



**REPUBLIC OF ZAMBIA**

**REPORT**

**OF THE**

**COMMITTEE ON HEALTH, COMMUNITY DEVELOPMENT AND SOCIAL  
SERVICES ON THE NON-GOVERNMENTAL ORGANISATION  
(AMENDMENT) BILL, N.A.B. NO. 13 OF 2020**

**FOR THE**

**FIFTH SESSION OF THE TWELFTH NATIONAL ASSEMBLY**

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# **REPORT OF THE COMMITTEE ON HEALTH, COMMUNITY DEVELOPMENT AND SOCIAL SERVICES ON THE NON-GOVERNMENTAL ORGANISATION (AMENDMENT) BILL, N.A.B. NO. 13 OF 2020 FOR THE FIFTH SESSION OF THE TWELFTH NATIONAL ASSEMBLY**

Consisting of:

Dr C Kalila, MP (Chairperson); Ms P Kasune, MP (Vice Chairperson); Mr C M Chalwe, MP; Dr J K Chanda, MP; Mr L N Tembo, MP; Mr J Kabamba, MP; Mr A B Kapalasa, MP; Mr L Kintu, MP; Mr M Ndalamei, MP; and Mr A Mandumbwa, MP.

Dr J K Chanda, MP, ceased to be a Member of the Committee following his appointment as Cabinet Minister. Mr D Mabumba, MP was subsequently appointed to replace Dr Chanda as a Member of the Committee.

The Honourable Mr Speaker  
National Assembly  
Parliament Buildings  
**LUSAKA**

Sir,

The Committee has the honour to present its Report on the Non-Governmental Organisations (Amendment) Bill, N.A.B. No.13 of 2020, for the Fifth Session of the Twelfth National Assembly, referred to it by the House on Tuesday 20<sup>th</sup> October, 2020.

## **2.0 FUNCTIONS OF THE COMMITTEE**

In addition to any other duties conferred upon it by the Honourable Mr Speaker, or any other Order of the House, the Committee is mandated to consider any Bills that may be referred to it by the House.

## **3.0 MEETINGS OF THE COMMITTEE**

The Committee held ten meetings to consider the Non-Governmental Organisations (Amendment) Bill, N.A.B. No.13 of 2020.

## **4.0 PROCEDURE ADOPTED BY THE COMMITTEE**

In order to acquaint itself with the ramifications of the Bill, the Committee sought both written and oral submissions from stakeholders. The stakeholders who appeared before the Committee are listed at Appendix II.

## **5.0 BACKGROUND**

The Non-Governmental Organisations' Act, No. 16 of 2009 (hereinafter referred to as the "principal Act") was enacted to provide for the coordination and registration Of Non-Governmental Organisations (NGOs), through the

establishment of the Non-Governmental Organisations Board (hereinafter referred to as “the Board”) and the Zambia Congress of Non-Governmental Organisations.

Zambia is a member of the Financial Action Task Force, through her membership to the Eastern and Southern Africa Anti-Money Laundering Group (ESAAMLG). In the period 2018/2019, Zambia’s anti-money laundering and counter-terrorism and proliferation financing (AML/CFT) system was assessed by ESAAMLG. One of the findings was that the principal Act was not comprehensive in providing for the manner in which NGOs were supervised. In that regard, the Mutual Evaluation Report for Zambia recommended that the principal Act be amended to provide for risk-based supervision or monitoring of NGOs to protect them from terrorist financing abuse.

It was against this background that the Non-Governmental Organisations (Amendment) Bill, 2020, (hereinafter referred to as “the Bill”), to implement the recommendations of ESAAMLG was introduced.

## **6.0 OBJECT OF THE BILL**

The object of the Bill is to amend the *Non-Governmental Organisations’ Act, 2009*, so as to revise the functions of the Board to include measures for monitoring the risk of the use of non-governmental organisations for serious crimes.

## **7.0 SALIENT PROVISIONS OF THE BILL**

The Committee noted the salient features of the Bill as set out below.

### **7.1 PART I: PRELIMINARY PROVISIONS**

#### **Clause 1**

This clause provided for the short title of the Bill.

#### **Clause 2**

This clause sought to amend section 4 of the principal Act, by inserting a new definition of “Financial Intelligence Centre” which was used in the text of the amendment.

