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SHADOW REPORT PUBLIC HEARING on HB585

Report of Session on December 13, 2017



INTRODUCTION

Nonprofits form a vital part of the civil society sector in Nigeria, with their work reaching millions in different communities and touching every facet of the Nigerian society. Nigerian nonprofits have a strong history of helping the vulnerable and disadvantaged in our society. Today, Nigeria's nonprofit sector is large and diverse covering activities and services ranging from health, education, agriculture, environment, climate change, sport, arts and culture, good governance, human rights, technology etc.

Small and medium-sized nonprofits remain the lifeblood of the third sector in Nigeria having strong affinity with local communities and people in need. The environment in which Nigerian nonprofits work has changed in recent years. There have been significant changes to the regulatory framework guiding the work of nonprofits bringing with it new challenges amidst growing call and expectations from government and the public on the need for the sector to become more transparent and accountable.

We are living through a time where globally governments are using different form of excuses to shrink civic space and to disable the work of nonprofits especially those critical of government. In the last 6 years we have witnessed growing debates and increased numbers of Bills at the National Assembly seeking to provide further regulation for the work of nonprofits, we foresee this becoming a norm as the profile and public trust in nonprofits continue to remain high.

In the 8th Assembly (2015-2019) alone 3 Bills are on the floor of the National Assembly (2 at the House of Representatives and 1 at the Senate), all seeking to regulate the nonprofit sector whereas there are 8 existing regulatory frameworks in place, already guiding the formation and operation of nonprofits in the country. Of the 3 Bills, House Bill HB 585 is presently at the Committee stage while the other two Bills (HB 705 and SB 111) still at the first reading stage.

On the 13th of December 2017, a public hearing on House Bill 585 was held at the National Assembly, Abuja, Nigeria with the objective of receiving input from the public on the provisions of the Bill. In this context, the Nigeria Network of NGOs and other civil society organisations from different parts of the country participated at the hearing which saw over 30 memoranda submitted and adopted. It is the intention of this report to document and provide an account of the day's proceedings through a shadow report that captures submissions made by participants at the hearing.

We took the decision from the outset of our participation at the public hearing to focus our attention on presentations for and

the Bill because we see the public hearing as an opportunity to feel the pulse of the sector on necessary reforms they will like to see. Understanding that the nonprofit sector is far from homogenous, we wanted to also capture in detail the different thoughts coming from the nonprofit community on how the Bill impacts on their work.

It is instructive to note, that no attendee at the public hearing supported the passage of the Bill.

With this in mind, and having captured majority of submissions, we are confident that this report represents a true reflection of proceedings at the public hearing. Our intention is that this document will help to shape ongoing discussions on nonprofit regulation and will help make the debate more robust and as well as helping stakeholders understand the potentials of restrictive laws to the work of nonprofits in the country.

Over the course of this report we captured 44 oral submissions made directly by organisations participating at the hearing. It is estimated that over 130 organisations attended the public hearing. To ensure the entire presentations at the public hearing were captured, we reviewed the live update at the public hearing provided by Premium Times for its readers and the real time update provided by participants on social media- Twitter and Whatsapp.

Our report is concentrated on 8 key themes emanating from participants' submissions. They have been grouped into the following headings:

BUREAUCRATIC BOTTLENECK AND DUPLICATION OF DUTIES Chapter 2

REGISTRATION AND RENEWAL OF REGISTRATION Chapter 3

PRIOR APPROVAL OF PROJECTS Chapter 4

FUNDING THE COMMISSION Chapter 5

VIOLATION OF HUMAN RIGHTS; RIGHTS TO FREEDOM OF
EXPRESSION AND ASSOCIATION Chapter 6

PROPENSITY FOR ABUSE OF POWER Chapter 7

ANNUAL PROJECTIONS Chapter 8

KILL THE BILL Chapter 9

We have attempted to provide the names and organisations of those who made submissions at the hearing; however, in some cases this is practically impossible as we may have missed capturing their details during taking the original note from which this report was produced. In this instance the word 'participant' has been used. Sometimes, spellings of participants' names may be unintentionally misspelt, we apologise in advance. It should also be noted that, where reports of participants' contributions are put in quotes, these are direct quotes from them and have not been edited in any way.

We are grateful to all who gave up their time and resources to attend the public hearing and all who made presentations.

We are also grateful to the Chair and members of the House Committee on Civil Society Organisations and Development Partners for a fruitful hearing and for committing to submitting an unbiased report to the House.

In preparing this report we chose to bear in mind the comments of Reverend Father Mathew Kuka, Founder Kuka Center who was also a participant at the public hearing. He said:

"I deeply appreciate the initiative for granting civil society this platform. My personal interest is that there has to be a convergence of ideas between the political class and those ones on the other side. For a very long time, we have had a country where suspicion between the governed and those who are governing have persisted,

it is time to bridge that gap. I stand with civil society very firmly and I believe that we have enough laws in this country.

We are really not in short of laws covering almost every dimension of our national life".

"The greatest energy of democracy is freedom, and of course this freedom is not the freedom to be irresponsible, it is the freedom to speak and hope that we will be taken seriously".

At the Nigeria Network of NGOs, we have a firm desire to continue to support the growth of the sector, work across the sector to address concerns by stakeholders around our governance, transparency and accountability and to encourage charities to become more effective in delivering their organisational objectives.

