

Reality of Aid Africa

CSO'S ENABLING ENVIRONMENT IN ZAMBIA

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ACRONYMS

CPDE	CIVIL SOCIETY PARTNERSHIP FOR DEVELOPMENT EFFECTIVENESS
CSO	CIVIL SOCIETY ORGANISATION
CSPR	CIVIL SOCIETY FOR POVERTY REDUCTION
DDCC	DISTRICT DEVELOPMENT CORDINATING COMMITTEE
GRZ	GOVERNMENT REPUBLIC OF ZAMBIA
JCTR	JESUIT CENTRE FOR THEOLOGICAL REFLECTION
NGO	NON-GOVERNMENTAL ORGANISATION
NDP	NATIONAL DEVELOPMENT PLAN
OECD	ORGANISATION FOR ECONOMIC CO- OPERATION AND DEVELOPMENT
PDCC	PROVINCIAL DEVELOPMENT CORDINATING COMMITTEE
ROA	REALITY OF AID AFRICA
SAG	SECTOR ADVISORY GROUP
USAID	UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT
UNDP	UNITED NATIONS DEVELOPMENT PROGRAMME
YALI	YOUNG AFRICAN LEADERS INITIATIVE
ZNFU	ZAMBIA NATIONAL FARMERS UNION

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1 INTRODUCTION

This survey on Civil Society Enabling Environment was commissioned by Reality of Aid Africa with support from the Civil Society Partnership for Development Effectiveness (CPDE) for the purpose of investigating the institutional and legal framework governing civil society organisations (CSO), including the CSO sustainability and policy space. The survey builds up on the case study undertaken by ROA on CSO Enabling Environment.

1.1 Terms of Reference

RoA Africa focuses on civil society organizations, recognizing that the constituencies and roles for such organizations in society are very diverse, and operate at many levels. It's contributions to the measurement of progress for Indicator 2 shall focus on progress in enabling conditions affecting civil society organizations

1.1.1 Priority areas of CSO Enabling Environment

RoA Africa proposes to focus on two key areas for an enabling environment for CSOs 1) the implementation of an enabling regulatory and legal framework for CSOs (consistent with human rights norms for the right to organize, freedom of assembly and freedom of speech), and 2) the existence of inclusive policy processes and facilitative institutions (democratic ownership). These are consistent with the current monitoring framework for Indicator 2, proposed by the OECD/UNDP Secretariat.

1.1.2 The task

The researcher is required to use relevant literature including direct interviews and focus group discussions with relevant stakeholders

1. Assess the structural, legal, policy space and institutional framework for the implementation of the Post Busan agenda, indicating who the main players are.

2. Propose ROA Africa specific actions that the multistakeholders can take to ensure that they fully utilize the opportunities that Busan outcome presents to promote enabling environment for CSOs
3. Submit well written reports with key conclusions and recommendations to ROA Africa following the agreed format so as to aid in proper analysis of the findings.

2 Human Rights & Freedoms Affecting CSO's

Area One: Universally accepted human rights and freedoms affecting CSOs

The Busan Partnership affirms CSOs as independent development actors in their own right. It substantially links an enabling environment for CSOs to governments fulfilling their obligations to international human rights.

Dimension One: Recognition of rights and freedoms affecting CSOs Freedom of Association/ Freedom to peaceful assembly/ Freedom of expression

The current constitution of Zambia allows for freedom of association but subject to the application of other laws of the land. For example a Freedom of Assembly law exists but the Public Order Act, which restricts demonstrations, restricts this or street protests in case of human rights violation. The law demands that CSOs but seek and receive written permission from the police before demonstrations or public gathering for civic education.

Dimension Two: The legal and regulatory environment implementing rights and freedoms affecting CSOs Registration/Formation of NGOs

CSOs observe that the current framework of registration is flexible enough to allow all CSOs in Zambia who seek registration to do so. CSOs can register as building societies, trusts, NGOs or a limited company. They however note that a strict application of the current NGO law would take away this flexibility and create difficulties in operation for CSOs who do not operate as NGOs.

