

[Nigeria | Secure an enabling environment for defenders](#)

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Given the existence of several laws which currently regulate the activities of NGOs and defenders in Nigeria, the Nigerian legislature should desist from adopting an [‘Act for the Establishment of the Non-Governmental Organizations Regulatory Commission for the Supervision, Co-ordination and Monitoring of Non-Governmental Organizations, Civil Society Organisations and related matters’](#): indeed, such a regulation poses a dangerous threat to the operation and advancement of civil society organisations and defenders in the country, and facilitates the legislature’s quest to stifle dissent despite the guarantee of freedom of expression and association provided by the Constitution.

This is not the first time that Nigeria tries to pass a law which will only add more constraints to the work of civil society. Since 2014, several Bills have been presented to the National Assembly for review, all with the aim of controlling NGOs’ financing and regulating their work. These laws include the [Bill to Regulate the Acceptance and Utilization of Financial/Material Contributions of Donor Agencies to Voluntary Organizations](#) of 2014 and the Civil Society Regulatory Commission (Establishment) Bill or Civil Society Commission of Nigeria Bill of 2016. These Bills coincide with Nigeria’s vote against the Human Rights Council’s landmark [resolution on the protection of human rights defenders addressing economic, social and cultural rights](#), in March 2016.

The draft NGO Bill, containing 7 chapters and 58 clauses, was introduced in the House of Representatives by the late Umar Buba Jibril- the former Representative of the Kogi State- on 2 June 2016 and passed the second reading stage on 14 July 2016. It was introduced based on assertions of fraudulent activities by some NGOs, including claims that some Nigerians have registered NGOs, solicited funds and absconded, while others have been used to fund terrorist activities, necessitating a law to facilitate accountability and transparency. However, [the existence of several laws fulfilling the same purpose-](#) including the [Companies and Allied Matters Act \(CAMA\) of 2004](#); the [Companies Income Tax \(Amendment\) Act \(CITA\) of 2007](#); the [Tax and Levies \(Approved List for Collection\) Act of 1998](#); the [National Planning Commission Act of 2013](#); the [Terrorism \(Prevention\) Act of 2011](#); and the [Money Laundering \(Prohibition\) Act of 2012](#)- starkly contradicts the alleged lacuna.

While there is uncertainty about whether and how the Bill will progress following the unfortunate passing of Umar Buba Jibril in March, the larger issue of over-regulation remains and must be addressed. The effect of restrictive legislation, for example, the Terrorism (Prevention) Act 2011, is the criminalisation of dissent. The government has used the law to threaten those who exercise freedom of expression with a criminal charge for

spreading 'hate speech, anti-government and anti-security information', all terms lacking a clear definition.

ISHR is also deeply concerned by the content of the Bill. It imposes tight controls on the registration, funding and operation of civil society organisations under false pretenses of enabling and encouraging them to fulfil their objectives and ensuring their accountability, facilitating the gradual erosion of civil society space. This can be identified in article 8, which empowers the proposed Commission to 'coordinate' the work of all national and international NGOs operating in Nigeria, and to provide them with 'policy guidelines for harmonizing their activities to the national development plan of Nigeria'.

In other words, article 8 binds the interests of NGOs to the interests of the State, stripping them of their autonomy, dictating their work and leaving little to no room for dissent or the exercise of fundamental freedoms, particularly the right to freedom of expression and the right to peaceful assembly and association under sections 39 and 40 of the Constitution.

Furthermore, NGO funding is subject to excessive control under article 29, stipulating that organisations must submit details of funds pledged by donors for project implementation. This administrative nightmare forces NGOs to rely on the political will and good faith of the government to allow them to effectively do their work.

The Nigerian legislature is rushing to over-regulate the non-profit sector while neglecting proper and adequate implementation of existing legislation and active civil society support and protection. None of the provisions of the draft Bill refers to the importance of the work of human rights defenders and the pressing need to protect them against work-related attacks. A stepping stone to remedying this would be the enactment of a national law for the promotion and the protection of human rights defenders, enabling them to work in a safe environment.

Instead of shrinking NGO space by controlling their every move, thereby restricting their work, Nigeria should follow the examples of Côte d'Ivoire, Burkina Faso and more recently Mali, where a national law for the protection of human rights defenders has been enacted.

While acknowledging that steps to prevent threats to national security need to be taken, such measures should not be at the expense of civil society organisations, defenders, or more broadly the protection of human rights. Since the Islamic armed group Boko Haram launched a spate of violent acts and terrorist attacks in parts of the country, defenders have been caught in a crossfire between the armed group and the security forces. For this reason, the State should focus on reinforcing the protection of human rights defenders.

It comes as no surprise, therefore, that prominent human rights lawyer Femi Falana has branded the draft Bill 'the worst piece of legislation' in Nigeria's history, adding that it threatens the existence of free and independent civil society in the country. A threat to freedom of expression is ultimately a threat to the citizens on whose behalf civil society organisations and human rights defenders advocate. The Nigerian government must keep this in mind if it truly strives to foster democracy, development and good governance for the Nigerian people.

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