



**SHRINKING SPACE  
FOR CIVIL SOCIETY**  
- CHALLENGES IN IMPLEMENTING  
THE 2030 AGENDA



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# EXECUTIVE SUMMARY

Civil society is currently under threat in many parts of the world. This report outlines the impact of shrinking democratic space on civil society in a number of countries, and highlights the situation in Cambodia, Colombia and Kenya. It aims to raise awareness and understanding among Forum Syd member organisations, partners and decision makers of the challenges civil society faces.

Civil society organisations (CSOs), specifically those working in international development and with the protection of human rights, currently face severe challenges, including violence, harassment and imprisonment.

In 2015, violations against civic rights were recorded in some 109 countries, up from 96 the previous year. Such abuses also continue to extend to other groups such as journalists and activists that play a key role in holding governments and other bodies to account.

Legislative changes in a number of countries have undermined the independence of civil society actors, and restricted their capacity to function effectively. Defamation laws, criminalisation of previously permitted activities, bans on organisations funded by foreign sources, branding civil society organisations as foreign agents, and strict media reporting regulations are among just some of the legal measures that limit, or in some cases entirely suppress, civil society. Between 2012 and 2015, more than 120 laws restricting civic rights were introduced or proposed in 60 countries.

While it may have been assumed that civil society was set to play an integral role in achieving the UN's 2030 Agenda, the extent to which the sector is under threat in a large number of countries suggest that this may not be the case, as some governments attempt to block out civil society altogether.

If this trend is not reversed, CSOs in many parts of the world will be unable to promote social, environmental, economic, and human rights.

This report argues that if permitted to do so, independent CSOs can and should play a vital role in realising the 2030 Agenda, including localising the SDGs, protecting rights and promoting accountability, and providing valuable monitoring functions.

# SHRINKING SPACE FOR CIVIL SOCIETY

The democratic space for civil society is under attack. The shrinking space, often referred to as the closing space for civil society, has become a global trend. In recent years, legislation to restrict rights to freedom of association, assembly and expression have multiplied, and access to funding for civil society organisations has diminished. Actors in development co-operation, human rights defenders and staff working within civil society are subject to acts of violence, threat and murder.

## A DIFFERENT STORY

In 2015, the world celebrated the adoption of the new framework for future sustainable development. Our governments set the 2030 Agenda with 17 Sustainable Development Goals (SDGs), agreed on how to finance sustainable development through the Addis Ababa Action Agenda, and reached the Paris Agreement on climate change. It was clear that civil society would be playing a central role in making these visions a reality, and thereby realise a just and sustainable world.<sup>2</sup>

In 2015, violations against civic rights occurred in more than 109 countries, compared to 96 the year before.<sup>3</sup> In the same year, more than 67 journalists and 156 human rights defenders were killed or died in detention.<sup>4</sup> Between 2012 and 2015, more than 120 laws restricting civic rights were implemented or proposed in 60 countries.<sup>5</sup> Six out of seven people now live in countries where civic space has been challenged.<sup>6</sup>

## CLOSING SPACE

Shrinking space should be seen as when the space is closing for civil society to organise and foster civic

“ The overall trend is clear: we are clearly in the midst of a massive global conflict. Governments are pushing back citizen engagement, and trying to tighten their grip on power.”

Maina Kiai, United Nations Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association<sup>1</sup>

engagement, and when external support for democracy and human rights is shrinking. While shrinking space includes challenges for civil society and human rights defenders, the consequences are not limited by national borders or bound to any particular regime.<sup>7</sup> Even in contexts where Civil Society Organisations (CSO) are supposed to be free to hold peaceful assemblies, or where freedom of expression is protected by constitutional guarantees, state agencies abuse their powers and diminish civil society's capacity to function.<sup>8</sup>

CSOs experience most restrictions when they promote democracy, good governance and human rights, or engage in advocacy, express dissent or attempt to exercise accountability, compared to when they function as agents of service delivery.<sup>9</sup> This reasoning is simply to avoid accountability and silence civil society in the long run.<sup>10</sup>

The shrinking space for civil society is global. Although the shrinking space has similarities on a global level, the actions or threats against democracy manifest themselves in different ways in different regional and national contexts, as well as at different levels within countries, and in numerous ways



Photo: Shutterstock



for different actors. Indeed, there are countries that do not have visible indications of a shrinking space, and countries where the space for civil society is open for participation and dialogue with the government and public institutions.<sup>11</sup>

“The determination and integrity of civil society actors working for human rights bring me, and perhaps brings 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<sup>12</sup>

### THREE FUNDAMENTAL RIGHTS

Civil society's ability to act rests on three fundamental rights that are integral to the implementation of the 2030 Agenda. These rights are: 1) the right of association, 2) the right to peaceful assembly, and 3) the right to freedom of expression. Together, these three fundamental rights outline the boundaries of the civic space within which civil society can operate. These rights are now being seriously challenged.<sup>13</sup>

CSOs do not seek an environment that is free from regulation or laws. Rather, that regulations and laws recognise the autonomy of civil society, and legitimise and enable the work of CSOs more efficiently. To enhance the full range of roles that CSOs can play, and to enable a rules-based environment, CSOs need, and would like to have, regulations and laws that are predictable, transparent, and manageable, and free from political interference.<sup>14</sup>

### SEVEN PRINCIPLES TO PROTECT CIVIL SOCIETY

Whilst the UN agreements primarily focus on the protection of rights, there are principles that underline the empowering dimension of rights. The International Centre for Not-for-Profit Law, the National Endowment for Democracy and The World Movement for Democracy, have produced a set of seven principles for the protection of civil society that are embedded in international law. The principles serve as minimum requirements that CSOs need to ensure they function as independent development actors. These seven principles are:<sup>15</sup>

1. The right to entry (freedom of association)
2. The right to operate free from unwarranted state interference
3. The right to free expression
4. The right to communication and cooperation
5. The right to freedom of peaceful assembly
6. The right to seek and secure resources
7. State duty to protect

