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## Accountability in faith-based development organizations in Nigeria: preliminary explorations

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**Accountability in Faith-Based Organizations in Nigeria:  
Preliminary Explorations**

**Omobolaji Olarinmoye**

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## *Global Economic Governance Programme*



Centre for International Studies - Department for Politics and International Relations

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- to create and maintain a network of scholars and policy-makers working on these issues;
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## **Abstract**

Faith Based Organizations (FBOs) are important service providers in Nigeria, hence their attractiveness to international development actors. As service organizations, FBOs are accountable to their funder, domestic service regulators and their clients/beneficiaries who have at their disposal legal, financial, service provision oversight and peer regulation mechanisms for ensuring the accountability of FBOs. An assessment of these mechanisms shows that due to political and structural inadequacies born out of the weak nature of the Nigerian state and inconsistencies in the enabling legislations for each mechanism, these mechanisms are unable to ensure adequate internal accountability of funds released to FBOs by international agencies. This article examines the case of the Global Fund to Fight AIDS, Tuberculosis and Malaria and the Christian Health Association on Nigeria to illustrate this.

# **Accountability in Faith-Based Development Organizations in Nigeria: Preliminary Explorations**

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## **Introduction**

Faith-based organisations are increasingly emerging as key actors in national and international development policy and practice as reflected in the increased proportion of donor funds earmarked for international development that is channelled through FBOs<sup>1</sup> and the various programmes implemented by donors that specifically targeted FBOS<sup>2</sup>. Donors growing willingness to use FBOs in the provision of international development aid raises the knotty question of the accountability of religious entities in terms of “fiduciary duties, standards of service, and regard for the right of clients and donors” (Hall, 2002)

Accountability implies that institutions and individuals are answerable for their commitments and responsibilities (Collins, Coates & Szekeres, 2008). Accountability, means having “to have to answer for one’s actions or inactions and depending on the answer, to be exposed to potential sanction (Dann, 2006). Accountability promotes a culture and practice of compliance with organisational policies, it advances learning and innovation, and enables the organisation to maximise its potential in relation to internal and external actors. Accountability therefore is “about more than passing judgment” (Collins *et al*, 2008). Effective accountability mechanisms

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are powerful tools to improve service delivery by providing constructive assessments and motivating decision makers to avoid negative external critiques.

Studies on the accountability of religious organisations as agents of international development have focused mainly on international FBOs (USIP, 200; Blumi, 2002; Salih, 2002; Berger, 2003) whereas these FBOs mostly work through domestic FBOs or FBOs working within specific legal and territorial jurisdiction. Not much has been done on assessing the accountabilities of domestic FBOs for the funds channelled through them or the effectiveness of the services they provide (Johnson, 2002; Ukah, 2007).

This absence becomes alarming in the light of the fact that in the quest for efficiency based on “ownership” of the development agenda by the recipient state and groups, more and more international organisations are engaging directly with domestic FBOs in the delivery of international aid. For example, the Global Fund to Fight AIDS, Tuberculosis and Malaria (Global Fund) through its country coordinating mechanisms engages directly with FBOs as agents for delivery of its programmes in the areas of Malaria, AIDs prevention and Tuberculosis (Global Fund, 2011).

Given the large amounts of donor funds<sup>3</sup> being channelled through faith-based organisations for development work at national and international level there is an urgent need, especially within the context of the current global economic crisis, to understand the dynamics of accountability of FBOs as agents of development. This paper argues that an evaluation of the performance of mechanisms governing the accountability of FBOs indigenous to their area of activity

(developing countries) in relation to ensuring that FBOs “give account” and their stakeholders being able to “take” and “hold” FBOs to account will provide a most essential first view to donors of what to expect in terms of accountability of funds channelled through FBOs in such countries.

Using Nigeria as a case study<sup>4</sup>, an evaluation of the performance of mechanisms governing the accountability of FBOs in developing countries finds that the ability of such mechanisms to ensure that that FBOs give account to their stakeholders and for stakeholders to take FBOs into account and hold them to account is limited by political and structural inadequacies born of the weak nature of the Nigerian state and the loopholes in the legislations<sup>5</sup> backing external accountability mechanisms.

The methodological approach followed is qualitative in nature. Data was collected from a combination of fieldwork, public records (Nigeria and UK), on-line archival search (websites/web pages of Christian and Muslim FBOs and NGOs in Nigeria)<sup>6</sup> and analysis of secondary sources on FBOs generated by research centers and programmes such as the Religion and Development programme (University of Birmingham), the ESRC Non-governmental Public Action Programme (University of Birmingham), Berkley Center for Religion, Peace and World Affairs (Georgetown University).

