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FOREWORD

Progress on critical challenges of our time will only be possible through true global partnership. This is why, on 25 September 2015, more than 150 world leaders adopted the most ambitious global development agenda in the history of the United Nations: the 2030 Agenda for Sustainable Development. Through its 17 goals and 169 targets, Agenda 2030 embodies a transformational vision that presupposes an unprecedented level of change in practically all spheres of life. There is little question, therefore, that the achievement of the Agenda's objectives – the Sustainable Development Goals – will require a broad-based mobilization, bringing in whole societies.

As they seek to advance peace, inclusion, justice and sustainability, countries around the world can increasingly rely on the energy, innovation, resilience and human bonds that are generated when people join hands in civic action. However, this requires free, open and safe civic spaces.

When, in the aftermath of the Second World War, the United Nations General Assembly adopted the Universal Declaration of Human Rights as a roadmap to “freedom, justice and peace in the world”, it recognized that people have a right to actively participate in the conduct of public affairs and have a say in the decisions that affect their lives. Since then, progress towards fulfilling this ideal has been mixed, and there is in fact overwhelming evidence that, over the last decade, participation spaces have significantly shrunk across all regions, while threats to activists, human rights defenders and media personnel have risen.

These are alarming trends with the potential to damage the fabric of our societies. For this reason, in his Call to Action on Human Rights “The Highest Aspiration”, UN Secretary-General António Guterres is asking all of us to do far more to promote and protect civic space.

The Next Generation UNDP, with its strong focus on multi-stakeholder collaborative platforms, will generate critical innovations to accelerate progress towards the Sustainable Development Goals. In this context, the promotion of an open and inclusive public sphere will play a key role. Strong partnerships across societies will also be needed: this is the sense of our collaboration with the International Centre for Not-for-Profit Law (ICNL) in developing this publication, and we look forward to further engagement with ICNL as well as other civil society actors around the world.

This handbook provides guidance on the legal frameworks that are required to secure an enabling civic space based on international human rights standards. We hope that it will serve as a helpful reference for UNDP staff as well as partners, within and outside government. But we also hope that it will provide a useful starting point for a constructive dialogue that goes beyond legal systems to explore the broader structural transformations that are needed to bring about truly just, inclusive and peaceful societies in the 21st century.



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Photo: UNDP Guatemala/Sol Velásquez

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Photo: UNDP Nepal

I. CONTEXT:

The importance of legal, policy and institutional frameworks for civic space

1.1. Definitions

Consensus on the definition of “civil society” and the related notions of “civic engagement” and “civic space” remains elusive, as these concepts have been articulated in a great variety of ways, and there continues to be significant variance with respect to their exact meanings. Such multiplicity of understandings stems in part from a diversity of ideological standpoints, but it also reflects the fluid and complex nature of the processes through which members of society take action to shape their communities.

Given this context, the definitions provided below were developed to be, at the same time, consistent with the most current policy debates on “civil society” and broad enough to accommodate actual usage of the terms as observed in day-to-day practice across different realities.¹

In this framework, civil society is understood as a contested ground in which multiple players pursue different (and often opposing) objectives² based on varied understandings of the “public good”. Civil society is also a fluid space, with many actors stepping in *and out* of this domain as circumstances evolve and others straddling across multiple domains (e.g., civil society and the market, or civil society and the state).³

DOMAIN

Civil society is the arena – or domain of social interaction – outside the spheres of the family, the state and the market in which individual and collective actors undertake voluntary action to advance socially relevant goals.

ACTORS

Civil society actors are a diverse set of individual and collective actors that operate in the civil society arena. Among them, civil society organizations (CSOs) are the broad range of organized collective actors, which can structure themselves in a variety of ways, from more to less formal.

PROCESS

Civic engagement is the process through which individual and collective actors undertake voluntary action in the civil society arena – as opposed to the spheres of the family, the state and the market – with the aim of achieving socially relevant goals.

¹ This publication builds on the extensive research conducted by the International Center for Not-for-Profit Law (ICNL) on legal frameworks for civic space, namely the flagship publication developed jointly with the World Movement for Democracy: [Defending Civil Society: Second Edition](#) (2012). It is framed around a set of working definitions agreed upon during the development of the in-depth internal review conducted by UNDP: Promoting Voice and Participation at the Country Level – Mapping of UNDP Country Offices’ Work on Civic Engagement (2016) and approved by the Global Civil Society Advisory Committee to the UNDP Administrator.

² Carnegie Endowment for International Peace (2000). [Think Again: Civil Society](#). Foreign Policy Winter 1999-2000. Washington D.C., USA.

³ For instance, media outlets are typically commercial enterprises that generate a profit for those who own them; and yet it is not uncommon for them to also embody very specific sets of values and advance a very specific vision of society through their news coverage. Political parties are a key component of the machinery through which the power vested in the executive and legislative branches of government is exercised; however, they also play a critical role in organizing citizens outside the sphere of the state institutions (e.g., in public opinion movements or even in horizontal forms of citizen-to-citizen support).

If “civil society” is an abstract domain of social interaction (essentially, a theoretical construct), “civic space” represents the actual circumstances in which civic engagement takes place in a given society at a given point in time. The features of the civic space determine in very practical ways the size, shape and operating modalities of the civil society arena in a certain context, including the extent to which an operating environment can be regarded as “enabling” for a range of civil society actors. As a result of civic space features, an operating environment may be open (i.e., it is possible to step in and out easily), free (i.e., it is possible to operate without undue restrictions), safe (i.e., it is possible to operate in and around it with effective protection mechanisms and without fear of reprisal) and inclusive (i.e., it is open and safe *for all*, in keeping with the principles of equality and non-discrimination). Or, on the other hand, it may be closed or constrained, dangerous and discriminatory.

FACTORS

Civic space encompasses the multiple factors (including legal, policy, administrative, economic, customary and cultural factors) determining the extent to which members of society are able – either individually or collectively – to engage in civic action or, in other words, the conditions that make a meaningful and vibrant civil society possible (or not) in a given context.

The UN High Commissioner for Human Rights states that “the five key elements to create and maintain a safe and enabling environment for civil society are: a robust legal framework that is compliant with international standards as well as a strong national human rights protection system that safeguards public freedoms and ensures effective access to justice; a political environment conducive to civil society work; access to information; avenues for participation by civil society in decision-making processes; and long-term support and resources for civil society.”⁴

⁴ UN Human Rights Council (2016). Report of the UN High Commissioner for Human Rights. [Practical recommendations for the creation and maintenance of a safe and enabling environment for civil society, based on good practices and lessons learned](#) (A/HRC/32/20), para. 83, p. 17. Geneva, Switzerland.

⁵ See Section 4.1.1. Assessing and monitoring political and legal environments.

This publication will primarily focus on the first component mentioned above: a robust legal framework. A functioning and enabling legal framework is no guarantee of a vibrant civil society, and a restrictive legal framework is not necessarily an insurmountable barrier to civil society engagement and participation in public affairs. Nonetheless, the legal framework plays a pivotal role, and an overall supportive legal framework can be considered a necessary, even if not sufficient, condition for the development of a strong, inclusive and sustainable civil society sector.

BODY OF RULES

Normative frameworks for civic space are the wide range of interrelated laws, policies, regulations and institutional procedures which impact the possibility, level and type(s) of civic engagement – both offline and online. These encompass frameworks directly related to civil society participation and state-society relations as well as any others that may impact civic space by indirect methods or means, intentionally or otherwise.

It is important to view frameworks for civic space through a broad lens. Legal provisions are only one factor among many that influence the scope and strength of civil society in any given context. An examination of civic space must also consider, therefore, the political and institutional context in which legal provisions are implemented as well as historical, economic, social and cultural realities.⁵

In 2020, the Secretary-General launched “**The Highest Aspiration: A Call to Action for Human Rights**” on the occasion of the 75th anniversary of the United Nations. The Call identifies civic space and participation as one of the key areas where renewed efforts are needed and stresses that society is stronger and more resilient when women and men can play a meaningful role in political, economic and social life, contributing to policymaking that affects their lives, including

by accessing information, engaging in dialogue, expressing dissent and joining together to express their views. Following the Call to Action, a UN Guidance Note on Protecting and Promoting Civic Space was also adopted with the following objectives:

- **Promoting civic space:** proactively advocate for safe participation of diverse civil society groups in national decision-making processes, including through peaceful protests; and expand civic space and support positive contributions of civil society actors.
- **Protecting civil society actors:** strengthen UN responses to protect civil society actors effectively, including from reprisals against those who cooperate with the UN and by identifying and disseminating examples of good practices across the UN system.
- **Participation of civil society in UN processes:** enhance civil society engagement with the UN and strengthen UN policies and practices on civil society participation, taking into account examples of good practices from across the UN system.

This document is consistent with the principles outlined in the Guidance Note and is intended as a tool to strengthen its implementation, particularly in relation to the first two points mentioned above: promoting civic space and protecting civil society actors.



KEY RESOURCES:

- UN Guidance Note on Protection and Promotion of Civic Space (2020). https://www.ohchr.org/Documents/Issues/CivicSpace/UN_Guidance_Note.pdf
- UN Human Rights Council (2016). Report of the UN High Commissioner for Human Rights. [Practical recommendations for the creation and maintenance of a safe and enabling environment for civil society, based on good practices and lessons learned \(A/HRC/32/20\)](#). Geneva, Switzerland.
- UNDP Human Development Report Office (2013). [Civil Society and Social Movements in a Globalizing World](#). New York, USA.



“Civic space is shrinking around the world. And as that space shrinks, so, too, do human rights. Repressive laws are spreading, with increased restrictions on the freedoms of expression, religion, participation, assembly and association. Journalists, human rights defenders and environmental activists – especially women – are increasingly threatened at a time when they are critically needed to ensure accountability. New technologies have helped civil society networks grow, but they have also given authorities unprecedented ability to control movements and curtail freedoms. The United Nations simply could not do its work without the active engagement of civil society.”⁶

– UN Secretary-General

1.2. Key trends related to civic space

1.2.1. Closing civic space: a global phenomenon

The growing trend of closing civic space around the world is well researched and documented through the work of multiple multilateral institutions as well as governments and civil society itself.

The CIVICUS Monitor, an ongoing research collaboration between CIVICUS World Alliance for Citizen Participation and 20 partner organizations, highlights in its 2019 annual report

⁶ United Nations (2020). Secretary-General’s remarks to the UN Human Rights Council on [The Highest Aspiration: A Call to Action for Human Rights](#). Geneva, Switzerland.

that “only 3 percent of the global population living in 43 countries are able to enjoy ‘open’ civic space conditions”. At the same time, 67 percent of the world’s population lives in 62 countries categorized as having “repressed” or “closed” civic space in 2019.⁷ Since 2016, ICNL has tracked 265 legal measures, proposed or enacted in 91 countries, that have had or would have had (if enacted) an impact on civic space. Of these measures, most – 72% -- have been restrictive, constraining civil society.⁸

The available evidence shows an increase in the number and complexity of the attacks and threats against civil society actors, which are spreading across a range of development and governance contexts, including several generally considered to be “developed” or “consolidated” democracies. In many contexts, these trends are closely intertwined with democratic backsliding.

In 2016, ICNL estimated that 58 percent of the restrictions were related to the ability of CSOs to operate, while 22 percent were related to freedom of assembly and 20 percent to access to international funding. Increasingly, reprisal against civil society actors is manifesting itself through different forms of harassment and intimidation, which may include killings, arbitrary arrest and sexual violence. Several cases have also been documented in which civil society actors were targeted as a result of their cooperation with the UN system and other multilateral institutions.⁹

1.2.2. Actors, groups and sectors targeted

Restrictive frameworks and closing civic space do not have the same impact on all civil society actors. In fact, this impact can vary significantly based on factors including the size, networks,

operating modalities, location and focus of the actors involved.¹⁰

Individuals engaging in public gatherings, protests and social movements that seek political, social or economic reform and strive to draw attention to patterns of discrimination – including youth- and student-led social unrest – have been more prominently at the forefront of dissent in the past decade and therefore also a primary target of restrictive and punitive measures as well as intimidation and harassment.¹¹ Furthermore, civic space restrictions often disproportionately affect minorities and discriminated populations. Below is an overview of groups that have been found to be “most at risk” with respect to the impact of closing civic space.¹²

None of the groups above, however, should be viewed as monolithic, as both the groups and the individuals within the groups may experience restrictions differently. In addition, many of these identities intersect or overlap. For instance, women human rights defenders and indigenous human rights defenders and their communities are especially at risk.

In any case, it is important to note that while groups most at risk may bear the brunt of legal restrictions, civic space limitations affect civil society at large, from development organizations to community-based organizations to foundations engaged in global philanthropy. Even where restrictions specifically target a narrow segment of rights and advocacy organizations, there is commonly a broader impact on other sub-sectors within civil society, if not the entire sector. For example, burdensome legal requirements, restrictions on foreign funding and affiliations, vilification, distrust and violence have all challenged the ability of organizations focused on development and humanitarian aid to operate effectively.¹⁴

⁷ CIVICUS World Alliance for Citizen Participation (2019). [CIVICUS Monitor: People Power Under Attack](#), p. 12. Johannesburg, South Africa.

⁸ Data retrieved from the ICNL [Civic Freedom Monitor](#) in June 2021.

⁹ UN Human Rights Council (2019). Resolution on [intimidation and reprisal for cooperation with the UN in the field of human rights](#) (A/HRC/RES/42/28). Geneva, Switzerland.

¹⁰ Based on the 536 updates in 153 countries received in 2019, the CIVICUS Monitor points to most affected groups as advocating for women’s rights and women human rights defenders (22 percent of updates), LGBTQI groups (13.6 percent), labour rights groups (12.7 percent), followed by environmental rights and youth groups. CIVICUS World Alliance for Citizen Participation (2019), op. cit., p.10.

¹¹ International Network of Civil Liberties Organizations, International Human Rights Clinic and University of Chicago Law School (2018). [Defending Dissent: Towards State Practices That Protect and Promote the Right to Protest](#). New York, USA.

¹² UN Human Rights Council (2014). Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association on [challenges faced by groups most at risk when exercising or seeking to exercise the rights to freedom of peaceful assembly and/or of association](#) (A/HRC/26/29). Geneva, Switzerland.

GROUPS MOST AT RISK OF THE IMPACTS OF CLOSING CIVIC SPACE

- Human rights defenders and organizations critical of the state that pursue advocacy, litigation and mobilization efforts to hold governments and private actors accountable with respect to their human rights obligations.
- Investigative journalists, media professionals and online activists who monitor public policies and large-scale development projects, as well as anti-corruption, transparency and accountability activists.
- Business and human rights activists, labour activists and labour unions, consumer protection activists, land and environmental activists,¹³ indigenous groups and others that challenge economic interests.
- Individuals and organizations working on socially contested issues, such as sexual and reproductive rights; or defending marginalized, discriminated and vulnerable groups, including youth, children, women, persons with disabilities, LGBTI, refugees, minorities, asylum seekers and migrant workers.

1.2.3. A complex landscape

With regard to state institutions, the authority to design and implement frameworks that impact civic space is diffuse, extending beyond the executive and legislative power at the national level to a range of other institutions including administrative organs, sub-national authorities and judicial and law enforcement authorities, among others. This complicates advocacy and policy dialogue and can create situations in which civic space remains constrained despite efforts to open up at the central level.

At the same time, it is important to note that non-state actors can also play a significant role in curtailing civic space.¹⁵ Among others, these actors can include armed groups and militias in conflict and post-conflict areas, as well as politically-coopted non-governmental organizations, civic movements and media outlets that, in some instances, may actively participate in protracted forms of harassment.

In some cases, private sector actors¹⁶ have become – intentionally or otherwise – the gatekeepers to people’s ability to enjoy key rights related to civic space both offline and online.

Within civil society, the elite capture of civil society organizations and movements¹⁷ and the emergence of special interest and powerful anti-rights groups¹⁸ can also be considered key factors of failure in civic engagement and can negatively impact civic space, as these phenomena contribute to delegitimizing and weakening collective action while fostering social divisions.

1.2.4. Civic space in the digital era

Digital technologies have brought about a fundamental shift in civic space. This shift has greatly expanded access to information, as well as opportunities for debate, mobilization and participation. However, several UN Special

¹³ UN Human Rights Council (2019). Resolution on [recognizing the contribution of environmental human rights defenders to the enjoyment of human rights, environmental protection and sustainable development](#) (A/HRC/40/L.22/Rev.1). Geneva, Switzerland.

¹⁴ International Center for Not-for-Profit Law (2018). [Effective Donor Responses to the Challenge of Closing Civic Space](#), p. 14. Washington D.C., USA.

¹⁵ CIVICUS World Alliance for Citizen Participation (2019). [The Impact of Non-State Actors \(NSAs\) on Civic Space in Bangladesh, Palestinian Territories and Zimbabwe: How Do Resources Influence NGO Resilience?](#), p. 17. Johannesburg, South Africa.

¹⁶ UN Human Rights Council (2017). Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression on the [role of digital access providers](#) (A/HRC/35/22). Geneva, Switzerland.

¹⁷ UN Development Programme (2016). [Citizen Engagement in Public Service Delivery](#), p. 18. New York, USA.

¹⁸ CIVICUS World Alliance for Citizen Participation (2019). [Against the Wave: Civil Society Responses to Anti-rights Groups](#). Johannesburg, South Africa.

Rapporteur reports highlight that technology has also been used to “silence, surveil and harass dissidents, political opposition, human rights defenders, activists and protesters, and to manipulate public opinion”¹⁹ over the past decade.

Given the rapid pace of digital transformation, new technologies, such as “the Internet of Things, open data, (...) artificial intelligence and robotics”²⁰, are deeply reshaping civic space. Undue restrictions imposed through cybercrime legislation,²¹ Internet shutdowns, control and manipulation of information flows, mass digital surveillance,²² smear campaigns and online harassment are only a few examples of the ways in which digital tools have been used to undermine participation. Coordinated efforts to design, regulate and manage the governance of digital technologies will therefore be instrumental to address the potential adverse impacts of technology-related policies, products and services, particularly during critical democratic moments such as elections and demonstrations.²³

1.2.5. But there are also positive developments showing that progress is possible

While civic space is closing on balance, it is not closing in all places at all times.²⁴ It is critical,

therefore, that appropriate policy advice and capacity development be provided in a timely manner to support progressive reform, capitalizing especially on the opportunities offered by political transitions.²⁵

In recent years, reform initiatives to amend restrictive legislation affecting civil society and media freedoms have led to partial but encouraging successes in several countries. An improvement in civic space was documented in 11.8 percent of CIVICUS Monitor updates in 2019.²⁶ These positive developments are primarily witnessed in relation to the rights to freedom of peaceful assembly, freedom of expression and access to information. Broad transnational movements for open government,²⁷ based on advances in information and communication technologies as well as the people’s demand for greater transparency, have taken root. Freedom of information legislation, currently available in 127 countries,²⁸ has led to increased openness and accountability surrounding government policy development, decision-making, public finances and service delivery. At the same time, various countries facing complex situations in terms of human rights defenders’ vulnerability are taking action to respond to these challenges through various measures, including legislative interventions.²⁹

¹⁹ UN Human Rights Council (2019). Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association on [the exercise of the rights to freedom of peaceful assembly and of association in the digital age](#) (A/HRC/41/41), p. 2. Geneva, Switzerland.

²⁰ Organization for Economic Co-operation and Development (2020). [Digital Transformation and the Futures of Civic Space to 2030](#), p. 12. Paris, France; UN General Assembly (2018). Artificial Intelligence Technologies and Implications for the Information Environment (A/73/348). New York, USA.

²¹ See the ICNL webpage on [Technology and Civic Space](#), which includes a very useful list of curated reports, publications and resources.

²² UN Human Rights Council (2019). Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression on the [private surveillance industry and human rights](#) (A/HRC/41/35). Geneva, Switzerland.

²³ UN Human Rights Council (2016). Report of the Special Rapporteur on the promotion and protection of the right to [freedom of opinion and expression on freedom of expression, States and the private sector in the digital age](#) (A/HRC/32/38). Geneva, Switzerland.

²⁴ In 2015, in response to a global questionnaire, 9 out of 71 UNDP Country Offices (12.6 percent) pointed to ongoing or imminent reforms with the potential to bring about a more enabling environment for civil society actors in their countries.

²⁵ UNDP has done extensive research on the political economy of transitions. See, for instance: UN Development Programme (2013). [The Political Economy of Transitions: Comparative Experiences](#) and [Governance Assessment and Measurements in Political Transitions](#). New York, USA.

²⁶ CIVICUS World Alliance for Citizen Participation (2019), op. cit., p. 11.

²⁷ Open Government Partnership (2019). [Global Report on the State of Open Government: Democracy Beyond the Ballot Box](#). Washington D.C., USA.

²⁸ Open Society Justice Initiative – Right2INFO.org (2019). [List of countries with Access to Information Laws](#). Brussels, Belgium. Data retrieved in June 2020.

²⁹ International Service for Human Rights (2020). [Annual Report: Supporting Defenders Serving Humanity](#), p. 10. Geneva, Switzerland.



KEY RESOURCES:

- UN Human Rights Council (2020). Report of the UN Special Rapporteur on the rights to freedom of peaceful assembly and of association: [Ten years protecting civic space worldwide \(A/HRC/44/50\)](#). Geneva, Switzerland.
- Organization for Economic Co-operation and Development (2020). [Digital Transformation and the Futures of Civic Space to 2030](#). Paris, France.
- CIVICUS World Alliance for Citizen Participation (2020). [State of Civil Society Report 2020](#) and [State of Civil Society Report 2019](#). Johannesburg, South Africa.
- Article 19 (2019). [Global Expression Report 2018/2019: Major Developments in Freedom of Expression around the World](#). London, UK.
- UN Human Rights Council (2018). Report of the UN Special Rapporteur on the rights to freedom of peaceful assembly and of association on trends with regard to the exercise of the rights to freedom of peaceful assembly and of association ([A/HRC/38/34](#)). Geneva, Switzerland.
- UN Educational, Scientific and Cultural Organization (2018). [World Trends in Freedom of Expression and Media Development: Global Report 2017/2018](#). Paris, France.
- International Center for Not-for-Profit Law (2016). [Global Trends: Survey of Trends Affecting Civic Space 2015-2016 \(Vol. 7 Issue 4\)](#). Washington D.C., USA.
- UN General Assembly (2015). Report of the UN Special Rapporteur on the situation of human rights defenders on [global trends in risks and threats facing human rights defenders \(A/70/217\)](#). New York, USA.



Photo: UNDP Guatemala/Fernanda Zelada

II. PRINCIPLES:

Normative foundations of legal frameworks for civic space

2.1. International norms and standards relevant for civic space

2.1.1. The international legal basis for an enabling civic space

A key human rights instrument relevant to the promotion and protection of civic space³⁰ is the [International Covenant for Civil and Political Rights](#) (ICCPR), which – together with its [First Optional Protocol](#) (1966) – provides for the rights to freedom of opinion and expression, peaceful assembly and association, as well as participation in public life. In addition, the [International Covenant on Economic, Social and Cultural Rights \(ICESCR\)](#) also contains provisions that are relevant to civic space, including provisions on non-discrimination (art. 2), the right to join unions (art. 8), the rights to work and education in general and the right to take part in social life (art. 15).

Furthermore, human rights law, including through regional instruments, has also explicitly and further protected “groups most at risk” of marginalization or exclusion, especially women, persons with disabilities, children, migrant workers and their families. Several of these group-specific, legally binding instruments expressly address issues related to civic space:

- The [Convention on the Elimination of All Forms of Discrimination against Women](#) and its [Optional Protocol](#) (1989) provide for

the right of women to participate in political, economic and cultural life (art. 3) and the right to participate in public affairs including the right to participate in non-governmental organizations and associations concerned with the public and political life of the country (art. 7);

- The [Convention on the Rights of Persons with Disabilities](#) and its [Optional Protocol](#) (2006) guarantee the rights to freedom of opinion and expression, access to information, and participation in political and public life (arts. 21 and 29);
- The [Convention on the Rights of the Child](#) (1989) recognizes the rights of the child to freedom of expression, association and peaceful assembly (arts. 13 and 15); and
- The [Convention on the Protection of the Rights of All Migrant Workers and Members of their Families](#) (1990) provides for the right to hold opinions without interference, the right to privacy and the freedom to associate and to join any trade union (arts. 13, 14 and 26).

These conventions form part of the body of international legally binding instruments whose implementation is primarily monitored by the UN human rights monitoring treaty bodies or “committees” (for example, the Human Rights Committee monitors the implementation of the ICCPR).³¹

All of the international norms and standards mentioned above are based on the [Universal](#)

³⁰ See Annex 1: International and regional norms and standards affecting civic space. While not the focus of this publication, it is important to highlight that the recognition of the vital role of humanitarian actors is enshrined in several norms and standards related to international humanitarian law, for instance the [Paris Declaration on Aid Effectiveness](#) (2005). Domestic and international CSOs engaged in critical humanitarian work are also constrained from fully exercising their internationally protected rights, and thus, from serving the communities that need and depend on them. See: International Center for Not-for-Profit Law (2016). [Closing Civic Space: Impact on Development and Humanitarian CSOs](#), The International Journal of Not-for-Profit Law vol. 7, Issue 3. Washington D.C., USA.

³¹ See Section 4.3.2. Engaging international and regional human rights mechanisms under “UN human rights monitoring and protection mechanisms.”

ARTICLE 7 OF THE CEDAW

States Parties shall take all appropriate measures to eliminate discrimination against women in the political and public life (...) and shall ensure to women (...) the right: (...) (b) To participate in the formulation of government policy and the implementation thereof and to hold public office and perform all public functions at all levels of government; (c) To participate in non-governmental organizations and associations concerned with the public and political life of the country.



[Declaration of Human Rights](#) (1948) (UDHR), a fundamental standard-setting framework that is considered part of customary international law and therefore universally obligatory.³² These, in turn, have inspired numerous international human rights treaties and declarations, have been gradually complemented and strengthened by regional and sub-regional human rights mechanisms and bodies (particularly in Africa, Europe and Latin America)³³ and have been incorporated in domestic legal orders in various ways.

Other relevant declarations that are generally non-legally binding but reflect the commitment of states to abide by certain principles include: the [Declaration on the Right to Development](#) (1986), which highlights the importance of

“active, free and meaningful participation in development” and in the fair distribution of the benefits resulting therefrom (arts. 1, 2.3 and 8.b) and the [Declaration on Human Rights Defenders](#) (1999), which recognizes the rights to freedom of opinion and expression, access to information and participation in political and public life (arts. 5, 6 and 8) as well as the right, individually and in association with others, to develop and discuss new human rights ideas and principles and to advocate their acceptance (art. 7). Group-specific declarations notably include the [Declaration on the Rights of Indigenous Peoples](#) (2007), which recognizes the rights to freedom of opinion and expression, access to information and participation in the political, economic, social and cultural life of the state (arts. 5, 16, 18 and 19). Free, prior and informed consent (FPIC)³⁴ is a specific principle pertaining to indigenous peoples and recognized in the Declaration together with several other international legal instruments, such as International Labour Organization Convention No. 169 and the Convention on Biological Diversity. FPIC is a very important tool, which allows indigenous peoples to reclaim decision-making power in the decisions affecting them or their territories and helps to protect their rights, well-being and survival.

The right to participate in the conduct of public affairs

The right to free, active and meaningful participation is embodied in Article 21 of the UDHR, Article 25 of the ICCPR and several other international and regional instruments.³⁵ The freedoms of expression, association and assembly, which underpin the idea of civic space, are closely linked with – and a necessary condition for – the realization of the right to participation.

³² See the UN webpage on [The Foundation of International Human Rights Law](#).

