

-Concept Note-

Imagining a World Without Participation: Mapping the History and achievements of Civil Society

June 2017 report to the Human Rights Council by the United Nations Special Rapporteur on the rights to freedom of peaceful assembly and of association Maina Kiai

OVERVIEW

-Has civil society made the world a better place?-

-Where and when has civil society made concrete and identifiable achievements?-

-What would the world look like without civil society?-

These are the central questions that the UN Special Rapporteur on the rights to freedom of peaceful assembly and of association, Maina Kiai, seeks to address in his final thematic report to the 35th Session of the United Nations Human Rights Council in June 2017.

The report aims to discuss, map, and quantify the recent (and ongoing) achievements of civil society. In doing so, it will complement existing UN documents¹ on the primacy of civil society, and the rights to freedom of peaceful assembly and of association within his mandate.

Fundamentally, this report will seek to refocus global attention on the myriad ways in which civil society groupings have *improved* societies globally – protecting civil and political rights, advancing development objectives, moving societies towards freedom and equality, achieving and upholding peace, regulating corporate behaviour, protecting the environment, delivering essential services, and advocating for economic, social and cultural rights.

The UNSR seeks to advance the existing data-set on the primacy of civil society space by adding to the existing narrative – that states *must* protect civil society space and civic freedoms – by providing a wide evidence base as to *why it is in their best interest to do so*.

A public questionnaire will enable civil society and Government voices from across the globe to contribute to, and shape the direction of, this report.

BACKGROUND

Throughout history and across cultures, associational life has enabled people to hold the powerful to account, to advocate for – and directly implement – progressive social changes, and to address many of the tensions inherent to collective human action. Throughout

¹ See, for a key recent UN document on civil society: A/HRC/32/20 (Practical recommendations for the creation and maintenance of a safe and enabling environment for civil society, based on good practices and lessons learned, April 2016)

recent history, NGOs, charities, peoples' movements, political parties, religious groups, labour unions, journalists, and other civil society groupings have radically improved societies across the globe. From the anti-slavery and anti-apartheid movements, to transnational advocacy campaigns against poverty and inequality, to women's suffrage movements across the globe, to the countless thousands of human rights groups, grassroots and informal associations, and human rights defenders seeking to improve livelihoods and hold governments to account- the transformative power of civil society is *seemingly* self-evident.

That 'civil society' space² is worthy of protection is an established norm that underpins the United Nations human rights system, and the global human rights community. The legal obligations on states to support and protect civic freedoms and civil society space are codified in numerous binding international human rights instruments. The fulfilment of these rights is monitored by the UNSR and several other UN Special Procedures, the UN Human Rights Committee, and through the Universal Periodic Review Process.

The United Nations Human Rights Council, through Resolution 27/31, recognized the crucial importance of civil society in promoting good governance, including through transparency and accountability, which is indispensable for building peaceful, prosperous and democratic societies. Many other UN documents and reports routinely assert the inherently positive value of civil society. In 2011, the Busan Partnership for Effective Development Cooperation recognized the role of civil society organizations in "enabling people to claim their rights, in promoting rights-based approaches, in shaping development policies and partnerships, and in overseeing their implementation...[and in providing] services in areas that are complementary to those provided by states"³.

However, civil society's role in changing societies for the better is deeply contested. The space for civil society globally is shrinking. In established democracies as well as autocratic regimes and states in transition, laws and practices constraining freedoms of association and of peaceful assembly are flourishing. In 2015, serious threats to one or more civic freedoms were reported in over 100 countries⁴. At a more conceptual level, it has been noted that there is a tendency to over-generalize conclusions relating to the 'value' of civil society, including the conclusion that, "building" more civil society organizations will automatically cement "positive" social norms and practices, thereby contributing in a similarly linear fashion to the deepening of democracy, the eradication of poverty, and the achievement of other macro-social goals"⁵.

As a consequence, the question of the importance of the role of civil society for promoting and improving human rights is still embryonic. Whilst the legal obligations on states to protect civil society are universal, binding, and oft-repeated, evidence for civil society's

² A widely accepted and used definition of 'civil society' comes from Michael Walzer, 1998, 123-4: Civil society is "the sphere of uncoerced human association between the individual and the state, in which people undertake collective action for normative and substantive purposes, relatively independent of government and the market".

³ <http://www.oecd.org/dac/effectiveness/49650173.pdf>, 2011

⁴ CIVICUS: World Alliance for Citizen Participation, State of Civil Society Report 2016, accessible at: <http://www.civicus.org/images/documents/SOCS2016/summaries/SoCS-full-review.pdf>

⁵ Edwards, M (2011), Introduction: Civil Society and the Geometry of Human Relations. In Edward, M (Ed) *The Oxford Handbook of Civil Society* (pp.11-12). Oxford, England: Oxford University Press

achievements have been underexplored by the UN. UN documents that assert the primacy of civil society space and civic freedoms invariably do so from a legal, and often conceptual frame of reference, rather than drawing on a comprehensive evidence base which points to civil society's concrete successes and achievements. Debating, mapping, and critically assessing the successes of civil society, will strengthen and complement the normative assumptions which underpin existing UN literature.

