current form. One (1) submission proposed for repeal and replacement of the provision to read as “ prohibition of firearms or weapons at public gatherings Cap 117 ”
Section 11 Prohibition of offensive conduct conducive to breaches of peace	Section 11 was adopted while seeking amendments	Four (4) Submissions commented on this provision where two (2) submissions adopted the provision in its current form. Whilst two submissions proposed for amendments to include hate speech, distribute or display to another person a writing, sign or other visible representation that is threatening and inciting violence for purposes of sanctioning the acts.
Section 12 Powers for	Section 12 was adopted while seeking amendments	Seven (7) submissions commented on the provision where five (5) Submissions propose that

<p>preservation of public order in respect of public meetings and processions</p>		<p>the section be amended to check the powers of the Minister. Whilst one (1) submission proposes that the section be repealed and replaced in line with public Order Bill 2019.</p>
<p>Section 13 Penalty for making statements or doing acts intended to promote hostility between sections of community</p>	<p>Section 13 should be repealed and replaced</p>	<p>Two (2) submissions commented on the provision where one (1) submission proposed the amendment as follows: “Hate Speech or Act A person shall not speak any words or do an act at a public gathering intended to incite enmity between a person and another or between a section of the community and another”. Another submission proposed that the provision should be repealed as it can be taken care of in the penal code Act.</p>
<p>Section 14 Penalty for inciting to strike in certain Circumstances. Cap. 269</p>	<p>Section 14 should be repealed</p>	<p>Two (2) submissions commented on the provision where they all proposed that the provision be repealed and possibly be take to labour laws.</p>
<p>Section 15 Enforcement</p>		<p>Four (4) Submissions commented on this provision where they all proposed that the section</p>

		be repealed and replaced with the inclusion of new provisions relating to enforcement and also submitted that Subsection 2 be maintained in its current form
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The figure below shows the total submissions per section.



ANNEX 2

RESOLUTIONS OF NATIONAL STAKEHOLDER CONSULTATION PROCESSES

NATIONAL STAKEHOLDER CONSULTATIVE MEETING ON THE REVIEW OF THE PUBLIC ORDER ACT (POA) HELD IN LUSAKA, AT THE MULUNGUSHI INTERNATIONAL CONFERENCE CENTRE - KENNETH KAUNDA WING, FROM 24TH TO 26TH AUGUST, 2022

MATRIX

Chairpersons: Evans Manjimela, Joe Kasaka, Daniel Nyati, Cassandra Soko.

Facilitator: Mrs Hope M. N. Chanda.

S/N	SECTION	PLENARY.
Name of the bill		Adopted.
Objects		Object (a) should read: protection of the freedom of

		assembly and association. Object (b) Replace the word “Regulate” with ‘Facilitate’.
Short title	Section 1	Adopted. However, ‘Regulate’ must be replaced with ‘Facilitate’.
Interpretation	Section 2	<p>1. Include a definition for assistive devices- for those that are physically challenged.</p> <p>2. Public gathering: 100 or more people and not 20 people.</p> <p>3. Weapon- definition should specifically exclude assistive devices as a measure of protection for persons with disabilities.</p> <p>4. There was a dissenting view that the inspector general should be removed from the definition of ‘authorising officer’ because these are appointed by the president, they are therefore loyal to the government of the day.</p>
Application	Section 3.	3. (1) Include party president, vice president and

		<p>secretary.</p> <p>(e) Include ‘incumbent’ to member of parliament.</p> <p>(m) An indoor meeting should include “not more than 30 people”.</p> <p>3 (2) should apply to the party presidents and vice presidents.</p> <p>There is need to reconcile 3 (1) (I) and (m)</p>
Notice of public gathering	Section 4.	<p>4 (1) reduce notice period from 5 days to 3 days.</p> <p>(2) define ‘impracticable circumstances’</p>
Acknowledgement of notice	Section 5	<p>‘5(2)-deemed to be replaced with considered.</p> <p>notice shall be deemed to have been received and organizer shall proceed to hold the meeting</p>
Spontaneous gathering.	Section 6	<p>Introduce a New sub section 1- authorized officer shall</p>

		facilitate holding of spontaneous meetings for as long as held in a place free from other users and does not disrupt public order
Restriction of public gathering.	Section 7	<p>c and d similar, delete d, possibly merge- adopted</p> <p>7(4)-satisfaction is not measurable – replace -adopted</p> <p>add an additional para (derived from section 12 of the UK Act) 7(d) to include serious disruption to life of the community, further define this as includes circumstance where a public gathering may result in the delay of a delivery of time sensitive product to the public or may include-adopted</p> <p>replace 3 days with 2 days-adopted</p>
Multiple notices	Section 8	8(2) Reasonable belief should be accompanied with evidence, and the authorized officer must decide in consultation with the organizers.

Unauthorised public gathering	Section 9	<p>In (2) replace imprisonment with community service.</p> <p>Punitive measures should only speak to failure to give notice and not any other issues, as these are covered in the penal code.</p> <p>Substitute punitive measure with an administrative penalty and failure to give notice should not be an offence.</p>
Duties and obligations of authorised officer	Section 10	Adopted.
Obligation of the organizer	Section 11	Adopted.
National anthem	Section 12	Adopted.
Monitoring of public gathering by media and	Section 13	Adopted.

stakeholders		
Register of notices	Section 14	<p>What amount to normal hours is not clear.</p> <p>4 (2) The register should therefore be left open 24/7</p>
Prohibition of attire in connection with defense force and security officers	Section 15	<p>delete public service and uniformed public office replace with defence force and national security service as defined in the constitution</p> <p>Provision should apply to attire worn by defence forces and national security services of foreign jurisdictions in order to adequately address the mischief.</p>
Prohibition of firearms or weapons at public gathering	Section 16	Delete (2) as penalty exists in Firearms Act and Penal Code Act.
Appeals	Section 17	<p>The aggrieved person can appeal directly to High Court and if not satisfied with the decision of the high court can further appeal to Constitutional Court.</p> <p>Appeals should be time bound. The court should dispose of the matter within 3 days.</p>

Immunity	Section 18	Must be deleted as the section is provided for in other laws such as the Police Act
Regulations	Section 19	(1) include in consultation with stakeholders and define stakeholders (2) a, b, c, d to come up with schedules to be part of the Bill –adopted-forms being developed
Repeal of CAP 113 Act No 38 of 1955	Section 20	Adopted.
Savings and transitional provisions	Section 21	Adopted.

Stakeholders could not agree by consensus on the following aspects of the bill which aspects were therefore decided by voting:

Provisions	Votes taken		
Period of submitting Notice of intention to hold a public gathering	42 voted for 2 days	14 voted for 3 days	28 voted for 5 days
Exemption from application of Act to political party presidents, vice presidents and secretary generals	39 voted against this proposal	31 voted in favour	-
Prohibition of attire in connection with defence force and security officers	46 voted in favour of this provision	9 voted against this provision	-
Appeals	50 voted that an appeal shall lie to the High Court	2 voted to have the appeal shall lie to the Minister	1 abstained from voting
Inspection of the register by the public	29 voted to have an access to the register during normal working hours	14 voted that the register should be accessible all the time	4 abstained from voting
Declaration of restricted areas	52 voted to remove the list of restricted areas	3 voted to maintain the list	

ANNEX 3

RESOLUTIONS OF THE TECHNICAL COMMITTEE

The technical committee held its first meeting were the Commission presented the findings of the Desk Review and the technical committee gave guidance on what should be considered in the drafting of the bill.

	Submission	Action Taken
1.	Remove Public Health from objectives of the Bill as this is not a core function of the Police.	Deletion of the words “ Public Health”
2.	Remove the word multiple from the definition of multiple concurrent meeting in Section2 because the use of the terms multiple and concurrent point to the same thing in the Bill	Deletion of the word “Multiple”
3.	Redraft the definition of organiser to ensure that a person who owns the premises where a public gathering is held is not included in this definition, solely for being the owner of the premises. *In the UK the term is not defined but a reading of a provision where liability is ascribed to an organiser indicates that an organiser is a person who organises such an event	“organiser” means a person who is responsible for the organisation and holding of a public gathering.

4.	Redraft section 3(1) h to reflect that is in reference to the designated worship place	3 (1) This Act shall not apply to: (h) A religious gathering held in a place of worship which is registered in accordance with the Societies Act.
	Include wedding receptions to the list of gatherings to which the Act shall not apply	Introduction of 3 (1) K “ wedding reception”
6.	In section 3 1(1) transpose the terms “registered organisation” and “registered political parties” to place more emphasis on registered organisation	Swapped.
7.	In section 3(2) with regard to the President and Vice President remove from the non-application list, because they continue to execute executive functions in accordance with the Constitution	Delete the application of the exemption to the President and Vice President in section 3(2)
8.	In section 5 (2) , end at the word <i>receive</i> and delete the remaining words, to show that section 7(Restriction of Public Gathering) applies even in circumstances where the notice is deemed to have been removed.	Delete the words “ and the organiser may proceed to hold the public gathering in accordance with this Act”
9.	The grounds under 7 (1)c and d should be included under section 6 (2) as circumstances where the authorised officer may disburse a public gathering, as applicable to both	The sections have been transposed c) the gathering is to be held within or near a restricted area as prescribed by the Minister; or d) the authorised officer reasonably believes that the public gathering is likely to result in public disorder or damage to

	the sections.	property.
10.	Section 7(2) should be subject to the Protected Places and Areas Act	Section 2 is amended to include the following: “protected place” has the meaning assigned to the words in the Protected Places and Areas Act; Section 7(1) c is amended as follows: (1) An authorised officer may restrict the holding of a public gathering where- the gathering is to be held within a protected place or near a restricted area as prescribed by the Minister;
11.	Section 7(1) d gives to much discretion to the authorised officer. The authorising officer should give reasons for that restriction in writing.	Section 7(2) is amended as follows “Where an authorised officer restricts a public gathering under subsection (1), the authorised officer shall inform the organiser the reasons for the restriction in writing” 3) an authorising officer who restricts the holding of a public gathering on a ground specified under subsection (1) shall invite the organiser to take remedial measures to address the reasons for the restriction
12.	In section 8 <i>Priority of Notices</i> should be the first subsection. The term <i>allocate</i> in the current subsection one should be replaced with the term <i>approve</i> . Should recommend that the latter find an alternative venue or date where it is not practicable -must give reasons	8(1) An authorised officer shall ensure that priority is given to the first notice of the public gathering received. (2) Despite subsection 1 where an authorised officer receives a notice to hold a public gathering from more than one person seeking to hold a public gathering at the same place and at the same time, the authorised officer shall a) facilitate the holding of concurrent public gatherings or b) where the holding of concurrent public gatherings is likely to give rise to imminent danger to public order or public safety, recommend an alternative place for the holding of one or more of the public gatherings.

