



# General Assembly

Distr.: General  
29 June 2017

Original: English

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## Human Rights Council

Thirty-fifth session

6-23 June 2017

Agenda item 3

**Promotion and protection of all human rights, civil,  
political, economic, social and cultural rights,  
including the right to development**

## **Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association\***

### **Note by the Secretariat**

The Secretariat has the honour to transmit to the Human Rights Council the sixth thematic report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, prepared pursuant to Council resolution 32/32.

Following an introduction in section I, the Special Rapporteur provides an overview in section II of the activities he carried out between 1 March 2016 and 30 April 2017.

In section III, the Special Rapporteur records some of the successes and achievements of civil society in recent years, based on his experience during his term as mandate holder and on contributions from respondents to his questionnaire.

The Special Rapporteur provides conclusions and outlines his recommendations in section IV. The recommendations seek to ensure that the successes and achievements of civil society in recent years can continue sustainably, in a safer and more conducive environment.

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\* The present report was submitted after the deadline in order to reflect the most recent information.



## **Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association**

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## I. Introduction

1. This report is submitted to the Human Rights Council by the Special Rapporteur on the rights to freedom of peaceful assembly and of association pursuant to Human Rights Council resolution 32/32. This is the final thematic report of former Special Rapporteur Maina Kiai, who took up his functions on 1 May 2011, and whose mandate was renewed for a second and final term on 1 May 2014, ending on 30 April 2017. This report is presented by current Special Rapporteur Annalisa Ciampi.

2. Although “civil society” is a term widely used by the Human Rights Council, its critical importance in the wider world is often understated. Civil society has been at the forefront of numerous landmark political and social changes over the last decade; changes that have improved societies and individual lives in diverse and meaningful ways. This report is aimed at drawing attention to the varied ways in which associational groupings have tangibly improved societies across the world and, in turn, advanced global peace, human development and respect for human rights. The report underscores the imperative of an enabling civic environment and the exercise of the rights to freedom of peaceful assembly and of association in achieving these aspirations.

3. To provide input to the report, the Special Rapporteur convened an expert consultation in Bangkok, on 29 and 30 November 2016, drawing together civil society experts from across the world and from distinct and representative spheres of civil society activity. He also sent a questionnaire to Member States, non-governmental organizations (NGOs) and other stakeholders in December 2016. More than 50 replies were received. The Special Rapporteur is grateful to all who responded to his questionnaire, and particularly to those who engaged with their constituents, partner organizations and local communities so as to ensure the widest possible evidence base for this report.

4. As prescribed by the Council in its resolution 15/21, the Special Rapporteur also used other elements of work available within the Council to prepare the report.

## II. Activities of the Special Rapporteur

### A. Country visits

5. The Special Rapporteur visited the United Kingdom of Great Britain and Northern Ireland from 18 to 21 April 2016 (A/HRC/35/28/Add.1) and the United States of America (see A/HRC/35/28/Add.2) from 11 to 27 July 2016. He thanks both Governments for their cooperation before and during the visits.

### B. Communications

6. The Special Rapporteur sent a total of 183 communications to 68 States between 1 March 2016 and 28 February 2017. His observations on communications addressed to States and on the replies received are contained in an addendum to the present report (see A/HRC/35/28/Add.3).

### C. Participation in various events

7. The Special Rapporteur took part in many events, including:<sup>1</sup>

(a) The World Economic Forum Regional Africa Meeting, Kigali (11-13 May 2016);

<sup>1</sup> More information on the Special Rapporteur’s activities during the 2016 calendar year is available in his annual activity report, available at <http://freeassembly.net/reports/2016-year-in-review/>.

- (b) The 2016 Oslo Freedom Forum, Oslo (23 and 24 May 2016);
- (c) Expert consultation in Kenya on the report submitted by the Special Rapporteur to the General Assembly at its seventieth session (13-14 May 2015);
- (d) International Federation for Human Rights, 39th Annual Congress, Johannesburg, South Africa (23-24 August 2016);
- (e) Academic visit to Cambodia, Indonesia, Malaysia, the Philippines and Thailand (1-10 December 2016);
- (f) The World Economic Forum Annual Meeting 2017, Davos, Switzerland (17-20 January 2017);
- (g) Expert consultation to conclude the Special Rapporteur's litigation project in Kenya (6-7 February 2017);<sup>2</sup>
- (h) Academic visit to Swaziland and Zimbabwe (20-24 February 2017);
- (i) Testimony before the Tom Lantos Human Rights Commission of the United States Congress, Washington, D.C. (21 March 2017).

### **III. Achievements of civil society**

#### **A. Objective, scope and limitations of the report**

8. In this report, the Special Rapporteur seeks to refocus global attention on the myriad of ways in which civil society has improved societies throughout the world by protecting civil and political rights, advancing development objectives, moving societies towards freedom and equality, achieving and upholding peace, checking corporate behaviour, protecting the environment, delivering essential services and advocating for economic, social and cultural rights. The report highlights both the intrinsic and instrumental value of civil society as a means for people to aggregate their views and voices in general, and its value to functioning democracies in particular. Civil society occupies the space between the State and the market, often playing a countervailing as well as a complementary role against those two forces, which are increasingly finding common ground and excluding the majority of people.

9. The Special Rapporteur approaches the subject by imagining what a world without civil society would look like and invites the reader to do the same. In his view, this world would be vastly different, and far worse, than it is now. This is not to say that civil society has achieved, or continues to achieve, single-handedly, the transformations that have characterized human history, but to assert that, despite efforts to restrict its influence, civil society has been an essential component of advancements that have benefited humanity. The free exercise of the rights to freedom of peaceful assembly and of association, among other rights, underpins a vibrant and dynamic civil society.