The paper is in four parts. Part one presents the model for assessing FBO accountability in Nigeria and establishes the relationship between accountability, religion, development and FBOs. Part two discusses faith-development relations in Nigeria while part three, the core of the

paper examines the dynamics of FBO accountability in Nigeria. The conclusion argues that due to political and structural inadequacies born out of the weak nature of the Nigerian state and inconsistencies in the enabling legislations for each mechanism, the mechanisms are unable to ensure adequate internal accountability of funds released to FBOs by international agencies it examines the case of the Global Fund and the Christian Health Association of Nigeria Organization.

### **Accountability**

Accountability is of utmost importance in international development policy and practice because it underpins the legitimacy of the process of global governance of development aid and of the international organizations who are the key actors in the process. Processes of global governance are associated with considerable challenges as their legitimacy cannot be resolved easily using the options available to nation-states such as representation and elections (Bartsch, 2007).

Organizing authority and control of global governance therefore requires a focus on accountability; on “the essentials which lay behind the principle of democratic legitimization, namely, the notion of an accountability relationship between the state and its citizens” (Bartsch, 2007). A notion of accountability can thus contribute to an enhanced legitimacy of global governance and is crucial to an ethical case for aid.

Accountability means “to have to answer for one’s action or inaction, and depending on the answer, to be exposed to potential sanctions” (Dann, 2006). It refers to a chain of relationships in which actors are accountable upwards (to donors and other actors that have formal authority over



the organisation), downwards (to target groups and beneficiaries but also to other groups and individuals that the organisation might affect directly and indirectly) and inwards (to organisational missions, vision and values).

Underlying accountability is the notion “that progress towards goals, commitments or responsibilities are assessed, and those responsible for action in these areas are held to account in some public fashion” (Collins *et al*, 2008). Therefore, accountability has beneficial effects not only for an organisation’s stakeholders, but for the organisation itself. Amongst others, it promotes a culture and practice of compliance with organisational policies, it advances learning and innovation, and enables the organisation to maximise its potential in relation to internal and external actors. The ultimate aim of accountability is not to pass judgment but to improve performance ‘either because outside critiques help those responsible learn to refine their work, or because accountability mechanisms bring with them a perceived price to pay for underperformance’ (Collins *et al*, 2008).

Promoting accountability therefore requires identifying who is to be held accountable for what, to whom and how. In other words, “It is [...] essential, in thinking about accountability in a given situation, to distinguish between agents, individuals or organizations that make decisions, and their principals, who have authorized their actions” (Keohane, 2002).

Asking *who* is accountable focuses on the agent. Ebrahim (2003) has identified three possible types of NGOs: Membership NGOs; Service NGOs and Network NGOs. Membership NGOs are largely oriented towards serving the interests of their members. They operate on the basis of

common interests and pooled resources and are not always non-profit. Service NGOs are organizations whose orientation is charitable in the sense that there is no profit motive. Network organizations operate through networks that may be regional, national or transnational in scale. They are usually involved in issue-based advocacy work and structurally can be formal or informal/fluid in nature.

To “*Whom*” they are accountable enables us to identify the “principal” to whom the agent is accountable. Following Ebrahim and deploying the principal-agent model theory, membership NGOs are accountable largely to their members. They are both their own principals and agents. Service organizations on the other hand, are responsible to their funders (Public agents, foundations, individual donors, corporate sponsors, international organizations and Northern NGOs); sector regulators (Government as well as self-regulating groups) and clients and communities such as beneficiaries, users of services and members. Finally, network NGOs are accountable to their members individual and organizational.

“*How*” covers the issue of the mechanisms of accountability available to principals. Accountability mechanisms serve to prevent and, whenever necessary, to punish, unethical, illegal or inappropriate behavior (Ebrahim & Weisband, 2007). For Schedler, Diamond and Platter, “the purpose of accountability mechanisms is to prevent and address the abuse of power in order to keep its exercise in line with the pre-established rules and procedures” (Schedler, 1999).

Mechanisms of accountability refer to “devices that serve to secure whatever it is (actions, results or intentions) for which people are accountable. They are instruments for calling people into account, for judging the adequacy of the accounts rendered, and for bringing sanctions to bear for failures to produce an adequate account” (Goodin, 2003).

**Table I: Table 1: Accountability Among NGO Types (Ebrahim, 2003)**

<b>NGO Type</b>	<b>Orientation</b>	<b>Accountability to Whom? (Principal)</b>	<b>Mechanisms of Accountability</b>	<b>Key Accountability Characteristics</b>
Membership organization	Self-help development	Member or self	Franchise, reform (voice); dues (exit)	Member centered
Service organisation	Charitable development	Funders, sector regulators, clients	Future funding, reporting, evaluation and performance assessment ; laws and disclosures ; codes of conduct; stakes-holder authority (voice) ; refusal of services (exit)	Contingent, multiple, weal towards clients
Network organization	Issue-based policy change	Individual members, organizational members	Lobbying, litigation, protest, fact-finding, transparency, coordination	Collective and negotiated

Members as principals of membership NGOs can exercise accountability through franchise (voting) and revoking of membership and dues. Principals of service NGOs can hold them accountable through control of funding, reporting, evaluation and performance assessments; the law and disclosure rules; codes of conducts, stakeholder authority (voice) and refusal of service (exit). Accountability mechanisms available to members of Network NGOs include lobbying,

litigation, protest, negotiation, fact-finding and demanding transparency in the reporting of information and events.