13.	Section 10 providing for singing of National Anthem is not appropriate for all gatherings. All issues pertaining to the National Anthem should be left in the National Anthem Act.	Delete section 10
14.	Section 11 adding torture or inhumane or degrading punishment or other like treatment	Inserted new subparagraph 5 which provides for the aforementioned freedoms.
16.	Section 13 place independent monitor with other stakeholders, to maintain the generality	Insert ... An authorised officer, organiser, participant and any other person shall respect and uphold the right of the media and of other <i>stakeholders</i> to monitor a public gathering.
17.	In section 14 include a requirement for the authorised officer to publish the notices received. - (what is the purpose especially if after the event, how frequently should publication be done)	Insertion of a new subsection 2 providing that... the register shall be open for inspection by the public during normal working hours And further insertion of subsection 4 providing that an authorized officer shall, on an application by a person, issue to the person a certified extract from the register on payment of a prescribed fee.
18.	Appeals should not lie to the Minister because he is an interested party being a politician.	Delete subsection 2 and 3 and amend subsection one A person aggrieved with a decision or action of an authorised officer under this Act may within fourteen days of the decision or action of the authorised officer, appeal to the High Court.

The technical committee held another meeting following the National Stakeholder Consultative meeting.

	Provision in the Bill	Submission	Action Taken
1.	a) provide for the freedom of assembly and association	Object a) should read : provide for the <i>protection of</i> the freedom of assembly and association	The Constitution already guarantees this freedom and the statute book is read as one. Amended: a) Facilitate the exercise of the freedom of assembly and association at a public gathering
2.	Object (b) ... regulate the conduct of public gatherings for the preservation of public order and public safety	Object b) should read <i>facilitate</i> the conduct of public gatherings for the preservation of public order and public safety	Maintain <i>regulate</i> the conduct of public gatherings for the preservation of public order and public safety Article 21 of the Constitution gives the regulatory role from which we cannot depart (by virtue of the limitations, suitable laws can be enacted to provide such regulation) By regulating, the necessary parameters are set.
3.	Section 2 “weapon” means an object or article made or adapted for use which is likely to cause or threaten injury or death to a person and includes a	Weapon- definition should specifically exclude assistive devices An assistive device may be used as a weapon. Therefore, there is need to take this into consideration as the definition of weapon	Amended “weapon” means an object or article made or adapted for use which is likely to cause or threaten injury or death to a person and includes a knife, spear, axe, arrow, stick, stone, axe, <i>machete</i> , handle or similar object or article <i>but does not include an assistive device that is used for the purpose for which it was intended.</i> “assistive device” means a device that is designed, made or adapted to assist a person with disability to perform a particular task;

	knife, spear, axe, arrow, stick, stone, axe handle or similar object or article.	is revised. -should include machetes which are commonly abused. Will ease litigation for police	
	Section 2 means an assembly, meeting, procession or demonstration of twenty or more people in a public place	The limit should be One hundred and not twenty people	Maintained Twenty people maintained. Comparative study revealed that most countries do not actually set a limit, so could even start from 2. -South Africa provide for 15
			“spontaneous public gathering” means an unplanned, unscheduled or unintended public gathering;
			“national security service” means- (a) the Zambia Police Service; (b) the Zambia Security Intelligence Service; (c) the Zambia Correctional Service; and (d) any other national security service established under any written law;
4.	3(1) This Act shall not apply to: (l) an indoor meeting of a registered union; (m) an indoor meeting of the organs of a	Reconcile 3 (1)l and m as all apply to indoor meetings	Amended to distinguish meetings of political parties from those of other organisations (l) an indoor meeting of a company, non-governmental organisation, trade union or any other organisation registered under any written law; (m) an indoor meeting of an organ of a registered political party convened in accordance with the constitution of that

	registered organisation or registered political party convened in accordance with the constitution of that party or organisation, and held exclusively to discuss the affairs of the party or organisation; and		political party held exclusively to discuss the affairs of the political party; and
5.	4(1) A person who intends to hold a public gathering shall notify an authorised officer in the prescribed manner and form at least five days before the proposed date of the public gathering	Reduce notice period from 5 days to 3 days	Five days maintained Is the practice in other jurisdictions considered. 5 days is practical allows for negotiation and to mobilise , 2 days is not sufficient, the purpose of the law is also to ensure public safety and order therefore this requires adequate preparation
7.	4(2) Despite subsection (1), an authorised officer may accept a notice	Define impracticable	subsection maintained as In legislation where you cannot adequately cover all the circumstances that can lead to <i>impracticability</i> , you do not define the term and instead rely on the ordinary dictionary meaning

	of not less than two days, where five days' notice is impracticable.		
8.	5(2) (2)Where the authorised officer does not acknowledge receipt of the notice within the period specified in subsection (1), the notice shall be <i>deemed</i> to have been received.	5(2)-deemed to be replaced with considered -additional text... notice shall be deemed to have been received and organiser shall proceed to hold the meeting	Amended- deemed replaced with considered Additional text not included. The organiser will still have to comply with the other provisions in the law. Rights to hold the meeting is not drawn from this provision, provisions merely acknowledges receipt of notice.
9.	Section 6 Spontaneous public gathering	-(2)c,d,e have repetitions of the words spontaneous public gathering- New sub section 1- authorised officer shall facilitate holding of spontaneous meetings for as long as held in a place free from other users and does not disrupt public order	Spontaneous public gathering now provide in section headed ' Notice for Public Gathering' 4(5) and (6) Spontaneous public gathering further defined in section 2. 4 (5) The notification required under this section shall not apply to a spontaneous public gathering. (6) An Authorised officer may direct a spontaneous public gathering to disperse where- (a) the authorised officer is in receipt of a notice to hold a public gathering on the same date and at the same time and venue as the spontaneous public gathering; (b) the venue for the spontaneous public gathering -

			<p>(i) is unsuitable for purposes of crowd and traffic control;</p> <p>(ii) shall interfere with other lawful business; or</p> <p>(iii) is within a protected area, a protected place, or a restricted area as prescribed by the Minister.</p>
10.	Section 7 of Restriction of public gathering	<p>-c and d similar , delete d , possibly merge- adopted</p> <p>7(4)-satisfaction is not measurable – replace -adopted</p> <p>-add an additional para(derived from section 12 of the UK Act) 7(d) to include serious disruption to life of the community, further define this as includes circumstance where a public gathering may result in the delay of a delivery of time sensitive product to the public or may include... adopted</p> <p>- replace 3 days with 2 days-adopted</p>	<p>-Section amended, however UK section 12-not necessary is repetitive, and further b) encompasses all as provided in 12 and anything that causes a danger to public safety is covered</p> <p>(1) An authorised officer may restrict the holding of a public gathering, where-</p> <p>(a) the authorised officer is in receipt of a prior notice to hold a public gathering on the same date and at the same time and venue as the public gathering, except that the authorised officer shall give priority to the first notice received;</p> <p>(b) the venue for the public gathering -</p> <p>(i) is unsuitable for purposes of crowd and traffic control;</p> <p>(ii) shall interfere with other lawful business; or</p> <p>(iii) is within a protected area, a protected place, or a restricted area as prescribed by the Minister;</p> <p>(c) the authorised officer reasonably believes that the public gathering is likely to result in public disorder, damage to property, or a danger to public safety.</p> <p>(3) An authorised officer who restricts the holding of a public gathering on a ground specified under subsection (1) shall invite the organiser to take remedial measures to address the reasons for the restriction.</p> <p>(4) An authorised officer who restricts an organiser under subsection (1) shall, where the organiser takes adequate remedial measures, lift the restriction.</p>

11.	Section 8(2)	<p>8(2) authorized officer must decide in consultation with the organizers</p> <p>Reasonable belief should be accompanied with evidence</p>	<p>In 7(3) invited to make remedial measures, adequately covered</p> <p>-will depend on the circumstances of a case , such extent as is reasonably justifiable in the circumstances of the case</p> <p>further section 7(2) requires that the AO shall inform the organiser the reasons for the restriction in writing</p> <p>(2) Where an authorised officer restricts a public gathering under subsection (1), the authorised officer shall inform the organiser the reasons for the restriction in writing-</p> <p>(a) in the case of a notice received under section 4(1), at least three days prior to the proposed date of the public gathering; and</p> <p>(b) in the case of a notice received under section 4(2), at least twenty four hours prior to the proposed date of the public gathering.</p>
12.	Section 9 – Unauthorised public gatherings	<p>In (2) replace imprisonment with community service</p> <p>-punitive measures should only speak to failure to give notice and not any other issues, as these are</p>	<p>Amended, however court has discretion to decide on the sanctions depending on the facts, so will require some latitude to give suitable sanctions:</p> <p>(2) A person who contravenes subsection (1) commits an offence and is liable, on conviction-</p> <p>(a) to a fine not exceeding fifty thousand penalty units or to imprisonment for a term not exceeding six months, or to both;</p>

		covered in the penal code -substitute punitive measure with an administrative penalty and failure to give notice should not be an offence The recommendations are adopted	or <i>(b) depending on the facts of the case, to community service.</i>
13.	Section 15- Prohibition of attire in connection with defence force and security officers	-delete public service and uniformed public office replace with defence force and national security service as defined in the constitution -must capture attire of foreign defence or security service	Amended both (1) and (2) <i>(1) A person shall not wear an attire at a public gathering that signifies an association or connection with the defence force or a national security service except an officer of the defence force or a national security service.</i> <i>(2) A person who contravenes subsection (1) commits an offence and is liable, on conviction, to twenty thousand penalty units or to imprisonment for a term not exceeding two months, or to both.</i>
14.	Section 16- Prohibition of firearms or weapons at public gathering	- delete (2) as penalty exists in Firearms Act and PC -note recommendation and draft in accordance with the 2 Acts	Current provision is maintained- A similar offence sits in section 84(Going Armed in Public) of the Penal Code however, the offence in the POA is aggravated whilst in the Penal Code is a misdemeanour
16.	Section 17 - Appeals	Aggrieved can appeal	-Reference to Minister removed * the High Court Rules on appeals will guide on the process