³³ Key regional frameworks include the [European Convention for the Protection of Human Rights and Fundamental Freedoms](#) and Protocol No. 1 (1950), the [American Convention on Human Rights](#) (1969), the [African Charter on Human and Peoples' Rights](#) (1981), and the [Arab Charter on Human Rights](#) (2004). Asia-Pacific does not have a region-wide inter-governmental system, such as treaties, courts and commissions to protect and promote human rights, only at the level of the Association of Southeast Asian Nations: [ASEAN Human Rights Declaration](#) (2012). See Section 4.3.2. Engaging international and regional human rights mechanisms under “Regional human rights monitoring and protection processes”.

³⁴ UN Food and Agriculture Organization (2016). [Free Prior and Informed Consent – An Indigenous Peoples' Right and a Good Practice for Local Communities](#). Rome, Italy.

³⁵ See a full list on the OHCHR webpage: [International Legal Framework on the Equal participation in Political and Public Affairs](#).

ARTICLE 21 OF THE UDHR

- (1) Everyone has the right to take part in the government of his [or her] country, directly or through freely chosen representatives. (2) Everyone has the right of equal access to public service in his country. (3) The will of the people shall be the basis of the authority of government (...)



Public participation can take many forms, from voting to participating in consultations to co-drafting legislation, and at a minimum includes:

- Voting rights which encompass the right to participate as voters in genuine periodic elections or as candidates being elected according to international election obligations and standards;
- The right to directly participate in the conduct of public affairs, including at the supra-national level,³⁶ in both formal consultative political and decision-making processes, such as referenda or public hearings, and through public debate and dialogue with elected representatives or within civil society itself;
- The right to equal access to holding positions in public institutions in one's country, including national and local legislatures, public service and the judiciary.

The ICCPR is complemented by General Comment (GC) No. 25 and jurisprudence from the UN Treaty Bodies,³⁷ which highlight that the right to participate in the conduct of public affairs can be exercised directly or through freely chosen representatives and therefore applies in both electoral processes and non-electoral contexts. Very importantly, GC No. 25 highlights that “citizens also take part in the conduct of public affairs by exerting influence through public debate and dialogue with their representatives or through their capacity to organize themselves. This participation, to be effective, requires respect for freedom of expression, assembly and association.”³⁸ Therefore, even if a government has been elected via legitimate elections, it still has a responsibility to protect and promote autonomous participation spaces for civil society in line with the definition of “civic space” in Section 1.1.

The effective realization of the right to participate in the conduct of public affairs rests on several important premises highlighted by the UN Human Rights Council.³⁹ It requires an enabling environment that ensures the safety of those who participate, laws and policies that allow participation, and remedies in case the right to participation is violated; openness and transparency in all aspects of decision-making and accountability of public authorities; equality and non-discrimination to ensure inclusiveness and diversity of the individuals and groups able to participate; and, finally, civil society actors to be equipped with knowledge and capacity to engage in the decisions affecting them, for instance through capacity-building and civic education.

The right to freedom of association and peaceful assembly

The freedom of association is protected by Article 20 of the UDHR, Article 22 of the

³⁶ UN Human Rights Council (2018). Report of the UN High Commissioner for Human Rights. [Procedures and practices in respect of civil society engagement with international and regional organizations](#) (A/HRC/38/18). Geneva, Switzerland.

³⁷ See Section 4.3.2. Engaging international and regional human rights mechanisms under “UN human rights monitoring and protection mechanisms.”

³⁸ UN Human Rights Committee (1996). [General Comment No. 25 on Article 25: The Right to Participate in Public Affairs](#) (CCPR/C/21/Rev.1/Add.7), para. 8. Geneva, Switzerland.

³⁹ UN Human Rights Council (2018). [Final guidelines for States on the effective implementation of the right to participate in public affairs](#), pp. 6-9. Geneva, Switzerland.



KEY RESOURCES:

- UN Human Rights Council (2018). Annual Report of the Office of the UN High Commissioner for Human Rights. [Final guidelines for States on the effective implementation of the right to participate in public affairs \(A/HRC/39/28\)](#). Geneva, Switzerland.
- UN Human Rights Council (2015). Annual Report of the Office of the UN High Commissioner for Human Rights. [Promotion, protection and implementation of the right to participate in public affairs in the context of the existing human rights law: best practices, experiences, challenges and ways to overcome them \(A/HRC/30/26\)](#). Geneva, Switzerland.
- UN Human Rights Council (2014). Report of the Office of the UN High Commissioner for Human Rights. [Factors that impede equal political participation and steps to overcome those challenges \(A/HRC/27/29\)](#). Geneva, Switzerland.

ICCPR and several other international and regional instruments.⁴⁰ It protects the right of any groups of individuals or entities to act collectively to express, promote, pursue or defend a broad range of purposes. The permissible purposes embrace all “legal” or “lawful” purposes and specifically include the promotion and protection of human rights and fundamental freedoms. Notably, no one may be compelled to belong to an association. Likewise, associations should be free to choose their members and whether to be open to any membership. This aspect is particularly relevant for unions or political parties since direct interference in their membership may jeopardize their independence.

International human rights law protects the right of individuals to form a CSO as a legal entity, but individuals cannot be required to

form a legal entity in order to enjoy the freedom of association. Furthermore, individuals must be allowed to organize in groups or form associations, to decide freely on their internal governance in a way that would help them most effectively reach their objectives and, where needed, engage their constituencies and the public at large without fear of reprisal.

ARTICLE 22 OF THE ICCPR

(1) Everyone shall have the right to freedom of association with others, including the right to form and join trade unions for the protection of his interests.



The right to freedom of association embraces the ability to seek, receive and use resources – human, material and financial – from domestic, foreign and international sources. While not expressly protected in the UDHR or ICCPR, many other international and regional instruments recognize this right including Article 6 (f) of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief and Article 13 of the Declaration on Human Rights Defenders.

CSOs have the right to seek and secure funding from legal sources including individuals, businesses, civil society, international organizations and inter-governmental organizations as well as local, national and foreign governments. This right is essential not only to the existence and effective operations of any association, irrespective of its size, but also to the enjoyment of other human rights by those benefitting from the work of the association, as restrictions on this right also undermine civil, cultural, economic, political and

⁴⁰ See a full list on the OHCHR webpage of the Special Rapporteur on the rights to freedom of peaceful assembly and of association: [International Standards on the Rights to Freedom of Peaceful Assembly and of Association](#).

social rights as a whole. Various organizations⁴¹ have developed guidance on how states can facilitate, rather than restrict, civil society’s access to domestic, foreign and international resources in keeping with international human rights standards.

Civil society actors, individually and through their organizations, also enjoy the freedom of peaceful assembly. This right is protected by Article 20 of the UDHR, Article 21 of the ICCPR and several other international and regional instruments, as well as General Comment No. 37⁴² and jurisprudence of the UN Human Rights Committee. Peaceful assemblies are defined as any intentional and temporary, non-violent gathering of a group of people for a specific purpose. This includes non-violent direct action such as demonstrations, strikes, religious and cultural processions, flash-mobs as well as virtual protests. Peaceful assemblies can take place in a public or private space, outdoors or indoors, whether they are stationary, such as pickets, or mobile, such as processions or marches.

The right to freedom of peaceful assembly and association is strongly interconnected with freedom of expression, as it refers to individual and collective action aimed at expressing ideas, values and views, including opposition, denunciation, or vindication – for instance the affirmation of identity or raising awareness about a group’s situation of discrimination and social exclusion. As noted by the Special Rapporteur on the freedoms of peaceful assembly and association: “[a]ssemblies play a vibrant role in mobilizing the population and in formulating grievances and aspirations, facilitating the celebration of events and, importantly, in influencing states’ public policy.”⁴³ Numerous international and regional human rights institutions provide detailed guidance on a range of issues related to the proper management of assemblies, such as notification and authorization regimes, the role and duties of law enforcement and the use of force, and acceptable limitations to the time, place and manner of a demonstration. For instance, the step-by-step checklist for monitoring implementation of the practical recommendations on the management of assemblies in the report by the UN Special Rapporteur on the freedoms of peaceful assembly and association and the UN Special Rapporteur on extrajudicial, summary or arbitrary executions is a reference in this area.⁴⁴

General Comment No. 37 reconfirms that “human rights protections also apply to acts of expression through collective digital means.”⁴⁵ Article 21 of the ICCPR therefore protects peaceful assemblies wherever they take place: outdoors, indoors and *online*; in public and private spaces; or a combination thereof. This includes, for instance, the right to meet on the Internet to exchange views and share opinions and to collectively protest, for instance, via

ARTICLE 20 OF THE UDHR

(1) Everyone has the right to freedom of peaceful assembly and association. (2) No one may be compelled to belong to an association.



⁴¹ UN Human Rights Council (2013). Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association on [civil society’s right to seek, receive and use resources: human, material and financial](#) (A/HRC/23/39). Geneva, Switzerland; Special Rapporteur on the rights to freedom of peaceful assembly and of association and the community of democracies (2014). [General principles on protecting civic space and the right to access resources](#). Geneva, Switzerland.

⁴² UN Human Rights Committee (2020). [General Comment No. 37 on the right of peaceful assembly](#) (CCPR/C/GC/37). Geneva, Switzerland.

⁴³ UN Human Rights Council (2012). Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association on [best practices that promote and protect the rights to freedom of peaceful assembly and of association](#) (A/HRC/20/27), p. 7. Geneva, Switzerland.

⁴⁴ UN Human Rights Council (2016). Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association and the Special Rapporteur on extrajudicial, summary or arbitrary executions on [joint compilation of practical recommendations for the proper management of assemblies](#) (A/HRC/31/66). Geneva, Switzerland.

⁴⁵ UN Human Rights Committee (2020), op. cit. (CCPR/C/GC/37), pp. 3 and 7.



KEY RESOURCES:

- UN Human Rights Council (2020). [The promotion and protection of human rights in the context of peaceful protests](#) (A/HRC/44/L.11). Geneva, Switzerland.
UN Human Rights Council (2020). Report of the UN High Commissioner for Human Rights. [Impact of new technologies on the promotion and protection of human rights in the context of assemblies](#) (A/HRC/44/24, Advance Edited Version). Geneva, Switzerland.
- UN Human Rights Council (2019). Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression on the [exercise of the rights to freedom of peaceful assembly and of association in the digital age](#) (A/HRC/41/41). Geneva, Switzerland.
- International Center for Not-for-Profit Law (2019). [Library of UN and Regional Materials on Freedom of Assembly](#). Washington D.C., USA.
- International Labour Organization (2018). [Freedom of Association: Compilation of Decisions of the Committee on Freedom of Association \(Sixth Edition\)](#). Geneva, Switzerland.
- African Commission on Human and Peoples' Rights (2017). [Guidelines on Freedom of Association and Assembly in Africa](#). Niamey, Niger.
- United Nations (2020). [Guide to UN action in responses to protest movements](#). New York, USA.
- Article 19 (2016). [The Right to Protest: Principles on the Protection of Human Rights in Protests](#). London, UK.
- UN Human Rights Council (2013). Report of the UN Special Rapporteur on the rights to freedom of peaceful assembly and of association on [civil society's right to seek, receive and use resources: human, material and financial](#) (A/HRC/23/39). Geneva, Switzerland.
- UN Human Rights Council (2012). Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association on [best practices that promote and protect the rights to freedom of peaceful assembly and of association](#) (A/HRC/20/27). Geneva, Switzerland.

electronic networks and social media platforms. The report from the UN Special Rapporteur on the freedoms of peaceful assembly and association further highlights that “international law protects the rights of freedom of peaceful assembly and association whether exercised in person, through technologies of today, or technologies that will be invented in the future.”⁴⁶

The right to freedom of opinion and expression

This right is protected in Articles 19 of both the UDHR and the ICCPR as well as several other international and regional instruments⁴⁷

and complemented by interpretive General Comment No. 34⁴⁸ and guidance from the UN Human Rights Committee. It includes the right to seek, receive and impart information and ideas of all kinds in political discourse, public affairs and human rights as well as religious, cultural and artistic expression, regardless of frontiers, both online and offline.

All forms of expression and means of dissemination are protected: spoken, written and sign language and non-verbal expression, such as images and objects of art, and any other media of choice. Protection extends to books, newspapers, cartoons, banners, legal

⁴⁶ UN Human Rights Council (2019), op. cit. (A/HRC/41/41), p. 1. Geneva, Switzerland.

⁴⁷ See a full list on the OHCHR webpage of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression: [International Standards on Freedom of Opinion and Expression](#).

⁴⁸ UN Human Rights Committee (2011). [General Comment No. 34 on the freedoms of opinion and expression](#) (CCPR/C/GC/34). Geneva, Switzerland.

ARTICLE 19 OF THE ICCPR

(1) Everyone shall have the right to hold opinions without interference. (2) Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.



submissions and all forms of audio-visual as well as electronic modes of expression, including communication via the Internet and information and communication technologies. Based on the principles that pluralism and the free flow of ideas are essential in a democratic society, civil society actors are therefore protected in their ability to speak critically about government law or policy and to speak favorably about human rights and fundamental freedoms. The right embraces expression that may be regarded as inflammatory, blasphemous or deeply offensive, with the exception of limitations against propaganda for war, and any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence (ICCPR, arts. 20.1 and 20.2).

Disinformation (the deliberate spread of false information), misinformation (the accidental or unintentional spread of false information) and hate speech can heighten social tensions, pose a threat to people's ability to meaningfully participate in public life and can ultimately have a very negative impact on freedom of

expression. These phenomena are not new but have been significantly amplified in recent years by the emergence of new media and a series of structural economic and technological shifts in media landscapes, including the growing role of artificial intelligence. Detailed guidance developed by international and regional organizations as well as civil society actors on how to address them is referenced in Section 4.4.2.

The effective realization of the right to freedom of opinion and expression is linked to the right of access to information, which in itself is vital for the fulfilment of all other rights and as an underpinning of democracy. The right of access to information includes the right of individuals, CSOs and the media to request and receive information of public interest held by the executive, legislative and judicial branches of the state as well as any government-owned corporation and any other body that carries out public functions. It also includes the rights of individuals to access information about themselves that may affect their individual rights. Principles to promote effective freedom of information legislation were developed by civil society⁴⁹ and subsequently endorsed by UN bodies, such as the principles of maximum disclosure, the obligation to publish, the promotion of open government, and processes to facilitate access and the protection of whistle-blowers.

Media freedom is another essential element for the realization of these rights. It covers the freedom of all individuals or institutions to use media platforms to disseminate their expression to the public. Effective media freedom needs to be underpinned by and realized through a media environment that is not only legally free but also provides for media freedom, pluralism, independence and safety.⁵⁰ A pluralistic media landscape must embrace independent media in order for society to benefit from news shaped by professional standards and ethical decision-making. This is not limited to traditional media outlets and includes all intermediaries in public

⁴⁹ Article 19 (1999). [The Public's Right to Know: Principles on Freedom of Information Legislation](#). London, UK.

⁵⁰ See Section 4.4.2. Supporting media freedom and independence. See also: Special rapporteurs on the freedom of expression at the UN, OAS, OSCE and African Commission (2018). Joint Declaration on [Media Independence and Diversity in the Digital Age](#). Vienna, Austria.



KEY RESOURCES:

- UN Human Rights Council (2020). [Freedom of opinion and expression \(A/HRC/44/L.18/Rev.1\)](#). Geneva, Switzerland.
- UN General Assembly (2019). Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression on [online hate speech \(A/74/486\)](#). New York, USA.
- UN Educational, Scientific and Cultural Organization (2018). [Legal Standards on Freedom of Expression: Toolkit for the Judiciary in Africa](#). Paris, France.
- UN Human Rights Council (2013). Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression on [the right to access information \(A/68/362\)](#). Geneva, Switzerland.
- UN Human Rights Council (2013). Report of the United Nations High Commissioner for Human Rights on the [Rabat Plan of Action on the prohibition of advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence \(A/HRC/22/17/Add\)](#). Geneva, Switzerland.
- UN Educational, Scientific and Cultural Organization (2010). [Declaration of Brisbane on the Freedom of Information and the Right to Know](#). Brisbane, Australia.
- UN Human Rights Council (2009). [Freedoms of opinion and expression \(A/HRC/RES/12/16\)](#). Geneva, Switzerland.
- UN Educational, Scientific and Cultural Organization (2008). [Freedom of Information: A Comparative Legal Survey](#). Paris, France.
- International Centre for Not-for-Profit Law (2021). [Responding to the Disinformation Dilemma: A Policy Prospectus of Legal Responses to Disinformation, Washington DC, USA](#).

communication processes, content producers and audiences at large – including institutions, individuals and entities active on the Internet.⁵¹

Other interconnected international norms and principles

The rights to participate in public affairs and the freedoms of assembly, association and expression cannot be fully realized without respect for other mutually reinforcing rights and freedoms protected under international law. Some of the norms and principles that have a direct impact on the ability of civil society actors to exercise their roles as independent development actors include:

- **The right to life, liberty and security of the person:** These rights – protected in UDHR Article 3, ICCPR Articles 6 and 9.1 and several other international and regional instruments⁵² – are important safeguards for the right to express dissent and to participate in public affairs, particularly where public authorities may resort to the use of force or detention in order to suppress these rights or fail to protect people exercising these rights from harm that may be caused by others. In addition to prohibitions of arbitrary arrest or detention, personal integrity is protected by prohibitions against torture and other cruel, inhuman or degrad-

⁵¹ UN Human Rights Council (2018). Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression on [online content regulation \(A/HRC/38/35\)](#). Geneva, Switzerland; UN Human Rights Council (2017). Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression on [the role of digital access providers \(A/HRC/35/22\)](#). Geneva, Switzerland.

⁵² See, for instance, the [Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment \(1984\)](#), the [Convention for the Protection of All Persons from Enforced Disappearance \(2007\)](#), and the [Declaration on the Elimination of Violence against Women \(1993\)](#) – the latter focusing on the physical, sexual and psychological violence against women.

ing treatment or punishment (art. 5 of the UDHR and art. 7 of the ICCPR).

- **The right to equality and non-discrimination:** As prescribed in Article 7 of the UDHR, Article 26 of the ICCPR and several other international and regional instruments, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground.⁵³ Discriminatory laws, policies and practices are among the main obstacles that prevent people from exercising their right to participation and other related freedoms.
- **The right to freedom of thought, conscience and religion** – This right is protected in Articles 18 of both the UDHR and the ICCPR as well as the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief.⁵⁴ It includes the freedom to adopt, change, renounce and not to be coerced to adopt a religion or belief. It can be exercised either alone or in community, with others and in public or private, and manifests itself in various ways such as teaching, practice, worship and observance. This right lies at the intersection of several key human rights issues, for instance: the right to freedom of expression and questions related to religious conflicts, religious intolerance and extremism.
- **The rights to privacy, anonymity and protection of personal data** – Article 12 of the UDHR, Article 17 of the ICCPR and many other international and regional frameworks⁵⁵ protect everyone including civil society actors – individually and through their organizations – against unwarranted governmental intrusion into their internal or personal affairs. States and other parties

are prohibited from arbitrarily or unlawfully interfering with an individual’s privacy, family, home or correspondence and from unlawfully attacking an individual’s honour and reputation. This is particularly important to the work of human rights defenders, journalists and media professionals who would otherwise be unable to fully exercise their right to criticize and dissent, including in opposition to government. In the digital era, encryption, anonymity and online privacy play an important role in safeguarding and advancing free expression, political accountability, public participation and debate.⁵⁶ On the other hand, the ability of state and non-state actors to carry out mass surveillance activities in opaque and unaccountable ways is particularly dangerous for civic space.

ARTICLE 26 OF THE ICCPR

All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.



⁵³ See the OHCHR webpage on the UN [Efforts to Combat Discrimination](#) (against indigenous peoples, migrants, minorities, people with disabilities, women, racial and religious discrimination, and discrimination based on sexual orientation and gender identity).

⁵⁴ See a full list on the OHCHR webpage of Special Rapporteur on the freedom of religion or belief: [International Standards on the Freedom of Religion or Belief](#).

⁵⁵ See a full list on the OHCHR webpage of the Special Rapporteur on the right to privacy: [International Standards on the Right to Privacy](#).

⁵⁶ UN Human Rights Council (2015). Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression on [encryption, anonymity and the rights to freedom of opinion and expression and privacy](#) (A/HRC/29/32). Geneva, Switzerland.



KEY RESOURCES:

- UN Human Rights Council (2018). Report of the Office of the UN High Commissioner for Human Rights on the safety of journalists (A/HRC/39/23). Geneva, Switzerland.
- UN Educational, Scientific and Cultural Organization (2012). UN Plan of Action on the Safety of Journalists and the Issue of Impunity (CI-12/CONF.202/6). Paris, France.
- UN Human Rights Council (2015). Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression on encryption, anonymity and the rights to freedom of opinion and expression and privacy (A/HRC/29/32). Geneva, Switzerland.
- UN General Assembly (2014). Resolution on the right to privacy in the digital age (A/RES/69/166). New York, USA.



“We envisage a world of universal respect for human rights and human dignity, the rule of law, justice, equality and non-discrimination; of respect for race, ethnicity and cultural diversity; and of equal opportunity permitting the full realization of human potential and contributing to shared prosperity. A world which invests in its children and in which every child grows up free from violence and exploitation. A world in which every woman and girl enjoys full gender equality and all legal, social and economic barriers to their empowerment have been removed.”⁵⁷

– The 2030 Agenda for Sustainable Development

2.1.2. Civic space and the 2030 Agenda for Sustainable Development

Adopted by 193 UN Member States in 2015, the 2030 Agenda for Sustainable Development provides a transformative vision for human

rights-based, people-centered and gender-sensitive sustainable development. This vision is also closely linked to civic space.

The 2030 Agenda is explicitly anchored in international human rights law

– The SDGs “aim to realize the human rights of all” (Preamble). The 2030 Agenda is guided by the purposes and principles of the UN Charter, “including full respect for international law”, “grounded in the Universal Declaration of Human Rights [...] [and] international human rights treaties” and “informed by other instruments such as the Declaration on the Right to Development” (para. 10). The resolution adopting Agenda 2030 states that it is “to be implemented in a manner that is consistent with the (...) obligations of states under international law” (para. 18), and calls on states to take effective measures and actions “based on respect for human rights”, “in conformity with international law”, and to remove the obstacles to the full realization of human rights (para. 35).

The promotion and protection of human rights and the implementation of the 2030 Agenda are interrelated and mutually reinforcing. Both agendas are universal and universally applicable “for all nations and peoples and for all segments of society” (para. 4) in developed and developing countries. They encompass a wide range of issues related not only to economic, social and cultural rights but also to civil and

⁵⁷ UN General Assembly (2015). [Transforming Our World: the 2030 Agenda for Sustainable Development](#) (A/RES/70/1). New York, USA.

political rights and the right to development. Like the international human rights frameworks, the SDGs and their targets are integrated and indivisible, requiring progress on all goals to ensure the realization of the purpose of the 2030 Agenda.

There is also a strong convergence between the 2030 Agenda's approach to "ensuring that no one is left behind" (para. 4) and the human rights-based approach to addressing inequality and discrimination among and within countries. In its SDG 5 on achieving gender equality and SDG 10 on reducing inequalities within and between states, the 2030 Agenda notes that both formal equality (treating all people equally under the law) and substantive equality must be ensured and that positive measures to combat the multiple and intersecting grounds of discrimination faced by those left furthest behind are often necessary to secure substantive equality.

Agenda 2030 and the SDGs recognize the centrality of civic space – The 2030 Agenda includes 17 goals and 169 targets covering a wide range of issues that effectively mirror the human rights framework.⁵⁸ In particular, member states have made a number of commitments related to civic space as part of their broader commitment to SDG 16 (Promote just, peaceful and inclusive societies) captured under the following targets:

- SDG target 16.7 aims to ensure responsive, inclusive, participatory and representative decision-making at all levels. This target places particular emphasis on the inclusion and participation of all members of society in public affairs. It embodies the people-centered nature of the 2030 Agenda as well as the agenda's commitment to leave no one behind, as it requires states to be more inclusive of people in all aspects of their political and decision-making processes.

- SDG target 16.10 aims to ensure public access to information and the protection of fundamental freedoms in accordance with national legislation and international agreements. This target highlights the central importance of the rights to participation and the freedoms of expression, assembly and association⁵⁹ for the realization of all other human rights and the achievement of all SDGs. It reaffirms that access to information is crucial to ensure transparency and accountability as an end in itself and a means of empowering people to engage more effectively in their own development. A dedicated indicator 16.10.1 under OHCHR's custodianship⁶⁰ monitors the number of verified cases of killings and other attacks against journalists, associated media personnel, trade unionists and human rights advocates.

Beyond SDG 16, the implementation and monitoring of the 2030 Agenda as a whole rests on the meaningful and inclusive participation of all actors in society, in particular those most at risk of discrimination and of being left behind. SDG target 5.5 aims to ensure women's full and effective participation and equal opportunities for leadership at all levels of decision-making in political, economic and public life. SDG target 10.2 aims to empower and promote the social, economic and political inclusion of all, regardless of age, sex and disability status. Several SDG targets also refer to the inclusive participation of civil society and local communities in specific areas such as water and sanitation management (SDG target 6.b) and urban planning (SDG target 11.3).

Furthermore, there are several SDG targets aimed at promoting the application of legal, regulatory, policy and institutional frameworks with a focus on enforcing and monitoring equality and non-discrimination. These include SDG targets 1.b and 5.1 on pro-poor and

⁵⁸ Out of 169 SDG targets, more than 90 percent are linked to the human rights framework. On the other hand, 59 percent of the 145,000 recommendations from 67 mechanisms under the international human rights system are directly linked to at least one SDG target. See: Danish Institute for Human Rights (n.d.), [SDG-Human Rights Data Explorer: Connecting the Recommendations of International Human Rights Mechanisms to the SDGs](#). Copenhagen, Denmark.

⁵⁹ UN General Assembly (2018). Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association on the [linkages between the exercise of the rights to freedom of peaceful assembly and of association and the implementation of the 2030 Agenda for Sustainable Development](#) (A/73/279). Geneva, Switzerland.

⁶⁰ See the OHCHR webpage on [SDG indicators under OHCHR's custodianship](#).

gender-sensitive frameworks, SDG target 8.8 on protecting labour rights, SDG targets 10.3 and 10.4 on ensuring equal opportunity and reducing inequalities of outcome for all, and SDG target 16.b on promoting and enforcing non-discriminatory laws and policies broadly for sustainable development. Finally, SDG target 17.18 calls for the follow-up and review processes for the SDGs to be based on evidence and data disaggregated by “income, gender, age, race, ethnicity, migratory status, disability, geographic location and other characteristics relevant in national contexts.”

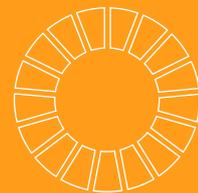
Accountability and inclusive partnerships for sustainable development and human rights – The 2030 Agenda emphasizes the responsibilities of “all states (...) to respect, protect and promote human rights and fundamental freedoms for all, without distinction of any kind as

to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth, [and] disability” (para. 19).

While the SDGs are not legally binding, countries have committed to take ownership and establish a national framework – sustainable development policies, plans and programmes – for achieving the goals and targets in accordance with their different national realities, resources and capacities. As with the international human rights framework, states have also committed to remove legal, practical and other relevant barriers to the effective implementation of the SDGs. Furthermore, states have agreed to “engaging in systematic follow-up and review of the implementation” in the form of a “robust, voluntary, effective, participatory, transparent and integrated follow-up and review framework” (para. 72).