### TEMPORARY IMPLICATIONS

The impacts of shrinking space can be seen as temporary, as repression against civil society can intensify during elections, meetings and protests. While this is nothing new, it does however aggregate the already elevated trend of restrictive policies.<sup>16</sup> Restrictions against international election observers are also intensifying, noticeable in countries that recently blocked international monitoring groups. Such restrictions could be felt temporarily during elections, but could have a long-lasting impact as they erode the function and legitimacy of electoral processes, trust in democratic systems, and allows repressive regimes to stay in office.<sup>17</sup>

### BEYOND CIVIL SOCIETY ORGANISATIONS

A shrinking space for civil society does not only impact and apply to CSOs. Journalists and human rights activists are also target groups for threats, prosecution and murder.<sup>18</sup> This is important to acknowledge, as these groups have important roles to play in terms of implementation, monitoring and accountability of the 2030 Agenda. While governments and businesses target media outlets and journalists to avoid being held accountable, to receive criticism or to be scrutinised in public, such actions are intimidating for all actors in civil society and the people within it, often creating a tendency of self-censorship. Frequent attacks on journalists and media are seen as part of a broader censorship strategy against international and domestic media channels, including the Internet.<sup>19</sup>

In terms of repressive methods and means, it is important to note how shrinking space has a whole

new variety of consequences for civil society. To be sure, these impacts vary depending on whether CSOs are domestic or international, political or non-political, externally or nationally funded; and whether shrinking space is bounded to a specific policy area or an entire civil society sector.<sup>20</sup>

Photo: Dandelion Kenya



### THE GROWING TREND

One might ask how the space for civil society could be shrinking while states worldwide adopt new resolutions and reach new important agreements. First of all, there are several contributing factors to be discussed in relation to shrinking space. The post 1990s consolidation of hybrid regimes, the post 9/11-era, and the spill over effect of counter-terrorism agendas, together with pushback against politicised aid and foreign influence, as well as a global society with highly developed information and communication technologies – these may be some of the factors that can help explain the shrinking space trend.<sup>21</sup>

Richard Youngs, an international expert on democracy and rule of law, explains the political support for CSOs advocating democracy and human rights in the 1990s almost grew too fast, and that the backlash civil society is experiencing today is due to recipient governments' perception of aid as increasing foreign influence. Another explanation could be an unconventional argument of the rise of disruptive and anti-political CSOs.<sup>22</sup>

According to CIVICUS' reports, governments are seen to be the main offenders behind the suppression of civil society space, followed by business actors and extremist groups.<sup>22</sup> Governments use various techniques to justify shrinking civic space. Some of the most common arguments presented by governments are related to national security, state sovereignty and criminal activity. Similarly, national ownership of

development agendas, in correlation with a lack of civil society organisations' legitimacy and accountability towards local populations are other factors.<sup>24</sup>

### CHALLENGES IN FUNDING

Government funding of civil society is an important, and some would argue necessary, element of donors' development co-operation policies. Funding is needed for CSOs to work with the SDGs. CSOs are heavily dependent on public funds as a source of income.<sup>25</sup> Amongst many approaches targeting civil society, restrictions in funding are one of the most frequently used and effective strategies to restrict civil society organisations. Forum Syd has worked to support civil society organisations in Belarus since 1998. It has been subject to falling financial support, and civil society engagement has been portrayed as tantamount to criminal activity through repressive legislation.

Maina Kiai emphasises the ability to seek, secure and use financial resources as fundamental to the right of freedom of association; and that such restrictions impact civil, cultural, economic, political and social rights as a whole.<sup>26</sup> Therefore, restrictions in funding do not only limit CSOs' work to advocate for human rights, but also reduce the overall independence of civil society, and makes actors within civil society highly vulnerable.<sup>27</sup>

It is important to note is that in recent years, the financial and economic crisis, changes of political priorities of governments, together with critical assessments of development outcomes, and the emergence of new actors in the field of international development co-operation, have also had an impact on funding support for CSOs.<sup>28</sup>



Photo: Rodrigo Arce/Forum Syd

Peace activists in Colombia 2013.

## A LOCAL, GRASS-ROOTS INITIATIVE

### THE RIGHT(S) WAY FORWARD

On a local level, one of the tools that enables space for civil society, and facilitates dialogue, is Forum Syd's 'Right(s) Way Forward' initiative. The three-step community participatory tool aims at empowering community members to analyse and act.

The first step is 'community mobilisation', where participants conduct a joint impact analysis for a community action plan. The second step is a 'dialogue for change' between rights-holders and duty-bearers, to strengthen citizens' capacities to claim their rights, and to strengthen overall democratic structures. If successful, the community action plan results in an agreement between rights-holders and duty-bearers. The third and final step is the 'implementation of the joint agreement', and involves decisions on shared structures for co-ordination, decision taking, implementation as well as monitoring and evaluation.<sup>29</sup>

Zubedah, a community facilitator at one of these processes on gender equality in Kenya, in Majani Mingi in Nakuru County, says '... the Right(s) way forward process educates the community in churches, schools, other social spaces, and in women's groups. There is already a notable change in the community.<sup>30</sup> In Kenya, where the space for civil society is challenged, the method is valuable for successful on a local level.'

Is The Right(s) Way Forward unique in the way it promotes local ownership and empowerment? No, but it is a formalised process that has been shown to be an effective tool for reducing shrinking space at a local level. The three steps of the initiative are based on civil society's own priorities and interests, and examine the existing power relationships and available mechanisms for democratic involvement.



