

# AMNESTY INTERNATIONAL NIGERIA

MEMORANDUM SUBMITTED TO THE HOUSE OF REPRESENTATIVES COMMITTEE ON CSOS AND DEVELOPMENT PARTNERS ON BILL HB585

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## NGO Bill Threatens Freedoms in Nigeria

The HB585 bill – a bill for an act to provide for the establishment of the non-governmental organisations regulatory commission for the supervision, coordination and monitoring of non-governmental organisations, civil society organisations, etc, in Nigeria and for related matters (hereinafter referred to as the NGO bill) directly infringes on human rights guaranteed by the Constitution of the Federal Republic of Nigeria and various international treaties ratified and acceded to by Nigeria, including the rights to freedom of association and expression.

The NGO bill, as it stands, represents a serious threat to the existence of civil society in Nigeria and contravenes Nigeria's obligations under international human rights law. The bill, intended among other things to ensure the transparency and accountability of NGOs, imposes unnecessary and disproportionate restrictions on associations and would rather exert undue influence and control over NGOs, including allowing the government to determine who is able to form an association and to regulate every aspect of their operation.

We call on the House of Representatives to reject the bill.

### *Right to Freedom of Association*

Section 11 of the bill mandates all NGOs to register before the regulatory commission and prohibits, in Section 13, the operation of any NGO which is not registered. Section 15 further allows the regulatory commission to refuse the registration of an association on the basis of the vague and overly broad concept of "national interest" or simply because "it is satisfied that the applicant should not be registered" without any clear and objective guidance for such determination. Furthermore, Section 24 provides for penalties for individuals and groups who operate without registration of a fine of 500,000 Naira or up to 18 months imprisonment, and being banned for holding any position at an NGO for ten years.

The NGO bill also imposes burdensome administrative requirements on associations that would obstruct their operation, including an obligation to renew the registration of an association at least every two years. Moreover, Section 29 of the bill requires associations to disclose private information about their funding and the sources of it, putting the independence of associations and the safety of their members and donors at risk. Associations that do not comply with these burdensome requirements may be disbanded by the commission, as provided for by Section 20 of the bill.

The right to freedom of association is protected under Section 40 of the Constitution of the Federal Republic of Nigeria 1999 (CFRN 1999), which provides that "every person shall be entitled to assemble

freely and associate with other persons, and in particular he may form or belong to any political party, trade union or any other association for the protection of his interests.”

The right to freedom of association is also guaranteed in the African Charter on Human and Peoples’ Rights (ACHPR) – Article 10; the International Covenant for Civil and Political Rights (ICCPR) - Article 22; the International Covenant on Economic, Social and Cultural Rights (ICESCR) – Article 8; the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) – Article 7(c); the Convention on the Rights of the Child – Article 15; the International Convention for the Protection of All Persons from Enforced Disappearance - Article 24(7); the International Convention on the Protection of the Rights of all Migrant Workers and Members of their Families – Article 26; and the Convention on the Rights of Persons with Disabilities – Article 29. Nigeria has ratified all these treaties.

The UN Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms (Declaration on Human Rights Defenders), further recognises the key role human rights defenders (HRDs) and NGOs play as agents of change and contributors to the “effective elimination of all violations of human rights and fundamental freedoms”. In Article 5, it reinforces the right for all, individually and in association with others, to assemble peacefully, to form or join NGOs and to communicate with other NGOs or intergovernmental organizations.

The African Commission on Human and Peoples’ Rights (ACHPR) recently adopted the Guidelines on Freedom of Assembly and Association 2017, which provides a framework for States to ensure that their laws and policies enable and facilitate the ability of organizations to operate freely, including clear guidance on the establishment of a notification regime, rather than an authorization regime, that should govern over associations. The guidelines also contemplate that associations shall not be required to register more than once or to renew their registration.

The extensive scrutiny of associations over the argument of transparency and accountability which has been utilised in many countries as a form of harassment and intimidation intended to hinder their work. The UN Special Rapporteur on the rights to freedom of peaceful assembly and of association has in particular criticised laws that impose a prior authorization procedure for associations to be able to operate and has warned about laws and policies that request associations to undertake frequent, onerous and bureaucratic reporting requirements which eventually obstruct the legitimate work carried out by such organizations.

### *Right to Freedom of Expression*

By seeking to control which associations may be registered and establishing a procedure to de-register organizations that is open to its arbitrary application, the NGO bill poses a serious threat as well to the right to freedom of expression, including the right of human rights defenders and NGOs to know, seek, obtain, receive and hold information about all human rights. NGOs provide services to communities and the public at large and play a crucial role for the dissemination of information and to address matters of public interest. The right to freedom of expression encompasses as well the expression and receipt of ideas and opinions regarding human rights, including the development and discussion of new human rights ideas and principles, and the advocacy of their acceptance.

However, the overreaching powers contained in the NGO bill pose a substantial threat for NGOs and their staff from exercising their rights to freely express an opinion or publicly take a position without fear of reprisals. The constant threat to NGOs of being arbitrarily de-registered for being seen as critical of the government or for promoting views that are not accepted or tolerated by the authorities will certainly have a wide chilling effect on NGOs that would limit their ability to work freely. This would further impact directly on those individuals who NGOs work for, particularly where there is no safe platform for the individuals themselves to advocate in a safe manner and without fear of reprisals on issues that concerns them.

Section 39(1) of the CFRN 1999 provides: "Every person shall be entitled to freedom of expression, including freedom to hold opinions and to receive and impart ideas and information without interference."

The right to freedom of expression is further articulated in the ICCPR – Article 19 and the African Charter – Article 9; to which Nigeria is a party.

The right to freedom of expression is critical for the work of human rights defenders and NGOs, as without these they would not be able to perform their monitoring and advocacy work to promote and defend human rights. Therefore, they should be able to exercise this right freely, in an independent and impartial manner without undue interference by the government.

### *Conclusion*

Amnesty International has seen with concern the increasing laws and policies around the world that are restricting the ability of organisations to carry out their crucial work. Globally, we are seeing an escalation of attacks on human rights defenders and NGOs that speak out against injustice, including by the adoption of restrictive legislation that imposes undue restrictions on them. Constantly, states are adopting laws and policies under the guise of transparency and accountability that rather seek to exert control over civil society thereby effectively limiting their ability to work.

Nigeria has an obligation to respect and protect the rights to freedom of association and expression and to create a safe and enabling environment for human rights defenders and civil society. The NGO bill, if passed into law as it stands, will unduly restrict the space for civil society in Nigeria and could put their mere existence under threat in direct contravention of Nigeria's obligations under international human rights law.

We therefore urge legislators to reject the NGO bill and stop its passage to prevent this threat to human rights from materialising.

### **For further information, please contact**

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