

NIGERIA NETWORK OF NGOs
...Networking for Development



PUBLIC HEARING ON
NGO REGULATORY
AGENCY BILL (HB585)
TALKING POINTS

05 Decemeber 2017

■ BACKGROUND

On the 13th and 14th December 2017, the House of Representatives will host a public hearing on a Bill for an Act to Provide for The Establishment of The Non-Governmental Organizations' Regulatory Commission for The Supervision, Co-ordination and Monitoring of Non-Governmental Organizations, Civil Society Organisations Etc., In Nigeria And for Related Matters (hereinafter “Bill”).

The services provided by nonprofit organisations, community groups, and social enterprises play crucial roles in ensuring that individuals and communities are well equipped to deal with structural changes in the nation's economy, providing support to vulnerable groups, or supporting communities to develop. Nonprofits complement government's efforts.

NGO REGULATORY AGENCY BILL (HB585)

Nonprofits in Nigeria continue to play a vital role in strengthening democracy, advancing freedom of expression and enriching our diversity. Over the years, Nigerians have turned to nonprofit organisations for support and they have kept their doors opened to serve millions of communities, families and individuals; taking on a variety of causes that critically require their intervention. Nonprofit organisations and social enterprises make an important contribution to the Nigerian economy and our society, as well as providing employment.

Between 95-98% of nonprofits in the country are funded directly by their founders with support from friends, family and the public. Only 2-5% receive foreign funding. Founders of nonprofits have noted that they are motivated to start a nonprofit given the growing inequality that exist in their communities and the need to act to remedy this. These are a set of talking points we encourage individuals and organisations in the nonprofit space to use in their advocacy around the NGO Regulatory Agency Bill.

■ GENERAL POINTS



We are extremely concerned that this bill will disrupt the activities of nonprofits and the millions of families that we serve.



The House Bill fails to protect our right as citizens to freedom of association and assembly as enshrined in the Universal Declaration of Human Rights (UDHR), the International Covenant on Economic, Social and Cultural Rights (ICESCR), and the International Covenant for Civil and Political Rights (ICCPR) which Nigeria is a party to.



Rather than encourage more people to support the over 112 million people that are poor and vulnerable, the Bill disables the operational environment within which such support can be given.



If the bill is passed in its current form, the National Assembly will effectively cut out support to communities and families whose existence depend on the charitable acts of nonprofits.



With the adoption of the Sustainable Development Goals (SDGs) and the role of critical stakeholders (Government, private sector and civil society) in attaining the goals, Bill HB 585 is moving the country in the wrong direction as it creates unnecessary bureaucratic barriers necessary for an effective partnership for the goals.



We recognise the need to make the sector more transparent and accountable but we do not believe Bill HB585 is the solution to this challenge.

EXISTING REGULATORY FRAMEWORK

- ✘ The NGO Regulatory Agency Bill assumes there are no regulations for the NGO sector whereas we have 8 legal frameworks and they are:
 1. Part C of the Companies and Allied Matters Act (CAMA).
 2. Companies Income Tax Act (CITA)
 3. Taxes and Levies (Approved List for Collection) Act
 4. Value-Added Tax Act and Value-Added Tax Amendment Act
 5. Federal Inland Revenue Service (Establishment) Act
 6. National Planning Commission Act
 7. Money Laundering Prohibition Act and
 8. Financial Reporting Council Act
- ✘ The Corporate Affairs Commission registers nonprofits in Nigeria and already takes care of the supervisory, registration and licensing role taunted in Bill 585.
- ✘ The Federal Inland Revenue Service ensures nonprofit funds are subjected to appropriate taxes and exemptions.
- ✘ The Special Control Unit on Money Laundering (SCUML) supervises nonprofit transactions to be sure that the sector is not used for money laundering and terrorism financing.
- ✘ Financial Reporting Council ensures that audit reports produced by nonprofits are in line with the International Financial Reporting Standards and that auditors providing services to the sector are doing the right thing.
- ✘ Bill 585 rather than strengthen the above provisions, makes dangerous recommendations that opens nonprofits to become an instrument of ridicule, blurring the lines to the sector's independence.

MANDATORY REGISTRATION

- ✘ (Section 11(1)), (Section 13(4)) and (Section 37(1)-(2)) negates Article 22.7 of the International Covenant for Civil and Political Rights (ICCPR) which has consistently found that mandatory registration of NGOs is not permitted. While reserving tax incentives and other benefits for registered organizations may be appropriate, requiring registration violates the second and third prongs of the Article 22 of the ICCPR which Nigeria ratified on July 29, 1993.

GOVERNMENT APPENDAGE

- ✘ Rather than enable the sector's independence, (Section 26(1)) and (Section 27(1)) make nonprofits an appendage of government as they place another layer of registration on the sector by asking for approval from relevant Ministries of Government/Agency before projects can be carried out in communities or support given to the poor. Such extensive involvement by the proposed Commission in the internal affairs of an organization places severe logistical and practical constraints on its ability to conduct activities independently and to associate more broadly.
- ✘ This Bill weakens and imposes unnecessary restrictions on the ability of nonprofits to provide in real time critical support, services and care that can lift millions out of poverty thus entrenching inequality.
- ✘ We are concerned that this Bill sets a foundation for anarchy as nonprofits continue to be the only succor left for the common man in a country where social protection systems cannot cover the majority who need them.

CRIMINALIZATION OF UNREGISTERED ORGANISATIONS

- ✘ (Section 24) specifically criminalizes the operation of an NGO in Nigeria "for welfare, research, health relief, agriculture, education, industry, the supply of amenities or any other similar purposes" without registration and certificate under the Act
- ✘ An individual operating an unregistered NGO under this Section may face a fine of 500,000 Naira, a prison sentence of 18 months, or both (Section 24). Further, any individual convicted is additionally disqualified from holding office in any NGO for ten years (Section 24).
- ✘ This in our opinion is the Sponsors strategy to quell dissenting views or beliefs.
- ✘ The UN Special Rapporteur on the rights to freedom of peaceful assembly and of association states, "Individuals involved in unregistered associations should indeed be free to carry out any activities... and should not be subject to criminal sanctions..."

■ NGO COMMISSION

- ✧ The Bill contemplates the establishment of a Commission to register and oversee the regulation of NGOs and civil societies, as well as a Board to manage the Commission. Although, several countries have established commissions to certify charities or public benefit status, very few have established stand-alone commissions to regulate and monitor civil society organizations like the one envisioned by this Bill.

Further information, please contact:

Nigeria Network of NGOs

E: nnngo@nnngo.org

T: 0906 948 5207

W: www.nnngo.org

