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What We Heard on the NGO Regulatory Bill (House Bill 585)

Disclaimer

This report was written by Oyindamola Aramide of NNNGO with editorial support from Oluwatosin Sulaimon whose support and insights contributed to its successful completion. The report was designed by Abbas Busari.

About Nigeria Network of NGOs

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 2300 organizations ranging from small groups working at the local level, to larger networks working at the national level.

Nigeria Network of NGOs
151 Akowonjo Road, Egbeda
Lagos
nnngo@nnngo.org
www.nnngo.org

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We would like to acknowledge the contributions of the legislature, third sector leaders and actors, civil society organizations, concerned individuals and media organizations who lent their voices to this discourse either through advocacy, press releases, online articles, social media mentions as well as engagement meetings with relevant authorities. This document echoes your thoughts, knowledge, experience and openness.

We are grateful for your insight and the work done regarding this bill. Even though we may not agree on all issues and may hold varying positions especially in the ongoing debate, ultimately we share a common goal which is to bring development to the doors of the common man and progress to our nation.

For the Nigeria Network of NGOs (NNNGO), it became imperative that a paper such as this be produced. This was in order to document the opinions of all involved in this discourse as well as enable a situation where the different positions established can be measured subjectively with adequate and concrete proof.

OVERVIEW OF APPROACH AND METHODOLOGY

Data for this report was gathered from articles produced by 12 print media organizations; newspapers, 4 civil society organizations, 2 online blogs and one broadcast media organization; television.

Newspapers consulted include, Vanguard, The Punch, The Guardian, This Day, Premium Times, Columnist, Sahara Reporters, Abuja Reporters, Daily Post, The Sun, Coincise and National Daily Newspaper.

The Nigerian Television Authority Social Change Blog and the Nigerian Lawyer comprised the online blog data collection while Nigeria Network of NGOs, InnerCity Mission for Children, Paradigm Initiative and Partners-West Africa were the NGOs from which data was specifically gathered.

This paper also draws from conclusions reached at the National Assembly and Civil Society Interactive Technical Roundtable held on July 25, 2017 on the bill. It was convened by the House Committee on Civil Society and Development partners along with Civil Society Legislative Advocacy Centre (CISLAC).

The Roundtable was supported through the USAID's Strengthening Advocacy and Civic Engagement (SACE) project and attended by the Chairman House Committee on Civil Societies and Development Partners, Honourable, Peter Akpatason, the Deputy Minority Leader of the House of Representatives, Honourable Chukwuka Onyema, other legislators, members of the judiciary, the Nigeria Police, some Government Agencies such as EFCC, ICPC, National Planning Commission, more than 200 civil society organizations and the media.

At the end of the roundtable, a communiqué which contained the unanimous decision of civil society organizations and actors present at the meeting was released. This paper will attempt to draw from conclusions contained in the said communiqué thereof.

An official declaration signed by all 123 CSOs who participated in the National Dialogue on the NGO Regulatory Bill convened by The Nigeria Network of NGOs and The InnerCity Mission for Children on 12th September, 2017 will also reflect in this paper.

SCOPE AND LIMITATIONS OF THE PAPER

At this juncture, it is imperative to state that, this paper does not claim to reflect the thoughts, opinions and voices of all who contributed to the debate on this bill; we recognize that due to the controversial nature of this bill and the fact that it affects all citizens, there are many views that we may have missed. This, however, does not undermine the importance of those opinions or articles that are not included in this paper.

Due to this, we would like to acknowledge the limitations of this paper by stating that it simply draws from the data available to us and indicated in the references at the end of this paper.

In addition, comments, observations, additions as well as subtractions are welcome from well-informed individuals who are able to substantiate their inputs with proof and objective contributions.

DATA COLLECTION AND ANALYSIS

As mentioned earlier in this paper, data consulted for this analysis was gathered from newspapers, reports, articles and mentions which were accessed via the internet and from real life sources. Special attention was paid to positions taken by government, lawmakers, civil society and the media as these are the main actors who presented in the ongoing discourse.

