



Protecting Freedom of Association in Nigeria: Successful Civil Society Opposition to Restrictive Billsⁱ

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Nigerian civil society organizations (CSOs) represent a critical link between people and their political leaders. Historically, they were instrumental in supporting the collective action that returned Nigeria to democracy after sixteen years of military rule in 1999, and in providing a voice for the people during and after the transition. Today, they work on a diverse range of issues including democracy promotion, social services provision, advocacy for transparency and accountability, and the protection of human rights.

Civil society in Nigeria includes churches, the press, community-based organizations (CBOs), and village unions. As of 2009, 46,000 CSOs had registered with the Corporate Affairs Commission of Nigeria under the Companies and Allied Matters Act (CAMA) 2004. According to section 40 of the 1999 Constitution of Nigeria, persons are guaranteed freedom of assembly and association, and organizations have the right to register at the federal and state levels. While the Constitution assures CSO independence, Nigerian civil society is not opposed to reasonable and smart regulation. However, the sector is already governed by at least nine [regulations](#), some of which limit freedoms in violation of the Constitution.

In recent years, civil society has come under increasing pressure. For instance, it has been [accused](#) by the Nigerian Army and elected representatives of providing information and logistical support to Boko Haram, due to civil society criticism of the military's heavy-handed tactics in the country's north-eastern city, Borno. Though they have not been established that this has happened to any significant extent, these accusations have led to the offices of humanitarian organizations being shut down and a call by the Speaker of the Nigerian House of Representatives, Femi Gbajabiamila, to strengthen oversight of the sector in ways that might threaten its ability to fulfill its purpose.ⁱⁱ

Across Nigeria, there is an increasing perception amongst politicians that many civil society groups are radical, and the current government often portrays civil society as being part of the political opposition or being linked to religious groups. Some have labeled civil society "agents of corruption and destabilization" in order to delegitimize civil society and divert attention from the critical issues CSOs focus on related to democratic accountability. Government paid trolls increasingly bully CSOs and their leaders on Twitter and other social media platforms.

Most recently, civic space in Nigeria has been threatened by attempts to introduce new restrictions on citizens' and peoples' rights that are ostensibly framed around "national security," "national interest," and promoting "transparency and accountability." They include the Protection from Internet Falsehood and Manipulation Bill 2019, the Prohibition of Hate Speeches and For Other Related Matters Bill 2019, and the Civil Society Regulatory Commission Establishment Bill 2020.

These bills, if passed into law, would have dealt a huge blow to Nigerian civil society by threatening the rights of assembly, association, expression and opinion. However, civil society was able to strategically and collaboratively mobilized broad public opposition to the bills, which were ultimately defeated. Here is how it happened.

Rights Threatened by Proposed Legislation

The [Protection from Internet Falsehood and Manipulation Bill](#), or “Social Media Bill,” was introduced in Nigeria’s House of Representatives in November 2019. The Bill posed a severe threat to freedom of speech in Nigeria by empowering the government to unilaterally shut down social media platforms for posts it deemed to pose risks to public safety and national security.

The Social Media Bill would criminalize posts that “potentially” incited feelings of enmity or hatred towards a person or group. However, it was dangerously vague regarding what constitutes “incitement,” allowing the Nigerian Police Force (NPF) to use its own “initiative” in determining whether posts are inciting based on “sufficing evidence,” which the Bill also failed to define.

The Social Media Bill would grant the NPF absolute power to order the National Communication Commission (NCC) to shut down the internet for specific users based on their locations, prescribe up to three years imprisonment and fines of up to 10 million Nigerian naira for infractions, and establish a complicated appeals process for the accused. The designation of the NPF as the implementer of the Bill is particularly problematic, because it is already overburdened, under-resourced, and poorly suited to police cyberspace.ⁱⁱⁱ Moreover, civil society argued that giving the NPF the authority to identify false statements violates Section 17 of the Constitution, which enshrines equality before the law.

Finally, the Social Media Bill would have mandated “targeted correction regulation,” compelling providers to inform users if they had encountered false or inciting information on their platforms. To implement this, civil society argued that providers would have to track users on their platforms in violation of best practices regarding data privacy.

The [Prohibition of Hate Speeches and For Other Related Matters](#), or “Hate Speech Bill,” was also introduced into the Senate in November 2019. The Bill sought to prohibit hate speech, discriminatory language, and harassment based on ethnicity. It proposed the establishment of an Independent National Commission for the Prohibition of Hate Speeches and gave the Federal High Court the authority to try offenses committed under the Bill. It received extensive criticism due to concerns that it would impede freedom of expression, which is protected by Section 39 of the Constitution as well as international human rights law.