More importantly, all accountability mechanisms must be able to fulfill three tasks: *giving account, taking account and holding to account*. *Giving account* requires provision of information in three areas: input (sources of funding and amounts of funds), throughput (internal processes of the organization), and output (use of financial resources and performance of organization). To be effective, information provided must be accessible (multiple languages), timely (provided in a time-frame which gives stakeholders the possibility to react) and useful (not too little or too much).

*Taking account* involves increasing organizational responsiveness to stakeholders in the form of facilitation of communication processes and integration of stakeholders into the institutional structures of the organization. To *hold to account*, stakeholders must be able to sanction undesired activities of the organization or its members. Sanctions must be geared or responsive to the power-base or sources of the various stakeholders (Bartsch, 2007). Accountability is achieved when mechanisms of accountability are able to ensure that organizations provide information that is accessible, timely and useful (giving account) enabling stakeholders to participate actively in its policy making processes (take account) and exercise control through sanctions (hold to account)

## **Faith and Development in Nigeria**

A faith-based organization is ‘any organization that derives inspiration and guidance for its activities from the teachings and principles of the faith or from a particular interpretation or school of thought within the faith’ (Clarke & Jennings, 2008). At a minimum, FBOs must be connected with an organized faith community either in the form of a particular faith ideology, drawing of staff, volunteers, or leadership from a particular faith denomination (Scott, 2003). Other qualities that qualify an organization as “faith-based” are religiously oriented mission statements, the receipt of substantial support from a religious organization or the initiation by a religious institution. FBOs can be classified on the basis of their: ‘objective’ or ‘function’ (Clarke, 2006); implicit or explicit connections to faith (Jeavons, 1998; Smith & Sosin, 2001) and organizational size/geographic area of service (Cnaan, 1999, McCarthy & Castelli, 1999) with all having implications for FBO accountability.

Nigeria is characterized by a rich variety of religious tendencies. Christianity, Islam and African Traditional Religions dominate the religious landscape of Nigeria. Muslims and Christians in Nigeria are organized in denominations (Christians) and sects (Muslims). Amongst the Christians, the most prominent denominations are:

- The Protestants (mainstream such as the Anglicans, the Baptists, Methodists) grouped in the Christian Council of Nigeria
- The Catholics grouped in the Catholic Bishops Conference of Nigeria (CBCN) which has the Catholic Secretariat of Nigeria (CSN) as its administrative secretariat,
- The Indigenous churches grouped in the Nigerian Association of Aladura Churches,

- The Reformist/Born-Again churches grouped in the Pentecostal Fellowship of Nigeria (PFN) and
- TEKAN/ECWA, a fellowship of six indigenous churches that grew out of the Sudan United Mission in North-eastern Nigeria (Suberu, Mala & Aiyegboyin 1999; Adogame, 2010).

The Roman Catholic constitute the largest Christian single denomination in Nigeria (28%). The Protestants (Anglicans, Baptists, Presbyterians, Methodists and Lutherans) total 31 %. The Evangelical and Pentecostal Institutional Churches make up the rest of the Christian population in Nigeria (Pew Forum, 2006; Odumosu & Simbine, 2011). The organization of Muslim faith in Nigeria follows the broad line that exists within the Muslim faith worldwide: Sunni and Shi'a. Majority of Nigerian Muslims belong to the Malaki School of the Sunni branch of Islam. The main difference is that what is referred to as the Shi'a movement in Nigeria is actually a blend of blend of Shia and Sunni Islam introduced by Ibrahim el-Zakzaky (Umar, 2001).

Active FBOs can be found in almost all the states of the federation, although, not all are registered and not all registered FBOs are very active. Faith plays a very important role in the activities of FBOs in Nigeria. For example, issues such as staff recruitment and programme orientations of FBOs in Nigeria are influenced by the doctrinal interpretations (Sunni/Shia or protestant/orthodox) subscribed to by the particular FBO. FBOs show variations in size (Odumosu & Simbine, 2011) from organizations with national presence such as Christian Association of Nigeria and FOMWAN to local/district/city-wide FBOs such as pro Labore missionary group or Abuja Muslim Movement.