#### **Clause 3**

This clause sought to amend section 7 of the principal Act by broadening the mandate of the Non- Governmental Organisations Registration Board to include measures for monitoring the risk of the use of non-governmental organisations in financing of terrorism, proliferation or any other associated serious offence, in consultation with the Financial Intelligence Centre.

## **8.0 CONCERNS RAISED BY STAKEHOLDERS**

While supporting the Bill, the stakeholders expressed concern on the provisions highlighted hereunder.

### **a) Clause 2**

Stakeholders observed with concern that the definition of “any other serious offence” was not provided for in the principle Act as well as the proposed amendment. They, therefore, held the view that a definition of this term should be included in the Bill as the provision in its current form could be open to abuse. Some stakeholders, however, held the view that the definition of what constituted a serious offence was not relevant in the amendment because by cross referencing, the definition was already provided for in the *Anti –Terrorism and Non –Proliferation Act of 2018*.

Some stakeholders further submitted that there was need to define “terrorism financing” and “proliferation financing” which were pertinent to the understanding and application of the Bill.

### **b) Clause 3**

While noting that Clause 3 (c), provided for the Board to implement measures to “monitor” the financing of terrorism, proliferation and any other serious offences as prescribed, some stakeholders observed with concern that the amendment did not make it mandatory for the Board to implement the said measures. It was, therefore, not clear what would happen in the event that the measures were not implemented timely.

The stakeholders, therefore, recommended that there should be a provision to clearly state the timeframe within which the measures should be implemented. In addition, sanctions should be provided for in the event that the measures were not implemented within the stipulated timeframe or the reasons for failure to implement the measures be given to the Minister. Another concern raised by the stakeholders was that Clause 3 (c) only required the Board in consultation with FIC to monitor the risk of terrorism activities. It was, therefore, not clear what should happen next after the monitoring had been done. The stakeholders, therefore, recommended that the amendment should include a provision for the Board to not only report the risks but the actual acts of terrorism financing to the relevant law enforcement institutions. Additionally, sanctions should also be provided for in an event that the risks or actual acts of terrorism financing were not reported.

Other stakeholders observed that the Bill was silent on the exact measures that should be implemented under Clause 3 (c). They, therefore, recommended that the Bill should explicitly provide for clear guidelines on the exact measures that should be implemented in order to ensure effective compliance by NGOs. They further argued that the guidelines were also necessary to avoid the over regulation of the civil society by governments and other regulators.

Stakeholders also noted with concern that Clause 3 (c) placed the word 'financing' in front of the word 'terrorism', thereby giving the impression that the concern was financing terrorism or proliferation of weapons of mass destruction. In this regard, they proposed that placing the word 'financing' after the words 'terrorism' or 'proliferation' would make it clear that the issue of concern was terrorism or proliferation financing.

The stakeholders, therefore, recommended that Clause 3 (c) should be recast to read "in consultation with the Financial Intelligence Centre, implement measures for monitoring the risk of the use of non-governmental organisations in terrorism or proliferation financing or any other serious offence as prescribed".

They further added that the Bill should also provide another Clause for the non-governmental organisation referred to in paragraph 3 (c) to be a legal person or arrangement or organisation that primarily engages in raising or disbursing funds for charitable, religious, cultural, educational, social or fraternal purposes, or for the carrying out of other types of good works. Doing so would make it clear what type of non-governmental organisations were to be monitored for terrorism or proliferation financing.

Some stakeholders submitted that the proposed amendment to section 7 of the Principal Act seeking to insert paragraph (c) which provides for further activities of the Board in collaboration with the FIC, to implement measures of monitoring the risk of the use of NGOs in financing of terrorism, proliferation or any other serious offence as prescribed, was unnecessary. They contended that FIC already had measures of monitoring suspicious transactions provided for under the *Financial Intelligence Centre Act, No. 46 of 2010* (as amended by *Act No. 4 of 2016*). This legal framework, therefore, guided the work of the Centre as an intelligence entity. It was not wise for the Centre to disclose the manner in which it collected its information to third parties.

## **8.1 OTHER CONCERNS RAISED**

Stakeholders further raised the following concerns during their interaction with the Committee.

- i. Some stakeholders held the view that the proposed amendment of the NGO Act should go beyond mere monitoring to include the reporting and punishment as prescribed in the *Anti-Terrorism Proliferation Act, of 2018*. This, according to them, would ensure that the amendment was not merely a toothless academic provision.
- ii. Other stakeholders were concerned that there was no provision in the Bill to address the disqualification of persons convicted of terrorism acts from running NGOs. They, therefore, recommended that the Bill must explicitly provide for this.

