Submission to the Office of the High Commissioner for Human Rights – Civil Society Space Report

30 September, 2015

Introduction

CIVICUS –World Alliance for Citizen Participation is pleased to make this submission to the Office of the High Commissioner for Human Rights. This submission on civil society space is made in response to the Note Verbale (2015/CSS/Res27/31) issued by the Office of the High Commissioner for Human Rights on 28th April, 2015. It includes: our view of how civic space can be enabled, created and maintained; a brief summary of some positive developments and trends related to civic space; some examples of how CSOs operate when space is limited; and a list of useful resources.

What is 'enabling'? What does it mean to 'create' and 'maintain' space?

For CIVICUS, an enabling environment for civil society doesn't simply mean the absence of attacks upon civil society by state and non-state actors. It also means that citizens and civil society are protected – and perhaps more importantly, that they *feel* protected by the state. A recent unpublished online survey by CIVICUS asked civil society leaders in over 90 countries how well their government was protecting them. The results were very troubling. The most negative responses came from CSOs in Latin America and the Caribbean, just 10% of whom rated the state's willingness to protect them as above average. The most optimistic region was South Asia, where 22% of respondents gave the same rating.

This points to a fundamental and widespread dereliction of states' duties under international law to not just respect, but to also protect and fulfill the basic rights of their citizens. This protective element gets to the core of a healthy and enabling civic space. In order to enable a truly plural and healthy civil society, citizens must feel like they can form groups, fundraise, run campaigns and call for change in conditions that are shaped by the active protection of the state. While additional space may be created through the temporary absence of attacks and repression, for civic space to be maintained they must take proactive steps.

What does this mean in practice? It means that police officers must receive a better standard of training in public order policing that adheres to international standards and allows people to assemble peacefully and express their views in a protected space. Maintaining civic space also means enacting progressive laws for the notification of authorities in advance of large gatherings and ensuring that local authorities and police do not abuse those laws in practice. States must also

maintain a healthy civic space by allowing groups to be formed without the need for lengthy, bureaucratic procedures, through which government officials have wide discretion to deny registration. States must also make it a national priority to create an unfettered atmosphere for free speech. States should stop using anti-terrorism laws to mask attempts to curtail free speech and the sharing of ideas. While states have an undeniable duty to take reasonable steps to protect their citizens, this should not come at the expense of the inalienable rights of their citizens. Maintaining civic space forms the bedrock for any successful society. Governments are chipping away at this bedrock in the name of maintaining 'stability and security', but in practice they achieve exactly the opposite by alienating increasing numbers of citizens, fuelling extremism and deepening divisions within society.

What can be done at the international level to address this? While there exists a vast body of international law related to the protection of civic space, much of it remains at a general level. For instance, the level of basic the provisions of the ICCPR on the core civic freedoms of expression, association and peaceful assembly have been criticised for being are short on detail and open to multiple interpretations on issues such as the right to operate an organisation without formal registration or to spontaneously organise a public demonstration. Given this situation, CIVICUS submits that there is a clear need for an international convention embedded in hard law to incorporate the comprehensive provisions of the UN Declaration on Human Rights Defenders[1] passed through a UN General Assembly Resolution in 1998. This Declaration could provide an excellent starting point for negotiations on a binding convention on civic space.

Concrete, actual country examples and illustrations. How were the experiences beneficial to all stakeholders?

Civil society is building better data

The need for better data on the nature and extent of civic space violations is well established and civil society organisations all over the world are beginning to respond to this need by creating new ways of documenting, communicating and visualizing these threats. As a global alliance of almost 3,000 civil society organisations in more than 170 countries, CIVICUS has a strong mandate to help civil society gain a better understanding of the complex and constantly shifting civic space terrain. In line with that mandate, we are developing the Civic Space Monitor, an online system that will enable us to track civic space violations in all countries in real time. Due to be launched in 2016, the Civic Space Monitor combines the views of civil society leaders on the ground with CIVICUS analysis of several sources of information including verified media reports, existing qualitative and quantitative measures of civic space and regular updates from regional experts. The approach has already been piloted in Southern Africa and is currently being scaled up to 120 countries by early 2016.[2]

While there are many potential uses for the Civic Space Monitor, we hope that once it becomes operational it could be used to track states compliance with Goal 16, Target 10 of the SDGs, which aims to 'Ensure public access to information and protect fundamental freedoms, in accordance with national legislation and international agreements.'[3]

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[1] http://www.ohchr.org/EN/Issues/SRHRDefenders/Pages/Declaration.aspx

[2] Civic Space Monitor – Consultation Document and Southern Africa Pilot Report
http://www.civicus.org/images/CivicSpaceMonitorPilot.pdf

[3] http://www.un.org/sustainabledevelopment/peace-justice/

It should also be noted that our efforts complement those of many of our member organisations, who are implementing their own human rights monitoring and documentation projects at the national and regional levels. Through increased availability of training and access to the Internet, the volume of that information has increased substantially in recent years. The challenge has been that this data is often not used or communicated effectively such that it forms the basis for successful civil society information or advocacy campaigns on civic space.

