



A Practical Guide for Civil Society

CIVIL SOCIETY SPACE AND THE UNITED NATIONS HUMAN RIGHTS SYSTEM



UNITED NATIONS
HUMAN RIGHTS
OFFICE OF THE HIGH COMMISSIONER

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The determination and integrity of civil society actors bring me, and perhaps bring to you, a sense of humility, a feeling of a great and powerful debt being owed, and the will to continue working for the equal and inalienable dignity and rights of every human being.

Zeid Ra’ad Al-Hussein,
United Nations High Commissioner for Human Rights,
October 2014



1. About this Guide

Freedoms of expression, association and peaceful assembly, and the right to participate in public affairs, are human rights that enable people to share ideas, form new ones, and join together with others to claim their rights. It is through the exercise of these public freedoms that we make informed decisions about our economic and social development. It is through these rights that we can take part in civic activity and build democratic societies. To restrict them undermines our collective progress.

This is the sixth in OHCHR's series of human rights practical guides for civil society, and should be seen within the context of 'Widening the democratic space', one of OHCHR's current thematic priorities.

This Guide highlights issues related to the work of civil society actors (CSAs). It begins with a working definition of the terms 'civil society' and 'civil society space'. It then provides an overview of the conditions and



environment needed for a free and independent civil society, including relevant international human rights standards for freedoms of expression, association and peaceful assembly, and the right to participate in public affairs.

The Guide includes some examples of how Governments and CSAs have worked together to develop space for civil society to carry out its work to advance enjoyment of all human rights (civil, cultural, economic, political and social) for all. Obstacles and limitations to civil society work are identified, including harassment, intimidation and reprisals against CSAs. The Guide invites CSAs to use the UN human rights system to promote and protect civil society space at the local level. Resources and contact details are provided at the end of the Guide.

The Guide aims primarily to assist CSAs who are not yet familiar with the UN human rights system. Its development has been enriched from the outset by input and advice from diverse CSAs.



2. Civil society actors and civil society space



“If leaders do not listen to their people, they will hear from them – in the streets, the squares, or, as we see far too often, on the battlefield. There is a better way. More participation. More democracy. More engagement and openness. That means maximum space for civil society.”

UN Secretary-General Ban Ki-moon’s remarks at the High-level event on supporting Civil Society, 23 September 2013

This Guide defines CSAs as individuals and groups who voluntarily engage in forms of public participation and action around shared interests, purposes or values that are compatible with the goals of the UN: the maintenance of peace and security, the realization of development, and the promotion and respect of human rights.

The UN’s work to improve our lives is rooted in respect for human rights. And whether explicitly, or implicitly, through the content or nature of their work, CSAs, as defined above, seek to promote and protect human rights.

CSAs promote awareness of rights, assist communities in articulating concerns, shape strategies, influence policy and laws, and press for accountability. CSAs collect and channel views of communities so that decision-making on public policies can be informed more fully. CSAs also fulfil services for those who are at risk and vulnerable on multiple fronts.



“Everyone has the right, **individually and in association with others**, to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels.” (article 1, emphasis added).

Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, (General Assembly Resolution 53/144), commonly referred to as the Declaration on Human Rights Defenders.

For example, civil society actors include:¹

- ▶ Human rights defenders, including on-line activists;

¹ Working with the United Nations Human Rights Programme, A Handbook for Civil Society, OHCHR, 2008, p. vii.



- ▶ Human rights organizations (NGOs, associations, victim-support groups);
- ▶ Coalitions and networks (on e.g. women's rights, children's rights, or environmental issues, land rights, LGBTi, etc.);
- ▶ Persons with disabilities and their representative organizations;
- ▶ Community-based groups (indigenous peoples, minorities, rural communities);
- ▶ Faith-based groups (churches, religious groups);
- ▶ Unions (trade unions as well as professional associations such as journalists' associations, judges' and lawyers' and bar associations, magistrates' associations, student unions);
- ▶ Social movements (peace movements, student movements, pro-democracy movements);
- ▶ Professionals contributing directly to the enjoyment of human rights (e.g. humanitarian workers, lawyers, doctors and medical workers);
- ▶ Relatives and associations of victims of human rights violations; and
- ▶ Public institutions that carry out activities aimed at promoting human rights (schools, universities, research bodies).

Civil society actors are active in trying to resolve problems and address issues that are important to society, such as:

- combatting poverty, corruption and economic inequality
- responding to humanitarian crises, including armed conflict
- promoting the rule of law and accountability
- promoting public freedoms
- advocating for transparency of government budgets
- protecting the environment
- realizing the right to development
- empowering persons belonging to minorities and other groups at risk
- combating any form of discrimination
- supporting crime prevention
- promoting corporate social responsibility and accountability
- combating human trafficking
- empowering women
- combating hate speech
- empowering youth
- advancing social justice and consumer protection
- provision of social services



CSAs operate at all levels: local, national, regional and international.

Civil society space is the place civil society actors occupy within society; the environment and framework in which civil society operates; and the relationships among civil society actors, the State, private sector and the general public.

2.1 The United Nations Human Rights System – At a Glance

Alongside securing peace and security and working to realize development throughout the world, promoting and protecting all human rights for all people is one of the three pillars of the UN. This is established in the UN Charter and international human rights law.

The UN strives to promote and protect human rights in three basic ways:

1. The Office of the United Nations High Commissioner for Human Rights (OHCHR) is the lead organization within the UN working for human rights promotion and protection. It works closely with UN specialized agencies, funds and programmes (e.g. World Health Organization, UN Refugee Agency, UNICEF, International Labour Organization, UNESCO, etc.) to maximize the impact of human rights work.
2. International human rights treaties (covenants and conventions) establish panels of independent experts, or treaty bodies, to regularly and periodically consider countries' implementation of human rights obligations.
3. Inter-governmental bodies, or assemblies, composed of Member States of the UN are established to discuss human rights issues and situations. The primary inter-governmental body for this purpose is the Human Rights Council which is supported in its work by independent experts called Special Procedures, and a mechanism called the Universal Periodic Review, among others.

