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**Submission by CIVICUS: World Alliance for Citizen Participation, NGO in  
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**And**

**Nigeria Network of NGOs**

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## **1. Introduction**

- 1.1** CIVICUS is a global alliance of civil society organisations (CSOs) and activists dedicated to strengthening citizen action and civil society around the world. Founded in 1993, CIVICUS has members in more than 170 countries throughout the world.
- 1.2** The Nigeria Network of NGOs (NNNGO) is the first generic membership body for CSOs in Nigeria. Established in 1992 and representing over 2,400 organisations, NNNGO supports Nigerian CSOs in their commitment to poverty reduction, promotion of human rights and in bringing development to the doorsteps of the people.
- 1.3** In this submission, CIVICUS and NNNGO examine the Government of Nigeria's compliance with its international human rights obligations to create and maintain a safe and enabling environment for civil society. Specifically, we analyse Nigeria's fulfilment of the rights to the freedoms of association, peaceful assembly and expression and unwarranted restrictions on human rights defenders (HRDs) since its previous UPR examination in October 2013. To this end, we assess Nigeria's implementation of recommendations received during the 2<sup>nd</sup> UPR cycle relating to these issues and provide a number of specific, action-orientated follow-up recommendations.
- 1.4** During the 2<sup>nd</sup> UPR cycle, the Government of Nigeria received 10 recommendations relating to the space for civil society, all of which were accepted. However, an evaluation of a range of legal sources and human rights documentation addressed in subsequent sections of this submission demonstrate that the Government of Nigeria has not fully implemented any of the recommendations relating to civic space. The government has persistently failed to address unwarranted restrictions on civic space since its last UPR examination, and particularly acute implementation gaps were found in relation to the right to the freedom of expression and continued persecution of HRDs.
- 1.5** CIVICUS and NNNGO are deeply concerned by the wilful misapplication of laws governing the freedoms of association and expression, independence of the media and access to information.
- 1.6** CIVICUS and NNNGO are further alarmed by attacks on and intimidation of HRDs, civil society activists and journalists in Nigeria, predominantly carried out by operatives of the Department of State Security.

**1.7** As a result of these restrictions, civic space in Nigeria is currently rated as ‘obstructed’ by the CIVICUS Monitor, indicating serious restrictions in fundamental freedoms.<sup>1</sup>

- Section 2 of this submission examines Nigeria’s implementation of UPR recommendations and compliance with international human rights standards concerning the freedom of association.
- Section 3 examines Nigeria’s implementation of UPR recommendations and compliance with international human rights standards related to the protection of HRDs, civil society activists and journalists.
- Section 4 examines Nigeria’s implementation of UPR recommendations and compliance with international human rights standards concerning the freedom of expression, independence of the media and access to information.
- Section 5 examines Nigeria’s implementation of UPR recommendations and compliance with international human rights standards related to the freedom of peaceful assembly.
- Section 6 contains a number of recommendations to address the concerns raised.
- An annex of implementation of 2<sup>nd</sup> cycle UPR recommendations related to civic space.

## **2. Freedom of association**

**2.1** During Nigeria’s examination under the 2<sup>nd</sup> UPR cycle, the government received one recommendation on the right to the freedom of association and creating an enabling environment for CSOs. The government committed to “Amend the trade union act in order to guarantee freedom of association and the effective recognition of the right of collective bargaining.” However, as evidenced below, the government has not implemented this recommendation.

**2.2** Article 22 of the International Covenant on Civil and Political Rights (ICCPR), to which Nigeria is a state party, guarantees the freedom of association. Article 40 of the Constitution of Nigeria (1999) also guarantees the freedom of association.<sup>2</sup> It stipulates 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.”

**2.3** The Labour Act (2004) Section 9(6) makes it illegal to prevent employees from joining trade unions and other labour associations.<sup>3</sup> The Trade Union (Amendment) Act (2005) makes provisions with respect to the formation, registration and organisation

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<sup>1</sup> CIVICUS Monitor: Nigeria, <https://monitor.civicus.org/country/nigeria>.

<sup>2</sup> Nigeria Constitution (1999), World Bank, [http://publicofficialsfinancialdisclosure.worldbank.org/sites/fdl/files/assets/law-library-files/Nigeria\\_Constitution\\_1999\\_en.pdf](http://publicofficialsfinancialdisclosure.worldbank.org/sites/fdl/files/assets/law-library-files/Nigeria_Constitution_1999_en.pdf)

<sup>3</sup> The Labour Act (2004), Nigeria Law, <http://www.nigeria-law.org/LabourAct.htm>.

of trade unions and federations of trade unions.<sup>4</sup> Unregistered trade unions are prohibited from functioning.