FBOs in Nigeria provide health and educational services through their hospitals, clinics and maternities, schools and colleges, vocational training centers, seminaries and universities. They own economic institutions such as bookshops, hotels, banks, insurance, mass media and ICT companies and are also prominent owners of real estate in the form of sacred cities and prayer camps which cover thousands of hectares of land. The land on which their hospitals, schools and orphanages are situated also make up part of their real estate portfolio (Adogame, 1999).

FBOs in Nigeria are therefore principally service organization they have as their principals donors (state, international organizations and Northern NGOs, sector regulators (religious networks, state ministries and agencies) and their clients (users of their services). The principals' of FBOs in Nigeria have at their disposal for ensuring the accountability of FBOs legal, registration and reporting, taxation, service regulation rules and self-regulation mechanisms. An assessment of the capacity of these mechanisms to ensure “giving account”, ‘taking account’ and ‘holding to account’ of FBOs in Nigeria is the goal of the next section.

### **Assessing FBO Accountability Mechanisms in Nigeria:**

The Nigerian state engages with FBOs in the form of a donor and as the body charged constitutionally to regulate the activities of all development actors operating within Nigerian territorial space and protect the interest of their clients: the Nigerian citizen. While Sections 10 and 38 (1) of the Nigerian constitution restricts the state involvement in FBO affairs, the state can and does exert accountability over the activities of FBOs through legal and fiscal (tax) mechanisms and instruments/incentives governing the services FBOs provide.

**Legal accountability:** refers to the requirement that agents abide by formal rules and be prepared to justify their actions in those terms in courts or quasi-judicial arenas (Grant & Keohane, 2005). In Nigeria, the basic legal standing of FBOs is established by the legal framework that governs non-governmental organizations in Nigeria (Iheme & Okoroji, 2001), the Companies and Allied Matters Act (CAMA) 1990. Under Section 590 of the Companies and Allied Matters Act (CAMA) 1990, a non-governmental organization (NGO) is defined under Nigerian law as “an association of persons registered for the advancement of any religious, educational, literary, scientific, social development, cultural, sporting and charitable purpose. They are classified as “non-profit making organizations”. Thus, FBOs under Nigerian law are non-governmental organizations and non-profit in orientation.

The primary regulator of NGOs, part of which are FBOs, in Nigeria is the Corporate Affairs Commission (CAC). CAC is charged with the regulation and supervision of the formation, incorporation, management and winding up of companies via the Companies and Allied Matters Act 1990 (Iheme & Okoroji, 2001). NGOs in Nigeria may register as a company “limited by guarantee” [CAMA §26(1)] or as an “incorporation of trustees” (by which the trustees of the NGO, rather than the NGO itself, obtains the status of a body corporate regulated by Section C of CAMA 1990).

Association by incorporated trustees can take two forms: where the trustees are appointed by any community of persons bound together by customs, religion, kinship or nationality and the trustees are appointed by anybody or association of persons established for any religious,



educational, literary, scientific, social, development, cultural, sporting, or charitable purpose) [CAMA §673]. The overwhelming majority of FBOs in Nigeria are registered under Section C of CAMA 1990 and so mostly take the form of trustee incorporated NGOs.

CAC is empowered by Section C of CAMA to ensure:

- The registration of organizations such as FBOs as “Association by incorporated trustees” for operations in Nigeria (S. 673-678). The CAC has wide discretion in determining whether or not to approve registration and there is no specific provision made in CAMA 1990 for appeal against a possible rejection of an application for registration but an application for judicial review can be brought under the common law rules (Iheme, 2001)
- That boards/governing councils of trustee incorporated associations are properly constituted with trustees included as members of the board/council (S.684).
- That there is no conflict of interest involving the members of the governing boards/council in the form of their deriving pecuniary benefits from activities of the organization [S.686(2)].
- That the powers of the trustees shall be exercised subject to the directives of the association or the council or governing body (S.684).
- Proper winding up/dissolution of the organization via the courts upon a petition brought for such a purpose by a governing council or one or more trustee or fifty percent of the total membership or CAC [691(1); S.21 (9)].
- Submission of annual returns not earlier than 30<sup>th</sup> of June or later than 31<sup>st</sup> of December each year (S.690).
- Levy a fine on each defaulting organization (Iheme, 2001).