ADDITIONAL POSSIBLE BENCHMARKS ON CIVIC SPACE FOR NATIONAL AND LOCAL SDG IMPLEMENTATION PLANS

Arguably, the current scope of SDG indicators does not enable measurement of the full extent to which members of society are able to undertake free and voluntary action or the quality of their engagement. When advising and supporting national governments on the effective implementation of the SDGs, there are a few additional benchmarks that may be discussed for inclusion in sustainable development policies, plans and programmes. For instance:



- “Civic” indicators to measure the level and type(s) of development interventions that specifically promote or impede civic engagement. These could include: the level of volunteerism or active membership in associations, the ability to freely and safely participate in peaceful assemblies, and the access to quality civic education (beyond SDG target 4.7 on education for sustainable development, human rights, peace and global citizenship).
- “Electoral” indicators to measure the extent to which “the will of the people [is] the basis of the authority of government”. These could include: the ability to vote in free and fair local and national elections, access to genuine political information, media and Internet freedoms, and transparency and accountability in electoral contexts.
- “Participation” indicators to measure the level and quality of the participation in the conduct of public affairs by different groups and the responsiveness of democratic governments and progress towards the articulation of people’s perceptions, needs and experiences in public policies. These could include: the existence and quality of public engagement mechanisms, the quality of participatory parliamentary engagement or outreach by legislators, and strategies for groups most at risk such as quotas for women, youth or other vulnerable groups.

**KEY RESOURCES:**

- UN Human Rights Council (2018). [Resolution on the promotion and protection of human rights and the implementation of the 2030 Agenda for Sustainable Development \(A/HRC/RES/37/24\)](#). Geneva, Switzerland.
- UN General Assembly (2018). [Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association on the linkages between the exercise of the rights to freedom of peaceful assembly and of association and the implementation of the 2030 Agenda for Sustainable Development \(A/73/279\)](#). Geneva, Switzerland.
- Danish Institute for Human Rights (n.d.). [SDG-Human Rights Data Explorer: Connecting the Recommendations of International Human Rights Mechanisms to the SDGs](#). Copenhagen, Denmark.

2.2. National legal and regulatory frameworks affecting civic space



“Domestic legal and administrative provisions and their application should facilitate, promote and protect an independent, diverse and pluralistic civil society (...) underscoring that the legal framework within which civil society operates is that of national legislation consistent with the Charter and international human rights law.”⁶¹

– UN Human Rights Council

The relevance and impact of international human rights law may differ across various domestic legal systems.⁶² In principle, when a state ratifies an instrument, it becomes legally binding and the state is obligated to amend national legislation to conform to their

international obligations. With this in mind, this section aims to describe the most common features of domestic legal and regulatory frameworks affecting civil society and the myriad ways it affects the wide range of civil society actors.⁶³

2.2.1. National constitutions and other founding documents

Countries fall into two broad categories based on the relationship between international and domestic law.⁶⁴ In monist countries, international law automatically has effect in domestic law, and the direct applicability of international law is clear and supersedes constitutional provisions. In dualist countries, international law must be implemented by domestic law before it is given domestic effect, and the national constitution sets forth the fundamental legal and democratic principles that its government is obligated to uphold. Very few countries do not have constitutions.⁶⁵ Irrespective of the system, it is often at the constitutional and sub-constitutional levels of the hierarchy of laws that the right to participate in the conduct of public affairs and the fundamental freedoms relating

⁶¹ UN Human Rights Council (2013). [Civil society space: creating and maintaining, in law and in practice, a safe and enabling environment \(A/HRC/24/L.24\)](#), p. 2. Geneva, Switzerland.

⁶² In some states, international human rights law is integrated into the legal order; in others, it must be transposed into the legal order through national legal acts. Some countries confer a higher status to international human rights treaties than national law, while others do not.

⁶³ Based on the laws and country reports collected from over 150 countries and analysed to ascertain prevailing international practices by the ICNL.

⁶⁴ International IDEA (2020). [Constitutional Brief: Constitutions and International Law](#), p. 4. Stockholm, Sweden.

⁶⁵ Often known as “uncodified constitution,” notably in Israel, New Zealand and Saudi Arabia, it is the sum of laws and principles that determine the political governance, and the fundamental rules often take the form of customs, usage, precedent and a variety of statutes and legal instruments.

to expression, association and assembly are codified, along with other associated rights (e.g., equality and non-discrimination, privacy and the protection against arbitrary interference by the state).

According to international human rights law, most laws apply to all peoples in the territory with the exception of citizenship-related rights, such as the right to vote. On the other hand, the precise wording of constitutional duties and protections varies from country to country. International human rights norms speak of rights and freedoms (versus laws) that apply to “everyone” in a given jurisdiction. But in many countries, both the constitutions and the laws diverge from this norm by extending rights and freedoms to citizens only. In other words, to

comply with international norms, laws should extend rights to everyone but often do not.

In most countries, the fundamental freedoms of association, assembly and expression are not absolute; constitutions often articulate specific limitations in the language of the constitution itself. Some constitutions refer to the rights of “non-governmental organizations”, “associations”, “unions”, “societies” and many other organizational forms, as well as specific constituencies including women, youth, persons with disabilities and minority communities, among others.

Specific examples from all regions and sub-regions that illustrate this variety of constitutional language⁶⁶ are presented in Table 1 below.

Table 1 Examples of constitutional provisions relating to civil society

| | |
|--|---|
| Nigeria (1999, rev. 2011) | Article 40: “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.” |
| Zambia (1991, rev. 2016) | Article 259.1: “Where a person is empowered to make a nomination or an appointment to a public office, that person shall ensure (...) equitable representation of the youth and persons with disabilities, where these qualify for nomination or appointment.” |
| Kosovo (2008, rev. 2016) | Article 59.13: “Members of communities shall have the right, individually or in community, to: (...) enjoy unhindered contacts with, and participate without discrimination in the activities of local, regional and international non-governmental organizations.” |
| Montenegro (1997, rev. 2013) | Article 79.1 and 79.6: “Persons belonging to minority nations and other minority national communities shall be guaranteed (...) the right to exercise, protect, develop and publicly express national, ethnic, cultural and religious particularities”, and “the right to establish educational, cultural and religious associations, with the material support of the state” (emphasis added). |
| Lebanon (1926, rev. 2004) | Article 13: “The freedom of opinion, expression through speech and writing, the freedom of the press, the freedom of assembly and the freedom of association are all guaranteed within the scope of the law.” |
| Tunisia 2014 | Article 21: “All citizens, male and female, have equal rights and duties and are equal before the law without any discrimination. The state guarantees freedoms and individual and collective rights to all citizens and provides all citizens the conditions for a dignified life.” |

⁶⁶ The text from specific articles was retrieved using the interactive comparative tool of the [Constitute Project](#) (updated as of June 2020).

| | |
|---------------------------------------|---|
| China (1982, rev. 2018) | Article 35: “Citizens of the People’s Republic of China enjoy freedom of speech, of the press, of assembly, of association, of procession and of demonstration.” |
| Philippines (1987) | Article 3, SEC. 8: “The right of the people, including those employed in the public and private sectors, to form unions, associations or societies for purposes not contrary to law shall not be abridged.” |
| Argentina (1853, rev. 1994) | Article 14: All inhabitants of the Nation are entitled to the following rights, in accordance with laws that regulate their exercise, namely: (...)” of publishing their ideas through the press without prior censorship; of associating for useful purposes.” |
| Haiti (1987, rev. 2012) | Article 31: “Freedom of unarmed assembly and association for political, economic, social, cultural or any other peaceful purposes is guaranteed.” |

2.2.2. Sub-constitutional laws and regulations

Flowing from the constitutional context, it is the wide range of national-level legislative and regulatory frameworks – including, of course, citizen access to and understanding of these laws as well as their practical implementation – that determines the actual scope and meaning of rights within each country. This system generally consists of a complex web of laws and regulations, executive orders and administrative directives, decrees, procedures and codes of conduct, together with relevant jurisprudence.

In practical terms, sub-constitutional legal frameworks define the organizational forms

that civil society actors can assume and the parameters within which they can operate. Civil society actors are impacted by laws spanning a wide range of subject matters that, depending on the country’s legal traditions, may include civil code provisions, laws relating to various organizational forms (e.g., laws on NGOs, associations and foundations), public administrative law, tax law, labour law and criminal law as well as judicial decisions interpreting those bodies of law (see Column B in Table 2). While constantly evolving, the legal framework will typically address issues relating to the lifecycle of a CSO, the fiscal treatment of CSOs, relations between the state and civil society, and public participation (see Column A in Table 2).

Table 2 Illustrative list of the main laws and regulations affecting civil society

| | A. Aspects of civil society affected | B. Laws and regulations |
|-------------------------|--|--|
| CSO life-cycle | <ul style="list-style-type: none"> • Definition of CSO organizational form; • Establishment and registration; • Termination, dissolution and liquidation; • Internal structure and governance; • External supervision, including reporting and auditing; • CSO activities; • Foreign-based or foreign-controlled CSOs. | <ul style="list-style-type: none"> • Civil code; • Specific legislation governing various CSO organizational forms (e.g., laws on NGOs, associations and foundations); • Legislation governing companies or corporate forms; • Industrial relations acts (relating to trade unions); • Licensing laws (for certain activities); • Criminal law, penal code, police acts, asylum laws, anti-trafficking and border control laws; • Security laws (including state, official secrets and sedition laws); • “Anti-terror” laws, cybercrime laws and other types of emergency laws; • Foreign agents registration acts and foreign contributions regulations. |
| CSO fiscal regulation | <ul style="list-style-type: none"> • Public benefit (or charitable) status; • Income or profits tax exemptions for CSOs; • Income or profits tax preferences for donations; • Donor incentives; • Economic activities and the taxation of income from economic activities; • VAT and customs duties; • Government funding; • Investment income; • Fundraising (public collections). | <ul style="list-style-type: none"> • Public benefit legislation; • Income tax laws; • Laws on VAT and customs duties; • Budgetary appropriations acts; • Finance/audit, accounting and bookkeeping laws; • Fundraising and money collection laws; • Banking laws; • Anti-money laundering and counter-terrorism financing laws; • Land acts (relating to duties and taxes); • Media and marketing laws (related to online, broadcast, and telephone fundraising); • Data protection laws (related to donor databases). |
| State-society relations | <ul style="list-style-type: none"> • Registration; • External supervision, including reporting and auditing; • State-mandated protection agencies or mechanisms; • Public policy and political activities; • State subsidies, grants and contracts; • Quasi non-governmental and government-organized non-governmental organization (QUANGOs and GONGOs); • Liaison offices. | <ul style="list-style-type: none"> • All of the laws/regulations listed above; • Local government act; • Laws on public procurement; • Laws on public service delivery (e.g., social assistance, healthcare, education); • Human rights act or institution-specific legislation providing for the establishment of a national human rights institution and other protection mechanisms; • Laws establishing various kinds of not-for-profit organizations, often considered QUANGOs or GONGOs; • Government strategy/ policy documents for cooperation. |

| | A. Aspects of civil society affected | B. Laws and regulations |
|----------------------|---|---|
| Public participation | <ul style="list-style-type: none"> Public policy and political activities; Access to and requests for information of public interest; Access to public service; Public consultations; Active participation, both offline and online. | <ul style="list-style-type: none"> Transparency, electoral and lobbying laws; Acts on decisional transparency; Legislative process rules and Crowd Law (use of technology to engage the public in all stages of the law-making process) Government policy; Administrative laws (related to public administration); Laws on assemblies, anti-protest legislation; Freedom of information laws; Telecommunications laws, electronic communications laws, (audiovisual, radio broadcasting) media laws; Information technology laws, information security management regulations; Data privacy and encryption protection laws. |

2.2.3. Unpacking the components of civil society law

While, as mentioned above, civic space is affected by a wide range of normative provisions, this section will focus on legislation that is specifically aimed at regulating the civil society sector. A description of the various components of this type of legislation will be provided, together with an indication – where relevant and applicable – of what could be considered good regulatory practices and a number of related “best practice checklists”.

CSO, NGO and other laws for not-for-profit entities

This section will focus on provisions regulating the different organizational forms that can be assumed by civil society organizations as well as the lifecycle of a CSO, including the aspects of entry procedures and dissolution processes; the government’s supervisory and enforcement role; and the ability of CSOs to conduct a range of activities, from advocacy to international cooperation to the freedom to solicit, receive and utilize resources.⁶⁷

Characteristics of a CSO – A country’s legislative framework determines the different legal organizational forms a civil society organization can take. These may include, among others, the following categories:

Non-governmental organization

While there is no single definition, a non-governmental organization is often broadly defined to include both membership and non-membership organizational forms and a wide range of permissible purposes.

Association

Typically, membership-based entities. These may include voluntary associations, trade and professional associations, political parties, clubs and a wide range of others, including faith-based or inter-faith organizations⁶⁸

⁶⁷ The “best practice checklists” in this sub-section are based on ICNL’s flagship tool and include a number of principles and procedural safeguards which are among the best regulatory practices included in such legislation. See: International Center for Not-for-Profit Law (2006). [Checklist for CSO Laws](#). Washington D.C., USA.

⁶⁸ For more information on international standards and country reports, see the OHCHR webpage of the [Special Rapporteur on freedom of religion or belief](#); and UN Development Programme (2015). [UNDP Guidelines on Engaging with Faith-based Organizations and Religious Leaders](#). New York, USA.

Foundation

Not membership-based, often property-based, entities that have at their disposal assets or an endowment, make grants to other organizations or carry out their own projects and programmes.

Trust

A legal device used to set aside money or property of one person for the benefit of one or more persons or organizations.

Charity

Voluntary organizations common in several Commonwealth countries.

Specialized forms

Public benefit companies, funds, centres or institutes, societies, humanitarian organizations.

Regardless of the organizational form, all CSOs as defined in Section 1.1.⁶⁹ share a fundamental defining characteristic that distinguishes them from for-profit organizations: the **non-distribution principle (or constraint)**. This principle prohibits the distribution of net earnings, profits or assets to any founder, director, officer, member, employee or donor of a CSO in order to ensure that all earnings, profits or assets be used to support the not-for-profit purposes of the organization. The constraint does not prevent the payment of reasonable compensation for work performed by employees or others on behalf of the CSO, although the definition of ‘reasonable’ is debated in some contexts.

To reinforce this constraint, national law may include prohibitions on direct or indirect private benefit such as prohibitions on private inurement and self-dealing, which may take

place when an insider receives special personal or unreasonable benefit as a result of his or her position within the organization (e.g., scholarships for relatives). Such provisions can also specify a requirement that officers, board members and employees avoid any actual or potential conflict between their personal or business interests and the interests of the organization.

UNPACKING NORMATIVE FRAMEWORKS ON CIVIL SOCIETY - CHECKLIST QUESTIONS



- Can earnings or profits of a CSO be distributed to founders, members, officers, board members or employees (hereinafter “CSO staff”)?
- Can assets be distributed to CSO staff upon the dissolution of the CSO?
- Can the earnings, profits and assets of a CSO be used to provide special personal benefits, directly or indirectly, to any CSO staff or donors connected with the organization?
- Is CSO staff required to avoid any actual or potential conflict of interests?

Legal existence – Typically, the law defines criteria for the formation of various types of CSOs. The criteria vary widely according to organizational form but often address the following elements: for membership CSOs, what is the required minimum number of members; for most non-membership CSOs, what is the required minimum amount of initial assets or endowment; who may serve as founders of the CSO; what purposes are permissible for the CSO to pursue; and finally, what documents – establishment act, statute, etc. – are required to establish the CSO. Once formed, many CSOs will seek to be recognized as a legal entity based on two main systems:

- The **declaration** system, by which the recognition of legal person status may flow au-

⁶⁹ See Section 1.1. Definitions.

tomatically upon establishment (that is, simply as a consequence of having a written charter) by completing a simple and wholly voluntary notification procedure (that is, through a declaration to a government entity that publicizes or enters into a public registry identifying information regarding the organization). As noted by the Special Rapporteur on the freedoms of peaceful assembly and association this modality can be considered as more in line with international human rights law⁷⁰

- The **registration** (or incorporation) system by which recognition of legal person status flows after the review and approval of an application for legal person status. Registration is too often a mandatory requirement, although under international norms relating to the freedom of association, registration should be voluntary. The law may vest registration authority in any of a varie-

ty of regulatory organs, such as a ministry, the courts or an independent commission. Registration usually requires the submission of documentation including the establishment document and governing rules of the organization, as well as an application.

Legal entity status confers distinct benefits on a CSO. At the same time, there may be reasons why a CSO would choose not to seek legal recognition (although this option is not always available).

In the vast majority of countries, foreign-based or foreign-controlled CSOs are required to be established in some form as a condition for operation in the host country. The two main ways they do so include operating through: 1) a branch office that enjoys all of the rights and is subject to all of the requirements of civil society organizations in the country (in which case all of the assets of the entire organization uphold

ADVANTAGES:

- The ability to open a bank account, employ staff and hold assets in its own name, enter into contracts, leases and other legal relationships;
- Limited personal liability for board members and the staff (founders, officers and employees);
- Other privileges (such as access to tax preferences and state contracts) may be conditioned on the establishment of a formal entity; and
- A stronger position to seek and secure funding, as donors generally have more confidence in a CSO with legal entity status, and many are only able to fund such organizations.

DISADVANTAGES:

- The time, effort and resources required to file for registration (e.g., preparing paperwork; registration fee);
- Potential reporting and/or tax implications and the possibility of legal interference with their activities that can accompany formal legal status. If a CSO is small, does not manage money, or does not plan economic activity or to attract grants or donations, it may not make sense to be registered;
- In restrictive environments, certain types of organizations may not be allowed to formally establish themselves, and registration may be perceived as a means of government monitoring and control over CSO activities.

⁷⁰ The 2012 report [Best Practices that Promote and Protect the Rights to Freedom of Peaceful Assembly and of Association](#) notes: "The Special Rapporteur is of the opinion that a 'notification procedure', rather than a 'prior authorization procedure' that requests the approval of the authorities to establish an association as a legal entity, complies better with international human rights law and should be implemented by States. Under this notification procedure, associations are automatically granted legal personality as soon as the authorities are notified by the founders that an organization was created. In most countries, such notification is made through a written statement containing a number of elements of information clearly defined in the law, but this is not a precondition for the existence of an association. It is rather a submission through which the administration records the establishment of the said association. Such a notification procedure is in force in a number of countries (e.g. Cote d'Ivoire, Djibouti, Morocco, Portugal, Senegal, Switzerland and Uruguay)."

any contract or obligation the organization may incur in the country of branch operations; or 2) an affiliate or subsidiary – i.e., a separate legal entity formed for the purpose of carrying out activities and operations in the foreign country, which helps to insulate its assets or operations from claims that may arise in the foreign country. Foreign organizations should in principle be subject to the same rules that apply to national organizations with separate registration and operational requirements.⁷¹ However, over the last years, the practice has increasingly been to subject foreign organizations to specific, additional requirements and constraints.

The termination and dissolution of a CSO is commonly addressed by the legal framework. It may follow the voluntary decision of the CSO or may result from government or court order (involuntary termination). Involuntary termination is the severest type of restriction on freedom

of association. For this reason, as noted by the Special Rapporteur on the freedoms of peaceful assembly and association “it should only be possible when there is a clear and imminent danger resulting in a flagrant violation of national law, in compliance with international human rights law. It should be strictly proportional to the legitimate aim pursued and used only when softer measures would be insufficient.”⁷² In practice, however, the grounds for termination often include the failure to remedy an ongoing significant violation of law following notification and the opportunity to correct the issue(s); the declaration of bankruptcy; and inactivity, often measured through the failure to file reports. If public authorities are given discretion to terminate or dissolve a CSO, seize its assets or take over its operations, this can have a chilling effect on its independence and activities, and the law should therefore provide for intermediate sanctions (e.g., fines) for different

UNPACKING NORMATIVE FRAMEWORKS ON CIVIL SOCIETY - CHECKLIST QUESTIONS



- Are CSOs required to obtain legal personality in order to engage in lawful activities? Does the law permit voluntary (not mandatory) registration?⁷³
- Is the CSO registration (or incorporation) system relatively quick, inexpensive, clear and apolitical for all natural and legal persons? Are the reporting and renewal of registration requirements reasonable?
- Is there a reasonable, fixed time period for governmental review of registration applications? Is there a rule of presumptive registration if the government fails to act within the fixed time period?
- Is there a single, national registry of all CSOs that is accessible to the public (in addition to any local public registries that may exist)?
- Are there clear, objective and exhaustive grounds for denial of registration? Is there a requirement of a well-explained written notice to the applicant? Is there a right to appeal the denial to an independent court?
- Are there clear, objective and exhaustive grounds for termination? Are all involuntary terminations subject to judicial supervision?
- Can the registration or supervisory organ or court allowed to involuntarily terminate a CSO's existence do so only for the most flagrant of violations, and then only after failure to comply with a requested correction of a legal or ethical violation?
- Is the highest governing body of a CSO permitted to voluntarily terminate its activities, dissolve it as a legal person and liquidate its assets pursuant to the decision of a court and upon application by the organization?

⁷¹ See for instance: United Nations General Assembly, A/64/4226, “Report of the UN Special Rapporteur on the situation of human rights defender, Margaret Sekaggya, in accordance with General Assembly resolution 62/152” August 4, 2009 page 24

⁷² UN Human Rights Council (2012), op. cit. (A/HRC/20/27), p. 18.

⁷³ To be consistent with international law, registration should be voluntary. Mandatory registration, especially where accompanied by fines for unregistered activities, is likely a violation of freedom of association principles.

types of violations. Following the dissolution of an organization, its assets are liquidated and transferred. After payment to creditors, CSO assets are often channeled to another CSO with the same or similar purpose. In exceptional cases, if there is no appropriate non-profit organization to receive the assets, the law may allow the assets to revert to the state. In this case, however, there should be a requirement that they be used for purposes similar to those of the dissolved organization. The prohibition against reversion of assets prevents assets being claimed by CSO insiders.

Structure and governance – The internal structure and governance of formal CSOs are determined by four types of governance rules:⁷⁴ legal requirements; rules required by donors and supporters of a CSO; voluntary self-regulation initiatives; and the purely discretionary choices of the CSO itself as expressed through its membership, board of directors or other governing body. Different forms of CSOs will have different internal structures. For example, associations are governed by the assembly of members, while foundations are governed by a board of directors. That said, certain internal governance rules may be broadly applicable to all forms of CSOs. At minimum, there are typically provisions requiring a clear mission, organizational structure and decision-making processes; defining the highest governing body of the CSO, its powers and duties and the minimum number of times it must meet each year; and addressing other governing bodies, their basic powers and responsibilities and their relation to the highest governing body and to each other. Ideally laws and regulations would set the minimum standards for the structure and governance of the organization, while leaving room for a CSO's discretion to frame its structure according to its mission and means.

CSO activities – A CSO with legal entity status generally has the same rights and responsibilities as other legal entities – such as being able to enter into contracts, own property, hire employees, maintain a bank account, lease office space and sue and

UNPACKING NORMATIVE FRAMEWORKS ON CIVIL SOCIETY - CHECKLIST QUESTIONS



- Are certain minimum provisions necessary to the internal operation and governance of the CSO stated in the applicable law?
- For non-membership organizations, are they required to have additional governing bodies (e.g., supervisory boards, audit commissions, etc.) because they do not have members?
- Does the CSO (through its highest governing body) have broad discretion to set and change the governance structure and operations of the organization within the limits provided by the law?
- Is the highest governing body of the CSO (or its delegate) required by law to receive and approve reports on the finances and operations of the CSO?
- Do officers and board members of the CSO have a duty to exercise loyalty to the organization, to execute their responsibilities to the CSO with care and diligence and to maintain the confidentiality of non-public information about the CSO?
- Are there record-keeping and internal reporting requirements to ensure that CSOs maintain open and accurate records on their finances and activities?
- Are there provisions clarifying the liability of the staff of the CSO (founders, officers and employees), insulating these individuals from personal liability, except in cases of willful misconduct or gross negligence?
- For larger CSOs, are there provisions to establish an audit commission or have their financial reports audited by an independent, chartered accountant?

be sued – in its own name. Typically, CSOs engaged in activities subject to licensing or regulation by a government agency (e.g., health care, education and social services) are subject to the same licensing and permit requirements

⁷⁴ Open Society Institute (2004), op. cit., pp. 39-45.

applicable to individuals and business entities. Special rules may also apply to certain defined areas of CSO activity, namely public benefit activities, political activities and economic activities:⁷⁵

- **Public benefit organizations** are common in many regulatory systems, which allow some organizations, based on their purposes and activities, to receive special benefits from the state, such as special tax benefits or the right to compete for certain state contracts. Depending on the regulatory approach, CSOs pursuing such purposes and activities may alternatively be called “tax-exempt” organizations or “charities”. Recognition may be extended by the tax authorities, by a designated ministry or ministerial department, by the courts or by a special commission set up for that purpose. The qualifying activities and criteria vary widely from country to country as do the procedures for recognition, the corresponding benefits and accompanying accountability standards.⁷⁶
- In the sphere of **political or public policy activities**, countries adopt a wide variety of regulatory approaches. Although with significant exceptions, CSOs typically are not prevented from engaging in public policy activities, such as research, education, advocacy and the publication of policy papers. More often restrictions are imposed to prevent CSOs from electioneering activities, such as campaigning and/or fundraising for political parties or candidates. While national approaches may vary, international norms relating to the freedom of speech recognize the right of CSOs, like any individual, to speak out on all matters of public significance, including existing or proposed legislation, state actions and policies, and state officials or candidates for public office.
- **Economic activities** may be defined as regularly pursued trade or business involving the sale of goods and services. There are a variety of regulatory approaches regarding the permissible extent of economic activity.

⁷⁵ Open Society Institute (2004), op. cit., pp. 53-59.

⁷⁶ For more information on the legal framework for public benefit organizations: International Center for Not-for-Profit Law (2005). [Public Benefit Status: A Comparative Overview](#), The International Journal of Not-for-Profit Law vol. 7, Issue 3. Washington D.C., USA.

UNPACKING NORMATIVE FRAMEWORKS ON CIVIL SOCIETY - CHECKLIST QUESTIONS



- Are CSOs treated like all other legal entities and permitted to engage in activities for the benefit of their members and in public benefit or “charitable” activities?
- Are CSOs able to speak freely without fear of reprisal about all matters of public significance, including debate about and criticism of existing or proposed state policies and actions?
- Are CSOs engaging in an activity subject to licensing and regulatory requirements and procedures by a state organ (e.g., public service delivery) subject to the same generally applicable rules that apply to activities of individuals, business organizations or public organs?
- If provided by law, is the state organ determining whether an organization qualifies for public benefit or charitable status able to carry out its duties with sufficient capacity, independence and objectivity?
- Are CSOs permitted to engage in all legally acceptable and culturally appropriate fundraising activities? If there are specific standards and limitations related to fundraising activities, are there remedies available?
- Are CSOs permitted to engage in lawful economic activities, provided they operate principally for the purpose of conducting appropriate not-for-profit activities, subject to the non-distribution constraint?

Generally, CSOs are permitted to engage directly in the sale of goods and services, particularly those related to the mission of the organization. The taxation of income from economic activities is a related but separate issue and is beyond the scope of this publication.

CSO transparency and accountability –The law often prescribes the common tools for achieving accountability and transparency⁷⁷ in the form of filing requirements with various agencies, such as the general organ responsible for supervising formal CSOs (court, ministry, local administration or specialized organ), tax authorities and appropriate licensing authorities.

Many CSOs are small, community-based organizations that may or may not be registered, often rely, at least to some extent, on volunteer services rather than paid employees, and receive little to no public funding, whether in the form of tax exemptions or direct subsidies or grants. Such CSOs are typically not required to submit reports to government. On the other hand, other CSOs are professional organizations with offices, paid staff and large budgets. They are likely registered and may benefit from fiscal privileges in the form of tax exemptions or government grants. Such CSOs are typically required to submit activity and financial reports on a regular basis. The legislation will often specify if reports need to be accompanied by other documents such as proof of payment of any prescribed fees and a copy of audited books of accounts.