Photo: Christoffer Hjalmarsson

### TEN RESTRICTIONS IN FUNDING

Douglas Rutzen, president and CEO of the International Centre for Not-for-Profit Law, has listed 10 of the most common restrictions in international funding that hinder CSO work with the SDGs. They are:<sup>31</sup>

1. Requiring government approval to receive international funding
2. Introducing 'foreign agents' legislation to stigmatise CSOs that receive international funding
3. Limiting the amount of international funding that CSOs can receive
4. Stipulating that international funding must be channelled through government-controlled bodies
5. Restricting activities that can be supported from international funding
6. Preventing CSOs from receiving funding from particular donors
7. Applying broad anti-terrorism and anti-money laundering measures to restrict international funding
8. Taxing international funding
9. Imposing high reporting requirements for international funding
10. Using other laws, including treason and defamation laws, to criminalise CSOs and CSO staff who receive international funding

“Restrictive measures against international support for democracy and rights are not temporary setbacks. Pushback results from fundamental changes in international politics that are likely to persist for the foreseeable future.”<sup>32</sup>

Douglas Rutzen, president and CEO of the International Centre for Not-for-Profit Law<sup>32</sup>

## DONOR TRENDS

Restrictive legislation and policies are not the only factors that impact civic space. The role of civil society actors as development promoters has transformed over the years due to changing priorities and agendas of donors and development agencies. During the late 1980s and mid-90s, a vibrant civil society was considered a pre-requisite for democracy and development. Traditional CSOs, alongside local non-governmental organisations, were all included in international development co-operation. During this period, the development sector saw exceptional growth in CSO numbers.<sup>33</sup>

However, from the mid-90s onwards, the perception of civil society changed: discussions on accountability, efficiency and representation between 'north- and south-based CSOs' started to grow. Social movements began to question CSOs' tendency to professionalise, as some CSOs grew in terms of scope and funding, and governments became increasingly suspicious of their intentions.<sup>34</sup>

Donors, on the other hand, considered working with and through civil society to be time consuming and costly, usually by the increasing monitoring responsibilities of modest budgets that were disbursed between large numbers of CSOs. Donor agencies responded by shifting emphasis towards service delivery, co-ordination and centralisation of aid. Increased monitoring and evaluation of CSOs resulted in funds only being distributed to larger organisations capable of meeting donor requirements.<sup>35</sup>

In recent times, international donors have addressed

the issue of a shrinking space for civil society, its implications on international development co-operation, and the 2030 Agenda. For example, in 2016, the Swedish government asked Sida to draft recommendations on how Swedish development co-operation could more effectively help to counteract shrinking space by strengthening civil society. In spring 2017, Sida published the report which stresses the need of enhanced context-analysis at strategy level, the need to expand the perspective of Sida's work to counteract shrinking space to support both the rights-holders as carers and other stakeholders, and to strengthen the overall profile of development co-operation through synergies between operations conducted in the framework of different strategies. Finally, to strengthen interaction between development co-operation and the broader foreign policy to strengthen Sweden's voice and contribution to counter shrinking space.<sup>36</sup>

## GOVERNMENTS AND STATES

The rapid increase of a shrinking space for civil society could partly be explained by how states easily learn and copy shrinking space strategies from each other. States use rhetoric tactics to 'justify' these policies. Until recently, some of these states have allowed external actors to promote democracy in their countries to improve their international legitimacy and image.<sup>37</sup>

Inherently, states avoiding accountability from civil society often result in either an implementation of poor policies or poor implementation of policies. Why states limit public participation could be because it may lead to a more effective and top-down structure



Photo: Nicolas Axelrod



of policy making, which gives quicker results such as in economic growth.<sup>38</sup> However, poor policies, implemented too rapidly, may lead to long-term social, political, economic and environmental consequences, which can only be revoked by the government.<sup>39</sup>

According to Thomas Carothers, one of the most prominent international scholars in democracy support, the shrinking space is seen as a form of security challenge commonly related to state fragility.<sup>40</sup> Similarly, Maina Kiai suggests that shrinking space for civil society undermines the struggle against terrorism and extremism, which has a profound impact on peace and security. It would seem that shrinking space is another potential contributory factor to direct or indirect conflicts, making it difficult to achieve the SDGs.<sup>41</sup> However, state fragility and conflicts can, paradoxically, lead to some positive effects for civil society actors in terms of conducting their work, although the space for civil society in such environments can be heavily limited for several reasons.<sup>42</sup>

### THE ROLE OF INTERNATIONAL INSTITUTIONS

International institutions and agreements facilitate the progress of enabling space, but also hamper the space and role of civil society. The 2005 Paris Declaration on Aid Effectiveness emphasises results, co-ordination and national ownership, and could be seen to have favoured the state on behalf of civil society in development co-operation.<sup>43</sup> However, the panel on UN Civil Society Relations has recommended inputs from civil society to be followed by systematic networking and peer-review processes, as well as higher consultations and the ability to influence agendas granted only to these structured and synchronised networks.<sup>44</sup>

Fortunately, new international declarations oppose this trend. The 2030 Agenda highlights the importance of civil society actors, and the commitments of the Aid Effectiveness Agenda in Busan and Accra indicate changes of expanding the role of civil society as

a development actor. In 2016, at the Global Partnership for Effective Development Co-operation, governments adopted an agreement on global partnerships and co-operation that shows significant progress on the promises made in Busan and Accra. However, it could also be seen to contain some setbacks, which risk undermining the role of civil society. For example, the clear emphasis placed on the role of business in development co-operation. Furthermore, the failure to include proper demands on transparency and accountability, and the lack of strong commitments by civil society to hold governments accountable.<sup>45</sup>

## A GLOBAL AND MULTI-LATERAL INITIATIVE

### LIFELINE SUPPORT FUND

The Lifeline project is a fund that provides emergency financial assistance to CSOs under threat or attack, and rapid response advocacy grants due to their work with human rights. The Lifeline supports CSOs with either small, short-term emergency grants that could be used for medical expenses, legal representation, trial monitoring, security, temporary relocation and other types of urgent expenses, or with small, short-term grants for discrete advocacy initiatives that aim to raise domestic and international awareness of a specific threat or restriction on civil society.

The Lifeline support has shown great results. Since 2011, when the fund was established, 879 CSOs in 97 countries have received emergency grants to continue their work in defence of human rights and freedom of speech and assembly.