**2.4** However, on 31 October 2016, the Ogun State government dismissed the state chairperson of the Nigeria Labour Congress, Akeem Ambali, and the state chairperson of the Nigeria Union of Teachers (NUT), Dare Ilekoya, for “alleged misconduct of executive members of the NUT on the 2016 World Teachers Day Celebrations held on October 5,” at which they were accused of making political statements.<sup>5</sup> This occurred 11 days after workers in Ogun State embarked on an indefinite strike. Fourteen other members of the NUT state chapter were dismissed and 16 union officials suspended for their roles in organising the celebration.<sup>6</sup>

**2.5** On 2 June 2016, a bill to regulate NGOs was introduced. The controversial Bill, which became known as the NGO Bill, aims to regulate and monitor the activities of all CSOs, including labour unions, in Nigeria. It would grant the authorities the power to supervise, de-register and pre-approve all activities of civil society. The Bill would require that every NGO operating in Nigeria be registered with the NGO Commission, and require their workers, both locals and foreigners to apply for work permits.<sup>7</sup> Registration would be done upon payment of fees set by the Commission. Under the proposed Bill, the NGO Commission would be given powers to reject an application for registration, and give the applicant a maximum of three months to correct and resubmit an application.<sup>8</sup> The Bill threatened the existence of a free and independent civil society in Nigeria. Its passage was rejected by all stakeholders during a public hearing in December 2017.<sup>9</sup> However, the outcome rejecting the Bill has not yet been officially communicated.

### **3. Harassment, intimidation and attacks against human rights defenders, civil society activists and journalists**

**3.1** Under Nigeria’s previous UPR examination, the government received eight recommendations on the protection of HRDs, journalists and civil society representatives. The government committed to several recommendations, including guaranteeing to create “a favourable climate for the activities of human rights

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<sup>4</sup> The Trade Union (Amendment) Act (2005), Law Nigeria, <http://lawnigeria.com/LawsoftheFederation/TRADE-UNIONS-ACT.html>.

<sup>5</sup> ‘Amosun dismisses NLC chairman, others in Ogun’, Punch, 31 October 2016, <http://punchng.com/amosun-dismisses-nlc-chairman-others-ogun>.

<sup>6</sup> ‘Workers Strike: Ogun sacks NLC, NUT chairmen, 14 others’, Premium Times, 31 October 2016, <https://www.premiumtimesng.com/news/top-news/214151-workers-strike-ogun-sacks-nlc-nut-chairmen-14-others.html>.

<sup>7</sup> ‘An Act to Provide for the Establishment of Non-Governmental Organisations Regulatory Commission for the Supervision, Co-ordination and Monitoring of Non-Governmental Organisations, Civil Society Organisations etc. in Nigeria and for Related Matters’, <http://placbillstrack.org/upload/HB585.pdf>.

<sup>8</sup> ‘NGO regulation Bill and tragedy of the National Assembly’, Guardian Nigeria, 5 December 2017, <https://guardian.ng/features/ngo-regulation-bill-and-tragedy-of-the-national-assembly>.

<sup>9</sup> ‘Civil Society groups and other stakeholders oppose NGO regulatory Bill amid protests’, This Day Live, 14 December 2017, <https://www.thisdaylive.com/index.php/2017/12/14/civil-society-groups-other-8stakeholders-oppose-ngo-regulatory-bill-amid-protests>.

defenders, journalists and other actors in civil society” and to carry out an “advanced human rights training for the police.”<sup>10</sup> The government accepted all eight recommendations, but failed to operationalise them effectively, and has only partially implemented two of the recommendations and has not implemented six recommendations.

- 3.2** Article 12 of the UN Declaration on Human Rights Defenders mandates states to take the necessary measures to ensure the protection of HRDs. The ICCPR further guarantees the freedoms of association, peaceful assembly and expression. However, despite these protections, HRDs, civil society activists and journalists are subject to intimidation and harassment in Nigeria. Journalists in particular are vulnerable to psychological harm, physical abuse, murder, indiscriminate arrests, detention without charges and seizures of publications and work equipment, such as cameras and computers.
- 3.3** Of particular concern is the Police Act (2004), which grants the police excessive powers to arrest people with or without warrants, and the power to search, detain and search suspected persons. This Act has been used by the police to intimidate and harass HRDs. Although a directive has been issued prohibiting the searching of phones with no warrant the implementation of this remains to be seen.
- 3.4** On 1 January 2018, two online journalists, brothers Daniel and Timothy Elombah, publisher and editor of *elombah.com*, were arrested along with four other men and taken to Abuja, reportedly on the orders of Idris Ibrahim, the Inspector-General of Police. They were alleged to have been behind an unfavourable article about Ibrahim, titled ‘IGP Ibrahim Idris’s Unending Baggage of Controversies’. The journalists were eventually released on bail, although the police detained one of those arrested for a further 25 days.<sup>11</sup>
- 3.5** On 16 April 2017, Famous Giobaro, a journalist and desk editor popularly known as the ‘Famous Man’ at Bayelsa Radio Corporation, was murdered in his home by gunmen.<sup>12</sup> The outcome of the police investigation is still unknown.
- 3.6** On 2 June 2017, two journalists, Charles Otu, publisher and editor of *The People’s Conscience* newspaper and a correspondent for Nigeria’s daily *Guardian* newspaper, and Samuel Nweze, publisher of the *People’s Leader*, were attacked in Abakaliki, Ebonyi State. Charles’ newspaper had a history of exposing the failures of the state government in many sectors. He was abducted and beaten in the Ebonyi State office

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<sup>10</sup> Country Page: Nigeria, UPR Info, <https://www.upr-info.org/database>.

<sup>11</sup> ‘Human Rights Lawyer, Kenyamo Tells President Buhari To Sack IGP Over Arrest, Detention Of Elombah Brothers’, Sahara Reporters, 19 January 2018, <http://saharareporters.com/2018/01/19/human-rights-lawyer-kenyamo-tells-president-buhari-sack-igp-over-arrest-detention-elombah>.