Some countries impose specific reporting and disclosure requirements for foreign-based or foreign-controlled CSOs or domestic CSOs receiving foreign funding. These special requirements can include disclosing the frequency and content of financial statements, information about donors and data of persons affiliated with the CSO (members, volunteers, board members) and can be accompanied by harsh sanctions for noncompliance. However, such requirements are problematic under international law. The UN Special Rapporteur on the freedoms of peaceful assembly and of

association has called upon states to ensure equal treatment of NGOs and businesses in laws and practices regulating, inter alia, reporting and access to resources including foreign resources. He has emphasized that there is no basis in international human rights law for imposing more burdensome reporting requirements upon CSOs than upon businesses or other entities and that justifications such as protecting state sovereignty are not legitimate bases under international human rights instruments.⁷⁸ States should refrain therefore from adopting measures that disproportionately target or burden CSOs, such as imposing onerous vetting rules, procedures or other CSO-specific requirements not applied to the corporate sector.⁷⁹

Finally, an enabling legal framework can and should allow, if not encourage, voluntary self-regulation as a complement to broad government regulatory efforts. The past two decades have witnessed an exponential increase in self-regulation initiatives⁸⁰, which have contributed to cementing the credibility and legitimacy of CSOs with stakeholders, helped to build public trust and supported the sharing of good practice and learning. Any successful self-regulatory initiative will need to consider the incentives for signing up to standards of governance more rigorous than the law requires, as well as the issue of monitoring and enforcement.

There is a great diversity of possible modalities of self-regulation. An individual organization or umbrella organization may choose to adopt its own internal working group, code of ethics or conduct, certification scheme (with self-assessment, peer assessment or third party accreditation) or a combination thereof. In some cases, self-regulation initiatives will include provisions on openness, transparency

⁷⁷ Open Society Institute (2004), op. cit., pp. 65-75.

⁷⁸ Special Rapporteur on the rights to freedom of peaceful assembly and of association. Factsheet: Comparing treatment of business & associations (General Assembly Report – Oct. 2015).

⁷⁹ Protecting civic space and the right to access resources - General Principle 3: Civil society and the corporate sectors should be governed by an equitable set of rules and regulations (sectoral equity). Special Rapporteur on the rights to freedom of peaceful assembly and of association and A Community of Democracies project funded by Sweden.

⁸⁰ CIVICUS World Alliance for Citizen Participation (2014). [Accountability for Civil Society by Civil Society: A Guide to Self-Regulation Initiatives](#). Johannesburg, South Africa. See also the standards developed by the multi-stakeholder [International Aid Transparency Initiative](#) (IATI) and civil society-led initiatives, such as [Accountable Now](#) (formerly known as INGO Accountability Charter) and the [Global Standard for CSO Accountability](#).

UNPACKING NORMATIVE FRAMEWORKS ON CIVIL SOCIETY - CHECKLIST QUESTIONS



- To the maximum extent possible, are all reports required of CSOs as simple to complete and uniform among state organs?
- Are reporting procedures to and audit procedures by the appropriate supervisory organ consistent with the normal state powers of supervision and inspection for all legal entities?
- Does the supervision and audit system recognize the diversity of civil society (in size, shape and operating modalities) and impose requirements only where and when necessary to meet a legitimate purpose?
- Are CSOs permitted and encouraged to set higher standards of conduct and performance through self-regulation and codes of ethics?
- Is the formation of umbrella organizations (to adopt and enforce principles of voluntary self-regulation) permitted?
- Are CSOs that engage in significant public fundraising or receive substantial state or public support required to publish or make available to the public a report of their general finances and operations?
- Do CSOs have access to media outlets to publicize their activities, including state-owned media, where they exist?



KEY RESOURCES:

- Johns Hopkins Center for Civil Society Studies and UN Department of Economic and Social Affairs Statistics Division (2018). [UN Handbook on Nonprofit and Related Institutions and Volunteer Work \(ST/ESA/STAT/SER.F/91/Rev.1\)](#). Baltimore, USA.
- International Center for Not-for-Profit Law (2014). [A Mapping of Existing Initiatives to Address Legal Constraints on Foreign Funding of Civil Society](#). Washington D.C., USA.
- World Movement for Democracy and International Center for Not-for-Profit Law (2012). [Defending Civil Society: Second Edition](#). Washington D.C., USA.
- UN General Assembly (2009). Report of the UN Special Rapporteur on the situation of human rights defenders on [meeting the standards of the right to freedom of association: analysis of NGO laws \(A/64/226\)](#). New York, USA.
- International Center for Not-for-Profit Law (2006). [Checklist for CSO Laws](#). Washington D.C., USA.
- Open Society Institute (2004). [Guidelines for Laws Affecting Civic Organizations](#). Rio de Janeiro, Brazil.

and information disclosure, principles of political and financial independence, provisions related to ethical fundraising (e.g., transparency and confidentiality, the use of public donations and in-kind gifts, etc.) or specific reporting requirements on environmental and social impact. Increasingly, they also include provisions on the promotion of diversity, gender equity and balance, impartiality and non-discrimination within the organization, specific provisions against sexual exploitation, abuse and discrimination in all its forms, processes and mechanisms for follow-up to alleged violations, and protective provisions for whistle-blowers.

Selected examples of other laws affecting civil society

Laws or regulations governing CSOs, NGOs and other types of not-for-profit entities are only one example of the vast body of rules affecting civil society.⁸¹ This section will briefly provide an overview of the components of selected laws and

⁸¹ See Table 2: Overview of the main laws and regulations affecting civil society.

regulations that also directly affect civil society and point to useful resources for further analysis and learning.

Laws and regulations on peaceful assemblies – The approach to regulating peaceful assemblies varies greatly from country to country, from the adoption of a single consolidated law to the incorporation of provisions concerning peaceful assemblies in an array of different laws and regulations governing police powers, criminal and administrative codes, anti-terrorism legislation, election laws and public health legislation, among others.

Legislation on peaceful assemblies will typically provide the principal definitions and categories of assemblies, detailed guidance on notification or authorization regimes, and a list of grounds for restrictions or other limitations to the time, place and manner of a demonstration. Based on international human rights standards, under peaceful assembly legislation, public authorities should be bound by a duty to protect and facilitate any assembly, including peaceful protests. From this duty flows for instance an exception from the requirement of advance notice where giving advance notice is impracticable (spontaneous assemblies). In the case that two or more assemblies

UNPACKING NORMATIVE FRAMEWORKS ON ASSEMBLIES – CHECKLIST QUESTIONS



- Does the law provide a positive presumption in favour of peaceful assembly (as a fundamental right, freedom of peaceful assembly should, insofar as possible, be enjoyed without regulation)?
- Is the freedom to organize and participate in public assemblies guaranteed to everyone (both individuals and collective actors; both nationals and non-nationals; both women and men, etc.) without discrimination?
- Do the legal provisions concerning advance notice require a notice of intent rather than a request for permission? Is the notification process onerous or bureaucratic? Is the period of notice unnecessarily lengthy?
- Are the provisions related to the management of assemblies unambiguous, consistent with each other and aligned with international human rights law?
- Are there clear provisions that govern which regulatory authority is responsible for decision-making on the regulation of freedom of assembly?
- Are there provisions for the completion of an expeditious appeal to a tribunal or court should the legality of any restrictions imposed be challenged?
- Are there provisions that regulate the use of force and firearms, and are they aligned with international human rights law? Are there institutions and processes in place to provide for effective remedies in the case of excessive force or misuse of firearms?
- Are there law or policy provisions requiring law enforcement officials to be trained in the effective management and facilitation of assemblies, and to employ measures for such management and facilitation that interfere with assemblies to the minimum extent necessary, including resorting to dispersal or use of force only as a last resort?
- Are the costs of adequate security and safety (including traffic and crowd management) fully covered by the public authorities? Does the state levy any monetary charge for providing adequate policing?
- Does the surveillance and/or the collection of personal information in relation to an assembly (e.g., of the assembly organizers) interfere impermissibly with privacy or other rights?
- Does everyone enjoy the right to observe, monitor and record assemblies? Does everyone have adequate access to reliable, accessible and transparent information about peaceful assemblies?
- Have authorities limited access to digital services, including through blocking or hindering Internet connectivity or suspensions of online accounts, in a manner having negative impacts on the organization of and participation in peaceful assemblies?

should be held at the same place and time (simultaneous assemblies), the state duty to protect is especially relevant in relation to protecting participants of a peaceful assembly from any person or group that attempts to disrupt or inhibit it. International human rights law protects peaceful assemblies wherever they may take place, including both online and offline assemblies. Restrictions on peaceful assemblies must be necessary, proportionate, legal, and for a legitimate purpose.

The role and duties of police and other law enforcement officials, including the use of force, are often regulated by domestic law. Provisions may address the circumstances that justify the use of force including firearms; requirements of adequate prior warnings and the differentiated use of force for various threats; and the civil and/or criminal liability and accountability of the police and other law enforcement officials in case of excessive use of force, among others. In addition, as digital technologies offer new tools to organizers and police alike, domestic law in many countries may also address Internet shutdowns (i.e., the circumstances that would justify the shutting down of the Internet), the use of facial recognition and other surveillance

and monitoring technologies as well as other applications of artificial intelligence.

Legislation will also sometimes provide for the use of negotiation and/or mediation to help resolve disputed assemblies, the possibility to deploy clearly-identified stewards during peaceful assemblies who can help to ensure compliance with any lawfully imposed restrictions, and issues related to the boundaries of the liability of and sanctions against organizers and participants. Independent monitoring of assemblies (by non-participant third-party persons or groups whose primary aim is to observe and record) will often be provided for as well as access for journalists and other media professionals (distinguished from participants and given as much access as possible by the authorities).

Laws and regulations on access to information – Freedom of information legislation is currently available in 127 countries,⁸² often in the form of single consolidated laws or regulations that establish a “right-to-know” legal process. According to freedom of information legislation, requests may be made for information held by or on behalf of public authorities and, in some



KEY RESOURCES:

- Centre for Human Rights of the University of Pretoria (2020). [Laws on the Right of Peaceful Assembly Worldwide: A Global Analysis of Domestic Regimes](#). Pretoria, South Africa.
- International Network of Civil Liberties Organizations, International Human Rights Clinic and University of Chicago Law School (2018). [Defending Dissent: Towards State Practices That Protect and Promote the Right to Protest](#). New York, USA.
- African Commission on Human and Peoples’ Rights (2017). [Guidelines on Freedom of Association and Assembly in Africa and Guidelines for the Policing of Assemblies by Law Enforcement Officials in Africa](#). Banjul, The Gambia.
- UN Human Rights Council (2016). Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association and the Special Rapporteur on extrajudicial, summary or arbitrary executions on [joint compilation of practical recommendations for the proper management of assemblies \(A/HRC/31/66\)](#). Geneva, Switzerland.
- Organization for Security and Cooperation in Europe – Office for Democratic Institutions and Human Rights and Council of Europe – Venice Commission (2019, updated from 2010). [Guidelines on Freedom of Peaceful Assembly](#). Warsaw, Poland.

⁸² Right2INFO.org (2012). [List of countries with Access to Information Laws](#). Brussels, Belgium.

cases, information held by private bodies which is related to the exercise of public functions.

At the same time, provisions on access to information can be found in numerous regulations addressing state and official secrets, archives, environmental information, public procurement, local government, legislative information and judicial information as well as laws regulating journalism and press functions, radio and broadcasting, among other areas. Freedom of information legislation will also sometimes be enacted in conjunction with provisions on open government and open decision-making, lobbying transparency, anti-corruption, media ownership transparency, data protection and privacy.

Freedom of information legislation will typically define the general right of access and determine the type of records that can be requested, the fees associated with the request and how the information must be requested (e.g., time limits for responding to requests for information). The legislation will often distinguish between information related to public and private bodies and list the exceptions and special circumstances that justify a refusal to release public information related to topics such as defence and security, law enforcement, public economic interests, commercial and confidential information, legal privilege, health and safety, and personal information (though the latter is often protected in data protection laws).

Under freedom of information regimes, governments are typically bound by a duty to publish and to promote openness. Legislation will therefore include provisions on the duty to publish and widely disseminate documents of significant public interest, subject only to reasonable limits based on resources and capacity; record keeping (and what to do when records are not maintained); the training of officials; and activities to promote a culture of openness within government and inform the public of their rights. If provided for in the legislation, it will also define the appointment, independence, staffing, activities, and roles and powers of the Information Commission or other oversight bodies and mechanisms.

UNPACKING NORMATIVE FRAMEWORKS ON ACCESS TO INFORMATION – CHECKLIST QUESTIONS



- Is the freedom of information guaranteed to everyone (both individuals and collective actors; both nationals and non-nationals; both women and men, etc.) without discrimination?
- Can information be sought and received freely or at minimal cost, barring standard exceptions?
- Are requests for information processed rapidly and fairly? Is an independent review of any refusals available?
- Does the legislation provide for meetings of public bodies to be open to the public?
- Does the freedom of information legislation require that other legislation inconsistent with the principle of maximum disclosure be amended or repealed?
- If they exist, do freedom of information oversight bodies and mechanisms have the powers and resources to investigate? Do they have a complaint mechanism? Can the responses to complaints be directly implemented? Are they binding? May they be appealed?
- Are individuals who release information on wrongdoing – whistleblowers – protected?

KEY RESOURCES:

- Centre for Law and Democracy and Access Info Europe (2020). [Global Right to Information Rating Map: A Comparative Analysis of the Legal Frameworks for Accessing Information](#). Halifax, Canada.
- Open Society Justice Initiative – Right2INFO.org (2019). [List of countries with Access to Information Laws](#). Brussels, Belgium.
- Centre for Law and Democracy (2012). [Entrenching RTI: Constitutional Protections of the Right to Information](#). Halifax, Canada.
- Article 19 (1999). [The Public's Right to Know. Principles of Freedom of Information Legislation](#). London, UK.

Laws and regulations on human rights defenders – Only a handful of countries have developed consolidated legislation related to the protection of human rights defenders (HRDs), which most often encompass a wide range of civil society actors: human rights advocates, legal practitioners and justice operators, journalists and other media professionals, trade unionists and social and health workers.

General provisions in such legislation will commonly include the purposes and definitions and outline the range of protections to which HRDs should be entitled. They will typically address on how different rights apply to human rights defenders including, among others, freedom of association and assembly (right to form associations and operate freely, right to

solicit, receive and utilize resources); expression (the right to seek, receive and disseminate information related to human rights, the right not to disclose confidential sources, free access to materials related to human rights); and the right to meaningfully participate in public, political and cultural life. They will also include provisions related to the right to physical integrity, freedom of movement and privacy as well as the rights to access, communicate with and cooperate with NGOs, inter-governmental organizations and international and regional human rights bodies and mechanisms. At minimum, the legislation will outline the obligations of public authorities to protect and fulfil the recognized rights and guarantee protection against arbitrary or unlawful intrusion and interference, especially intimidation, reprisal, defamation and stigmatization as well as the right to remedy and reparation.

UNPACKING NORMATIVE FRAMEWORKS ON HUMAN RIGHTS DEFENDERS – CHECKLIST QUESTIONS



- Does the law guarantee the basic elements of a safe and enabling environment for HRDs to work at the domestic, regional and international levels?
- Are laws, regulations and practices aligned with international human rights law and standards, especially the UN Declaration on Human Rights Defenders?⁸³
- Are acts of intimidation or reprisal, whether by a public or private actor, against HRDs (on the grounds of or in association with this status, activities or work) made an offence to be prosecuted by the competent authority and subject to appropriate penalties?
- Are access to justice for HRDs and the independence of the judiciary guaranteed? Do HRDs benefit from effective remedies in cases of rights violations?
- Are there independent, effective and accessible national protection policies and/or mechanism(s) in place? Do they consider the specific needs and risks of groups most at risk, and do they apply a gender-sensitive approach?
- If there is a risk of an imminent act of intimidation or reprisal, are there urgent protection measures established?
- Does the law foresee the development of protection plans and measures based on international best practices?
- Is the importance of access to information of public interest and the role of whistleblowers recognized?
- Does the law provide assistance to HRDs abroad?
- Are there measures to build capacity (e.g., training of law enforcement officials on the rights of HRDs) and to raise public awareness and promote the important and legitimate work of HRDs (e.g., human rights education)?

⁸³ See Section 2.1.1. The international legal basis for an enabling environment for civic space, and Annex 1: International and regional norms and standards affecting civic space.

MODEL LAWS: MINIMUM STANDARDS FOR FRAMEWORKS FOR CIVIC SPACE?

Model laws contain procedures and principles that can serve as reference tools for policymakers, legislators, regulators and those providing legal technical assistance including the UN and other development institutions. Informed by international good practices and innovations, provisions in model laws are intended to provide a baseline to facilitate the review and amendment of existing legislation as well as the adoption of new frameworks that are aligned with and, in rare cases, go beyond obligations or standards included in international and regional treaties and conventions. Several model laws on access to information, including at the regional level in Latin America and Africa,⁸⁴ have sought to incorporate the most relevant provisions developed by national legislation and create tools that can help to design, amend, strengthen or supplement domestic legal frameworks, taking into account actual state practice and the needs of citizens. While less recognized or used, model provisions have been developed in a number of other areas relevant to civic space, for instance laws affecting public benefit organizations, the participation of women in political life and the protection of human rights defenders.⁸⁵

Model laws can help articulate international human rights norms and standards into national law. However, they are not necessarily always fit-for-purpose considering the great diversity of legal systems and country contexts. State legislatures can enact model laws in entirety, enact them with modifications or reject them (and therefore delay the legislative process). In any case, model laws cannot replace the complex law-making and political processes that lead to legislation developed and implemented in close consultation with local stakeholders, with adequate political support and resources, and based on democratic and cultural traditions unique to each country. With this in mind, it is neither possible nor desirable to draft a single, consolidated, transferable “model law”. Instead, anything presented as a “model law” might be viewed as a potentially useful reference point.

**KEY RESOURCES:**

- UN Human Rights Council (2016). Report of the UN Special Rapporteur on the situation of human rights defenders on good practices in the protection of human rights defenders (A/HRC/31/55). Geneva, Switzerland.
- Organization for Security and Cooperation in Europe – Office for Democratic Institutions and Human Rights (2014). Guidelines on the Protection of Human Rights Defenders. Warsaw, Poland.
- UN General Assembly (2012). Report of the UN Special Rapporteur on the Situation of Human Rights Defenders on the Use of Legislation to Regulate Activities of Human Rights Defenders (A/67/292). New York, USA.
- Protection International (2011). Protection of Human Rights Defenders, Best Practices and Lessons Learnt. Brussels, Belgium.

⁸⁴ Commonwealth Secretariat (2017, updated from 2001). Model Freedom of Information Bill. London, UK; art. 19 (2001). Freedom of Information Model Law. London, UK; Organization of American States (2010). Model Inter-American Law on Access to Public Information. San Jose, Costa Rica; African Commission on Human and Peoples' Rights (2013). Model Law on Access to Information for Africa. Banjul, The Gambia.

⁸⁵ International Center for Not-for-Profit Law (2006). Model Provisions for Laws Affecting Public Benefit Organizations. Washington D.C., USA; Organization of American States (2017). Inter-American Model Law on Violence Against Women in the Political Life, Washington D.C., USA; *International Service for Human Rights (2016)*. Model National Law on the Recognition and Protection of Human Rights Defenders. Geneva, Switzerland.



Photo: UNDP Nigeria/Lesley Wright

III. PRACTICE:

From law to effective implementation

3.1. Making the case for space: How to advocate for civic space in policy dialogue with national duty-bearers

Creating an enabling environment for civil society actors – including through enabling legal frameworks – is critical for two broad reasons: normative and instrumental. Consequently, making the case for space when engaging national-level duty-bearers should build on the arguments developed in Section II, which demonstrate why nurturing civic space is the *right* thing to do (the normative case), but also on the notion that nurturing civic space is the *smart* thing to do (the instrumental case). This section focuses on the instrumental case to demonstrate how open, inclusive and safe civic spaces are indispensable to the achievement of peace and development goals.

Open, inclusive and safe civic spaces are necessary for equitable and sustainable development – A vibrant civil society can contribute to development in multiple ways. Through direct engagement in policymaking as well as platforms for inclusive deliberation and consensus-seeking, civil society actors can channel citizen inputs into policy dialogue, which can lead to better decision-making and improve policy processes over time. This role is particularly important to ensure adequate access to information and the meaningful participation of groups that are most vulnerable to the impact of closing civic space. Through their demands and actions for accountability, civil society actors can also contribute to building more responsive and inclusive state institutions, creating feedback loops that ensure that policies better address the rights, demands and needs of the people and that

development interventions are both more effective and sustainable.

Through action at the grassroots level and in hard-to-reach communities, civil society can be instrumental in complementing (and, in some cases, supplementing) state- and market-driven delivery of services. With their knowledge of local contexts, civil society actors not only help service providers better understand people’s demands and needs (and sometimes inspire bureaucratic entrepreneurship); they are also agents of positive change who identify and create social innovation and enable people to design and implement their own solutions.⁸⁶ Their legitimacy and capacity for extensive outreach within communities can also contribute to changing prevailing attitudes and behaviour, enable effective uptake of supplied services and encourage sustainable practices to take root.

The broad scope of Agenda 2030 and the numerous and complex cross-cutting issues it aims to tackle require institutional collaboration, innovation and incentive systems that facilitate action across sectors and actors – what has been called a “whole-of-society approach”. Governments emphasized this commitment by stating: “[Agenda 2030] will involve Governments as well as parliaments, the UN system and other international institutions, local authorities, indigenous peoples, civil society, business and the private sector, the scientific and academic community – and all people. (...) It is an Agenda of the people, by the people and for the people – and this, we believe, will ensure its success.”⁸⁷ Civil society actors have time and again proven to be major sources of innovation and resilience. They play an important role as watchdogs by holding states

⁸⁶ 2014 UNDP Global Centre for Public Service Excellence (2014). [Social Innovation for Public Service Excellence](#). Singapore, Singapore.

⁸⁷ UN General Assembly (2015). [Transforming our world: the 2030 Agenda for Sustainable Development](#) (A/RES/70/1), para. 52. New York, USA.

accountable and often work with governments as primary implementing partners towards the achievement of the SDGs. However, potential for collaboration is severely restricted when civil society actors are excluded from the public sphere or subjected to unwarranted restrictions on their activities.⁸⁸

Open, inclusive and safe civic spaces are critical to sustaining peace – A significant body of evidence shows that a robust and safe civic space is a cornerstone of peaceful societies. For instance, the Report of the Advisory Group of Experts for the 2015 Review of the United Nations Peacebuilding Architecture emphasized that: “reaching reconciliation and sustainable peace requires broad and inclusive participation, involving state and civil society stakeholders all the way down to the grassroots level.”⁸⁹ Countries with a more open and inclusive public sphere are better equipped to constructively address divergences and grievances before they escalate to violence.

In contrast, when civic space is compressed or left open only for certain segments of society, feelings of dissatisfaction and disillusionment can mount to the point where conflicts become intractable.

By fostering and opening spaces for dialogue and expression of dissent, civil society actors can play an effective prevention role by facilitating constructive exchanges between state institutions and society and help combat perceptions of disempowerment and alienation that may lead to radicalization and violent extremism.⁹⁰ In cases where there is insufficient political will to prevent or resolve conflicts, civil society can act as a sounding board for the demands of the people and continually remind decision makers of the stakes. Furthermore, under appropriate circumstances, civil society engagement may increase the legitimacy of policy decisions, promote confidence in state institutions and mobilize incentives for peacebuilding, for instance by encouraging



KEY RESOURCES:

- United Nations (2020). [Community Engagement Guidelines on Peacebuilding and Sustaining Peace](#). New York, USA
- UN Secretary-General (2020). [Report of the Secretary-General: Sustainable Development Goals](#). New York, USA.
- Institute of Development Studies and ACT Alliance (2019). [Development Needs Civil Society: The Implications of Civic Space for the Sustainable Development Goals](#). London, UK.
- UN Secretary-General (2018). [Report of the Secretary-General: Peacebuilding and Sustaining Peace](#). New York, USA.
- United Nations and World Bank Group (2018). [Pathways for Peace: Inclusive Approaches to Preventing Violent Conflict](#). Washington D.C., USA.
- UN Human Rights Council (2017). Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association on [the achievements of civil society \(A/HRC/35/28\)](#). Geneva, Switzerland.
- UN Development Programme (2015). [Building Inclusive Societies and Sustaining Peace through Democratic Governance and Conflict Prevention: An Integrated Approach](#). New York, USA.

⁸⁸ Institute of Development Studies and ACT Alliance (2019). [Development Needs Civil Society: The Implications of Civic Space for the Sustainable Development Goals](#). London, UK.

⁸⁹ United Nations (2015). Report of the Advisory Group of Experts for the 2015 Review of the United Nations Peacebuilding Architecture on [The Challenge of Sustaining Peace](#), p. 13. New York, USA.

⁹⁰ UN Development Programme (2015). [Building Inclusive Societies and Sustaining Peace through Democratic Governance and Conflict Prevention: An Integrated Approach](#), pp. 39-40. New York, USA.

⁹¹ United Nations and World Bank Group (2018). [Pathways for Peace: Inclusive Approaches to Preventing Violent Conflict](#), pp. 89-90. Washington D.C., USA.

cooperation across different segments of society.

In conflict, post-conflict and fragile contexts, the role of civil society actors is vital to enhance social cohesion and create the conditions for peace.⁹¹ Among other things, they can complement and support the actions of state institutions in the provision of services to local communities and contribute to building resilience to shocks and crises. In the midst of conflict or crisis, they can contribute to creating stability, strengthen the participation in and ownership of recovery processes, and promote resilience for the prevention of future shocks. They can also help shift social norms and behaviours and support the commitment of grassroots organizations and communities to promoting a culture of peace, mediating conflict and discouraging violence.

3.2. Understanding state obligations to nurture an enabling environment for civil society

Understanding the scope of state obligations and the multiple ways in which public authorities devise and implement laws and regulations that impact civic space – including by indirect methods or means, intentionally or otherwise – is essential to engaging in an informed policy dialogue with national duty-bearers about civic space.

By becoming parties to international human rights treaties and conventions, states recognize the primary responsibility to respect, protect and fulfil human rights, including those related to civic space.⁹² These legal obligations are both negative (e.g., to refrain from interfering with recognized rights) and positive (e.g., to protect and promote) in nature and apply to all branches of government at every level as well as in the intergovernmental sphere. Failure to meet these obligations constitutes a violation

| | | |
|-------------------------|-------------|--|
| Negative responsibility | Respect | The authorities shall not interfere with the voting procedure and shall respect the election results. |
| Positive responsibility | Protection | The authorities shall organize voting by secret ballot to prevent violations by persons in power (such as politicians or employers). |
| | Fulfillment | The authorities shall organize free and fair elections and ensure that as all citizens can vote without discrimination. |

of such rights. The right to vote may be used to illustrate this general point as follows:

The following sections will focus on the state’s responsibilities to respect, protect and fulfil in relation to civic space.

3.2.1. The responsibility to respect

The obligation to respect under international law

States must refrain from violating recognized rights or interfering with their enjoyment. For instance, in line with General Comment No. 37,⁹³ it is strongly encouraged that authorities not require prior authorization for peaceful assemblies and must facilitate spontaneous assemblies. Based on Article 22 of the ICCPR,

⁹² See for instance: UN Charter, Articles 55-56; UDHR, Sixth Preamble; ICCPR and International Covenant on Economic, Social and Cultural Rights, both in Article 2; UN Declaration on the Right to Development, Article 6; UN Human Rights Defenders Declaration, Article 2.

⁹³ UN Human Rights Committee (2020), op. cit. (CCPR/C/GC/37), p. 3. Geneva, Switzerland.

in pursuing their objectives and in conducting their activities, CSOs should be free from interference with their internal management, organization and affairs. Furthermore, the ICCPR notes that: “no one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honour and reputation” (art. 17.1). The right to hold opinions without political or commercial interference is also guaranteed (art. 19.1).