A Pakistani representative from a civil society organisation stated that: “The Lifeline team heard our voice at a time when hope was dying for us to continue efforts for human rights, especially for women’s rights and their empowerment in our project operation areas. Lifeline encouraged and enabled our organization’s staff to continue their mission”.<sup>46</sup>

Lifeline is a consortium of seven INGOs, including Silc, Swedish International Liberal Centre, (a Forum Syd member organisation), and supported by 18 governments, including Sweden, Norway and Denmark, and two foundations.<sup>47</sup>

# TOUCHDOWN LATIN AMERICA, AFRICA AND ASIA

The 2030 Agenda calls for the participation of civil society and other stakeholders in its implementation. It emphasises partnerships between governments, the private sector, civil society, the UN system and other actors. Clearly, national governments are not the only actors and drivers in the fulfilment of the SDGs. Murders of well-known human rights activists demonstrate how shrinking space is jeopardising the key role of such actors within civil society in the implementation of the 2030 Agenda. It will have an impact on the most marginalised people and those who are furthest away from the 2030 Agenda.<sup>48</sup>

## COLOMBIA

### ATTACKS AGAINST HUMAN RIGHTS DEFENDERS

In Latin America, Colombia is one of the countries where human rights defenders, indigenous people, journalists, trade unions, community activists and civil society representatives continue to be targeted with violence, threats and death from guerrillas, successor groups and business. A dedicated programme run by the Colombian Interior Ministry has been set up to protect human rights defenders, but the number of attacks continues to increase. In 2016, the UN High Commissioner for human rights in Colombia documented 28 killings of leading human rights advocates and community activities from January to September.<sup>49</sup>

Albeit paradoxically, the democratic space in Colombia could also be perceived as having increased in recent years. According to Sida, Colombia has become more open in general, and previously excluded groups and conflict areas have been included in dialogue between civil society and the state. Colombia has a well-developed civil society, however, human rights activists and individuals continue to be threatened.<sup>50</sup>

Targeted civil society activists are often those involved in environmental and land issues, and those who seek to uphold indigenous peoples' rights. The worrying situation for civil society rights in the context of natural resource exploitation is not new. In a 2015 report by Maina Kiai, special attention was



Photo: Rodrigo Arce/Forum Syd

Activists at a peace demonstration in Colombia.

given to land grabbing and human rights.<sup>51</sup> Activists and others within civil society are often neglected, as governments and business do not recognise civil society as a legitimate stakeholder in decision-making regarding the exploitation of natural resources. Of all countries in South America, attacks against civil

society activists are most severe in Colombia. During a two-week period in November 2015, three peasant leaders were killed in Colombia, although some estimates put this number at 300. According to Front Line Defenders, half of the killings of human rights defenders in 2015 took place in Latin America, with 54 deaths in Colombia alone.<sup>52</sup>

### CHALLENGES FOR CSOS

Some of the challenges CSOs face in Colombia are the very complex registration process, as there are 21 different types of forms of CSOs, and some CSOs must register as for-profit organisations.<sup>53</sup> Another concern is that annual reports are submitted to the government as a formality, rather than for genuine review. In this way, work done by CSOs goes unrecognised, and CSOs tend not to have the opportunity to use reporting as a way of influencing the government.<sup>54</sup> A proposed law in Colombia, the Bill to amend the Code of Police, would intensify pressure on civil society. The law tightens restrictions on holding demonstrations and hold an assembly, giving the authorities the right to refuse, breakup or influence such activities.<sup>55</sup> Given the difficult political situation in Colombia, with the government and the country's largest guerrilla group FARC, there is a concern regarding dominating powerful elites in local governance. There is also a concern about the autonomy of CSOs with new contract-based procedures for co-operation between the state and CSOs. Corruption among political leaders is another concern.<sup>56</sup>

Photo: Forum Syd



Claudia Jimena Arenas Ferro

## A VOICE FROM COLOMBIA

### What is the state of civil society and the democratic space in Latin America?

Civil society in Latin America is facing severe challenges in terms of shrinking space, manifested by different ways that civil society's scope of action is limited. Firstly, you have the assassination of human rights defenders and environmentalists across the entire continent, and this has increased. Secondly, criminalisation: activists, leaders and members of organisations are being persecuted and unjustly thrown into jail. Then we also have threats and laws, especially regarding taxes that limit the action of civil society organisations that might be working with issues disliked by governments. Fourth, limits placed on the freedom of speech: in some countries, media outlets are shut down by authorities.

### How does this impact your work and efforts for human rights in Latin America?

Shrinking space affects Forum Syd's work as it limits the capacity of civil society organisations to conduct their work, as they are forced to concentrate on defending themselves; colleagues' deaths affect all organisations. This limits their capacity and requires us to work very heavily on security issues that are important but mean that we use time to protect ourselves instead of doing development work.

### Give us examples of what major donor countries such as Sweden could do to enable and protect the space for civil society in Latin America?

First, for civil society in Latin America to be an effective actor for change, the Swedish government needs to continue to support development co-operation directed at civil society. Development co-operation and resources directed to civil has already dropped dramatically. Secondly, considerable security support is required, along with dialogue with local governments. It is important to guarantee conditions for civil society, but also to support the protection of civil society leaders, of human rights defenders and others. And thirdly, it is crucial that news of what is happening in Latin America is made available in Sweden and the rest of Europe. This is especially true of people who protect rainforests, fight for women's rights, and attempt to make this a more just and sustainable world.

*Interview with Claudia Jimena Arenas Ferro, Hub Manager for Latin America and the Caribbean at Forum Syd, Colombia*<sup>57</sup>

## CAMBODIA

### CIVIC SPACE IN CAMBODIA

Cambodia is one of the Asian countries where the space for civil society has rapidly diminished in recent years. Government attempts to pass laws with heavy restrictions targeting civil society, and the escalation of violence and harassment, has had a tangible impact on local NGOs.

The role of civil society in Cambodia has varied over the past three decades. From peace building and reconciliation in the early 1990s, to community development and service provision, and more recently, on human rights and democracy. Yet, despite being a democratic state, the challenge for Cambodian civil society is the dominance of a single party, and increased repression of civil society.<sup>58</sup> Politically motivated harassment has increased, with human rights workers and social activists targeted on the basis of their real and perceived political opposition to the government. By suppressing protests and issuing ad hoc bans on non-violent gatherings, authorities are systematically denying Cambodians their right to peaceful assembly.<sup>59</sup>

Photo: Mikael Drackner/Forum Syd



Participants in a Youth Council of Cambodia activity.