Most CSOs in Zambia are still registered under the Societies Act and very few under the Companies Act, and the registration process is favourable if all necessary documentation and administrative requirements are provided. Compliance is also proven fairly quick. The Government has wanted to introduce

the NGO Act of 2009 to regulate the operation of CSOs in the country but this has been put on hold pending further consultation between Government and CSOs. The tension between Government and CSOs regarding the NGO Act seems to have settled following several dialogue processes; this follows a compatibility study undertaken by Government with the support of GIZ on the NGO Act (with other pieces of relevant legislation including the Zambian Constitution). Preliminary findings indicated that the NGO Act is not compatible and therefore needs to be repealed and replaced with an NGO law that will support self-regulation.

As CSOs are still however threatened by the full implementation of the NGO Act and are at risk of being de-registered, CSOs need to be in a position to challenge the de-registration process through the courts of law. This is only possible if their legal status is valid under other pieces of legislation. The challenge however is that the judicial system is lengthy, and could cause a huge lag in CSO operations. Furthermore, there is still little evidence of legal persons specializing in non-profit law or of those able to pick up cases for non-profits on a Pro-bono basis. There is some local legal capacity but this is available at high fees which most CSOs cannot afford. However at the board level, some CSOs have incorporated legal persons who can help with this.

CSOs have been to a limited extent been able to express freely their criticism to Government but generally, the absence of the Access to Information law has made it difficult to do this in a more informed manner. The Public Order Act has also been used as an instrument to limit the interventions of CSOs with the police not being able to issue permits for demonstrations despite notices being given in good time. Furthermore, non-governance NGOs achieve their operations because they are not perceived as carrying the opposition parties agenda as with those CSOs that work in areas of governance.

The 2013 Statutory Instrument 103, which withdrew the tax exemption for CSOs on capital goods has remained in effect in 2015. CSOs are still required to pay taxes on goods and services consumed during the course of undertaking their work. Both government and CSOs have advanced varying arguments regarding taxation. While government has removed taxation on importation of capital goods, CSOs have been accused of not being fully compliant and abusing some waivers. There is evidence of CSO's inability to comply on tax returns to the local authorities and this is an area that many funders are now working with CSOs to address.

With regard to CSOs who are registered as NGOs, it was pointed out that the current NGO law posed the following challenges

1. The NGO Act requires registration every after 5 years meaning, NGOs will have a life span or expire after 5 years this will pose a problem for sustainability in both operations and funding. CSOs called for harmonization of the law to be in line with those in private sector.
2. The NGO Act registration process gives authority to the Board to allocate the NGO with operation area, approve objectives, and individuals registering the NGO expected to declare their assets. CSOs noted that this particular article was not consistent with the freedom of association. It was seen to be a strategy by the government to muzzle CSOs who are critical of it by defining areas and places where CSOs could work.
3. The NGO Act has no timely decision in terms of when the NGO will be registered furthermore there is little information with regard to how much the registration will cost.
4. While NGO ACT has been a laws for over 3 years, the relevant structures for its implementation including the co-ordination board is yet to be put in place. The law is yet to be implemented and a process of its review to address NGO concerns is yet to start. This scenario is creating unease among the NGOs in Zambia.
5. The NGO Act brings about complications in so far as implementation of objectives that are cross cutting in nature as it restricts the NGOs to operate within the approved objectives.

3 CSO Operations: Free from Interference

The Act creates a number of barriers on achieving their constitutional right to operate in an environment that was free from unnecessary restraints. The following barriers were specifically pointed out¹ by CSOs:

- *Barriers to entry*-There are restrictive provisions in the Act that will be used to discourage the formation and/or registration/continued operational status of NGOs. These barriers include limits to the right to associate, prohibitions against unregistered groups, targeting actions of officials of the NGO as a basis to suspend or cancel a certificate of registration, burdensome registration procedures, vague grounds for denial and barriers preventing international organizations from operating in the country and

¹ Field interviews for this Study and un- published Report on the Proceedings of the First Consultative Meeting between the Government and Civil society on the Amendment/Review of the NGO Act-Eva Jhala as part of a consultancy commissioned by GIZ

generally provisions impeding on the rights of association, assembly and expression;