CAC is limited in its exercise of the powers of oversight conferred on it by CAMA by the following inadequacies in CAMA (1990) and in its own administrative structure:

- Under the laws of Nigeria, most organizations need not be registered before they can be recognized in law as existing even if not as body corporate. This loop hole provides organizations including FBOs protection from the oversight function of CAC.
- CAMA (1990) does not distinguish between religious organizations and secular organizations.
- The CAC does not keep a general register of NGOs in Nigeria rather it keeps a register of all companies it registers (including NGOs) in Nigeria such a lack in the light of CAMA (1990) not distinguishing between secular and religious organizations limits the ability of CAC to maintain oversight of FBOs in Nigeria.
- The CAC does not purge defunct organizations from its register nor maintain a list of organizations denied registration or sanctioned and so cannot adequately ensure that boards of trustee incorporated organizations are properly constituted or that there is not conflict of interest in the activities of its members.
- CAMA (1990) lack of provision for the enforcement of the rights and duties of the members on their behalf by CAC limits CACs ability to hold board accountable to their members.
- CAMA (1990) provisions that internal governance of trustee incorporated organizations be governed solely by their constitutions and that third parties including public authorities would usually lack the locus standi to bring suits for the enforcement of rules of internal governance places internal accountability of these organizations completely outside the oversight of the CAC.

- CAMA (1990) does not provide special rules for the regulation of foreign NGOs in Nigeria other than that they go through registration like all other NGOs or they will be in the same position as an unregistered Nigerian NGO effectively placing them outside the oversight of CAC a situation that is made worse by the fact that CAMA makes no special rules for the regulation of receiving of grants from foreign agencies.
- CAMA (1990) does not preview a situation whereby trustee organizations can engage in merger or split-up outside the provisions for their dissolution/winding up. It thus means that these organizations can avoid CACV oversight of their activities especially of their investments and properties by engaging in mergers and split ups.
- CAMA (1990) does not adequately empower CAC to keep an eye on the investments of the property or funds of trustee incorporated associations. Therefore, CAC's ability to ensure that there is no conflict of interest in the activities of the boards or management is restricted.

**Tax Treatments and Benefits:** The Federal Inland Revenue Service oversees NGO tax compliance in-line with the provisions of the Companies Income Tax Act 1961. CITA empowers FIRS to:

- Monitor NGOs compliance with the tax incentives offered by the Government of Nigeria to NGOs established in Nigeria in order to ensure that the tax incentives or benefits are appropriately enjoyed and not abused (FIRS, 2010). The tax incentives enjoyed by Nigerian NGOs and monitored by FIRS include: exemption of their profits (other than those derived from trade or business carried out by them) from income tax<sup>7</sup>; zero rate of Value Added Tax (VAT) for their humanitarian services<sup>8</sup>; tax deductible donation not

exceeding 10% of the total profits for the year for any company making donations to an NGO listed under the 5th schedule to CITA.<sup>9</sup>

- Ensure that the obligations associated with the tax benefits are complied with by the NGOs. The obligations include: pay income tax (on income derived from NGO investment of its assets in any institution), capital gains tax (where assets are disposed of by the NGO at a gain; Value Added Tax (VAT) on goods and services consumed except those purchased exclusively for its humanitarian projects or activities) and tax as when due on non-exempt activities; register with the nearest Integrated Tax Office (ITO) of FIRS; file tax returns; maintain accurate record of employees; maintain proper books of accounts; deduct Pay As You Earn (PAYE) from employees' salary and remit same to the appropriate tax authority and deduct withholding tax (WHT) on payments made to its contractors/suppliers and remit same to appropriate tax authority (FIRS, 2010).

In carrying out its accountability functions as stipulated by CITA (1961) the FIRS faces the major problem of enforcement capacity. The World Bank, in its report on the Observance of Standards and Codes (ROSC) on Nigeria, observed that accounting and auditing practices in Nigeria suffer “from institutional weaknesses in regulation, compliance and enforcement of standards and rules” (World Bank, 2004).

The report noted that

- Although Nigerian Accounting Standards (NAS) have been based on International Accounting Standards (IAS), NAS have not been reviewed or updated in line with current IAS, and in many cases there are no equivalent NAS to current IAS;

- National auditing standards do not exist; auditors are advised to follow International Standards on Auditing (ISA) although such compliance is not mandatory.
- there appears to be inadequate adherence to auditing standards and professional as ethics ethical codes for auditors in Nigeria are not in line with international requirements.
- Except within the banking sector, monitoring and enforcement mechanisms are very weak.

The resulting poor financial reporting and auditing regime cannot sustain an efficient tax administration system in Nigeria. The situation is worsened by:

- Absence of rules in CAMA (1990) empowering CAC to regulate receiving foreign exchange.
- Absence of special rules in CAMA (1990) empowering CAC to regulate foreign NGOs in Nigeria.
- The CAMA (1990) does not foresee the issue of mergers and split-ups of NGOs
- The permissive character of the Trustee Investment Act of 1957 which encourages but does not compel boards to invest in certain types of securities (government bonds, stocks and debentures of quoted companies).
- Lack of limitations on administrative expenses an NGO can claim.
- Limitation born out of the fact that NGOs report on the basis of fund accounting, receipts and expenditures rather than on a balance sheet and statement of profit and loss especially where the organization is not engaged in commercial or business activities (Iheme, 2001).

