

Growing Civic Space

Submission by the
UNCAC Coalition
to the 9th Session of the UNCAC Conference of States Parties

1 December 2021

The UN Convention against Corruption recognizes the crucial role civil society plays in tackling corruption. However, spaces for civil society have been shrinking in many parts of the world – a worrying development that also affects UNCAC fora, the Convention’s implementation and global anti-corruption efforts in general. In 2020, more than 330 human rights defenders were killed, with no fewer than 20 of them working on anti-corruption.¹ This year’s ‘State of Civil Society Report’ by Civicus concludes that civil society actors have borne the brunt of restrictions of civil liberties and the use of emergency powers by governments in many countries in response to the Covid-19 pandemic, with restrictions and “punishment-first approaches to controlling the pandemic” disproportionately affecting those at the forefront of providing practical assistance and accurate information: civil society.²

Especially during emergencies, timely and effective access to information is essential to ensure accountability of government actions and the use of public funds. Information flows are critical for effective efforts to respond to the pandemic, for recovery, and ‘building back better’ in partnership with civil society organizations present on the ground, who play essential roles not only in supporting and complementing government efforts, but also in establishing networks of trust and representing marginalized voices.³ Citizens represent more than just passive beneficiaries of governmental action – they are agents of and for change.⁴

¹ Front Line Defenders Global Analysis 2020, page 4,

https://www.frontlinedefenders.org/sites/default/files/flid_global_analysis_2020.pdf.

² CIVICUS: State of Civil Society Report 2021, Executive Summary, <https://civicus.org/state-of-civil-society-report-2021/wp-content/uploads/2021/05/CIVICUS-State-of-Civil-Society-Report-ENG-OVERVIEW.pdf>.

³ United Nations Guidance Note: Protection and Promotion of Civic Space (September 2020), page 4, https://www.ohchr.org/Documents/Issues/CivicSpace/UN_Guidance_Note.pdf.

⁴ Pradhan, Sanjay, ‘Renewing Democracy - A Decade of OGP’, 18 November 2021, <https://www.opengovpartnership.org/stories/renewing-democracy-a-decade-of-ogp/>.

Across the globe, a number of governments in recent years have imposed restrictions that have limited civic space, coupled with “legal, administrative and fiscal harassment” which seeks to delegitimize CSOs and erodes their capacity to carry out work.⁵

As freedom declines, journalists are also increasingly under attack, with the 2021 World Press Freedom Index reporting that several countries have fallen in the rankings and journalism is “totally blocked or seriously impeded” in 73% (132) of the 180 countries and territories it evaluated.⁶ Civic space is the foundation of any democratic society and freedom of expression is a key human right. When civic space is safeguarded, citizens and CSOs can mobilize, participate and communicate unimpeded, and without fear of retaliation. In doing so, they exercise their rights and contribute to the political, economic and social structures around them, participate in decision-making processes, and demand that the government be effective, transparent and accountable.

However, this is only possible when states respect and facilitate the fundamental rights of their citizens to form associations, assemble peacefully and freely express views and opinions. These rights must be respected in the physical as well as digital worlds, where disinformation and connectivity disruptions threaten the impacts of positive interventions.⁷ Civic spaces thus become crucial in fighting corruption and promoting transparent and accountable societies.

It is not possible to tackle corruption without a well-informed and engaged civil society. With their technical expertise, local knowledge and high level of trust among communities, civil society organizations can play a crucial role in complementing the anti-corruption efforts and policies of their governments. This is only possible if there is an enabling environment for civil society. In many countries, those who uncover, expose and report on corruption and work to hold government to account have to fear for their personal safety.

Civil society participation can also help underscore public interest in ensuring that positive outcomes are achieved in efforts to tackle corruption, and that more is known about the processes at work in getting there.⁸ In fact, the very establishment of Sustainable Development Goal (SDG) 16 on peace, justice and strong institutions⁹ was underpinned by

⁵ Draft Report on the shrinking space for civil society (2021/2103 (INI)), Committee on Civil Liberties, Justice and Home Affairs, 18 October 2021, I., page 6, https://www.europarl.europa.eu/doceo/document/LIBE-PR-699075_EN.pdf.

⁶ 2021 World Press Freedom Index: Journalism, the vaccine against disinformation, blocked in more than 130 countries, <https://rsf.org/en/2021-world-press-freedom-index-journalism-vaccine-against-disinformation-blocked-more-130-countries>.

⁷ See: <https://monitor.civicus.org/whatis-civicspace/>.

⁸ Transparency International (2017): Transparency and Participation – An Evaluation of Anti-Corruption Review Mechanisms, https://www.transparency.org/whatwedo/publication/transparency_participation_an_evaluation_anti_corruption_review_mechanisms.