Presentation of the main themes in this paper will be done using a comparative model. From the data collected, two positions are reflected; support and/or opposition of the bill. The NGO regulatory bill will be clearly delineated and an objective comparison will be made using arguments from stakeholders in support of the different positions. The essence of this is to ensure the positions of all parties involved in the discourse are presented in a way devoid of bias.

INTRODUCTION

House Bill 585: The Non-Governmental Organizations Regulatory Commission Bill.

NGOs have been alleged to be conduits for money laundering and terrorism financing in recent times. This phenomenon has given rise to continued call for more transparency and accountability within the third sector especially in the daily operations of Nigerian NGOs as well as the use of funds received from local and foreign donors.

The Nigerian legislature has therefore; drafted three bills towards the passage of laws intended to address these challenges. The first is an Act to make Provision for the Registration and Coordination of Non-Governmental Organisations in Nigeria and for Connected Purposes (2015) sponsored by Senator Duro Faseyi.

The second is the Civil Society Commission of Nigeria Bill, 2016 (HB 705) sponsored by Hon. Diri Douye while the third is an Act to Provide for the Establishment of the Non-Governmental Organisations Regulatory Commission for the Supervision, Coordination and Monitoring of Non-Governmental Organisations, Civil Society Organisations in Nigeria and for Related Matters, 2016 (HB 585). The bill was introduced to the House of Representatives on June 2, 2016 by Honourable Umar Buba Jibril, a lawmaker from Kogi State, elected on the platform of the All Progressives Congress (APC).

House Bill 585 which is also referred to as the Non-Governmental Organizations Regulatory Commission (Establishment) Bill, 2016, is one of the 1716 bills currently pending in the 8th National Assembly and was first read on June 2, 2016, with a second reading on July 14, 2016. It was thereafter referred to the House Committee on CSOs and Development Partners.

HB 585 is a 58-sectioned bill which proposes to establish an NGO Regulatory Commission. The commission would be headed by an Executive Secretary appointed by the President for five years and a 17 member governing board, led by a chairman, all of whom shall be appointed by the President.

The board will be given the power to license all Nigerian NGOs without which any NGO can operate. This license will solely grant NGOs legal personality and perpetual succession but must be renewed biannually in order to maintain legal personality.

Furthermore, the board will have the power to monitor how NGOs spend donations. Spending funds and grants received from donors without express permission of the Board will be criminalized and could attract a prison term of 18 months.

Also included in the bill is the recommendation that NGOs submit detailed financial reports to the Board, reveal details of expenditure regarding donations to avoid violation of the law.

The bill also provides that the board will also oversee a Voluntary Code of Conduct for NGOs to be adopted by "the first one hundred NGOs to be registered by the board." National Council for Voluntary Agencies will operate the Code.

Furthermore, the bill requires that NGOs comply with all National and foreign policies, as violation of any of the recommendations of the bill is punishable with prison terms or a fine of #500,000. Following this, any judgment of the court against the body cannot be enforced except with exact permission of the serving Attorney General of the Federation.

Currently, the date for the Public hearing for the bill has been set for 13th and 14th December, 2017.

POSITIONS AND DISCUSSION

All indications point to two distinct positions regarding the NGO regulatory Bill. The two positions taken by those involved in the discourse range from support of the bill to opposition to the bill.

Drawing from the data presented in this paper, it was gathered that the two discordant positions; the first which is that the bill is commendable and should be passed is chiefly held by the legislature as well as some members of the public, while the second position; “the bill should die” is held by civil society actors, academia, some members of public and the media.

In support of the bill, Speaker of the House of Representatives, Mr. Yakubu Dogara opined that the main objective of the bill is to infuse transparency, accountability into the third sector and hinder the subversion of national security from both within and without.