### LANGO

In 2015, the Cambodian National Assembly passed the Law on Associations and NGOs (LANGO). The law was passed despite international and national protests and criticism over the government's perceived attempt to silence NGOs and community-based groups.<sup>60</sup> Concerns about the law include mandatory registration for all domestic and international associations, unfettered ministerial discretion over registration and the requirement of all associations and NGOs being "politically neutral". Under LANGO, the operating environment for civil society continues to narrow. For example, the Cambodian government has used LANGO to break up meetings and training sessions held by NGOs and community-based organisations, with authorities claiming wrongfully that LANGO requires groups to apply

for permission from local authorities before holding meetings and training sessions.<sup>61</sup>

### REPEATED ATTACKS ON OPPOSING VOICES

Since the ruling party of Cambodia declared victory in the 2013 elections; there have been repeated attacks on opposition voices and NGO workers, land right activists, and opposition political party members. Members of parliament have been arrested, charged and imprisoned. In 2016, four staff members of Cambodia's oldest human rights organisation, the Cambodian Association for Human Rights and Development (ADHOC), were charged and imprisoned.<sup>62</sup>

### SEVERAL ATTEMPTS TO LIMIT SPACE

The Cambodian government views NGOs as important partners in the delivery of basic social services. However, the environment for NGOs involved in advocacy, legal rights and human rights is becoming increasingly restrictive. The government sees such groups as unwanted opposition.<sup>63</sup> For the past decade, there have been several attempts to limit the space for civil society, with new decrees and laws adopted since 2009 containing limitations on civil society and political participation. Some of these limitations have even resulted in the self-censorship of activists. For example, the criminal code includes the crime of defamation, thus opening for the criminalisation of critical analysis and protests. Due to this code, activists have expressed that they are more careful in how they voice concerns, in order to avoid facing prosecution.<sup>64</sup> In fact, Cambodian civil society organisations have learned which criticisms are likely to be tolerated and which will not, and therefore tend to self-censor, and avoid criticising particular government officials and policies.<sup>65</sup>

### CREATING AN ENABLING ENVIRONMENT

Cambodian civil society organisations, especially those engaged in advocacy work, will need to find ways of working more locally, and to create stronger relationships with local government to manage the reduction of international funding. In terms of international NGO activities, international NGOs are being encouraged to develop plans for leaving the country, instead of handing autonomy to local counterparts, which could possibly create space for local NGOs to transform and develop.<sup>66</sup> However, civil society organisations engaged in basic service delivery are seen as an asset and not a challenge to the government, in contrast to NGOs working with issues such as democracy and human rights. The challenge, or rather possibility, is for civil society in Cambodia to frame politically sensitive issues so that political society appreciates contributions and tolerates criticism. This would enable civil society to operate autonomously, while at the same time influence policy and hold those in power to account.<sup>67</sup>



Members of Kinisa Women's Group, Moyale, Kenya.

## KENYA

### CIVIL SOCIETY SPACE IN KENYA

Although important social and political reforms have been taken in Kenya during the past decade, including the adoption of a constitution, civil society organisations and human rights defenders are living dangerously. People and organisations working for human rights continue to be subjected to threats, violence, random arrests and even murder. Civil society is often portrayed as “evil society” by the ruling coalition, and even Maina Kiai has faced threats and is described negatively.<sup>68</sup>

In particular, NGOs face a dangerous and challenging environment. Not only by hostile rhetoric from public officials, but also from attempts to introduce repressive amendments to NGO laws and challenging administrative measures. At the end of 2015, the NGO regulatory body planned to de-register more than 900 NGOs that were falsely accused of having links to terrorism, or failing to comply with regulatory requirements. Fortunately, the Kenyan cabinet suspended the plan, which would have had severely impacted the country's civil society organisations. Recently, the government also announced a plan to implement the Public Benefits Organisations (PBO)

Act, signed in 2013 by the President, only a few weeks after the parliament voted to force the executive to implement the law without proposed amendments, including a 15 per cent limit of foreign donor funding for NGOs.<sup>69</sup>

Implications for democracy and sustainable development Kenya has one of the most vibrant civil societies in Africa, one that historically has played a critical role in being a counterbalance and complement to the government's development work. Although Kenya has signed all the major international human rights and governance treaties and conventions, space for civil society is shrinking.

As in other African countries, Kenya's shrinking space has become a major governance issue for civil society at various levels. Not only does the government attempt to silence civil society by restrictive legislative measures, arbitrary funding limits and harassment, but also by jailing bloggers critical of government officials. The space for media freedom, independence, and as an accountability instrument to achieve the 2030 Agenda is heavily challenged. In 2014, two media laws came into force. The Kenya Information Communications Act and the Media Council Act impede media freedom by allowing undue control by government, political and commercial interests.<sup>70</sup>

## A VOICE FROM EASTERN AFRICA

### **Could you explain the impacts and give us some examples of shrinking space for civil society in East Africa, and specifically in Kenya and our partner countries?**

Shrinking space is genuine. It is affecting the work of civil society on a daily basis, particularly here in Kenya and in the East African region. Shrinking space – often as a result of restrictive legislation – affects how civil society conducts its work. For instance, the proposition to amend the Public Benefit Organisations Act in Kenya would limit the amount of funding available to civil society. I would say that shrinking space has also been evident through direct intimidation towards organisations.

### **Could you illustrate how the Kenyan government has shrunk civil society space?**

An international meeting such as the Second High-Level Meeting on Development Effectiveness and Global Partnership was held in Nairobi last year. Civil society was closely involved in organising the meeting – a progressive development for the Kenyan government to allow the involvement of civil society. However, there is a lot of action in the government with the intention not to expand the democratic space for civil society within this region. If we look at proposed laws, for instance in Uganda, the space for civil society work in that Uganda is not as conducive as it ideally should be. Here in Kenya, the failure of the government to gazette the Public Benefit Organisation Act has been negotiated by civil society over years, and culminated in a court ruling where the court would like to see the law gazetted as it is. This is what civil society would want, but the Kenyan governments have refused to do it. Instead the government management of civil society has moved from the Ministry of Devolution to the Minister of Interior that is mainly dealing with security issues. It is a clear indication that the government views civil society more from a security perspective, and not from a development angle, and that ideally should not be the case.