**State Regulation of FBO Services Provision:** State regulation of services provided by FBOs and other non-state service providers seeks to ensure that services are delivered in an efficient, fair and sustainable manner, whilst bearing in mind social priorities set out by policy makers (both at national and local government level) (Batley & McLoughlin, 2009). State regulation of services forms the basis on which non-state service providers (NSPs) are prohibited permitted or encouraged to operate. It can, on one hand, seek to suppress non-state activity or, on the other, to promote it's more efficient operation. It is therefore an efficient way of holding FBOs accountable in Nigeria as they are the main service providers in Nigeria.

State regulation can take two (2) broad forms: command and control approach which is known as the stick (e.g. registration) which seeks to place controls on “entry” into the market and facilitation: the carrot, where incentives are used to provide stimulus to conform (Palmer, 2006). Regulation through command and control involves using force of law to impose fixed standards e.g. health and safety regulations while regulation by facilitation can involve the use of incentives (e.g. payment or inputs such as training and equipment) in return for compliance with required standards.

Assessments of the use of command and control regulations/facilitation mechanisms to regulate the activities of NSSPs in Africa shows that they face enforcement limitations linked to corruption, weak administrative and accounting skills, low capacity for monitoring, performance assessment and enforcement; vested professional interests; inadequate information on price and performance; state bureaucrats lack of experience of regulation; mistrust between regulators and NSPs; blurred boundaries between state and non-state activities – the regulators and the

regulated; economic and political instability; political pressure on regulator (Larbi *et al* 2004, Larbi, 2005; Palmer, 2006, Bano, 2009; Batley, 2006; Batley & McLoughlin, 2009).

This is the case in Nigeria where regulatory quality as measured by the World Governance Index (World Bank, 2010) from 2002 to 2010 was never above 25.4 (2009) on a possible percentile rank of 100 nor was “government effectiveness” ever above 22.0 (2005) within the same time period. The situation is worsened by the fact that a lot of service providers in Nigeria prefer to remain unorganized because of the corruption of state officials, lack of voice and accountability, poor rule of law. The highest value of the “control of corruption index” for the period 2002 to 2010 was 21.4 (2008).

For “voice and accountability”, it was 30.8 (2006) while the rule of law index for Nigeria maxed out at 12.0 (2007). These low values are in spite of the Nigerian state’s massive investments in accountability oversight mechanisms in its public services such as “Due Process Mechanism and Transparency through the Budget monitoring and Price Intelligence Unit; the Economic and Financial Crimes Commission (EFCC) and the Independent Corrupt Practices Commission (ICPC), during the period under review.

**Accountability of FBOs through Private Voluntary Regulation:** Another option available to principals for ensuring the accountability of FBOs is self-regulation or voluntary regulation by peers. The term self-regulation refers to a set of institutions in which standards and rules of conduct are set by an industry-level organization, rather than at the governmental or firm level (Gunningham & Rees, (1997). Self-regulatory regimes may be fully private, that is, may operate

without any authority from or coordination with the state, or may involve some public-private coordination or delegation of authority to non-state actors. Thus self-regulatory regimes can operate either as a substitute for or a supplement to government regulation (Gugerty, 2007, 2009).

What determines the effectiveness of the self-regulation mechanism is the strength of its institutional design. The institutional design of self-regulation consists of two mechanisms: clear standards for entry into the system and the behavior to be regulated and credible enforcement systems that include monitoring and the ability to detect and sanction non-compliance. Thus for a self-regulation mechanism to be effective it must have a strong institutional design in order to ensure the information flow that is vital for signaling the rules governing entry and the actual content of the regulatory regime (the specification of monitoring and other forms of performance measurement, the rules governing disclosure of monitoring information, and the specification of sanctions in cases of non-compliance).

African NGOs favor three models of Self-regulation: National Guilds: consists of a collaborative arrangement between governments and NGOs<sup>10</sup>; NGO-led Clubs which are associations that create a set of standards, reporting requirements, and monitoring mechanisms to which participating organizations agree to adhere and Voluntary Codes of Conduct developed and sponsored by an industry association.

The three forms of self-regulation mechanism popular in Africa differ in their institutional design and in extension their popularity. The National Guild and NGO- led clubs are very difficult to



construct and not widely adopted by NGOs in Africa because they have very high standards and strict enforcement regimes which require relatively strong institutional structures to exercise effective regulatory power. Voluntary Codes on the other hand are widely adopted by NGOs in Africa seeking to self-regulate because they often have broader standards and weaker enforcement hence do not require strong institutions and are easier to construct.

