

A Seat at the Table: Expanding Civic Space in Anti-Corruption Efforts

UNCAC Coalition Submission to the
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In the 20 years since the adoption of the UNCAC, civil society organizations (CSOs) have developed a high level of expertise on anti-corruption issues. The work and research of civil society organizations have made important contributions to advancing and monitoring the implementation of the UNCAC nationally and globally, and has impacted discussions on good practice approaches to promote transparency and accountability. Yet, after two decades of civil society's contributions around the UN Convention against Corruption (UNCAC), there often are no seats for civil society experts at the table.

Civic space is among the very foundations of democracy and the right to freedom of expression is a pillar in any democratic society. When civic space is safeguarded, citizens and CSOs can speak up, mobilize, and participate 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 effectiveness, transparency and accountability from their governments.

A well-informed and engaged civil society and the involvement of CSOs, academia, journalists, and the private sector are crucial to effectively preventing and tackling corruption. Non-governmental stakeholders provide valuable expertise and experience, as well as a different perspective from that of public officials. This is particularly crucial with regards to corruption, an ever-evolving crime in which many of its manifestations are hidden and involve the public sector. Civil society participation can help to ensure the right outcomes by engaging in processes and raising public awareness when these are underway. The inclusion of Goal 16 in Agenda 2030 on peace, justice and strong institutions¹ was underpinned by civil society input, seeking transparent and representative decision-making and public access to information, alongside the protection of other fundamental freedoms.

¹ The Sustainable Development Goals, SDG 16: <https://www.un.org/sustainabledevelopment/peace-justice/>.
<https://monitor.civicus.org/watchlist/>.

However, civic space worldwide continues to face serious limitations. Activists, investigative journalists, witnesses and whistleblowers in numerous countries worry about their safety; many have faced threats and persecution for uncovering and reporting on corruption and too many - including their families - have been victims of attacks and assassinations. A 2022 assessment by the NGO Civicus demonstrated that a mere 3.2% of the world's population lives in countries rated as 'open', and another 11.3% in states with 'narrowed' civic space, with 117 out of the 197 countries assessed "experiencing severe restrictions on fundamental freedoms," in which civil society is under "severe attack."² Restrictions to civic space on the national and international level also affect civil society working to promote transparency, integrity and fighting against corruption. These developments are inconsistent with several UNCAC provisions, including Article 13 on civil society participation and access to information,³ as well as with Article 19 and other provisions of the UN Covenant on Civil and Political Rights.⁴

This trend has an effect on the UNCAC fora as well. In recent Conferences of the States Parties (CoSPs), some CSOs have been facing politically-motivated objections to their CoSP participation by several States Parties. Such objections were also raised towards CSOs outside the jurisdiction of the objecting State Party, signaling another breach of the established practice around CoSP civic space.⁵

Ahead of CoSP10, States Parties should be reminded of UNCAC Article 13, as well as their commitments regarding civil society's role in UNCAC implementation that were made in the Political Declaration adopted by the UN General Assembly Special Session against Corruption.⁶ Moreover, the United States, as the host of CoSP10, declared that championing the role of civil society in the fight against corruption is one of their five official priorities for

² CIVICUS Monitor 2022, People Power under Attack, 'Global Findings', <https://monitor.civicus.org/globalfindings/> and 'Tactics of Repression', <https://monitor.civicus.org/globalfindings/TacticsOfRepression/>. See also CIVICUS Monitor Watchlist (September 2023), <https://monitor.civicus.org/watchlist/>, as well as Article 19's 'Global Expression Report' (GxR2022) for 2022, <https://www.article19.org/gxr-22/>.

³ Article 13 of the United Nations Convention against Corruption (UNCAC), UNODC, https://www.unodc.org/documents/treaties/UNCAC/Publications/Convention/08-50026_E.pdf. For a comprehensive assessment, refer to Article 19's Guide on the Enforcement of Articles 10 and 13 of the UNCAC by Governments and Civil Society (2022), <https://www.article19.org/wp-content/uploads/2022/12/UNCAC-Guide-Final.pdf>.

⁴ OHCHR, Article 19 of the United Nations Covenant on Civil and Political Rights, <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights#:~:text=their%20own%20convictions.,Article%2019,-1.%20Everyone%20shall.>

⁵ UNCAC Coalition (December 2021), Eight leading civil society organizations banned from UN anti-corruption conference, <https://uncaccoalition.org/eight-leading-civil-society-organisations-banned-from-un-anti-corruption-conference-due-to-objections-by-turkey/>.

⁶ See paragraphs 1, 21, 22, 30, 31, 66 and 79 of General Assembly resolution 74/276 (2021), "Our common commitment to effectively addressing challenges and implementing measures to prevent and combat corruption and strengthen international cooperation", <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N21/138/82/PDF/N2113882.pdf?OpenElement>.

Atlanta, and beyond.⁷ The expectation for CoSP10 is to bring civil society to the forefront of the fight against corruption, including through the adoption of CoSP resolutions that recognize, support and promote the role of civil society in UNCAC implementation.

