



To: H.E Yakubu Dogara, Speaker, House of Representatives, Federal Republic of Nigeria
Hon. Ohiozogh Peter Akpatason, Committee Chairman
House of Representatives Committee on Civil Society Organizations and Development Partners
Members of the National Steering Committee, OGP Nigeria

From: Open Alliance Nigeria

Date: December 7, 2017

Subject: Open Alliance Memo to House of Representatives Committee on Civil Society Organizations and Development Partners at the Public Hearing on the Non-Governmental Organisation Regulatory Commission Bill (HB 585)

Memo to the National Assembly on the Non-Governmental Organisation Regulatory Commission Bill (hb 585)

The Open Alliance makes the following submission to this distinguished committee for consideration in the debating the NGO Regulatory Commission Bill submitted by Honourable Umar Buba Jubril. Open Alliance is a coalition of over 50 civil society organisations working on the Open Government Partnership - an initiative President Muhammadu Buhari signed on to in 2016 to improve transparency, accountability, citizen participation and responsiveness to citizens through technology and innovation through collaboration with NGOs and Private Sector. Since 2016, the Open Alliance has worked collaboratively with government in the implementation of Nigeria's Open Government Partnership National Action including Budget Transparency, Open Contracting, Extractive Transparency, Anti-corruption and Asset recovery, Access to information and citizens engagement. It is in the spirit of this collaborative engagement that we make the following recommendation to this committee on the bill being considered for passage.

1.Introduction

Open Alliance acknowledges the legislative efforts to uphold accountability and transparency in every facet of the society. The NGO Regulatory Bill places focus on NGO/CSO which to our understanding of the definition comprises of unions, market women associations, faith based organisations, faith based coalitions, charity associations and other non-governmental entities pursuing human rights and interests. In our assessment of the bill, we discovered that the bill failed to consider the diversity of bodies camped under the tag Civil Society Organization (CSO). In an address¹ by Honourable Buba Umar Jibril, he noted that religious bodies and associations will not be affected by the bill. This is in contradiction to the definition above as every organisation that is not coordinated and/or owned by the government, set up for humanity, falls under the categorisation "NGO/CSO". The implied target audience is here is partial to the scope of the bill. This motive seems to us as a move to cripple only NGO/CSOs working assiduously to ensure the gaps in service delivery and accountability are met.

2.Legal Frameworks for the coordination of NGO/CSO Activities

The bill is premised on the fact that there is no existing legal framework guiding the activities of NGOs in Nigeria. Presently, there are about ten (10) legal and regulatory framework NGO/CSOs currently comply with in Nigeria. These

¹ <https://www.vanguardngr.com/2017/09/churches-mosques-not-affected-ngos-regulation-bill/>

frameworks are government initiatives and policies which are basic criteria that must be fulfilled for any entity operating as a non-government or nonprofit. Over 75,000 registered non-governmental organisations that exist in Nigeria are required to file financial documents in compliance with some of the financial framework covering registration, operation, funding and finances of NGO/CSOs in Nigeria. For the benefit of the committees and everyone present, these frameworks are **Companies and Allied Matters Act (CAMA) 2004 Sections 590(1), 605, Companies Income Tax Act (CITA) Sections 23 (1), 55, Taxes and Levies (Approved List for Collection) Act 1998, Value Added Tax Act (1993), VAT Amendment Act (2007), Federal Inland Revenue Service (Establishment) Act, 2007 National Planning Commission Act, EFCC Act, other compliance sections in the Central Bank of Nigeria Act (2007), Banking and other Financial Institutions Act (1991) and Financial Reporting Council Act.** We are therefore alarmed that rather than the National Assembly work towards the implementation of the plethora of laws, it is building a bureaucracy that can stifle agency and freedom as enshrined in the constitution.