CHAPTER 2

BUREAUCRATIC BOTTLENECK AND DUPLICATION OF DUTIES

A Arguments that addressed sections 2, 7 and 8, point out the redundancy in the functions of the commission. Participants who held this view stated that creating the Commission will duplicate the functions of acts such as the NPC Act by the Ministry of Planning, CAMA by the Corporate Affairs Commission (CAC) and Nigerian Financial Intelligence Agency Bill by the NFIU

They noted that these existing frameworks, organisations and laws should rather be strengthened as the new regulation would only serve to cripple the civil society; shift their focus from their main objectives which is the alleviation of suffering, development and provision of succour for underserved Nigerians neglected by government to battling bureaucratic processes and registration.

Olaoluwa Afeez, Executive Secretary, Social Community Youths Association of Nigeria (SCYAN) made the following remarks; "This is a time for Nigeria to harness demographic dividends and the largest demography that enjoys the wealth of CSOs are the youths. If this regressive bill is passed, it limits the number of young people that are groomed and taken care of in Nigeria. What we expect is that firstly, the Federal Government should strengthen the existing frameworks and two, the National Assembly should extend their oversight functions to see that these frameworks are well implemented".

"That way, that way, we will continue to enjoy the benefit of the good work of the NGOs and CSOs. Again, this bill has shown very clearly that it is creating an unending bureaucracy which for me is worrisome. If see people from the local government, a few of them come up with organisations registered at the Local government levels, state levels and corporate affairs level so what this mean is that many of them will get discouraged to self-organise themselves and this portends disenfranchisement of their rights".

"Lastly, self-regulation is very vital, part four of that bill talks about self-regulation in that sector. I think it is a challenge to all stakeholders in the development sector that truly CSOs and NGOs need to self-regulate. In the business of CSOs and NGOs themselves, we expect that government agencies should be observers not for them to regulate the activities of the NGOs. So, we are saying No to this NGO bill in totality. Thank you."

Professor G.B. Ayoola, President of Farm and Infrastructure Foundation shared his opinion as thus; "We view this exercise very important for a number of facts which will be briefly articulated here; one is that, what we need to do is to facilitate the work of existing frameworks not for government to regulate, this is because the single definition of an NGO is "non-governmental"; is a body that it partners with the government to do what is good

and stop government to do what is not good therefore it is illogical for government to monitor, supervise, control or coordinate NGOs.

"These bodies are naturally built to self-regulate themselves and when we look through this bill, we observe that there is nothing in this bill that does not exist for this same organisation to be regulated upon. The Planning commission have told us to register and we do, so also do we register with the Corporate Affairs Commission, we do not need any other licensing to be corporate. In a democratic system, the space is large enough for everybody to be able to do what is good in in his own right and if in so doing, a crime is committed, we have enough government agencies that can take them up. Therefore, in conclusion this bill is akin to the police state by other means and therefore, should be discouraged, right from this point."

A participant who represented the Center for Social Justice stated "I will just go to some sections of the bill. The first section is on the section 2 that talks about the provision for the establishment of a board to be known as non-governmental Organisation board. I want to say that we already have existing laws that regulate NGOs I can go ahead and list most of them we have Special Control Unit of money laundering we have National commission"

Another participant noted; "I stand with civil society very firmly and I believe that we have enough laws in this country. We are really not in short of laws covering almost every dimension of our national life. The only thing I can say about this bill is that, perhaps the intension was right. But I think it does not appreciate the length and the amount of effort and existing laws that has been made to put in place. But, we have a bureaucracy and other institutions that are literally malfunctioning and unable to deliver services.

"I think that we should focus more on how to generate and sustain the energies of our people... much as I appreciate this conversation, I do hope that the national assembly will take very seriously the sentiments and the well-meaning arguments that has already been expressed by the various platforms that has responded to this bill. The intention may be right, but I think we can divert our energy to other things...I want to end by saying that, the energies of civil society should be channeled towards helping this country become compliant. The greatest energy of democracy is freedom, and of course this freedom is not the freedom to be irresponsible, it is the freedom to speak and hope that we will be taken seriously. So, I want to assure you that we are greatest platform that represents majority of ordinary people in the street...there is a connection between what they are trying to do, and what they civil society are trying to do."

Another participant also added that, "Let me state that it doesn't have any useful purpose it is just there, presently we have Corporate Affairs Commission that registers most of these NGOs are limited by guarantee; there are rules already so if they are able to strengthen the existing laws, this bill is not necessary. I have read it, I got a copy and I have been going through it. Everybody here represents all of Nigeria and we shouldn't allow any attempt that will cripple civil society, our democracy is already severely challenged by militancy, insurgency, corruption, mismanagement and so many other issues in our society. Let us not allow the civil society who are contributing and are highly efficient, many of them are highly well trained, should not allow the constitution disenable the civil society thank you."

Also commenting on these parts of the proposed bill, a participant added the voice of the organisation represented saying; "I just want to add my voice and that of my organization to those who have rejected this bill in its entirety. The reason being that in addition to the overlapping of duties especially with the CAC, there are other aspects that have not been mentioned at all and that is the encroachment on the powers of the Nigerian Immigration Service. It is the Immigration Service that ordinarily grants work permit to people. Under this bill, this commission is expected to grant work permits to people and that will be a duplication of the immigration Act. The same thing applies to the law of Customs and (Inaudible)... so when you look at this bill critically, you see that it tries to give to the commission those that are already being exercised by existing statutory body and it is on this note that we reject the bill in its entirety."

A participant who represented the Nigeria Christian Graduate Fellowship commended the initiative of the committee for setting up the hearing and ensuring decorum, he requested that a verbatim transcript be presented to the plenary so that the exact position of Nigerian would be portrayed.