- iii. Stakeholders considered the omission to give the Board an additional function of vetting senior management positions in NGOs to be a major shortcoming of the Bill.
- iv. Other stakeholders further noted that even though NGOs were under the purview of the Registrar of Companies, they were, separately regulated by the NGO Regulatory Board. In view of the foregoing, the stakeholders recommended that in order to ensure that NGOs complied with the law, the amendment should expressly designate NGOs as reporting entities as defined under the FIC Act. That way, NGOs would be compelled to report any suspicious activities to the FIC.
- v. Other stakeholders bemoaned that the repeal process of the *Non-Governmental Organisation Act, No. 2 of 2009* had taken too long to be actualised despite finalising the consultation processes with civil society organisations countrywide. They, therefore, recommended that the Government should expedite the repeal process of the legislation in order to bring forth a self-regulatory framework that would instil confidence in the NGO operating environment with regard to promoting its independence, transparency and accountability. In addition, the stakeholders were of the view that the proposed Non-Governmental Organisations (Amendment) Bill, N.A.B. No.13 of 2020 be withdrawn, and a more comprehensive Bill that would take into account the pertinent issues raised by NGOs during consultations, be tabled before Parliament instead.

## **9.0 COMMITTEE'S OBSERVATIONS AND RECOMMENDATIONS**

The Committee welcomes the Non-Government Organisation (Amendment) Bill, NAB No 13 of 2020 and notes that the amendment is essential for ensuring that Zambia is compliant with international standards relating to anti-money laundering and counter-terrorist financing as it relates to NGOs. The Committee further notes that the amendment will also enable the country, through the Financial Intelligence Centre, effectively supervise and monitor the implementation of anti-money laundering and counter-terrorist financing obligations by reporting entities, including NGOs. While supporting the Bill, the Committee, therefore, makes the observations and recommendations set out hereunder.

### **a) Clause 2:**

- i. the Committee is concerned that the definitions of "terrorism financing" and "proliferation financing," which are pertinent to the understanding and application of the Bill, have not been provided for in the Bill and therefore, recommends that the Bill should provide for these definitions.; and



- ii. the Committee notes with concern that the definition of “any other serious offence” has neither been provided for in the principle Act nor in the proposed amendment. The Committee, therefore, recommends that the Bill should provide for the definition as this provision in its current form could be open to abuse.

b) **Clause 3:**

- i. under Clause 3 (c), the Committee agrees with the stakeholders who observed that whereas there was a provision for the Board to implement measures to “monitor” the financing of terrorism, proliferation and any other serious offences, the provision does not make it mandatory for the Board to implement the said measures, nor does it provide for what would happen if the measures are not timely implemented. The Committee, therefore, recommends that there should be a provision to clearly state the timeframe within which the measures should be implemented and the sanctions for failure to implement the said measures.
- ii. The Committee further observes that Clause 3 (c) only requires the Board in consultation with FIC to monitor the risk of terrorism activities. The Committee is, therefore, concerned that it is not clear what the Board should do with the findings from the monitoring activities. In this regard, that the Committee recommends that the amendment should include a provision for the Board to not only report the risks, but the actual acts of terrorism financing to the relevant law enforcement institutions. Additionally, sanctions should also be provided for, in situations where the risks or actual acts of terrorism financing are not reported.
- iii. The Committee further notes that the Bill is silent on the exact measures that should be implemented under Clause 3 (c). The Committee, therefore, recommends that the Bill should explicitly provide for clear guidelines on the exact measures that should be implemented in order to ensure effective compliance by NGOs. The Committee holds the view that the guidelines are also critical for avoiding the over regulation of the civil society by governments and other regulators.
- iv. The Committee also notes with concern that Clause 3 (c) places the word ‘financing’ before the word ‘terrorism’, thereby, giving the impression that the concern is financing terrorism or proliferation of weapons of mass destruction. In order to make it clear therefore, that the issue of concern is terrorism or proliferation financing, the Committee recommends placing the word ‘financing’ after the words ‘terrorism or proliferation’

In view of the foregoing, Clause 3 (c) should be recast to read “in consultation with the Financial Intelligence Centre, implement measures for monitoring the risk of the use of non-governmental organisations in terrorism or proliferation financing or any other serious offence as prescribed”.