The three elements are independent but complementary.

Detailed explanations of these mandates and mechanisms can be found in *Working with the United Nations Human Rights Programme: A Handbook for Civil Society* (see section 6. Resources). The *Handbook* is available in six official UN languages, and in Digital Accessible Information System (DAISY) CD Rom format in French and English for persons with visual and print disability.



The work of the UN human rights machinery is underpinned by the participation of CSAs. At the international level, civil society contributes expertise, awareness-raising, and monitoring and reporting on human rights issues and violations. CSAs help develop new human rights standards, mechanisms, and institutions, and mobilize resources and public support for human rights issues.



UN Human Rights Council initiatives on civil society

The UN Human Rights Council has adopted several resolutions of particular importance for civil society, such as freedom of expression, freedom of association and peaceful assembly, intimidation and reprisals, and human rights defenders. In 2013 and 2014, it adopted resolutions 27/31, and 24/21 on civil society space, acknowledging the “crucial importance of the active involvement of civil society, at all levels, in processes of governance and in promoting good governance, including through transparency and accountability, at all levels, which is indispensable for building peaceful, prosperous and democratic societies.”



3. Conditions for free and independent civil society work



“A free and independent civil society is the foundation for healthy, responsive governance at the local, national and global levels.”

Secretary-General Ban Ki-moon, video message
to the twenty-fifth session of the Human Rights Council, March 2014

States’ international legal obligations require them to create conditions - economic, political, social, cultural, legal - that actively support the ability and capacity of persons, individually or in association with others, to engage in civic activities.

Human rights principles which frame the relationship between public authorities and civil society actors are:

- ▶ **Participation** – Civil society’s role in society is recognized, and civil society actors are free to act independently and advocate positions different from those of public authorities.
- ▶ **Non-discrimination** – All civil society actors are invited and enabled to participate in public life without discrimination of any kind.
- ▶ **Dignity** – Public authorities and civil society actors have the shared aim of improving lives, while performing different roles. Mutual respect is crucial to this relationship.
- ▶ **Transparency and accountability** – Acting in the public interest requires openness, responsibility, clarity, transparency and accountability from public officials. It also requires transparency and accountability of CSAs to each other and the public.

Key conditions which underlie good practice:²

3.1 Conducive political and public environment - A political and public environment which values and encourages civic contribution. In practice, institutions and public officials are responsive to civil society actors in their regular interaction.

² Report of the Special Rapporteur on the situation of human rights defenders, Elements of a safe and enabling environment for human rights defenders, A/HRC/25/55.



Tunisia - Civil society played a fundamental role in building the new Tunisia by participating in the development of new laws and policies essential for human rights and democracy. Civil society organizations were consulted on the first initiatives during the democratic transition, such as a decree on a general amnesty for prisoners of conscience, and laws on accession to four international treaties (the International Convention on the Protection of All Persons from Enforced Disappearance, the Optional Protocol to the International Covenant on Civil and Political Rights, the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment and the Rome Statute of the International Criminal Court). Civil society organizations took part in setting up essential democratic institutions that promulgated a new electoral code and adopted a new law on freedom of association, which included a provision on State funding for non-governmental organizations, as well as funding from abroad. Several thousands of associations have been established in Tunisia since the adoption of the law in September 2011. The role of civil society in the 2011 elections, the first democratic and transparent election in Tunisia, was fundamental. For the first time, more than 10,000 civil society activists were mobilized to monitor the elections of the Constituent Assembly, with the assistance of the international community. Civil society, in particular women's organizations, advocated for the inclusion of full equality between women and men in the text of the new draft Constitution, which was adopted by an overwhelming majority of the Constituent Assembly in January 2014.

Summary of the Human Rights Council panel discussion on the importance of the promotion and protection of civil society space, A/HRC/27/33.

3.2 Supportive regulatory framework - Legislation, administrative rules and practice are in line with international standards and safeguard civil society activities. Access to justice for civil society actors, independent and effective national human rights institutions, and access to international human rights mechanisms are all integral to this framework. Sound laws and policies are vital, but will remain ineffectual if not properly implemented.



In **Slovenia** the right to freedom of association protects all associations, including those that are not registered; and provides that individuals involved in unregistered associations should be free to carry out any activities, including to hold and participate in peaceful assemblies.

Report of the UN Special Rapporteur on the rights to freedom of peaceful assembly and of association, A/HRC/20/27.

In **Lebanon** and **Morocco**, legislation does not require approval of the authorities before civil society organizations receive domestic and foreign funding.

Report of the UN Special Rapporteur on the rights to freedom of peaceful assembly and of association, A/HRC/20/27.

3.3 Free flow of information - Free access to ideas, data, reports, initiatives, and decisions to enable CSAs to become aware and informed about issues, articulate concerns, engage constructively, and contribute to solutions.

3.4 Long-term support and resources - Measures to build capacity for marginalized voices, and ensure access to resources, meeting places, and technology to all CSAs.



In **Croatia**, the Government adopted a Code of Good Practice, Standards and Criteria for the Allocation of Grants for Programmes and Projects of Associations (2007), which sets out transparent, basic rules and procedures for public authorities at all levels of government in distribution of public grants.

European Center for Not-for-Profit Law (ECNL), Public Funding for Civil Society Organizations: Good Practices in the European Union and Western Balkans, 2011.

3.5 Shared spaces for dialogue and collaboration - Ensure a place for civil society in decision-making processes.



In the **Maldives**, in 2014, the Government supported a five-day forum for women's rights advocates to share and discuss regional experiences about realizing gender equality within an Islamic framework, together with regional NGOs and international organizations.

In **Mexico** the 2012 Law for the Protection of Human Rights Defenders and Journalists provides for a national mechanism to address threats to human rights defenders and journalists. The law was drafted with the participation of civil society actors and Congress, and supported by international NGOs and organizations, and OHCHR-Mexico.