### **How does the shrinking space for civil society affect the work on implementing the 2030 Agenda in Kenya and in Africa?**

The architecture of Agenda 2030 talks heavily about a partnership between the private sector, government, civil society and the people. There is hostility between civil society and government

as there are no concrete conversations on how to achieve the 2030 Agenda. The input by civil society on national action plans on implementing the 2030 Agenda is unlikely to include civil society. In the context of shrinking space, there are not any conclusive conversations that will include the voices of the minority and the wishes and aspirations of people who voice through the civil society sector. Furthermore, in terms of funding, there is a lot of pulling in terms of resources both from the private sector and from government. Thus civil society is not seen as a key actor in the achievement of the 2030 Agenda. It will be a mission in utility for some countries, because then the implementation of the 2030 Agenda will remain primarily at the government level, and the implementations process will not be as inclusive as it has been presented.

*Interview with Stephen Gichohi, Hub Manager for Eastern and Southern Africa at Forum Syd, Kenya*<sup>71</sup>

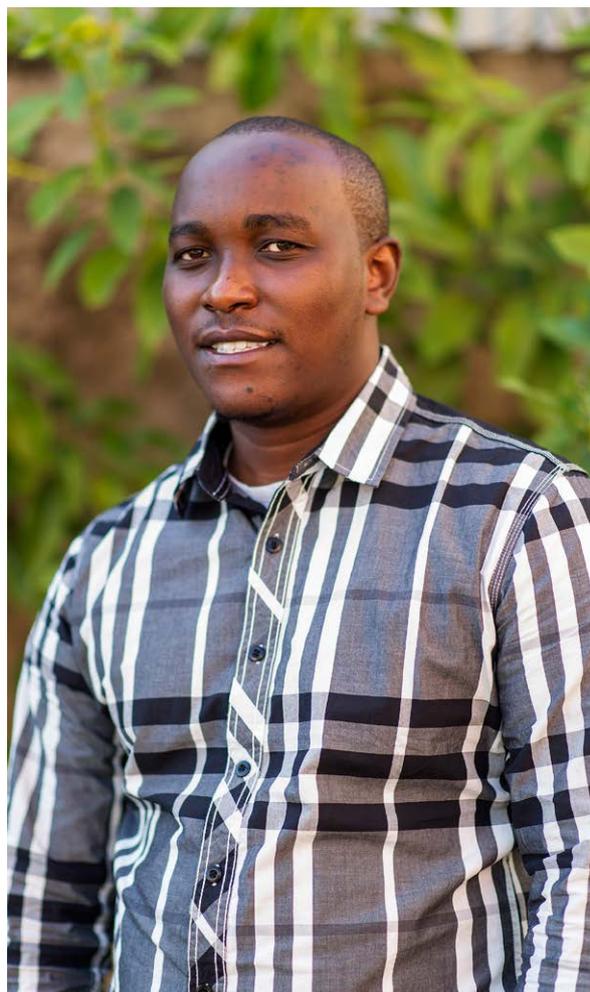


Photo: Christoffer Hjalmarsson

Stephen Gichohi

## A GLOBAL AND MULTILATERAL INITIATIVE

Community of Democracies Working Group on Enabling and Protecting Civil Society The Community of Democracies (CD) Working Group on Enabling and Protecting Civil Society was established in 2009 to enhance collaboration among states, civil society and international organisations to counter the shrinking space for civil society organisations through legal means. Since the creation, the Working Group has been effective in coordinating diplomatic actions that have contributed to withdrawals or amendments of aggressive laws in several countries.

In contrast to many other initiatives, the Working Group has been working to support the role CSOs play in a well-functioning democratic society.

The group works with quiet diplomacy, outreach and provides technical assistance to prevent an adoption of restrictive laws targeting civil society and to promote enabling laws for civil society.

The Working Group is made up of 14 governments, (Botswana, Canada, Chile, Czech Republic, Denmark, Estonia, Mongolia, the Netherlands, Poland, Slovakia, Spain, Sweden, Tanzania and the United States). It includes four civil society organisations with expertise in laws governing civil society, (ARTICLE 19, CIVICUS, ICNL, the World Movement for Democracy (WMD and Act Alliance)); and three advisory organisations, (UNDP, the UK Charity Commission and the UN Special Rapporteur on the rights to freedom of peaceful assembly and association).<sup>72</sup>

Photo: Mikael Drackner/Forum Syd



Young people engaging in a project, encouraging Cambodian youth to actively participate in social development activities

# CIVIL SOCIETY IN GLOBAL SUSTAINABLE DEVELOPMENT

Civil society is one of the key actors in developing a global sustainable development. In international development, civil society fulfils donors' development co-operation strategies, recipients' country strategies, promotes individual capacity and empowerment while developing a social cohesion of communities. Flexibility, inventive and resourcefulness are attributes often described to civil society. However, these are depending on the qualities of the fundamental rights on which civil society rests upon. CSOs are unique actors whose capacity builds from their diversity and independence from state and business. In the work of reaching the target of reduced poverty in the former MDGs, civil society brought expertise, knowledge and experience to the table. Simply, civil society is a shaper for global sustainable development.

There are also examples of countries where civil society organisations are established and founded by the government, often named GONGO, to promote and protect government interests and out-compete other civil society organisations. As civil society is large and includes different types of actors, this does not necessarily mean that civil society is the force or actor that best or even promotes equal rights. Some organisations could be seen as actors working against for instance women's rights or on religious extremism. Since civil society is based on driven people who represent different groups and interests in society, there are contradictions, divisions and clashed within civil society that could hamper or challenge the space for civil society.<sup>74</sup>

“Building on the lessons of the Millennium Development Goals and the realities around us in the world, we know that our vision for sustainable development must be rooted in human rights and underpinned by the rule of law.”