3.Approving NGO/CSO projects before execution - Section 11

The bill seeks to establish a commission whose board, overseen by a Minister, will have to approve projects done by NGO/CSOs before execution under Section 26(1) of the bill. We state that this move is a control strategy to drag behind the mandate of NGO/CSOs especially those working in emergency areas. NGO/CSOs design project plans and grants for approval from donors who, by the law of the country, are registered with National Planning Commission². The action to award the responsibility of approval of projects to a government entity will erode the independence of NGO/CSOs to discharge their citizens focused duties especially in scenarios where it exposes government bodies. NGO/CSOs do not require the permission or approval of a government body to execute projects, track public funds or do other relevant pro-Nigerian activities. Donors have structural project monitoring and reporting mechanism in place to ensure accountability. From another perspective, the bureaucratic bottleneck present in our institutions will affect quick approval of NGO/CSO projects. With the passage of this bill, NGO/CSOs will be at the mercy of the Board which the interest of government and top officials who wield influence within the system. Empowering a Government Agency headed by an appointee of the president to register or de-register non-government organizations without reasons compromises the independence of non-governmental organisations and potentially empower the president to silence dissenting voices and alternative opinions which is inimical to development, out of touch with modern governance and an invitation to tyranny

4.Fund Disclosure - Section 28 & 29

The bill seeks to establish a procedure where NGO/CSOs disclose grant funds at the commencement of a project. Bringing in the mandate of the International Cooperation Department of the National Planning Commission (NPC), the department manages the bilateral cooperation and assistance programmes from which some donor-funded NGOs receive funds and receives audited annual financial reports of NGOs as part of its functions. The EFCC has the Special Control Unit Against Money Laundering (SCUML) with a specific mandate to receive documents relating to receipt of funds by Non-Governmental Organizations from external donors. Awarding this mandate to the NGO Regulatory Commission's board is tantamount to duplication of mandates and functions with government bodies. That over 75,000 organizations that fall within this bracket will submit quarterly reports of funding received or variation is another layer of bureaucracy, additional costs to the public treasury, in a situation that better coordination by existing government institutions can easily resolve.

5.Erosion of Human Rights including Right to Association and Right to Information

The right to freedom is enshrined and protected by many African and international treaties, agreements and charter - The African (Banjul) Charter on Human and Peoples Rights³. Globally, NGO/CSOs have been leading conversations on democratic, governance, socio-political, economic, religious and gender issues. Countries have made tremendous

² <http://www.nationalplanning.gov.ng/international-cooperation.html>

³ http://www.achpr.org/files/instruments/achpr/banjul_charter.pdf

changes and improvement through NGO/CSOs fervent actions and dedication to a better society. Such situations have been possible because of the freedom of the people and their untampered right to speech, right to association, right to information, right to life, right to service delivery and other key components of rights as a citizen. These provisions are protected under Article 19 of the UN International Covenant on Civil and Political Rights⁴ and the African Union Resolution on Right to Association⁵. These provisions are available to further echo the importance of leaving the civil space as a “free market” without government control of activities and outcomes. There is already a global call that there is an emergency situation in the civil society and Nigerian parliament through this bill reinforces the notion that non-governmental organizations are losing their right to operational independence despite the abundance of law they are mandated to obey.

6. Open Government Partnership

The Nigerian government signed on to the Open Government Partnership initiative in June 2016⁶ following the declaration of President Muhammadu Buhari at the Anti-Corruption Summit in London 2016⁷. The partnership seeks to bring civil society and government together to ensure a change in culture of governance. This initiative which is targeted at anti-corruption mandate of the current administration is possible only with the independence of the civil society to bring ideas and expertise to the table. The NGO Bill contradicts this initiative, the Open Contracting Data Standard and many others which Nigeria has signed on to. By eroding the liberty of the civil society, the civic space is shrunk to douse the voice of the people and therefore tilts the OGP scale to the government side. We must reiterate that the government should not view the civil society as an opposition but see it as a necessary constituent of a democratic system for check and balance. Without the civil society and its liberty to support the National Assembly, there will be a catastrophic disorder which is evident in some of the countries in the world especially in the continent of Africa.