In **Nepal**, in 2010, the Caste-based discrimination and Untouchability Act was drafted with the involvement of civil society, the National Dalit Commission and the OHCHR Country Office. The Act was adopted in May 2011.

In **New Zealand**, in 2011, the Disability Bill was drafted with the participation of the Disabled Persons' Association.

Report of the UN Special Rapporteur on the rights to freedom of peaceful assembly and of association, A/HRC/20/27.

In **Vanuatu**, in 2013, the Government set up a UPR Committee, the vice-chair of which was represented by the Vanuatu Association of Non-Governmental Organizations. In addition, civil society is represented in the National Human Rights Committee (NHRC), the body mandated to co-ordinate Vanuatu's human rights reporting obligations, and the establishment of a National Human Rights Institution. In 2013, organizations working with persons with disability were broadly consulted in the drafting of the report to the Committee on the Rights of Persons with Disabilities.

International legal standards relating to civil society work

A safe and enabling environment for civil society work must be supported by a robust national legal framework, grounded in international human rights law.

Freedoms of expression, association, peaceful assembly, and the right to participate in public affairs, are rights that enable people to mobilize for positive change. Everyone, individually or in association with others, should enjoy these rights. They are central to civic activity.

Most core international human rights instruments include provisions which are directly relevant to the protection of public freedoms, and all refer to the principle of non-discrimination:

- ▶ Universal Declaration of Human Rights (articles 19, 20, 21);



- ▶ International Covenant on Civil and Political Rights provides for the rights to freedom of opinion and expression, peaceful assembly and association, and participation in public life (articles 19, 21, 22, 25);
- ▶ International Covenant on Economic, Social and Cultural Rights provides for the right to form or take part in a trade union and to participate in cultural life (articles 8, 15);
- ▶ Convention on the Elimination of All Forms of Discrimination against Women provides for the right of women to participate in political, economic and cultural life (article 3);
- ▶ International Convention on the Elimination of Racial Discrimination prohibits discrimination in relation to the expression, assembly and association, and in conduct of public affairs (article 5);
- ▶ Convention on the Rights of the Child provides for freedom of expression, association and peaceful assembly (articles 13, 15);
- ▶ Convention on the Rights of Persons with Disabilities guarantees the rights to freedom of opinion and expression, and access to information, participation in political and public life, as well as in cultural life (articles 21, 29, 30);
- ▶ International Convention for the Protection of all Persons against Enforced Disappearance provides for the right to form and participate freely in organizations and associations concerned with attempting to establish the circumstances of enforced disappearances and the fate of disappeared persons, and to assist victims of enforced disappearance (article 24); and
- ▶ International Convention on the Protection of the Rights of all Migrant Workers and Members of their Families provides for the right to association (article 26).

Freedoms of expression, association and peaceful assembly and the right to participate in public affairs serve as a vehicle for the exercise of many other civil, cultural, economic, political and social rights. They empower women, men and children to engage in activities with the aim of bringing about societal change for the better.

Freedom of expression. Freedom of expression includes the right to seek, receive and impart information and ideas of all kinds. It includes information and ideas in political and religious discourse, public affairs, human rights, as well as cultural and artistic expression. The scope embraces expression that may be regarded as deeply offensive,



subject to limitations (e.g. see Rabat Plan of Action on the prohibition of advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence, 5 October 2012). All forms of expression and the means of their dissemination are protected: spoken, written and sign language and non-verbal expression as images and objects of art. Expression is possible through books, newspapers, pamphlets, posters, cartoons, banners, dress and legal submissions. It includes all forms of audio-visual as well as electronic and internet-based modes of expression.

Freedom of association. Association refers to any groups of individuals or entities which, collectively, act, express, promote, pursue or defend a field of common interests. Examples of freedom of association include joining and participating - or choosing not to participate - in civil society organizations, clubs, cooperatives, NGOs, religious associations, political parties, trade unions, foundations or on-line associations. "The ability to seek, secure and use resources is essential to the existence and effective operations of any association, no matter how small. The right to freedom of association includes the right to seek, receive and use resources – human, material and financial – from domestic, foreign, and international sources" (A/HRC/23/39, para. 8).

Freedom of peaceful assembly. A peaceful assembly is a temporary, non-violent gathering in a private or public space for a specific purpose. This includes demonstrations, strikes, processions, rallies or sit-ins.

Right to participate in public affairs. The conduct of public affairs is a broad concept which relates to the exercise of political power, in particular the exercise of legislative, executive and administrative powers. It covers all aspects of public administration, and the formulation and implementation of policy at international, national, regional and local levels. Participation may be through freely chosen representatives or directly, approving or changing the constitution, drafting of legislation and development of policies, deciding public issues through a referendum, taking part in popular assemblies with decision-making powers on local issues. The right to freedom of association, including the right to form and join organizations and associations concerned with political and public affairs, is essential to the right to participate in public affairs.

Non-discrimination. All of the above rights are guaranteed to all individuals, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, gender identity, national or social origin, property, birth or other status. These rights apply to women, children, indigenous peoples, persons with disabilities, persons belonging



to minority groups or groups at risk of marginalization or exclusion, including those victims of discrimination because of their sexual orientation and gender identity, non-nationals, including stateless persons, refugees or migrants, as well as associations, including unregistered groups.

These international standards apply to all branches of the State: executive, legislative and judicial; other public or governmental authorities, at whatever level – national, regional or local. The State is also required to protect persons from acts by private persons or entities that would impair the enjoyment of the freedoms. States have the primary responsibility to promote and protect the exercise of these rights.

Freedoms of expression, association and peaceful assembly carry with them special duties and responsibilities, and so their exercise may be subject to certain limitations. Any restrictions must be provided by law and must be strictly necessary for respect of the rights or reputations of others; or for the protection of national security or of public order (ordre public), or of public health or morals. These grounds may never be invoked as a justification for the muzzling of any advocacy of multi-party democracy, democratic tenets and human rights.