International law establishes a presumption against any state regulation that would interfere with recognized rights. The burden of demonstrating that a restriction or regulation is justified rests with the relevant public authorities. As observed by the UN Special Rapporteur on the freedoms of peaceful assembly and association: “Only ‘certain’ restrictions may be applied, which clearly means that freedom is to be considered the rule and its restriction the exception (...) in adopting laws providing for restrictions (...) States should always be guided by the principle that the restrictions must not impair the essence of the right (...) the relation between right and restriction, between norm and exception, must not be reversed.”⁹⁴

Freedoms relating to civic space are not guaranteed in absolute terms and can be subject to certain permissible grounds for state interference, which are clearly defined under international human rights law.⁹⁵ The rights to freedom of opinion and expression, peaceful assembly and association, and participation in public life are derogable⁹⁶ “in time of public emergency which threatens the life of the nation” (art. 4 of the ICCPR). UN jurisprudence on “Derogations during a State of

Emergency”⁹⁷ establishes the precise contours of permissible state interference. Restrictive measures must be “strictly required by the exigencies of the situation,” consistent with state obligations under international law and cannot be discriminatory. The severity, duration and geographic scope of any derogation measure shall be only as wide as “strictly necessary to deal with the threat to the life of the nation” and proportionate to its nature and extent. For instance, neither internal conflict and unrest nor economic difficulties that do not constitute a grave and imminent threat to the life of the nation can justify derogations under this article. National constitutions and laws governing states of emergency must provide for prompt and periodic independent review by the legislature of the necessity for derogation measures. Effective remedies must be available to persons claiming that derogation measures affecting them are not strictly required by the exigencies of the situation.

Excepting situations of public emergency, only limited restrictions on the exercise of fundamental freedoms related to civic space can be imposed, and they must:⁹⁸

- Conform to the principle of **legality** – that is, any restriction must be provided by law (“prescribed by law” in the language of the ICCPR) and in accordance with the state’s constitutional processes; its terms must be sufficiently clear, precise and publicly accessible; and it must be legally in force at the time the limitation is imposed);
- Be demonstrably essential for the achievement of at least one of the following **legitimate** state purposes:

⁹⁴ UN Human Rights Council (2012). Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association on [best practices that promote and protect the rights to freedom of peaceful assembly and of association](#) (A/HRC/20/27), para. 16. Geneva, Switzerland.

⁹⁵ There are two notable examples of permissible restrictions clearly outlined in the ICCPR: propaganda for war and any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence (arts. 20.1 and 20.2); and lawful restrictions can be imposed on members of the armed forces and of the police in their exercise of the right to freedom of association and peaceful assembly (art. 22.2).

⁹⁶ While there is no hierarchy among various rights, there are non-derogable rights that cannot be the subject of exception even in times of emergency (art. 2 of the ICCPR) and which should be given preference over other rights in case of direct conflict. None of the rights related to civic space are included in this list except Article 18 (right to freedom of thought, conscience and religion), identified as a corollary right (see Section 2.1.1. The international legal basis for an enabling environment for civil society).

⁹⁷ UN Human Rights Committee (2001). [General Comment No. 31 on the Derogations during a State of Emergency - Article 4 of the ICCPR](#) (CCPR/C/21/Rev.1/Add.11). New York, USA.

⁹⁸ UN Human Rights Commission (1984). [The Siracusa Principles on the Limitation and Derogation Provisions in the International Covenant on Civil and Political Rights](#) (E/CN.4/1985/4). Siracusa, Italy.

- National security or public safety;
- Public order;
- The protection of public health or morals;⁹⁹
- The protection of the “rights and freedoms of others” (and, in the case of the right to freedom of expression, the “respect of (...) reputations of others”).

- Be **necessary** for the protection of the established legitimate aim.¹⁰⁰

None of these state interests can be used to justify the imposition of vague or arbitrary

limitations, and they may be invoked only when adequate safeguards and effective remedies against illegal or abusive imposition of limitations on human rights are provided by law. The “respect of (...) reputations of others” may neither be used to protect the state and its officials from the public’s critical views or dissenting opinions nor to penalize media outlets, publishers or journalists for reporting or disseminating such views or opinions, as they are critical to the public’s right to know.

BOX: CIVIC SPACE IN THE CONTEXT OF PUBLIC HEALTH EMERGENCIES

International human rights law provides for the right to the “highest attainable standard of physical and mental health” and obligates states to take steps to prevent threats to public health and to ensure appropriate conditions for the enjoyment of health for all people without discrimination.¹⁰¹ Following the World Health Organization’s announcement that the COVID-19 outbreak constituted a “public health emergency of international concern” in January 2020, at least 107 countries declared public health emergencies and granted emergency powers to public authorities (noting that, in some cases, such declarations were made at the sub-national level). As of June 2021, the International Center for Not-for-Profit Law had identified a total of 143 countries that enacted laws affecting the freedom of assembly, 56 affecting the freedom of expression and 60 affecting the right to privacy.¹⁰²

Relevant guidance is being developed,¹⁰³ but the full extent and impact of legal and institutional frameworks related to COVID-19 will only be known after careful legal analysis. The wide range of measures include: imposing quarantines, lockdowns and travel bans restricting freedom of movement; mobilizing members of the military or National Guard to curb peaceful protests related to COVID-19; providing law enforcement with extensive powers (e.g., use of executive orders and policies that allow the use of violence and deadly force to enforce lockdown measures); censorship and restrictions on access to information held by public authorities related to the pandemic; detention of journalists and media professionals for investigating and disseminating critical information; crackdowns on media outlets, medical professionals and human rights defenders, including on their online activities; and violations of the right to privacy, including, for instance, the extensive powers to use electronic monitoring systems and cellphone data for tracking COVID-19 cases without prior, informed consent.

⁹⁹ Since public morality varies over time and from one culture to another, a state which invokes public morality as a ground for restricting human rights, while enjoying a certain margin of discretion, shall demonstrate that the limitation in question is essential to the maintenance of respect for fundamental values of the community.

¹⁰⁰ Depending on the jurisdiction, the principle of necessity has been held to include additional requirements. Following the jurisprudence of the European Court on Human Rights, restrictive measures must be “necessary in a democratic society” and proportionate to the interest to be protected – or under Inter-American jurisprudence *adequate*. *In general, as per jurisprudence of the UN Human Rights Committee, they must be appropriate to achieve their protective function, effective and the least intrusive instruments amongst those which might achieve the desired result.*

¹⁰¹ See the World Health Organization webpage on the [Human Rights and Health](#).

¹⁰² International Center for Not-for-Profit Law and European Center for Not-for-Profit Law (2020). [COVID-19 Civic Freedom Tracker: Keep Civic Space Healthy](#). Washington D.C., USA. Data retrieved in June 2020.

¹⁰³ Office of the UN High Commissioner for Human Rights (2020). [Human Rights at the Heart of Response: Guidance on Civic Space and COVID-19](#). Geneva, Switzerland.

Key resources

- UN Secretary General (2020). Policy Brief on [We Are All in This Together: Human Rights and COVID-19 Response and Recovery](#). New York, USA.
- World Health Organization (2020). [Considerations in Adjusting Public Health and Social Measures in the Context of COVID-19: Interim Guidance](#). Geneva, Switzerland.
- CIVICUS World Alliance for Citizen Participation (2020). [Civic Freedoms and the COVID-19 Pandemic: A Snapshot of Restrictions and Attacks](#), CIVICUS Monitor. Johannesburg, South Africa.
- International Center for Not-for-Profit Law (2020). [Coronavirus and Civic Space: Preserving Human Rights During a Pandemic](#). Washington D.C., USA.
- Human Rights Watch (2020). [Human Rights Dimensions of COVID-19 Response](#). New York, USA.
- Access Now (2020). [Fighting Misinformation and Defending Free Expression during COVID-19: Recommendations for States](#). New York, USA.
- International Centre for Not-for-Profit Law (2020). [COVID-19 Civic Freedom Tracker](#). Washington DC, USA.

Law and rule-based measures restricting civic space

There are numerous examples of law or rule-based measures that contravene state obligations under international human rights law and constitute violations of recognized

rights related to civic space. Instances of state interference in the form of law, rule-based and arbitrary measures restricting civil society are well documented by UN human rights bodies in civil society literature¹⁰⁴ and are summarized in the table below:

| Law and rule-based and arbitrary measures | |
|--|--|
| Restrictions on collective actors | Restrictions on individual actors |
| <ul style="list-style-type: none"> ■ Law and rule-based restrictions on the life-cycle of an organization (restrictive registration criteria, limiting CSO activities, arbitrary scrutiny of management and internal governance, threats of or actual deregistration, restrictions financing sources);¹⁰⁵ ■ Discriminatory law and rule-based provisions that affect specific groups; ■ Judicial strategies (strategic lawsuits against public participation) and bureaucratic harassment (revocation or suspension of existing licenses, excessive taxation); | <ul style="list-style-type: none"> ■ Arbitrary arrests and detentions, particularly during public crises or demonstrations; ■ Judicial harassment or malicious prosecutions (criminal charges, civil lawsuits or administrative proceedings); ■ Restrictions on movement (arbitrary travel bans, exit visa restrictions, deportations and denial of access into a country or a particular area); ■ Deprivation of nationality; |

¹⁰⁴ See Section 4.1.1. Assessing and monitoring political and legal environments.

¹⁰⁵ See Section 2.2.3. Unpacking the components of civil society law.

| Law and rule-based and arbitrary measures | |
|--|--|
| Restrictions on collective actors | Restrictions on individual actors |
| <ul style="list-style-type: none"> ■ Criminal sanctions or exorbitant fines for work in defence of human rights, unregistered activities, non-compliance with administrative rules or certain types of speech and content (related to disinformation and hate speech); ■ Co-optation or coercion of organizations (required project approval by government entities); ■ Criminal defamation case(s) against an organization; ■ Surveillance of an organization; ■ Internet and communication restrictions or censorship; ■ Arbitrary limitations or cancellations of protests or gatherings. | <ul style="list-style-type: none"> ■ Profession-based restrictions (delicensing of journalists or disbarment of human rights lawyers); ■ Criminal defamation case(s) against individuals; and ■ Targeted surveillance and tracking. |

Law and rule-based measures to restrict civic space most commonly infringe on the freedoms of expression association and peaceful assembly and the right to participation.

In conjunction with law- and rule-based limitations and arbitrarily applied legislation, civil society actors also face extra-legal

harassment, intimidation and reprisals, online and offline. These acts include physical attacks, threats or other forms of psychological pressure, which target not only people directly involved in civic action but also their families, friends and relatives. The most common types of extra-legal measures are summarized in the table below:

| Extra-legal measures | |
|---|---|
| Restrictions on collective actors | Restrictions on individual actors |
| <ul style="list-style-type: none"> ■ Forced office closures; search, destruction or confiscation of property; asset freezing; ■ Stigmatization and smears campaigns (public vilification) of organization, incitement to hatred or violence against the members of organization; ■ Internet and communication restrictions and censorship (e.g., mass Internet shutdowns and blocking or restricting access to social media and messaging apps); ■ Online harassment, doxing (broadcasting private or identifying information about an organization), trolling (online campaigns aiming to destabilize online civic communities or discredit organizations); and distributed denial-of-service attacks to make online services unavailable; | <ul style="list-style-type: none"> ■ Extrajudicial killings, enforced disappearances; ■ Arbitrary detention, torture and ill-treatment (denial of access to medical attention); ■ Physical or sexual assault, including gender-based harassment and assault; ■ Theft, confiscation of and damage to personal property; ■ Threats, harassment, intimidation (including over the phone or social media) of individuals; ■ Incitement to hatred or violence against individuals; |

- Increased competition for funding from GONGOs;
- Discrimination, marginalization and other abuses against the membership of an organization.
- Smear campaigns labeling individual civil society actors as ‘foreign agents’ or ‘traitors’;
- Online harassment, doxing, and trolling targeted at individuals.

These acts can have a serious impact on individual and collective civil society actors. In addition, in the case of stigmatization and smear campaigns, they can negatively influence the public discourse against civil society activity in general, further contributing to a disabling environment for civil society. Harassment, intimidation and reprisal can

be performed by public authorities – the administration, the judiciary, the police and other law enforcement agencies – as well as non-state entities. Increasingly, rights violations are being committed against individuals and groups for cooperating with the UN in the field of human rights, sustainable development and humanitarian assistance.¹⁰⁶



KEY RESOURCES:

- Access Now (2020). [Defending Peaceful Assembly and Association in the Digital Age: Takedowns, Shutdowns, and Surveillance](#). New York, USA.
- UN Human Rights Council (2019). Report of the Secretary-General on [intimidation and reprisals for cooperation with the UN in the field of human rights \(A/HRC/42/30\)](#). Geneva, Switzerland.
- Amnesty International (2019). [Laws Designed to Silence: The Global Crackdown on Civil Society Organizations](#). London, UK.
- UN Human Rights Council (2018). Report of the UN High Commissioner for Human Rights on the [procedures and practices in respect of civil society engagement with international and regional organizations \(A/HRC/38/18\)](#). Geneva, Switzerland.
- International Service for Human Rights (2018). [Reprisals Handbook](#). Geneva, Switzerland.
- IPI Global Observatory (2017). [How State Restrictions Are Reshaping Civic Space Around the World](#). Washington D.C., USA.
- CIVICUS World Alliance for Citizen Participation (2013). [Global Trends on Civil Society Restrictions: Mounting Restrictions on Civil Society, The Gap Between Rhetoric and Reality](#). Johannesburg, South Africa.
- International Centre for Not-for-Profit Law (2020). [Civic Freedom Monitor](#). Washington DC, USA.

¹⁰⁶ Noting that “such acts undermine the effectiveness and credibility of the UN and are an attack on the Organization itself”, the UN Secretary-General monitors the situation through an annual progress report. Several investigations and accountability mechanisms on allegations of intimidation and reprisals with the charter- and treaty-based bodies were also created. See more information on the OHCHR webpage on [Acts of Intimidation and Reprisals](#).

BOX: CIVIC SPACE IN THE CONTEXT OF COUNTERING TERRORISM AND VIOLENT EXTREMISM

Between 2001 and 2018, at least 140 countries adopted new legislation on countering terrorism and violent extremism.¹⁰⁷ In many cases, counter-terrorism laws resulted in restrictions on civic freedoms and human rights. A human rights-based response to the threats of terrorism and violent extremism needs to ensure that governments do not use these threats to criminalize or obstruct the work of civil society actors, embed restrictive provisions in their legal systems and maintain such restrictions long after the emergency has passed

There are good legal and institutional practices that serve to promote and protect human rights in countering terrorism.¹⁰⁸ On the other hand, overly vague and ambiguous national security laws have been deliberately misused to target civil society actors. The wide range of problematic measures include: arbitrary detentions linked to “suspicious activities” devoid of judicial oversight and remedies; excessive administrative burdens or unjustified restrictions on access to resources for the ostensible purpose of countering the financing of terrorism; broad application of legitimate state interests (e.g., to limit the “incitement to” or “apology of” terrorism) in order to criminalize journalists, media outlets, bloggers and human rights defenders, effectively suppressing information of legitimate public interest; securitization of online activity and restrictions – such as blocking, filtering or removing content – that disproportionately affect civil society, journalists, human rights defenders and other vulnerable groups; mass surveillance, the interception of digital communications and the collection of personal data of civil society actors.

These legal and rule-based measures have in some cases been amplified by overlapping, cumulative and sustained forms of threats and harassment. For instance, extensive smear campaigns have been witnessed in the media and online, which specifically target civil society actors accused of supporting terrorist networks or other criminal organizations.

Key resources

- UN Special Rapporteur on the protection and promotion of human rights while countering terrorism and the University of Minnesota – Human Rights Centre (2020). [The Role of Measures to Address Terrorism and Violent Extremism on Closing Civic Space](#). Minneapolis, USA.
- UN Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism (2020). [“Soft Law” and Informal Standard-Setting in the Area of Counterterrorism](#). Minneapolis, USA.
- UN Human Rights Council (2019). Report of the UN Special Rapporteur on the protection and promotion of human rights while countering terrorism on the [impact of measures to address terrorism and violent extremism on civic space and the rights of civil society actors and human rights defenders](#) (A/HRC/40/52). Geneva, Switzerland.
- UN Human Rights Council (2018). Report of the UN Special Rapporteur on the protection and promotion of human rights while countering terrorism on [the human rights challenges of states of emergency in the context of countering terrorism](#) (A/HRC/37/52). Geneva, Switzerland.
- Center for Strategic and International Studies and The International Consortium on Closing Civic

¹⁰⁷ Center for Strategic and International Studies and The International Consortium on Closing Civic Space (2018). [Aligning Security with Civic Space: Database of Legislation on the Definition of Terrorism](#). Washington D.C., USA.

¹⁰⁸ For instance, some countries promote the consistency of counter-terrorism law and practice with human rights, humanitarian law and refugee law; provide effective remedies for violations of human rights when countering terrorism; provide adequate support to victims of terrorism; and follow human rights-based arrest and interrogation of terrorism suspects. UN Human Rights Council (2010). Report of the Special Rapporteur on the protection and promotion of human rights while countering terrorism on ten [areas of best practices that serve to promote and protect human rights in countering terrorism](#) (A/HRC/16/51). Geneva, Switzerland.

Space (2018). [Aligning Security with Civic Space: Database of Legislation on the Definition of Terrorism](#). Washington D.C., USA.

- UN Human Rights Council (2016). Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association on [fundamentalism and its impact on the rights to freedom of peaceful assembly and of association](#) (A/HRC/32/36). Geneva, Switzerland.
- Special Rapporteurs on the freedom of expression at the UN, OAS, OSCE and African Commission (2016). Joint Declaration on [Freedom of Expression and Countering Violent Extremism](#). Vienna, Austria.

3.2.2. The responsibility to protect¹⁰⁹

The obligation to protect under international law

States are obligated to protect individuals and groups against violations of human rights (including the rights and freedoms underpinning civic space) by public officials, state agents and third parties like private sector entities. This requires enacting and implementing effective laws, regulations, policies and, very importantly, redress mechanisms that enable relevant authorities to take appropriate steps to prevent, investigate, punish and redress violations.¹¹⁰

Under international human rights law, **the right to an effective remedy**¹¹¹ before a competent domestic body – judicial, administrative, legislative or other body¹¹² vested with the power to provide redress – is realized through mechanisms to ensure “adequate, effective, prompt and appropriate remedies.”¹¹³ The state’s obligation entails bringing those responsible for the restriction or violation of recognized rights to justice and ensuring non-recurrence by taking appropriate legislative and judicial measures. The right to effective remedy implies that the victim of a human rights violation is entitled

to reparations for the harm suffered, whether through restitution (release from detention or restitution of property), rehabilitation (in the form of legal, medical, psychological and social measures) or compensation (indemnification for financial or non-financial damages).

Law and rule-based measures protecting civic space

The protection of rights ultimately relies on domestic legislation and mechanisms and is generally limited to rights specifically recognized under national law. The right of remedy or assistance from the state, its duties of investigation and punishment, and the right to reparations are widely recognized by domestic legislation, usually in the Constitution. In a handful of cases, states have afforded broad protection in the form of single consolidated laws and regulations on human rights defenders.¹¹⁴ Legislation sometimes also includes the freedom from harassment, intimidation and reprisals against a person or group in relation to their engagement with human rights or other complaints mechanisms at the domestic level.

¹⁰⁹ The responsibility to protect refers in this publication to the state obligation to protect individuals and groups against human rights abuses. It does not relate to the global political commitment endorsed by all member states of the UN at the 2005 World Summit in order to prevent genocide, war crimes, ethnic cleansing and crimes against humanity.

¹¹⁰ Such obligations may extend beyond the state’s territory, for instance by guaranteeing that non-state entities within the state’s regulatory reach do not undermine recognized rights of people in other states through harmful practices. The Note by the Secretary-General on [The Responsibility of States for Human Rights Violations by Non-state Actors](#) (A/65/223) states: “the right to security and liberty, freedom of association and freedom of opinion and expression, including access to information, must be respected by companies, whether national or transnational (p.7)

¹¹¹ ICCPR (art. 2.3), European Convention for the Protection of Human Rights and Fundamental Freedoms (art. 13), Inter-American Convention on Human Rights (art. 7.6).

¹¹² The remedies available do not always have to be judicial in nature in order to be effective, although there should always be recourse to a judicial body to review the propriety and lawfulness of any non-judicial remedy.

¹¹³ UN General Assembly (2005). [Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law](#) (A/RES/60/147). New York, USA.

¹¹⁴ See Section 2.2.3. Unpacking the components of civil society law under “Laws and regulations on human rights defenders.”

| | |
|--|--|
| <p>Bhutan (2008)</p> | <p>The State shall endeavour to take appropriate measures to eliminate all forms of discrimination and exploitation against women including trafficking, prostitution, abuse, violence, harassment and intimidation at work in both public and private spheres (art. 917 of the Constitution).</p> |
| <p>Costa Rica (1949, rev. 2015)</p> | <p>“The freedom of petition, in individual or collective form, before any public functionary or official entity, and the right to obtain prompt resolution, (...) are guaranteed.” (Title IV, Sole Chapter, art. 27 of the Constitution).</p> |

Examples of protective measures may be found in relation to the accountability of law enforcement for the use of excessive force against peaceful protestors and in the protection of environmental human rights defenders in the context of conflict related to extractive industries, among many other areas. In some cases, the protection landscape can be quite fragmented, with several under-resourced mechanisms focused on different groups. In these situations, it is important to invest in protection from a holistic civic space perspective (while of course retaining the capacity of the system to cater to the specific threats and circumstances experienced by the most vulnerable groups).

To illustrate the state’s obligation to prevent, investigate, punish and redress violations, this section uses the example of the protection of the safety of journalists and media professionals. Many countries with enabling environments for the press have created and guarantee what has been described as a “journalism and media privilege.” These countries’ laws “guarantee through special information rights that media are able to fulfil their opinion-shaping function [and] ensure through special protective instruments of a procedural nature that freedom of the media is safe from state interference.”¹¹⁵

In contexts where impunity for crimes against journalists is pervasive, states should develop and implement strategies to bring to justice those responsible for infringing on the freedoms of expression and access to information based on widely available good practices¹¹⁶ and in accordance with international norms and standards. Both immediate and longer-term protective measures are necessary, as the environment for exercising the freedom of expression is constantly evolving, particularly in light of emerging challenges related to communications surveillance, privacy and the role of the private sector.¹¹⁷ Special attention must be given to protection measures for journalists and media professionals in both conflict and post-conflict areas, ensuring a consistent gender-sensitive approach,¹¹⁸ especially in high-risk situations such as elections, violent protests and social and armed conflicts.

In practical terms, there are several concrete protective measures that can be taken by governments. First, protective measures can be **legislative**. Legal frameworks should ensure media freedom, pluralism and the fair prosecution of crime and violence against journalists. Laws should protect and respect journalists’ freedom of expression and access to information, especially to information held by

¹¹⁵ European Audiovisual Observatory (2017). [Journalism and Media Privilege](#), p. 1. Strasbourg, France.

¹¹⁶ UN Human Rights Council (2018). Report of the Office of the UN High Commissioner for Human Rights on the [Safety of Journalists](#) (A/HRC/39/23). Geneva, Switzerland; UN Educational, Scientific and Cultural Organization (2012). [UN Plan of Action on the Safety of Journalists and the Issue of Impunity](#) (CI-12/CONF.202/6). Paris, France; International News Safety Institute (2013). [Journalism Safety: Threats to Media Workers and Measures to Protect Them](#). London, UK; UN Educational, Scientific and Cultural Organization (2015). [Building Digital Safety for Journalism: A Survey of Selected Issues](#). Paris, France.

¹¹⁷ Special rapporteurs the freedom of expression at the UN, OAS, OSCE and African Commission (2019). [Twentieth Anniversary Joint Declaration: Challenges to Freedom of Expression in the Next Decade](#). Vienna, Austria. UN General Assembly (2016). [The Contemporary Challenges to Freedom of Expression](#) (A/71/373). New York, USA; UN Educational, Scientific and Cultural Organization (2015). [Building Digital Safety for Journalism](#). Paris, France; UN Human Rights Council (2016). Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression on [freedom of expression, States and the private sector in the digital age](#) (A/HRC/32/38). Geneva, Switzerland.

¹¹⁸ UN Human Rights Council (2020). Report of the Special Rapporteur on violence against women, its causes and consequences on [combating violence against women journalists](#) (A/HRC/44/52). Geneva, Switzerland; UN General Assembly (2018). Report to the General Assembly on the [safety of women journalists](#) (A/72/290). New York, USA.

public officials. Laws can include provisions to safeguard the physical and moral integrity of journalists and other media professionals in the pursuit of their activities, including protecting confidential sources, information-gathering processes and editorial autonomy. They can also include protection from unwarranted legal pressure, exemptions related to the process of obtaining information in the public interest or criminal law provisions to deter offences and ensure that all crimes against journalists are investigated.

Second, protective measures can relate to **law enforcement and adjudication**. Judicial protection should be provided by independent and effective national and local courts,¹¹⁹ which can use international human rights law as the minimum standard of protection. In some countries, judicial protection may be invoked directly to suspend and nullify national laws.¹²⁰ Courts can assess the implementation of existing laws and policies, challenge discriminatory laws, institutional arrangements and practices, and address gaps in legislative guarantees. Protective measures can be taken to ensure accountability for violence, threats and attacks against journalists and media professionals in the form of impartial, prompt, thorough, independent and effective investigations. For instance, to address the issue of impunity, special investigative units on crimes against journalists can be created and specific investigation protocols adopted, recognizing gender-specific attacks on women journalists.¹²¹ In addition, to guarantee the independence and effectiveness of the process, states can appoint specialized prosecutors and adopt specific prosecution protocols, together with gender-sensitive training for prosecutors and the judiciary.¹²² Courts also have a role to decide the appropriate judicial remedies for victims of crimes against journalists and their families, but access to such remedies

should not be contingent on the filing of criminal complaints. The protection of victims, witnesses and other cooperating persons – usually through operational measures (steps taken by law enforcement to mitigate the risks to the witness) or procedural measures (steps taken by the court) – is also of great importance to the protection of journalists and media professionals.¹²³ Non-judicial remedies can take the form of compensation or socio-economic support, emergency and long-term physical and psychosocial healthcare.

Third, protective measures can relate to **monitoring** mechanisms. Regulatory bodies for the media – such as a media council, press observatory or dedicated inter-ministerial committees – should be independent, transparent, accountable to the public, adequately resourced and provide appropriate oversight of private actors. Their roles and responsibilities should ideally not only include the monitoring of the regulatory environment but also the monitoring and reporting of crimes, violence and harassment – both offline and online – against journalists, including women journalists, and media organizations.

Finally, there are a range of other types of measures that governments can take for the protection of journalists and media professionals:

- **Administrative:** Administrative bodies can support the development of specialized protection mechanisms that, for example, provide emergency assistance, safety equipment and communication, safe houses, 24/7 hotlines and insurance for journalists and media professionals.
- **Budgetary:** Direct financial support (e.g., subsidies or grants to media organizations to support pluralism as well as targeted assistance to local news outlets or victimized

¹¹⁹ Informal and “para-judicial” justice systems – such as customary or community courts or local administrators with an adjudicative or mediation function – resolve up to 80 percent of disputes in some countries and can play an important role in protecting the rights related to civic space. See: UN Development Programme, UNICEF, UN Women, and Danish Institute for Human Rights (2015). [Informal Justice Systems: Charting a Course for Human Rights-based Engagement](#), p. 7. New York, USA.

¹²⁰ In the European system, for instance, even the lowest level of national courts and tribunals have these powers, and they also have the authority to refer questions of EU law to the Court of Justice of the European Union, leading to rulings that apply EU-wide.

¹²¹ UN General Assembly (2019). Resolution on [the safety of journalists and the issue of impunity](#), para. 4. (A/C.3/74/L.45/Rev.1). New York, USA.

¹²² Special rapporteurs on the freedom of expression at the UN, OAS, OSCE and African Commission (2012). [Joint Declaration on Crimes Against Freedom of Expression](#). Vienna, Austria.

journalists and their families) or indirect financial assistance (e.g., favourable fiscal treatment for journalists and creation of a special professional status).