<sup>12</sup> ‘Bayelsa: Glory FM Radio Journalist Famous Giobaro, Murdered in Yenagoa’, The Trent Online, 17 April 2017, <https://www.thetrentonline.com/journalist-famous-giobaro-murdered>.

building and threatened with death unless he promised not to criticise the state government, before being taken to hospital by sympathisers. Samuel, whose office is directly next to Charles' office, narrowly escaped death when he was shot in the back by unknown gunmen.<sup>13</sup>

**3.7** On 8 July 2017, Lawrence Okojie, a reporter with the Nigerian Television Authority in Benin City, capital of Edo State, was killed on his way home. Lawrence's body was found by residents of his area.<sup>14</sup> The police said they had apprehended a suspect but have not named the suspect at the time of preparing this submission.

**3.8** On 28 August 2017, Segun Salami, a Channels Television reporter in Kogi State, was beaten up at State House, Lokoja by security agents attached to Government House. He was then dragged to the ground and locked in a cell inside Government House.<sup>15</sup> Colleagues who went to inquire of his whereabouts were threatened and turned away. The governor later apologised for the misconduct of police personnel.<sup>16</sup>

**3.9** On 11 September 2017, three operatives of the Department of State Services in Osun State brutalised and threatened to shoot two journalists, Timothy Agbor of The Point Newspapers and Toba Adedeji of the Osun Defender, who were covering a protest by the Nigeria Union of Local Government Employees on the premises of the Osun State House of Assembly.<sup>17</sup>

**3.10** On 12 September 2017, a group of soldiers stormed into the Nigerian Union of Journalists' press centre in Umuahia, capital of Abia State, assaulted several journalists and smashed and seized smartphones, computers and other equipment containing photos and video footage. The targeted journalists had just covered Operation Python Dance, a show of strength by the army on the streets of Umuahia with the aim of ending clashes between soldiers and members of the Indigenous People of Biafra, a separatist group that had been angered by an army raid on its leader's home.<sup>18</sup>

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<sup>13</sup> 'Thugs attack two journalists in Abakaliki', Premium Times, 3 June 2017,

<https://www.premiumtimesng.com/news/more-news/232953-thugs-attack-two-journalists-in-abakaliki.html>.

<sup>14</sup> 'Gunmen Kill NTA Reporter In Benin City', Leadership Nigeria, 19 July 2017,

<https://leadership.ng/2017/07/10/gunmen-kill-nta-reporter-benin-city>.

<sup>15</sup> 'Kogi govt house security on rampage, beats Channels TV reporter to stupor' Punch, 29 August 2017,

<http://punchng.com/kogi-govt-house-security-on-rampage-beats-channels-tv-reporter-to-stupor>.

<sup>16</sup> 'Yahaya Bello apologises to Channels TV reporter', Vanguard, 29 August 2017,

<https://www.vanguardngr.com/2017/08/yahaya-bello-apologises-channels-tv-reporter>.

<sup>17</sup> Civil society condemns DSS' brutality of journalists in Osun, issues 14-day ultimatum to apologize', Daily Post, 12 September 2017, <http://dailypost.ng/2017/09/12/civil-society-condemns-dss-brutality-journalists-osun-issues-14-day-ultimatum-apologize>.

<sup>18</sup> 'Soldiers attack journalists at Nigerian Union of Journalists press centre', IFEX, 18 September 2017,

<https://www.ifex.org/nigeria/2017/09/17/soldiers-attack-journalists>.

- 3.11** On 11 October 2017 security personnel from the Kogi State Government House physically attacked Daily Post Deputy Editor, Wale Odunsi. According to Wale, mobile police attached to the Kogi State Government House threatened to shoot him.<sup>19</sup>
- 3.12** On 21 November 2016, Aku Obidimma, a human right activist and coordinator of the Imo Bilie Initiative for Social Justice, a civil society group that promotes democracy and good governance in Imo State, was arrested and detained by the Department of State Security in the city of Owerri for critical comments he posted on Facebook about the Deputy Governor of Imo State. He spent 57 days in custody, during which time he was initially prevented from having access to his lawyer and family.<sup>20</sup>

#### **4. Freedom of expression, independence of the media and access to information**

- 4.1** Under the 2<sup>nd</sup> UPR cycle, the government received one recommendation relating to the freedom of expression and access to information. The government pledged to “guarantee a favourable climate for the activities of human rights defenders, journalists and other actors in civil society.” The government of Nigeria accepted the recommendation, but as discussed below, did not implement it.
- 4.2** Article 19 of the ICCPR guarantees the right to the freedoms of expression and opinion. Article 39 of the Constitution of Nigeria also guarantees the right to the freedom of expression. Further, Section 22 guarantees the freedom of the press, and Subsection (2) provides that every person shall be entitled to own, establish, and operate any medium [including social media] for the dissemination of information, ideas, and opinions.<sup>21</sup>
- 4.3** However, Chapter 7 of the Criminal Code Act (2004) prohibits speeches that are meant to incite people to rebel against government authority. Section 50 (2) of the Act prohibits speech that brings into hatred or contempt or excites disaffection against the President, the governor of a state, or the Government of the Federation. Section 60 makes defamation a crime that is punishable by up to two years in jail.<sup>22</sup>
- 4.4** The Cybercrime (Prohibition & Prevention) Act 2015 provides a comprehensive legal and regulatory framework “for the prohibition, prevention, detection, prosecution and punishment of cybercrimes” in Nigeria. It seeks to address the country’s notorious cybercrime epidemic. However, in the past year Section 24 of the Act on preventing cyberstalking has been used to arrest bloggers for publishing content

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<sup>19</sup> ‘Kogi govt house security beat up Daily Post deputy editor’, New Telegraph, 11 October 2017,

<https://newtelegraphonline.com/2017/10/kogi-govt-house-security-beat-daily-post-deputy-editor>.