		<p>directly to High Court and from here to ConCourt -adopted</p> <p>-appeal should be time bound(noting it is jurisdiction of CJ to come up with HCR)</p> <p>government, the constitution or the political system, or the pursuit of self-determination. They should not be used to prohibit insults to the honour and reputation of officials or State organs.”</p> <p>The Bill’s proposal to designate a current and future Cabinet-level, Executive Branch of Government, political appointee to decide and act on what could include grievances from critics and opposition parties, amongst</p>	<p>and time frames.</p> <p>However, Cap 4 gives this portfolio function to the Minister and accordingly is the practice in various laws in Zambia</p> <p>Administrative measures expedite the process of hearing the grievance</p> <p>Further, the time frame for Minister to hear and determine the grievance is limited to 3 days</p> <p>In judicial review (In the review of the decisions of public office holders) you have to exhaust administrative remedies, which end at the Minister(due process)</p> <ul style="list-style-type: none"> - If your notice of application has not followed the due process..... - On hearing will revert to decision making body to rule according to ruling of the Court - In regard to who hears appeal when Parliament is dissolved-Minister is defined in Chapter 2 of the Laws of Zambia- so when Parliament dissolved any such person in whom power is vested power for the time being normally PS, section 3 interpretations
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		<p>others, stands in contrast to the The ICCPR's Monitoring Body, the Human Rights Committee emphasis on legal and judicial recourse and remedy and by extension, the underlying principles of inter alia, equality and non-discrimination, fairness, independence, and impartiality usually afforded by a tribunal. Moreover, the proposal poses current and future risks to the right of peaceful assembly and to democracy, human rights and the rule of law and should thus be amended to designate the Subordinate Courts as the appropriate bodies to deal with grievances.</p>	
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17.	Section 18-Immunity	-delete as immunity is already there in other laws such as Police Act	<p>Section Maintained</p> <p>No provision for immunity is provided in the Police Act</p> <p>A police officer in the Police Act (section 23) only provide non liability for acts done in execution of a court warrant.</p> <p>Police officers need to be protected when their actions are done in good faith, when they act in bad faith the converse applies</p> <p>if action was in good faith will be determined by the court</p>
18.	<p>Section 19-Regulations: The Minister may, by statutory instrument, make regulations for the better carrying out of the provisions of this Act.</p> <p>(2) Despite the generality of subsection (1), the regulations may make provision for-</p> <p>(a) the manner and form of giving notice for a public gathering;</p>	<p>(1) include in consultation with stakeholders and define stakeholders</p> <p>-(2)a,b,c,d to come up with schedules to be part of the Bill – adopted-forms being developed</p>	<p>Adopted Forms devloed in the schedule</p> <p>However the Minister will still maintain the authority to amend by SI.</p> <p>*A compromise because are forms and by the nature may require to be updated from time</p> <p>The development of regulations falls within portfolio functions of Minister, further to powers in Cap 4</p> <p>SI go before committee of delegated legislation of parliament who provide oversight- scrutinise constitutionality and if in public interest, invite witnesses to appear and can be declared void SI if not in public interest</p> <p>-The standard procedure is for administrative procedures to be prescribed in subsidiary legislation.</p>

	(b) the manner and form of acknowledging receipt of notice for a public gathering; (c) the designation areas restricted from public gatherings; (d) the form and particulars to be entered on the register of notices; and (e) generally, the carrying into effect of the purposes of this Act.		
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The Technical Committee meeting held another meeting following the Stakeholder Validation Meeting.

ACTION TAKEN SHEET

	Provision in the Bill	NSE Submissions	Roundtable Submissions	Action Taken
3.	Object a) provide for the freedom of assembly and association	Object a) should read : <i>protection of</i> the freedom of assembly and association		The Constitution already guarantees this freedom and the statute book is read as one a) Facilitate the exercise of the freedom Of assembly and association at a public gathering
4.	Object (b) ... regulate the	Object b) should read <i>facilitate</i> the		<i>regulate</i> the conduct of public gatherings for the preservation of public order and public safety

	conduct of public gatherings for the preservation of public order and public safety	conduct of public gatherings for the preservation of public order and public safety		Article 21 of the Constitution gives the regulatory role from which we can't depart (by virtue of the limitations, suitable laws can be enacted to provide such regulation) By regulating the necessary parameters are set
3.	Section 2 "weapon" means an object or article made or adapted for use which is likely to cause or threaten injury or death to a person and includes a knife, spear, axe, arrow, stick, stone, axe handle or similar object or article.	Weapon-definition should specifically exclude assistive devices -should include machetes which are commonly abused. Will ease litigation for police		Assistive devices are excluded in the definition of weapons, then defined in section 2 "weapon" means an object or article made or adapted for use which is likely to cause or threaten injury or death to a person and includes a knife, spear, axe, arrow, stick, stone, machete, axe handle or similar object or article <i>but does not include an assistive device</i> that is used for the purpose for which it was intended. "assistive device" means a device that is designed, made or adapted to assist a person with disability to perform a particular task; "person with disability" has the meaning assigned to the words in the Persons with Disabilities Act, No 6 of 2012.
	Section 2-public gathering – means an assembly,	The limit should be One hundred and not twenty people		Twenty people maintained Security wings submitted, they are constrained by low staffing levels, 100 people would be too large a number to protect without notice

	meeting, procession or demonstration of twenty or more people in a public place			<p>Comparative study revealed that most countries don't actually set a limit, so could even start from 2.</p> <p>-South Africa provides for 15</p> <p>TC- Distinguish notifiable public gatherings from those which are notifiable, factoring in the protection needs of smaller groupings</p> <p>-consider section 4 definition in Uganda do away with minimum</p>
	Section 2- additional definitions			<p>"spontaneous public gathering" means an unplanned, unscheduled or unintended public gathering; Strike out unexpected</p>
				<p>"national security service" means-</p> <p>(a) the Zambia Police Service;</p> <p>(b) the Zambia Security Intelligence Service;</p> <p>(c) the Zambia Correctional Service; and</p> <p>(d) any other national security service established under any written law;</p>
4.	3(1) This Act shall not apply to: (l) an indoor meeting of a registered union; (m) an indoor meeting of the organs of a registered organisation or registered	Reconcile 3 (1)l and m as all apply to indoor meetings		<p>Amended to distinguish meetings of political parties from those of other organisations</p> <p>(l) an indoor meeting of a company, non-governmental organisation, trade union or any other organisation registered under any written law;</p> <p>(m) an indoor meeting of an organ of a registered political party convened in accordance with the constitution of that political party held exclusively to discuss the affairs of the political party; and</p>

	political party convened in accordance with the constitution of that party or organisation, and held exclusively to discuss the affairs of the party or organisation; and			
5.	4(1) A person who intends to hold a public gathering shall notify an authorised officer in the prescribed manner and form at least five days before the proposed date of the public gathering	Reduce notice period from 5 days to 3 days		<p>Five days maintained</p> <p>This is the practice in other jurisdictions considered. 5 days is practical allows for negotiation and to mobilise, 2 days is not sufficient unless a compelling reason is provided, the purpose of the law is also to ensure public safety and order therefore this requires adequate preparation-must balance enjoyment of human rights against public safety and order -5 days provides an opportunity for dialogue and negotiation where required</p> <p>-SACCORD 7 days was the general feel around the country</p> <p>-</p>
7.	4(2) Despite subsection (1), an authorised officer may accept a	Define impracticable		<p>subsection maintained as</p> <p>In legislation, you cannot adequately cover all the circumstances that can lead to <i>impracticability</i>, you do not define the term and instead rely on the ordinary dictionary meaning</p>

	notice of not less than two days, where five days' notice is impracticable.			
8.	5(2) (2)Where the authorised officer does not acknowledge receipt of the notice within the period specified in subsection (1), the notice shall be <i>deemed</i> to have been received.	5(2)-deemed to be replaced with considered -additional text... notice shall be deemed to have been received and organiser shall proceed to hold the meeting		Amended- deemed replaced with considered Additional text not included. The organiser will still has to comply with the other provisions in the law. Right to hold the meeting is not drawn from this provision, provisions merely acknowledges receipt of notice.
9.	Section 6 Spontaneous public gathering	-(2)c,d,e have repetitions of the words spontaneous public gathering- New sub section 1- authorised officer shall		Spontaneous public gathering now provided in section headed ' Notice for Public Gathering' 4(5) and (6) Spontaneous public gathering further defined in section 2. 4 (5) The notification required under this section shall not apply to a spontaneous public gathering. (6) An Authorised officer may direct a spontaneous public gathering to disperse where- (a) the authorised officer is in receipt of a notice to hold a public gathering on the same date and at the

		facilitate holding of spontaneous meetings for as long as held in a place free from other users and does not disrupt public order		<p>same time and venue as the spontaneous public gathering;</p> <p>(b) the venue for the spontaneous public gathering -</p> <p>(i) is unsuitable for purposes of crowd and traffic control;</p> <p>(ii) shall interfere with other lawful business; or</p> <p>(iii) is within a protected area, a protected place, or a restricted area as prescribed by the Minister.</p> <p>TC- SPG must be provided for, need to strike a balance between observing this as a best practice and curb abuse by organisers of meetings, without exclusion of any group</p>
10.	Section 7 Restriction of public gathering	<p>-c and d similar, delete d, possibly merge- adopted</p> <p>7(4)- satisfaction is not measurable - replace - adopted</p> <p>-add an additional para(derived from section 12 of the UK Act) 7(d) to include serious</p>		<p>-Section amended, however UK section 12-not necessary is repetitive, and further b) encompasses all as provided in 12(UK) and anything that causes a danger to public safety is covered</p> <p>(1) An authorised officer may restrict the holding of a public gathering, where-</p> <p>(a) the authorised officer is in receipt of a prior notice to hold a public gathering on the same date and at the same time and venue as the public gathering, except that the authorised officer shall give priority to the first notice received;</p> <p>(b) the venue for the public gathering -</p> <p>(i) is unsuitable for purposes of crowd and traffic control;</p> <p>(ii) shall interfere with other lawful business; or</p> <p>(iii) is within a protected area, a protected place, or a restricted area as prescribed by the Minister;</p> <p>(c) the authorised officer reasonably believes that the public gathering is likely to result in public disorder, damage to</p>