He states, “No one can nor indeed should gag the operations of NGOs in Nigeria, but just as they aspire for this freedom, it must be stated that freedom does not come without responsibility as there is no such thing as freedom to be irresponsible,”

The sponsor of the bill, Deputy Minority Leader, Hon. Umar Buba Jibril indicated that the bill is needed to “checkmate NGOs with fraudulent tendencies and ensure that genuine ones are licensed by the regulatory body”. He argued that the goal of the bill was to address defects “occasioned by the absence of a regulatory framework on operations and activities of civil society organizations in Nigeria.”

In opposition to the bill, the CSO joint communiqué on the NGO regulatory bill produced at the one-day interactive technical roundtable between National Assembly and Civil Society Organisations held on 25th July 2017, echoed the position of many civil society actors which is strong opposition to the bill.

Participants at the roundtable presented cited the “duplication of existing legislation, restrictive clauses, bureaucratic clauses, excessive powers to government and punitive measures” thereby unanimously called for the “death” of the bill.

The concluding statement of the document; “We unequivocally state that this Bill is inconsistent with open democratic practices and therefore should be thrown out without further discussion. We urge the government not to introduce legislations that could jeopardize the work of NGOs, for the greater good of the country, as we would continue to oppose any restriction to what we consider as key indices of a true democratic state” captures the thoughts of participants.

The above is in congruence with the declaration released at the end of the one-day National Dialogue attended by about 123 CSOs, convened by the Nigeria Network of NGOs and InnerCity Mission for Children; “We condemn the Bill in its entirety and call on the House Committee on Civil Society to uphold decisions of Civil Society Organisations at the July 25, 2017 roundtable to “kill the bill””.

In addition, a suit was filed by a coalition of six organizations on 27th September 2017 and another by a coalition of 23 NGOs on November 3, 2017 both at the Federal High Court in Abuja, seeking an order of court to declare the NGO Regulation Bill unconstitutional and unlawful.

Below is a summary of arguments gathered from data consulted for this paper in relation to opposition to the NGO Regulation Bill:

- >> The NGO bill intends to make voluntary organizations parastatals of government.
- >> It is an initiative by a legislator to control Non-Governmental Organisations.
- >> It is an excuse to promote official corruption.
- >> The bill intends to stifle the operations of NGOs with bureaucratic practices thereby impeding their ability to carry out their service to humanity.
- >> The bill violates the constitutionally protected rights to freedoms of expression, association and assembly and targets individuals who present views contrary to that of government regarding these issues.
- >> The bill intends to completely erase the responsibilities of multiple Ministries, Departments and Agencies (MDAs), including the National Planning Commission; Corporate Affairs Commission; Federal Inland Revenue Service (FIRS); Customs Service; Immigration Service; Economic and Financial Crimes Commission (EFCC); National Planning Commission and even the National Emergency Management Agency.

Following social media campaigns against the bill which spiked considerably between July and September 2017 (continues till date) with many Nigerians sharing their views using #NoNGOBillNG on various social media platforms, there were mixed opinions ranging from defense of the bill to condemnation of the decision of the House of Representatives to go ahead in its passage of the bill.

The social media scene records comments ranging from support of the bill to opposition. In an article titled, "In strong support of the NGO Regulatory Bill" by Tope Fasua, the author noted that, "Whoever drafted the bill knows what they are doing and should be commended" and that the "bill is about FORMALISING an otherwise largely informal Nigerian economy".

Also, House leader, Nigerian House of Representatives, Femi Gbajabamila in a series of tweets tried to defend the legislature's decision to pass the NGO regulatory bill. From his official twitter handle @femigbaja, he tweeted; "NGOs cannot be above the laws of the land. They must be regulated"

Responses to this tweet indicated that twitter users were not convinced; @mumunishuaibu tweeted; "When we begin to over regulate everything including the CSOs on the pretext of terror we are gradually sliding into a police state," another twitter user also said "Foreign donors don't dash money! They monitor how their funds are spent and get reports from NGOs they support." @johnonyeukwu tweeted, "To support #NGOBill in Nigeria is the support subtle dictatorship. Everyone must say #NoNGOBillNG" while another concerned citizen @enochokoh tweeted, "There are more important bills at d NASS needed to be passed in view of d challenges confronting us as a nation #NoNGOBill #StopTheBill.