- *Barriers to operational activity* -There are provisions in the Act that create obstacles that directly prohibit or otherwise constrain legitimate activities of NGOs. These barriers are direct prohibitions against spheres of activity, determining NGOs thematic and geographic areas of operation, invasive supervisory oversight in the area of policy guidelines to harmonise activities of NGOs with national development plans, government harassment, criminal sanctions against individuals and failure to protect individuals and organizations from de-registration and dissolution; and
- *Barriers to self-regulation*-There are provisions in the Act which will negate self-regulation or impede the quest for self-regulation. These barriers include an all powerful board appointed by the Minister and weighted against the private sector although seemingly balanced; a Board with overwhelming powers and discretion and the Board discusses and approves the code of conduct prepared by the Council for self-regulation of NGOs and their operations in Zambia; and the statutory in built influence of government in relation to the code of conduct which is supposed to produce a legally enforceable mechanism of self-regulation.

It is important to reiterate that most NGOs emphatically contend that the implementation of NGO Act will not only interfere and hamper the work of NGOs but also violates their fundamental rights guaranteed in the Constitution of Zambia as well as some of Zambia's legal obligations under international instruments.

4 Reflections of the NGO ACT

- The NGO Act is not compatible with the Constitution as it overly derogates from the freedom to associate beyond the prior restraints permissible in the Constitution and as are required in a democratic society;
- the laws regulating and having an impact on NGOs are to some extent not compatible with the NGO Act, particularly in matters relating to legal personality and recognition of institutions established, recognised or regulated under other written laws;
- the registration process for NGOs under the NGO Act was based on the Societies Act which limited the number of societies it regulated by a clear

definition of “society” but the NGO Act basically included all CSOs by its definition and scope of application, thereby distorting the registration process for already registered entities - deemed clause;

- the majority of statutes impacting on regulating NGOs, except the NGO Act, have a well streamlined registration process under one registration authority, while registration under the NGO Act basically passes through or has to be approved, by at least three bodies/functionaries;
- the information requirements for registration of an NGO under the NGO Act are similar to the requirements under other laws establishing legal status thereby duplicating efforts and making it expensive to register as NGOs have to comply with basically the same requirements twice; and
- While the NGO Act provides for criminal sanctions, it does not cross-reference these crimes to other Acts of Parliament providing for such

In sum, the NGO Act has major shortcomings and does very little to promote NGO partnering with the Government, democratization and development of NGOs. The circumstances currently existing under the NGO Act is not much different from the pre and post-colonial period under the Societies Act.

The current framework is still authoritarian in the main and is inconsistent with Zambia’s Constitution and not in harmony in its intent with the other provisions of the Statute Book, except for the laws on terrorism and money laundering

5 Enforcement of the NGO Act

The Government of the Republic of Zambia has relaxed the enforcement of the act following complaints from the Civil Society Organisation which lead to a boycott by a select CSO’s to register under the Act. Government has committed itself to reviewing the NGO Act so as to consider certain concerns, relating to the effect of the NGO Act on the operations of NGOs, raised by some NGOs. Consultative Meetings between the Government and Civil Society on the Amendment/Review of the NGO Act continue to be held with the objectives and goals to -

- dialogue on and review the NGO Act to determine the extent of its provisions, consequences and constitutionality and, if need be, set acceptable and constitutional parameters;
- have a uniform interpretation and understanding of the requirements of the NGO Act;

- agree on possible amendments to the NGO Act and issue resolutions in a common position paper in this respect; and issue resolutions on the way forward with respect to the NGO Act in the form of an action plan

The Civil Society and Government have further come to an agreement that in following the law, a policy has to be in place before an Act and a technical committee comprising of CSOs and government representatives from the Ministry of Community Development has been established to develop the NGO Policy. As part of the process, government has instituted nation wide consultations to solicit for input. The policy will then inform the review of the NGO Act.

6 Governments Reasons for Regulation

The Government/Regulators reasons for need for regulation under the NGO Act and other concerns:

