



Pointe Noire-Brazzaville, 23 June 2016

Press release

Draft legislation governing associations & NGOs: Freedom of association and expression under threat in Congo¹

The undersigned organizations for the promotion, protection and defence of human rights denounce certain provisions of the draft legislation governing associations, introduced in the National Assembly, as deadly to liberty. They demand to be included in the drafting of this law, in order to be able to give their input, and emphasise that attempts to legally define their activities should contribute to strengthening their area of freedom and their civic space to manoeuvre, rather than the opposite.

According to information available so far, the draft legislation has been voted on by the National Assembly and is now before the Senate. In light of the haste with which this bill is being pushed through, and the lack of wide consultation with the community of national and international NGOs and other associations, the undersigned organizations believe that this bill **aims to reduce the freedom of NGOs and other associations, and would restrict them to a role of support to the government**. At this point, the bill's text constrains freedom of association. It clearly shows a manifest intent to control the actions of civil society by reducing the scope of their freedoms and their room to manoeuvre. Several points support this analysis:

- **The bill cannot be adopted without broad consultation with civil society:** Only a summary and partial consultation seems to have been planned – much less implemented – while the draft legislation aims to abrogate a law that has been in force for over a century, and make substantial and rather authoritarian amendments to the legal regime for governance of associations. Moreover, a number of provisions in the text remain vague, and leave too wide a margin for interpretation and therefore a strong dose of arbitrariness in implementation of the law.
- **The draft text criminalises the activities of associations working on governance issues:** The text provides that associations suspected of harming “institutional stability” will be banned. This poses a threat to all NGOs working for human rights, transparency and accountability, since they will inevitably criticise the work of official institutions, when necessary.

It is equally important to note that **the criminal provisions in the draft legislation are very severe and, because they take up the vague definitions in the body of the text, are simply susceptible to being misused.**

- **The creation of multiple legal regimes will cause uneven and arbitrary treatment of different associations and NGOs:** The introduction of a system of “approvals” (chapter V of

¹ This is an unofficial translation by Business & Human Rights Resource Centre from the French original of a press release by the undersigned NGOs. It omits two footnotes, which can be seen in the original document, [here](#).

the draft legislation) poses serious problems for equal treatment of associations and for their freedom to act. Even if this chapter does not specify that associations must mandatorily obtain such approvals, it is easy to imagine that once this legal regime is in place, and if it is intended to induce NGOs to work with the government, the government will systematically require NGOs to obtain the government's approval. Moreover this requirement of obtaining approval will mean that associations' "right to act" will be explicitly dependent on the goodwill of officials, who may themselves be the subject of criticisms by the very associations that they are in a position to approve. The potential conflict of interest in this situation is glaring.

Additionally, the creation of multiple legal regimes will lead to **the multiplication of administrative requirements**, whose costs will be difficult for small associations to bear, and will also cause burdens on the government to respond to a wide range of demands in the long term.

- **Religious groups should not be barred from participating in democratic debates:** Article 17 illustrates the authors' concerns regarding religious associations, stating: "The use of religion or religious sects for political ends, and religious fundamentalism, are prohibited and may be punished under this law." **First, by linking religious fundamentalism to participation in "politics", this provision distorts reality and creates mistrust toward all engagement [between religion and public life]. The phrase "for political ends" must imperatively be clarified, and the desire to take political power must be distinguished from the recognised right of all citizens, regardless of their faith, to participate in debates and political life.**

The vision articulated in this draft legislation betrays systematic mistrust toward citizens who wish to organise to express a point of view, and contribute to decision-making on issues of national interest.

The undersigned organizations also emphasise that **the Republic of Congo is committed to the Extractive Industries Transparency Initiative (EITI) process, and is therefore required to ensure the free and independent participation of civil society in debates about the management of public resources.** The preservation of an environment that favours action by independent civil society on this issue is among the requirements that the Republic of Congo must absolutely respect to keep its status as an EITI-compliant country. While Congo is preparing to submit its next compliance report (October 2016), **the passage of a law restricting the activities of associations would be interpreted as a step backward for civic space and civil society organizations in general, and therefore for organizations participating in the EITI process – and could therefore jeopardise Congo's EITI status.**

The undersigned organizations express their profound concern regarding this draft legislation, which will likely simply muzzle their future activities. We therefore ask national and international institutions, as well as human rights organizations, to urgently intervene to guarantee the ability of local NGOs to function, and to take action on the following demands:

- **Immediately withdraw from the Senate the draft legislation on governing associations;**
- **Include civil society organizations in meetings, seminars and workshops, in the process of drafting any such draft law;**
- **Include their suggestions in the final document on civil society organizations;**
- **Ensure that Congolese law strengthens freedom of association and the rights of its citizens;**
- **Comply with international commitments, especially regarding the rights of human rights defenders.**

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