Civil society is beginning to circumvent funding restrictions

As outlined in the recent UNHCR resolution on civic space (A/HRC/RES/27/31) governments are increasingly using legislation to block civil society's access to funds. Prominent examples including Ethiopia, India, Malaysia, Russia and Venezuela but there are now dozens of countries around the world where unjustified barriers to the receipt of foreign funding exist.

Snice those restrictions are usually focussed on the receipt of funds from entities outside the borders of the countries in question, CSOs – and particularly those that conduct change-seeking advocacy that is often critical of the government – are being forced to find ways of supporting themselves domestically. There are two main options: raise funds through large numbers of small donations from the public; or seek the support of High Net Worth Individuals based domestically. While there have been some examples of progressive social movements raising support from the public (for instance the Y'en a Marre movement in Senegal) there are limited examples of philanthropists from developing countries supporting human rights causes. Many studies are currently underway about how that could be done, including a forthcoming CIVICUS publication on funding from southern foundations for social justice projects. This is an area that the UN and international community could do a lot to support. Unlocking private sources of domestic funding in countries where civic space is threatened could be a game changer for the potential success of progressive CSOs.

Civil society is making the most of virtual civic space

Citizen groups in all parts of the world are turning to the Internet as a tool to expand the frontiers of civic space and circumvent state repression on the streets. There are numerous examples of how CSOs are using online tools to expand their reach, mobilise citizens, expose wrongdoing and shine a light on unaccountable governments.

Social media campaigns using hashtags to reach millions of people are being used in more and more countries pressure governments into action. Some recent examples include the global #bringbackourgirls campaign to highlight the plight of hundreds of Nigerian schoolgirls kidnapped by the terrorist group Boko Haram; the #blacklivesmatter campaign focused on police violence against black suspects in the United States of America; the #yamecanse campaign aiming to force the government to reveal the truth about the disappearance of 43 Mexican students; and the #jesuischarlie campaign in France which sought to build popular solidarity for free expression in the wake of a terror attack against a satirical magazine in Paris.

While these examples hold significant value for civil society in terms of how they can potentially use the Internet to carve out greater space for their work, two caveats must be mentioned. First, while the number and scope of these online initiatives continues to expand, so are governments increasingly attempting to control and disrupt the online activities of civil society groups and activists. In an extension of the overall battle for civic space, CSOs must be supported as they contend with the increasing risks they face when sharing information online and using the Internet as an organising tool.

Second, as pointed out in the CIVICUS 2015 State of Civil Society Report, 'online activism is an essential and growing part of how people are mobilising to seek change, however it still needs to be understood better, and seen as the start of a participation journey that leads to change, rather than an end in itself.'[4]

If there are limitations, how do you continue to carry out your activities? Where are the openings?

Even in the most repressive countries, civil society organisations find ways to adapt and survive. To do so, activists often develop creative responses to overcome barriers erected by the state. Some examples include:

The use of culture, art and comedy are other popular coping mechanisms for civil society. When direct criticism of political leaders or powerful figures comes under pressure, civil society have become adept at using art and culture to channel critical messages through a variety of media. Recent examples include: the hologram protest in Spain in April 2015;[5] the 'Y'en a marre' movement in Senegal, which used rap music to build support and get its message out;[6] Thai activists' references to the *Hunger Games* film series and George Orwell's *1984;*[7] and the collaborative Art v War campaign in Sudan which compared government expenditure on arts and war.[8]

Where activists choose to remain in their own countries, creativity is also a key survival tool. For example, LGBTI organisations often find loopholes in domestic laws to enable them to continue their work. For example, in many countries, organisations that aim to promote the rights of LGBTI people choose to register as themselves as not-for profit companies, instead of 'mainstream' NGOs, in order to avoid awkward questions about their aims or operations. Other LBGTI organisations set themselves up as having the aim of eradicating HIV/AIDS or providing information to the public on reproductive health. Others choose not to register themselves, operating clandestinely. While such strategies sometimes straddle the border of legality, they are necessary components of a survival strategy for some of the most embattled minorities on the planet. Where governments choose to restrict the space for citizens to come together and form groups, civil society will always look for other ways to continue with collective action for the