- Ensuring that services were spread throughout Zambia and not only limited to Lusaka or the line of rail;
- Need for deconcentration of services to make them evenly spread in all needy areas and not only areas that attract the most funding due to their topical nature;
- Need to ensure beneficiaries actually benefitted from the services budgeted for;
- Need to deal with issues of accountability and transparency and the fact that Government had obligations, apart from those under international human rights instruments, under various terrorist and money laundering international instruments to prevent, control and eliminate/combat terrorism and money laundering by using administrative and legislative measures which were expedient in achieving its obligations under those international instruments;
- the two Registrars (PACRA and Societies) responsible for registration under other laws stated that - the question of migration from their laws and registries was a difficult issue and was initially resisted although the Registrar of Companies stated that it was out of question as it affected the legal status of the various bodies registered under them and any winding up of, or deregistration of, an institution must be done in accordance with the law under which the institution was initially registered. They stated that registration under the NGO Act was for purposes of regulation by the sector regulator as in other cases under other laws, e.g. the financial sector. The NGO Act itself does not provide for incorporation or perpetual succession but that NGOs formed elsewhere can only operate as such

when registered under the NGO Act and they had no problems with that situation; and officials from the Ministry of Land stated that - registration under the Land (Perpetual Succession) Act is being abused as it is an easier process to incorporate a body corporate and enables even foreigners and individuals under the corporate veil easier access to land, own property and hold title to land without undergoing onerous scrutiny processes - entitlement under the Land (Perpetual Succession) Act was for the organisations stated in the long title of the Act and not for commercial entities for profit- Those registered under the Act get away with legal compliance because enforcement procedures are weak and there is no monitoring of the activities of these organisations thereby resulting in non-compliance of the law after registration

7 CSO's Reasons for Non-Registration with the NGO Act

The NGOs reasons for not registering under the NGO Act and other concerns were as follows:

- Some NGOs had legal status under other laws;
- there is too much discretion surrounding the issue of registration which is vested in statutory functionaries or institutions under the NGO Act, thereby rendering the law uncertain;
- there is a risk of too much interference in the internal affairs of NGOs;
- there could be possible victimisation after registration;
- they were more comfortable being regulated under the Societies Act;
- the NGO Act puts forward a number of proposals that would constrain the role of NGOs and their existence;
- a number of provisions are not clear with respect to scope and content;
- the NGO Act does not reflect the original Kafue Gorge/Lilayi agreed draft NGO Bill that they had worked on;
- international human rights instruments were being breached by the Government, especially with regard to freedom of association and expression and that legislating the NGO sector has serious implications as it poses some inherent threat to these freedoms as they go beyond the permissible restraints provided in the Constitution;
- revealing their source of funding is a way of controlling NGOs and making them impotent;
- the Penal Code and other laws have sufficient provision to deal with misappropriation of funds, money laundering, corruption, terrorism and proceeds of crime and, therefore, need not be an area of concern for the NGO Act;

- the issue of accountability of funds should be left to be determined between the giver and recipient of the funds and in fact donors do demand accountability as recipients have to submit audited accounts and reports on their activities;
- Government should have concentrated on the issue of partnering with civil society in the NGO Act instead of aiming to control NGOs through a registration process;
- NGOs should be left to self-regulate and only register for specific State purposes, such as data collection, statistics and location of operations;
- once registered under some other law the Government will still be availed the information required by it using its governance/messenger platforms;
- basically the law has created barriers for entry, operations, sustainability and self regulation which is a threat to the existence of NGOs; and the NGO Act is not compatible in some respects with other laws in the same regulatory sphere as it introduces duplication in registration requirements and brings conflict in the regulatory field.

8 Freedom of Association

The right to freedom of association is an important freedom in any democratic society and for the realisation of the objectives of a NGO.

The Constitution of Zambia provides for the protection of freedom of assembly and association as follows:

- (1) Except with his own consent, no person shall be hindered in the enjoyment of his freedom of assembly and association, that is to say, his right to assemble freely and associate with other persons and in particular to form or belong to any political party, trade union or other association for the protection of his interests.
- (2) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this Article to the extent that it is shown that the law in question makes provision –
 - (a) that is reasonably required in the interests of defence, public safety, public order, public morality or public health;
 - (b) that is reasonably required for the purpose of protecting the rights and freedoms of others;
 - (c) that imposes restrictions upon public officers; or

- (d) for the registration of political parties or trade unions in a register established by or under a law and for imposing reasonable conditions relating to the procedure for entry on such a register including conditions as to minimum number of persons necessary to constitute a trade union qualified for registration; and except so far as that provision or, the thing done under the authority thereof, as the case may be, is shown not to be reasonably justifiable in a democratic society.

The provisions of the NGO Act impose a number of restrictions with respect to freedom of association, especially regarding the registration, suspension and cancellation processes and matters relating to self-regulation.