He said, "The Nigeria Christian graduate fellowship, looked at the advantages and the disadvantages of the bill, and came to the conclusion that; the disadvantages weigh more than the advantages and that is why we want to pledge our support to the issue that there are existing laws and organizations in the country that can take care of this, let those laws work rather than creating another one".

"What we see is a situation where, when this bill is passed, it will be an avenue to create jobs for those in the system who have not been settled so that they can gain a position. What it will mean is simply that, the already drained resources of the nation will now be put under more stress by creating jobs for the government at the end of the day. By this note, let the committee report that Nigeria says they don't want this bill, let it die a natural death. Thank you."

Another participant whose organisation represents vulnerable children in Nigeria submitted "we speak very loudly on their behalf that this bill should be set aside and not passed. Among the several things that we pointed out is the fact that, the setting up of an NGO regulatory commission will be another bureaucratic bottleneck in the process of serving the Nigerian people. Our interventions, projects and programs many times are planned according to our yearly plan. There are several times when we need to work and act on the spur of the moment. Any attempt to regulate us, will mean that we will not be able to respond and not be as flexible as we already are in serving all the vulnerable people that we serve. Therefore, I urge this committee to set aside this bill and not pass it. Thank you"

CHAPTER 3

REGISTRATION AND RENEWAL OF REGISTRATION

Sections 11, 14, 15, 16 and 17 of the law is concerned with registration and renewal of registration by Nonprofit organisations. Participants argued that registering with a new organisation would not only encourage registration overlap (as NGOs already register with CAC and SCUML), the law would also allow for the Commission to refuse the applications of some NGOs based on National interest, without clearly stating what is meant by this phrase.

Participants noted that subjecting NGOs to registration renewal biannually would simply give room for distraction and confusion within the sector. They clearly stated that it is unnecessary and would negatively affect the finances of NGOs especially since many are self-funded.

A participant said; "Section 11 talks about the registration of NGOs by the minister to handle the registration of NGOs and we are saying that most of the registrations about the NGOs have being handled by the various agencies that have been listed above...and we are saying that there is no need for ministers to allocate us to their office when we already have a section provision in the company and Allied matters act. Section 14 of that same bill talks about proposing 24months for validating the NGO certificates. The act of subjecting of NGOs to the renewal of certificate after being certified amounts to unnecessary distraction."

A participant who represented the International NGO Forum also lend a voice of solidarity with that of other Nigerian civil society actors by saying "I represent 34 International NGOs, operating in Nigeria. We mostly operate in the North East Nigeria and we are already in Borno State with the humanitarian crisis happening there, majority of our NGOs are operating in the North East".

"As you know, these are places that require quick decision, quick action, puts a lot of our staff in frontlines. We have responded quickly to 7million people since the crisis started; provide food and relief to 2 million people on a daily basis. At INGO, we operate on humanitarian principles and these are principles that we do not waver from, these principles are recognized globally; they are independence, impartiality, neutrality, humanity".

"Among the other things already discussed, I do want to say that we stand in solidarity with CSOs in Nigeria; it is good to note that this bill will have great consequences and on us at INGO operating on humanitarian crisis, we have concerns in every aspect of the regulations, registrations will indeed impede our ability to quickly respond."

Mr. Tim Olagunju who represented the Mandela Washington Fellowship Association of Nigeria said "On the issue of the bill Mr. chairman, section 17(1) which no one has particularly mentioned, talked about renewal and obligation to renew license. Which means that, if an organization does not renew their license, it ceases to exist. That in itself, defeats the very essence of legal personality which is that a personality exists in perpetuity."

Dr. Sandra who stood in for "Project for Human Development and Foundation for Africa Cultural Heritage" said, "For us and for me personally, apart from what has been said, there are youths in Nigeria who organise themselves to contribute to social issues and problems in Nigeria. This bill for us does not in any way encourage us to build or make impact, if we have to register under the various sections, imagine the cost we would accrue, just registering with the CAC is enough problem, if you have to register with the CAC, you would spend about a hundred or a hundred and twenty thousand naira. As a twenty-four-year-old, how do I get that? This bill is going to discourage us from looking at working for Nigeria. I am a young Doctor and while my mates would want to go to Canada or out of the country somewhere, we want to work for Nigeria, we want to stay in Nigeria".

Jessica Omaduke, a participant who stood as a representative for Reaper Initiative from Edo State also spoke about the challenges the bill poses for young civil society actors. She said; “As a young person, a dedicated worker and also a beneficiary of civil society, I would say that there is no justification for establishing another commission because it is cheaper and easier strengthening the already existing ones. CAC and NPC, I think they would do a better registration and we have EFCC there to also handle fraudulent CSOs if there are any and then we are also an organisation based in the rural community, if we register every two years, where do you expect us to get the money from?”

“Most times when we want to carry out activities we call for support and because we do not always get enough support from donors at all times, we have to go to individuals for money and then when we manage to get funds to carry out the project in the rural community you still expect us to squeeze out registration every two years which are supposed to be beneficial to the community; the main aim of establishing an NGO to reach out to those people that the government cannot reach out to, so I think we should just let it go.”

CHAPTER 4

PRIOR APPROVAL OF PROJECTS

Regarding sections 25, 26 and 27, participants argued that having to seek approval from the Commission (located in Abuja) before any project is carried out is cumbersome, time consuming and would cause accumulation of expenditure that could otherwise be avoided.

