

H.E Michael Chilufya Sata
President of the Republic of Zambia
State House
Independence Avenue, Woodlands
Lusaka 1001
Zambia

31 October 2013

Re: Concerns regarding the operationalization of the 2009 NGO Act

Dear President Sata:

We, the undersigned 112 civil society organisations based in 46 countries would like draw attention to your Patriotic Front Government's positive commitment in its 2011 party manifesto to "promote constant dialogue between the state and the civil society" and "guarantee the active participation of civil society in matters of social justice and good governance."

Thus, we are deeply concerned by your government's decision to operationalize the controversial 2009 Non-Governmental Organisations Act which was introduced by former President Rupiah Banda's government. We believe that implementation of the NGO Act will be a severe setback to the independence of civil society in Zambia while being regressive for the country's democratic trajectory.

We stand in solidarity with Zambian NGOs who have taken a principled decision not to re-register under the Act by 11 November 2013 as per your government's directive. We believe that the 2009 NGO Act is severely flawed and breaches a number of international standards on freedom of association. We urge your government to engage in meaningful dialogue with Zambian civil society on the problematic aspects of the current law which we outline below.

Arbitrary registration procedures

The Act provides for mandatory registration of all NGOs within 30 days of their formation or adoption of their constitution. Failure to do so can invite a fine and imprisonment up to three years. We believe the decision to register should be the prerogative of an individual NGO. Organisations that choose not to register because of a lack of capacity to fulfil various requirements under the Act or otherwise should not be deemed illegal. Furthermore, the Act provides for denial of registration in the "public interest," which is not defined leaving scope for the exercise of excessive executive discretion. Worryingly, the Act also ignores the principle of perpetual succession for legal entities by requiring NGOs to re-register every five years.

Excessive government control on the NGO sector

The Act vests the government dominated NGO Registration Board with broad powers that can seriously impact the independence of the NGO 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 fulfilment of the political priorities of the government of the day reflected in the plan, and (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.

Curbs on independence of the NGO sector 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 Act 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.

In light of the above concerns we urge you to engage with NGOs and civil society groups in drawing up a new NGO law that conforms with international standards and is a fitting tribute to Zambia's commitment to democratic values. As a prelude to this process, we call upon you to suspend the order requiring all NGOs to register by 11 November 2013.

We would be pleased to discuss these matters with you further.

Sincerely,

Zambian Civil Society

1. Zambia Council for Social Development (ZCSD), **on behalf of 167 member NGOs**
2. Non-Governmental Coordinating Committee(NGOCC), **on behalf of 100 member NGOs**
3. Civil Society for Reduction (CSPR), **on behalf of 70 member NGOs**
4. Zambia National Education Coalition (ZANEC), **on behalf of 65 member NGOs**
5. ActionAid Zambia
6. Young African Leaders Initiative (YALI)

7. Transparency International Zambia (TIZ)
8. Panos Southern Africa
9. Women in Law, Southern Africa (WILSA)
10. Women in Law and Development in Africa (WILDAF)
11. Foundation for Democratic Process (FODEP)
12. Zambia Civic Education Association (ZCEA)
13. Young Women Christian Association (YWCA)
14. Young Men Christian Association (YMCA)
15. Operation Young Vote (OYV)
16. Caritas Zambia
17. Anti-Voter Apathy Project
18. Zambia Climate Change Network (ZCCN)
19. Zambia Alliance of Women
20. Jesuit Centre for Theological Reflection(JCTR)
21. Media Institute of Southern Africa (MISA)
22. Chipangali Women Development Association
23. Southern Africa Centre for Construction of Resolution of disputes (SACCORD)
24. Centre for Trade Policy and Development (CTPD)
25. Consumer Unity Trust International
26. Zambia Social Forum
27. Forum for Youth Organizations (FYOZ)
28. Women's Lobby
29. Mana Windows
30. Zambia Association for Research Development (ZARD)
31. Senior Citizens Association of Zambia
32. Zambia Prison Aid
33. Zambia Land Alliance
34. Farmers Organization Support Programme (FOSUP)
35. The Treatment Advocacy and Literacy Campaign (TALC)

International Civil Society

1. Centre for National and International Studies, Azerbaijan
2. Bahrain Centre for Human Rights, Bahrain
3. Odhikar, Bangladesh
4. Transparency International Bangladesh, Bangladesh
5. Conectas, Brazil
6. RESOCIDE (Civil Society Organization Network for Development), Burkina Faso
7. Coalition Burundaise pour le Developpement et la Rehabilitation Sociale, Burundi

