



Civicus House 24 Pim corner Quinn Street
Newtown 2001 Johannesburg South Africa
PO Box 933 Southdale 2135 South Africa
tel +27 11 833-5959
fax +27 11 833-7997
email info@civicus.org

1420 K Street NW, Suite 900,
Washington DC, 20005, USA
tel +202 331-8518
fax +202 331-8774

www.civicus.org

8 July 2009

To

Hon. Rupiah Banda
President of Zambia
State House
Independence Avenue, Woodlands
Lusaka 1001
Zambia

Your Excellency

I write as the Secretary General of CIVICUS: World Alliance for Citizen Participation, an international alliance of civil society with members and partners in over a hundred countries. CIVICUS supports participatory democracy and citizens' freedom of association around the world.

We are deeply concerned about certain restrictive aspects of the NGO Bill, 2009 that your Government is planning to introduce in Parliament. We recognise that some of the concerns raised by civil society in the 2007 version of the Bill have been addressed. Nevertheless, key provisions of the Bill restrict the independence of NGOs and subject them to excessive and unwarranted controls which serve to impede rather than enable the freedom of association guaranteed by the Constitution of Zambia and the International Covenant on Civil and Political Rights and the African Charter on Human and People's Rights to which Zambia is a party.

If passed in its present form, the Bill will seriously restrict the activities of NGOs which are providing considerable support to the people of Zambia and are also assisting in the achievement of Millennium Development Goals. The following are some key areas of concern:

Problematic registration procedures

The Bill provides for mandatory registration of all NGOs within 30 days of their formation or adoption of their constitution. We believe the decision to register should be the prerogative of an individual NGO; and organisations that choose not to register because of lack of capacity to fulfill reporting requirements under the Bill or otherwise should not be deemed illegal. Additionally, no time limit is prescribed for the processing of a registration application which could keep some NGOs in a prolonged state of uncertainty regarding their legal status. Furthermore, the Bill provides for denial of registration in the "public interest", which is not defined leaving scope for the exercise of executive discretion. The Bill also ignores the principle of perpetual succession for legal entities by requiring NGOs to re-register every three years.

Excessive government control

The Bill vests the government dominated NGO Registration Board with excessive powers that can seriously impact the independence of the sector. Three functions of the NGO Board are particularly problematic: (i) the power to approve the area of work of NGOs, which allows the government to determine their thematic and geographic areas of functioning and exercise control over their affairs, (ii) the power to provide policy guidelines to harmonise the activities of NGOs with the national development plan, which co-opts NGOs into assisting in the fulfillment of the political priorities of the government reflected in the plan, (iii) the power to advise on strategies for efficient planning and coordination of activities of NGOs, which treats NGOs as government subsidiaries as opposed to independent entities free to formulate and execute their action plans in line with identified priorities. The Bill also empowers the office of the Registrar to demand information at will within an unspecified time frame. Furthermore, the registration of an organisation can be suspended or cancelled for even a minor infraction of the Bill's provisions with no distinction made between NGOs that are first time or repeat offenders.


Curbs on independence through forced self regulation and peer monitoring

In contrast to established norms where umbrella bodies of NGOs adopt codes of conduct and invite their members to voluntarily adopt them, the Bill uses the law to force NGOs to submit to a code of conduct to be monitored by a 12 member NGO Council. Although members of the Council are to be elected by NGOs themselves, the over-reaching mandate of the Council could have serious repercussions on the autonomy and independence of individual NGOs that may not subscribe to majoritarian positions adopted by the Council, which is legally obligated to influence the activities of their peers by playing a monitoring and coordinating role over the NGO sector.

CIVICUS has prepared a detailed analysis of the restrictive aspects of the Bill which I attach for your consideration and urge to be addressed.

Thank you for your attention. I would be pleased to speak with you further regarding this matter at your convenience.

Sincerely,


SECRETARY GENERAL

Ingrid Srinath

Secretary General
CIVICUS: World Alliance for Citizen Participation
E mail: ingrid.srinath@civicus.org Tel: +27 11 833 5959