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[4] CIVICUS, 'State of Civil Society Report 2015'.
http://www.civicus.org/images/SOCS2015YearInReviewFinal.pdf

[5] The protest was organised by a large coalition of Spanish civil society organisations in response to the Citizen Safety Law, which came into effect on 1 July 2015 and imposes penalties of up to **€600,000** for organisers of unauthorised protests. http://www.independent.co.uk/news/world/europe/spains-hologram-protest-thousands-join-virtual-march-in-madrid-against-new-gag-law-10170650.html

[6] The Y'en a Marre (I'm fed up) movement sprang up in Senegal in 2011 in response to widespread power cuts and poor governance in the country. Rap songs and the presence of popular rap musicians during rallies helped to grow the movement beyond just a civil society audience and allowed for criticism and dissent to be spread far more widely than it could have been through the mainstream media. See: http://www.npr.org/2012/02/19/147113419/enough-is-enough-say-sengalese-rappers and http://www.unric.org/en/right-to-participation/28099-the-movement-yen-a-marre--weve-had-enough.

[7] These creative protests by Thai activists drew the ire of the authorities and participants were swiftly arrested. See: http://www.csmonitor.com/World/Asia-Pacific/2014/0530/Orwell-s-1984-suddenly-fashionable-on-Bangkok-streets and http://www.washingtontimes.com/news/2014/nov/20/hunger-games-inspires-thai-protesters-three-finger/?page=all

[8] See: http://www.africareview.com/News/Sudanese-arts-centre-stands-up-against-war/-/979180/2433378/-/c28r4i/-/index.html

promotion of human rights.

As repression increases around the world, CSOs are relying increasingly on regional and international solidarity. In recent years, conditions for human rights organisations in Sudan have deteriorated sharply, to the point where many activists operating there risk their lives. Rather than abandon the cause of human rights, some organisations have adapted and chosen to set up their operations in neighboring Uganda. This enables them to continue to raise awareness about the abuses committed by the Sudanese government, build international solidarity and provide badly needed emergency assistance when needed. Similar examples, where neighbouring countries provide 'sanctuary and solidarity' to embattled CSOs and HRDs, can be found right around the globe. Support networks for exiled human rights defenders are a vital if fact-based advocacy on the most egregious civic space violations is to continue. In this sense, the provision of legal assistance, security training, psychosocial support and counseling and access to international human rights mechanisms are key.

Useful links, tools, resources, guides:

- **The State of Civil Society Report 2015** is CIVICUS' comprehensive run down of both the successes and challenges experienced by civil society in the past year. It contains in depth information and numerous country-based examples illustrating the reality of closing civic space and detailing how activists are fighting back. Link: http://civicus.org/index.php/en/media-centre-129/reports-and-publications/socs2015
- **The Civic Space Monitor.** As part of our efforts to contribute to the fight back on closing space for citizen activism, CIVICUS is developing innovative new tools that will help us to track civic space developments in real time. The **Civic Space Monitor** will help us to both track the mood of civil society across the globe and present a constantly updated view of civic space in each country through a new website to be launched in 2016. This consultation document outlines the proposed approach and applies it to 15 countries in Southern Africa. Link: http://www.civicus.org/images/CivicSpaceMonitorPilot.pdf
- **Accountability for civil society by civil society: A Guide to Self-Regulation Initiatives**. One way that CSOs are already preempting government efforts to impose onerous regulation on their sector is by establishing well-functioning self-regulatory systems. This CIVICUS toolkit published in 2014 outlines examples over 20 examples of how this has already been done by civil society and provides practical advice for CSOs seeking to establish self-regulation in their country. Link: http://www.civicus.org/index.php/en/media-centre-129/toolkits/2174-accountability-for-civil-society-by-civil-society-a-guide-to-self-regulation-initiatives-2
- **Towards Social Contracts: Using Dialogue Processes to Promote Social Change** is a CIVICUS toolkit designed to stimulate a reflection around the potential and limits of multi-stakeholder processes in promoting socio-political change. It also provides practical tools and resources to facilitate the use of dialogue processes in new ways. Link: http://www.civicus.org/index.php/en/media-centre-129/toolkits/2251-civil-society-toolkit-towards-new-social-contracts-using-dialogue-processes-to-promote-social-change-2
- **Reporting Human Rights Violations to UN Special Procedures: An Introductory**

Guide helps activists understand the basics of reporting human rights violations via one of the Special Procedures channels set up by the United Nations Human Rights Council. The guide provides a step-by-step guide to the different channels available for civil society to lodge a complaint or report. It advises CSOs on how to make the most of their submission and the process to be followed for each procedure. Link: http://www.civicus.org/images/Human%20Rights%20reporting%20guide%20%20en.pdf

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