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UNITED NATIONS
OFFICE OF THE UNITED NATIONS
HIGH COMMISSIONER FOR HUMAN RIGHTS

SPECIAL PROCEDURES OF THE
HUMAN RIGHTS COUNCIL

**Mandates of the Special Rapporteur on the rights to freedom of peaceful assembly and of association
and the Special Rapporteur on the situation of human rights defenders.**

REFERENCE: AL Assembly & Association (2010-1) G/SO 214 (107-9)
ZWE 4/2012

22 March 2012

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the rights to freedom of peaceful assembly and of association and Special Rapporteur on the situation of human rights defenders pursuant to General Assembly resolution 60/251 and to Human Rights Council resolution 15/21 and 16/5.

In this connection, we would like to bring to your Excellency's Government's attention updated information we have received concerning **the decision of the Governor of Masvingo province to suspend the activities of 29 non-Governmental Organizations (NGOs)**.

The suspension of 29 NGOs in the Masvingo province has been the subject of a previous communication sent by the Special Rapporteur on the situation of human rights defenders and the Special Rapporteur on the rights to freedom of peaceful assembly and of association on 5 March 2012. We thank your Excellency's Government for the response it transmitted by way of letter dated 8 March 2012.

According to the information received:

On 14 February 2012, the Governor of Masvingo ordered the suspension of the activities of 29 NGOs, most of which are carrying out humanitarian and human rights work.

In a letter dated 8 March 2012, your Excellency's Government brought to our attention the fact that "[t]he Governor has [...] the mandate to request the submission of registration papers from those NGOs operating within his/her jurisdiction."

According to the latest information received, the Provincial Governor has the mandate to foster developmental projects but he does not have the power to suspend the activities of any NGOs.

It is reported that the functions of Provincial governors, which are detailed in the Provincial Councils and Administration Act [chapter 29:11], shall be: “(a) to be the chairman of the provincial council established for his province; (b) by a process of consultation, suggestion and advice, to foster and promote the activities of the various Ministries and organs of central government in implementing development plans prepared by the provincial council established for this province; (c) to co-ordinate the preparation of development plans for his province and to promote the implementation of such plans by other Ministries, authorities, agencies or persons; (d) to perform any other functions within or on behalf of his province that may be conferred upon him by or in terms of this Act or any other enactment.”

The same Act reportedly does not provide for the dissolution of NGOs by the provincial councils, which are headed by provincial governors. The functions of the Provincial Council shall be: “(a) to promote the development of the province; (b) to formulate policies, both long-term and short-term, for the province; (c) to prepare annual development and other plans for the province; (d) to review and evaluate the implementation of development plans and policies within the province; (e) to exercise any other functions that may be conferred upon it by or in terms of this Act or any other enactment.”

Furthermore, during the 14 February 2012 press conference, when the Governor of Masvingo ordered the suspension of the activities of the 29 NGOs, it was argued that the concerned associations failed to submit to his office a certificate of registration together with a Memorandum of Understanding (MoU) signed by the local authority.

In the aforementioned letter transmitted by your Excellency’s Government, it is further indicated that “there is a Cabinet procedural requirement that NGOs also register with the local authority of the area they are operating.”

According to the updated information we received, there is no obligation for an NGO to register with the Provincial Governor’s Office. Reportedly, the aforementioned Provincial Councils and Administration Act [chapter 29:11] does not stipulate such a requirement, nor does the 2003 Policy Directive on NGOs carrying out humanitarian and developmental assistance work. This Policy Directive provides that “every NGO that would like to operate at any level in the provision of humanitarian and developmental assistance in the country should be duly registered with the Ministry of Public Service, Labour and Social Welfare”, and not with the Provincial Governor’s Office.

Furthermore, according to article 5.2.1 of the 2003 Policy Directive on NGOs, “[i]n order to commence operations at any level, an NGO should sign a Memorandum of Understanding with the respective Government ministry/agency”, but reportedly not with local authorities.

The source also reports that in order to enter into a Memorandum of Understanding, local authorities have, in many instances, charged NGOs with amounts of up to US\$1,000 per year. Such fees are reportedly not prescribed by law.

Concern is expressed that the decision to suspend the activities of 29 NGOs may unduly limit the right to freedom of association of human rights and humanitarian aid NGOs. Concerns are further expressed that the decision to order the suspension of the activities of 29 NGOs not be in accordance with the law. Concerns are expressed that this situation may be part of a broader campaign aimed at intimidating and silencing human rights, development and humanitarian NGOs.

Without expressing at this stage an opinion on the facts of the case, we would like to bring to the attention of your Excellency's Government the letter which was sent to your Excellency's Government on 5 March 2012, in which reference was made to several fundamental human rights norms in relation to this case and our respective mandates. In this connection, we would like to reiterate our previous recommendations.

We would also like to appeal to your Excellency's Government to take all necessary measures to guarantee the respect of the rights to freedom of association, in accordance with article 20 of the Universal Declaration of Human Rights (UDHR) and article 22 of the International Covenant on Civil and Political Rights (ICCPR).

In addition, we would like to draw your Excellency's Government's attention to the Resolution 15/21 of the Human Rights Council in which the Council "calls upon States to respect and fully protect the rights of all individuals to assemble peacefully and associate freely [...] including persons espousing minority or dissenting views or beliefs and human rights defenders [...] seeking to exercise or to promote these rights."

We urge your Excellency's Government to take all necessary measures to guarantee that the rights and freedoms of the NGOs working on human rights and humanitarian aid in the Masvingo Province are respected. Furthermore, we reiterate our request that your Excellency's Government adopts effective measures to prevent the recurrence of these acts.

1. Are the facts alleged in the summary of the cases accurate?
2. Has a complaint been lodged by or on behalf of the concerned associations?
3. Please provide the details, and where available the results, of any investigation, and judicial or other inquiries carried out in relation to these cases.

4. Please provide information explaining on which legal grounds the decision to suspend NGOs was taken and how these measures are compatible with international norms and standards as stated, inter alia, in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights.
5. Please provide information concerning the legal grounds in relation to the alleged requirement for NGOs to have a Memorandum of Understanding with local authorities, and more particularly for the imposition of fees before entering into such a memorandum.

We would appreciate a response within sixty days. We undertake to ensure that your Excellency's Government's response to each of these questions is accurately reflected in the reports we will submit to the Human Rights Council for its consideration.

Please accept, Excellency, the assurances of our highest consideration.

Maina Kiai
Special Rapporteur on the rights to freedom of peaceful assembly and
of association

Margaret Sekaggya
Special Rapporteur on the situation of human rights defenders