<sup>20</sup> ‘MIIVOC Fumes Over Continued Detention of Obidinma By DSS’, Business Post, 25 November 2016,

<https://www.businesspost.ng/2016/11/25/miivoc-fumes-continued-detention-obidinma-dss>.

<sup>21</sup> Nigeria Constitution, op. cit.

<sup>22</sup> Criminal Code Act (2004), Nigeria Law, <http://www.nigeria-law.org/Criminal%20Code%20Act-PartI-II.htm#Chapter%207>.



critical of the government. While none of the cases have resulted in a conviction, almost all the arrests were made in connection with criticism of the government or powerful people, as illustrated in the examples below.

**4.5** The Freedom of Information Act (2011) was designed to make public records and information more freely available and provides for access to public records and information.<sup>23</sup> However, the Official Secrets Act (2004) makes it an offence not only for civil servants to give out government information but also for anyone to receive or reproduce such information. This limits access to information by journalists and the civil society. The Official Secrets Act, in Section 9(1), adopts a wide definition of what constitutes an official secret as any “...information or thing which, under any system of security classification, from time to time, in use by or by any branch of the government”. This makes it convenient to hide information that the government may assume to be prejudicial to it.<sup>24</sup>

**4.6** The Digital Rights and Freedom Bill (2016) provides for the protection of human rights online and of internet users from infringement of their fundamental freedoms. It is supposed to guarantee the application of human rights for users of digital platforms and digital media. Section 13(7) recognises professional journalists, bloggers, citizen journalists and others as agents of the larger society who enable the formation of opinions, ideas, decision making and democracy. Section 13(9) prohibits the abuse of the freedom of expression under the guise of the protection of national security.<sup>25</sup> However, as examples below indicate, attacks against the online freedom of expression continue.

**4.7** On 17 August 2017, the Vice-President, Yemi Osinbajo, announced in a statement that the government would be treating hate speech as an act of terrorism.<sup>26</sup> No definition was given of what would constitute hate speech.<sup>27</sup> On 25 January 2018, the Minister of Defence, Mansur Dan-Ali, directed the nation’s security agencies to tackle “those propagating hate speech,” especially through social media. He said special attention should be given to notable Nigerians.<sup>28</sup> The fear is that these public statements by high-profile figures could encourage attacks on free expression and fuel self-censorship.

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<sup>23</sup> Freedom of Information Act (2011), <https://www.cbn.gov.ng/FOI/Freedom%20of%20Information%20Act.pdf>.

<sup>24</sup> Official Secrets Act (2004), Law Nigeria, <http://lawnigeria.com/LawsOfTheFederation/OFFICIAL-SECRETS-ACT.html>.

<sup>25</sup> The Digital Rights and Freedom Bill (2016), <http://eie.ng/wp-content/uploads/2016/06/Digital-Rights-and-Freedom-Bill-2016.pdf>.

<sup>26</sup> ‘Federal government orders clampdown on authors of hate speech on social media’ Nigeria Lawyer, 25 January 2018, <http://thenigerialawyer.com/federal-govt-orders-clampdown-on-authors-of-hate-speech-on-social-media>.

<sup>27</sup> ‘Activists seek FG’s explanation of hate speeches’, Vanguard, 28 August 2017,

<https://www.vanguardngr.com/2017/08/activists-seek-fgs-explanation-hate-speeches>.

<sup>28</sup> ‘Fayose fault plan to make hate speech treasonable, says; it is plot to silence opposition’, Vanguard, 18 August 2018, <https://www.vanguardngr.com/2017/08/fayose-fault-plan-make-hate-speech-treasonable-says-plot-silence-opposition>.