Further, the Committee recommends that the Bill should also include another clause providing for the non-governmental organisation referred to in paragraph 3 (c) to be a legal person or arrangement or organisation that primarily engages in raising or disbursing funds for charitable, religious, cultural, educational, social or fraternal purposes, or for the carrying out of other types of good works, in order to make it clear what type of non-governmental organisations are to be monitored for terrorism or proliferation financing.

## **10.0 CONCLUSION**

The Committee wishes to express its gratitude to all stakeholders who appeared before it and tendered both oral and written submissions; and to thank you, Mr Speaker, and the Clerk of the National Assembly for the guidance and support services rendered to the Committee during its deliberations.

We have the Honour to be, Sir, the Committee on Health, Community Development and Social Services mandated to consider the Non-Governmental Organisations (Amendment) Bill, N.A.B. No.13 of 2020 for the Fifth Session of the Twelfth National Assembly.

Dr C K Kalila, MP  
(Chairperson)

Ms P Kasune MP  
(Vice Chairperson)

Mr M Ndalamei, MP  
(Member)

Mr A Mandumbwa, MP  
(Member)

Mr D Mabumba, MP  
(Member)

Mr L Kintu, MP  
(Member)

Mr A B Kapalasa, MP  
(Member)

Mr J Kabamba, MP  
(Member)

Mr L N Tembo, MP  
(Member)

Mr C M Chalwe, MP  
(Member)

November 2020

**LUSAKA**

## **APPENDIX I - National Assembly Officials**

Ms C Musonda, Principal Clerk of Committees  
Mr F Nabulyato, Deputy Principal Clerk of Committees (SC)  
Mrs C K Mumba, Senior Committee Clerk (FC)  
Ms C T Malowa, Committee Clerk  
Mr A Chilambwe, Committee Clerk  
Mrs D H Manjoni, Personal Secretary II  
Mr M Chikome, Committee Assistant

## **APPENDIX II- WITNESSES**

### **Ministry of Justice**

Ms Chama Kaisala, Senior Parliamentary Counsel

Mr Ian Sichamba, Parliamentary Counsel

### **Ministry of Community Development and Social Services**

Mrs Pamela C Kabamba, Permanent Secretary

Mrs Pumulo M Moyo, Registrar - NGO Department

Mrs Mirrian Tembo, Acting Director Planning and Information

Ms Nancy Soko, Parliamentary Liaison Officer

### **Anti-Corruption Commission**

Mrs Rosemary Nkonde-Khuzwayo, Director General

### **Bankers Association of Zambia**

Mr Leonard Mwanza, Chief Executive Officer

Ms Miriamimba, Public Relations and Administrative Officer

### **Ministry of Finance**

Mr Mukuli Chikuba, Permanent Secretary, Economic Management and Finance

### **Non-Governmental Organisations Coordinating Council**

Ms Engwase Mwale, Executive Director

### **Bank of Zambia**

Mr C Mvunga, Governor

Dr F Chipimo, Deputy Governor

Mr J Munyaro, Assistant Director

Ms C Mwanga, Acting Assistant Director

Ms J Couvaras, Senior Legal Counsel

Mr J Daka, Governors VIP Officer

### **Financial Intelligence Centre**

Ms Liya B Tembo, Acting Director General

Mr Diphath Tembo, Director Compliance Prevention

Mrs Chileshe Kalemba, Acting Director Legal and Policy

### **Drug Enforcement Commission**

Ms Alita Mbahwe, Commissioner

Mr Joseph Akapelwa, Principal State Advocate

Mr Rosten Chulu, Chief Investigation Officer

### **Centre for Trade and Policy Development**

Ms Chileshe G Mange, Head of Research

### **Consumer Unit and Trust Society**

Mr Ishmeal Zulu, Programme Coordinator

Mr Ucizi Ngulube, Programme Officer

Ms Leah D Mitaba, Executive Director

Mr Njavwa Simukoko, Communications and Advocacy  
Ms Ngosa Mutupa, Research Assistant Intern

**Caritas Zambia**

Mr Eugen Kabilika, Executive Director  
Mr Phillip Sabuni, National Coordinator

**Civil Society for Poverty Reduction**

Ms Stella Mungoela, Executive Director  
Mr Edward Musosa, Programme Coordinator