

The challenge of shrinking civic space in the Asia-Pacific region

Submission of the UNCAC Coalition's Asia-Pacific Regional Network to the
13th Session of the UNCAC Implementation Review Group

May 26, 2022

The UNCAC Coalition and its member civil society organizations from the Asia-Pacific region submit this statement to the 13th session of the Implementation Review Group (IRG). This statement was developed through an open consultation process with civil society organizations (CSOs) in our regional network and outlines the challenges of civic space in fighting against corruption, good practices and recommendations for action(s) to enhance civic space in the region.

At the 9th Session of the UNCAC Conference of the States Parties, the Asia-Pacific region identified anti-corruption priorities of the region that included the participation and engagement of civil society. This submission to the IRG is more focused on shrinking civic space in the region. It is built on the views and recommendations already expressed by the Coalition's Asia-Pacific membership in December 2021.¹ However, the following points are emphasized by the membership in this submission:

Challenges

- In many countries of the Asia-Pacific region, the regulatory framework for non-governmental organizations is highly restrictive and establishes governmental control over civil society.
- Constitutional mandates for civic space and freedom of association are often translated into state discretion and restrictive provisions through more detailed laws and regulations; in some cases, Constitutional obligations are dependent on national laws that restrict civic space.
- Restrictions on media outlets and journalists are obstacles to independent reporting on incidences of corruption, especially in relation to the security sector.
- Multiple registration and permission requirements by national, state and local authorities for CSOs to operate and carry out activities make it harder to conduct public awareness and advocacy work on a range of subjects, including anti-corruption and civic engagement.
- Despite having common goals on anti-corruption, government agencies continue working in silos with limited or no engagement of non-governmental stakeholders.
- Reluctance from central government agencies to make transparent and broaden consultations in the context of the national UNCAC implementation reviews. While there are instances of consultation in an open and inclusive manner, these are often very limited in terms of taking CSO voices on board.

¹ Anti-Corruption Priorities in the Asia-Pacific Region: UNCAC Coalition Statement to the 9th Session of the UNCAC Conference of the States Parties, 26 November 2021, <https://uncaccoalition.org/wp-content/uploads/CoSP9-Submission-Asia-Pacific-UNCAC-Coalition-membership-Anti-corruption-priorities.pdf>.

- Government policy and behavior tend to focus on compliance, yet should also promote the value of business integrity for ease of doing business, boosting country and business reputation.
- The general regional environment on law and order makes activists feel insecure, especially when they take up issues that may threaten the powerful interests entangled with corruption or constituting violations of human rights.
- Widely used forms of suppression include the use of legislation,² emergency laws, surveillance and scrutiny, arbitrary investigations, the ban of social media platforms, and imposed curfews to shrink civic space and activism.
- Violent forms of suppression are applied in the region, including by means of arrests, enforced disappearances and harassment, assassination, abduction, seizure of personal belongings by force, on citizens, civil society activists, human rights defenders, investigative journalists and citizen dissenters.
- Biased state and private media do not provide credible, fact-based coverage of corruption and do not advance and stimulate public debate about the need to promote transparency, accountability and integrity.
- More legal and regulatory frameworks are adopted by states to restrict civic space and civic participation in the fight against corruption.

These challenges lead to self-censorship of civil society actors out of fear of reprisals while limiting and/or weakening civil society oversight on corruption and corrupt individuals.

Best practices

- In some countries in the region, civil society advocacy has resulted in the enactment and effective enforcement of laws that protect the right to information and freedom of expression.
- In some countries, constitutional mandates on freedom of association and the participation of civil society have been established.
- On limited occasions, an open and inclusive process of consultation with civil society in the UNCAC review has been facilitated by the government under review.
- There have been instances of collaborative efforts between anti-corruption agencies and civil society organizations.
- In limited cases, anti-corruption agencies make use of a public council which includes civil society and private sector stakeholders and provides a platform for more diverse anti-corruption dialogue.

² Observations on the Bill to Amend the Voluntary Social Service Organizations (registration and Supervision) Act No. 31 of 1980. Short Note by The Centre for Policy Alternatives (CPA), 22 March 2018, <https://www.cpalanka.org/wp-content/uploads/2018/03/CPA-Note-on-VSSO-Amendment-2018-FINAL-2-1.pdf>.

Recommendations for action

Adequate implementation of legislative frameworks

- We call on States Parties to promote a safe and enabling environment for those who expose, report and fight corruption, in line with the Political Declaration adopted by the 2021 UN General Assembly Special Session against Corruption,³ and to ensure effective participation of all relevant stakeholders including individuals, CSOs, media and the private sector in the fight against corruption.
- States Parties should provide strong legislative and policy support for the protection of civil society and the media, enabling them to uncover and curb corruption, in line with Article 13 of the UNCAC.
- We call on States Parties to ensure the implementation of laws, policies and regulations that protect civic space and the right to participate in anti-corruption efforts.
- Establish an enabling regulatory framework related to foreign assistance to civil society working to tackle corruption or other malpractices.
- States Parties should remove discriminatory laws that prevent civil society from working freely and fearlessly, transforming the patterns of exclusion of civil society.
- States Parties should empower oversight institutions, in particular Parliaments, to scrutinize the implementation of anti-corruption strategies and the effective implementation and enforcement of anti-corruption laws, where they exist.

Enhance collaboration, partnership and support

We call on States Parties to:

- Establish partnerships with civil society, to proactively publish the UNCAC review self-assessments and full country reports, and to report on follow-up actions to implement UNCAC commitments for the benefit of a wider array of stakeholders within the respective countries.
- Facilitate and promote partnership among states, media and civil society organizations, through appropriate policies and easy access to development assistance.
- Set up and incentivize politically independent funding mechanisms to support media and civil society, promoting research, investigative reports, advocacy initiatives and broader raising of public awareness and capacity building of relevant activists and/or organizations with a focus on exposing and curbing corrupt practices.
- Prioritize and implement action-plans on partnership for open government in collaboration with CSOs to enhance civic participation in governance.

³ "Our common commitment to effectively addressing challenges and implementing measures to prevent and combat corruption and strengthen international cooperation", 7 June 2021, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N21/138/82/PDF/N2113882.pdf?OpenElement>.

Awareness raising

- Take initiatives to improve the professionalism and knowledge of journalists on investigative journalism tools.
- Create an informed citizenry by establishing adequate systems of education which will inform younger generations.