The Hate Speech Bill poorly delineated constitutionally protected free speech from hate speech, leaving critics to argue that it would allow the government to prevent rights organizations and the media from effectively performing their functions. The Bill vaguely defined a violator as a person who intends to stir up ethnic hatred, or one whose actions are likely to stir up ethnic hatred.^{iv} It would have made offenses punishable by life imprisonment, and where an action caused loss of life, punishable by death by hanging. Moreover, it would have contradicted the Cybercrimes Act 2015, which already criminalizes racist and xenophobic offenses with up to five years in prison or a fine of 10 million Nigerian naira, or both.

A [Bill for an Act to Establish the Civil Society Regulatory Commission and For Committed Purposes](#), or “NGO Bill,” was introduced in Nigeria’s House of Representatives in March 2020. The Bill represented the third major attempt to tighten the regulation of CSOs in Nigeria since 2013. Neither of the previous bills were passed, but many of their provisions were included in the 2020 Bill.^v

The NGO Bill's stated purpose was to "strengthen [civil society's] capacity to promote democracy." Its four fundamental objectives were to develop a database of CSOs in Nigeria; prevent fraud and misuse of donor funds; promote transparency and accountability in the activities of CSOs through effective legislative scrutiny; and develop a Code of Conduct to guide CSO operations. However, critics observed that the Bill offered little commitment to aiding CSOs beyond monitoring and recordkeeping.

The NGO Bill would have established a regulatory commission accountable to the Auditor General and legislature, but not to the CSOs it claimed to support. It would grant the commission authority to "determine whether institutions are civil societies [sic]," but failed to define what constitutes a CSO, thereby giving the commission significant discretionary power to approve or deny CSO the ability to register.^{vi}

Moreover, the Bill granted the commission sweeping "incidental powers," to "do anything which is calculated to facilitate or is conducive or incidental to the performance of any of its functions or general duties."^{vii} This may have included seizing the physical and digital property of CSOs and detaining employees.^{viii} The Bill did not establish grounds on which inquiries may occur or clear appeal processes.

Finally, the NGO Bill could require organizations to pay fees, change their names and branding, and comply with additional registration requirements and legal limitations while offering loose but commitments of support from the proposed commission.^{ix}

Advocacy Strategies against the Bills

Through carefully crafted advocacy and educational messages as well as critical strategic partnerships, civil society succeeded in mobilizing broad public opposition to the bills. These efforts mounted intense pressure on the legislature to reject these bills.

Public Advocacy

Success was achieved in part as a result of civil society's ability to articulate compelling reasons communities and lawmakers ought to oppose the bills. While Nigerian civil society has often framed resistance movements around democracy, human rights and the importance of the civil society sector itself, they have come to realize that narratives built upon practical concerns such as security and socio-economic issues resonate more strongly with many individuals and audiences. Therefore, civil society crafted messages to ignite public opposition against the bills focused on their implications for the broader society. Messaging asserted:

1. That a clampdown on civil society affects citizens' social and economic conditions;
2. That a clampdown on social media affects free expression as well as online or social media reliant businesses;
3. That unemployment would likely increase as a result of the bills; and
4. That the bills compromised democratic ideals that founding nationalists fought for.

Digital Advocacy

In addition to conducting traditional advocacy through townhall meetings, press conferences, protests and radio and television debates, civil society led online campaigns using hashtags such

as [#saynotongobill](#), [#SayNoToSocialMediaBill](#) and [#SayNoToHateSpeech](#), which spurred greater public debate on the bills than it might otherwise have received. These hashtags conveyed clear, accessible, and easy to remember messages to the public and provided an online space for private individuals to voice concerns about the bills.

Digital campaigns were run by an existing network of bloggers, influencers and ordinary citizens who had previously coordinated advocacy on themes such as elections, sexual harassment, democracy, peacebuilding, gender inclusion and others. Their activities were conducted primarily via Facebook, Twitter, Instagram, and WhatsApp, which improved the speed and reach of advocacy messaging. Messaging included robust visual content such as videos, [photographs](#), [infographics](#), and live chats. Using a variety of media platforms and products proved extremely effective for reaching various segments of the population.

The effective utilization of video messaging was another effective strategy CSOs employed to mobilize citizen opposition to the bills. A notable example of this was a [viral video](#) created by former National Human Rights Commission Chairman, Chidi Odinkalu, which outlined dangerous implications of the 2016 NGO Bill for religious organizations, credit and thrift (esusu) groups, and other humanitarian causes. The video had a strong emotional impact on public sentiment ahead of public debates about the 2016 Bill in September 2017. Because many of the critiques made of the 2016 Bill in the video remained relevant to the 2020 NGO Bill, it reemerged and was widely shared again by online and by traditional media outlets.