		<p>disruption to life of the community, further define this as includes circumstance where a public gathering may result in the delay of a delivery of time sensitive product to the public or may include... adopted - replace 3 days with 2 days-adopted</p>		<p>property, or a danger to public safety. (3) An authorised officer who restricts the holding of a public gathering on a ground specified under subsection (1) shall invite the organiser to take remedial measures to address the reasons for the restriction. (4) An authorised officer who restricts an organiser under subsection (1) shall, where the organiser takes adequate remedial measures, lift the restriction.</p>
11.	Section 8(2)	<p>8(2) authorized officer must decide in consultation with the organizers</p> <p>Reasonable belief should be accompanied with evidence</p>		<p>In 7(3) invited to make remedial measures, adequately covered</p> <p>-will depend on the circumstances of a case, such extent as is reasonably justifiable in the circumstances of the case</p> <p>further section 7(2) requires that the AO shall inform the organiser the reasons for the restriction in writing</p> <p>(2) Where an authorised officer restricts a public gathering</p>

				<p>under subsection (1), the authorised officer shall inform the organiser the reasons for the restriction in writing-</p> <p>(c) in the case of a notice received under section 4(1), at least three days prior to the proposed date of the public gathering; and</p> <p>(d) in the case of a notice received under section 4(2), at least twenty four hours prior to the proposed date of the public gathering.</p>
12.	Section 9 – Unauthorised public gatherings	<p>In (2) replace imprisonment with community service</p> <p>-punitive measures should only speak to failure to give notice and not any other issues, as these are covered in the penal code</p> <p>-substitute punitive measure with an administrative penalty and failure to give notice should not be an offence</p>		<p>Amended, however court has discretion to decide on the sanctions depending on the facts, so will require some latitude to give suitable sanctions:</p> <p><i>(2) A person who contravenes subsection (1) commits an offence and is liable, on conviction-</i></p> <p><i>(a) to a fine not exceeding fifty thousand penalty units or to imprisonment for a term not exceeding six months, or to both;</i></p> <p><i>or</i></p> <p><i>(b) depending on the facts of the case, to community service or to probation.</i></p> <p>TC- reduce 6 months to 3 months</p> <p>-amend the fines accordingly</p>

		<p>Include probation as community service is rarely used because of the administrative challenges in administering it.</p>		
13.	<p>Section 15- Prohibition of attire in connection with defence force and security officers</p>	<p>-delete public service and uniformed public office replace with defence force and national security service as defined in the constitution</p> <p>Provision should apply to attire worn by defence forces and national security services of foreign jurisdictions in order to adequately address the mischief.</p>		<p>Amended both (1) and (2)</p> <p><i>(1) A person shall not wear an attire at a public gathering that signifies an association or connection with the defence force or a national security service of the republic or a foreign state, except an officer of the defence force or a national security service.</i></p> <p><i>(2) A person who contravenes subsection (1) commits an offence and is liable, on conviction, to twenty thousand penalty units or to imprisonment for a term not exceeding two months, or to both.</i></p> <p><i>TC- list the proscribed reasons for not wearing such attire(eg to intimidate etc)</i></p>

14.	Section 16- Prohibition of firearms or weapons at public gathering	<ul style="list-style-type: none"> - delete (2) as penalty exists in Firearms Act and PC -note recommendation and draft in accordance with the 2 Acts 		<p>Current provision is maintained- A similar offence sits in section 84(Going Armed in Public) of the Penal Code however, the offence in the POA is aggravated whilst in the Penal Code is a misdemeanour</p>
16.	Section 17 - Appeals	<p>Aggrieved can appeal directly to High Court and from here to ConCourt - adopted</p> <p>-appeal should be time bound (noting it is jurisdiction of CJ to come up with HCR)</p>		<p>-Reference to Minister removed * the High Court Rules on appeals will guide on the process and time frames.</p> <p>However, Cap 4 gives this portfolio function to the Minister and accordingly is the practice in various laws in Zambia</p> <p>Administrative measures expedite the process of hearing the grievance</p> <p>Further, the time frame for Minister to hear and determine the grievance is limited to 3 days</p> <p>In judicial review(In the review of the decisions of public office holders) you have to exhaust administrative remedies, which end at the Minister(due process)</p> <ul style="list-style-type: none"> - If your notice of application has not followed the due process..... - On hearing will revert to decision making body to rule according to ruling of the Court - In regard to who hears appeal when Parliament is dissolved-Minister is defined in Chapter 2 of the Laws of

				<p>Zambia- so when Parliament dissolved any such person in whom power is vested power for the time being normally PS, section 3 interpretations and general provisions Act Cap 2</p> <ul style="list-style-type: none"> - - Revert to Minister - <p>-Provide clarity on what happens once Parliament is dissolved consult AG Article 91(2).....</p> <ul style="list-style-type: none"> - Statute book read as one no need to reproduce this - High court may not be best suited, escalating from police to high court is a bit extreme, and processes in High Court are onerous and take up more time
17.	Section 18-Immunity	-delete as immunity is already there in other laws such as Police Act		<p>Section Maintained</p> <p>No provision for immunity is provided in the Police Act</p> <p>A police officer in the Police Act (section 23) only provided with non liability for acts done in execution of a court warrant.</p> <p>Police officers need to be protected when their actions are done in good faith, when they act in bad faith the converse applies</p> <p>Whether an action was in good faith will be determined by the court</p>

18.	<p>Section 19- Regulations: The Minister may, by statutory instrument, make regulations for the better carrying out of the provisions of this Act.</p> <p>(2) Despite the generality of subsection (1), the regulations may make provision for-</p> <p>(a) the manner and form of giving notice for a public gathering;</p> <p>(b) the manner and form of acknowledging receipt of notice for a public gathering;</p> <p>(c) the designation areas</p>	<p>(1) include in consultation with stakeholders and define stakeholders</p> <p>-(2)a,b,c,d to come up with schedules to be part of the Bill – adopted-forms being developed</p>		<p>The forms will be included in the Act as a schedule, however the Minister will retain authority to amend by SI due to their nature, will require review often.</p> <p>-The standard procedure is for administrative procedures to be prescribed in subsidiary legislation.</p> <p>The development of regulations falls within portfolio functions of Minister, further to powers in Cap 4(Statutory Functions Act)</p> <p>SI go before committee of delegated legislation of parliament who provide oversight- scrutinise constitutionality and if in public interest, invite witnesses to appear and can be declared void SI if not in public interest</p>

<p>restricted from public gatherings;</p> <p>(d) the form and particulars to be entered on the register of notices; and</p> <p>(e) generally, the carrying into effect of the purposes of this Act.</p>			
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ANNEX 4

TECHNICAL COMMITTEE ON THE REVIEW OF THE PUBLIC ORDER ACT CHAPTER 113 OF THE LAWS OF ZAMBIA

The Committee composed of the following:

1	Mr. Josephs R. Akafumba	Ministry of Home Affairs and Internal Security-Chairperson
2	Mr. McDonald Chipenzi	Gears - Vice Chairperson
3	Mr. Yengwe Kakusa	Ministry of Justice
4	Mr. Francis Chilunga	Ministry of Justice
5	Ms. Masiliso Sitali Chibambo	Ministry of Justice
6	Mr. Goodson Sinyenga	Ministry of Home Affairs and Internal Security
7	Ms. Hope N. Chanda	Zambia Law Development Commission
8	Ms. Inutu Akolwa	Zambia Law Development Commission
9	Mr. James Masiye	Zambia Police Service
10	Ms. Cecilia Bwalya	Ministry of Home affairs and Internal Security
11	Mrs. Chipo Mushota Nkhata	Mushota and Associates
12	Bishop Bilon Kalumbinga	Evangelical Fellowship of Zambia
13	Mr. Mbinji Mufalo	University of Zambia
14	Fr. Dr. Gabriel Mapulanga	Zambia Conference of Catholic Bishops
15	Mr. Mweelwa Muleya	Human Rights Commission

16	Ms. Kawana Lipalile	Ministry of Local Government and Rural Development
17	Mr. Abyudi J. Shonga	Law Association of Zambia
18	Mr. Bornface Cheembe	Southern African Centre for Constructive Resolutions of Disputes(SACCORD)
19	Ms. Doreen Njovu	Zambia Centre for Interparty Dialogue

ANNEX 5

INSTITUTIONS INVITED TO MAKE SUBMISSIONS ON THE REVIEW OF PUBLIC ORDER ACT

No.	Statutory Bodies	Public Governance	Professional Bodies	Unions	Youth	Political Parties	Church Bodies	Association	CSO's
1.	ZICTA	Human Rights Commission	Engineering Institute of Zambia	Zambia National Unions of Teachers	Zambia Empowerment Hub for Entrepreneurship and Skills and Training	United Party for National Development Party (UNDP)	Council for Churches in Zambia	Law Association of Zambia	Advocate for Justice Foundation
2	Zambia Revenue Authority	Drug Enforcement Commission	Zambia Institute of architect	Zambia Congress of Trade Unions	Tikambe Youth Centre	Patriotic Front (PF)	Zambia Conference of catholic Bishops	Engineering Association of Zambia	Advocate for Child Justice
3	Patents and Companies	Financial Intelligence Centre	Zambia Institute of Purchasing and Supplying	Agriculture technical and	Girls Empowerment Alliance for	Party for National Unity (PNU)	Evangelical Fellowship of Zambia	Economic Association of Zambia	Concern Citizen for Justice and

	Registration Agency			Professional staff Union	Change				Human Rights
4	Energy Regulation Board	Judiciary of Zambia	Zambia Institute of Chartered Accountants	Airways and Allied workers Unions of Zambia	Restless Development to Youth in Zambia	Golden Party of Zambia (GPZ)	Pentecostal Holiness Church	Zambia Association of manufacturers	Disability Rights Watch
5	Zambia Bureau of Standards	Electoral Commission of Zambia	Zambia Institute of Human Resource Management	Civil Servants and workers Union of Zambia	Dream Factory Zambia	Forum for Democracy Development (FDD)	Churches Health Association of Zambia	Zambia Chamber of small and Medium Business Association	Zambia Agency for Persons with Disability
6	Bank of Zambia	Zambia Institute of advanced Legal Education	Health Professionals Council of Zambia	Zambia Union of Journalists	Multi Service Youth Zambia	Movement for Multiparty Democracy (MMD)	Zambia Episcopal Conference	Medical Association of Zambia	Justice Forum Zambia
7	National Pension Scheme Authority	Office of the Auditor General	Zambia Institute of Marketing	Zambia Revenue Authority Workers Unions	Centre for Youth Leader in Africa	Alliance for Democracy and Development	Independent church of Zambia	Resident Doctors Association of Zambia	Women in Law and Development in Africa (WILDAF)
8	Zambia Public Procurement Authority	Anti-Corruption Commission	Zambia Institute of Banking and Financial Services	Zambia Union of Nurses	Zambia Hands on Training Centre	New Labour Party	Midlands West Zambia Conference of the Seventh day Adventists	Bus Drivers and Motor Taxis Association	Save the Children
9	Examination Council of Zambia	National Prosecutions Authority	Zambia Institute of Tourism and Hospitality	Professional Teachers Union of Zambia	Dzuka Cholinga Youth Zambia	Fourth Revolution Party	Midlands East Zambia Conference, Seventh Day Adventists	TOTAL 8	Women and law in Southern Africa (WILSA)
10	National	Zambia	Total 9	Miners	Zambia Youth	National	Copper belt		Prisoners