They noted that funds earmarked for the implementation of the said projects would be spent on transportation to Abuja especially for organisations resident in areas distant from the headquarters of the Commission. They state that having to get approval from the commission stationed in Abuja for every project will be cumbersome and cause unnecessary delay and hamper the progress of such project, it will cost more than the budget would allow and give room for the display of inefficiency known to be perpetrated by Nigerian ministries.

Dr. Funmilayo Akinyele of Food Basket Foundation submitted; “My organisation was founded to address the nutrition issues which if we were subject to this bill, all the project Food basket has done in the past 28 years would not have been done because we would have had to register every project. My flight down here cost a lot of money and if we have to have to seek for approval for every project we want to do then I have to come to Abuja or send a representative. That is going to cost N100,000 every single time. So I ask, where do I get the funding to do that?”

Kelechi Anosike from the Commonwealth Centre for City and Community Development noted, “The proposed bill states that the bill seeks to provide among other things establishment of a commission in Nigeria for the supervision, coordination, monitoring of NGOs, civil society organisations and community-based organisations.

My issue is the community based organisations. I launched Kelechi Anosike’s foundation creating scholarships for my community, villagers, traders for my community. They are now saying before I can do all of that, I have to come to Abuja to get permission to give scholarships”.

This cannot work, it cannot fly. There are over a million foundations in the country. They don’t need permission to give scholarships to members of their community. This will impede the progress of the community. Another point sir even though it was mentioned briefly by the last speaker. It is preposterous to have in the country two organisations and agencies creating a body cooperate... section 590 of CAMA gives them power to create a body cooperate, Section 13(5) of this proposed bill has given them power to also create a body cooperate, let’s take a cue from other regulatory bodies like CBN. Under the CBN Act before the microfinance bank can register, the CAC Act refers them to CAMA to get registration first but in this bill sir, there’s no place they mention CAC Act or even CAC as a whole so they don’t have original jurisdiction

and I think in there will arise a conflict of laws, this bill cannot stand. Thank you very much”

Ms. Doris representing Genotype Foundation opined “I just want to refer to the work we do, I took my form because I want to give a story, just regarding this bill. Somebody called me that she is having crisis and they asked her to deposit some money before she will be admitted. Now, in such cases what do we do? Start seeking approval? There are people I call and say please go and attend to this; do I need to now write a letter? How will the letter fly? If that girl, she is a young girl, she said she is 21 and she is an orphan. Somebody in the hospital, a nurse is the one that gave her my number to call me. Somebody can confirm the number, it is here, that is why I held my phone. So, what do we do in such cases?”

“Please this bill must not leave this place, let the bill die a natural death. There is a right in Nigeria for the Nigerian child. It came up in 1999, the right of the Nigerian child; right to good health, right to food, shelter, clothing and all that. Under the section of good health, there is the right to know their genotype and blood group. So, they will be able to prevent the issue of sickle cell. In doing that, we have programs always, people will just come and say ‘Oh it’s my birthday, I don’t want to do celebration, please go to my former school, go and sensitize the children let them know their genotype and blood group. How do we then come to Abuja to take permission to do such thing? So, in this bill, I join other people with my voice and that of genotype foundation to support that this bill should not stand. Thank you very much.”

CHAPTER 5

FUNDING THE COMMISSION

Some Participants expressed genuine concern as to what establishing a new commission would portend for the Nigerian economy. They noted that the unstable economic situation of the country should be considered before another organisation, one which would only duplicate the functions of existing ones would be created and administered with National resources which could be put to better use for the development of the country and its citizens. They opined that funding the Commission will further strain the Nigerian economy.

A participant questioned the intention of the legislature regarding funding in the following manner; “This is a question begging for an answer by the House. Looking at part 1 subsection 3 sir, the commission shall have its corporate headquarters in Abuja. Sir, it leaves room for worry because it therefore suggests that subsequently, there will be State commissions and probably local government commissions and all of that and looking at the implication, how does the commission begin to fund itself when it begins to have state commissions since the corporate headquarters is supposed to be in Abuja. How does the commission begin to fund itself going by the fact that state governments presently are living on bail-out funds?”

CHAPTER 6

VIOLATION OF HUMAN RIGHTS; RIGHTS TO FREEDOM OF EXPRESSION AND ASSOCIATION

S Sections 13, 17, 18 and 21, 33, 46 (2) affect and restrict religious and Faith-Based Organisations.

Participants representing Faith-Based Organisations argued that the law does not adequately make clarifications regarding the exclusion or inclusion of faith-based organisations in its statements. They stated as it is, that these areas threaten the existence of FBOs by impeding their rights and freedom of worship. They therefore demanded a review; one that would specifically state if truly faith-based organisations are exempt from the dictates of this bill. Regardless of this however, many of them maintained solidarity with other civil society organisations present in calling for the death of the bill.

A member of the Statute Review Committee of the 1990 Nigerian Constitution said “The proposed bill has raised more questions than it seems to address; the chief question is that of shifting existing rights to freedom of speech ... in our national constitution and against the dictates of the United Nations Universal Declaration of Human Rights and the African Charter on Human Rights and this is one of the reasons why we thought it necessary to address some of the issues that we have here”.

Now, we have put together a committee, we’ve addressed the bills that govern NGOs in places like United Kingdom, Kenya and south Africa and we have made some recommendations. We’ve recommended that the bill be amended to exclude churches and mosques because of the kind of work that they do”.