- **Educative:** Institutions can promote awareness-raising and civic education initiatives and should unequivocally and systematically condemn attacks against journalists,

including gender-based attacks, through public statements at the highest levels. This support can also include capacity-building initiatives related to media laws and codes of conduct; trainings on safety, risk awareness, and digital security; and the development of dedicated guides and handbooks.

BOX: CIVIC SPACE AND THE ROLE OF NATIONAL HUMAN RIGHTS INSTITUTIONS AND PARLIAMENTS

A testimony to the critical work of quasi-judicial institutions and the legislature on the protection of civic space and human rights is the fact that these institutions are themselves among the targets of threats, attacks and abuses intended to disrupt their functioning and independence. For example, in some cases, these institutions may be subject to budget cuts, the removal of office holders and even arbitrary arrests and physical attacks on their staff.

National human rights institutions (NHRIs), which currently exist in 110 countries, serve an instrumental role in the protection of civic space. While they have varying degrees of autonomy from the government, NHRIs may be entrusted with the powers to provide legal assistance; play an oversight role with regard to the judiciary, law enforcement agencies and the correctional system; adjudicate disputes and enforce remedies; and raise awareness about the legal system among potential rights-holders. Experience shows that NHRIs are most effective when their mandate includes the protection of rights related to civic space. Within the framework of the 2030 Agenda on Sustainable Development, the existence of an independent NHRI in compliance with the Paris Principles¹²⁴ is recognized as an indicator (indicator 16.a.1) in achieving SDG 16 on peace, justice and strong institutions.

Other bodies with quasi-judicial competence to investigate or adjudicate issues related to civic space include: **equal opportunity commissions** or other advisory or regulatory commissions, which may have general competence or specific competence in relation to discrimination against civil society actors or human rights protection; **ombudspersons** and similar offices, including officials mandated to protect and promote rights; and **public inquiries**, which are official reviews of events or actions ordered by a government body to investigate issues or incidents and develop policy or law reform proposals.

In some countries, courts may not have sufficient enforcement powers, and oversight mechanisms might be ineffective or non-existent. In these cases, the **legislature** – for instance in the form of a parliamentary human rights committee (common in Commonwealth countries) – can have a comprehensive human rights mandate encompassing both legislative and oversight functions. As with NHRIs, these bodies can contribute to the work of UN treaty-monitoring bodies, take legislative and other initiatives in the area of human rights and address human rights violations referred by third parties. In the 2030 Agenda, governments also acknowledged “the essential role of national parliaments through their enactment of legislation and adoption of budgets and their role in ensuring accountability for the effective implementation of our commitments.”¹²⁵

¹²³ Office of the UN High Commissioner for Human Rights (2010). Manual on Human Rights Monitoring: [Protection of Victims, Witnesses and Other Cooperating Persons](#), currently being updated and will be made available on the OHCHR webpage on [Policy and Methodological Materials](#). Geneva, Switzerland.

¹²⁴ UN General Assembly (1993). Resolution on the [principles relating to the status of national institutions](#) (A/RES/48/134), known as the “Paris Principles.” New York, USA.

¹²⁵ UN General Assembly (2015), op. cit. (A/RES/70/1), para. 45. New York, USA.

Key resources

- Global Alliance for National Human Rights Institutions (2018). [The Marrakech Declaration on Expanding the Civic Space and Promoting and Protecting Human Rights Defenders, with a Specific Focus on Women: The Role of National Human Rights Institutions](#). Marrakech, Morocco.
- Global Alliance for National Human Rights Institutions (2016). [The Role of National Human Rights Institutions in Protecting and Enlarging the Space for Public Debates and Participation of all Civil Society Actors for the Implementation of the SDGs and Human Rights](#). Geneva, Switzerland
- UN General Assembly (2017). [National institutions for the promotion and protection of human rights](#) (A/RES/72/181). New York, USA.
- Inter-Parliamentary Union and Office of the UN High Commissioner for Human Rights (2016). [Human Rights: Handbook for Parliamentarians](#). Geneva, Switzerland.
- UN General Assembly (1993). Resolution on the [principles relating to the status of national institutions](#) (A/RES/48/134), known as the “Paris Principles”. New York, USA.
- Office of the United Nations Commissioner for Human Rights and United Nations Development Programme (2015). [UNDP-OHCHR Toolkit for Collaboration with National Human Rights Institutions](#). Geneva and New York.

The responsibility to protect human rights is a *primary* duty of states. When a state fails in this duty, recourse is sometimes available to international and regional human rights protection mechanisms,¹²⁶ which can play an instrumental role in pressuring states to live up to their obligations to protect civic space. As a matter of rule, remedies at the supranational level are accessible only if “all available and effective” avenues of redress at the domestic level are exhausted,¹²⁷ and to address “consistent patterns of gross and reliably attested violations.”¹²⁸ Only a small number of countries have codified the **right to recourse to a supranational mechanism** for human rights violations, either in constitutional provisions or in legislation:

3.2.3. The responsibility to fulfil

The obligation to fulfil under international law

States have a **duty to promote human rights** including the rights underpinning participation

in civil society by taking judicial, administrative, budgetary, educational and other types of measures. These steps can be taken by states individually or jointly through international assistance and cooperation. It is incumbent upon the state to ensure that applicable laws and regulations are implemented and enforced in a fair, apolitical, objective, transparent and consistent manner. International jurisprudence requires that states move as expeditiously and effectively as possible to give effect to their obligations “in good faith.”¹²⁹

Law and rule-based measures promoting civic space

Despite the global trend of closing civic space, some governments have, in recent years, sought to reform legislation governing civil society to, among other goals, introduce a voluntary registration process, enhance participation in policymaking or strengthen the fiscal health of civil society. We can identify certain good

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|---|--|
| Montenegro (2007, revised 2013) | “Everyone shall have the right of recourse to international institutions for the protection of rights and freedoms guaranteed by the Constitution” (Article 56 of the Constitution). |
| Indonesia (1999) | “Everyone has the right to use all effective national legal means and international forums against all violations of human rights guaranteed under Indonesian law” (art. 7.1 of Act No. 39 Concerning Human Rights). |

¹²⁶ See Section 4.3.2. Engaging international and regional human rights mechanisms.

¹²⁷ International Justice Resource Center (2018). [Exhaustion of Domestic Remedies in the United Nations System](#). San Francisco, California.

¹²⁸ UN Human Rights Council (2007). [Institution-building of the UN Human Rights Council](#) (A/HRC/RES/5/1), para. 85. Geneva, Switzerland.

¹²⁹ UN Human Rights Committee (2004). [General Comment No. 31 \[80\] on the Nature of the General Legal Obligation on States Parties to the Covenant](#) (CCPR/C/21/Rev.1/Add.13), para. 3, 4 and 7. New York, USA.

regulatory practices, which comply with and in some cases go beyond legally binding obligations under international human rights law.

In relation to the freedom of association, best practice measures¹³⁰ are often related to promoting the financial sustainability of civil society actors. For example:

- Legislation creating an **enabling fiscal environment for CSOs**: Tax incentives are one of the main instruments used to promote civic organizing and the financial sustainability of CSOs. While tax systems differ from country to country, tax incentives include exemptions and preferential tax treatment for public benefit and other types of organizations; tax deductibility for both individual and corporate donations, whether domestic or foreign; and the possibility for CSOs to engage in economic activities with favourable tax treatment.
- Legislation supporting **social innovation led by civil society actors**: Laws may support the creation of new legal entities, such as public-benefit or community interest companies, to make it easier for social ventures to raise equity and capital and to operate more flexibly while retaining their social mission. There are also attempts to incorporate social innovation in public services contract or framework agreements. Dedicated public support infrastructures – such as social innovation hubs, public policy labs, change labs and many others – provide a vehicle for social innovation and are new instruments to provide social enterprises and other civil society actors with access to public funding.¹³¹ One such instrument is the “social stock exchange,” which integrates traditional stock market structures with social enterprises and impact investing to support socially-minded organizations.¹³²

| | |
|---------------------------------|--|
| Kenya (2013) | The Public Benefit Organizations Act is a coherent framework for non-profit organizations, including hybrid organizations, to maintain high standards of governance and management through effective self-regulation and to receive a favourable tax treatment. |
| United Kingdom (2012) | The Public Services Social Value Act (2012) incorporates economic, social and environmental well-being in connection with procurement in the public sector. The Social Investment Tax Relief (2014) creates new tax incentives for social investment and to help social enterprises attract capital in order to drive and grow their business. |

In the area of public participation, states may set up formal mechanisms and processes that create opportunities for collaboration between institutions and citizens and promote and expand civic space. For example:

- Legislation related to **representative democracy** (e.g., electoral laws, laws on political parties) has a major impact on participation and inclusion. Laws can include, for example, provisions related to candidate lists, district size and threshold levels; measures for mobile, postal or advanced polling, electronic voting, quotas for under-represented groups, gender parity in electoral lists; and measures to prevent attacks, threats and sexual harassment against opposition and women candidates, among others.
- Legislation on **direct citizen participation** exists in 108 countries.¹³³ Procedures vary greatly from country to country, but there are three main mechanisms for direct democra-

¹³⁰ The previous section already provided several illustrative examples of laws and regulations related to the freedom of association and peaceful assembly in addition to some of the enabling features that should be included to promote civic space. See Section 2.2.3. Unpacking the components of civil society law under “CSO, NGO and other laws for not-for-profit entities” and “Laws and regulations on peaceful assemblies.”

¹³¹ NESTA (2017). [What Governments Can Do to Support Social Innovation: The Evolving National Policy Menu](#). London, UK.

¹³² Principles for Responsible Investment Association (2018). [Sustainable Financial System: Mobilizing Capital for Impact](#). London, UK. See also International Centre for Not-for-Profit Law (2021). [Creating a Truly Social Stock Exchange in India](#), Washington DC, USA.

¹³³ Research Center of Citizen Participation and the Institute for Democracy And Participation Research of the University of Wuppertal (2020). Direct Democracy Navigator. Wuppertal, Germany.

cy: popular or citizen initiatives, referenda and recall. Popular initiatives provide citizens with the right of legislative initiative – generally limited to citizens who have the right to vote – to propose the adoption of a law. In a few instances, states also extend this right to collective civil society actors such as a group of citizens, institutions or associations. See some examples below:

| | |
|---|---|
| <p>Republic of North Macedonia¹³⁴ (1991, rev. 2011)</p> | <p>“The right to propose adoption of a law is given to every Representative of the Assembly, to the Government of the Republic and to a group of at least 10,000 voters. The initiative for adopting a law may be given to the authorized instances by any citizen, group of citizens, institutions or associations” (art. 71 of the Constitution).</p> |
| <p>Spain (1978, rev. 2011)</p> | <p>“No less than 500,000 authenticated signatures shall be required [for a popular initiative]. This initiative shall not be allowed on matters concerning organic acts, taxation, international affairs or the prerogative of pardon.” (art. 87.3 of the Constitution).</p> |

Countries such as Italy, New Zealand and Switzerland also provide for the possibility of citizen-initiated referenda, whereby citizens are given an opportunity to have an issue presented for a binding vote at the sub-national or national level.¹³⁵

- Legislation related to **citizen deliberation and public dialogue on policies** may provide space for public debate and consultation through formal public hearings held by public bodies at any level of government (i.e., city councils, municipalities, planning commissions), citizen assemblies and many other deliberative methods of public partic-

ipation. Laws or policies may mandate the sharing of draft laws with the public; require a minimum time period for public comment; and encourage government feedback on public input. Legislation on public consultation may be broad (e.g., establishing petition rights or consultative referenda) or restricted in scope (e.g., requiring consultation with trade unions, professional associations or indigenous peoples during policy-making).

| | |
|--|---|
| <p>Romania (2001, 2003, and 2013)</p> | <p>Law No. 544/2001 on Free Access to Public Information and Law No. 52/2003 on Transparent Decision-Making (updated by Law No. 281/2013) regulate access to information, transparency of public authorities – elected or appointed – and citizens’ participation to the decision-making processes.</p> |
| <p>The Philippines (1987)</p> | <p>The Constitution recognizes “the right of the people and their organizations to effective and reasonable participation at all levels of social, political, and economic decision-making” and requires the State to “facilitate the establishment of adequate consultation mechanisms” (Article XIII, Sec 16). This mandate has been operationalized in several national laws, such as the Local Government Code (1991) and the Republic Act No. 8371 known as the “Indigenous Peoples’ Rights Act” (1997). Most government agencies and departments have their own Citizen’s Charter, which provides mechanisms for feedback and complaints, while many are also required to hold periodic and prior consultations with NGOs and affected communities.</p> |

¹³⁴ Previously known as the former Yugoslav Republic of Macedonia.

¹³⁵ The recall of elected state officials is the least common of the three direct democracy mechanisms. It applies in Venezuela for the country’s elected head of state and at the sub-federal level in several U.S. states with the possibility to recall all elected state officials (local, county officials up to the office of Governor) as well as judges.

In addition, many states set up formal government accountability mechanisms, including legal, political, fiscal and administrative mechanisms, which offer opportunities for vertical accountability to civil society actors.¹³⁶ For example:

- Legislation related to **election monitoring** guarantees domestic and international civil society actors the right to independently observe all aspects of the electoral process and can greatly contribute to confidence in election results, transparency and accountability of electoral processes.
- Legislation on **freedom of information**¹³⁷ is widespread, contributes to government openness and accountability and helps increase government efficiency and responsiveness along with civic trust.
- Legislation related to the **monitoring of public institutions and the quality of service delivery** can take the form of institutionalized social audits, citizen report cards and citizen oversight committees. These mechanisms enable citizens to: undertake systematic audits of public services and programmes; participate directly in the different phases of formulation, decision-making, and the monitoring of budget execution; and review public procurement processes.

¹³⁶ These formal mechanisms can be complemented and enhanced by a range of informal social accountability mechanisms. See: UN Development Programme (2010). [Guidance Note on Fostering Social Accountability: From Principle to Practice](#). New York, USA.

¹³⁷ See Section 2.2.3. Unpacking the components of civil society law under “CSO, NGO and other laws for not-for-profit entities” and “Laws and regulations on access to information.”



МЕРЕЖКА
ЛАСІВ

ІНТЕГРАЦІЙНЕ
ПІДПРИЄМСТВО

Photo: UNDP Ukraine

IV. PROGRAMMING:

Entry points, best practices and lessons learned

This section provides an overview of programming entry points focused on strengthening legal frameworks for civic space as well as other, complementary interventions that could be undertaken in support of civic space more broadly. Among other things, the section draws from the “United Nations Guidance Note on the Promotion and Protection of Civic Space” and is consistent with the approach therein outlined, including the importance of combining efforts along three key dimensions:¹³⁸ participation of civil society in UN processes; promotion of civic space; and protection of civil society actors.

This section aims to provide general guidance that is applicable to a broad range of international organizations¹³⁹ in a variety of countries with a UN presence. However, it is important to recognize that different country programmes have different resources and tools available for support and intervention and that the most effective programming strategies can only be determined in light of each country’s specific circumstances.

4.1. Bridging gaps in technical and legal expertise

4.1.1. Assessing and monitoring political and legal environments

Assessments of the political and legal environment should be the starting point for determining programming interventions on civic space at the national level. Sound

assessments can serve both as an early warning system to identify restrictive legal or regulatory developments and also as an empowering tool to enable development stakeholders to make informed decisions and engage in effective advocacy.

When conducting assessments, **important operational considerations** include the careful examination of the scope, duration and costs of the analysis. At a minimum, the assessment team should include an external legal consultant or UN advisor and a local legal expert. They should be non-partisan and have the soft skills required to conduct qualitative interviews that may address sensitive topics with stakeholders. An inclusive and participatory assessment process based on sound engagement and consultation strategies (with decision- and law-making bodies as well as other stakeholders) can help create a shared understanding of the changes or improvements needed, especially if accompanied by a strong strategy for follow-up policy dialogue.

Institutional and contextual analyses

Recognizing that development is a complex and inherently political process, appropriate analytical strategies are required to assess a political and institutional environment, identify the factors and actors likely to have a positive or negative influence on a policy issue (including multiple dynamics affecting civil society) and provide practical recommendations for programme development.

¹³⁸ See: United Nations (2020). United Nations Guidance Note on the Promotion and Protection of Civic Space. New York, USA but also UN Human Rights Council (2020). Report of the UN High Commissioner for Human Rights on [civil society space: engagement with international and regional organizations](#) (A/HRC/44/25), pp. 13-16. Geneva, Switzerland.

¹³⁹ The term “international organizations” in Section IV is used to refer to the wide range of UN organizations, particularly the UN Development Programme and other multilateral and regional organizations, such as the World Bank and the European Union, as well as bilateral governmental organizations and international NGOs. While this publication focuses on areas in which UNDP has a unique role to play and potential added value, it may also be useful to other international organizations.

One of the several tools available for this purpose is UNDP’s Institutional and Context Analysis (ICA) methodology.¹⁴⁰ Building on UNDP’s role in facilitating and brokering nationally-owned processes of change, the ICA highlights the importance of engaging with a diverse array of actors and focuses on developing strategic policy and programming actions grounded in contextual realities (shifting from a ‘best practice’ to ‘best fit’ approach). The ICA envisions both (1) a detailed mapping of the formal and informal institutions relevant to the policy area concerned; and (2) the identification

of the key stakeholders to understand their respective interests, power and incentives.

Legal environment assessments for civil society

A review of both existing legislation and legal and regulatory reform proposals affecting civil society is an important component of civic space assessments. Online civic space deserves particular attention as policy and lawmaking continues to evolve. The scope of the legal review may vary: it could be comprehensive by

BOX: COMMON TYPES OF STAKEHOLDERS RELEVANT TO AN ANALYSIS OF CIVIC SPACE

| Public sector stakeholders | Civil society stakeholders | Private sector stakeholders | International stakeholders |
|---|--|---|--|
| <ul style="list-style-type: none"> ■ Central governments e.g., ministers and advisors (executive), civil servants and departments including government/NGO liaison offices (bureaucracy) and law enforcement officials; cities and local governments ■ Elected representatives (legislature) ■ Courts (judiciary), quasi-judicial independent bodies such as National Human Rights Institutions, and informal or traditional leaders | <ul style="list-style-type: none"> ■ Local and international CSOs ■ Academia and think tanks ■ Political parties ■ Media organizations ■ Religious groups and leaders ■ Trade unions ■ Social movements/advocacy groups ■ Professional associations, not-for-profit private entities ■ Social media influencers engaging in blogging, video- and photo-blogging, and podcasts ■ Individuals and groups “most at risk”¹⁴¹ ■ CSO beneficiaries and constituents ■ Citizens and non-citizens¹⁴² | <ul style="list-style-type: none"> ■ Corporations and businesses ■ Financial institutions ■ Individual business leaders ■ Corporate lobbyists ■ Private military and security companies ■ Telecom/digital technology service companies and social media companies | <ul style="list-style-type: none"> ■ Multilateral organizations ■ Regional organizations ■ Donors and diplomatic community ■ International financial institutions ■ Regional investment and development banks |

¹⁴⁰ UN Development Programme (2018). [Guidance Note on Institutional and Context Analysis for the Sustainable Development Goals](#). New York, USA.

¹⁴¹ A starting point of this analysis should be a review of the international human rights treaties ratified by the country. It would also be important to see if there are any concluding observations of treaty monitoring bodies and/or recommendations of the special procedures and Universal Periodic Review applicable to the country and related to participation, freedom of expression, assembly and association, access to information, security and privacy etc.

¹⁴² Migrant workers, refugees and asylum seekers, trafficked and stateless persons.

examining the overall framework for civil society in a particular country or sub-national context, or it could be more targeted by considering, for example, the legal framework governing civic actors' involvement in specific thematic areas or the legal framework for specific groups. Regardless, the legal review should consider both the law and actual practice and should seek to answer some of the following questions:

- Is the existing legal and regulatory framework consistent with human rights standards and aligned with international best practices?¹⁴³ What about its implementation?
- Are there plans for new or amended laws or other provisions to regulate the not-for-profit sector in areas relevant to civic space (e.g., offline and online association, protests, expression, public participation, protection of civil society actors)? Are these plans consistent with human rights standards?
- What are the main constraints on the functioning of civil society actors (as well as media actors and human rights defenders) in the existing or proposed legal framework(s)?¹⁴⁴
- Are specific individuals and groups singled out as targets in how laws are implemented? Are there any thematic areas in which the participation of individual and collective civil society actors is specifically restricted?

A variety of tools and methodologies have been developed to assess legal frameworks for civic space, building on several decades of efforts by governments, multilateral institutions and CSOs to measure the impact of laws and regulations on civil society as well as its strength and

LEGAL ENVIRONMENT ASSESSMENTS IN SUPPORT OF EFFECTIVE HIV RESPONSES



Together with partners, UNDP supported countries to undertake legal environment assessments to assist governments, civil society and other stakeholders in the development of evidence-informed policy and strategy, to review and reform laws and policies based on human rights considerations, and to support increased capacity to achieve enabling legal environments for coordinated and effective HIV responses. A dedicated UNDP publication¹⁴⁵ presents a step-by-step methodology building on the best practices and lessons learned from legal environment assessments conducted in several countries (Jamaica, Democratic Republic of Congo, Malawi, Seychelles, Malaysia, Myanmar and Pakistan).?

viability. A very useful tool is the International Center for Not-for-Profit Law (ICNL)'s Civic Freedom Monitor,¹⁴⁶ a **legal and regulatory tracking and analysis index** which includes reports on the key legal barriers relating to civic freedoms in a specific country. Legal analysis is complemented by a searchable online database containing relevant jurisprudence, judgments, legislative assessments and other legal analyses: the ICNL Digital Legal Library.¹⁴⁷ It houses a collection of nearly 4,000 laws, reports and other civil society legal resources from more than 200 countries and territories. Similar databases focus on human rights case law from specific regions¹⁴⁸ or on specific aspects of civic space such as the right to information or digital rights.¹⁴⁹

¹⁴³ See Section 2.1.1. The international legal basis for an enabling environment for civil society.

¹⁴⁴ See Section 3.2.1. The responsibility to respect under "Law and rule-based measures restricting civic space."

¹⁴⁵ UN Development Programme (2015). [HIV and AIDS Legal Environment Assessments: An Operational Guide to Conducting National Legal, Regulatory and Policy Assessments for HIV](#). New York, USA.

¹⁴⁶ International Center for Not-for-Profit Law (2020). [Civic Freedom Monitor](#). Washington D.C., USA.

¹⁴⁷ International Center for Not-for-Profit Law (2020). [Digital Legal Library](#). Washington D.C., USA.

¹⁴⁸ Institute for Human Rights and Development in Africa (2020). [African Human Rights Caselaw Analyser](#). Banjul, The Gambia; OSCE Office for Democratic Institutions and Human Rights (2020). [Legislationline: Database of Legislation and International Standards relating to Human Rights in OSCE Member States](#). Warsaw, Poland; Center for Justice and International Law (2020). [SUMMA: Inter-American Human Rights Case Law](#). Buenos Aires, Argentina.

¹⁴⁹ Centre for Law and Democracy and Access Info Europe (2020). [Global Right to Information Rating Map: A Comparative Analysis of the Legal Frameworks for Accessing Information](#). Halifax, Canada; Huridocs (2020). [Mapping Digital Rights Law: A Preview of the Cyber Rights Research Initiative and Localized Legal Almanac Database](#). Geneva, Switzerland.

Several online collaborative knowledge-sharing tools collect **crowdsourced live updates and reports** directly from civil society and the media, which form the basis of international indexes. At the global level, the one most relied upon is the CIVICUS Monitor,¹⁵⁰ which rates and tracks respect for fundamental freedoms in 196 countries together with 20 research partners located in every region. Regional platforms also offer similar alert systems, combining existing legal analyses and institutional resources with live updates; examples include initiatives by regional civil society umbrella platforms in the European Union, Latin America and the Caribbean.¹⁵¹

Other useful indexes combine analysis of the basic legal guarantees for civic space with aspects such as the *capacity* of civil society to operate (e.g., CSOs' financial viability and sustainability and state-society relations).¹⁵² Numerous indexes focus on broader topics which may affect the overall vibrancy of civil society, such as the strength of democracy,¹⁵³ human rights,¹⁵⁴ aspects of good governance,¹⁵⁵ levels of civic activism and volunteerism¹⁵⁶ or levels of social cohesion, inclusion and the ability to “leave no one behind”.¹⁵⁷ In addition, sectoral

indexes focus on aspects of the right to freedom of expression, such as media development, media freedom and freedom on the Internet.¹⁵⁸ Some indexes focus on collective civil society actors such as philanthropic associations¹⁵⁹ or trade unions;¹⁶⁰ others on individuals from groups most at-risk such as journalists¹⁶¹ and human rights defenders.¹⁶²

Other useful tools include **public perceptions and opinions surveys**, which contribute to a better understanding of public values and attitudes toward politics, civic engagement, governance, democracy, the impact of law and how law is implemented. The World Values Survey for example offers the ability to conduct in-depth cross-national and cross-regional comparative analysis based on over 100 indicators.¹⁶³ It collects data on the SDGs including SDG 16 (Peace, justice and strong institutions) with several indicators related to civic engagement (political interest and political participation, social values, attitudes and stereotypes). There are also valuable regional initiatives, often led by academia and labelled as opinion “barometers”, which focus on Africa, the Arab States, South-East and South Asia, the European Union and Latin America.¹⁶⁴

¹⁵⁰ CIVICUS World Alliance for Citizen Participation (2020). [CIVICUS Monitor](#). Johannesburg, South Africa.

¹⁵¹ European Civic Forum (2020). [European Civic Space Watch Alerts](#). Paris, France; Directorio Legislativo (2020). [Civic Space Guardian: Monitoring Regulations Impacting Civic Space in Latin America and the Caribbean](#). Caba, Argentina.

¹⁵² U.S. Agency for International Development and FHI 360 (2019). [CSO Sustainability Index Explorer](#), Fact Sheets and Country Reports. Washington D.C., USA; European Center for Not-for-Profit Law and Balkan Civil Society Development Network (2020). [Civil Society Organization Meter](#) and [Country Reports](#). Budapest, Hungary.

¹⁵³ Varieties of Democracies (V-Dem) Institute – University of Gothenburg (2019). [Annual Democracy Report: Democracy Facing Global Challenges](#). Gothenburg, Sweden; International IDEA (2019). [The Global State of Democracy 2019: Addressing the Ills, Reviving the Promise](#). Stockholm, Sweden.

¹⁵⁴ Office of the UN High Commissioner for Human Rights (2020). [Universal Human Rights Index: Database of Human Rights Recommendations](#). Geneva, Switzerland; Human Rights Information and Documentation Systems (2020). [RightDocs: Human Rights Council Resolutions and Votes](#). Geneva, Switzerland.

¹⁵⁵ World Bank (2019, updated from 2010). [The Worldwide Governance Indicators](#). Washington D.C., USA.

¹⁵⁶ International Institute of Social Studies (2020). [Indices of Social Development](#). Rotterdam, the Netherlands.

¹⁵⁷ Overseas Development Institute (2019). [‘Leave No One Behind’ Index 2019](#). London, UK.

¹⁵⁸ UN Educational, Scientific and Cultural Organization (2020). [Media Development Indicators](#). Paris, France; Reporters Without Borders (2020). [World Press Freedom Index](#) Annual Regional and Country Reports. Paris, France; Freedom House (2019). [Freedom on the Net](#) Annual Country Updates. Washington D.C., USA.

¹⁵⁹ Charities Aid Foundation (2018). [World Giving Index](#). London, UK.

¹⁶⁰ International Trade Union Confederation (2019). [Trade Unions Rights Violations: 2019 Global Rights Index](#) and Annual Country Reports. Brussels, Belgium.

¹⁶¹ UN Educational, Scientific and Cultural Organization (2020). [Journalist Safety Indicators](#). Paris, France.