@IGC_Cameroon tweeted "In solidarity with civil society in #Nigeria, we need to protest this bill. If it happens in Nigeria, it will come to us next", @EIENigeria tweeted, #Nigeria's toxic #NGOBill; what you need to know about it and how you can stop it", @nighealthwatch tweeted, "NGOs have played a major role in pushing for sustainable development in Nigeria. #NGOBill will affect all of us. We must say #NoNGOBill", @Transform9jiria tweeted, "The #NGOREGULATION BILL: How do you think it will affect #Nigerians and the fight against poverty and corruption? #NoNGOBillNG", @AKNY1 tweeted, "The bill by @nassnigeria has ulterior motives is therefore unnecessary #NoNGOBillNG".

Furthermore, Chidi Odinkalu, a former chairman of the National Human Rights Commission, released a short video (5minutes 48 seconds), on the implications of the NGO Regulatory Bill which he described as the "most dangerous piece of legislation that has come into the National Assembly since the return to civil rule in 1999". He argued that the proposed law would affect religious bodies as well as local cooperative societies (Esusu) further emphasizing its tendency to be totalitarian in nature.

Oyebisi B. Oluseyi, Executive Director, Nigeria Network of NGOs debunked claims of the legislative brief presented by Hon. Jibril that NGOs “do not have a single legal framework that supervises the mode of their operations including their funding” Oyebisi claims “This is not true as there are eight legal frameworks guiding the work of Nigerian non-profits” and supports his claim by listing them; Part C of the Companies and Allied Matters Act, Companies Income Tax Act, Taxes and Levies Act, Value-Added Tax and Value- Added Amendment Act, Federal Inland Revenue Act, National Planning Commission Act, Money Laundering Act and Financial Reporting Council Act.

Sequel to all these and owing to sustained criticisms by members of the public as well as civil society actors about the bill’s potential to stifle civil society and feed religious sentiments because of its proclivity to include religious organizations and local cooperative societies in its “overregulation”, a statement was released on September 22, 2017 in Premium Times Newspaper.

The statement was signed by the Deputy Minority Leader of the House of Representatives and the sponsor of the bill, Honourable Umar Buba Jibril and sent by an aide to the speaker of the House. It was a bid to explain what gave rise to the proposed bill, what is hoped to be accomplished by its passage, clarify its terms and why the bill should stand.

Contained in the statement are the following claims:

>> Some NGOs collected funds for North East IDPs and disappeared.

>> Churches, Mosques, Esusu, Market Women Associations are not affected.

>> Religious bodies and organisations are not NGOs.

>> Our quasi financial institutions at local levels are not NGOs: these organisations have existed for centuries to serve businesses and commerce of our market women and traders.

>> NGOs (Non-Governmental Organizations) and CSOs (Civil Society Organizations) are supposed to be partners in progress with the government; therefore, the need for a commission to serve this purpose arises.

>> To carry out their activities, the NGOs and CSOs solicit for funds from all over the world and collect billions of naira on behalf of Nigerians.

>> They recruit expatriates to help them run their activities in the country with lots of abuses.

>> Some NGOs are used to fund the activities of terrorist and insurgents.

>> The NGOs bill is primarily to set up a commission to regulate their activities and provide a platform for robust relationships between them and the government for the interests of Nigerians.

>> In addition, it is to ensure transparency and accountability in the ways and manners the NGOs collect moneys and use them for Nigerians.

>> The NGOs bill is not new or peculiar to Nigeria. It exists in many countries particularly in the ECOWAS sub- region and all over Africa and other continents.

Civil society actors however, responded that, defining NGOs as “charities” already includes churches and mosques in the regulations proposed in the bill. They also argue that the title of the bill which states, “for the supervision, coordination and monitoring of NGOs, CSOs and Community-Based Organisations (CBOs) in Nigeria and for related matters” indicates that religious organizations and local cooperative societies are inclusive of these categories.