	Council for Construction	National Broadcasting Corporation		Workers Union of Zambia	Alliance	Restoration Party (NAREP)	Zambia Conference of the Seventh day Adventists		Future Foundation
11	Zambia Electricity Supply Corporation (ZESCO)	Zambia National Information Services		Federation of Free Trade Unions in Zambia	United Nations Youth Association	United Progressive Party (UPP)	Northwest Zambia Conference of the Seventh Day Adventists		Prisons care and Counseling Association (PRISCA)
12	Zambia Environment Management Agency	Zambia Agency for persons with Disabilities		Non Workers Union of Zambia	Young Women in Action	United National Independence Party (UNIP)	North Zambia Field of the Seventh day Adventists		Foundation for Democratic Process (FODEP)
13	Zambia State Insurance Company	TOTAL 12		Basic Education Teachers Union of Zambia	Youth alive Zambia	Zambia Direct Development Movement (ZDDM)	Lusaka Conference of the Seventh day Adventists		Action Aid Zambia
14	Water Resource Management Agency			Bankers Union of Zambia	Youth development Organisation	Green Party (GP)	Woodlands Conference of the Seventh day Adventists		Alliance for Accountability Advocates Zambia
15	Citizen Economic and Empowerment Commission			Zambia National Union of Health and Allied Workers	Be Relevant Africa	National Revolution Party (NRP)	South Zambia Conference of the Seventh day Adventists		Caritas Zambia
16	Competition and Consumer Protection Commission			Judicial Workers Union of Zambia	TOTAL 15	All people's Congress (APC)	East Zambia Field Conference of the		Chapter One Foundation

	n						Seventh Adventists		
17	Workman's Compensation Board			Zambia National Farmers Union		Christian Democratic Party (CDP)	West Zambia Field Conference of the Seventh day Adventists		National Legal Aid Clinic for Women
18	National Archives of Zambia			Zambia federation of Employers		People's Alliance for Change (PAC)	TOTAL 17		Legal Resources Foundation
19	Zambia National Heritage Commission			Zambia Bus and Taxi Workers Union		New Heritage Party (NHP)			Alliance for Community Action
20	Registrar of Societies			Guards Union of Zambia		United Liberal Party (ULP)			Jesuit centre for Theological Reflection
21	Zambia Telecommunications (ZAMTEL)			University of Zambia Student Union		Patriots for Economic Progress (PEP)			Catholic Commission for Justice and peace
22	Zambia Railways			Copperbelt University student Union		Movement for National Transformation (MNT)			Panos Institute of Southern african
2	Road Transport and Safety Agency			Mulungushi Student Union		Economic Equity Party (EEP)			SACCORD
24	Central Statistic Office			Chalimbana Student Union		United for Sustainable Development			Non-Government Organisation

									n Coordinatio n Council (NGOCC)
25	National Water and Sanitation Company			Kwame Nkrumah University student Union		New Congress Party			Young Men's Christian Association
26	Zambia Developme nt Agency			Zambian Open student Union		Zambia Republican Party			Young Women Christian Association
27	Departmen t of National Parks and Wildlife			Cavendish University student Union		Rainbow Party			Media Institute of Southern Africa
28	Industrial Developme nt Corporatio n			Evelyn Hone College Student Union		Citizen Democratic Party			Zambia Federation of Disability Organisatio n
29	Zambia Forestry and Forest Industries Corporatio ns			NIPA student Union		Third Liberation Movement			Islamic Supreme Council
30	Total 29			Eden University Student Union		National Party (NP)			Sport in Action
31				TOTAL 30		Humanity Party			Grass Roots Soccer
32						Common Cause Democracy			Zambia land

									Alliance
33						United Front Strong Foundation			National Organisation for Women in Sport, Physical Activity and Recreation
34						Socialist Party			Better World Zambia
35						People's Convention Independence Party			Civil Society for Poverty Reduction
36						United Party for Development and Democracy			Gears Initiative Zambia
37						United for a Better Zambia			Operation Young Vote
38						United Prosperous and Peaceful Zambia			Development Aid from people to people
39						Democratic Party			Forum for Africa Women Educationist Zambia
40						Revolution Communist Party			HIV/AIDS Technical Support Foundation
41						Federal Democratic Party			Campaign for Female Education in Zambia

42						Leadership Movement			Innovation for Poverty Action
43						People's Redemption Party			Impact Network Zambia
44						Zambians for Empowerment and Development			Child Care and Adoption Society of Zambia
45						Movement for Democratic Change			Association of Sign Language Interpreters in Zambia
46						Movement for Change and Equality			Internews
47						Adedo Zamucano			Plan International Zambia
48						Economic Freedom Fighters			Master Chimbala Foundation
49						Freedom Fighters Party			Tiphunzitsane Community Foundation
50						Zambia Must Prosper			Undikumbukire Project Zambia
51						Party for National Unit (PNU)			Transbantuu Association of Zambia
52						Zambia centre for Interparty			TOTAL 51

						Dialogue (ZCID)			
53						TOTAL 52			

Cont..... INSTITUTIONS INVITED TO MAKE SUBMISSIONS ON THE REVIEW OF PUBLIC ORDER ACT

	Academia	Town Clerk	Media	Ministries	Members of Parliament (MPs)
1	University of Zambia	Kabwe Municipal Council	ZNBC TV 1	Ministry of Community development and Social services	Hon. Anthony Mumba,MP Kantashi Constituency
2	Mulugnushi University	Ndola City Council	ZANIS	Ministry of Youth, sport and Child	Hon. Nelly B. K. Mutti Speaker of the national Assembly
3	Zambian Open University	Chipata City Council	Zambia daily Mail	Zambia Chamber of Commerce and Industry	Hon. Mutinta C Mazoka, MP
4	University of Lusaka	Mansa Municipal Council	Times of Zambia	Ministry of Mines and Mineral development	Hon. Malungo Chisangano First Deputy Speaker
5	Cavendish University	Lusaka City Council	Christian Voice	Ministry of Works and Supply	Hon. Likando Mufalali, MP
6	UNICAF University	Chinsali Town Council	The Daily Nation	Ministry of Information and Media	Hon. Doreen Mwamba, MP
7	Rockview University	Solwezi Municipal Council	MUVI TV	Ministry of Commerce, Trade and Industry	Hon. Felix Mutati, MP
8	National Institution of Public Administration (NIPA)	Kasama Municipal Council	HOT FM	Ministry of Transport and Communication	Hon. Elias Mubanga, MP
9	ZCAS	Choma Municipal Council	Radio Phoenix	Ministry of Education	Hon. Kalalwe Mukosa, MP Chinsali Constituency
10	Evelyn Hone College	Mongu Municipal Council	Komboni radio	Ministry of health	Hon. Mulenga Kampamba, MP Kalulushi Constituency
11	ZIALE	TOTAL 10	Prime TV	Ministry of Defence	Hon. Jeffrey Mulebwa, MP Kafulafuta Constituency
12	TOTAL 11		Diamond TV	Ministry of Labour and Social Security	Hon. Maureen Mabonga, MP Mfuwe Constituency
13			Q TV	Ministry of Local Government and Rural development	Hon. Elisha Matambo, MP
14			TOTAL 13	Ministry of Finance and National	Her Hon. W.K. Mutale

				Planning	Nalumango Vice President of the republic of Zambia
15				TOTAL 14	Hon. Charles Milupi, MP
16					Hon. Peter Kapala, MP
17					Hon. Mulusa Stafford, MP Solwezi Central Constituency
18					Hon. Mulenga Chipoka, MP Chingola Constituency
19					Hon. Leonard Mbao, MP Mpulungu Constituency
20					Hon. Mweemba Malambo, MP Magoye Constituency
21					Hon. Chushi kasanda, MP Chisamba Constituency
22					Hon. Sunday Chanda, MP Kanchibiya Consituency
23					Hon. Fred Chibulo Chaatila,MP Moomba Constituency
24					Hon. Robert Chabinga, MP Mafinga Constituency
25					Hon. Katotobwe Chanda, MP Luapula Constituency
26					Hon. Kabwe Taulo Chewe, MP Lubansenshi Constituency
27					Hon. Allen Banda, MP Chimwemwe Constituency
28					Hon. Clement Andeleki, MP Katombola Constituency
29					Hon. Ackleo A Banda, MP Vubwi Constituecny
30					Hon. Oliver Amutike, MP Mongu Central Constituency

31					Hon. Emmanuel Banda, MP Muchinga Constituency
32					Hon. Derricky Chilundika, MP Nchanga Constituency
33					Hon. Monty Chinkuli, MP Kanyama Constituency
34					Hon. Jean N. Chisenga, MP Mambilima Constituency
35					Hon. Davies Chisopa, MP Mkushi South Constituency
36					Hon. Ronald K Chitotela, MP Pambashe Constituency
37					Hon. Anthony Kasandwe, MP Bangweulu Constituency
38					Hon. Romeo Kangombe, MP Sesheke Constituency
39					Hon. Francis Robert Kapyanga, MP Mpika Constituency
40					Hon. Christopher Chibuye, MP Mkushi North Constituency
41					Hon. Jay Banda, MP Petauke Central Constituency
42					Hon. Leevan Chibombwe, MP Bahati Constituency
43					Hon. Makozo Chikote, MP Luampa Constituency
44					Hon. Chitalu Chilufya, MP Mansa Central Constituency
45					Hon. Cornelius Mweetwa, MP Choma Constituency
46					Hon. Douglas M Syakalima, MP

