ADEQUATE CIVIC SPACE & AN ENABLING ENVIRONMENT:

Essential preconditions for effective CSO engagement with the SDGs

CONTEXT

Background

The 2030 Agenda is the main international mechanism for guiding sustainable development in all UN Member States until 2030. It guarantees a clear role for civil society as part of an innovative multi-stakeholder approach to implementation, follow up and review in promoting transformational change in their communities. However, civil society faces significant challenges in fulfilling its role without access to adequate civic space, and an enabling environment in which to operate.

SDG 16 Target 16.10 commits states to: *"Ensure access to public information and protect fundamental freedoms"* which include fundamental rights to associate, assemble peacefully and to express views and opinions. These civil and political rights are protected in international agreements and national legislation in many countries, and are integral to the concepts of "civic space" and an "enabling environment" for civil society. Therefore, it serves as an important lever to support civil society's attempts to create and defend civic space, and to enable CSOs everywhere to be effective in monitoring and implementing the Agenda.

Monitoring Civic Space in Voluntary National Reviews

Since 2016, VNR reports submitted by national governments each year to the UN HLPF have been largely silent on the issue of civic space. This is despite increasing calls for action by civil society organisations and others around the world to address the deteriorating human rights situation in many countries and to protect human rights defenders and environmentalists.

Countries in general have not engaged directly with the issue of closing civic space[1] in their VNR reports. This is despite the fact that the CIVICUS Monitor, which examines the status of civic space around the world, reported that civic space for over two thirds of the countries that reported to the HLPF in 2020 (62%) is characterized as "obstructed," "repressed" or "closed." Only eight (8) of the countries out of the 47 that reported to HLPF 2020 were considered "open".[2] For 10 countries, civic space is considered "narrowed."[3] Sixteen reporting countries were classified as "obstructed."[4] In 2020, nine (9) reporting countries were in the "repressed" category.[5] In 2020, four (4) reporting countries were classified as "closed."[6] This gap in VNR reports is particularly concerning given the increasing trend of closing civic space around the world.[7]

1. "Civic space is the bedrock of any open and democratic society. When civic space is open, citizens and civil society organizations are able to organize, participate and communicate without hindrance. In doing so, they are able to claim their rights and influence the political and social structures around them. This can only happen when a state holds by its duty to protect its citizens and respects and facilitates their fundamental rights to associate, assemble peacefully and freely express views and opinions. These are the three key rights that civil society depends upon." CIVICUS website.
2. Austria, Barbados, Estonia, Finland, Micronesia, Saint Vincent and the Grenadines, Samoa, and Solomon Islands.
3. Argentina, Bulgaria, Costa Rica, Georgia, North Macedonia, Panama, Moldova, Seychelles, Slovenia, and Trinidad and Tobago.
4. Armenia, Benin, Comoros, Ecuador, Gambia, Kenya, Kyrgyz Republic, Liberia, Malawi, Morocco, Mozambique, Nepal, Papua New Guinea, Peru, Ukraine, and Zambia.
5. Bangladesh, Brunei Darussalam, Democratic Republic of the Congo, Honduras, India, Niger, Nigeria, Russian Federation, and Uganda.
6. Burundi, Libya, Syria, and Uzbekistan.
7. See, for example, De Burca, Deirdre and Mohan Singh, Jyotsna. 2020. Realising the potential of Goal 16 of the 2030 Agenda to promote and protect Civic Space. Asia Development Alliance (ADA) and Forus. July, 2020. Rowlands, Lynda and Gomez Pena, Natalia. 2019. We will not be silenced: Climate activism from the frontlines to the UN. *CIVICUS: World Alliance for Citizen Participation position paper,* November 2019. Johannesburg: CIVICUS. Brechenmacher, Saskia and Carothers, Thomas. 2019. Defending Civic Space: Is the International Community Stuck? Washington, DC: Carnegie Endowment for International Peace. The Organisation for Economic Co-operation and Development has also recently launched an Observatory on Civic Space.

Official responses to the COVID-19 pandemic have been used by some governments as an excuse to further close civic space, compounding existing concerns about an enabling environment for all stakeholders so that they can contribute to the 2030 Agenda, and more recently, be part of promoting recovery from the pandemic.[8] The People Power Under Attack (2020) Report showed that 87% of the world's population now live in countries rated as "closed", "repressed" or "obstructed" - an increase of over 4% from the previous year. A recent report by the Danish CSO Platform Globalt Fokus on the impacts of shrinking space on SDG implementation demonstrated negative consequences for achieving all of the 17 SDGs.[9] While some countries emphasized the creation of enabling policies to support the engagement and participation of non-state actors in 2030 Agenda implementation in their VNRs, no report referred to closing civic space or described attempts to create a broader enabling environment for civil society. Moreover, civil society reports on 2030 Agenda implementation continue to point to the need for improvements in the quality of interactions and engagement between government and civil society.