In Nigeria, a dedicated national self- regulation system covering all FBOs does not exist. The Civicus Civil Society Index survey for Nigeria (2007) shows that a small majority of Nigerian NGOs (including FBOs) belonged to umbrella organizations. When the effectiveness of these organizations was assessed, the majority of the stakeholders were undecided as the table below shows:

**Table 2: Stakeholders' Perception of the Effectiveness of CSO Federations/Networks (CIVICUS 2007)**

<b>Measure of Effectiveness</b>	<b>Percentage of Respondents</b>
Completely ineffective	N/A
Largely ineffective	17.6
Mixed	52.9
Generally effective	29.4
Don't know	N/A
<b>Total</b>	<b>99.9</b>

When self-regulation is specifically discussed, the responses from the community survey showed that a small minority of stakeholders (11.7%) felt that mechanisms for self-regulation were in place and functioned effectively. By contrast, about one-third of the stakeholders were of the view that no efforts are being made by CSOs to establish codes of conduct or other means of self-regulation.

A further one-third of the stakeholders were of the view that some mechanisms for self-regulation are in place but there is limited impact. The overall assessment of peer regulation by NGOs in Nigeria is generally poor and this fits into the broader pattern in Africa associated with the adoption of voluntary codes of conduct: broader standards and weak enforcement.

### **Internal Accountability of Nigerian FBOs**

The various limitations identified with the capacity of external mechanisms for ensuring FBO accountability in Nigeria raises the importance of internal accountability of FBOs in Nigeria. Internal Accountability refers to the accountability of an organization to its stakeholders. It refers to a chain of relationships in which actors are accountable which actors are accountable upwards (to actors that have formal authority over the organization), downwards (to target groups and beneficiaries but also to other groups and individuals that the organization might affect directly and indirectly) and inwards (to organizational missions, vision and values). Upward, inward and downward accountability are usually ensured through hierarchical and horizontal accountability mechanisms.

Though CAMA (1990) gives Trustee Incorporated Associations (TIA) the right to decide via their constitutions their internal management structures their officers, their policies and internal relations with other officers and organs, quorum, voting and proceedings at meetings- (Iheme, 2001b), it is possible through an examination of the functions assigned to CAC by CAMA (1990) to identify the internal accountability mechanisms of TIA such as FBOs. The following provisions of Part C of CAMA (1990) authorize the presence, power and composition of a governing board or council:

- The trustee or trustees shall become a body corporate and shall have perpetual succession and power to sue and be sued on behalf of the organization;
- The organization “may appoint a council or governing board which shall include the trustees and may... assign to it such administrative and management functions as it deems expedient (S.684)
- The powers of the trustees under the Act (CAMA 1990) shall be exercised subject to the directions of the Association or of the Council or governing body”

Section 682 (2) recognizes the presence and nature of the management thus:

- With the exception of ex-officio members of the governing council, no member of a council of management or governing board shall be appointed to a salaried office or any office of the body paid by fees.

The section recognizes the right of the organization to remunerate its staff. The payment of salary to the staff rather than to the board members suggests that they (staff) perform roles that different from those of the board members. The section also specifically identifies a category of its staff as having the right to participate in board meetings as ex-officio members. The differences in the duties of the board and staff can be said to constitute a system of check and balances that make up the internal accountability mechanism of the TIA (FBO).

What is clear from the provisions of CAMA (1990) as discussed above is that there exists a link between external accountability mechanisms of FBO accountability (CAC) and the internal

mechanisms of FBO accountability, (the board and management) especially their effectiveness and efficiency given that the CAC is empowered by CAMA (1990) to ensure that the regulations that set-up the board and management and their functions are followed by the TIA.

Will the identified inefficiencies of CAC affect the functions of the internal accountability mechanism of the TIA? An assessment of the activities of the board and management of the Christian Association of Nigeria shows that it does. The Christian Health Association of Nigeria (CHAN) is an ecumenical, not for profit service organization established to coordinate church sponsored health activities in Nigeria. The organization has a membership of 140 hospitals and 187 clinics which together contribute over 40% of Nigeria's health care. The Global Funds Country Control Mechanism nominated CHAN as a principal Recipient (PR) for the Round 5 Phase 1 TB program which ran between 1 January 2007 and 30 June 2009 (Global Fund, 2011).

