



## MEDIA STATEMENT

22 November 2018

### **NGO Bill amendment will hurt Malawians**

JOHANNESBURG: Small community-based organizations face threats of operational viability if the recently proposed amendments Non-Governmental Organisations (Amendment) Bill (2018) are published into law says the Center for Human Rights and Rehabilitation Malawi (CHRR) and CIVICUS, the global alliance for civil society.

The Clerk of Parliament on 9 November 2018 published the Amendment Bill. However, the Bill contains some problematic sections with undue restrictions that would not promote the freedom of association for NGOs if put into practice.

Of serious concern is that faith-based organisations and community based organisations will be treated in the same manner as NGOs meaning they will be now burdened with formal registrations. This poses a problem as community based organisations are often loosely constituted often with no Constitution or resources to support a formal office and legal compliance. Community organisations will also be required to submit audited financial statements and this again is burdensome for small organisations who are often not well resourced.

Also of concern is that the Amendment Bill raises questions on the independence of the NGO Board members to act independently. Before the amendment, the NGO Act prescribed for the Minister to appoint the NGO Board members in consultation with the Council of NGOs of Malawi therefore providing some oversight on the appointments. However, the Amendment Bill now reads differently detailing that 11 members will be appointed by a chairperson who in turn is appointed by the Minister. Five more will be appointed directly by the Minister in consultation with “relevant professional bodies”. The law is not clear who these professional bodies are that the minister will consult. The Amendment Bill, unlike the initial Act now takes away the role of the Council of NGOs in coming up with those who will constitute the board.

The Amendment Bill is also vague in many aspects such as on the level of powers granted to the regulatory authority such as on inspecting NGO for compliance and revoking certificate of registration. As these provisions are not detailed, they are open to manipulation to target unpopular NGOs. The Bill also increases the prescribed fines for contravening the act to K15-million from K50 000 (US\$??) and the imposition of jail sentences of up to 7 years for directors and trustees with no clarity on avenues available for appealing.

Timothy Pagonachi Mtambo, a human rights defender and the executive director of CHRR said of the Amendment Bill: “This law is harmful to Malawian civil society and the blow will be felt even more by smaller organisations. It does not foster an enabling environment for civil society to thrive and is open to abuse by those in political office to silence dissent.” Mtambo further stated that “the civil society and NGOs in Malawi who are critical stakeholders of the law have

not been consulted, government has not only ambushed NGO but also members of parliament and the entire citizenry.”

CIVICUS and CHRR calls on Malawi’s Members of Parliament to recognize that the proposed Bill is harmful not only to civil society but to the wider citizenry of Malawi who benefit from the work of non-governmental organisations in their constituencies. We therefore strongly recommend that the Bill should not be tabled in Parliament as it is not a product of a thorough, inclusive and democratic process.

The Amendment Bill in its current form and with the restrictions detailed is off the target of the prescriptions of the African Commission on Human and Peoples Rights on freedom of association.

CIVICUS Monitor, an online tool that tracks threats to civil society in all countries around the world, rates the space for civil society in Malawi as “[obstructed](#).”

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