9 Freedom of Expression

The right to freedom of expression is important for the realisation of the objectives or purpose of a NGO. Freedom of expression facilitates the formation of public opinion on a number of political, economic and social issues and plays an important role in shaping or influencing the public. The right to freedom of opinion and expression encompasses three different aspects: (1) the right to hold opinions without interference; (2) the right of access to information; and (3) the right to impart information and ideas of all kinds.

The Constitution provides for freedom of expression as follows:

- (1) Except with his own consent, a person shall not be hindered in the enjoyment of his freedom of expression, that is to say, freedom to hold opinions without interference, freedom to receive ideas and information without interference, freedom to impart and communicate ideas and information without interference, whether the communication be to the public generally or to any person or class of persons, and freedom from interference with his correspondence.
- (2) Subject to the provisions of this Constitution, a law shall not make any provision that derogates from freedom of the press.
- (3) Nothing contained in or done under the authority or any law shall be held to be inconsistent with or in contravention of this Article to the extent that it is shown that the law in question makes provision –
 - (a) that is reasonably required in the interests of defence, public safety, public order, public order, public morality or public health;
 - (b) that is reasonably required for the purpose of protecting the reputations, rights and freedoms of other persons or the private lives of persons

concerned in legal proceedings, preventing the disclosure of information received in confidence, maintaining the authority and independence of the courts, regulating educational institutions in the interests of persons receiving instruction therein, or the registration of, or regulating the technical administration or the technical operation of, newspapers and other publications, telephony, telephony, telegraphy, posts, wireless broadcasting or television; or

- (c) that imposes restrictions upon public officers; and except so far as that provision or, the thing done under the authority thereof, as the case may be, is shown not to be reasonably justifiable in a democratic society.

The NGO Act shows that some provisions in the NGO Act are non-compliant with the provisions of the Constitution. For example, from the functions of the Board under section 7 of the Act, the law effectively prescribes what an NGO is permitted to do, when, how and where. This is evident from some of the functions of the Board specified in section 7 which include –

- (a) Approve the area of work of non-governmental organizations operating in Zambia;*
- (b) Maintain a register of national and international non-governmental organizations operating in Zambia, with the sectors, affiliations and locations of their activities; and*
- (c) Provide policy guidelines to non-governmental organisations for harmonising their activities to the national development plan.*

10 Policy Engagement

CSOs have been doing well in advocacy work. There has been a positive working relationship between the Government and CSOs. CSOs in Political Governance have been working relatively well with the Electoral Commission of Zambia and the Anti-Corruption Commission, while those in Economic Governance such as CSPR, Caritas Zambia and JCTR have been working with the Ministry of Finance on budget proposals and issues related to Fiscal Policy Management. With efforts of CSOs there has been noted CSO/ GRZ dialogue on topical issues such as the NDP process; the national budgeting process; poverty; Decentralization Policy and; Trade Policy.

The Zambia Education Coalition has been working on issues to do with education and has had constructive engagement with the Ministry of Education. On gender, NGOCC and Women’s Lobby have been working with the Ministry of Gender and USAID. On agriculture we have organizations such as the ZNFU, the Agriculture Consultative Forum who have worked very well with the government

this year. The Zambia Land Alliance has also worked on Land Administration systems with the Government. However, at times the quality of engagement between CSOs and Government at both National and Local level is poor, because of the level of officers from Government assigned to make these engagements. In addition, it is in rare instances that Government actually commits resources to such engagements and this cost is usually borne by CSOs.

In 2015, CSOs have through the relevant spaces such as the SAGs, DDCCs and PDCCs have influenced government decision making. The Zambia Prisons Fellowship has also done very well in lobbying for prisoners to have improved access to HIV testing and treatment while in prison. There are also some CSOs that have engaged in various lobbying platforms where Government decisions are reflective of what they submitted. For instance, YALI has been lobbying for the piece-meal amendment to the constitution. Human Rights Commissions and SACCORD were engaged in lobbying for the review of the Public Order Act. The Platform for Social Protection and the Department of Social Welfare are also some of the outstanding examples of CSOs engaging in lobbying work with government this year.