Another [impactful video](#) campaign launched in response to the Social Media Bill by Global Rights featured Nigeria Nobel prize winner Wole Soyinka, Bishop Kukah and other high-profile figures lending credibility to civil society concerns about the Bill. This video drew on the powerful testimony of those appearing in it. Other successful [videos](#) were similarly emotive, clear, and convincing, which helped people imagine the direct impact of the bills on their daily lives.

Legislative Advocacy

In opposing the bills, civil society also utilized more conventional methods of advocacy to target government officials and the legislature. These included organizing protests, petitions, and Call Your Representatives initiatives, strategies civil society used during the military dictatorship and following the establishment of democracy. Additionally, a coalition of over 60 CSOs and concerned individuals signed a joint letter either to [individual lawmakers](#) and to the [National Human Rights Commission](#) requesting that they oppose the bills.

In 2019, several petitions were launched via the online platform [change.com](#), demanding that the National Assembly reject the Social Media Bill. At the time of writing, more than 100,000 people had signed such [petitions](#). Nigerians also organized several [protests](#) during and around public legislative hearings to voice their opposition to the bills. During the hearing on the Social Media Bill, for example, civil society actors, led by the Centre for Liberty, organized a [protest](#) outside the National Assembly. The Centre for Liberty also submitted a protest note to the National Assembly outlining its opposition to the bills. In response, two Senators [pledged](#) to vigorously oppose the bills in the National Assembly.

Coalitions and Partnerships

Critically, a broad definition of civil society was adopted in the fight against the bills that included a spectrum of social actors including the burgeoning tech community. Together they highlighted the value each sector provided to society and how the bills would negatively affect their respective audiences.

The Nigerian Media

Perhaps the most crucial ally in resisting these bills was the Nigerian media. For years, traditional and online media, as well as social media influencers, have provided space for public awareness on restrictive legislation. One reason the media has grown to become such a close ally of civil society in Nigeria is because both understand how threats against one sector would negatively affect the other. It is obvious how the Hate Speech and Social Media Bills could have dangerous implications for both sectors. However, the NGO Bill would also have damaged both sectors as many media outlets are operated as foundations or trusts, rather than private companies.

In addition to providing extensive news coverage and editorials about the bills, media outlets published [cartoons](#), “[explainers](#),” and other [educational materials](#) produced by civil society. Traditional media outlets such as Channels Television, African Independent Television (AIT), Premium Times, and The Cable organized [town hall meetings](#) during which actors from civil society, government, and the media debated the bills. On one occasion, AIT invited different actors to discuss positives and negatives of the bills from various perspectives over the course of ten days on its Primetime Morning Show. It also broadcasted public hearings on the bills in the Senate, allowing [testimony](#) made by civil society to reach the viewing public. Finally, the international press, notably Al Jazeera, Deutsche Welle, the BBC, and CNN covered the bills and highlighted the concerns of civil society and others regarding their potential for restricting freedoms.

As mentioned above, online media also supported civil society advocacy. In addition to being the first to upload public drafts of the bills in their entirety for the public to scrutinize, users shared their own [analysis](#) of the bills through [videos](#) and [op-eds](#) to reach a broader audience.

The Creative Sector

The creative sector, including artists, actors, musicians and others, also became an important ally in resistance. Organizations like the Socio-Economic Rights and Accountability Project (SERAP) organized events with celebrities to educate the public on the bills and to reaffirm the importance of their rights. For example, during a conference on shrinking civic space in Lagos entitled [Discussing the Social Media Bill and its Effects](#), actress Kate Henshaw drew attention to the importance of transparency, public accountability and good governance, as well as citizen engagement, and called on Senators to oppose the Social Media Bill. The reach popular appeal of celebrities further mobilized Nigerians against the bills.

Government Stakeholders

Where possible, civil society leveraged personal connections with influential decision makers within government including legislators and their advisors. This became a particularly important strategy as civil society found that many legislators had a poor understanding of the bills and their implications. Helping government counterparts understand and analyze the bills ensured a critical review process and enhanced debate on the bills between the government and the people.

Collaboration with the legislature occurred through formal and informal channels. Formally, CSOs such as Spaces for Change submitted [analyses](#) of the bills to legislators. They also made [verbal arguments](#) against the NGO Bill during a public hearing in the Senate. Informally, CSOs and sponsors of the bills debated their merits in the national media. For example, Daar Communications organized debates on its TV morning shows between civil society and government representatives who were willing to engage on the bills.