					Chirundu Constituency
47					Hon. Mirriam C Chonya, MP Kafue Constituency
48					Hon. Nickson Chilangwa, MP Kawambwa Constituency
49					Hon. Harry Kamboni, MP Kalomo Central Constituency
50					Hon. Elliot Kamondo, MP Mufumbwe Central Constituency
51					Hon. Victor Lumayi, MP Chavuma Constituency
52					Hon. Elijah Muchima, MP Ikelengi Constituency
53					Hon. Sylvia Masebo, MP Chongwe Constituency
54					Hon. Vumango Musumali, MP Zambezi West Constituency
55					Hon. Kasauta Michelo, MP Bweengwa Constituency
56					Hon. Jacob J Mwiimbu, MP Monze Constituency
57					Hon. Paul C. Kabuswe, MP Chililabombwe Constituency
58					Hon. Machila Jamba, MP Mwembeshi Constituency
59					Hon. Siphon Hlazo, MP Chilanga Constituency
60					Hon. Lameck Hamwaata, MP Pemba Constituency
61					Hon. Chrizoster P. Halwindi, MP Kabwe Central Constituency
62					Hon. Christopher C Kangombe, MP Kamfinsa Constituency
63					Hon. Gystae Chonde, MP

					Milenge Constituency
64					Hon. Kabaso Kampampi, MP Mwansabobwe Central Constituency
65					Hon. Michel Z J Katambo, MP Masaiti Constituency
66					Hon. Brian Kambita, MP Zambezi East Constituency
67					Hon. Robert K Kalimi, MP Malole Constituency
68					Hon. Christopher K Kalila, MP Lukulu East Constituency
69					Hon. Stanley K Kakubo, MP Kapiri Mposhi Constituency
70					Hon. Mutotwe L. Kafwaya, MP Lunte Constituency
71					Hon. Mulenga F. Fube, MP Chilubi Constituency
72					Hon. Pavyuma Kalobo, MP Wusakile Constituency
73					Hon. Joel Chibuye, MP Roan Constituency
74					Hon. Paul Chala, MP Chipili Constituency
75					Hon. Stephen Kampyongo, MP Shiwa Ngandu Constituency
76					Hon. George K Kandafula, MP Serenje Constituency
77					Hon. Alex Katakwe, MP Solwezi East Constituency
78					Hon. Binwell Mpundu, MP Nkana Constituency
79					Hon. Golden Mwila, MP Mufulia Constituency

80					Hon. Gregory Ngowani, MP Mpongwe Constituency
					Hon. Lusale John Simbao, MP Luanshya Constituency
81					Hon. Elias Daka, MP Msanzala Constituency
82					Hon. Jonathan Daka, MP Chadiza Constituency
83					Hon. Mulambo Hamakuni Haimbe, MP Lusaka central Constituency
84					Hon. Ambrose Lwiji Lufuma, MP Kabompo Constituency
85					Hon. Victor Lumayi, MP Chavuma Constituency
86					Hon. Luckson Mwaiwanu, MP Kapoche Constituency
87					Hon Tasila Lungu, MP Chawama Constituency
88					Hon. Raphael S Mabenga, MP Mulombezi Constituency
89					Hon. Bowman Lusambo, MP Kabushi Constituency
90					Hon. Chinga Miyutu, MP Kalabo Constituency
91					Hon. Darius Mulunda, MP Siavonga Constituency
92					Hon. Njavwa Simutowe, MP Mbala Constituency
93					Hon. Koonwa Simunji, MP Nalikwanda Constituency
94					Hon Luka Simumba, MP Nakonde Constituency
95					Hon. Given Katuta, MP

					Chienge Constituency
96					Hon. Wesley Kolala, MP Lufubu Constituency
97					Hon. Robert Lihefu, MP Manyinga Constituency
98					Hon. Lloyd Lubozha, MP Chifubu Constituency
99					Hon. Andrew Z Lubusha, MP Chipangali Constituency
100					Hon Twaambo E. Mutinta, MP Itezhi-Tezhi Constituency
101					Hon. Emeldah Munashabantu, MP
102					Hon. Simon Mwale, MP Nchelenge Constituency
103					Hon. Joseph Simumpuka Munsanje, MP Mbabala Constituency
104					Hon. Davison Mungandu, MP Chama South Constituency
105					Hon. Brian M Mundubile, MP Mporokoso Constituency
106					Hon. Situmbeko Musokotwane, MP Liuwa Constituency
107					Hon. Sydney Mushanga, MP Bwacha Constituency
108					Hon. Credo Nanjuwa, MP Mumbwa Constituency
109					Hon. Emmanuel M Musonda, MP Lupososhi Constituency
110					Hon. Elvis Chishala Nkandu, MP Kaputa Constituency
111					Hon. Mayungo Simushi, Mp

					Sikongo Constituency
112					Hon. Vumango P Musumali, MP Zambezi Constituency
113					Hon. Remember C Mutale, MP Chitambo Constituency
114					Hon. Micheck Mutelo, MP Mitete Constituency
115					Hon. Sibongile Mwamba, MP Kasama Constituency
116					Hon. Peter Simon Phiri, MP Malambo Constituency
117					Hon. Golden mwila, MP Mufulia Constituency
118					Hon. Aaron D. Mwanza, MP Kaumbwe Constituency
119					Hon. Marjorie Nakaponda, MP Isoka Constituency
120					Hon. Elias M Musonda, MP Chimbamilonga Constituency
121					Hon. Miles Sampa, MP Matero Constituency
122					Hon. Jaqueline Sabao, MP Chikankata Constituency
123					Hon. Joseph Malanji, MP Kwacha Constituency
124					Hon. David Mabumba, MP Mwense Constituency
125					Hon. Sibeso K Seffulo, MP Mwandi Constituency
126					Hon. Reuben Mtolo, MP Chipata Central Constituency
127					Hon. Melesiana Phiri, MP Milanzi Constituency
128					Hon. Collins Nzovu, MP

					Nangoma Constituency
129					Hon. Brenda Nyirenda, MP Lundazi Constituency
130					Hon. Peter M Phiri, MP Mkaika Constituency
131					Hon. Mayungo Simushi, MP Sikongo Constituency
132					Hon. Moses Moyo, MP Luangeni Constituency
133					Hon. Mubita Mubita, MP Shangombo Constituency
134					Hon. Julien Mfwanki Nyemba, MP Chifunabuli Constituency
135					Hon. Misheck Nyambose, MP Chasefu Constituency
136					Hon. Gary G Nkombo, MP Mazabuka Central Constituency
137					Hon. Mwabashike Nkulukusa, MP Katuba Constituency
138					Hon. Edgar Singombe, MP Dundumwenzi Constituency
139					Hon. Tyson Simuzingili, MP Gwembe Constituency
140					Hon. Warren Chisha Mwambazi, MP Bwana NKubwa Constituency
141					Hon. Walusa Mulaliki, MP Senanga Constituency
142					Hon. Yotam Mtayachalo, MP Chama South Constituency
143					Hon. Kapelwa Mbangweta, MP Nkeyema Constituency

144					Hon. Herbert Mapani, MP Namwala
145					Hon. Heartson Mabeta, MP Kankoyo Constituency
146					Hon. Mike Mposha, MP Munali Constituency
147					Hon. Sheal Mulyata, MP Rufusa Constituency
148					Hon. Rhodine Sikumba, MP Livingstone Constituency
149					Hon. Nicholus Makumbi, MP Solwezi West Constituency
150					Hon. Emmanuel Tembo, MP Feira Constituency
151					Hon. Masautso K Tembo, MP Sinda Constituency
152					Hon. Henry Sikazwe, MP Senga Hill Constituency
153					Hon. Munir Zulu, MP Lumezi Constituency
154					Hon. Phillimon Twasa, MP Kasenengwa Constituency
155					Hon. Imanga Wamunyima, MP Nalolo Constituency
156					Hon. Kaliye Mandandi, MP Sioma Constituency
157					Hon. Menyani Zulu, MP Nyimba Constituency
158					Hon. Kenny Siachisumo, MP Lufwanyama Constituency
159					Hon. Cliff Mpundu, MP Chembe Constituency
160					Hon. Frank Tayali, MP Ndola Central Constituency
161					Hon. Brenda M Tambatamba, MP Kasempa Constituency
162					Hon. Sitwala M Sitwala, MP

					Kaoma Constituency
163					Hon. Gift S Sialubalo, MP Sinazongwe Constituency
164					Hon. Andrew Tayengwa, MP
165					Kabwata Constituency
166					Hon. Christopher Shakafuswa, MP Mandevu Constituency
167					Hon. Mubita Anakosa, MP Luena Constituency

ANNEX 6

RESPONDENTS WHO MADE SUBMISSIONS ON THE REVIEW OF THE PUBLIC ORDER ACT

No.	STATUTORY BODIES	No.	CIVIL SOCIETY ORGANISATIONS	No.	BRANCH OF GOVERNMENT
1.	Anti-Corruption Commission	1.	Undikumbukire Project Zambia (UP ZAMBIA) - Lusaka	1.	Judiciary
2.	Zambia Information and Communication Technology Authority	2.	Transbantu Association Zambia (TBZ) - Lusaka Province		
3.	Office of the Auditor General	3.	United Prosperous and Peaceful Zambia - Lusaka		
4.	Electoral Commission of Zambia	4.	GEARS initiative Zambia and 30 other Civil Society Organisations		
5.	Office of the Public Protector	5.	Chapter One Foundation - Lusaka Province		
		6.	Paralegal Alliance Network (PAN) - Lusaka		
		7.	Zambia United States Exchanges Alumni Association		
		8.	SACCORD and DCAF		
		9.	Prisoners' Future Foundation		

		10.	Centre for Trade Policy and Development		
		11.	Zambian Empowerment Hub for Entrepreneurship and Skills Training (ZEHEST)		
		12.	Jesuit Centre for Theological Reflection (JCTR)		
		13.	African Policing Civilian Oversight Forum		
		14.	Operational Young Vote (OYV)		
		15	Actionaid		
		16	Caritus Zambia		

No.	POLITICAL PARTIES	No.	MEMBER OF PARLIAMENT	No.	CHURCHES
1.	The Common Cause Democracy	1.	Hon. Stephen Kampyongo – Shiwa Ny’andu Constituency	1.	Elim Pentecostal Church of Zambia – Ndola- Copperbelt Province
2.	Zambia Direct Democracy			2	Pentecostal Holiness Church in Zambia- Nsama-Northern Province
3.	Zambians for Empowerment and Development (ZED) Party			3	Shiloh Embassy Ministries – Ndola - Copperbelt Province
4.	United Front for a Strong Foundation (UFSF)				

5.	The Leadership Movement-LM Party				
6.	The Economic Front Party				
7.	All People's Congress Party				

No.	ASSOCIATIONS	No.	COUNCIL	No.	UNION
1.	Zambia Association of Manufacturers - Lusaka	1.	Mr. Tisa John-Councilor: Mansa Municipal Council-Luapula Province	1.	Zambia Congress of Trade Unions
2.	Zambia Civic Education Association				