Human Rights Committee, General Comment No. 34, article 19: Freedoms of opinion and expression, CCPR/C/GC/34; and General Comment No. 25, article 25: The right to participate in public affairs, CCPR/C/21/Rev.1/Add.7. Reports of the UN Special Rapporteur on the rights to freedom of peaceful assembly and of association, A/HRC/20/27; and A/HRC/23/39.



“None of us on our own, Governments included, have all the facts, best ideas, or know all the reasons underlying the problems we are trying to solve. We can only benefit from collective wisdom. And so it’s important for us to hear from all constituencies, especially marginalized voices, before making a decision. For example, the Human Rights Committee gathers information from a broad array of sources: Governments themselves, the United Nations, and civil society. This helps inform our Concluding Observations and Recommendations, which map out practical steps for Governments to take up, to bring their laws and practices more in line with their obligations under the human rights treaties they have ratified.”

Professor Sir Nigel Rodley, Chairperson,
United Nations Human Rights Committee, October 2014

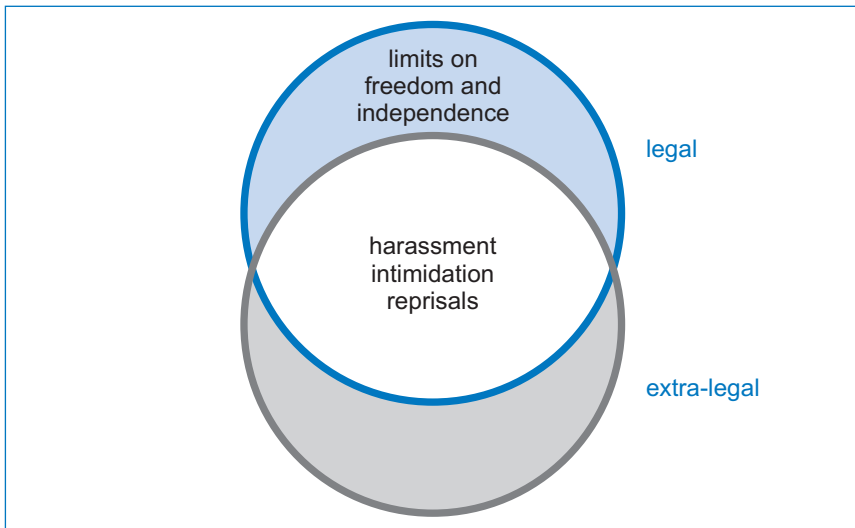


4. Challenges faced by civil society actors

Locally, nationally, regionally, or globally, civil society actors may encounter obstacles aimed at preventing, minimizing, halting or reversing the impact of their legitimate activities because they are critical of or opposed to government positions, policies or actions.

These may include constraints on freedom and independence, or harassment, intimidation, and reprisals (i.e. punishment or retaliation) against CSAs.

Ways to prevent, minimize, halt or reverse impact of civil society work



4.1 Law or rule-based measures impeding civil society work

Laws and regulations may limit the freedom and independence of civil society actors, for example, by:

- ▶ Requiring registration without positive benefits (e.g. tax benefits),
- ▶ Limiting what types of activities can be done,
- ▶ Criminal sanctions for unregistered activities,



- ▶ Restrictions placed on the registration of specific associations, including international NGOs, or associations receiving foreign funding or groups working on human rights,
- ▶ Setting criteria for who or what can undertake activities or limiting those activities,
- ▶ Restricting sources of financing (i.e. foreign sources), and
- ▶ Legislation governing freedom of peaceful assembly, association and expression that contains discriminatory provisions, or have a disproportionately negative impact on some groups.

Additionally, burdensome administrative procedures and discretionary measures may inhibit or delay CSAs from carrying out activities.

When the right to freedom of information is curtailed, CSAs are less able to intervene effectively in the policy-making arena. Unduly narrow or strict participation modalities (e.g. 'observer status' accorded to CSAs, or limited speaking rights) in decision-making processes are also barriers to engagement. Standards of freedom of association apply at the international level as much as at the national and local level.³

4.2 Arbitrary measures

When civil society is critical of, or opposed to, government positions, policies and actions, vague provisions in laws may be arbitrarily applied under the guise of legality and legitimacy (e.g. anti-money-laundering, anti-terrorism, national security, public morals, defamation, protection of national sovereignty), amounting to:

- ▶ Arbitrary scrutiny of management and internal governance,
- ▶ Threats of, or actual, de-registration,
- ▶ Forced office closures,
- ▶ Search and seizures of property,
- ▶ Exorbitant fines,
- ▶ Spurious prosecutions,
- ▶ Arbitrary arrests and detentions,
- ▶ Bans on travel,

³ Report of UN Special Rapporteur on rights to freedom of peaceful assembly and of association on exercise of peaceful assembly and association in the context multilateral institutions, A/69/365.



- ▶ Deprivation of nationality, and
- ▶ Arbitrary limitations or cancellations of protests or gatherings.



UN Human Rights Council resolution 24/21 on creating and maintaining, in law and in practice, a safe and enabling environment for civil society, notes, “[In] some instances, domestic legal and administrative provisions... have sought to or have been misused to hinder the work and endanger the safety of civil society in a manner contrary to international law.”

4.3 Extra-legal harassment, intimidation and reprisals

In addition to legally imposed limitations and arbitrarily applied laws, which may restrict the space for civil society, threats or other forms of psychological pressure or physical attacks targeted at CSAs or their families may prevent them from working freely.

Examples include:

- ▶ Threatening phone messages,
- ▶ Surveillance,
- ▶ Physical or sexual assaults,
- ▶ Destruction of property,
- ▶ Deprivation of employment or loss of income,
- ▶ Smear campaigns labeling civil society actors as ‘enemies of the state’, ‘traitors’, or as working for ‘foreign interests’,
- ▶ Disappearances,
- ▶ Torture, and
- ▶ Killings.