- 4.8** As the examples below indicate, the authorities have taken restrictive measures to silence journalists and individuals who publish or write stories that challenge the policies and practices of central and state governments. Numerous bloggers, online journalists and other internet users have been arrested for publishing information deemed critical of government officials. Consequently, citizens and media organisations, operating in a climate of fear, have increasingly resorted to self-censorship.
- 4.9** On 6 January 2017, plainclothes police arrested Abuja Jerry Edoho, a journalist and deputy editor of the local Ibom Nation Newspaper based in Uyo, Akwa Ibom State, and forcibly took him to Abuja. He was alleged to have posted on his Facebook page about a reported plane crash.<sup>29</sup>
- 4.10** In January 2017, Mallam Nasir El-Rufai, Governor of Kaduna State, threatened to arrest and prosecute Gloria Ballason, a human rights activist and anchor of a radio programme 'House of Justice', for activities including a 2016 opinion piece she wrote in the Blueprint Newspaper about killings in Southern Kaduna district. The Governor also removed Ballason from her radio programme and reassigned it to another person after state authorities found her programme critical of the state. In May 2017, the court found that Ballason's constitutionally protected rights to life, liberty, thought and expression had likely been breached, and restrained the Governor and the state's agents from arresting, prosecuting and jailing Ballason. She was awarded the costs of the suit.<sup>30</sup>
- 4.11** On 19 January 2017, police officers raided the head office of the Premium Times newspaper in Abuja, arresting its publisher, Dapo Olorunyomi, and legal correspondent, Evelyn Okakwu. Plainclothes officers conducted a search of the office, stating that they were acting on a complaint filed by the Chief of Army Staff, Tukur Buratai. The arrests came days after Premium Times turned down the army's demand to retract news stories about the Nigerian Army and its operations. The Chief of Army Staff filed a complaint alleging defamation of character. The arrested journalists were later released without charges following broad pressure from civil and human rights groups, online advocates and concerned citizens.<sup>31</sup>
- 4.12** On 9 April 2017, Austin Okai, a renowned activist, blogger and convener of the People's Democratic Party National Youth Frontier, was arrested in Abuja by security operatives believed to be from the Special Anti-Robbery Squad, over alleged criticisms

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<sup>29</sup>'Police arrest, fly journalist to Abuja over Facebook post', Punch, 7 January 2017, <http://punchng.com/police-arrest-fly-journalist-abuja-facebook-post>.

<sup>30</sup>'Threat: Court Orders el-Rufai To Pay Lawyer N50,000', Elanza News, 15 May 2017, <http://www.elanzanews.com/threat-court-orders-el-rufai-to-pay-lawyer-n50000>.

<sup>31</sup>'Police raid PREMIUM TIMES head office; arrest publisher, journalist', Premium Times, 19 January 2017, <https://www.premiumtimesng.com/news/more-news/221012-breaking-police-raid-premium-times-head-office-arrest-publisher-journalist.html>.

of the government of Kogi State. He was detained and tortured in Lokoja, capital of Kogi State, and denied bail for weeks despite fulfilling all conditions for bail before eventually being released.<sup>32</sup>

**4.13** On 19 April 2017, Joseph Midat, bureau chief of Leadership newspaper in Kaduna State, was arrested by the Criminal Investigation Department of the Nigeria Police for alleged incitement on a WhatsApp group after he called for a protest against the killings of civilians in the state. After being detained by the police for 48 hours, he was arraigned before Kaduna Magistrate Court, which eventually dismissed the suit filed by the police against him.<sup>33</sup>

**4.14** On 15 July 2017, the police in Katsina State detained journalist Danjuma Katsina for Facebook posts alleged to be critical of a newly-elected member of the Katsina State House of Representatives. He was released the next day, with no charges having been brought and no official reason given for his detention.<sup>34</sup>

**4.15** On 8 August 2016, blogger Abubakar Usman was arrested and held for two days by the Economic and Financial Crimes Commission (EFCC) after publishing several articles critical of Ibrahim Magu, EFCC chairperson. A press statement on the day of his arrest said that he was being held for 'cyber stalking'. Abubakar spent 36 hours in EFCC custody with his phones, laptops, internet device and unrelated documents confiscated before being released without charges.

**4.16** On 6 September 2016, State Security Service agents arrested blogger Emenike Iroegbu in Uyo, Akwa-Ibom State on allegations of criminal defamation and blackmail. Emenike, who runs the online newspaper Abia Facts, was arrested for allegedly harassing Abia State officials in his articles. He was informed that his activities contravened Section 24 of the Cybercrime Act. He was released the following day without charges being brought. He stated that he had been released because there was no evidence that established his wrongdoing.<sup>35</sup>

**4.17** On 19 September 2016, blogger Jamil Mubai was arrested for using Twitter to criticise the Katsina State governor's purchase of coffins instead of paying the overdue salaries of civil servants. He was granted bail by Justice Maikaita Bako of the Katsina State High Court, after spending 22 days in detention at the Katsina central prison.<sup>36</sup>

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<sup>32</sup> 'Arrest of Austin Okai: Impunity taken too far – Group', Vanguard, 9 April 2017, <https://www.vanguardngr.com/2017/04/arrest-of-austin-okai-impunity-taken-too-far-group>.

<sup>34</sup> 'Police detain journalist over critical Facebook posts' Punch, 17 July 2017, <http://punchng.com/police-detain-journalist-over-critical-facebook-posts>.

<sup>35</sup> 'Another Nigerian blogger arrested by 'state agents'', Premium Times, 7 September 2016, <https://www.premiumtimesng.com/news/top-news/209985-another-nigerian-blogger-arrested-state-agents.html>.

<sup>36</sup> 'After 22 days in detention for criticising governor, Nigerian blogger gets bail', Premium Times, 11 October 2016, <https://www.premiumtimesng.com/news/headlines/212538-22-days-detention-criticising-governor-nigerian-blogger-gets-bail.html>.