Finally, civil society activists conducted personal outreach to legislators behind the scenes to recruit allies against the bills in government. In particular, civil society leveraged relationships with Representatives such as opposition leader Bamidele Salami and Prof Julius Ihovebere who had previously worked in civil society but had crossed over into public sector roles in order to promote democratic reform within government. They argued in the House of Representatives that the NGO Bill, for example, violated Section 40 of the Constitution.

International Partners

Although their actions received less public attention, the international community also stood with civil society in opposing the bills. For example, in 2019, the European Union began funding the “Agents for Citizen-Driven Transformation” (EU-ACT) Project, which strengthens the capacity of CSOs to coordinate advocacy on civil society regulation and to protect civic space. International organizations like CIVICUS and the International Center for Not-for-Profit Law also supported Nigerian civil society by amplifying concerns about dangers posed by the bills on their platforms. Outside of the country, Nigerian civil society engaged influential leaders in capitals around the world to keep the diplomatic community abreast of threats posed by the bill to fundamental freedoms.

Lessons Learned

The primary insight gleaned from the successful resistance against these bills in Nigeria is the importance of an inclusive approach to advocacy in which many actors, representing many sectors, reached various communities with messages that resonate with daily lives. Civil society also developed collaborative relationships with government stakeholders including legislators; international actors including donors and international NGOs; and the media including social media influencers and the creative sector.

In particular, the importance of finding allies within traditional and digital media cannot be overstated. In the case of these three bills, strong partnerships were established organically between civil society and the media sectors in part because these bills posed critical threats to each of these three groups. However, it is important to recall that a nascent network of politically involved social media influencers was active in Nigeria before these bills were proposed. The existence of this network allowed civil society and social media actors to act quickly to protect their rights. In recent years, Nigerian civil society has recognized the critical role digital society plays and has increasingly used social media platforms to amplify their messages.

It is also worth highlighting the importance of civil society’s ability to craft a variety messages and narratives that help people understand how threats against human rights might affect their everyday lives, including their socio-economic wellbeing. Such messages can be pared with improved messaging on the value of civil society to communities such that a “permanent dialogue,” to use the words of one member of Nigerian civil society, is maintained with the people. Doing so can help civil society stay on the offense, even when threats to freedoms are not eminent.

Epilogue

Despite the impressive effort by Nigerian civil society to defeat these bills, the civil society sector now faces new challenges imposed by the [Companies and Allied Matters Act](#) (CAMA) 2020. The Act incorporates a number of elements of the 2019 NGO Bill that can be used to restrict CSOs, including granting the government the ability to remove and replace trustees from the board of an organization; closing bank accounts of organizations the government believes to be dormant; and granting control of an independent organization to a separate organization.^x The Nigerian president Muhammadu Buhari signed CAMA 2020 into law on August 7, 2020. The Law was passed in the early days of the Covid-19 outbreak, when attention was focused on responding to the pandemic. This allowing the Act to avoid the public scrutiny it would have typically received, and its passage caught civil society [off-guard](#). Civil society is currently regrouping to develop new strategies to challenge the law, in part or in whole.

ⁱ Special thanks to Idayat Hassan of the Center for Democracy and Development in Nigeria for conducting research for this paper.

ⁱⁱ See also <https://www.premiumtimesng.com/regional/north-east/332458-ngos-provide-support-to-boko-haram-nigerian-army-alleges.html>; <https://www.premiumtimesng.com/news/top-news/357811-some-ngos-working-with-boko-haram-nigerian-senator.html>; and <https://www.amnesty.org/en/countries/africa/nigeria/report-nigeria/>.

ⁱⁱⁱ See <https://www.nassnig.org/documents/billdownload/10965.pdf>.

^{iv} Specifically, the Bill defines a violator as a “person who uses, publishes, presents produces, plays, provides, distributes and directs the performance of any material, written and or visual which is threatening, abusive or insulting or involves the use of threatening, abusive or insulting words or behavior commits an offense if such person intends thereby to stir up ethnic hatred, or having regard to all the circumstances, ethnic hatred is likely to be stirred up against any person or person from such an ethnic group in Nigeria”.

^v Previous attempts included the Bill to Regulate the Acceptance and Utilisation of Financial/Material Contributions of Donor Agencies to Voluntary Organisations of 2013 and the Non-Governmental Organization Regulatory Commission of Nigeria (Establishment) Bill of 2016.

^{vi} See Section 8 subsection (a) of the [NGO Bill](#).

^{vii} See Section 24 (1) of the [NGO Bill](#).

^{viii} See Section 19 of the [NGO Bill](#).

^{ix} See Sections 25, 16, 8e 44, and 41 of the [NGO Bill](#), respectively.

^x See part F section 823-850 of [CAMA 2020](#).