

**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
ZMB 2/2014:

3 July 2014

Excellency,

We have the honour to address you in our capacity 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 Human Rights Council resolutions 24/5 and 25/18.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the **imminent de-registration of two international non-governmental organizations** (NGO) operating in Zambia based on the implementation of the NGO Act No. 16 of 2009 (the Act).

We sent a communication to the Government of Zambia on 21 October 2013 on the alleged undue interference with the work and organizational structure of civil society organizations of the Law regulating operations of civil society ratified on 28 August 2009 and referred to as "the Bill". It was reported that in July 2013, in an effort to speed up its implementation, all NGOs operating in Zambia were required to re-register by 11 November 2013 to keep on operating – Case A/HRC/25/74, reference ZMB 2/2013. We regret that the Government has not responded to this communication to date and urge the authorities to respond to all the concerns raised in it without further delay.

Dan Church Aid and Norwegian Church Aid are international NGOs whose work primarily focuses on long-term development cooperation, mine action awareness and stockpile destruction, HIV prevention and treatment, women's rights and gender equality, climate and economic justice, humanitarian action, right to food and active citizenship. They have a joint office in Zambia since 2011. Dan Church Aid has worked in Zambia since 1973 and Norwegian Church Aid since 2003.

According to the information received:

On 12 May 2014, the Ministry of Community Development, Mother and Child Health gave a 30-day notice to the Dan Church Aid and Norwegian Church Aid to apply to the Registrar for registration, upon payment of a fee of 1,008 ZMK (about 166 USD). Reportedly, it further notified the mentioned NGOs that failure to comply with the provisions of the Act would entail their de-registration.

The reported re-registration requirement established by the Act appears to put Dan Church Aid and Norwegian Church Aid at risk of arbitrary termination or suspension of their activities, which are the most severe types of restrictions on freedom of association and should only be possible when there is a clear and imminent danger resulting in a flagrant violation of national law, in compliance with international human rights law. Therefore, we express concern at the above-allegations that appear to contravene the responsibility of the State to guarantee the right to freedom of association. We also reiterate our concerns that the new procedures, including the authorization procedure, are burdensome and subject to administrative discretion. A detailed analysis of the provisions of the Act that are of concern in relation to international human rights standards and remain valid to date is contained in the above-mentioned previous communication sent on 21 October 2013, case A/HRC/25/74, reference ZMB 2/2013.

In connection to the above alleged facts and concerns, please refer to the **Reference to international law Annex** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

It is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention, we would be grateful for your observations on the following matter:

1. Please provide any additional information and any comment you may have on the above mentioned allegations.
2. Please provide detailed responses to questions raised in the previous communication dated 21 October 2013, case A/HRC/25/74, reference ZMB 2/2013, as mentioned above.

We would appreciate a response within 60 days.

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person responsible of the alleged violations.

Your Excellency's Government's response will be made available in a report to be presented 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

Michel Forst
Special Rapporteur on the situation of human rights defenders

Annex
Reference to international human rights law

While we do not wish to prejudge the accuracy of the above-mentioned allegations, we would like to refer to the rights to freedom of peaceful association as set for in Article 20 of the Universal Declaration of Human Rights and in article 22 of the International Covenant on Civil and Political Rights acceded by Zambia on 10 April 1984.

Relevant to these allegations are also the fundamental principles set forth in the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, also known as the UN Declaration on Human Rights Defenders. In particular, we would like to refer to articles 1 and 2 of the Declaration which state that everyone has the right to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels. Furthermore, each State has a prime responsibility and duty to protect, promote and implement all human rights and fundamental freedoms.

Furthermore, concerning the aforementioned NGO Act No. 16 of 2009 that reportedly establishes the obligation of associations to re-register and sets out burdensome authorization procedures to register, we would like to draw your attention to resolution 22/6 adopted on 21 March 2013 by the Human Rights Council, which calls upon States “to ensure, where procedures governing the registration of civil society organizations exist, that these are transparent, accessible, non-discriminatory, expeditious and inexpensive, allow for the possibility to appeal and avoid requiring re-registration...”.

Moreover, we would like to refer to the thematic report A/HRC/20/27 of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, which states that “Newly adopted laws should not request all previously registered associations to re-register so that existing associations are protected against arbitrary rejection or time gaps in the conduct of their activities” (paragraph 62).