7. Duplication of functions

We notice the interest to regulate the activities of foreign-owned donor organizations as well as disposition of their assets. We opine that this can be covered in an amendment of 2007 National Planning Commission Act or as a set of condition necessary for operations of an International non-governmental organization. It will be more important to strengthen the donor coordination office of the National Planning Commission under the prerogative of the Executive. Using this bill to achieve this aim is subject to abuse and potential judicial processes can easily strangle the activities of non-governmental organizations. Agencies like the EFCC, CAC and NPC have mandates that are akin to the provision in the bill. These agencies already supervise the coordination of establishments both financially and structurally organisations in Nigeria. The passage of the NGO Regulatory Bill is a duplication of functions of the agencies which will not only have a negative implications on cost of governance but render existing agencies ineffective in similar functions.

8. Discretionary powers to the Executive - Section 2

Furthermore, should the NGO Regulatory bill be passed by the House of Representatives, it will give incontestable power to the Executive through the commission thereby shrinking and restraining the activities of NGO/CSOs in Nigeria. For example, the President will choose a leadership of a Commission that will oversee the operations of the NGOs/CSOs. How does that make these organizations still non-governmental in a country were that has been serial complaint of recklessness of executive power which the National Assembly has also been a victim? Out of the 18 persons to sit on the board, fifteen (15) will be nominated by the President, how is this fair for non-governmental activities that organizations are meant at times review and demand improvement? The composition of the bill leaves a vacuum for political manipulation within the Commission's board and the government. Such provision is a threat to a society like ours if it intends to grow to a society which recognises fairness, equality and human rights. We hope the National Assembly considers this in the development of this bill.

⁴ <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CCPR.aspx>

⁵ <http://www.achpr.org/sessions/11th/resolutions/5/>

⁶ <https://www.opengovpartnership.org/documents/nigeria-letter-of-intent-join-ogp>

⁷ <http://venturesafrica.com/endsars-might-not-suffice-a-total-reform-of-the-nigeria-police-force-is-needed/>

Conclusion

We are not unaware of certain challenges around accountability within the non-governmental space. However, Nigeria has enough laws that ensure full disclosure, accountability and ensure these organizations keep practices in a way that does not undermine national security . The Open Alliance wishes the National Assembly sees through this bill for the dangers it presents, evaluates the bill, reviews the input from Nigerian civil society, international bodies, dignitaries and other bodies and step down on the bill. The bill proposes to erode the independence of NGO/CSOs and stifle activities of organisations. We recognise the National Assembly as the highest organ of accountability and civil society organisations work to ensure such functions are fully established.

In addition, the bill contravenes the initiative signed on by this administration to ensure democracy evolves, people have rights, and also that the voice of dissent does not imply brutal opposition but co-creation . We believe that lawmakers serve in the interest of the people and thus respect the call of many Nigerians/NGOs/CSO who have spoken up against this bill⁸. This bill is toxic, anti-democratic, anti-people and directed advertently or inadvertently towards autocracy. **We are calling this this Bill (HB 585) be dropped in the interest of our evolving democracy that prominent Nigerians** including the civil society organizations bequeathed in sweat, blood and tears.

Signed on behalf of the Open Alliance

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⁸ <https://www.vanguardngr.com/2017/07/nigerias-toxic-ngo-regulation-bill/>

