



## Suspended de-registration of 970 Public Benefits Organisations

### Statement by the CSO Reference Group

**The Civil Society Organisations Reference Group welcomes the policy decision by Cabinet Secretary Anne Waiguru to overrule NGO Coordination Bureau Executive Director Fazul Mahamed.** The Cabinet Secretary interrupted what was about to be a colossal policy mistake. The Bureau was in the process of de-registering 10% of a 40 year old sector based on factual errors and unsubstantiated allegations.

The 970 organisations, many of them community based organisations, work on a wide range of public interests including human rights, health, agriculture, bio-diversity, women, youth and peace-building across some of the poorest counties across the country. A large number of organisations namely the Kenya Human Rights Commission, the African Population and Health Council, the Health NGOs Network and Ahadi Trust have already rebutted the unsubstantiated media based accusations that they have engaged in criminal and terrorist acts.

Many of the 970 organisations were not given an opportunity to clarify the audit questions before they saw them in the mass media. In doing this, the NGO Coordination Bureau violated the principles of natural justice, the right to reply and fair administrative justice.

**The wilder allegation that remains unaddressed is that Kshs 23 billion of donor funds has been misappropriated, embezzled and diverted to finance terrorism.** Secondly, is it appropriate for a Government agency to call on the Central Bank of Kenya and Kenya Bankers Association to freeze bank accounts and recommend prosecution to the Financial Reporting Centre (FRC), and the Directorate of Criminal Investigations (DCI) based on an unsubstantiated opinion?

Sadly, this is not the first time the Bureau has acted in an alarmist and punitive manner. Over the last two years, the Bureau has drafted four sets of harmful amendments to the Public Benefits Act (2013). The harsher amendments have sought to cap foreign funding to 15%, undermine self-regulation and impose excessive national executive regulation. In December 2014, the Bureau deregistered 540 organisations. Two weeks later, the Bureau reinstated 179 organisations after they proved they were in full compliance. The opportunity of the PBO Taskforce to create a consensus on the amendments to the PBO Act was squandered by the NGO Coordination Bureau in April. In June 2015, the Government froze the accounts of Muhuri and Haki-Africa on the recommendation of the Bureau. In under two months, the High Court found that the two organisations have no case to answer.

The truth of the matter is that the Bureau has failed in its primary mandate “to facilitate and co-ordinate the work of all national and international Non-Governmental Organizations operating in Kenya” (NGO Coordination Act of 1990, 7.A).

The real cost of its constant attacks on the sector can be found in its own research. According to the NGO Sector Report (2012-2013), the sector has seen a 29% reduction in the number of registered organisations. The sector is slowly being choked to death by a clumsy, short-sighted legislative and smear campaign to reduce space for PBOs to operate.

**Consequently, the 200 members of the CSO Reference Group have lost confidence in the leadership at the NGO Coordination Bureau. We urge the Cabinet Secretary to overhaul its leadership.** As we transition to the Public Benefits Act (2013) we need a professional team that understands its mandate and works to support the sector to contribute positively to the development of our nation. Alarmist sensationalism and punitive action has no role here.

The majority of PBOs are governed by Boards of Directors, audited by independent Auditors and report to the Government on an annual basis. We are also accountable to the donors that fund us. Many PBOs have developed public disclosure mechanisms on their websites and in the communities that they work to ensure that communities can hold them accountable. We need a Government partner to help us strengthen this not continually attack us.

**We encourage all of our members to respond to this latest attack by strengthening their integrity and public accountability systems.** We encourage those named in the notice to seek an apology or legal redress for libel and slander.

**We will continue to press for the full implementation of the Public Benefits Organisations Act (2013).** Ill-conceived attacks using a long expired Act as a mechanism of control and domination will not raise our public accountability and transparency. We urge Cabinet Secretary to urgently put in place the relevant mechanisms to operationalize the PBO Act (2013)

Signed for the CSO Reference Group

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## **NOTES**

1. The CSO Reference Group is a self-regulatory forum of 200 Public Benefits Organisations committed to an enabling environment for good governance, effective service delivery and active citizenship.
2. The Bureau continues to inflate its own statistics to make its accusations against the sector. Quoting its own Annual NGO Sector Report 2012/2013, the October 29 statement alleges an annual income of Kshs 140 billion and a sector of 10,015 NGOs. The report itself, states a figure of Kshs 87.6 billion and 9,728 NGOs.
3. NGO Coordination Bureau Executive Director Fazul Mahamed speaks in the name of the Board yet the Board has long been dismantled as the terms of its Members expired earlier in the year.
4. NGO funding to Kenya based PBOs increased by 17% with 38% going to healthcare
5. Foreign Governments contribute 34% of the funding to PBOs while the Government of Kenya funds only 1%, the same amount as volunteer PBO Directors and Trustees
6. On average, PBOs spend 67% of the budgets on programmes and projects and 33% on overheads
7. PBOs have a 46.7% sustainability rating which leaves PBOs vulnerable to funding uncertainties. Retaining public confidence in the sector is critical therefore, a fact the Bureau would do well to remember.

**All figures drawn from the NGO Coordination Bureau Annual NGO Sector Report 2012/2013**