“People and civil society groups often risk their lives to improve the lives of others. They speak out even when knowing they could be silenced forever. They highlight problems that others ignore or might not even know exist. They protect our rights. They deserve their rights.”

UN Secretary-General Ban Ki-moon’s
remarks at the High Level event on supporting Civil Society,
23 September 2013



“Acts of harassment, intimidation and reprisals pressure human rights activists or witnesses from voicing concerns and working with the United Nations or other international actors. At the same time these acts serve to instil fear in the general public and create an oppressive environment, stifling freedoms of expression, association and peaceful assembly, which are essential for a democratic society.”

Ambassador Laura Dupuy Lasserre,
Permanent Representative of Uruguay to the UN Office at Geneva, and
President of the Human Rights Council (2011-2012).

Women Human Rights Defenders

Women defenders (WHRDs) are subject to the same types of risks as their male counterparts, but, as women, they are also targeted for or exposed to gender-specific threats and gender-specific violence. Often, the work of WHRDs is seen as challenging traditional notions of family and gender roles in society, which can lead to hostility by the general population and the authorities. WHRDs are subjected to stigmatization and ostracism by community leaders, faith-based groups, families and communities who consider them to be threatening religion, honour or culture through their work.

In addition, the work itself or what they are striving to achieve (for instance, the realization of women’s rights or any gender-related rights) also makes them targets for attack. Their families also become targets for threats and violence, aiming to isolate WHRDs and discourage them from pursuing their work. WHRDs are more at risk of certain forms of violence and other violations, prejudice, exclusion, and repudiation than their male counterparts. These specific challenges must be recognized in order to strengthen protection mechanisms and other responses, both at local and international level, to their concerns. Prompt and thorough investigation of intimidation, threats, violence and other abuses against women human rights defenders, whether committed by State or non-State actors, should be undertaken.

In 2013, the UN General Assembly adopted its first-ever resolution, resolution 68/181, on women human rights defenders, which expressed particular concern about systemic and structural discrimination and violence faced by WHRDs of all ages, and called upon States to take all measures necessary to ensure their protection and to integrate a gender perspective into their efforts to create a safe and enabling environment for the defence of human rights.



In **Côte d'Ivoire**, the Law on the Promotion and Protection of Human Rights Defenders of 2014 contains many of the rights recognized in the Declaration on Human Rights Defenders, including the right to freedom of expression, the right to form associations and non-governmental organizations, the right to access resources, the right to submit information to international bodies, and the right to be protected from reprisals. The law includes the obligation to protect human rights defenders, their families and their homes from attacks, and to investigate and punish attacks where they occur. It recognizes the particular threats faced by, and protection needs of, women human rights defenders. The Côte d'Ivoire law has been welcomed by civil society organizations, including the Côte d'Ivoire Coalition of Human Rights Defenders and the West African Human Rights Defenders Network.

Intimidation, and reprisals against individuals and groups for cooperating with the UN



“Civil society is central to advancing the work of the United Nations across our agenda, not only for human rights but also for peace and security, as well as development. Civil society has never been more important or needed. Reprisals and intimidation against individuals cooperating with the United Nations is unacceptable - not only because they help us do the work mandated by the Charter and the Universal Declaration of Human Rights – but because they also aim to discourage others from working with us. We must take action at every level to strengthen the voices of democracy.”

UN Secretary-General Ban Ki-moon,
Remarks at the High-level event on supporting civil society,
23 September 2013



“The United Nations could not do its invaluable work for human rights without those who cooperate with us. When they are intimidated and targeted for reprisals, they are victims, but we are all less secure. When their cooperation is stifled, our work in the field of human rights is compromised.”

UN Secretary-General Ban Ki-moon,
Statement at the High-level panel discussion on reprisals,
New York, 2011



Especially shocking are those acts of intimidation and reprisals against individuals or groups for cooperating with the UN in the field of human rights. Despite universal recognition of the need and right of individuals and groups to participate in the work of the UN Human Rights System, these acts continue to be reported.

Because of their engagement with UN mechanisms or officials (e.g. statements, submissions, meetings, etc.), individual CSAs may face intimidation or reprisals, such as being threatened or harassed by Government officials, including through public statements by high-level authorities; may be prevented from travelling to participate in meetings; and CSAs may find that their activities are monitored or restricted. Smear campaigns in social media, print or television are not uncommon. Threats may be made via phone calls, text messages or direct contacts. CSAs may be arrested, beaten, tortured or even killed.

The Human Rights Council has adopted several resolutions on this issue, including resolution 24/24 and resolution 12/2. The Secretary-General reports annually on alleged cases of reprisals for cooperation with the UN in the field of human rights. Both the Secretary-General and the High Commissioner for Human Rights have repeatedly stated that such reprisals are unacceptable and that a more unified and coordinated response from the UN to such acts is necessary. Other human rights mechanisms have also taken a strong and public stance against reprisals.

Human Rights Treaty provisions on reprisals

Optional Protocol to the International Covenant on Economic, Social and Cultural Rights - article 13

A State Party shall take all appropriate measures to ensure that individuals under its jurisdiction are not subjected to any form of ill-treatment or intimidation as a consequence of communicating with the Committee pursuant to the present Protocol.

Optional Protocol to the Convention on the Rights of the Child on a communications procedure - article 4

A State party shall take all appropriate steps to ensure that individuals under its jurisdiction are not subjected to any human rights violation, ill-treatment or intimidation as a consequence of communications or cooperation with the Committee pursuant to the present Protocol.



Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women - article 11

A State Party shall take all appropriate steps to ensure that individuals under its jurisdiction are not subjected to ill treatment or intimidation as a consequence of communicating with the Committee pursuant to the present Protocol.