No.	INDIVIDUALS	No.	ACADEMIA
1.	Mr.Robert Kumwesu Jr - Lusaka Province	1.	University of Zambia, School of Law
2.	Mumanga Morden Mayembe - Lusaka Province	2	Institute of Purchasing and Supply
3	George Chintankwa Malipilo - Lusaka Province		
4	Edwin Penias Zulu- Lusaka Province		

5	Sheikh Adam Judas Phiri – Lusaka Province		
6	Malama Mutamba Chalawila – Southern Province Choma District		
7	Patricia Nanyangwe- Luanshya Copperbelt Province		
8	Hon. Charles Kakoma – Zambezi West		
9	Mr. Martin Mukwanka – Human Rights Activist - Livingstone		
10	Whyford Mphande – Lusaka Province		
11	Mr. Emmanuel Mwaba - Lusaka		
12	Rev. Anthony Katongo – Kitwe		
13	Gladys Kasoma Tembo - Lusaka		

Annex 7

A total number of participants who attended the National Consultative Workshop were **One Hundred and twenty (120)** participants

**PARTICIPANTS AT THE NATIONAL STAKEHOLDERS CONSULTATIVE MEETING ON THE REVIEW OF
PUBLIC ORDER ACT
CIVIL SOCIETY ORGANISATION AND CHURCH MOTHER BODIES**

NO.	Name of Organization	Name of Participant
1.	Advocates for Child Justice	Josphat Njobvu
2.	Disability Rights Watch	Bruce Chooma
3.	Woman and Law in Southern Africa (WILSA)	Leah Muleya
4.	Chapter One Foundation	Mulefa Kapatiso
5.	Panos Institute of Southern African	Konndwani Thindwa
6.	Southern African Centre for the Constructive Resolution of Disputes (SACCORD)	Boniface Cheembe
7.	Zambia Federation of Disability Organization	Derrick Sinyangwe
8.	Caritas Zambia	Fr. Dr. Gabriel Mapulanga
9.	National Organization for Women in Sport, Physical Activity and Recreation	Nalishebo Kashina
10.	Gears Initiative Zambia	Gideon Musonda
11.	Operation Young Vote	Guess Nyirenda
12.	Common Grounds Network	David Mvula
13.	United Nations Development Programme (UNDP)	Dutima Bhagwandin Sara
14.	Undikumbukire Project Zambia (UP Zambia)	Doris Mushota
15.	Transbantu Association of Zambia	Natasha Ivy

16.	Paralegal Alliance Network	Eugene Kabilika
17.	Council of Non-Governmental Organization	Sharon Chileshe
18.	Zambia Empowerment Hub for Entrepreneurship and Skills Training (ZEHEST)	Kelly Kalumba
19.	GIZ	Mwendalubi Mullenje
20.	Christian Churches Monitoring Group (CCMG)	Peter Mwanagombe
21.	Islamic Supreme Council	Dr. Shaban A. Phiri
22.	Midlands West Zambia Conference of Seventh Day Adventists	Gabriel Mulambwa
23.	Woodlands Conference Seventh Day Adventists	Johnnie Nanwako Halwiindi
24.	South Zambia Conference of the Seventh Day Adventists	Pastor Evans Manjimela
25.	Educating Girls and Young Women for Development (EGYD)	Jeremiah Njobvu
26.	Embassy of Sweden	Pezo Phiri
27.	Save the Children	Chisomo Mbewe
28.	Operation Young Vote	Guess Nyirenda
29.	National Democratic Institute	Mutale Mukuka
30.	Southern African Centre for the Constructive Resolution of Disputes (SACCORD)	John Mapondo
31.	FUYD	Nsondo Hamuula
	TOTAL 31	

POLITICAL PARTIES

1	Adedo Zamucano	Daniel Nyati
2	All People's Congress	James Mbewe
3	Citizen Democratic Party (CDP)	Robert Mwanza
4	Common Cause Democracy (CCD)	Abel James Mtonga
5	Christian Democratic Party (CDP)	Hon. Daniel Pule
6	Economic Equity Party (EEP)	Mazuba Mweemba
7	Economic Front Party	Sandy Sindazi
8	Forum for Democracy and Development (FDD)	Caesar Liteta
9	Freedom Fighter Party	Lameck Kamelo
10	Leadership Movement	Tatila Tatila
11	Movement for Democratic Change	Abiut Njovu
12	Movement for Multiparty Democracy (MMD)	Malama Sokoni
13	National Democratic Congress	Petruia Namakau Lubinda
14	National Revolution Party (NRP)	Dr. Cosmo G K Mumba
15	New Congress Party (NCP)	Jonathan K Nganga
16	Revolution Communist Party	Getrude Syesye
17	Third Liberation Movement	Davies Mumba
18	United Party for National Development (UPND)	Raphael Muyanda

19	United Front for a Strong Foundation	Brian Chisengalumbwe
20	United for a Better Zambia	Emmanuel Justin Mwanza
21	United Liberal Party	Mwenda Mande
22	United Prosperous and Peaceful Zambia	Kondwane Sakala
23	United for Sustainable Development	Hector Soondo
24	Zambia Centre for Interparty Dialogue (ZCID)	Sampa Mutale
25	Zambia Direct Development Movement (ZDDM)	Charles Kafumbo
26	Zambia for Empowerment and Development	Harrington R Kanema
27	Zambia Republican Party (ZRP)	Wright Musoma
28	New Generation Party (NGP)	Martin Kamusa
29	National Democratic Congress (NDC)	Kwangu Mukupa
30	RPP	Onny Kayumba
31	National Democratic Congress (NDC)	Saboi Imboela
32	Humanity Party	Faustina Chileshe
	TOTAL 32	

MINISTRIES/PUBLIC/STATUTORY BODIES

1	Ministry of Information and Media	Angela T Mfula
2	Ministry of Defence	Abednego Kaumba
3	Competition and Consumer Protection Commission	Sarah Mafuta

4	National Achieves of Zambia	Brian Mwale
5	Registrar of Society	Jason Mwanbazi
6	Zambia Telecommunication Company (ZAMTEL)	Cassandra Chakanika
7	Industrial Development Corporation (IDC)	James ShawaKankondo
8	Zambia Chamber of Commerce and Industry	Phil Daka
9	Drug Enforcement Commission (DEC)	Wankumbu Siame
10	Electoral Commission of Zambia	Mataa Sikota
11	Office of the Auditor General	Simon Munyama
12	National Prosecution Authority (NPA)	Cassandra Soko
13	MHAIS (HARID)	Annie Malata
14	MHAIS	Nondo Rapheal
15	Ministry of Justice	Francis Chilunga
16	Ministry of Justice	Yengwe Kakusa
17	ZICTA	Benaiah Mupenda
	TOTAL 17	

MEDIA

1	ZNBC TV	Ken Harriott
2	Diamond TV	Victoria Kayeye
3	ZANIS	Sara Miti
4	Komboni TV	Oscar Nkhuwa
5	Times of Zambia	James Banda

6	Prime TV	VonesChilikazi
7	QTV	FavouriteKalando
8	The Scope Newspaper	Elijah NGoma
9	KBN TV	Boston Muvwanga
10	Golden Star	Elijah Mumba
11	CAMNET TV	Prudence Chota
12	New Vision TV	Nancy Chindalo
13	Volcanic News	Pricel Phiri
14	Archdiocese of Lusaka Media	Emmanuel Justin Mwanza
15	ZANIS	Mutale Kani
16	Revelation TV	MalangiNzombola
17	ZANIS	Musa Ilukena
18	KNCTV/Radio	JavisLupheoh
19	ZNBC	Notrick Tama
20	ZNBC	Pauline Phiri
21	ZNBC	SoviaKachongo
22	ZNBC	Maureen M Kamwawa
23	Cloud FM	MwatishaLubinga
24	New Vision	Nancy Chindalo

25	ZNBC	Blessings Chibale
26	MOZO TV	Blessed Chiwana
27	KBN TV	WizaWalimuntu
	TOTAL 27	

ACADEMIA AND PROFESSIONAL BODIES

1	Cavendish University	Buchizya Mwalongo
2	UNICAF	Dr. Nathan Musonda
3	National Institute of Public Administration (NIPA)	Vicent Lungwangwa
4	Evelyn Hone College of Applied Art and College	Joe C Mwale
5	Zambia Institute of Human Resource Management	Sikatimba Owen Chilala
6	Zambia Institute of Purchasing and Supply	Teddy D.Mulonga
7	ZCAS University	Mrs Natasha C Lungu
8	Zambian Open University	Besa Mulenga
	TOTAL 8	

UNIONS AND ASSOCIATIONS

1	Zambia National Union of Teachers	Dr. Joe Kasaka
2	Zambia Congress of Trade Unions	Martin Chembe
3	NUPPEZ	Nelson Mwale
4	Law Association of Zambia	Suzan Mwamba
5	Zambia Association of Manufacturers	Kasonde Chituta
	TOTAL 5	

LAW ASSOCIATION OF ZAMBIA (ROUND TABLE)

ROUND TABLE MEETING WITH LAW ASSOCIATION OF ZAMBIA

- i. Susan Mwamba Besa - National Prosecution Authority
- ii. Lorraine Shachinda - Andrew and Partners
- iii. Chishimba Yvette Mulenga - Ranchod Chungu Advocates
- iv. Yully Silomba Jr. - Equitas Legal Practitioners
- v. Ndashi David Kapini - Wilson & Cornhill Associates
- vi. Wacha Ndhlovu Yambala - National Housing Authority
- vii. Humphrey Kasiya Mwale - Batoka Chambers
- viii. Nalukuyi Muyambango - Law Association of Zambia
- ix. Chipego Hakalima - Law Association of Zambia
- x. Kelly Kapianga - Law Association of Zambia

ROUND TABLE MEETING WITH THE DEFENCE AND SECURITY WINGS

- i. Major Kadimba Nyama - Zambia Army
- ii. Major Jane Malekani Mulimine - Zambia Air Force
- iii. DCP Davies Simwamza - Zambia Police Service
- iv. SACP Robinson Moonga - Zambia Police Service
- v. SACP Moono F Namalongo - Zambia Police Service

- vi. SACP Abel Lungu - Zambia Police Service
- vii. SACP Lucky Munkondya-Buumbu - Zambia Police Service
- viii. DCP James Masiye - Zambia Police Service
- ix. DCP Sharon K Cheelo Zulu - Zambia Police Service
- x. SACP Charity Munganga - Zambia Police Service
- xi. ACP Hilda Bwanda - Zambia Police Service
- xii. Col Freeman Kafimba - Zambia National Service
- xiii. Col Nancy Mulenga - Zambia National Service

ANNEX 7

The total number of participants who attended the National Validation Workshop were **One Hundred and Nineteen (119)** participants.