Parallel & Spotlight reporting by civil society

Civil society reports and written inputs to VNR reports provide useful insights into the challenges faced by civil society organizations in contributing to the 2030 Agenda. Civil society reports (2017 – 2019) noted a range of challenges that prevent civil society from delivering on the 2030 Agenda, including a low levels of awareness of the agenda by the public, civil society and government, limited engagement and coordination with government, poor institutional preparedness to implement the 2030 Agenda by national and local governments, the lack of an enabling environment, limited access to finance, and structural factors such as deeply rooted behaviours and changes of government. The 2020 challenges identified are consistent with the challenges highlighted in previous years. This situation points to a global trend towards closing civic space and an increasingly disabling environment for civil society. It suggests that the issues hindering civil society's action with regard to 2030 Agenda implementation are not being properly addressed in a growing number of countries.

UN Guidelines on the Protection & Promotion of Civic Space

The UN Secretary General's VNR guidelines which were updated in January 2021 include stronger language on participation, inclusivity, accountability as well as national human rights institutions and their role in the VNR reporting (which is often not fully explored).[10] Furthermore, the UN Secretary-General's Call to Action for Human Rights identified **public participation and civic space** as one of the key areas where the UN should focus its attention.[11] Some civil society organisations have called for an expanded set of global indicators linked to SDG 16, (and to Target 16.10 in particular) to be developed and adopted by the international community.[12] They argue that despite the clear aim of Target 16.10 to protect fundamental freedoms, the corresponding global-level indicators that were adopted by the international community to assess progress with this target do not adequately measure the extent to which these basic freedoms are being protected.

REALITIES ON THE GROUND

The international trend towards shrinking civic space is reflected in the direct experience of many civil society organisations and their members across all regions. A joint report on SDG 16 & civic space produced by the Forus global CSO network and its regional coalition partner, the Asia Development Alliance (ADA), contains eighteen civic space national case studies.[13] A key trend shared by almost all of the case studies is that of state restriction on the freedom of expression, assembly and association of civil society in many countries around the world, and in both developed and developing states. Many case studies also detail the negative impacts and the civic space restrictions introduced by governments in response to the COVID-19 pandemic.

CASE STUDY: Freedom of Assembly

In **Spain**, the shrinking of civic space, criminalisation of protests and harassment of human rights defenders was

8. Cf. De Oliveira, Ana, Kindornay, Shannon and Tomlinson, Brian. 2021. Forus International Scoping Study of National NGO Platforms' Experiences in Promoting an Enabling Environment. Forus. January 2021. Cf. De Oliveira, Ana, Kindornay, Shannon and Tomlinson, Brian. 2020. Executive Summary: A Scoping Study of CSO Platforms' Experiences in Promoting an Enabling Environment. Forus. December 2020. Tomlinson, Brian. 2020. Literature Review: A Scoping Study of CSO Platforms' Experiences in Promoting an Enabling Environment. Forus. December 2020.
9. https://www.globaltfokus.dk/images/Civic_space_konference/CivicSpace_Recommendations_DK.pdf
10. https://sustainabledevelopment.un.org/content/documents/27171SG_Guidelines_2021.final.pdf
11. Guidance Note: https://www.un.org/sg/sites/www.un.org.sg/files/atoms/files/The_Highest_Asperation_A_Call_To_Action_For_Human_Right_English.pdf
12. https://forus-international.org/en/resources/147
13. https://forus-international.org/en/resources/147

linked to austerity measures adopted during the 2008 financial crisis, when the Law for the Protection of Citizen Security, known as the "Gag Law", was approved. This law reconfigured the possibilities of protesting in public space and contained many undefined legal concepts and allowed the authorities considerable subjectivity in establishing sanctions. During the first four years of its implementation, 104,601 sanctions were imposed, according to the Ministry of the Interior, punishing the exercise of civil rights in public space, freedom of assembly, expression and access to information. A key concern reported was the absence of any mechanisms for appeal to prevent abuses.