Although, support of the bill is massively upheld by the legislature, however, it is interesting to note that the legislature is not in total solidarity where the bill is concerned.

Senator Shehu Sani has declared his decision to stand against the bill. He argued that it is prone to “abused by people in the position of power,” He added that increased “cases of human rights abuse and intolerance to divergent views...make it dangerous to endorse or support any bill aimed at regulating the activities of NGOs”. In his words, the decision to oppose the bill is “to protect and preserve our fundamental rights to freedom of expression and of assembly.”

Since December 5th, 2017 when the official public notice and call for memoranda was released by the National assembly regarding the public hearing on the NGO regulatory bill, civil society actors have also intensified efforts to create awareness for the bill and garner support for the attendance for the public hearing.

Michael Oluwashogo Olatunbosun posted on Facebook, "The National Assembly wants to kill the civil society space with draconian laws to stop us from asking the Real Questions. My fellow Nigerians, don't be fooled. #NoNGOBill #TakeALeap".

Clean Up Nigeria also posted, "we are an NGO & a voice like many others in Nig, born out of pure passion to positively impact our dear country, we deserve to be supported and not restricted by govt @CleanUpNigeria @nassnigeria @obyezeks @ncfnigeria @mazi_ukonu @desmajek @channelstv #NoNGOBill, #PublicHearing", Kolawole Amusat-Gbenla also posted, "Our sector cannot be clamped down.

Our services are inevitable in the society. We are not owned by Governments but we complement the governments in Nation building. It's only a government that is insensitive that can say no to Non State Actors... Governments in sane climate support and encourage Non State Actors. SAY NO TO NGO BILL...#NoNGOBill" and FunmiNiJoy Akinyele explicated reasons for her opposition to the bill in a long Facebook post, "(i)NGOs and CSOs are required to "comply with the relevant financial legislation, and the funds pledged by the donors must be disclosed before commencement of the implementation of the project, including the mode of disbursement and conditions attached to the funding by donor; and where part or all of the funds are made available directly from the donors or through the overseas office of the organisation, the transfers must be channeled through the normal banking system" (HB 585 Section 25(2)) I have questions ...Which of the financial legislation in existence is considered relevant? Should there be irrelevant financial legislation? Whose legislation? The Financial Reporting Council (FRC) Act? The Federal Inland Revenue Service (FIRS) Establishment Act? The Special Control Unit against Money Laundering (SCUML)? The Companies Income Tax Act (CITA)? The Taxes and Levies (Approved List for Collection) Act? The Money Laundering Prohibition Act? But wait, I thought this bill asserts there are no regulatory systems in place? Seems contradictory if you ask me ... What exactly is the "normal banking system?"

What will the channelling look like? Who will have to sign off on it? How many days/weeks/months/years will it take if you piss him./her off? Who will then be responsible for completing a financial report to the donor? How many delays will that cause in program implementation? I wonder if the author(s) of this bill really want(s) continued progress for Nigeria. #NoNGOBill #PublicHearing #HB585 #KillBill #Notthemovie"

CONCLUSION

As the debate on the NGO Regulatory Bill rages, the ongoing discourse has opened further debate on issues of legitimacy, transparency and accountability; identified gaps in public and legislative understanding of the ways of working and of the nonprofit sector and its economic impact.

We have also seen the urgent need for the sector to self-regulate and to ensure regulatory compliance. It is further clear that existing regulations need to be strengthened with a view to enable and not disable civic space.

Whatever becomes of the bill, the public outcry for or against it, has no doubt set a foundation for a deeper conversation on the future of civil society in Nigeria and beyond.

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About NNNGO

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Nigeria Network of NGOs
15, Ramat Crescent,
Ogudu GRA, Lagos,
Nigeria.
Tel: +234 090 6946 0107
Email: nnngo@nnngo.org

website: <https://nnngo.org/>

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