⁹ The Sustainable Development Goals, SDG 16: <https://www.un.org/sustainabledevelopment/peace-justice/>

civil society input, seeking transparent and representative decision-making and public access to information, alongside other fundamental freedoms.¹⁰

Concerns over weak justice systems, grand corruption, impunity and shrinking space for civil society and the media reflect inconsistencies with several UNCAC provisions, including Article 10 on public reporting, Article 13 on civil society participation and access to information, as well as Articles 19, 21 and 22 of the UN Covenant on Civil and Political Rights, providing for a right to freedom of expression, peaceful assembly and association.

Recommendations to the Conference of States Parties (CoSP) to advance civic space:

In the UNCAC context, civil society’s contributions to the implementation and monitoring of the review process are key, providing valuable expertise and experience, as well as a different perspective from that of public officials. Despite the Convention’s emphasis on civil society participation through Article 13, the principle of inclusiveness is not consistently applied in the review mechanism or at global UNCAC fora. Each State Party has the discretion to decide the extent of non-governmental stakeholder participation in the review process.

The UNODC has reported that the vast majority of States Parties that have carried out country reviews for the 2nd cycle have “included meetings with other stakeholders” but no further details are provided.¹¹ Our analysis of country review documents found that minimal to no information on stakeholder engagement is disclosed in the majority of country review documents, making it difficult to fully know the extent to which stakeholders, including independent civil society, were engaged in the reviews.¹²

We call on the UNCAC CoSP to urge States Parties to take steps to protect and safeguard freedom of expression and civic space, creating a safe and enabling environment for civil society actors, in line with the preamble and Article 13 of the UNCAC,¹³ which explicitly highlight the importance of civil society contributions to anti-corruption efforts. In particular, States Parties should:

¹⁰ United Nations Guidance Note: Protection and Promotion of Civic Space (September 2020), page 4 https://www.ohchr.org/Documents/Issues/CivicSpace/UN_Guidance_Note.pdf.

¹¹ UNODC, Performance of the Review of the Mechanism for the Review of the Implementation of the United Nations Convention against Corruption, 28 September 2021, p. 10, “At the time of writing, almost all the country visits (97 per cent) conducted in the first to fourth years of the second cycle had included meetings with other stakeholders, in accordance with paragraph 30 of the terms of reference”, https://www.unodc.org/documents/treaties/UNCAC/COSP/session9/CAC-COSP-2021-2/V2107189_E.pdf.

¹² For more information on the analysis conducted, see the UNCAC Coalition’s submission to the 9th CoSP on Strengthening the Implementation Review Mechanism (IRM).

¹³ United Nations Convention Against Corruption (UNCAC). See https://www.unodc.org/documents/treaties/UNCAC/Publications/Convention/08-50026_E.pdf.

- **Build democratic systems based on the separation of powers and independence of the judiciary** (Article 11) to foster an enabling environment for active civil society and citizens' participation in the prevention of and fight against corruption (Article 13);
- **Engage meaningfully, proactively and constructively** with civil society on national and sub-national strategies, actions plans, draft legislation, and policy development, as well as participatory decision-making, for example participatory budgeting (Articles 5, 10, 13);
- **Meaningfully involve a diverse range of independent civil society and non-governmental stakeholders in the UNCAC review process**, including in the country visit, the preparation of the self-assessment checklist and in the development and monitoring of follow up actions (Article 13, Terms of Reference of the IRM);
- **Ensure a high level of transparency of State bodies, including through proactive disclosure of information and data**, in particular for those bodies relevant to preventing and tackling corruption, as well as those that face high corruption risks, to ensure accountability of the government to its people (Articles 7, 9, 10, 13).
- **Take necessary measures to protect the right to assembly and freedom of expression** and protest at home and work to advance these rights and safeguards for adequate civic space globally, including through technical assistance and donor contributions.

We further urge States Parties and the UNCAC Secretariat to broaden the space for civil society contributions in the UNCAC, including by

- **Granting civil society observer status in UNCAC CoSP subsidiary bodies** and by allowing civil society observers in informal negotiations;
- Ensuring that host countries facilitate civil society participation in UNCAC meetings through **easy and timely issuance of visas**;
- **Opening up UNCAC meetings**, such as CoSP side events, **to larger audiences through webcasts** and allowing for wide online participation, where possible, after the end of the pandemic;
- **Developing alternative procedures** so that civil society organizations no longer have to submit documents they seek to display at the CoSP for screening and approval;
- **Revise the no-objection approach under Rule 17 of the rules of procedure** to establish clear criteria, ensure a high level of transparency and due process, establish an appeals mechanism for affected organizations, thus ensuring that the mechanism cannot be used arbitrarily to limit civil society participation.¹⁴

¹⁴ The Special Rapporteur on the rights to freedom of peaceful assembly and of association, Maina Kiai, has strongly criticised this practice: OHCHR, A/69/365: Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, 1 September 2014, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N14/523/22/PDF/N1452322.pdf?OpenElement>.