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Bangladesh: New law designed to stifle civil society must be repealed

Bangladesh must repeal a new law that increases the government's control of civil society organizations and could have a negative impact on the rights to freedom of expression and association. On 4 October 2016, the Bangladeshi Parliament passed the Foreign Donations (Voluntary Activities) Regulation Bill (FDRB) 2016, and the President gave his final approval to the law on 13 October.

The FDRB is a merger of two existing laws governing non-governmental organisations (NGOs), which the government has claimed is necessary for greater oversight of the civil society sector. If passed, the law would not only hinder the ability of human rights defenders and civil society organizations to seek and secure resources but it would also expand the government's ability to unlawfully interfere with the work of NGOs and arbitrarily cancel their registrations.

The FDRB requires all foreign-funded NGOs to submit all projects for approval to the NGO Affairs Bureau, which is run from the Prime Minister's Office. The bill is vaguely worded and does not specify on which grounds the Bureau could reject or make changes to proposed projects. This gives the authorities wide discretion to interfere with the work of NGOs and cancel projects they do not agree with. Foreign-funded NGOs must apply for renewal of registration every 10 years with the Bureau. Moreover, at no point does the bill specify a timeframe for approval of either registration or individual projects, which opens up the possibility of leaving NGOs in legal limbo for an extended period of time.

The Bureau is also granted the power to "inspect, monitor and evaluate" the activities of foreign-funded NGOs. This is to be done through regular meetings between Bureau staff and NGO leaders. The Bureau can also establish monitoring committees or appoint "third-party evaluators" for specific NGOs or projects. Additionally, all proposals for foreign travel for "official purposes" by staff from foreign-funded NGOs must be submitted to the Bureau in advance.

The Bureau can impose sanctions on NGOs who violate any offence listed in the Act. Penalties range from a cautionary letter; a fine; or the cancellation or suspension of the registration of an NGO, or its individual projects. However, the FDRA does not distinguish between the severities of different "offences", giving huge discretionary powers to the Bureau on what punishment to mete out. The NGO can only appeal against the Bureau's

decision to the Prime Minister's office whose verdict is final, leaving no option for judicial oversight nor effective remedy.

It is also hugely concerning that in the final version of the Bill passed by Parliament, an additional provision had been added which makes it an offence for NGOs to make "inimical" or "derogatory" remarks against the constitution or a constitutional body. Under the Bill, the NGO Bureau is given the power to cancel the registration of NGOs that make such remarks. The words "inimical" or "derogatory" are not defined anywhere in the bill, and this vagueness could give the authorities sweeping powers to punish NGOs simply for exercising their right to freedom of expression and criticising government bodies.

The provision has sparked an outcry among civil society in Bangladesh, who fear it will become a tool of the government to control the issues NGOs and human rights defenders are able to work on and what they can say in public.¹ It is believed to have been included as a direct result of a report issued by the anti-corruption NGO Transparency Bangladesh in 2015, which criticised the performance of Parliament.²

The FDRB contravenes the right to freedom of expression present in both international law and the Bangladeshi Constitution. Article 39 of the constitution guarantees "every citizen" the right to "freedom of speech and expression", subject to "reasonable restrictions".³ Bangladesh is a state party to the International Covenant on Civil and Political Rights (ICCPR), which states that everyone has the right to hold opinions without interference and that everyone has the right to freedom of expression, including to seek, receive and impart information and ideas of all kinds. The Human Rights Committee, as the body that monitors state's compliance with the ICCPR, has specifically warned states against prohibiting criticism "of institutions, such as the army or the administration."⁴ Certain restrictions on freedom of expression may be permissible under the ICCPR, but threatening NGOs with deregistration for simply criticising state institutions goes beyond what is permissible.

Additionally, the FDRB unduly restricts the rights to freedom of association and peaceful assembly, also guaranteed in the ICCPR and the Constitution. Restrictions to these rights must be provided by law, and be necessary and proportionate to a legitimate aim. Amnesty International is concerned that the overly broad definitions contained in this law may be used to stifle dissent and silence critical NGOs, which are often dependent on foreign funding for their operations.

¹ "Provision in NGO Bill: NGOs term it oppressive", *The Daily Star*, 10 October 2016, available at <http://www.thedailystar.net/frontpage/ngos-term-new-law-oppressive-1296727>.

² See Amnesty International Report 2016: The State of the World's Human Rights, "Bangladesh", pp. 82-83

³ The "reasonable restrictions" are defined as "in the interests of the security of the State, friendly relations with foreign states, public order, decency or morality, or in relation to contempt of court, defamation or incitement to an offence."

⁴ Human Rights Committee, General Comment 34, *Article 19: Freedoms of expression and opinion*, ¶138

The ability of civil society organizations to access funding, including from domestic and foreign sources, is an integral part of the right to freedom of association. Undue restrictions on the ability of civil society organizations to access funding can further undermine the rights which associations are working on and impact on the lives of those who these associations work for.

Bangladesh's vibrant and diverse civil society plays a crucial role in ensuring that authorities respect, protect and fulfil human rights. The authorities should work to ensure a safe and enabling environment where civil society organisations have the space and resources to carry out their legitimate work, not seek to control and restrict it.

Amnesty International urges the Bangladeshi authorities to:

- Repeal the Foreign Donations (Voluntary Activities) Regulation Bill immediately;
- Substantially revise any similar bill proposed in the future so that it is in accordance with international law and standards on the rights to freedom of expression, peaceful assembly and association;
- Ensure a safe and enabling environment in which human rights defenders and civil society organizations are able to carry out their legitimate work without unnecessary or disproportionate restrictions; and
- Ensure that associations can seek, receive and use funding and other resources from domestic and foreign sources without prior authorization or other undue impediments.