The set -back for most initiatives has been the tendency by CSOs to pick on multiple agenda items, leading to inconsistency and sometimes incoherent messages. During this period leading up to Elections, many CSOs will shift their agenda to take advantage of political campaigns. Advocacy tends to see improvement during an Election period as CSOs can position themselves to persuade Political Parties to work on certain issues. At Provincial and District level there has been a lot of engagements between the CSOs and the Government; the Government allows CSOs to collect information related to service delivery monitoring although CSOs need to get authorization from the Controlling Officers to be allowed to get access to the information required to monitor service delivery. Regardless, Access to Information has been a challenge as there is no law on this. In most instances, CSOs have depended on the good will of individual Government Officials to give them information. This has had a negative impact on awareness of government programmes especially in local communities

11 Donor – CSO relationships

One of the notable success stories of the Busan 4th High-Level Forum on Aid Effectiveness meeting was the recognition of Civil Society as key partners and actors in development in their own right with this being reflected in the Busan Outcomes. This recognition meant that Civil Society was for the first time recognized, represented in the negotiations and formed part of the outcomes.

For Civil Society to contribute meaningfully to the Aid and Development Effectiveness agenda at sub-national, national and global level they need adequate and timely resources in the form of human resource (capacity) and financial resources. A great part of financial and human resources that CSOs use in pushing their agenda come from donors. The relationship between donor and CSOs is thus very important in the Aid and Development Effectiveness agenda.

This reliance of CSOs on donors makes them so vulnerable and in most cases ineffective as and when they are unable to attract adequate resources. The CSO reliance on donors also means that CSOs can't enjoy independence in as far as deciding priority areas of their work as well as determining when they implement their activities or strategies.

Zambian CSOs are facing serious challenges in terms of having adequate funding for their strategic plans. These challenges can be attributed to the following:

11.1 Donor priorities vis-à-vis CSO consultation

One of the major reasons attributed to CSO funding challenges is the tying of CSO financing to the donor strategies. The change in donor strategies has the effect of moving financial resources from one or more thematic areas to others.

While this still benefits CSOs working in the new focus areas, it also leaves many CSOs stranded and in some cases has caused CSOs to shift their focus to thematic areas that the donors are focusing on. Because of the possibility of donors changing their financing strategies, there is no predictability of the CSO funding landscape which leaves CSOs weary of where their next funding will come from.

The financing modalities in line with strategies also causes competitiveness rather than collaboration among CSOs as the CSOs become more protective of their thematic areas and their work. This tends to limit the work of CSOs as they can't pool their resources (human and financial) together.

The priorities for donors have been changing and this has resulted in CSOs losing some of the donors they had as a result of a shift in both strategy and thematic areas of support. Other non-traditional donors such as International NGOs are now tying project support to areas in which they operate in and not the respective CSO operational areas.

The changes in donor strategies are usually communicated to the CSOs and rarely one for CSO engagement and dialogue. The communication is thus usually “For Your Information” only as the decisions would have already been made. This makes the donor strategies one sided and mainly serving the interests of the donors and not the CSOs leaving CSOs feeling powerless.

This has resulted in CSOs being responsive to donor programmatic and strategic areas instead of donors being responsive to the CSO programmatic and strategic areas.

11.2 CSO Funding and Income Diversification

Over the years, a lot of donors have moved away from financing CSOs directly while some have closed their embassies in Zambia. This has resulted in reduced financial resources available to CSOs. Some foreign missions have completely stopped funding CSOs with the aim on focusing on budget and project support to the government.

This has led to reduced effectiveness of CSOs as they are being squeezed hard resulting in failure to pay and retain its staff and failing to implement their strategic plans. Many CSOs are barely surviving and are forced to explore alternative sources of funding their work. Zambian CSOs are thus more preoccupied with sources of funding rather than strategy and implementation of their strategic plans.

Some funding organisations are calling for CSOs to develop and show their funding strategies in their proposals so as to ensure they have sustainability plans. As a key sustainability measure, CSOs are being asked to have different sources of funds as well as venture in social enterprises and investment to be able to raise funds especially towards administration.