8. Solidarite des Femmes Burundaises pour la Lutte contre le Sida et le Paludisme au Burundi, Burundi
9. Terre des Jeunes du Burundi, Burundi
10. Union de Jeunes pour la Paix et le Développement (UJPD), Burundi
11. Cooperation Committee for Cambodia, Cambodia
12. Khmer Youth Association, Cambodia
13. Rural Animal Health Development Organization (RAHDO), Cambodia
14. Central Africa Human Rights Defenders Network (REDHAC), Cameroon
15. Centre pour la Promotion du Droit (CEPROD), Cameroon
16. Civil Society Monitor, Cameroon
17. Investment Watch, Cameroon
18. Canadian Council for International Co-operation, Canada
19. Convention of Ivoirian Civil Society (CSCI), Cote d'Ivoire
20. Cairo Institute for Human Rights Studies (CIHRS), Egypt
21. Pacific Islands Association of Non-Governmental Organisations (PIANGO), Fiji
22. Kepa, Finland
23. Operation a Day's Work Finland (Taksvarikki ry) , Finland
24. Conscience International (CI), Gambia
25. German Forum for Human Rights (Forum Menschenrechte), Germany
26. Transparency International, Germany
27. Action Communautaire de Solidarite et d'Intervention Sociale (ACSIS), Haiti
28. Commonwealth Human Rights Initiative (CHRI), India
29. National Confederation of Dalit Organisations, (NACDOR) India
30. Frontline Defenders, Ireland
31. Foundation for the Future – MENA, Jordan
32. Forum of women's NGOs, Kazakhstan
33. NGO Karaganda Ecological Museum, Kazakhstan
34. Center for Legal Empowerment, Kenya
35. Arab NGO Network for Development (ANND), Lebanon
36. Actions for Genuine Democratic Alternatives, Liberia
37. Center for Transparency and Accountability, Liberia
38. Maldives NGO Federation, Maldives
39. Centre de Développement de la Région de Tensift (Forum de Marrakech), Morocco
40. Campaign Against Ignorance & Illiteracy, Nigeria
41. Flexcom Nigeria Network, Nigeria
42. Maranatha Hope, Nigeria
43. Engagement for Peace and Human Rights (RPDH), Republic of Congo
44. Youth Human Rights Movement, Russia
45. Ligue des Droits de la personne dans la region des Grands Lacs (LDGL), Rwanda
46. Rencontre Africaine pour la Défense des Droits de l'Homme (RADDHO), Senegal
47. Policy Center, Serbia

48. Conscience International (CISL), Sierra Leone
49. National Union of Somali Journalists (NUSOJ), Somalia
50. Action Aid International, South Africa
51. CIVICUS: World Alliance for Citizen Participation, South Africa
52. Centre for Governance, Human Rights and Legal Research, South Sudan
53. Community Empowerment for Progress Organization (CEPO), South Sudan
54. South Sudan Human Rights Defenders Rights Network (SSHRDN), South Sudan
55. South Sudan Human Rights Society For Advocacy (SSHURSA), South Sudan
56. ACT Alliance, Switzerland
57. Tanzania Gender Network Programme, Tanzania
58. Tanzania Human Rights Defenders Coalition, Tanzania
59. Asian Forum for Human Rights and Development (FORUM-ASIA), Thailand
60. Concertation Nationale de la Société Civile du Togo (CNSC Togo), Togo
61. Charity & Security Network, USA
62. Freedom House, USA
63. International Campaign for Human Rights in Iran, USA
64. Article 19, United Kingdom
65. Citizens for Democratic Rights in Eritrea, United Kingdom
66. East and Horn of Africa Human Rights Defenders Project, Uganda
67. Forum for Women in Democracy (FOWODE), Uganda
68. Human Rights Network Uganda (HURINET-U), Uganda
69. Summit Foundation (SUFO), Uganda
70. Uganda National NGO Forum, Uganda
71. International Association Human Rights "Fiery Hearts Club", Uzbekistan
72. Accion Solidaria on HIV/Aids, Venezuela
73. CIVILIS Derechos Humanos, Venezuela
74. Sinergia, Venezuelan Association of Civil Society Organizations, Venezuela
75. Counseling Services Unit, Zimbabwe
76. Zimbabwe Election Support Network, Zimbabwe
77. Zimbabwe Human Rights NGO Forum, Zimbabwe