During the period, the Global Fund disbursed \$ 23.9 million against a budget of \$25.7 million to CHAN. The Global Fund in its assessment of the performance of CHAN noted that:

“The there was no evidence that the National Executive Council of the CHAN which was responsible for providing governance and oversight over CHAN's activities (staff) did so as the NEC held only two meetings throughout the period the association was a PR of the Global Fund which was contrary with the constitution that at least three meetings be held annually. Furthermore, there was no evidence that the four sub-committees (finance, appointment, promotions and discipline) held any meetings. A review of the minutes of

the two board meetings revealed that no attention was given to the Global Fund program”  
(Global Fund, 2012)

The failure of the board in its oversight of the staff led to the massive mismanagement of Global Fund monies by the staff. The Global Fund report noted that:

“There was evidence of management override of controls which led to a further break down of the internal control system as seen by the use of program funds for non-program activities, payment of significant program funds to non-program staff and transfer of program funds to non-program related foreign bank accounts. All these transactions, which were approved by senior management, were in contravention of the grant agreement (with Global Fund). A total of \$130,450 was lost due to these irregular transactions” (Global Fund, 2012).

It can be argued that if the external accountability mechanisms most especially CAC and FIRS had not been structurally and legally incapacitated, the above identified misdeeds of CHAN would not have occurred or would have been noticed early and nipped in the board. One can therefore conclude that the ineffectiveness of the external mechanisms encourages a culture on non-accountability within the NGO sphere in Nigeria. In other words, it generates a “logic of appropriateness” that is encouraging of corruption and lack of accountability within NGOs in Nigeria as the case of the blatant corruption and mismanagement of Global Fund monies by the management of CHAN has shown.

## **Conclusion**

FBOs are important service providers in Nigeria, hence their attractiveness to international development actors seeking aid effectiveness and local ownership of development programmes in line with the Paris and Accra declarations on Aid. The quest for aid effectiveness underlines the importance of understanding the dynamics of FBO accountability in developing countries such as Nigeria. As service organizations, FBOs are accountable to their funder, domestic service regulators and their clients/beneficiaries. These principals have at their disposal legal, financial, service provision oversight and peer regulation mechanisms for ensuring the accountability of FBOs in Nigeria.

An assessment of the mechanisms for ensuring FBO accountability in Nigeria shows that such mechanisms lack the capacity to hold FBOs accountable due to political and structural inadequacies born out of the weak nature of the Nigerian state and the inconsistencies in the enabling legislations for each mechanism. The mechanisms are unable to provide generate information that is useful on sources and amounts of funding available to FBOs, their internal processes, the services they provide, the quality and scope of their service delivery and financial activities. Such lack of useful information limits the ability of stakeholders (donors, state and clients) to participate in the activities of FBOs and to hold them to account through withdrawal of funding (donors) or by protesting/complaining (voice) or refusal to take up services offered by FBOs (exit).

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<sup>1</sup> Between 2002 & October 2007, the Global Fund to fight Aids, Tuberculosis and Malaria disbursed \$ 110,356, 890 to FBOs out of an \$185,704.474 earmarked for FBOs globally. The Global fund also instituted a “Dual-Track” funding system to encourage the nomination of CSOs such as FBOS as principal recipients of its funds. The USAID in 2005 disbursed \$ 521million through 235 awards to FBOs which constitute 25% of USAID partners.

<sup>2</sup> ‘Charitable Choice’ provisions of the 1996 Welfare Reform Act and the 2001 Faith-based and Community Initiatives Act’ and December 2002 Executive Order 13280

<sup>3</sup> Between 2002 & October 2007, the Global Fund to fight Aids, Tuberculosis and Malaria disbursed \$ 110,356, 890 to FBOs out of an \$185,704.474 earmarked for FBOs globally. The USAID in 2005 disbursed \$ 521million through 235 awards to FBOs which constitute 25% of USAID partners.

<sup>4</sup> FBOs in Nigeria or managed by Nigerians abroad have been implicated in serious fraud cases in the last couple of years. See Ukah Piety and Profit - Accounting for Money in West African Pentecostalism (Part 1& 2)

<sup>5</sup> The Companies and Allied Matters Act (CAMA) 1990 of Nigeria

<sup>6</sup> <http://www.devdir.org/files/Nigeria.PDF> for list of development NGOs in Nigeria; <http://www.nnngo.org> for membership list (800 members); <http://www.esinislam.com/> for directory of Islamic organizations in Nigeria; <http://pubs.futuresgroup.com/3527ENHANSEovc.pdf> Directory of Orphans and Victimized Children CSOs in Nigeria

<sup>7</sup> Section 23(1) of the Companies Income Tax Act (CITA) Cap C21,LFN 2004; Section 23(c) of CITA and Section 19, Para 13 Third Schedule of PITA (Personal Income Tax Act)

<sup>8</sup> Section 3 of Value Added Tax Act (VATA) Cap. VI LFN 2004 as updated and 1st Schedule to the Act on goods and Services exempted and zero rated goods

<sup>9</sup> Section 25(3) of CITA (Companies Income Tax Act)

<sup>10</sup> In national NGO guilds, the government sets the mandatory membership requirement for all NGOs, usually as a condition of registration. Establishing a national guild system requires governments to cede some powers to the NGO association

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