Jan Eliasson, Former United Nations Deputy Secretary General<sup>75</sup>

## THE 2030 AGENDA

The 2030 Agenda makes strong commitments to the role of civil society in terms of implementation and partnership. The agenda also emphasise the role of the state in terms of national ownership, review and follow-up of the implementation process.<sup>75</sup> The 17 SDGs within the 2030 Agenda share the same underlying principles to 'leave no one behind' and to 'realize human rights for all'. Clearly manifested in goal 16 and goal 17, the aim to use 'partnership for the goals' and 'inclusive societies' frame civil society participation as a goal in its own right.<sup>76</sup>

## ADDIS ABABA ACTION AGENDA

The financing for development agenda, Addis Ababa Action Agenda (AAAA), includes several strong commitments to civil society, but also contains some weaknesses. As per article 10 and 125 of the outcome document, civil society is valued as an important actor in global partnership for sustainable development. However, governments are described as primary actors for leading and implementing the agenda and the relationship to civil society could have been further discussed.<sup>77</sup>

Consequently, the AAAA has received criticism from civil society. A joint statement made by Forum Syd and participating members at the Civil Society Forum on Financing for Development in Addis, urged UN member states to 'call for caution on endorsing multi-stakeholder partnerships that do not establish open, accessible, inclusive, and transparent space for



The Global Goals. For sustainable development

oversight, monitoring and review, with full and meaningful participation of civil society organizations<sup>78</sup> Also, concerns were raised over how unconditional support for public private partnerships, and the lack of commitment for untied aid, could lead to long lasting effects on civil society.<sup>79</sup>

### CIVIL SOCIETY AS INDEPENDENT ACTORS

In 2008, the High-level Forum on Effective Development Co-operation in Accra was decisive in recognising civil society actors as a force for independent development. These commitments were reaffirmed and strengthened in Busan in 2011, and in Mexico City in 2014.<sup>80</sup> Of particular note is that the term ‘independent’ goes further than prior commitments, and acknowledges actors within civil society to be guaranteed by a so called ‘enabling environment’, to contribute to development.

The expansion of commitments to civil society, and the inclusion of their operational environment developed after the Busan meeting, as 10 indicators were established to track progress of agreed commitments. Here, indicator number two is the most prominent since it focuses on the commitment to enable ‘civil society (to operate) within an environment that maximizes its engagement in and contribution to development.<sup>81</sup> Later, the Mexico City meeting increased commitments made in Busan by affirming that ‘CSOs play an important role in enabling people to claim their rights, in promoting rights-based approaches, in

shaping development policies and partnerships, and I overseeing their implementation. This particular part is reflected in Goal 16 of the SDGs, which promotes inclusive societies and institutions, and is a fundamental part of ensuring an enabling environment for civil society.<sup>83</sup>

In addition to the commitments, the Busan meeting also led to the establishment of a country-led monitoring framework for tracking progress. The so-called Global Partnership for Effective Development Co-operation (GPEDC) monitoring framework is made up of ten indicators, whereas indicator two emphasise the enabling environment for civil society by ‘the extent to which governments and providers of development co-operation contribute to an enabling environment for CSOs [...] and to which CSOs are implementing development effectiveness principles in their own operations’.<sup>84</sup> The indicator tool for measurements is based on four areas: the space for multi-stakeholder dialogue on national development policies; CSO development effectiveness and accountability and transparency; official development co-operation with CSOs; and the CSO legal and regulatory environment.<sup>85</sup>

For civil society, a joint monitoring process carried out by several CSOs could illustrate the importance and function of this specific indicator, as it shows there are strong indications of a ‘global trend of ‘shrinking civic space’ for civil society organizations as measured by laws, regulations and practices by government to restrict the freedoms of association, assembly and expression.<sup>86</sup>



Rosemary Mafumiko demonstrates a sign depicting Sustainable Development Goal 5; to achieve gender equality and empower all women and girls.

### HUMAN RIGHTS

Fundamental rights and freedoms for civil society are protected by several international agreements and principles, in addition to regional and national laws. Perhaps the most important is the Universal Declaration of Human Rights, on which the 2030 Agenda is based. In the Declaration, article 28 clearly states that 'Everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized'.<sup>87</sup>

As human rights are universal and all states have the obligation to uphold and protect them, civil society is entitled to participate in processes and decisions which has an impact on; the rights and freedoms stated in the Declaration; and the capability to fully recognise these rights and freedoms, including multilateral agreements such as the 2030 Agenda.<sup>88</sup>



## A UNITED NATIONS INITIATIVE

### SPECIAL RAPPORTEUR

The Human Rights Council has the responsibility of creating 'Special Procedures' which are independent human rights experts with mandates to report and advise on human rights from a thematic or country-specific perspective. Special Procedures is an essential part of the United Nations work with human rights and covers civil, cultural, economic, political, and social rights. As of 30 September 2016, there are 43 thematic and 14 country mandates.<sup>89</sup> Maina Kiai is the current United Nations Special Rapporteur on the rights to freedom of peaceful assembly and of association.<sup>90</sup>

Special Procedures undertake several tasks with the support of the Office of the United Nations High Commissioner for Human Rights (OHCHR), such as country visits, act on individual cases or by sending communications to states and others including bringing alleged violations or abuses to their attention. Special Procedures also conduct thematic studies, facilitate expert meetings, contribute to the development of international human rights standards, but perhaps more importantly, they engage in advocacy, raise public awareness, and provide advice for technical co-operation. Special Procedures report annually to the Human Rights Council, and where the majority of the mandates also report to the General Assembly.<sup>91</sup>

### CSOs IN LOCALISING THE SDGs

Achieving the 2030 Agenda for sustainable development requires a multi-stakeholder approach, but CSOs are imperative for localising the SDGs in terms of defining, implementing and monitoring the SDGs at local and sub-national levels.<sup>92</sup> CSOs often have various roles to play, but two functions are of particular importance, namely, as the voice of the poorest and most marginalised citizens and to act as a watchdog to collect data, report and monitor.<sup>93</sup>

For example, in the work to achieve the Millennium Development Goals (MDGs), CSOs played a role quite different from other development stakeholders. CSOs represent large and rural parts of the population and respond to the needs of a broad range

of communities. CSOs publicly advocate for challenges or opportunities, support or develop strategies to meet targets of the SDGs and the former MDGs. CSOs also work with governments to implement programmes and monitoring and evaluating efforts to achieve the Goals.<sup>94</sup>

Photo: Christoffer Hjalmarsson



Member of Ferizaj Youth Club.