- 4.18** On 16 November 2016, the Nassarawa State Governor, Umaru Al-Makura, banned two journalists from covering activities at State Government House. The banned journalists, Rabi'u Omaku and Umar Mohammed, report for the New Nigerian and Punch newspapers. It was said that the Governor had become uncomfortable after the two journalists reported on a protest by the state chapter of the Nigeria Labour Congress over a 50 per cent deduction of workers' salaries (see paragraph 5.6).<sup>37</sup>
- 4.19** On 30 September 2015, Ndifreke Asuquo Etim, a newspaper vendor, was assaulted by Anietie Okon, a former senator and former National Publicity Secretary of the People's Democratic Party. This happened when Ndifreke tried to sell his newspapers inside Akwa Ibom State Government House. The senator said he had advertised newspapers that reported "unfavourable" stories about the state government.<sup>38</sup>
- 4.20** On 3 October 2015, Gideon Ekere, publisher of Global Post Newspaper, a local newspaper in Akwa Ibom State, was arrested by heavily armed operatives of the Department of State Security. He was detained and denied access to his family. Gideon was released after being forced to sign an undertaking that he would retract a story he had published.<sup>39</sup>

## **5. Freedom of peaceful assembly**

- 5.1** During Nigeria's examination under the 2nd UPR cycle, the government received no recommendations on the right to the freedom of peaceful assembly.
- 5.2** Article 21 of the ICCPR guarantees the freedom of peaceful assembly. In addition, article 40 of Nigeria's Constitution guarantees the right to the freedom of assembly.<sup>40</sup> However, in practice and policy there have been various recent instances where the police have disrupted peaceful public gatherings.
- 5.3** In 2005, the Federal High Court signed into law the Public Order Act (Cap 382), which makes it mandatory for individuals or groups to apply for and obtain a police permit or approval to hold rallies and peaceful assemblies. Section 1 of the Act provides that the governor of each state is empowered to direct the conduct of all assemblies, meetings and processions on public roads or public places and prescribe the route and times of processions. Section 2 empowers any police officer of the rank of

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<sup>37</sup> 'Buhari, govts and growing intolerance for criticisms', Punch, 14 January 2017, <http://punchng.com/buhari-govts-growing-intolerance-criticisms>.

<sup>39</sup> "Enough of attacks on press freedom in Akwa Ibom State", Vanguard, 5 October 2015, <https://www.vanguardngr.com/2015/10/enough-of-the-attacks-press-freedom-in-akwa-ibom-state>.

<sup>40</sup> Nigeria Constitution, op. cit.

inspector or above to stop any assembly, meeting or procession that has not been issued a licence or that violates any conditions of the licence issued.<sup>41</sup>

**5.4** Chapter 10 of the Criminal Code Act is concerned with ‘Unlawful Assemblies: Breaches of the Peace’. Section 69 of this stipulates that where three or more people have gathered and people in the neighbourhood fear on reasonable grounds that those assembled will disturb the peace, the assembly is unlawful, even if the assembly was originally lawful. The Act states that an assembly that disturbs the peace is considered a riotous assembly and prescribes that force can be used.<sup>42</sup> The Act does not clarify what “disturbing the peace” constitutes.

**5.5** The security forces have killed at least 150 protestors between 2015 and 2016 in the Biafra region.<sup>43</sup> 2016 Biafra Day celebrations turned bloody across South-East states as soldiers and policemen clashed with pro-Biafra groups.<sup>44</sup> A mass killing occurred on 30 May 2016, when security forces opened fire on unarmed Independent People of Biafra protesters, during Biafra Day commemoration events in Onitsha, Anambra State, killing approximately 50 people.

**5.6** On 29 July 2016, police in Nasarawa State shot four workers during a peaceful labour protest. One of the four died and the other three were treated for gunshot wounds. The person who was killed was a staff member of the State Ministry of Education. Civil servants were on an indefinite strike following the decision of the state government to slash their salary by 50 per cent.<sup>45</sup>

**5.7** On 6 September 2016, police prevented protesters from the Bring Back Our Girls campaign marching to the Presidential Villa in Abuja. The campaign was formed to demand the release of school girls abducted by terrorist group Boko Haram. The Inspector General of Police further said that Bring Back Our Girls could not hold the protest until they presented an official permission approving the action, even though they had approval letters.<sup>46</sup> During a planned protest in Abuja on 23 January 2018, Obiageli Ezekwesili, former Minister of Education and co-founder of the Bring Back our Girls Group, was arrested along with other group members by the police, without justification.<sup>47</sup> No charges were pressed against them.

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<sup>41</sup> Public Order Act, Nigeria Law, <http://www.nigeria-law.org/Public%20Order%20Act.htm>.

<sup>42</sup> Criminal Code Act (1990), Nigeria Law, <http://www.nigeria-law.org/Criminal%20Code%20Act-Part-I.htm#Chapter%201>.

<sup>43</sup> ‘Nigeria: ‘bullets were raining everywhere’: deadly repression of pro-Biafra activists’, Amnesty International, 24 November 2016, <https://www.amnesty.org/en/documents/afr44/5211/2016/en>.

<sup>44</sup> ‘South-East burns as Biafra Day turns bloody’, Vanguard, 31 May 2016, <https://www.vanguardngr.com/2016/05/south-east-burns-as-biafra-day-turns-bloody>.

<sup>45</sup> ‘Police open fire on protesting Nasarawa workers, kill 1’, Premium Times, 29 July 2016, <https://www.premiumtimesng.com/news/top-news/207777-police-open-fire-protesting-nasarawa-workers-kill-1.html>.