CSOs on the other hand understand the need for diversification and investment but are however constrained by the current position of having nothing to investment, the tying of funds that does not allow them to invest part of the

funds received from donors. CSO diversification at the moment cannot be achieved with the types of funding modalities available. Donors have to be responsive by putting in place funding modalities that will enable CSOs diversify their income through means such as depositing part of their funding into interest earning accounts, investing in infrastructure such as office spaces and conference facilities for rent and hiring respectively, investing part of their funding in mutual funds, etc. This will enable CSOs generate revenue that can be ploughed back into the implementation of their strategic plans and thus move towards independence and sustainability.

11.3 Availability of Institutional Funding and effect on CSO capacities & sustainability

The types of funding available to CSOs have got impact on effectiveness of CSOs in carrying out their mandate as well as their sustainability. The ability of a CSO to access Institutional Funding largely determines its ability to survive in the medium to long term. There are 3 types of funding modalities available to CSOs by donors and these are: Institutional funding; Project Funding; and Capacity Development.

All types of funding are key to the success of CSOs in promoting equality and development. Institutional funding also known as Basket Funding is very key in ensuring CSOs have funds they can use in line with their planned priorities. Since the funds are not tied to any particular activities of project, the CSO is at liberty to use the money with need such as recruitment and retention of key staff. Institutional Funding thus promotes CSO independence. It is for this reason that the Busan Outcome brought out the importance of Institutional funding by donors to enable CSOs carry out their role in Aid and Development Effectiveness effectively.

This is unlike project funding where CSOs are most likely only able to implement projects and activities that have attracted funding because project funding is financial support towards a specific project with the CSO Strategic Plan on which the CSO reports on. As a result, CSO projects being funded by donor do not reflect the priorities of the CSOs but rather the donors.

Unfortunately, almost all donors (after one major CSO donor announced that it will from 2016 no longer offer institutional funding) are now offering only project funding. This is a big blow to the already struggling CSOs as it has and will continue to undermine the impact of CSOs contribution to the Aid and

Development Effectiveness agenda as their strategic plan implementation will depend on which components will be able to attract funding.

11.4 Flexibility and Timeliness of Donor Funding

The major way of CSO funding by donors in Zambia remains through Call for Proposals on specific thematic areas and conditions. This has resulted in increased competition for funding by CSOs and also lack of flexibility of CSOs applying for funds when they need the calls for proposals. Except one key foundation donor with flexible funding modalities, the others only consider funding applications in line with the thematic areas called for and as such excludes all other CSOs working in different themes. Some CSOs have ended up changing their focus and applying for grants outside their area of focus for the sake of accessing funds and continuing being in existence.

Even one of the most flexible CSO donor has informed the CSOs that it will in 2016 focus on 2 specific themes for higher end grants while leaving the lower end grants non-thematic tied. However, it will still maintain the other grant types for responding to emerging issues as well as CSOs jointly working together on specific issues.

2016 will thus be even harder for Zambian CSOs in terms of having adequate funds for implementing their plans.

12 Promoting CSO consultation by government on government plans

The donors in Zambia have generally promoted and in some cases lobbied government for the inclusion of CSOs in policy dialogue where government planned to do away with consultations or with key CSOs. As a result, CSOs in Zambia have generally been accorded space to engage on policies with government and other stakeholders.

13 Ways of promoting Donor-CSO dialogue and sustainable partnership

- 1.** The actual status of Donor-CSO relationship in Zambia in relation to strategic consultation, responsiveness, institutional funding, CSO income diversification, CSO independence and sustainability are not well known. There is therefore need for commissioning a comprehensive study on Donor Financing and its impact on the effectiveness and sustainability of Zambian CSOs. The study will provided facts on the impact of the donor funding modalities, responsiveness and strategies on independence, effectiveness and sustainability of CSOs in the country;
- 2.** Based on the study, hold a dialogue meeting between the donors and the CSOs to discuss the findings under the following:
 - a. Donor assurance of CSO adequate financial support;
 - b. Donor consultations of CSOs on the donor priorities and strategies to ensure the donor strategies are reflective of CSO input and consideration;
 - c. Responsive funding modalities that ensure effective CSO monitoring of the country's policies and their implementation; and
 - d. Donor support and commitment of CSO income diversification through flexible funding for investment.

14 References:

1. Non-Governmental Organisations Act NO. 16 OF 2009
2. Busan Outcome Document 2011
3. Istanbul CSO Development Effectiveness Principals
4. Key informant interviews
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