Our CoSP 10 asks

We urge UNCAC States Parties to:

- **Ensure a safe and enabling environment for civil society** to prevent and combat corruption and to promote the meaningful participation of civil society and other non-governmental stakeholders to strengthen UNCAC implementation and eliminate any impediments in law and practice that constrain such participation contrary to the letter and the spirit of the UNCAC, international human rights standards, the 2030 UN Agenda for Sustainable Development, and other regional or sub-regional instruments;⁸
- **Take appropriate measures for respecting, promoting and protecting the freedom to seek, receive, publish and disseminate information concerning corruption** and good governance and the ability for CSOs, journalists and the media to organize and operate independently and without fear of reprisal because of their anti-corruption work, investigations and reporting, such as through tackling cases of SLAPP (Strategic Lawsuits Against Public Participation), ensuring the safety of anti-corruption activists, witnesses, whistleblowers, journalists and others who uncover corruption, including but not limited to the adoption of dedicated laws and regulations in compliance with international standards;
- Recognize civil society's role of **monitoring and promoting implementation of UNCAC commitments**, such as in the areas of: asset recovery, public procurement and public spending, protection of whistleblowers, use of beneficial ownership information, and political finance. In particular, take into account **civil society's perspective in the CoSP's deliberations on the UNCAC Implementation Review Mechanism's follow-up phase**;
- Recognize the contributions of civil society to good governance and anti-corruption efforts and **firmly commit to strive for the broadest possible participation of CSOs in relevant regional and international fora**;⁹
- Commit to **proactively facilitating the participation of civil society and other non-state stakeholders in national anti-corruption efforts**, by:

⁷ Official website of the host country of UNCAC CoSP 10, US Priorities, <https://www.cosp10.us/priorities>.

⁸ Such as the African Union (2007), African Charter on Democracy, Elections and Governance (ACDEG), <https://au.int/en/treaties/african-charter-democracy-elections-and-governance> and the Southern African Development Community's (SADC) Protocol against Corruption, 2001, <https://www.sadc.int/document/protocol-against-corruption-2001>.

⁹ OHCHR, Guidelines for States on the effective implementation of the right to participate in public affairs, https://www.ohchr.org/Documents/Issues/PublicAffairs/GuidelinesRightParticipatePublicAffairs_web.pdf, p. 17-19.

- Including civil society in the UNCAC implementation country reviews and in any follow-up efforts;¹⁰
- Involving civil society in the development and monitoring of anti-corruption strategies and action plans and in the drafting of laws and policies linked to anti-corruption efforts;
- Ensuring effective access to information held by state bodies and facilitating monitoring efforts (public spending, public procurement, etc.);
- Enacting and effectively implementing comprehensive whistleblower reporting and protection laws, establishing secure reporting systems for receiving and investigating corruption and retaliation complaints, and ensuring that whistleblower disclosures to external and public channels, including CSOs and the media, are protected;
- Mandating the UNCAC Secretariat to gather information on challenges and good practices in States Parties' implementation of UNCAC article 13 and include a discussion on the findings in one of the upcoming sessions of the CoSP Working Group on Prevention.

We encourage States Parties and the UNCAC Secretariat to broaden the space for civil society contributions, including by:

- Committing to **protect and expand opportunities for non-governmental stakeholders to participate in UNCAC fora**. This should include refraining from objecting against the CSOs' CoSP attendance, including by ensuring a high level of transparency and due process, establishing an appeals mechanism for affected organizations, thus ensuring that the mechanism cannot be used arbitrarily to limit civil society participation. **Civil society representatives should be invited to have a seat at the table and be granted observer status in the CoSP's subsidiary bodies**¹¹, States Parties should also take other measures to facilitate participation, i.e. the provision of visas by the host country, ensuring timely access to information, and providing opportunities to attend and speak at virtual meetings;
- **Promoting civil society participation in follow-up actions that are typically included in CoSP resolutions**, such as in the development of guides and studies, workshops and expert meetings, and in technical assistance efforts, both as providers and as beneficiaries.

¹⁰ In accordance with the good practices identified in the blog post marking the UNCAC's 20th anniversary: UNCAC Coalition (October 2023), <https://uncaccoalition.org/20-years-of-uncac/> and another one of our CoSP10 submissions (November 2023), <https://uncaccoalition.org/wp-content/uploads/UNCAC-Coalition-CoSP10-Submission-Meaningful-civil-society-participation-in-UNCAC-Implementation-Reviews.pdf>. These examples and recommendations for best practice examples are based on our Guide to Transparency and Participation in the UNCAC IRM: <https://uncaccoalition.org/wp-content/uploads/UNCAC-Coalition-%E2%80%93-Guide-to-Transparency-and-Participation-in-the-IRM-Dec.-2022.pdf>.

¹¹ UNODC (2010), CAC/COSP/IRG/2010/9 – Legal Opinion from the Office of Legal Affairs, <https://www.unodc.org/documents/treaties/UNCAC/WorkingGroups/ImplementationReviewGroup/29Nov-1Dec2010/V1056031e.pdf>.