<sup>46</sup> ‘Nigeria: Police, Pro-Buhari Group Stop ‘Bring Back Our Girls’ March’, AllAfrica, 7 September 2016, <http://allafrica.com/stories/201609070966.html>.

<sup>47</sup> ‘Police arrest Oby Ezekwesili’ Punch, 23 January 2018, <https://punchng.com/breaking-police-arrest-oby-ezekwesili>.

**5.8** In December 2015, the army killed 347 members of the Shia Islamic Movement of Nigeria (IMN), a religious sect, after the group staged a road blockade in the city of Zaria. Hundreds of IMN members remain in custody, including the leader, Ibrahim El Zakzaky, and his wife, despite a court ordering the government to release the couple within 45 days, pay them approximately US\$170 million in damages, and provide them with a secure residence. A ban imposed on the IMN by the Kaduna State government in October 2016 triggered a wave of other bans against Shia groups in four northern states. Since then, Shia religious activities have been met with mob and police violence, leading to the death of scores of IMN members.<sup>48</sup> Again on 29 July 2017, the Nigerian police arrested over 40 men who attended an HIV awareness event in Lagos. They were arrested for allegedly “performing same-sex sexual acts.”<sup>49</sup>

## **6. Recommendations to the Government of Nigeria**

CIVICUS and NNNGO call on the Government of Nigeria to create and maintain, in law and in practice, an enabling environment for civil society, in accordance with the rights enshrined in the ICCPR, the UN Declaration on Human Rights Defenders and Human Rights Council resolutions 22/6, 27/5 and 27/31.

At a minimum, the following conditions should be guaranteed: the freedoms of association, peaceful assembly and expression, the right to operate free from unwarranted state interference, the right to communicate and cooperate, the right to seek and secure funding and the state’s duty to protect. In light of this, the following specific recommendations are made:

### **6.1 Regarding the freedom of association**

- Take measures to foster a safe, respectful and enabling environment for civil society, including by removing legal and policy measures that unwarrantedly limit the right to association.
- Amend the Trade Union (Amendment) Act (2005) which prohibits unregistered trade unions from functioning.

### **6.2 Regarding the protection of human rights defenders**

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<sup>48</sup> ‘Nigeria: Events of 2016’, Human Rights Watch World Report 2017, <https://www.hrw.org/world-report/2017/country-chapters/nigeria>.

<sup>49</sup> ‘Nigerian police arrest 42 gay men at HIV awareness event’, Washington Blade, 31 July 2017, <http://www.washingtonblade.com/2017/07/31/nigerian-police-arrest-42-gay-men-hiv-awareness-event>.

- Ensure that civil society members, HRDs and journalists are provided with a safe and secure environment in which to carry out their work. Conduct impartial, thorough and effective investigations into all cases of attacks on and harassment and intimidation against them and bring the perpetrators of offences to justice.
- Ensure that HRDs are able to carry out their legitimate activities without fear or undue hindrance, obstruction or legal and administrative harassment.
- Orient the Police not to misuse the Police Act (2004) to harass HRDs, and amend the Act to curb excessive powers granted to the police to arrest people without a warrant and search and detain people.
- Unconditionally and immediately release all HRDs, including journalists and bloggers, detained for exercising their fundamental rights to the freedoms of association, peaceful assembly and expression, and review their cases to prevent further harassment.
- Publicly condemn instances of harassment and intimidation of civil society activists and CSOs, and act when officials are named for harassing HRDs.
- Systematically apply legal provisions that promote and protect human rights and establish mechanisms that protect human rights activists by adopting a specific law on the protection of human rights activists, in accordance with resolution 27.31 of the Human Rights Council.

### **6.3 Regarding the freedom of expression, independence of the media and access to information**

- Ensure the freedom of expression and media freedom by bringing all national legislation into line with international standards.
- Review Section 24 of the Cybercrime Act that makes it possible to equate criticism of the government or its officials to ‘cyberstalking’, in order to bring Nigeria’s legislation into line with best practices and international standards in the area of the freedom of expression.
- Amend Nigeria’s Criminal Code Act (2004) to allow legitimate criticism of the President and review Section 60 which criminalises defamation.
- Amend the Official Secrets Act (2004) to make the definition of what constitutes an official secret in Section 9(1) less wide-ranging and less open to misuse.

- Reinststate all media outlets that have been unwarrantedly closed.
- Ensure that journalists and writers may work freely and without fear of retribution for expressing critical opinions or covering topics that the government may find sensitive.
- Take adequate steps to lift restrictions on the freedom of expression and adopt a framework for the protection of journalists from persecution, intimidation and harassment.
- Implement legislative measures regarding access to information and establish mechanisms to facilitate public access in line with best practices.