“We’ve also suggested that we know that there are serious issues of funds coming to NGOs being diverted to other uses. We are aware that in 2011, over 150billion dollars were diverted by some NGOs; it is lack of transparency that usually causes it but I align with everybody else to say that we have enough regulations to look into these things if they’re properly structured”.

“One of the problems that we have is they’re not properly structured and it leads to this kind of thing but the way this bill has been drafted, it is unattractive and undoubtedly affect the application, it will affect the way NGOs will grow. It is necessary to have protective agencies ... and so it is our view that if we continue with the bill the way it is, it will impact on the sector and employment potential in the Nigerian labour market so it is important that it is reviewed. The bill in my view will be an impediment to democracy, democratic practices and democratic development”.

Another participant said, “Looking at freedom of expression, you find that organisations often gather together to talk about issues that are of concern to them and in some cases these issues could be opposing or dissenting voices to the general populace but in a democracy, we recognize that everyone has a say and everyone should be given that platform”.

“A situation where the power to register or deregister an organisation is given to a body which does not fully comprise the various voices or ethnicities we have in Nigeria, has the potential to be abused... Please do not criminalise Nigerian citizens, please do not criminalise NGOs. We therefore urge the legislature to reject the NGO bill and stop its passage to prevent this abuse of human rights from materializing”.

A participant opined thus; “There are many provisions of this bill especially the part that I’m really interested in is the issue of the faith-based organisations, which the promulgators of the bill have said doesn’t fall under the heartbeat of this bill. Without stating expressly what the bill means and whom it covers... We are all citizens of this country and we know that everybody’s interpretation of everything is guided by his faith, leaving this bill as it is without stating certain things

expressly will be leaving anybody to interpret...in years to come I want to also sound the note of warning, where our country is today is a result of promulgators of laws that didn't ...(inaudible)..., they looked at the only the situation and circumstance they were in and they made law that suited what they felt with the exigency of the moment but years later in some times and in some ways, ten years, twenty years, we have seen this laws interpreted in ways that likely the promulgators of the bill never intended."

A participant representing a Faith-Based Organisation opined that, "We wish to resubmit that this bill in its entirety is clouded as it relates to faith-based organization. We are asking that this bill be set aside or most of its sections has to be rewritten and amended, and of course there has to be specific sections to exclude religious bodies and faith-based organizations".

"If you go to sub-section 11, it subjects churches to double registration, having been registered by CAC, churches will have been registered again and have to give a proposed annual budget. Section 13, talks about issuing churches, mosques (faith-based organization) with certificate of registration. In issuing this certificate, it will limit them to operation in certain areas of the country. You cannot restrict religious bodies to operate in certain parts of the country, by registration it allows them to operate freely in everywhere".

"Section 17 again then makes it obligatory to renew licenses for religious bodies; that in itself negates freedom of worship. This implies that faith-based organizations risk their existence in its entirety at the slightest miscarriage an abuse of expression by the commission or the minister; therefore, our existence is threatened. We sang the national anthem; the last part of the first stanza says we are a country bound with freedom. Our freedom will be eroded if this is allowed to carry on".

"Section 18 goes further to give liberty to the commission and empowers them to cancel or suspend any certificate already issued at the wills and caprices of the civil servant, this is very dangerous. Section 21 then goes ahead immediately to muffle faith-based organizations (churches and mosques). It says, where you fail to renew your registration, and where you refuse to renew your registration, you do not have a right of appeal. Section 21 subsection 1-4 are unconstitutional especially where citizens decides to seek redress and it seeks to reduce the arms of government to two, knocking out the judiciary".

"Now, that will speak of anarchy, and goes ahead to say that when you fail to renew, you cease to exist and therefore, the bill entitles the commission to get in and seize all the assets of the religious bodies. These are all in the section, and this is alarming. It carries on, section 33, then seeks to task religious bodies, increasing taxation. It says, if you cannot be re-registered, if you cannot get a renewal except you are given a tax clearance...this is bringing in taxation through the back door for religious bodies. This is dangerous, and then make the commission to use vice as a way to generate income; and then seeks to entrench corruption into the commission".

"Section 46, subsection 2 of this bill encourages and gives room for corruption and abuse of public trust. It says that the commission may accept gifts of kind, money and other properties on such terms and conditions if any as the bill prescribed. Now, this is directly in conflict with the code of conduct. Section 10 and 11 of our code of conduct, clearly forbids any institution and any public officer shall not ask or accept valuables or properties of any kind for himself....so, this new bill commission is going against the CAC, haven been registered with the CAC, you have to re-register again".

"Also, has the power to refuse your registration without any reasons. And so, if for any reason faith-based organization says something, they will refuse to renew you. Section 24 gives them the power to dissolve the faith-based organization; where is the freedom of speech, where is freedom of worship. Therefore sir, we ask that this bill be set aside."

Olaniyi Omodara from the National Human Right Commission requested to speak on new grounds, opined that the position of the National Human Right Commission as contained in the memorandum that was submitted is that, the bill should not be allowed to see the light of the day. The following reasons were stated, "one of those reasons is that this bill restricts the freedom of association. The National Human Right Commission is an institution that is concerned about the promotion of human rights in Nigeria".

"Under our law, we have the power to review all existing

legislations, to ensure their compliance with international best practices on human right standards. Having read through this bill, it is our position that this commission is unnecessary because, the work that the commission is supposed to do has been captured in the PART C of the CAMA ACT. It is going to be duplication of efforts. It is a waste of the resources of this country”.

