

TERMS OF REFERENCE FOR THE CONSULTANT TO UNDERTAKE CASE STUDY ON NGO LAW BEST PRACTICES IN NIGERIA AND UGANDA

I. Background of the I4C Africa Hub

Innovation for Change (I4C) Africa Hub's vision is to protect, respect, strengthen, expand, and recover civil society space. Launched in 2017, the Africa Hub – based in Nairobi, Kenya – has been working to strengthen the capacity of civil society through promoting home-grown African solutions, and as a result of being part of a global network, offered network members access to the latest thinking, resources, and collaborations. It has become a vital new physical and online space for regional ideas and social innovations, powered by its dynamic, growing community of civic space advocates, including CSOs, technologists, and cross-sectoral partners.

2. Consultancy context and justification

For an Non-Governmental Organisation (NGO) to be effective and sustainable, the legal and regulatory environment should support the needs of NGOs. For example, the framework should facilitate new actors, help stop interference from the government and give NGOs the necessary legal environment to engage in appropriate fundraising activities and legitimate income-producing ventures.

Troublesome issues for NGOs across the sub-Saharan African region include the lack of a supportive legal framework and the struggle to survive financially—as reflected in scores for the legal environment and financial viability dimensions, often the weakest for many African countries.

Over the last 15 years, 11 African countries have adopted legislation or policies that improperly constrained nongovernmental organizations (NGOs). According to a 2019 report by Freedom House titled, *“The Spread of Anti-NGO Measures in Africa: Freedoms Under Threat”*-1 Seven countries—Egypt, Tunisia, Rwanda, Zambia,² Malawi, Mozambique, and Tanzania—have anti-NGO measures pending or may be moving to introduce them, while six—Kenya,³ Malawi, Angola, Nigeria, Congo-Brazzaville, and Zimbabwe—have introduced such measures only to have them abandoned by the executive, rejected by the legislature, or invalidated by the courts. These laws and policies seek to impose state control over civil society, particularly NGOs that work on human rights and governance issues. Additionally, many jurisdictions around the world, including Africa, have provisions in their laws that restrict the space in which NGOs thrive. These are designed to intimidate, suppress, and control CSOs and their activities. According to The International Center for Not-for-Profit Law (ICNL) these legal constraints fall broadly in five categories:

1. Barriers to entry

These are restrictive legal provisions that are used to discourage the formation and/or registration of CSOs. These barriers include limits to the right to associate, prohibitions against unregistered groups, restrictions on founders, burdensome registration procedures, vague grounds for denial, and barriers preventing international organizations from operating in the country.²⁵

2. Barriers to operational activity

These are obstacles in the law that directly prohibit or otherwise constrain legitimate activities. These barriers are direct prohibitions against spheres of activity, invasive supervisory oversight, government harassment, criminal sanctions against individuals, failure to protect individuals and organizations from violence, termination and dissolution, and establishment of government-organized NGOs.

3. Barriers to speech and advocacy

These are legal restrictions against expression of speech mainly in advocacy and policy engagement. They include prior restraints and censorship, defamation laws, broad or vague restrictions against advocacy, criminalization of dissent, and restrictions on freedom of assembly.²⁷

4. Barriers to contact and communication

These are legal restrictions hindering the free flow of information and communication. They include barriers to the creation of networks, to international collaboration, and to communication as well as criminal sanctions against individuals.²⁸

5. Barriers to resources

These are legal provisions that hinder the ability of NGOs to secure resources to carry out their activities. These barriers include prohibitions against funding, requirements for advance government approval, and policies to route funding (especially from foreign sources) through the government.

Purpose of the Assignment

The purpose of the consultancy is to undertake a legal analysis of civil society participation in designing national legislation to govern activities of NGOs and to document best practices, challenges and make recommendations that shall promote the use of legal analysis and support through capacity building and the empowerment of local lawyers and HRDS to remove barriers that prevent them from fully exercising and enjoying their human rights. This will facilitate the understanding of NGO law best practices in East and West Africa through civil society involvement and participation in the development of the laws.

Objectives of the Assignment

The objectives of the assignment are;

1. To document the process of developing NGO laws considering Nigeria and Uganda as case studies.
2. To identify best practices in the design of civil society regulation on the continent and present findings to I4C AH forum,
3. Analyse the legal environment for NGOs and CSO involvement/participation in the development of these laws on the continent and identify opportunities and challenges,
4. To produce a report with recommendations for CSO participation and solidarity campaigns in other African countries where NGO laws are in progress.

Tasks and Deliverables:

1. Inception report on the assignment implementation including a detailed work-plan
2. Documentation of best practices
3. First draft report for review and input by I4C AH team
4. Final detailed report including recommendations
5. Presentation of the report to the forum of I4C AH meeting.

Duration of the Assignment

The consultancy is scheduled for a period of twenty-five (25) working days not exceeding the 15th of March 2021.

Application Process

Innovation for Change Africa Hub invites eligible “Consultants”/individuals to indicate their interest in providing the above mentioned services. Interested parties should provide information demonstrating that they have the required qualifications and relevant experience to perform the Services. The short listing criteria are: (i) Specific Experience on at least 3 similar assignments in the last 5 years, (ii) Over five years of track record in planning, managing, research, and implementing advocacy projects in Civil Society Organizations (iii) experience working with policymakers and advocates at country/ national level, (iv) Demonstrable understanding of general NGO law issues, policies & initiatives in Africa, (v) experience of producing policy papers and reports with specific reference to advocacy, (vi) Demonstrated familiarity with the national legal and policy framework related to NGO, national policies and Government initiatives

Others

- Summarized CV outlining relevant expertise in relation to the requirements of this assignment.

Individuals who meet the above criteria should submit their technical proposal including financial proposal to africa@innovationforchange.net **COB on 20th January 2021.**