In **Austria**, paragraph 18 of the 1982 Ombudsman Board Act provides: "Nobody shall be penalized or otherwise disadvantaged due to providing information to the Subcommittee on the Prevention of Torture, the Ombudsman Board or the commissions set up by it."

In **Montenegro**, article 56 of the 2007 Constitution, provides: "Everyone shall have the right of recourse to international institutions for the protection of rights and freedoms guaranteed by the Constitution."

Legal and administrative constraints, coupled with harassment, intimidation, and reprisals reduce the constructive and complementary partnership role that civil society should play with Governments. They aim to prevent, minimize, discredit, halt or reverse the impact of civil society work. Failure to promote and protect this space and ensure a safe and enabling environment runs counter to States' obligations under international human rights law.

States have the primary responsibility to protect CSAs, but when civil society space, or CSAs themselves, are at risk because of their work to advance human rights, the international community has a shared interest and responsibility to support and protect them.



5. What can I do? Turning to the United Nations

International human rights law provides a unique international platform, to which CSAs can turn for support and guidance. This platform includes the Office of the United Nations High Commissioner for Human Rights (OHCHR), human rights treaty bodies, and the Human Rights Council and its mechanisms (Special Procedures mandates, the Universal Periodic Review, etc).



“International human rights standards provide a global framework that enables civic organizations to advocate for the realization of internationally agreed norms. These standards not only legitimize civic organizations’ activities, but also provide a useful platform to independently monitor and report on governments’ human rights obligations. International human rights mechanisms have emerged as an essential platform from which to advocate for a more enabling environment for civil society. In particularly restrictive contexts, the UN human rights bodies provide a crucial entry point for national civil society groups to raise awareness and dialogue about sensitive issues.”

Dr. Danny Sriskandarajah,
Secretary General, CIVICUS: World Alliance for Citizen Participation,
October 2014

There are two avenues via which the UN human rights mechanisms can protect civil society space:⁴

Documentation about obstacles, threats to civil society space, and good practices. Documentation about human rights situations forms the basis for interventions by UN human rights mechanisms. Well-documented and verified information by CSAs makes a strong case for action, is more credible and persuasive, difficult to refute, and an effective way to promote and protect human rights. CSAs are invited to share documentation (e.g. accurate, factual information, careful analyses, and concrete recommendations) about obstacles, threats to civil society

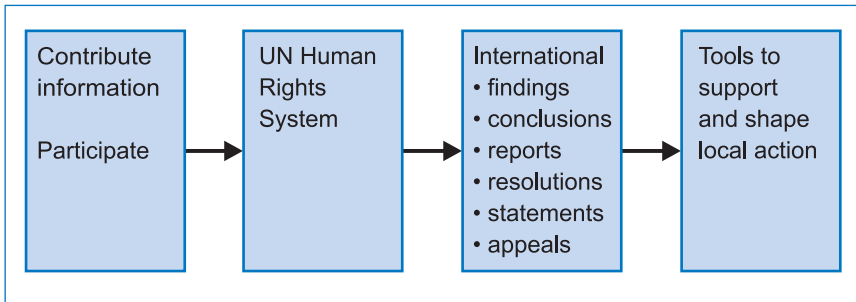
⁴ Readers who are not already familiar with the main features of these mechanisms are invited to refer to OHCHR’s Handbook for civil society – *Working with the United Nations human rights programme*. Further guidance and advice are found in the series of *Practical Guides for Civil Society, including How to Follow Up on United Nations Human Rights Recommendations*.



actors and their space to work, as well as to convey good practices to UN human rights mechanisms.

Using available space. CSAs are invited to use opportunities for participation in international conferences and meetings, or visits of experts. Opportunities are available through submissions, organization of briefings, and networking among participants to raise awareness about civil society space issues, as well as share recommendations and successful strategies.

Working with the UN human rights mechanisms on issues of civil society space gives CSAs the possibility of using the outputs (e.g. international findings and recommendations to Governments on legal, administrative and other measures) in their work to protect civil society space and empower CSAs locally.



Examples of outputs of UN human rights mandates and mechanisms:

- ▶ Concluding Observations of treaty bodies, as well as Views and Recommendations on individual cases;
- ▶ Assessments, recommendations and conclusions contained in reports on country visits, thematic reports and communications on individual cases by special procedures (independent experts) of the Human Rights Council;
- ▶ Recommendations from the Universal Periodic Review;
- ▶ Resolutions and decisions of the Human Rights Council and the General Assembly;
- ▶ Reports of commissions of inquiry, fact-finding missions and other ad hoc human rights investigative mechanisms established by the Human Rights Council;



- ▶ Statements by the UN Secretary-General;
- ▶ Statements, reports and studies of the UN High Commissioner for Human Rights (e.g. reports on the activities of field presences; reports and studies on country and thematic situations mandated by the Human Rights Council or the UN General Assembly);
- ▶ Annual reports of the Secretary-General on cases of intimidation or reprisals against individuals or groups cooperating with the UN in the field of human rights; and
- ▶ Appeals to countries by the Secretary-General, High Commissioner for Human Rights, or by human rights experts in public statements.