“In the alternative, in case the gentle men and women of the national assembly still say they want to go ahead with the bill, then we are saying that section 2C, which is the establishment of governing body for the commission, says in the defend of the commission against opposition, the appointment of executive secretary should also be subject to confirmation by the senate. Section 4(3), secession of membership is also subject to confirmation by the Senate”.

“In part 3 of the registration of NGOs...the standard given by the CAC should be maintained. Rather than allow this bill to scale through, there is need to amend the part C of CAMA to strengthen it, because we know that the purpose of this bill is to address the complains of the activities of some NGOs in the North East of Nigeria...you can amend the CAMA and allow the CAC to rule. Thank you.”

A participant stated “we would like to join our voice to the voice of all others, we would like ourselves to recall that struggle that so many people got involved with in the past for us to enjoy the kind of democracy that we have today we are not even there yet but we have the days of milestones now for us to have this bill passed into law by will amount to going back to the years back. We would also like to move forward as saying that this bill impedes our freedom of expression and freedom of association, if this bill is passed into law our children will have to go through a painful process or hardly even move to where we are today. We stand today to say no to this bill with its entirety”.

Another participant agreed with this notion and stated that “The bill gives room for abuse of power... Nigeria has its own message for this hearing which is that we stand to object the bill in its entirety. We believe that this bill threatens the fundamentals of human rights in Nigeria. We believe it is a breach of the freedom of association and of expression...and why do we say this? If we look at sections 11 and 24 of this proposed bill, you will find that it attempts to limit the how people, individuals organise themselves in various groups and it creates interference in terms of how these groups intend to carry out their objectives and it seeks to create NGOs who respond to their government rather than their constituencies.

CHAPTER 7

PROPENSITY TO ABUSE OF POWER

Participants addressed sections 15, 17, 18, 29b and 30 by pointing out the tendency of the bill to allow for abuse of power by the board and the Commission.

Participants submitted that if the Commission has the power to demand transfer of funds and assets received from donor agencies, then it is easy for corruption to pervade the sector through its operations with the commission; unscrupulous individuals would have constitutional authority to bribe officials of the Commission. They expressed concern that officials within the commission may become corruptible and demand for undue remission of assets when unnecessary or find reasons to blacklist NGOs who do not comply.

Furthermore, it was stated that in the occasion of residual funds from a project, NGOs often transfer those funds and

assets to the implementation of other projects directly aligned with the concluded project in relation to social development, contrary to the implication of embezzlement and misappropriation.

Participants especially argued that the bill is unconstitutional in its negation of the right to appeal judgement by the commission; an infringement of the constitutional rights to seek redress and an attempt to stifle civil society especially in situations where some wrong is committed by officials of the commission.

Regarding submission of projections and annual returns, participants note that because most NGOs are self-funded and rely heavily on flexibility to carry out their operations, it is impossible to adequately adhere to the section that talks on reporting projections as NGOs.

Participants also state that the proposed bill erodes the principles of the Open Government Partnership signed by the government in 2016. They note that this agreement encourages co creation, but the proposed bill is an attempt to rescind on that agreement with the intention of gaining control of the civil society.

One participant exclaimed thus; "Transfer of asset, that is not true. I really don't understand why assets that are obtained from donor funding, for project, to be transferred to the commission, for what?! Why would it be transferred to the commission? If for example, we get funding for a project that requires us to buy computers, and beautiful ones, so an activity...commodity or assets that will expire, you transfer them and use them in the next project, that reduces the cost in the next budget. So, I don't see any reason why the commission should be asking organisations to transfer buildings, computers and other things that they get from donors funding to the Federal Republic of Nigeria. I don't think that makes any sense."

A participant noted that "Section 15 talks on the board having the power to refuse the application of NGOs and also it talks about procedures that are not within the national interest, there is no definition of what the national interest means and so anything might...become national interest ...if left to the government to determine what the national interest is, this can victimize some NGOs especially NGOs that are fighting for accountability and transparency in government." The same participant added that; "The issuance of new certificates spoken about in section 17(5) says at the time of issuing certificate the board will value terms and conditions attached to the certificate this provision is subject to abuse because the board might suddenly change the terms and condition and detach from the award of certificate to victimize an NGO, it means that even if the NGO meets the requirements for the issuance of certificate the terms and condition is not the sole requirement because it is subject to change. The bill should be revived it shouldn't be given any further consideration thank you."

Another participant said, "Nigeria signed the Open-Government Partnership last year... that we signed up to be open, transparent and accountable. We're already reaping benefits of that because we want to be open. We have to sit down with the committee members and think this through properly. The executive is going to control this commission. Every time the legislature is under the torture of executive recklessness, civil society has always come to the aid of the National Assembly. Out of 18 members of the commission, 15 are going to be chosen by the president; just a single person. We must note that civil society itself is an institution within the Nigerian system and we must use everything we have to protect it. There might be issues with accountability... we've heard stories even though we don't have all the facts but maybe NGOs in the northeast that had challenges with how funds have been used but there are ways to this thing; 1) we have the national planning commission

2) any donor that you see has objectives and standards and the most important part is that at the end of the day, poor NGOs are going to be weeded out. I want to volunteer here that we not just only kill the bill, we do two things;1) we ensure that current laws that are present are much more strengthened and compliance is worthy; we have SCUML, we have CAC, we have FRC, we have FIRS. There's enough laws for us to even comply with NGO coordination. The second thing is self-regulation and I'm happy that we have enough NGOs here. We need to sit up and have self-regulation."