¹⁶² Front Line Defenders (2019). [Front Line Defenders](#) Annual Reports. Dublin, Ireland.

¹⁶³ World Values Surveys (2020). [World Values Survey Database](#). Vienna, Austria.

¹⁶⁴ Institute for Democracy in South Africa, Center for Democratic Development in Ghana and Michigan State University (2019). [Afrobarometer Online Analysis Tool](#) (37 countries). Accra, Ghana; University of Jordan, Qatar University, Princeton University and Michigan State University (2019). [Arab Barometer Online Analysis Tool](#) (14 countries). Princeton, USA. Institute for the Advanced Studies of Humanities and Social Sciences, National Taiwan University (2016). [Asian Barometer Survey](#) (17 countries). Taiwan, China. European Commission – Directorate-General Communication (2019). [Eurobarometer Reports](#) (27 countries). Brussels, Belgium. Corporación Latinobarómetro (2019). [Latinobarómetro Online Analysis Tool](#) (18 countries). Santiago, Chile.

**KEY RESOURCES:**

- International Center for Not-for-Profit Law (2020). [Civic Freedom Monitor](#). Washington D.C., USA.
- Office of the UN High Commissioner for Human Rights (2020). [Universal Human Rights Index: Database of Human Rights Recommendations](#). Geneva, Switzerland.
- World Values Surveys (2020). [World Values Survey Database](#). Vienna, Austria.
- Varieties of Democracies (V-Dem) Institute – University of Gothenburg (2019). [Annual Democracy Report: Democracy Facing Global Challenges](#). Gothenburg Sweden.
- UN Development Programme (2018). [Guidance Note on Institutional and Context Analysis for the Sustainable Development Goals](#). New York, USA.
- Transparency and Accountability Initiative (2015). [Improving the Measurement of Civic Space](#). London, UK.
- International Center for Not-for-Profit Law (2014). [Assessment Tools for Measuring Civil Society's Enabling Environment](#). Washington D.C., USA.

4.1.2. Providing sound technical and implementation assistance**Policy coherence and integrated strategic planning on civic space**

Within the confines of the respective cooperation agreements with each country, different international organizations have distinct mandates and expertise to support more structured and coherent policy and governance responses to development challenges. Inclusive and meaningful participation of civil society actors and communities in development has been recognized as a threshold issue for effective and sustainable development and should be considered cross-cutting. Applying whole-of-government approaches to civic space

requires the alignment of sectoral priorities and policies and the promotion of mutually supportive actions across government sectors and institutions.

Policy coherence and integrated strategic planning require fostering synergies across economic, social and environmental policy areas while acknowledging that efforts can have positive effects in one area but create setbacks in others. To understand the complex effects of legislation and policies, a wide range of expertise and perspectives – from public officials working in different ministries, local governments, lawyers, economists and scientists including of course civil society actors themselves – should be engaged. Extensive operational guidance exists on how to achieve policy coherence and integrated strategic planning in the context of the 2030 Agenda and the SDGs, with a focus on empowering people and ensuring inclusiveness and equality¹⁶⁵ – central elements of an enabling environment for civil society – while navigating potential trade-offs between policy objectives.

A precondition for the effective support of policy coherence, particularly in sensitive areas such as civic space, is for the UN (and other development agencies) to speak and act as one. To this end, the “One UN”¹⁶⁶ framework and the UN Common Minimum Standards for Multi-stakeholder Engagement developed for application in the formulation of UN Development Cooperation Frameworks¹⁶⁷ strive to foster integrated policy positions, services, real-time monitoring and strategic partnerships through joint work plans facilitated by UN Country Teams and the UN Resident Coordinator system.

Technical assistance on law reform and implementation

International organizations can provide independent and non-partisan technical opinions based on international good practice and speak from an “honest broker” position on **potential legal reform**. They can also contribute comparative international expertise on particular regulatory issues

¹⁶⁵ Organization for Economic Co-operation and Development (2019). [Policy Coherence for Sustainable Development 2019: Empowering People and Ensuring Inclusiveness and Equality](#). Paris, France.

¹⁶⁶ UN Development Group (2014). [Standard Operating Procedures for Countries Adopting the “Delivering as One” Approach](#). New York, USA.

¹⁶⁷ UN Development Group (2020). [Common Minimum Standards for Multi-stakeholder Engagement in the UNDAF](#). New York, USA.

and help local stakeholders understand the alternative regulatory approaches available and the possible consequences of various legal options. Based on the key principle to empower and support – not supplant – local stakeholders, international organizations can strengthen legal reform processes that are appropriately inclusive and participatory and play a role in facilitating dialogue between civil society actors and relevant state institutions.

In addition to law reform assistance, **implementation assistance** may be required to support public officials responsible for issues directly or indirectly related to civic space. This assistance can include strengthening the capacity for legal analysis among stakeholders – national judges, prosecutors, lawyers and civil society actors – to help them better navigate the often complex and contradictory laws and regulations affecting civic activity, including how national frameworks relate to international human rights standards. There are benefits to conducting cross-sectoral training initiatives – which encourage improved communication among sectors in addition to capacity-building in each sector – and employing “train-the-trainers” approaches that can amplify the impact of a single training. Implementation assistance can also include more operational issues such as the establishment of central CSO registries, the preparation of implementing regulations and the development of model forms and documents for registration and reporting (possibly including model founding acts, statutes and reporting forms).

More broadly and as appropriate to the context, implementation assistance can address the wide range of frameworks affecting civic space¹⁶⁸ in areas such as elections, service delivery, public oversight, the media and the Internet and can take the form of dialogue, coordination, capacity-building and awareness-raising activities as discussed in detail in Sections 4.2., 4.3. and 4.4.

In addition, international organizations may provide assistance in the effective **monitoring and evaluation of the law implementation**

**LEGISLATIVE REFORM
ASSISTANCE TO
SUPPORT EFFECTIVE
SUPREME AUDIT
INSTITUTIONS AND
CITIZEN PARTICIPATION
IN
PUBLIC FINANCIAL MANAGEMENT**



In the Pacific, UNDP provides technical support and legal assistance to the Pacific Association of Supreme Audit Institutions (PASAI) to strengthen the independence of these institutions through legislative reforms. Since 2018, a dedicated project aims to strengthen civic engagement and oversight over public financial management (PFM) by improving the budgetary scrutiny, public financial oversight and accountability capacities of parliaments, supreme audit institutions and civil society within the region.¹⁶⁹ In particular, alignment with international public financial oversight and accountability standards has enabled Supreme Audit Institutions to engage a range of stakeholders in reinforcing the frameworks, tools and actors linked to PFM and to foster the inclusion of civil society actors in budget processes.

process. The research and insights gathered during legal and policy assessments¹⁷⁰ may serve as a tool to identify baselines, indicators and targets to assess the effects – positive or negative, intended or not – of legal reform. It is recommended to define monitoring principles, guidelines and tools – decided jointly by relevant institutions and other stakeholders during the early stages of the legal reform process – and consider them for possible inclusion in the law or regulation itself. Consideration should also be given to existing government mechanisms used to evaluate the performance of relevant institutions in the implementation of different laws and regulations.

Effective monitoring is essential, as it can lead to the development of improved protocols and potentially the creation of a dedicated

¹⁶⁸ See Section 3.2.3. The responsibility to fulfil under “Law and rule-based measures promoting civic space.”

¹⁶⁹ See the UNDP Pacific Office in Fiji webpage on [Strengthening Pacific Public Finance Management and Governance](#).

¹⁷⁰ See Section 4.1.1. Assessing and monitoring enabling or restrictive environments.

government institution, body or agency to monitor and evaluate the implementation of the law. It can help uncover needs such as the creation of redress mechanisms, the allocation of additional funds or targeted training for different actors such as judges, prosecutors, police, the media and local and international CSOs. Effective monitoring that involves relevant communities also provides a good basis for ongoing feedback loops on the effectiveness of policies at all levels of government.

4.2. Supporting dialogue and cooperation among key stakeholders

4.2.1. Bolstering political will and a sustained interest in reform

Normative steps towards transformational change – including treaties and other international agreements, constitutional reforms, policy initiatives and the adoption or revision of legislation – are necessary but often insufficient to meet the full breadth of challenges to promote an enabling environment for civil society. To take root, initiatives in support of civic space must be grounded in deeper change at the institutional and individual levels.¹⁷¹ In this context, government buy-in for reform, sustained political will for implementation and prioritization of interventions in support of civic space are of critical importance.¹⁷²

In some countries, civil society groups have launched reform initiatives without the support or participation of government. Depending on the context, including the level of public support and how the demands were voiced (e.g., media campaigns, mass peaceful protests), such independent reform efforts may be subsequently endorsed by the government. In other cases, the government, even if initially supportive of the reform effort, may later become concerned with the direction of the reform process and take steps to inhibit it. In some cases, existing reform initiatives may come to a halt as result of changes in government or political majorities.

The tools listed in the previous section¹⁷³ can be used to shed light on the dynamics that create and sustain interest in reform by identifying some of the key barriers, deeper motivations, incentives and potential trade-offs for different stakeholders. The tools may also be useful to identify champions within state institutions. Some questions that may be relevant to this analysis include the following:

- Are there political opportunities for reform of legal frameworks that affect civic space? What are the political barriers? Are there macro-political issues (e.g., constitutional reform or elections) which make reform unlikely, or likely unsuccessful? Is the timing right?
- What stakeholders would contribute the most traction to a positive change process? How can they be supported? Where are possible champions based across the branches of government (executive, legislative and judiciary) and levels of governance (national, local)?
- What do stakeholder(s) stand to gain from the implementation of a reformed framework for civic space? For those with the most to gain or lose from the implementation of this framework, what is their capacity to facilitate or obstruct change? How much power do they have? Who stands to gain from the status quo?
- Have reform processes already been attempted in the past? What can be learned from previous successful or unsuccessful experiences of promoting an enabling environment for civil society? What are the similarities and differences this time?

4.2.2. Facilitating dialogue on civic space across actors and sectors

Cross-sectoral dialogue within and among government institutions

Constructive dialogue on civic space can contribute to cooperation and an inclusive agenda for action, help overcome divergences

¹⁷¹ See Section 4.4. Supporting advocacy and reshaping public perceptions.

¹⁷² See Section 3.1. Making the case for space: How to advocate for civic space in policy dialogues with national duty-bearers?

¹⁷³ See Section 4.1.1. Assessing and monitoring enabling or restrictive environments.

of opinions and resolve conflict, and enable civic participation in political and public life. The tools listed in the previous section¹⁷⁴ are useful to identify the range of national stakeholders that impact the regulation and monitoring of civil society and can help international organizations play a constructive role in supporting dialogue across sectors and levels of governance. Within the framework of UN Country Team collaboration, the relationships of different UN entities across public institutions should be fully leveraged.

In many countries, there is a designated ministry or department in charge of NGO affairs, commonly known as an NGO secretariat or NGO affairs bureau. The status, role and responsibilities of this body are regulated by law, most commonly by laws on CSOs, NGOs and other not-for-profit entities.¹⁷⁵ Where they exist, such bodies should be one of the primary interlocutors and should act as a sounding board, partner and joint implementer of UN programmes related to civic space.

There are also thematic ministries with primary responsibility for specific groups, such as women, children and persons with disabilities. In some countries, there is a dedicated ministry or portfolio; in others, this responsibility falls to ministries such as social development, labour and employment, education or research. Other ministries that may indirectly impact civic space issues such as trade, finance, industry, agriculture and health should be engaged as well.

Other key public institutions that may also be engaged in programming on civic space include:

- Independent national human rights institutions, anti-corruption agencies and other types of audit institutions, and the legislature for their role in ensuring accountability of state actions;¹⁷⁶
- Politicians and political parties for their role in shaping public discourse on civil society;

- National statistics offices for their role in collecting and analysing quantitative and disaggregated data useful for improved policymaking on civic space;
- The judiciary and constitutional courts for their role in addressing violations of rights relevant to civic space and exposing risks of abuse, stigmatization and arbitrariness in national and sub-national legislation;
- Data protection bodies as well as Internet and media regulation bodies for their role in guaranteeing the right to privacy and the independence of the media;
- Law enforcement authorities, such as police and intelligence agencies, for their role in relation to the proper management of peaceful assemblies, digital surveillance and the right to privacy; and
- Cities, local and regional governments,¹⁷⁷ for their role in enabling local participatory democracy and promoting public spaces as an arena of social interaction.

Fostering state-civil society collaboration

Given their convening power, strong relationship with national institutions and long-term engagement with key civil society actors, international organizations can play an important role in facilitating common understanding, promoting dialogue and enabling information-sharing between state institutions and civil society actors on sensitive development issues such as civic space.

International organizations should therefore encourage the creation of dialogue platforms and engagement mechanisms to promote state-civil society collaboration, irrespective of whether the mechanism or procedure is enshrined in legislation¹⁷⁸ or simply based on governmental practice. Good practices include initiatives that seek to create inclusive mechanisms for public participation in key public

¹⁷⁴ See Section 4.1.1. Assessing and monitoring enabling or restrictive environments.

¹⁷⁵ See Section 2.2.2. Sub-constitutional laws and regulations.

¹⁷⁶ See Section 3.2.2. The responsibility to protect under “Box: Civic space and the role of national human rights institutions and parliaments.”

¹⁷⁷ United Cities for Local Government – Committee on Social Inclusion, Participatory Democracy and Human Rights (2019). [UCLG Contribution to the OHCHR Report on “Local Governments and Human Rights”](#), Barcelona, Spain.

¹⁷⁸ See Section 3.2.3. The responsibility to fulfil under “Law and rule-based measures promoting civic space.”

processes (e.g., parliamentary public hearings and social audits of government programmes). Sustainable and well-resourced government support infrastructure for civil society actors can also play an important role in creating an enabling environment for civil society. This can include mechanisms to facilitate access to capacity-building, such as publicly provided training for CSOs, and financial resources, such as public social innovation grant schemes. Several examples of initiatives to promote civic space are provided in Section 3.2.3.

UN coordination and UN-civil society dialogue

Internal UN coordination should also be prioritized as an important foundation for improved dialogue with national institutions on civic space. Examples of UN inter-agency coordination mechanisms exist both at the global and regional levels, including constituency-specific mechanisms such as the UN inter-agency networks on women and gender equality, youth development, the rights of persons with

disabilities and the rights of indigenous peoples, among others. With their connections to UN country offices, these networks have been instrumental in fostering more coherent and coordinated policy and programme support on civic space, serving both as vehicles for regular exchange among the UN, governments and civil society actors at the national level and as key support mechanisms for the institutional strengthening of civil society networks.

At the national level, **institutionalized consultative forums between the UN and civil society**, such as national civil society advisory committees, are also considered a good practice. By functioning as an advisory body to the UN Country Teams or specific UN agencies in contexts as varied as Afghanistan and the Philippines, this type of mechanism has proven useful in expanding civil society actors' access to political decision-makers and in facilitating dialogue between the government and civil society actors on key policy issues, including civic space.

BOX: REGIONAL COORDINATION AND KNOWLEDGE EXCHANGE ON CIVIC SPACE THROUGH THE UN ASIA-PACIFIC HUMAN RIGHTS NETWORK

In Asia-Pacific, the UN Human Rights Network and its sub-group on civic space bring together regional UN staff from 21 UN agencies, including UN civil society and human rights advisers. Since its creation in 2016, the network has collected data and evidence and disseminated research findings and best practices related to civic space and stakeholder engagement. The network fostered ongoing technical advice, peer-sharing and networking among UN senior management at the national level, namely UN Resident Coordinators and senior managers of the UN Country Teams. The network also contributed to strengthening capacity of working-level UN staff on thematic issues related to civic space through training, brown bag meetings and exchanges with UN Special Rapporteurs and other international experts.

The network jointly organized several regional forums and workshops with civil society to engage in policy dialogue on civic space issues, such as the legal environment for civil society in Asia and UN support to national and sub-national governmental plans on CSO engagement in the SDGs. Most of these events brought legal experts and practitioners, local governments, the private sector (especially the technology industry) and other stakeholders to the table. Since 2017, the network has also participated in and organized numerous sessions on civic space during key international and regional events, such as the High-level Political Forum and the Asia-Pacific Forum on Sustainable Development, which consistently promoted, facilitated and/or sponsored the participation of local and national civil society actors.

The network also supported CSO coalition-building by facilitating and hosting the launch of the Asia Civil Society Partnership for Sustainable Development (APSD) and by bolstering cross-border networks – especially those promoting South-South learning, discussion and capacity building – such as the Asia Pacific Regional CSO Engagement Mechanism, the Asia Development Alliance and the Asia Democracy Network.



KEY RESOURCES:

- UN Human Rights Council (2020). Report of the UN High Commissioner for Human Rights on civil society space: engagement with international and regional organizations (A/HRC/44/25). Geneva, Switzerland.
- World Bank Group (2015). *Deliberation and Development: Rethinking the Role of Voice and Collective Action in Unequal Societies*. Washington D.C., USA.
- UN Development Programme (2010). *Democratic Dialogue: A Handbook for Practitioners*. New York, USA.
- UN Department of Economic and Social Affairs and UN Development Programme (2021). *What is a Good Practice? A framework to analyze the quality of stakeholder engagement in implementation and follow-up of the 2030 Agenda*. New York, USA

4.3. Leveraging cross-border and international engagements

International processes can provide strategic leverage in the promotion of civic space and an important tool to support or complement country-led development. These efforts however must be undertaken to support local stakeholders with the view to supplement and not replace national processes.

4.3.1. Enabling multi-stakeholder efforts in support of civic space

Building on their country, regional and global presence as well as networks of thematic experts and practitioners, international organizations can foster cross-sectoral and cross-border linkages through dialogue, partnerships, capacity-building and knowledge exchanges.

South-South and triangular skill-sharing and networking

Capacity development and knowledge exchange are among the most common types of development support provided to promote and protect civic space,¹⁷⁹ including South-South and triangular exchanges. International organizations are well positioned to bring international and regional expertise to the country level by convening in-country meetings with international experts from governments, the UN and civil society to discuss best practices for civic space. International organizations can also promote, facilitate and/or sponsor the participation of government officials and civil society actors in cross-border consultations, regional conferences, seminars, study tours, fellowships, academic networks and other activities. Regional organizations, such as the African Union, the Council of Europe and the Organization of American States, have also been instrumental in facilitating these cross-border exchanges.

International organizations can facilitate exchanges among civil society actors and platforms to discuss shared concerns and explore options for collective action on civic space issues. They can also support CSO coalition building – whether they are operating domestically, regionally or globally – and promote civil society self-regulation as an alternative to restrictive legislation.¹⁸⁰ Supporting credible, representative and effective civil society networks has a potential multiplier effect since they, in turn, build grassroots and community capacities and leadership.

Information and communications technologies¹⁸¹ have played a significant role in expanding possibilities for collecting, organizing, safeguarding and disseminating information across stakeholders and borders. International organizations can create, maintain and facilitate

¹⁷⁹ For instance, almost half of the country-level activities and associated development results reported in the area of civic engagement by UNDP Country Offices relate to capacity and knowledge. UN Development Programme (2016). *Promoting Voice and Participation at the Country Level: Mapping of UNDP Country Offices' Work on Civic Engagement* [internal document]. New York, USA.

¹⁸⁰ See Section 2.2.3. Unpacking the components of civil society law under “CSO, NGO and other laws for not-for-profit entities” and “CSO transparency and accountability.”

¹⁸¹ UN Development Programme (2015). [Mobile Technologies and Empowerment: Enhancing Human Development through Participation and Innovation](#). New York, USA.

the exchange of expertise and best practices on civic space issues through dedicated online peer networks or “communities of practice”, digital libraries, “Massive Open Online Courses” and any other relevant user-friendly tools that are accessible to a range of stakeholders, including in local languages.

Leveraging global multi-stakeholder processes for local change

Multi-stakeholder initiatives (MSIs), sometimes defined as “public platforms of collective governance for sustainable development,”¹⁸² are relevant to programming on civic space for two main reasons. First, MSIs offer a collaborative and solutions-oriented approach, bringing together different segments of the state, market and society to pool ideas, skills and resources and participate in dialogue, decision-making and implementation of responses to complex issues. Second, many MSIs related to sustainable development – anchored in the principles of transparency, accountability and inclusive stakeholder participation – provide civil society actors with a natural entry point for engagement where they are able to advocate for socially-relevant goals and encouraged to act as agents of their own development.

Many broad alliances bring together a range of like-minded partners to share lessons, monitor and work towards coordinated actions to counteract restrictions on civic space. While their mandates and thematic focus vary, such platforms have proven helpful as a conduit for quiet diplomacy, to build trust and understanding across sectors, including in politically-constrained environments, and to produce evidence-based research on good practices and lessons learned.

- The Global Partnership for Effective Development Cooperation (GPEDC) brings together 161 countries and 56 organizations and is jointly supported by UNDP and the Organization for Economic Cooperation and Development (OECD). Action Area 2.4 of the GPEDC focuses on strengthening civil society partnerships, protecting civic space and enabling CSO participation in development processes.¹⁸³ A dedicated Task Team on CSO Development Effectiveness and Enabling Environment¹⁸⁴ was created in 2009 and convenes 17 development cooperation providers (including the European Union and the OECD), partner country governments and nine international CSO leaders in this area including ICNL.
- The Open Government Partnership (OGP), a partnership that brings together 78 national members, a growing number of local governments and thousands of civil society participants, has been working since 2011¹⁸⁵ on methodologies to develop and implement open government initiatives, with concrete steps for governments to make legal environments more conducive for civil society. As of June 2021 a total of 40 OGP countries have made over 100 civic space related commitments.

Another example of a MSI advocating for civic space is the Community of Democracies’ Working Group on Enabling and Protecting Civil Society.¹⁸⁶ Since its inception in 2009, it benefits from the ongoing participation of 14 governments, the European Union, and five international CSOs with expertise in laws governing civil society, including ICNL, as well as three advisory organizations, including UNDP. Its mandate focuses specifically on

¹⁸² World Bank (2015). World Bank Blog on [Multi-stakeholder Initiatives: Platforms of Collective Governance for Development](#). Washington D.C., USA.

¹⁸³ Global Partnership for Effective Development Cooperation (2019). [Work Programme 2020-2022 for Action Area 2.4 on Civil Society Partnerships](#). New York, USA.

¹⁸⁴ Task Team on CSO Development Effectiveness and Enabling Environment (2019). [Guidance and Good Practice on CSO Development Effectiveness and Enabling Environment](#). The Hague, the Netherlands.

¹⁸⁵ Open Government Partnership (2019). [The Right Tools for The Right Job: How OGP Can Help win the Fight for Civic Space](#). Washington D.C., USA; Open Government Partnership and International Center for Not-for-Profit Law (2018). [The Guide to Opening Government: An Enabling Environment for Civil Society Organizations](#). Washington D.C., USA.

¹⁸⁶ Community of Democracies (2018). [Best Practice in Community of Democracies’ Member States Engagement with, and Protection of, Civil Society](#). Warsaw, Poland.

COUNTRY-OWNED IMPLEMENTATION MECHANISMS FOR PUBLIC SERVICE REFORM AND CITIZEN ENGAGEMENT



In 2019, UNDP and the Open Government Partnership (OGP) signed a Memorandum of Understanding with UNDP formalizing years of joint efforts to advance the SDGs through open government initiatives, with the objective to make governments more open, accountable and responsive to citizens. For instance, one joint initiative strengthened inclusive national processes for monitoring the implementation of SDG 16 on peaceful, just and inclusive societies. Implemented across several regions (El Salvador, Georgia, Indonesia, Mexico, South Africa, Tunisia and Uruguay), this project enabled the active participation of civil society and made the monitoring process open and transparent by ensuring public access to SDG 16 data.

monitoring incipient threats, in the form of restrictive draft legislation, to civic space around the world and issuing calls for action to foster more coordinated responses. Other platforms are led by philanthropic and grant-making associations, such as the Donor Working Group on Cross-Border Philanthropy, the Funders' Initiative for Civil Society (FICS) and the Human Rights Funders Network (HRFN).

Other MSIs relevant to civic space are sector-specific, such as the Financial Action Task Force (FATF), the Global Initiative on Fiscal Transparency (GIFT), the Open Contracting

Partnership (OCP) and the Extractive Industries Transparency Initiative (EITI). MSIs also increasingly include the business community and financial actors based on a growing recognition of their role in leveraging market assets and mobilizing technology to create positive social impact and foster innovation. Dedicated research on the normative and instrumental case for business engagement in civic space issues is widely available.¹⁸⁷ Examples of MSIs led by or including the private sector are the UN Global Compact, the Business Network on Civic Freedoms and Human Rights Defenders¹⁸⁸ and the Investor Alliance for Human Rights.¹⁸⁹



KEY RESOURCES:

- UN Department of Economic and Social Affairs (2019). [Multi-stakeholder Engagement in 2030 Agenda Implementation: A Review of Voluntary National Review Reports \(2016-2019\)](#). New York, USA.
- UN General Assembly (2018). [Towards global partnerships: a principle-based approach to enhanced cooperation between the United Nations and all relevant partners \(A/RES/73/254\)](#). New York, USA.
- Open Government Partnership and International Center for Not-for-Profit Law (2018). [The Guide to Opening Government: An Enabling Environment for Civil Society Organizations](#). Washington D.C., USA.
- UN Educational, Scientific and Cultural Organization (2017). [What if We All Governed the Internet? Advancing Multistakeholder Participation in Internet Governance](#). Paris, France.

¹⁸⁷ The B Team (2018). [The Business Case for Protecting Civic Rights](#). London, UK; CIVICUS World Alliance for Citizen Participation (2017). CIVICUS State of Civil Society Report 2017: [Civil Society and the Private Sector](#). Johannesburg, South Africa; Office of the UN High Commissioner for Human Rights (2011). [Guiding Principles on Business and Human Rights: Implementing the UN "Protect, Respect and Remedy" Framework](#). Geneva, Switzerland; UN Working Group on Business and Human Rights (2017). [Human Rights Defenders and Civic Space: The Business and Human Rights Dimension](#). Geneva, Switzerland

¹⁸⁸ Business and Human Rights Resource Centre and International Service for Human Rights (2018). [Shared Space Under Pressure: Business Support for Civic Freedoms and Human Rights Defenders, A Guidance for Companies](#). Geneva, Switzerland.

¹⁸⁹ Investor Alliance for Human Rights, the Business and Human Rights Resource Centre and the International Service for Human Rights (2020). [Safeguarding Human Rights Defenders: Practical Guidance for Investors](#). New York, USA.

While cross-border in nature, the implementation of the commitments made by governments in the frameworks of these MSIs should be a fully country-led and country-owned process. In practical terms, international organizations can provide technical support to governments to meet their commitments in SDG National Implementation Plans and monitoring tools such as the Voluntary National Reviews, OGP National Action Plans and other national human rights strategies. International organizations may also convene and organize multi-stakeholder events at the national level to discuss civic space in the context of these commitments. Furthermore, they may leverage global and regional processes as opportunities to open up meaningful spaces of dialogue and participation.

4.3.2. Engaging international and regional human rights mechanisms

International and regional human rights mechanisms have established various accountability processes to encourage states to uphold their international obligations to protect rights related to civic space. Through these processes, civil society actors are better able to monitor state obligations, and individuals are able – at least in certain circumstances – to lodge complaints about potential violations of these rights.