### CSOs AS SERVICE PROVIDERS

CSOs are highly effective in their role as service providers in cases where governments lack the capability or incentive to provide basic needs for its citizens or in cases of conflicts or state fragility.<sup>95</sup> In such situations, CSOs step in to fill gaps left by the government and take over basic service functions provided by the state.<sup>96</sup> Internationally, CSOs can also mobilise and create public awareness around the SDGs, or share best practice and technical expertise with governments, and deliver services directly. Currently, the role of CSOs as service providers is challenged. CSOs are often unable to provide such basic services when the need is most acute.

### CSOs AS ADVOCATES FOR RIGHTS AND ACCOUNTABILITY

CSOs are key players for holding governments to account, and to ensure their role as duty-bearers for the fulfilment of human rights. At the same time, CSOs empower societies and people to claim their rights as rights-holders. CSOs have an educational and preventative function to ensure decision-makers

and public officials have clear defined responsibilities, which needs to be assessed transparently.<sup>97</sup> Under the 2030 Agenda, all groups are considered stakeholders. Crucially, this demands mutual accountability across a wide range of actors but where governments have the primary responsibility for ensuring the implementation at the national level. Considering shrinking civil society space to avoid accountability, strong commitments must be made to the inclusion of civil society in national development agendas as well as monitoring is carried out by independent actors.

### CSOs AS THE VOICE OF THE POOREST AND MOST MARGINALISED CITIZENS

As the overall motto of the 2030 Agenda is to leave no one behind, it requires the support to the poorest and most marginalised groups to be put first. CSOs are often well equipped, have the expertise and awareness of local contexts, and function as an intermediary between civil society and decision-makers as well as between civil society and the international community. In this role, CSOs contribute in localising the SDGs by using these qualities. For example, CSOs build capacity, knowledge and help facilitate dialogue between marginalised groups and local decision-makers by networks or platforms or raising awareness. CSOs can use their access to political and institutional space to build relationships and highlight problems and solutions identified by the poor and marginalised groups.<sup>98</sup> These groups are often those most at risk of discrimination, rights abuses, and repression.

### CSOs AS WATCHDOGS

The comprehensive and long-term framework of the 2030 Agenda requires data collection and monitoring tools to be strong, inclusive and transparent. Accordingly, the UN has called for cost-beneficial and reliable data gathering systems, and plans as to where organisations are going to be involved.<sup>99</sup> In localising the SDGs, CSOs are equally important. CSOs promote transparency, accountability, and state responsiveness. For instance by examining how policies adhere to international principles on human rights, good governance and rule of law.<sup>100</sup>

The 2030 Agenda requires CSOs to be independent actors, able to operate freely. Reliable and unbiased data are crucial to monitor the implementation of the SDGs, and to highlight areas for improvement. Data and evidence also need to receive global attention and support from the international community when rights are violated. By making it difficult for CSOs to fulfil these various roles, a shrinking space does not only have an impact in the localisation of the SDGs, but the overall achievement of the 2030 Agenda.

Photo: Christoffer Hjalmarsson



### CIVIL SOCIETY ESSENTIAL TO ACHIEVE THE 2030 AGENDA

Human rights work is a requirement for global sustainable development. Civil society's role in implementing the 2030 Agenda by holding states accountable, monitoring and reporting on progress and impediments, is necessary to achieve the 17 Global Goals. Specifically, Goal 16, on peaceful and inclusive societies; Goal 5 on gender equality; and Goal 17 on partnerships that serves as a foundation in the new development agenda when to work for a more enabling, inclusive and open space for civil society. None of these goals can be achieved, or sustainable, if human rights are violated or the space for civil society is shrinking.

Photo: Fredrik Lemeryd



Members of Yabalo Youth Group.

## SIDA'S AGENDA FOR COUNTERING SHRINKING SPACE FOR CIVIL SOCIETY

In March 2017, Sida published a communication requested by the Swedish government with recommendations on how Swedish development co-operation should more effectively help to counteract shrinking space by strengthening civil society. Sida proposes four measures that would develop the efficiency of Swedish development co-operation and contribute to countering shrinking space for civil society: 1) enhance the context-specific analysis at strategy level; 2) to expand the perspective of Sida's work to counteract shrinking space by supporting both the rights-holders as carers and other stakeholders; 3) strengthen the overall view in development co-operation through synergies between operations conducted in the framework of different strategies; and 4) strengthen interaction between development co-operation and the broader foreign policy in order to strengthen Sweden's voice and contribution to counter shrinking space.<sup>101</sup>

These recommendations have been developed through consultations with Swedish and international civil society organisations, to which Forum Syd has been invited. The overall communication gives a comprehensive overview of the challenges to enable and maintain a democratic space for civil society, because civil society is not always an actor for human rights or democracy. However, there are still concrete commitments to be made on national, EU and global levels.

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## About this report

Organisations that promote democracy and good governance, seek to protect human rights, or are engaged in advocacy and accountability initiatives are under threat. In many countries where Forum Syd is active – including Cambodia, Colombia and Kenya – concern over human rights abuses is growing. This report reveals how the international development sector is witnessing shrinking space for civil society on a daily basis and in various forms.

It is critical that Forum Syd's local and regional partners and member organisations fully understand the potential threats faced by CSOs. This report provides an overview of the current situation, and highlights a number of case studies and initiatives related to the available space for civil society.

Furthermore, this publication should be seen in parallel to the Swedish International Development Cooperation Agency's (Sida) communication on shrinking space for civil society and its implications for Swedish development co-operation.



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