Victoria Osenene from African Centre for Leadership, Strategy and Development stated; "This is not just on behalf of the organisation, it is also on behalf of the Network of CSOs under this organisation. Also, because I don't want to repeat what everyone has said, I just want to mention two points. When we sang the National Assembly this morning, we sang the part that says "the labour of our hero's past shall never be in vain". I stand to say that this bill if passed, is completely anti-democratic as it portends a great threat to the hard-earned democracy in Nigeria. This bill if passed, will curb NGOs, stifle free speech, restricts urban political freedom dishonor the sacrifices that ordinary Nigerians have made for years. Last year in 2016, the Nigerian Government signed on to the Open Government Partnership called OGP which stands on the principle of co-creation which means that the federal government and civil society are partners. Partners in making critical decisions. So, may I join most of the organisations who have had the podium this morning and those who haven't, to stand against the passage of the Bill.

In the spirit of co-creation, we stand against the bill and say No to HB585.”

On the issue of support for NGOs, a participant noted that “The bill itself requests that international organizations support the work of civil society and NGOs in itself; and then telling the government also the need for support. That bill should be looking at particularly how does organizations self-fund NGOs. It completely excludes the issue critical to non-profits. Which is, how do private organizations use the CSR in their budget; because, once organizations focus on using their CSR to brand rather than supporting the hard work of non-profits. On section 29B, which talks about the assets of the organization. I want to say that, when it comes to assets, the commission receiving assets in itself, what does the commission do with the assets it receives? Is the commission going to be using the assets for its own personal use? Or will it auction the assets for sales in public. These are critical issues that needs to be looked out at.”

Another participant said’ “I’m just wondering why a commission would want to vow for what they are asking for the assembly to ratify for them, why would they want to acquire assets that they want the NGOs to submit for them, a lot of things that look like copy and paste in this component need to be really looked into. I’m sure as a Nigerian we don’t want to come back and realise that we have made a mistake. Therefore I want to plead with you and your committee that you please sincerely look into the agitations of Nigerians and understand that for a view of this nation we don’t need it at a time when Nigeria is broke, when Nigeria needs to increase, when Nigeria needs more funding support from international partners to support whatever we are doing, alleviate poverty, create jobs and give more employment. Thank you very much!

CHAPTER 8

ANNUAL PROJECTIONS

A lone participant who addressed the issue of projections and annual reporting submitted that although providing an annual report of operations may be easy enough to projections would prove difficult seeing that NGOs do not always have funds readily available for project years prior their implementation. He opined that this makes it impossible for an NGO to sufficiently make projections for the following year. Hence, NGOs tend to respond to actions with immediacy.

Speaking on the implications of demanding annual projections from Nigerian NGOs, a participant explained the limitations as follows; “The bill will cripple NGOs, first of all the registration process, there is nothing wrong with having a database in Nigeria that will enable donors to go online and see organisations that have could be illegitimate and actually identify them. When you look at the projection of projects, funding disclosure, first of all expecting nonprofits organisations to project, UN NPOs they have all the money, they have been reporting in 197 countries. They can project their duties in the next 20 years because they have the money. How many indigenous NPOs in Nigeria have money to tell you what they will do in one year, we don’t. That is why organisations are running to state government, UN organisations begging for partnership because the money is not there”.

“Now expecting indigenous NPOs in Nigeria to tell you what they plan to do in the next one year even if they have the money is not

realistic, example I distribute Vitamin A and accredited medications to the Niger Delta for 5 million children, if you ask me in January what we are going to do in 2017 in Nigeria, that project would not be in the plan for 2017 in Nigeria. So, like anything, like how is done in US and everywhere, there is an annual report at the end of the year.

You turn in your annual report, stating what you did, how you did it, where you got your money from. That is annual report, that makes it clear the transparency, credibility, and accountability is very obvious in there. For expecting us to tell you next 2018 what we are going to do this, these are projections because there is guarantee you going to get funding for it”.

“So, I think those aspect needs to be review because they are not realistic. All of those special report must be in annual report that is submitted by every NPO. Unscheduled visit, there is nothing wrong with that. Every legitimate organisation should not object to that. I think it is a good idea and there is nothing wrong with it, and of course activity should be in the annual report. So, if the commission, because it is obvious there is going to be a commission, it's now for us to now try and work together to make sure their objective does not cripple what it is trying to do”

“Early on this year, we sent a container with medication to IDPs in Borno State worth \$43million, I think till now the government... (inaudible)... the ministry of finance for waiver, I think it's still probably seating in someone's desk now, we haven't got it. So that helps in a way because it is not only international NGOs that brings container to Nigeria”.

“We are all here because we do understand clearly that this bill if passed as it is, is pretty dangerous. It will cripple each and every one of us, takes away the freedom of what non-governmental organisations stand for. Now you are making it governmental and that is not what we stand for.”

CHAPTER 9

KILL THE BILL

It should be noted that recommendations of all participants ended with an appeal for the legislature to “Kill the Bill”. They noted that the passage of the bill would only serve to destabilize civil society and hinder its ability to adequately carry out its humanitarian work.

As citizens of Nigeria and social workers whose sole goal is ensuring the growth and development of the country, participants reminded the federal government of its responsibility to create an enabling environment for actors to do their work and provide support for the sector rather than further create obstacles in their way.

Chidinma who represented Center for Women's Studies and Interventions said, “First and foremost, I want to say that with reference to the above bill and on behalf of the center, we stand in solidarity to say we must kill this bill because it will not last one more day and I am in solidarity to say that from Center for Women's Study and Intervention. Thank you very much.”