These findings and recommendations can also be powerful tools of advocacy and guidance to support and shape local activities, as well as protection. For example, CSAs can:

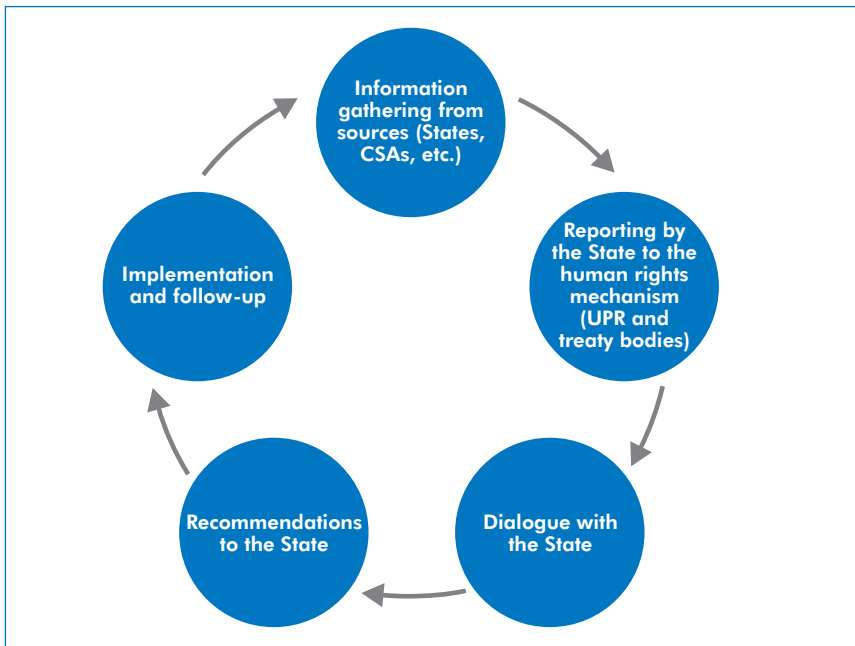
- ▶ Work with central and local government on implementing recommendations from the UN human rights system;
- ▶ Raise awareness of local communities about international analyses and expectations of human rights practices in the country;
- ▶ Monitor and evaluate responses and measures taken by authorities at central and local levels;
- ▶ Strengthen existing advocacy material through authoritative, objective language, effective strategies, and good practice solutions;
- ▶ Mobilize opinion within and across civil society organizations, as well as the public;
- ▶ Build partnerships;
- ▶ Improve the quality of dialogue with public officials;
- ▶ Contribute to policy-making;
- ▶ Frame legal action/litigation;
- ▶ Contribute to follow-up procedures of human rights mechanisms;
- ▶ Assess and provide technical advice to individuals who wish to submit an individual complaint to UN human rights mechanisms.

UN findings in relation to other countries are also a rich source of information about strategies relating to similar experiences in other places.



How UN human rights mechanisms work

In general, UN human rights mechanisms follow a similar process in trying to address human rights problems. Information is gathered or received from a wide variety of sources, including civil society actors. This is analysed, cross-checked for consistency, credibility and accuracy. The mechanism begins a dialogue in writing or in person with the State to clarify the substance of the information. It may make recommendations to the State on how to resolve the problem, and lend assistance to help it implement the recommendations. Further information is then collected to assess progress on the recommendations.





In April 2011, members of the Spanish Committee of Representatives of Persons with Disabilities (CERMI) participated in the fifth session of the Committee on the Rights of Persons with Disabilities (CRPD), and contributed to the preparation of the List of Issues. It submitted a report, briefed the Committee and then worked on the follow-up to the recommendations addressed to Spain. In particular, CERMI launched a broad campaign for the restoration of the right to vote for people whose right to vote had been removed on account of their disabilities, a situation affecting approximately 80,000 persons at the time. The Committee recommended that “all relevant legislation be reviewed to ensure that all persons with disabilities, regardless of their impairment, legal status or place of residence, have the right to vote” (CRPD/C/ESP/CO/1, paragraph 48). CERMI launched several initiatives in support of the amendment of legislation, including a guide entitled, “You have the right to vote, nobody can take it away”, which detailed the practical steps to claim and exercise the right to vote. As a result of CERMI’s advocacy, the Prosecutor of the Supreme Court urged regional prosecutors to protect the right to vote of persons with disabilities. CERMI also advocated with the Government and Congress to amend the legislation in line with the CRPD concluding observations. A proposed amendment was sent to different members of Congress and the Government.

CSAs can use the international community’s voice to support national strategies to mobilize people locally and encourage public officials to promote and protect civil society space.

What can I do?

- ▶ Be informed of and share UN human rights documentation about your country:



<http://www.ohchr.org/EN/Countries/Pages/HumanRightsintheWorld.aspx>

- ▶ Contact the nearest OHCHR office, or UN Country Team, and share your report about your experiences of civil society space with OHCHR’s Civil Society Section: civilsociety@ohchr.org
- ▶ Find out how to contribute and participate in the work of human rights treaty bodies:



<http://www.ohchr.org/Documents/Publications/NgoHandbook/ngohandbook4.pdf>



- ▶ Submit a complaint under a human rights treaty, including, where appropriate, requests for interim measures, or urgent action:



<http://www.ohchr.org/Documents/Publications/FactSheet7Rev.2.pdf>

- ▶ Submit a complaint to the Human Rights Council's Special Procedures experts:



<http://www.ohchr.org/EN/HRBodies/SP/Pages/Communications.aspx>

- ▶ Submit a complaint to the Human Rights Council's Complaints Procedure:



<http://www.ohchr.org/EN/HRBodies/HRC/ComplaintProcedure/Pages/HRCComplaintProcedureIndex.aspx>

- ▶ Share your information and experiences relating to civil society space at sessions of the Human Rights Council:



http://www.ohchr.org/Documents/HRBodies/HRCouncil/PracticalGuideNGO_en.pdf

- ▶ Share information and experiences relating to civil society space in the Human Rights Council's Universal Periodic Review of your country:



<http://www.ohchr.org/EN/HRBodies/UPR/Documents/PracticalGuideCivilSociety.pdf>

- ▶ Provide detailed and attested information about alleged cases of harassment, intimidation or reprisals against any individual or groups for cooperating with the United Nations, its representatives and mechanisms in the field of human rights as a contribution to the Secretary-General's annual report on reprisals: reprisals@ohchr.org
- ▶ Provide input into thematic reports of the UN Secretary-General or the High Commissioner for Human Rights.
- ▶ Provide input to thematic and country reports of Special procedures:



<http://www.ohchr.org/Documents/Publications/NgoHandbook/ngohandbook6.pdf>

- ▶ Subscribe to the Civil Society Section e-mail list so as to stay informed of activities of UN human rights mechanisms:



<http://www.ohchr.org/EN/AboutUs/Pages/CivilSociety.aspx>



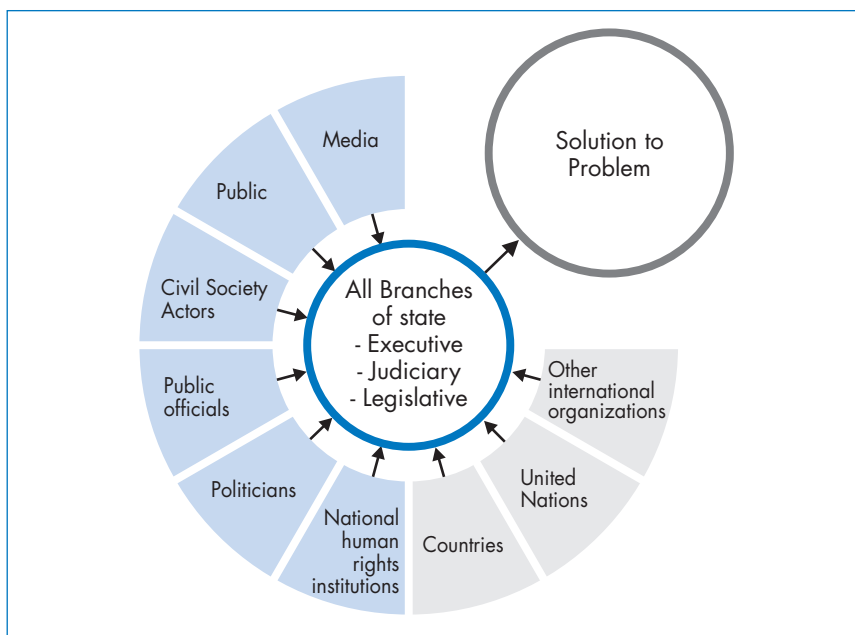
Managing expectations

States have the primary responsibility to promote and protect freedoms of expression, association, peaceful assembly and the right to participate in public affairs. CSAs, together with the UN human rights system and other actors can help States meet these obligations.

Addressing obstacles to civil society space based on rules, or laws, typically requires a long time-frame to effect change, while actions, such as harassment, intimidation, and reprisals against CSAs require urgent attention. It is important to make use of the relevant UN mandate or mechanism suited to the case in question.

The ability to influence a positive outcome in either situation is a collective effort, and will usually be determined by mobilization of a broad array of actors: local public, other civil society actors (local and international), national human rights institutions, the media, public officials, politicians, other countries, and regional and international communities.

Engagement with the UN Human Rights System by CSAs is a way to multiply and amplify the voices of change. It is one element of an effective overall advocacy strategy to promote and protect civil society space.





6. Documentary resources

United Nations Sources

Working with the United Nations Human Rights Programme: A Handbook for Civil Society -



http://www.ohchr.org/EN/AboutUs/CivilSociety/Documents/Handbook_en.pdf

How to Follow Up on United Nations Human Rights Recommendations - A Practical Guide for Civil Society -



<http://www.ohchr.org/Documents/AboutUs/CivilSociety/HowtoFollowUNHRRRecommendations.pdf>

OHCHR Management Plan (2014-2017), Thematic Strategy on Widening the Democratic Space (pp. 72-83) -



http://www2.ohchr.org/english/OHCHRreport2014_2017/OMP_Web_version/media/pdf/10_Democratic_space.pdf

Declaration on Human Rights Defenders -



<http://www.ohchr.org/EN/Issues/SRHRDefenders/Pages/Declaration.aspx>

Summary of the Human Rights Council panel discussion on the importance of the promotion and protection of civil society space, A/HRC/27/33.

Human Rights Committee, General Comment No. 34, Article 19: Freedoms of opinion and expression, CCPR/C/GC/34.

An assessment of legislation relating to freedom of association, Report of the Special Rapporteur on the situation of human rights defenders, A/64/226.

A study on women human rights defenders, Report of the Special Rapporteur on the situation of human rights defenders, A/HRC/16/44.

Elements of a safe and enabling environment for human rights defenders, Report of the Special Rapporteur on the situation of human rights defenders, A/HRC/25/55.

Ability of associations to access financial resources, Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, A/HRC/23/39.



Reports of the Secretary-General on cooperation with the United Nations, its representatives and mechanisms in the field of human rights (A/HRC/27/38, A/HRC/24/29, A/HRC/21/18, A/HRC/18/19, A/HRC/14/19)

Chapter 16, Engagement and Partnerships with Civil Society, OHCHR Manual on Human Rights Monitoring -



<http://www.ohchr.org/Documents/Publications/Chapter16-MHRM.pdf>

Selected Civil Society and Other Sources

Checklist of principles and elements for national laws (International Centre for Not-for-Profit Law) -



<http://www.icnl.org/research/library/files/Transnational/checklisten.pdf>

Code of Good Practice for civil society participation modalities in decision-making processes, Council of Europe -



http://www.coe.int/t/ngo/code_good_prac_en.asp

Reprisals Handbook (International Service for Human Rights) -



<http://www.ishr.ch/news/reprisals-handbook>

Enabling Environment Index 2013 (CIVICUS) -



<http://www.civicus.org/downloads/2013EEI%20REPORT.pdf>

7. Contact us

OHCHR's Civil Society Section can be contacted at:

civilsociety@ohchr.org

Telephone: +41 (0) 22 917 9656

The Civil Society e-mail broadcast system provides updates and guidance on all human rights mandates and mechanisms as well as information and deadlines of applications for funds, grants and fellowships.

To subscribe, visit the civil society webpage



<http://www.ohchr.org/EN/AboutUs/Pages/CivilSociety.aspx>



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A Practical Guide for Civil Society CIVIL SOCIETY SPACE AND THE UNITED NATIONS HUMAN RIGHTS SYSTEM

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