Civil Society organizations and members against NGO Regulatory Bill

	Organisations	Surname	First name
1	Media Rights Agenda	OJO	EDETAEN
2	BUDGIT	ONIGBINDE	OLUSEUN
3	Public and Private Development Center	NYAGER	SEEMBER
4	ONE Campaign in Nigeria	IKHUORIA	EDWIN
5	BudgIT	Akinbo	Abayomi
6	Public and Private Development Center	ILOH	NKEM
7	PWYP	EGBULE	PETER
8	EIE NIGERIA	ADAMOLEKUN	YEMI
9	Public and Private Development Center	ONYEBUCHI	IFEOMA
10	Public and Private Development Center	EKWUEME	UGOCHI
11	BUDGIT	AGUNLOYE	OYEBOLA
12	CONNECTED DEVELOPMENT	LAWAL	HAMZAT
13	CISLAC	BANWO	KOLAWOLE
14	PERL	IGBUZOR	OTIVE
15	CENTRE LSD	ARISUKWU	UCHENNA
16	MEDIA RIGHTS AGENDA	LONGE	AYODE
17	Justice, Development and Peace Commission	Olaitan	Olumide
18	Centre for Community Empowerment and Poverty Eradication	Ayuba	Abdurrahman
19	CENTRE FOR COMMUNITY EMPOWERMENT AND POVERTY EMPOWERMENT	AYUBA	ABDURRAHMAN
20	FollowTaxes	Sulaiman	Saied Tafida
21	African Centre for Leadership, Strategy & Development	ARISUKWU	UCHENNA
22	Public and Private Development Center	Onyebuchi	Ifeoma
23	Development & Integrity Intervention Goal Foundation	Chima Ajah	Oliver
24	Enough is Enough Nigeria	Adekola	Adeolu
25	Health Education and Empowerment Initiative	Ofurune	Folasade
26	Socio Economic Research and Development Centre	Tijani	Abdulkareem
27	Civil Resource Development & Documentation Centre	Ndigwe	Engr. Ralph
28	Peace and Life Enhancement Initiative International	Odukoya	Olugbenga
29	Network for Empowerment and Development Initiative	Tijani	Peter Hassan
30	Network on Police Reform in Nigeria	Nwanguma	Okechukwu

31	Basic Rights Watch	Ekwujuru	Austin
32	Policy Alert	Ekanem	Ebong
33	INTERNATIONAL PEACE AND CIVIC RESPONSIBILITY CENTRE	AZOR	CHRIS
34	Impact Driven Young Leaders Initiative	Otarigho	Emokiniovo
35	African Youth Initiative on Population, Health and Development	Ahmed	Adewale
36	Community & Youth enhancement Initiative	Megwei	Chima
37	Foundation For Environmental Rights, Advocacy & Development(FENRAD	Nwafor	Comrade Nelson Nnanna
38	Micro, Small & Medium Enterprises Advocacy & Support Initiative	Okeke	Celestine
39	Center for International Private Enterprise	Gbadamosi	Omowumi
40	Peace and Life Enhancement Initiative International	Odukoya	Olugbenga Olatunji
41	PARENT-CHILD INTERVENTION CENTRE	CHUKWUEMEKA	PEGGY
42	PAN AFRICAN VISION FOR THE ENVIRONMENT(PAVE)	Akpan	Anthony
43	Development Diaries Ltd/GTE	Aderibigbe	Femi
44	JCI Hope Project	Chieze	Francis
45	Paradigm Leadership Support Initiative	Elemo	Olusegun
46	Excellent World Foundation	Enahoro	Michael
47	Policy Alert: The Grassroots People Empowerment Foundation	Bolton-Akpan	Tijah
48	MURNA FOUNDATION	AHMED	UMAR
49	AccountabilityLab Nigeria	Odeh	Friday
50	Foundation for the Conservation of the Earth	CHIEKWE	PATRICK
51	DigitalSENSE Africa Media	Nweke	Remmy
52	Africa Network for Environment & Economic Justice	Ugolor	David
53	Peace Point Action	Isua-Ikoh,	Umo
54	Young Entrepreneurs Society, Nigeria	Oranwuba	Frank
55	Akin Fadeyi Foundation	Nnaobi	Obialunanma
56	LEAGUE FOR HUMAN RIGHTS	NGARI	LAWRENCIA
57	Christian Foundation for Social Justice and Equity	Afolabi	Jide
58	RULE OF LAW & EMPOWERMENT INITIATIVE (PARTNERS WEST AFRICA NIGERIA)	MAIGARI	BARBARA SHITNAAN
59	Environmental and Health Conservation Organization	Kanu Ijeoma	Ijeoma
60	Basic Foundation for Socio-Economic Development for Rural Women and Youtnt	Agbor	Solomon

61	Hold My Hands Women & Youth Development Foundation	Uzor	Darlington Ikechukwu
62	Justice, Development and Peace/Caritas Initiative	Ononyaba	Chioma
63	International Press Centre, Lagos	FALOBI	SANMI
64	Initiative for Social Development in Africa.	ADEGOKE	DEBORAH