#### **6.4 Regarding the freedom of peaceful assembly**

- Adopt best practices on the freedom of peaceful assembly, as put forward by the UN Special Rapporteur on the rights to freedom of peaceful assembly and of association in his 2012 annual report, which calls for procedures in which there is simple notification of assemblies being held, rather than explicit permission being needed to assemble. As part of this, amend the Public Order Act (1990) accordingly.
- Amend Chapter 10 (Section 9) of the Criminal Code Act to specify what “disturbing the peace” is, to avoid the misinterpretation of the broad clause to deny the freedom of peaceful assembly.
- Unconditionally and immediately release all protesters, HRDs and journalists detained for exercising their right to the freedom of peaceful assembly and review their cases to prevent further harassment.
- Immediately and impartially investigate all instances of extrajudicial killing and excessive force committed by security forces while monitoring protests and demonstrations.
- Publicly condemn the use of excessive and brutal force by security forces in the dispersal of protests, launch formal investigations of such instances and bring the perpetrators to justice.
- Provide recourse for judicial review and effective remedy, including compensation, in cases of unlawful denial of the right to the freedom of assembly by state authorities.



## **6.5 Regarding access to UN Special Procedures mandate holders**

- Extend invitations to all UN Special Procedure mandate holders and prioritise official visits by the: 1) Special Rapporteur on the situation of human rights defenders; 2) Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; 3) Special Rapporteur on the rights to freedom of peaceful assembly and of association; 4) Special Rapporteur on the Independence of Judges and Lawyers; 5) Special Rapporteur on extrajudicial, summary or arbitrary executions; 6) Special Rapporteur on the rights to privacy; and 7) Working Group on Arbitrary Detention.

## **6.6 Regarding state engagement with civil society**

- Implement transparent and inclusive mechanisms of public consultations with CSOs on all issues mentioned above and enable the more effective involvement of civil society in the preparation of law and policy.
- Include CSOs in the UPR process before finalising and submitting the national report.
- Systematically consult with civil society on the implementation of UPR including by holding periodical comprehensive consultations with a diverse range of civil society.
- Incorporate the results of this UPR into its action plans for the promotion and protection of all human rights, taking into account the proposals of civil society, and present a midterm evaluation report to the Human Rights Council on the implementation of the recommendations of this session.

## Annex: Assessment of implementation of civic space recommendations under the 2<sup>nd</sup> cycle

Recommendation <sup>50</sup>	Position	Assessment/comments on level of implementation
Amend the trade union act in order to guarantee freedom of association and the effective recognition of the right of collective bargaining	Accepted	<i>This recommendation has not been implemented at all and the Act remains unchanged. See 2.1 Unregistered unions are still barred from operating. See 2.5.</i>
<b>Theme: Freedom of the press</b>		
Adopt a national policy pertaining to children with disability, to take measures to tackle discrimination and to promote gender equality in the field of education and to guarantee a favourable climate for the activities of human rights defenders, journalists and other actors in civil society	Accepted	<i>This recommendation has not been fully implemented. Journalists are constantly arrested, beaten, harassed and even killed by various state actors especially the police, state security operatives and members of the military. See 4.9-4.19</i>
<b>Theme: Human Rights defenders</b>		
Adopt a national policy pertaining to children with disability, to take measures to tackle discrimination and to promote gender equality in the field of education and to guarantee a favourable climate for the activities of human rights defenders, journalists and other actors in civil society	Accepted	<i>This recommendation has not been implemented fully. The environment is not enabling for human rights defenders. See 6.2. The police also misuse the Police Act to stifle and intimidate HRDs. See 6.2</i>
Continue the development and implementation of measures aimed at reducing human rights violations by the security forces in particular extrajudicial executions, arbitrary detention and torture, as well as making the mechanisms of tackling impunity more effective	Accepted	<i>This recommendation has not been partly implemented with some training done for police on human rights. However, serious violations continue to occur especially arbitrary detentions and detentions with no charge. See 4.14, 4.15</i>
Hold security forces accountable for human rights violations and establish a system for human rights monitoring and to promote accountability for gross violations of human rights	Accepted	<i>Cases of harassment and intimidation of HRDs largely are not investigated and perpetrators are not brought to account.</i>

<b>Recommendation<sup>50</sup></b>	<b>Position</b>	<b>Assessment/comments on level of implementation</b>
Take all necessary measures to prevent extrajudicial executions and torture by security forces by providing targeted training and capacity-building to law enforcement officials and military members	Accepted	<i>Recommendation partly implemented. Police received some training but cases of killings of journalists and HRDs have been documented See 3.5, 3.7, 5.5-5.6 and 5.8.</i>
Investigate all reports of extrajudicial killings in an independent and transparent manner and commit to bring to justice members of the security forces found to have been involved in such violations	Accepted	<i>Cases of harassment and intimidation of HRDs largely are not investigated and perpetrators are not brought to account. See 3.5 and 4.14</i>
Strengthen the human rights training of state security forces and prevent the use of excessive force against civilians	Accepted	<i>Although some training was done for the police, it was inadequate and violations have continued to occur especially the abuse of the Police Act by state officials to intimidate HRDs. See 3.2 and 3.3</i>
Amend article 33 of the Constitution and order 237 on the police force to ensure that its interpretation does not allow the lethal use of force by the security forces in circumstances other than those enshrined in international law, and developed in the United Nations basic principles on the use of force and firearms by officials	Accepted	This recommendation has not been implemented at all. The state actors used lethal force against protestors in the period under review. See 5.5-5.6.
Protect and promote in particular the rights of vulnerable persons, that is: minorities, children, women, older persons, human rights defenders, refugees and prisoners	Accepted	HRDs have faced various challenges in the period under review including harassment and intimidation.