Ambassador Comrade Chibuzor Okereke said, “The Nigerian people are united in one voice and asking you to take a message to the House of Representatives and plenary that they reject and say no to the NGO regulation bill. Mr. Chairman, this particular bill is taking us back to where we are coming from and we want to look forward, we do not want to look backward. The message is clear, the Nigerian people are asking you to make history and say no.”

A participant from the National Council of NGOs and Societal Organisations in Nigeria said, “The bill that we are talking about here today is a bill that contradicts the constitution of the Federal Republic of Nigeria and the bill that seems to demand the right and freedom of Civil Society Organisations.

Going by what this bill seems to promote here today is not a bill that will give the Civil Society Organisations a healthy condition to operate.

So, we have our memo here and we are here to present it to the House, our recommendation and all that the Council have being doing over the years are contained in our memoranda and we want to present it and thank the House for giving us the privilege and opportunity to speak in other to get the healthy Civil Society Organisations. Thank You”

Another participant pointed out the impact of the bill on the reputation of the Nigerian civil society to the international community. He said; “I just want to put my thoughts into this discussion by understudying what the other participant here today said, the lady from INGO, I am going to start with that as the Committee begins to think through our recommendations; she said in a very diplomatic way that the negative implications of this bill would go a long way with an international pattern”.

“Today we have almost 200 million people in Nigeria and they could tell you sir that we don't even have enough NGOs,

we don't have enough CSOs to address the challenges of Nigeria and if we begin to interfere by this bill with what we are doing currently that means most of the international organisations who are supporting us now will obviously withdraw their support, that is one thing I want the committee to know and it is clear and obvious that the Nigerian government is actually not really funding any NGO; that is one point I want to make."

Another participant spoke from the perspective of health and humanitarian emergencies saying, "A particular bill that is going to save the lives of Nigerians but till now is yet to be fully implemented is actually what should be our focus, that should be the aim and the intention of this Honourable House. Also, most of these international organisations they come to the table with counterpart funding, we've seen cases whereby we have to go to the State, Local government even the Federal government of Nigeria to beg them to bring on the table their own counterpart funding till now so many states, so many parastatals or commission are owing the counterpart funding which actually should have been used to improve the works of Nigeria. so we start to say that we should look at actually the best resources"

A participant representing a civil society coalition with over 500 NGOs spread across the country said, "I hereby also want to join my colleagues to say we should kill the bill but nevertheless I think that we should also try to bring up one key issue I think some of my colleagues have not really dealt on, the other person was trying to look at it minimally which is on the governance, we are talking about minimizing the cost of governance and now we are trying to set up another condition and that means leaving to one variable and not really knowing what it means to us, that means we are mortgaging the lives of millions of children yet unborn and if we look at section 19, it says: "The poor shall receive and consider application for work permit in respect of prospective registered organisation" so that means me as a citizen of Nigeria I have to obtain a work permit from... (inaudible)... which is not right as a citizen of this country so we are also joining every other person to say let's kill the bill, Thank you!"

Ms. Loretta who represented Clean and Beautiful Atmosphere Initiative added that "the reason why I came down to this country is to talk and contribute to the SDGs, that's why I came down, now a lot of us have not spoken on the part I want to talk about, I want to appeal to the government to create an enabling environment for NGOs and civil society to thrive in our own little contribution. Most 98% of NGOs are founded by passion driven people who want to help their community, who want to help the country, they must be helped, they must be assisted and not strangled by the government. Thank you very much!"

CONCLUSION

Nonprofits play a fundamental role in our national life. We believe the legislature and executive must foster a robust and meaningful partnership with the nonprofit sector and maximise their value.

We recommend that both the Senate Committee and House Committee on Civil Society works with regulators and nonprofits to strengthen existing regulations to promote and encourage the growth of the nonprofit sector.

We believe that more can be done by the legislature to understand the ways of workings of the nonprofit sector in the country, we further recommend that the Committee's on Civil Society commissions an inquiry to consider issues relating to growth and sustainability of the nonprofit sector, governance challenges, opportunities for law reforms and make recommendations to the National Assembly.

We agree that our sector needs to improve its accountability and acknowledge the concerns of the legislature around our work and reaffirm that existing regulations are good enough to address these concerns.

We welcome the assurance given to participants attending the public hearing by the Chair, House Committee on Civil Society Organisations and Development Partners, Hon. Peter Akpatason that recommendations of the committee will be presented to the House without bias.

--End--

About NNNGO

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About us

The Network is charged with the objective of identifying, registering, coordinating, building capacity and mobilizing civil society organizations to promote interconnectivity and bring equity, justice, peace, and development to grassroots communities throughout Nigeria, including the implementation of the Sustainable Development Goals (SDGs).

The Nigeria Network of NGOs (NNNGO) is the first generic membership body for civil society organizations in Nigeria that facilitates effective advocacy on issues of poverty and other developmental issues. Established in 1992, NNNGO represents over 2,400 organizations ranging from small groups working at the local level, to larger networks working at the national level.

Our membership includes over 20 national organizations and over 250 membership organizations focusing on different thematic areas of development, all of whom work to support a diverse range of membership communities across the nation. In total our outreach to the third sector in Nigeria is estimated to be in the excess of 5000 which includes both members and affiliates at national and global levels.

NNNGO champions a sector that is accountable, independent and truly representative of giving a voice to the common man.

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