CASE STUDY: Freedom of Expression

In **Cambodia**, the Chief Executive Officer of the digital media network TVFB was arrested at night in early 2020 by the Cambodian authorities for having accurately quoted comments made in a speech by Prime Minister Hun Sen in relation to the official response to the COVID-19 pandemic. The CEO remained in jail for pre-trial detention for being accused of "inciting to commit crimes" under article 494 and 495 of the Penal Code by the Phnom Penh Municipal Court. In addition, the Ministry of Information revoked the online TVFB's media license because the CEO had broadcast information that "generate(d) an adverse effect on the security, public order and safety of society." The CEO was awarded the 2020 Deutsche Welle (DW) Freedom of Speech Award along with 17 journalists from 14 countries. The award he received was in recognition of all journalists worldwide who have been arrested or threatened because of their reporting on the COVID-19 pandemic.

CASE STUDY: Freedom of Association

In **Zambia**, the militarization of political party cadres has led to major human rights violations in relation to freedom of assembly. Ruling party cadres have committed crimes with impunity which includes assault, property grabbing and disruptions of legally convened meetings and gatherings. In the recent past, In February 2020, Patriotic Front cadres stormed the Intercontinental Hotel and brought to an abrupt end a public discussion on Constitutional Amendment Bill number 10 of 2019 organised by the Law Association of Zambia. Bill 10 has been a subject of discussion for some time now owing to its wide rejection by many stakeholders for its draconian nature and an alleged attempt to tamper with the constitution in what is widely believed by many stakeholders to be the government's move to safeguard its interest for the 2021 elections.

RECOMMENDATIONS

Civil society must be proactive in advocating for adequate civic space at multiple levels to allow it to play its part in realising the 2030 Agenda's positive vision of multi-stakeholder participation. The Voluntary National Reviews (VNRs) produced by governments in consultation with a wide range of stakeholders should report on progress made at local and national levels in creating adequate civic space so that a diverse and pluralistic civil society can play ins part in the "whole of society" approach to SDG monitoring and implementation. In particular, SDG 16 of the 2030 Agenda can provide important leverage for civil society everywhere in its efforts to create and defend civic space, and to be more effective in monitoring and implementing the agenda.

Recommendations to the UN

- **Agree the annual review of SDG 16 as part of the UN HLPF Review**
  An annual review of SDG 16 by UN HLPF should be agreed as part of the ongoing UN HLPF Review process, similar to the annual review which takes place of SDG 17. Responsive governance, bolstering institutions at all levels, strengthening multilateralism, and grounding policy & practice in a human rights framework are important areas that should be reviewed annually, as critical enablers of progress towards the achievement of the entire 2030 Agenda.

- **Adopt Enabling Environment Indicators for CSOs as part of the SDG Global indicator framework**
  Enabling environment indicators should be adopted as part of the overall SDG Global Indicator Framework to allow the extent to which CSOs are recognised and included in the 2030 Agenda processes to be monitored and measured. Such indicators could also measure the extent to which the capacity development of civil society has been enabled at each level, and the financial resources that have been dedicated to achieving this.

- **Develop and adopt an expanded range of SDG 16-related civic space indicators**
  Develop new and expanded civic space indicators

linked to SDG 16 at multiple levels (i.e. local to global), including structural, process, and "outcome" indicators, to measure the efforts of states to "protect fundamental freedoms" in accordance with international human rights standards and national human rights laws.

Recommendations to the Governments and Donors

- **Provide a greater level of international resourcing for civil society working on civic space issues in countries where official restrictions on their activities are increasing**
  International donors should simplify and expand their financing processes, especially in countries where governments are attempting to control the finances and overall structuring of CSOs because they work with particular constituencies. or focus on specific issues, or are implicitly or explicitly critical of government policies. A greater level of international resourcing should be provided to support civil society working on civic space in these countries.

- **Provide capacity building for CSOs linked to human rights and the defence of civic space**
  Awareness-raising of human rights and the protection of fundamental freedoms for CSOs and the general public should be strengthened at all levels, from the international to the local. Human rights defenders and victims of repression and harassment should also receive maximum protection as required by SDG 16.

- **Support the development of multi-stakeholder partnerships to promote and defend civic space**
  There is a clear need for the international community to support and encourage the development of multi-stakeholder partnerships with the aim of promoting and protecting civic space. The involvement of the private sector, academia, the media, trade unions and other actors in such MS partnerships will increase the pressure on governments to act to protect and promote civic space.

- **Establish independent National Human Rights Commissions**
  INHRCs should be established in countries where this has not yet happened. These commissions play an important role in ensuring that human rights standards and values are upheld at all times and their establishment should be part of broader responses to protecting & defending civic space.

This policy brief was prepared in February/March 2021, in the context of the 2020 Progressing National SDGs Implementation report (5th edition), an independent assessment of the Voluntary National Review reports submitted to the United Nations High-level Political Forum on Sustainable Development each year.