This report does not seek to suggest that civil society's 'successes' should be a prerequisite for State's implementing enabling policies and practices. International law is very clear. As the UN High Commissioner for Human Rights has stated, "*According space to civil society is not optional. International human rights law places an obligation on States to respect rights and freedoms that are indispensable for civil society to develop and operate, including the freedoms of opinion and expression, peaceful assembly and association and the right to participate in public affairs. International law also protects the lives, liberty, physical integrity and privacy of civil society actors from arbitrary State interference*"⁶.

And yet, with the global rollback on the rights of civil society, an obvious impasse exists between these 'rights' and their 'realization'. This report seeks to address this impasse by comprehensively codifying the achievements of civil society. In so doing, the UNSR hopes to strengthen the pragmatic case for civic freedoms being respected and upheld globally, in both law and practice.

Possible themes for the report include:

1.) Civil Society's role in Democracy and Human Rights

- Examples to build upon might include the anti-slavery movement, the anti-apartheid movement, civil society's role in election observation and successful democratic transitions, successful transitional justice processes (including the Tunisia National Dialogue Quartet, awarded the Nobel Peace Prize, inter alia for establishing an alternative, peaceful political process at a time when the country was on the brink of civil war⁷), and the successes of mass protest movements (for example, Black Lives Matter, and pro-democracy movements in North Africa and Ukraine).

2.) Civil Society's role in Worker's Rights

- The right to form and join trade unions, to freely associate with others, and to collectively bargain and to strike are universal human rights. What are the concrete achievements of trade unions and other civil society organisations in advancing workers' rights and human rights more broadly? How have these advancements improved societies? Examples to build upon might include advocacy and strike action behind the 1970 Equal Pay Act in the UK, the role of unions in independence struggles, and advocacy around the inclusion of ILO core labour standards in World Bank lending and procurement practices.

⁶ A/HRC/32/20, Annual Report of the UN High Commissioner for Human Rights, 11 April 2016

⁷ The Norwegian Nobel Committee, The Nobel Peace Prize for 2015, 10 October 2015. See: https://www.nobelprize.org/nobel_prizes/peace/laureates/2015/press.html

3.) Civil Society's role in advancing equality

- That women's rights are now recognized as human rights did not come about by accident. Globally and throughout history, civil society formations led by and for women have driven grassroots, national, and international action to achieve gender equality, suffrage rights, property and economic rights, and reproductive rights. Where and when has civil society made these achievements? Where and when has civil society achieved successes in securing equal legal recognition for minority groups? How has civil society advanced the rights of persons based on their sexual orientation or gender identity, persons with disabilities, or indigenous groups?

4.) Civil Society's role in public debate

- What has civil society achieved in bringing matters of public interest to open debate? How has civil society- including journalists, whistle-blowers and NGOs- contributed to positive social change, through sharing or exposing information? Where and when has civil society exposed 'wrong-doing', or given voice to diverse perspectives, and what has been the effect on society?

5.) Civil Society's role in development, poverty reduction and service delivery

- Through both advocacy and direct service delivery, what has civil society contributed to development objectives, and to the alleviation of poverty worldwide? Where and when has civil society been successful in lobbying for policy changes that have improved peoples' livelihoods? What role has civil society played in delivering essential health and humanitarian services? How should civil society 'successes' in this area- intrinsically non-linear and long-term- be addressed and attributed? What is the opportunity cost to societies if civil society fails to provide these services? What is the economic value that civil society brings to societies? Examples to reflect upon might include transnational advocacy campaigns (Jubilee 2000), successful national poverty alleviation efforts (Shack Dwellers International), and the interplay between national and international civil society groups and campaigns.

6.) Civil Society's role in peace

- What is civil society's role in conflict resolution, and what successes can we point to? How should civil society's role be assessed and quantified (presence of peace, or absence of conflict)? What have been the achievements of informal associations, grassroots and religious actors in promoting peace in post-conflict societies?

7.) Civil Society's role in influencing corporate behaviour and protecting the environment

- Can civil society transform markets, and protect both humans and the environment? From global organizations such as Greenpeace, to citizen led movements such as Occupy Wall Street, what has civil society achieved in regulating corporate

behaviour, ensuring transparency and corporate accountability, and in guaranteeing environmental protections?

8.) Civil Society's role in fostering innovation

- What has civil society achieved in the arena of non-profit driven technological (and other) innovations? Areas to explore include civil society led initiatives in IT (open source software, user innovation), emerging technologies, mass communication, and healthcare.

For Further Information

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