UN human rights monitoring and protection mechanisms

UN human rights mechanisms can act as independent monitors by collecting research and data, conducting investigations and interviews, producing comparative analysis¹⁹⁰ and raising awareness on a range of issues related to civic space. There are two main types of UN mechanisms to support state compliance with international human rights norms and standards:

- **Treaty-based bodies** are composed of independent experts who monitor the implementation of the nine core human rights treaties¹⁹¹. One prominent example is the UN Human Rights Committee¹⁹² monitoring of the implementation of the ICCPR. These bodies are responsible for reviewing the fulfillment of state obligations in relation to each treaty based on periodic reports. They produce Concluding Observations and General Comments, which provide states with recommendations and clarifications on the implementation of treaty provisions.
- **Charter-based bodies** include, most notably, the UN Human Rights Council (HRC). The HRC appoints independent experts known as special procedures mandate holders: UN Special Rapporteurs, Independent Experts and Working Groups appointed to monitor the human rights situation in specific countries (country mandates) or specific issues (thematic mandates) such as the rights to freedom of expression, association and assembly and many other rights of direct relevance to the promotion and protection of civic space. UN Special Rapporteurs and experts can make country visits, conduct research and provide recommendations. The HRC also created a peer-review process called the Universal Periodical Review (UPR), which assesses the human rights situation of each UN member state every 4.5 years (as one cycle). Recommendations related to the promotion and protection of civic space have been made throughout all three cycles of the UPR since its creation in 2008 and have led various member states to make voluntary pledges to further address this issue.¹⁹³

UN human rights mechanisms have emerged as essential platforms for civil society actors to independently monitor and report on states'

¹⁹⁰ The Office of the UN High Commissioner for Human Rights developed a [series of databases](#) that compile extensive information pertaining to the core international human rights mechanisms, such as the [UN Charter Body Database](#), [UN Treaty Bodies Database](#), [Jurisprudence Database](#) and [Universal Human Rights Index Database](#).

¹⁹¹ See Annex 1: International and regional norms and standards affecting civic space.

¹⁹² The Human Rights Committee should not be confused with the Commission on Human Rights, a charter-based mechanism, or its replacement, the Human Rights Council. Whereas the Commission on Human Rights was a political forum where states debated all human rights concerns (since June 2006, replaced by the Council in that function), the Human Rights Committee is a treaty-based mechanism pertaining only to the ICCPR.

¹⁹³ UPR Info (2020). [Database of UPR Recommendations and Voluntary Pledges](#). Geneva, Switzerland.

human rights obligations and have been particularly successful at facilitating dialogue and raising public awareness and challenging states on civic space issues.¹⁹⁴

In addition, treaty bodies may consider individual *complaints* (called “communications”) against a state party claiming that specific rights have been violated, although this will only be possible given certain conditions (for instance the exhaustion of all domestic and other remedies). Complaints can be submitted by any individuals, groups or NGOs that claim to be victims of human rights violations or that have direct, reliable knowledge of such violations. The intervention can relate to a human rights violation that has already occurred, is ongoing or which has a high risk of occurring. There are also procedures for complaints which fall outside of the treaty body system – through the Special Procedures of the Human Rights Council and the Human Rights Council Complaint Procedure.¹⁹⁵

International organizations can support and facilitate country-level visits and missions of UN Special Rapporteurs and other international human rights monitoring mechanisms, such as committees and working groups. They can facilitate the production and submission of state party reports to UN mechanisms and provide state institutions with implementation and monitoring support in the follow-up of UN recommendations.

International organizations also have a distinct role to play in building the capacity of civil society actors – including from the media – to understand the roles and responsibilities of UN human rights mechanisms in relation to civic space, and how to effectively engage

and claim protection from such mechanisms.¹⁹⁶ This may include supporting CSO groups and coalitions in the drafting and dissemination of civil society reports and oral briefs, as well as efforts to foster their meaningful and inclusive participation in these processes, and effective partnerships with its key actors and institutions. International organizations can also widely disseminate the recommendations or decisions issued by international and regional monitoring mechanisms or courts to the media and the general public.

Regional human rights monitoring and protection processes

The policies and practices of **regional political and administrative bodies** reflect the particular human rights concerns of each region.¹⁹⁷ With some exceptions, these regional bodies can generally accept petitions from individuals, groups of individuals, NGOs and member states, undertake country visits, publish reports on human rights conditions, hold public hearings on cases and thematic questions, and monitor priority topics. There are several important examples:

- In **Africa**, the African Commission on Human and Peoples’ Rights (ACHPR) was established in 1987 under the auspices of the African Union. It includes six Special Rapporteurs and eleven working groups, committees and study groups that monitor and investigate human rights issues, including working groups on the Freedom of Expression and Access to Information and on the Protection of Human Rights Defenders, and a Study Group on Freedom of Association.

¹⁹⁴ The NGO Committee – a standing committee of the Economic and Social Council (ECOSOC) which grants consultative status to CSOs – is mainly used by intergovernmental forums (e.g. ECOSOC and its subsidiary bodies, the HRC and the UPR) to determine civil society participation in the work of the UN. The work of Treaty Bodies and Special Procedures, as non-intergovernmental mechanisms, are not bound by ECOSOC rules.

¹⁹⁵ See more information on the OHCHR webpage on [The Human Rights Mechanisms](#) and [The Complaints Procedure to the UN Human Rights Bodies](#).

¹⁹⁶ See the OHCHR website on [Civil Society: UN Human Rights resources for NGOs, human rights defenders, and other actors in civic space](#) for the most up-to-date guidance.

¹⁹⁷ In the Arab States, the Arab Human Rights Committee was established in 2008 under the League of Arab States and the Independent Permanent Human Rights Commission in 2011 under the Organization of Islamic Cooperation. There are no Asia-Pacific wide organizations or conventions to promote or protect human rights. The Association of Southeast Asian Nations (10 Southeast Asian countries) established the ASEAN Inter-Governmental Commission on Human Rights Body (AICHR) in 2009. All these mechanisms have limited mandates and protective capacity.

- In **Europe**, the machinery for the enforcement of human rights agreements involves three separate inter-governmental institutions, each with distinct human rights mechanisms and instruments. Founded in 1950, the Council of Europe (47 member states) has developed the most comprehensive body of research and good practices based on extensive work carried out by a host of human rights monitoring bodies, including the Commissioner for Human Rights, the European Committee on Social Rights and several other committees focused on women, youth, national minorities, cybercrime and data protection. Several bodies of the European Union (27 member states) also have a human rights mandate to intervene both inside and outside the EU, including the EU Agency for Fundamental Rights, the European Parliament Subcommittee on Human Rights and the EU Special Representative for Human Rights. The Organization for Security and Cooperation in Europe (OSCE) (57 participating states from Europe, Central Asia and North America) was founded in 1975 and has a series of thematic experts, panels and working groups, such as the OSCE Representative on Freedom of the Media, which publish extensive thematic recommendations and guidelines on human rights challenges and best practices.
- In **Latin America and the Caribbean**, the Inter-American Commission on Human

Rights (IACHR) was founded in 1959 as an autonomous organ of the Organization of American States and has produced outstanding research with good practices on human rights, in particular through the Rapporteurs on the freedom of expression and on human rights defenders.

There are supranational **human rights courts in three regions**: the African Court on Human and Peoples' Rights, the European Court of Human Rights and the Inter-American Court of Human Rights.¹⁹⁸ These courts have jurisdiction over cases concerning the interpretation and application of their respective conventions, protocols and any other relevant human rights instruments ratified by the member states concerned. Depending on the court, NGOs and individual entities have a right of direct access and can bring cases against a state, provided that (1) the state in question has opted to recognize the competence of the court, (2) the claim is under the jurisdiction of the court, and (3) all national remedies have been exhausted. Regional human rights courts have been instrumental in developing case law, which constitutes an important source of information and guidance on civic space issues for national judges, lawyers and human rights institutions. The table below lists several examples of decisions related to civic space:

¹⁹⁸ In the Arab States, the Statute for an Arab Human Rights Court was adopted in September 2014, but the court is not yet operational. In Asia, the ASEAN Human Rights Declaration was adopted in 2012 and is an established mechanism intended to promote and protect human rights but, as of 2020, still has no human rights convention or court. There are examples of sub-regional courts, some of which are established under economic and development institutions, such as the Court of Justice of the Economic Community of West African States and the Caribbean Court of Justice, but they have very limited protective powers regarding alleged human rights violations.

BOX: EXAMPLES OF REGIONAL COURTS DECISIONS RELATED TO CIVIC SPACE

| | | | |
|--|--|--|--|
| Right to participate in the conduct of public affairs | Right and opportunity to be elected and hold office, prohibition of discrimination based on ethnicity or religion | European Court of Human Rights | Sejdić and Finci v. Bosnia and Herzegovina, Applications Nos. 27996/06 and 34836/06, 22 December 2009 |
| | Right and opportunity to vote, universal suffrage, prohibition of discrimination based on disability | African Court on Human and Peoples' Rights | Purohit and Moore v. The Gambia, Application No. 241/01, 2003 |
| Freedom of association and peaceful assembly | Freedom to seek and receive funding, including from foreign sources | European Court of Human Rights | Parti Nationaliste Basque, Organisation Régionale d'Iparralde v. France, Application No. 71251/01, 7 June 2007 |
| | State interference in peaceful demonstrations, disproportionate use of force by law enforcement | European Court of Human Rights | Nurettin Aldemir and Others v. Turkey, Application No. 32124/02 and al.), 18 December 2007 |
| Freedom of expression and access to information | Freedom of the press and political expression, criminal defamation, prohibition of content regulation and censorship | African Court on Human and Peoples' Rights | Lohé Issa Konaté v. Burkina Faso, Application No. 004/2013, 5 December 2014 |
| | Access to information and the right to truth about gross human rights violations | Inter-American Court of Human Rights | Gomes Lund et. al. v. Brazil, Series C, Application No. 219, 24 November 2010 |

In principle, states are legally obligated to implement and comply with decisions and judgments of supranational human rights courts without further intervention by any international organ.¹⁹⁹ Inter-ministerial bodies, such as the Executive Council of the African Union and the Committee of Ministers of the Council of Europe, are expected to monitor

the execution of decisions, particularly to ensure that required remedial actions are taken. Even without dedicated enforcement mechanisms, the political and moral force of these decisions can be leveraged to influence states' application of international human rights standards²⁰⁰ in support of civic space.

¹⁹⁹ See Article 43 of the Protocol on the Statute of the African Court of Human Rights, Article 46 of the European Convention and Article 68 of the American Convention.

²⁰⁰ See Section 2.1. International and regional norms and standards affecting civil society.



KEY RESOURCES:

- Office of the UN High Commissioner for Human Rights (n.d.). Website on Civil Society: UN Human Rights Resources for NGOs, Human Rights Defenders, and Other Actors in Civic Space. Geneva, Switzerland.
- International Center for Not-for-Profit Law (2020). Civic Freedom Monitor reports on: UN Human Rights Council, African Union, League of Arab States, Organization of Islamic Cooperation, Association of South-east Asian Nations, Council of Europe, Organization for Security and Cooperation in Europe and the Organization of American States. Washington D.C., USA.
- UN Development Programme (2015). Mainstreaming Human Rights in Development Policies and Programming: UNDP Experiences. New York, USA.
- European Parliament (2010). The Role of Regional Human Rights Protection Mechanisms. Brussels, Belgium.

4.4. Supporting advocacy and reshaping public perceptions

How state institutions implement civic space frameworks is often influenced by political incentives, negotiations among political competitors and the degree to which society is involved in demanding and formulating the legislation. For example, the political space for civil society actors to express alternative views and influence policy dialogue and decision-making is greatly shaped by how these actors are perceived – whether as promoters of human rights and democratic values with a positive impact on society or as disruptive (or even criminal) actors. As a result, in certain contexts, the public perception of civil society can be as or more important than the letter of the law.

4.4.1. Raising awareness of the importance of civic space and enabling broader public participation

Nurturing the attitudes, values, skills and practices that add up to a societal capacity for constructive dialogue, acceptance of alternative views and collaboration towards social change is widely identified as a key building block for successful development. In this context, international organizations have a role to play in giving visibility to both the importance of civic space and the positive contributions of civil society.²⁰¹ The UN Special Rapporteur on the freedoms of peaceful assembly and association summarized the “achievements of civil society”, including their role in “mobilizing public opinion, (...) raising awareness (including by breaking down complex technical information into lay language), (...)” and “extraordinarily successful advocacy work” on a range of issues related to sustainable development, peace and human rights.²⁰²

In nearly all contexts, **efforts to inform and educate – to raise awareness** – are critical to working effectively on civic space issues. Whether the issue involves state-society relations, legislative reform or the public image of the civic sector, awareness-raising activities are likely necessary to reach governments, the international community, the broader CSO community and the public at large. International organizations can contribute to these efforts by carrying out programmatic interventions themselves and by supporting the awareness-raising efforts of other stakeholders. In practical terms, these include the following possible activities:

- **Public and media outreach:** International organizations can conduct outreach through traditional and social media to promote the statements of high-level UN public officials, such as the UN Secretary-General and UN Special Rapporteurs, and other international and regional monitoring and protection mechanisms. Where possible, international organizations can also issue

²⁰¹ See Section 3.1. Making the case for space: How to advocate for civic space in policy dialogues with national duty-bearers?

²⁰² UN Human Rights Council (2017), op. cit. (A/HRC/35/28), pp. 15-16; UN Human Rights Council (2020), op.cit. (A/HRC/44/50), pp. 9 and 15.

joint statements with other relevant stakeholders. Such outreach can be especially important in the case of threats and of attacks against journalists, human rights defenders and other groups most at risk – particularly in the context of harassment, intimidation and reprisals – and is crucial in supporting civil society actors.

- **Advocacy campaigns and mass online mobilization:** Where appropriate, international organizations can organize, participate in, endorse and widely disseminate awareness-raising, information-sharing or sensitization campaigns, including through online channels. For instance, international organizations can build on the advocacy opportunities offered by UN international days on a range of topics²⁰³ – such as human rights, democracy, volunteerism and youth – to celebrate the contributions of civil society and raise awareness about civic space issues.²⁰⁴ International organizations can also support campaigns by external partners to promote the importance of the legal and political space for civil society, such as the Civic Space Initiative,²⁰⁵ and the many high-visibility national and grassroots campaigns led by partners with whom the UN and other international organizations regularly engage. Support can be directed to advocacy campaigns that relate to UN priority areas such as the fight against poverty, inequality, discrimination and climate change or focus on more technical or project-based campaigns, which, for example, advocate for the ratification or implementation of human rights treaties or the participation of civil society in global monitoring processes such as the UPR and the VNR.
- **Civic and human rights education:** While

building people’s trust in governments and political actors is not the primary focus of the UN, international organizations can take specific steps to secure trust in governance – the mechanisms and processes used and the outcomes achieved by effective and accountable government action. Civic education is an important tool to build people’s knowledge and understanding of the principles that underpin democracy and good governance and their applications in everyday life. For instance, international organizations can provide technical assistance and training to governments and civil society actors on curriculum development, evaluate learning and teaching resources and support the dissemination of advocacy and publicity materials. More broadly, in line with SDG target 4.7 on education for sustainable development, international organizations can support all segments of society in acquiring knowledge and skills related to human rights and responsibilities,²⁰⁶ democracy, gender equality, the promotion of a culture of peace and non-violence, global citizenship and the appreciation of cultural diversity.

In addition to an informed citizenry, there is wide consensus that **facilitating the broad participation of citizens** in political and public life – individually and through representative organizations – is another essential building block for nurturing civic space. For example, in the context of legislative reform, broad public participation can contribute to higher-quality legal research, building mutual trust and increasing the capacity of both law reform agencies and stakeholders.²⁰⁷ A process that meaningfully incorporates the views and inputs of civil society actors and beneficiaries tends

²⁰³ See the UN Secretariat webpage on [United Nations Observances](#).

²⁰⁴ For instance, civic space and/or the positive role of civil society was referenced in every UN Secretary speech for the International Day of Democracy (15 September) since the creation in 2008.

²⁰⁵ The Civic Space Initiative is led by international CSOs leaders in the promotion and protection of civic space, namely: [International Center for Not-for-Profit Law](#), [CIVICUS: World Alliance for Citizen Participation](#), [Article 19](#) and the [World Movement for Democracy](#) and is supported by the Government of Sweden.

²⁰⁶ In line with the state’s duty to protect and fulfil human rights, the right to human rights education is recognized under international human rights law and jurisprudence and is particularly relevant in relation to fostering a culture of human rights and democracy. See the OHCHR webpage on the [Right to Human Rights Education](#) for a compilation of provisions of international and regional instruments related to human rights education.

²⁰⁷ Commonwealth Secretariat (2017). [Changing the Law: A Practical Guide to Law Reform](#), p. 96. London, UK.

to produce legislation more attuned to the aspirations of citizens and more likely to be implemented effectively.

To support accountable, transparent, participatory and inclusive legislative processes, international organizations may promote and facilitate the implementation of consultative processes such as public hearings, town hall meetings and other forms of public discussions that include CSOs, academia, lawyers and other stakeholders. International organizations may also support multi-stakeholder or cross-sectoral drafting groups that seek to ensure the meaningful participation of civil society. Alternatively, civil society working groups may be formed to provide technical inputs at each phase of the legal reform process, from initiation to final implementation. In contrast, inviting CSO contributions only after the government has issued a draft law leaves less room for meaningful input.

In addition, international organizations can promote the inclusion of representatives from marginalized and discriminated groups in legislative drafting to help break down stereotypes and identify provisions with a discriminatory impact on specific groups, such as women, young people, persons with disabilities and indigenous people. The use of both traditional media and information and communication technologies to enable the wide dissemination of information is also a good practice to improve coordination among civil society actors and broader public participation.

4.4.2. Supporting media freedom and independence

The media is a central link between the freedom of expression and opinion, the right to receive information and informed participation in democracy and governance. Space for independent media to thrive and for the free exchange of opinion is vital to meaningful citizen participation in political and public life and is a key tool for building accountability. All forms of media – newspapers, radio, television



KEY RESOURCES:

- UN General Assembly (2019). Report of the Office of the UN High Commissioner for Human Rights on the plan of action for the fourth phase (2020-2024) of the World Programme for Human Rights Education (A/HRC/42/23). New York, USA.
- UN Educational, Scientific and Cultural Organization (2015). Global Citizenship Education: Topics and Learning Objectives. Paris, France.
- UN Educational, Scientific and Cultural Organization and Asia-Pacific Centre of Education for International Understanding (n.d.). UNESCO Clearinghouse (database) on Global Citizenship Education. Seoul, Republic of Korea.
- The ACE Electoral Knowledge Network (n.d.). Webpage on Civic and Voter Education. New York, USA.

and digital media – have the potential to inform and educate the public, expose breaches of public trust (human rights violations, impunity, corruption, etc.) and help raise awareness and mobilize communities in support of civic space issues.

As part of their civic space efforts, international organizations can support an enabling environment conducive to the operation of free and independent media by promoting legal frameworks aligned with international standards on the rights to freedom of expression and access to information, media freedom, pluralism, independence, safety and the right to privacy. Furthermore, they can build the capacities of state institutions to better engage citizens through the media, using the potential of both traditional media and mobile and digital technologies to encourage citizen feedback and broader public participation, including in remote and hard-to-reach areas. Building the capacities of civil society actors and local communities to use the media to engage in advocacy and promote solutions to

relevant local issues is another area in which international organization can play an important role.

International organizations can strengthen governance of the media sector by supporting the technical and organizational capacities of media regulators, which, in turn, can contribute to monitoring and improving professional reporting and ethical standards in the media sector. They can also directly engage with a range of media actors – newspapers and other print media, radio, TV networks, journalist associations, individual journalists and social media influencers engaged in blogging (including video and photo blogging) and podcasts – to encourage greater prioritization of civic space news and develop their capacity to report effectively on civic space issues.²⁰⁸

In addition to supporting media and its capacity to promote civic space, international organizations can also play an important role in mitigating harmful and restrictive uses of the

media. International organizations can support research efforts and develop early warning systems to monitor the emergence and spread of information pollution and hate speech in a particular country context. They can support coordinated efforts to address these issues by bringing together governments, including election management bodies, media actors and civil society actors to create national and international coalitions. In partnership with media regulators and the private sector, international organizations can also support initiatives to encourage social networking platforms and internet service providers to play a more robust role in actively countering information pollution and online hate speech by, for instance, creating news media moderation regulations, codes of conduct and user/online community standards. They can also create or support existing media and information literacy initiatives aimed at preparing media users to interpret and react to false, misleading and hateful messages.

EFFECTIVE MEDIA AS A VITAL VEHICLE FOR SUSTAINABLE DEVELOPMENT AND PEACE IN SIERRA LEONE



Working in close collaboration with the government and local partners, a UNDP project in Sierra Leone has advanced a holistic approach to media freedom and independence since 2014.²⁰⁹ Efforts to support policy dialogue around relevant constitutional amendments were combined with the strengthening of consolidated laws that regulate media, such as those related to media ownership, registration and licensing. UNDP supported the effective operation, management and overall organizational development of the Media Reform Coordinating Group, the leading media development agency in the country and main local implementer of the project. One key component of the project promotes local media development by devising ways to support sustainable financial models for local media outlets and by supporting community radio stations to better capture the knowledge and narratives of the rural and urban poor through creative and innovative programming formats. UNDP worked with different types of media regulatory bodies to promote adherence to ethical standards and to monitor and improve professional reporting standards in the sector. To help media actors adapt to a rapidly transforming media landscape, a series of training programmes were also provided to promote digital media literacy, staff development at media organizations and quality performance at media agencies.

²⁰⁸ UN Educational, Scientific and Cultural Organization (2009). [Civic Education for Media Professionals: A Training Manual](#). UNESCO Series on Journalism Education. Paris, France.

²⁰⁹ See the UNDP Sierra Leone webpage on [Support to Media Development in Sierra Leone](#) and the Media Reform Coordinating Group [website](#).



KEY RESOURCES:

- UN Development Programme (2019). [UNDP's Engagement with the Media for Governance, Sustainable Development and Peace](#). New York, USA.
- International Foundation for Electoral Systems (2019). [Disinformation Campaigns and Hate Speech: Exploring the Relationship and Programming Interventions](#). Arlington, USA.
- UN Educational, Scientific and Cultural Organization (2018). [Journalism, Fake News and Disinformation: Handbook for Journalism Education and Training](#). Paris, France.
- Special Rapporteurs the Freedom of Expression at the UN, OAS, OSCE and African Commission (2017). Joint Declaration on [Freedom of Expression and "Fake News", Disinformation and Propaganda](#). Vienna, Austria.
- CIVICUS World Alliance for Citizen Participation (2016). [Guide to Reporting on Civic Space: Media Toolkit](#). Johannesburg, South Africa.
- UN Educational, Scientific and Cultural Organization (2013). [Media and Information Literacy: Policy and Strategy Guidelines](#). Paris, France.
- Office of the UN High Commissioner for Human Rights and UN Educational, Scientific and Cultural Organization (2021). [The UN and the Safety of Journalists. Resource Kit for UN Staff](#). Paris, France



Photo: UNDP Thailand

ANNEXES

Annex 1: International and regional norms and standards affecting civic space

Key international human rights standards

Universal standards

[Universal Declaration of Human Rights](#) (1948): provides for the rights to freedom of opinion and expression, peaceful assembly and association and participation in public life (arts. 19, 20 and 21).

[International Covenant for Civil and Political Rights](#) and its [First Optional Protocol](#) (1966): provide for the rights to freedom of opinion and expression, peaceful assembly and association including to form or take part in a trade union, and participation in public life (arts. 19, 21, 22 and 25).

[International Convention on the Elimination of All Forms of Racial Discrimination](#) (1966): prohibits discrimination in relation to the freedoms of expression, assembly and association and in the conduct of public affairs (art. 5).

[Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief](#) (1981): provides for the rights to freedom of opinion and expression, assembly and association “related to the rites or customs of a religion or belief”, including the freedom to access funding **(arts. 6.a through 6.i)**.

[Declaration on the Right to Development](#) (1986): highlights that everyone is “entitled to participate in, contribute to, and enjoy economic, social, cultural and political development” (art. 1), that “states have the right and the duty to formulate appropriate national development policies (...) on the basis of their active, free and meaningful participation in development” (art. 2.3), and encourages popular participation in all spheres as an important factor in development and in the full realization of all human rights (art. 8.b).

**Constituency-
focused
standards**

[Convention on the Elimination of All Forms of Discrimination against Women](#) and its [Optional Protocol](#) (1989): provide for the right of women to participate in political, economic and cultural life (art. 3), and the right to participate in public affairs including the right to participate in non-governmental organizations and associations concerned with the public and political life of the country (art. 7).

[Convention on the Rights of the Child](#) (1989): recognizes the rights of the child to freedom of expression, association and peaceful assembly (arts. 13 and 15).

[International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families](#) (1990): provides for the right to hold opinions without interference, the right to privacy and the freedom to associate and to join any trade union (arts. 13, 14 and 26).

[Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms](#) (1999): known as the Declaration on Human Rights Defenders: recognizes the rights to freedom of opinion and expression, access to information, participation in political and public life (arts. 5, 6 and 8) and the right, individually and in association with others, to develop and discuss new human rights ideas and principles and to advocate their acceptance (art. 7).

[Convention on the Rights of Persons with Disabilities](#) and its [Optional Protocol](#) (2006): guarantee the rights to freedom of opinion and expression, access to information and participation in political and public life (arts. 21 and 29).

[Convention for the Protection of all Persons against Enforced Disappearance](#) (2006): provides for the right to form and participate freely in organizations and associations concerned with enforced disappearances (art. 24.7).

[Declaration on the Rights of Indigenous Peoples](#) (2007): recognizes the rights to freedom of opinion and expression, access to information and participation in the political, economic, social and cultural life of the state (arts. 5, 16, 18 and 19), particularly in the context of free, prior and informed consent.

[Declaration on the Rights of Peasants and Other People Working in Rural Areas](#) (2018): recognizes the right to participate in the formulation and implementation of development planning at all levels and in all community activities (art. 4); in the management of natural resources (art. 5) and the right to freedom of opinion, expression and peaceful assembly (art. 8).

Key regional and sub-regional human rights instruments

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| Africa | <p>African Charter on Human and Peoples' Rights (1981) in arts. 9, 10, 11, 13 and 17.</p> <p>African Charter on the Rights and Welfare of the Child (1990): provides for the freedoms of expression and association (arts. 7 and 8).</p> <p>Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (2011): recognizes the right to participate in the political and decision-making process (art. 9).</p> |
| Arab States | <p>Arab Charter on Human Rights (2004) in arts. 19, 27, 28, 29 and 33.</p> |
| Asia-Pacific | <p>ASEAN Human Rights Declaration (2012) in paras. 22, 23, 24 and 25.</p> |
| Europe and the CIS | <p>Charter of Fundamental Rights of the European Union (2012) in arts. 8, 10 and 11.</p> <p>European Social Charter (revised, 1996).</p> <p>European Convention for the Protection of Human Rights and Fundamental Freedoms and Protocol No. 1 (1950) in arts. 9, 10 and 11.</p> <p>Framework Convention for the Protection of National Minorities in Europe (1995) in arts. 7, 9 and 15.</p> <p>European Social Charter (revised 1996) in Part I, paras. 5, 6 and in arts. 14 and 19.</p> <p>Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters (1998), known as the Århus Convention, in arts. 4, 6, 7 and 8.</p> <p>Charter of Fundamental Rights of the European Union (2012) in arts. 8, 10 and 11.</p> |
| Latin America and the Caribbean | <p>American Declaration of the Rights and Duties of Man (1948) in arts. IV, V, XX, XXI and XXII.</p> <p>American Convention on Human Rights (1969) in arts. 13, 15, 16 and 23.</p> <p>American Declaration of the Rights and Duties of Man (1948) in arts. IV, V, XX, XXI and XXII.</p> <p>Inter-American Convention on the Prevention, Punishment, and Eradication of Violence against Women (1994): provides for the freedoms of assembly, belief or religion and the right to take part in the conduct of public affairs (arts. 4.h through 4.j).</p> <p>Inter-American Democratic Charter (2011) in arts. 2, 4, 6, 26 and 27.</p> <p>American Declaration on the Rights of Indigenous Peoples (2016): recognizes the rights of association, assembly and freedom of expression and thought (art. XX) and the right to participation (art. XXIII).</p> <p>Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean (2018), known as the Escazú Agreement, in arts. 5, 7 and 8.</p> |

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