PARTICIPANTS AT THE NATIONAL STAKEHOLDERS VALIDATION MEETING ON THE REVIEW OF PUBLIC ORDER ACT CIVIL SOCIETY ORGANISATION AND CHURCH MOTHER BODIES

NO.	Name of Organization	Name of Participant
1.	Advocates for Child Justice	Manyendo Mukosa
2.	Disability Rights Watch	Bruce Chooma
3.	Woman and Law in Southern Africa (WILSA)	Leah Muleya
4.	Chapter One Foundation	Muleta Kapatiso
5.	Panos Institute of Southern African	Gideon Chibwe
6.	Southern African Centre for the Constructive Resolution of Disputes (SACCORD)	Boniface Cheembe
7.	Zambia Federation of Disability Organization	Derrick Sinyangwe
8.	National Democratic Institute	Mutale Mukuka
9.	National Organization for Women in Sport, Physical Activity and Recreation	Nalishebo Kashina
10.	Gears Initiative Zambia	Gideon Musonda
11.	Operation Young Vote	Guess Nyirenda
12.	Common Grounds	David Mvula
13.	United Nations Development Programme (UNDP)	Nsabaula Neovws
14.	Undikumbukire Project Zambia (UP Zambia)	Doris Mushota
15.	Transbantu Association of Zambia	Natasha Ivy
16.	Paralegal Alliance Network	Eugene Kabilika
17.	Council of Non-Governmental Organization	Sharon Chileshe
18.	Zambia Empowerment Hub for Entrepreneurship and Skills Training (ZEHEST)	Kelly Kalumba
19.	Churches Health Association of Zambia (CHAZ)	Yoram Siame
20.	Christian Churches Monitoring Group (CCMG)	Peter Mwanangobe

21.	Islamic Supreme Council	Dr. Shaban A. Phiri
22.	Midlands West Zambia Conference of Seventh Day Adventists	Gabriel Mulambwa
23.	Woodlands Conference Seventh Day Adventists	Johnnie Nanwako Halwiindi
24.	South Zambia Conference of the Seventh Day Adventists	Pastor. Evans Manjimela
25.	Educating Girls and Young Women for Development (EGYD)	Kelvin Chifulimo
26.	Zambia Empowerment Hub for Entrepreneurship and Skills Training (ZEHEST)	Clarence Muzyamba
27.	The Young Christian Nation	Paul Nundwe
28.	Operation Young Vote	Isaac Mwale
29.	United Nations Development Programme (UNDP)	Takawira Musajengawa
	TOTAL 29	

POLITICAL PARTIES

1	Adedo Zamucano	Daniel Nyati
2	All People's Congress	James Mbewe
3	Citizen Democratic Party (CDP)	Robert Mwanza
4	Common Cause Democracy (CCD)	Abel James Mtonga
5	Economic Equity Party (EEP)	Faddy Luhana
6	Economic Front Party	Sandy Sindazi
7	Forum for Democracy and Development (FDD)	Caesar Liteta
8	Freedom Fighter Party	Lameck Kamelo
9	Leadership Movement	Maggie C. Kaluba
10	Movement for Democratic Change	Abiut Njovu
11	Movement for Multiparty Democracy (MMD)	Malama Sokoni
12	National Democratic Congress	Petrina Namakau Lubinda
13	National Revolution Party (NRP)	Dr. Cosmo G K Mumba
14	New Heritage party	Edwin P Zulu
15	New Congress Party (NCP)	Jonathan Kafwanja Ngapa
16	Revolution Communist Party	Getrude Syesye
17	Third Liberation Movement	Davies Mumba
18	United Party for National Development (UPND)	Raphael Muyanda

19	United Front for a Strong Foundation	Isaac Nkhoma
20	United for a Better Zambia	Hector Soondo
21	United Liberal Party	Mwenda Mande
22	United for Sustainable Development	Tatila Tatila
23	Zambia Centre for Interparty Dialogue (ZCID)	Sampa Mutale
24	Zambia Direct Development Movement (ZDDM)	Charles Kafumbo
25	Zambia for Empowerment and Development	Harrington R Kanema
26	Zambia Republican Party (ZRP)	Wright Musoma
27	UPDD	Namumba Wankumbu
28	New Generation Party (NGP)	Augustine Mukuka
29	National Democratic Congress (NDC)	Kwangu Mukupa
30	RPP	Onny Kayumba
31	NGP	Martin Kamusa
32	Patriotic Front (PF)	Inonge Mulope
	TOTAL 32	

MINISTRIES/PUBLIC/STATUTORY BODIES

1	Ministry of Information and Media	Angela T Mfula
2	Ministry of Defence	Abednego Kaumba
3	Competition and Consumer Protection Commission	Sarah Mafuta
4	National Achievers of Zambia	Brian Mwale
5	Registrar of Society	Jason Mwanbazi
6	Zambia Telecommunications Company (ZAMTEL)	Cassandra Chakanika
7	Industrial Development Corporation (IDC)	James Shawa Kankondo
8	Zambia Chamber of Commerce and Industry	Mulenga Mwansa
9	Drug Enforcement Commission (DEC)	Wankumbu Siame
10	Electoral Commission of Zambia	Mataa Sikota
11	Office of the Auditor General	Simon Munyama
12	National Prosecution Authority (NPA)	Cassandra Soko
13	MHAIS (HARID)	Annie Malata
14	MHAIS	Alex Mukisi
15	MHAIS	Kelvin Kaoma

	TOTAL 15	
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MEDIA

1	ZNBC TV	Mary Kachepa
2	ZANIS	Shoran Musha
3	Komboni TV	Oscar Nkhuwa
4	Times of Zambia	James Banda
5	Prime TV	Logic Lukwanda
6	QTV	Joseph Tamali
7	The Scope Newspaper	Elijah NGoma
8	KBN TV	Boston Muvwanga
9	Golden Star	Elijah Mumba
10	CAMNET TV	Tito Kalama
11	New Vision TV	Henry Chunza
12	Volcanic News	Pricel Phiri
13	Archdiocese of Lusaka Media	Emmanuel Justin Mwanza
14	Hope Channel Zambia	Esnart M. Sikanzwe
15	Kwacha Magazine	Simon Banda
16	Hot FM	Agrippa Chanda
17	ZNBC	Nelson Njovu
18	ZNBC	Notrick Tama
19	ZNBC	Pauline Phiri
20	ZNBC	Sovia Kachongo
21	ZNBC	Maureen M Kamwawa
22	Guardian Weekly	Stephen Kata
23	Pan African Radio	Fumani Mukobeko
24	Rainbow Newspaper	Derrick Sinjela
25	Zambia Daily Mail	Violet Mengo
26	New Vision	Nancy Chindalo
27	ZNBC	Joseph Phiri
28	ZNBC	Blessings Chibale
29	Supreme Times Newspaper	Joseph Chanda
30	Beats FM	Koole Bwalya
31	Daily News	Alain Kabinda

32	Classic Radio	Cynthia Nkhata
	TOTAL 32	

ACADEMIA AND PROFESSIONAL BODIES

1	Cavendish University	Buchizya Mwalongo
2	UNICAF	Dr. Nathan Musonda
3	National Institute of Public Administration (NIPA)	Mike Mundanda
4	Evelyn Hone College of Applied Art and College	Joe C Mwale
5	ZCAS	Natasha C Lungu
6	Zambia Institute of Purchasing and Supply	Teddy D.Mulonga
	TOTAL 6	

UNIONS AND ASSOCIATIONS

1	Zambia National Union of Teachers	Alakwisa Phiri
2	Zambia Congress of Trade Unions	Martin Chembe
3	NUPPEZ	Nelson Mwale
4	Law Association of Zambia	Suzan Mwamba
5	Zambia Association of Manufacturers	Kawama T Banda
	TOTAL 5	

ANNEX 8

CALL FOR SUBMISSIONS



ZAMBIA LAW DEVELOPMENT COMMISSION

REVIEW OF THE PUBLIC ORDER ACT CHAPTER 113 OF THE LAWS OF ZAMBIA

CALLING FOR SUBMISSIONS

The Zambia Law Development Commission is seeking submissions from stakeholders and members of the public to inform the process for the Review of the Public Order Act Chapter 113 of the laws of Zambia.

Introduction and Background

The Public Order Act was enacted in 1955 and amended in 1996 to, *inter alia*, make provision for the preservation of public order; prohibit the wearing of uniforms in connection with political objects and the maintenance by private persons of associations of military or similar character.

The Objective of the Review

The overall objective of the law review process is to repeal and replace the Public Order Act in order to develop a legal framework that regulates public assemblies and meetings anchored on constitutionally guaranteed fundamental rights and freedoms.

FORMAT AND GUIDELINES ON MAKING SUBMISSIONS

Submissions to the review should:

- Be in English or any of the seven major local languages;
- Be in legible handwriting, typed or WhatsApp audio format;

- If typed in both PDF and Word format;
- Indicate the name, district and contact details of the person submitting (Phone number, email or postal address where we can contact you to seek clarification if need be); and
- Indicate areas that need review or recommend national, regional or international best practices that should be included in the new law. Provide an explanation or reasons to support the proposals or recommendations.

NOTE: The Commission will not accept submissions written in derogatory language or submissions purely based on false information.

The submissions received are intended solely for this review process.

Please send your submissions, indicating in the subject line “CALL FOR SUBMISSIONS ON THE REVIEW OF THE PUBLIC ORDER ACT”, to-

Email: Research@zambialawdevelopment.org and copy zambialawdevelopmentcommission@gmail.com;

Facebook Page: Zambia Law Development Commission

WhatsApp line: +260 955 931 639

Post/Physical Address:

The Director`
Zambia Law Development Commission
P.O Box 34670, Lusaka, Zambia.
Plot No. 24F
Cheetah Road
Kabulonga

LUSAKA

The deadline for receipt of submissions is **12th August 2022.**

For further enquiries contact us on:

Email: Research@zambialawdevelopment.org

Phone: +260 955 931 639



Zambia Law Development Commission

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Youtube: [Zambia Law Development Commission](#)



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