10. There is no widely accepted definition of civil society. The Special Rapporteur has adopted an understanding of civil society as embodying "forms" (diverse associational relationships), embracing "norms" (values that shape a "good society", such as freedom, democracy, tolerance and cooperation), and engaging in "spaces" (the public sphere where discussions and disputes can freely take place with a view to achieving consensus on what is good for society).<sup>3</sup> He uses these concepts to discuss civil society's achievements in order to highlight the nature and characteristics of civil society and their potential contribution to its achievements and successes.

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<sup>2</sup> See <http://freeassembly.net/litigation/>.

<sup>3</sup> See Michael Edwards, "Introduction: Civil Society and the Geometry of Human Relations", *The Oxford Handbook of Civil Society*, Michael Edwards, ed. (Oxford, Oxford University Press, 2011), pp. 3-14.

11. The Special Rapporteur has previously described the term “association” as referring to any groups of individuals or legal entities brought together in order to collectively act, express, promote, pursue or defend a field of common interest (see A/HRC/20/27, para. 51; A/59/401, para. 46). “Associations” encompass a wide variety of entities, both informal and formal, including clubs, cooperatives, NGOs, religious associations, political parties, trade unions, foundations, social movements and online associations. Central to the Special Rapporteur’s understanding of civil society as espousing norms and values that promote “good society” is the need for groups to conform to the aims and principles of the Charter of the United Nations and the Universal Declaration of Human Rights. The Special Rapporteur recognizes the imperative of civil society’s participation in public affairs, in influencing and making decisions on matters that affect it, the need to include a variety of viewpoints and the validity of different modes of expression, including peaceful assemblies.

12. The Special Rapporteur recognizes that there are grey areas in terms of what associational forms comprise civil society, as the dividing lines have become increasingly blurred, depending on associations’ purposes and activities. Nevertheless, in his view, civil society associations possess some basic commonalities: they are non-governmental, non-profit, non-violent and volunteer-based and they pursue common interests and values in various spheres of life, including in political, social, cultural, religious and scientific fields. In the present report therefore, the Special Rapporteur understands civil society to be a voluntary manifestation of associational life, with an existence and purpose that exists outside, and is largely independent, of the State and the market; it is also inherently collective in nature, working in various ways towards common goals that do not conflict with the principles of the United Nations.

13. There are different ways of perceiving “success” or “achievements”, and the Special Rapporteur cannot and does not purport to adhere to a rigid empirical assessment of civil society’s accomplishments. Successes can be assessed through various lenses, as evidenced by the diverse responses to the Special Rapporteur’s questionnaire. In the report, success is described non-exhaustively as attaining the desired result of an action or intervention; the achievement of a goal or milestone; initiation or engagement in desirable processes with outputs, outcomes and an impact; transformational change of structural or systemic arrangements and one-off transactions that do not fundamentally alter the status quo; and the maintenance of the status quo to avoid deterioration or retrogression.

14. The Special Rapporteur draws explicit attention to the fact that civil society’s successes or achievements, however they may be defined, must not be interpreted as a prerequisite for its existence. Neither should they be a prerequisite for implementation by the State of enabling policies and practices that protect the rights of all. In fact, civil society’s achievements are all the more remarkable considering the odds and challenges that civil society faces in many countries and contexts. Despite an ongoing and explicit rhetorical focus on “supporting” and “strengthening” civil society on the part of States and multilateral institutions, including the United Nations and regional human rights systems, the Special Rapporteur has observed the narrowing of political space for civil society. Laws and policies that constrain civil society, most often through direct attempts to unduly restrict the rights to freedom of peaceful assembly and of association, have flourished. Stigmatization, undue barriers to funding, and the wilful misapplication of antiterrorism and other legislation are tactics that have been applied by States to control and restrict the actions of civil society. Yet, civil society resists, persists, builds resilience and strives to reach its transformative potential.

15. The premise of the report is that civil society has built better communities and has made an overwhelming contribution to the betterment of the world today. As a result, civil society is entitled to protection and facilitation — at the very least to the same levels accorded to other sectors.

## **B. Imagining a world without civil society**

### **1. Civil society's contribution in a historical context**

16. Although civil society formations have only gained prominence in the last few decades, civil society has played a central role in addressing some of the greatest injustices in human history. One cannot speak of the success of the nineteenth century anti-slavery movement without highlighting the role played by faith-based individuals and groups, philanthropists, writers and political figures. The luminaries of the civil rights movement in the United States — activists weary of the oppression and discrimination they experienced on a daily basis — belonged to a variety of civil society organizations, religious institutions, local grass-roots groups and students' movements. Similarly, the anti-apartheid movement in South Africa was mainly characterized by concerted national and international civic resistance by communities, young people, women, students, workers, cultural and sports associations and other groups, such as those under the umbrella of the United Democratic Front, together with armed resistance groups.

17. The struggle against colonialism in several parts of the world and resistance to authoritarianism in Latin America and Eastern Europe also illustrates the strong ties that existed between workers' groups, the political opposition and other civil society groups. The women's rights movement and trade unions fought for, and achieved, many advancements around the world, including the right to vote for women; the reduction of child labour; and the advancement of worker's rights, which included eight-hour working days, two-day weekends, a minimum wage and paid holidays. These groups and their large constituencies have also played a key role in many broader-based struggles.

18. At the heart of all these movements was a strong attachment to the values of preserving human freedom, dignity and rights, the necessity of active participation in decisions that affect one's life and livelihood, self-determination, resistance to the State's interference in private life and liberation from foreign domination. The ability of people to aggregate their voices, to assemble to express support or dissent, to volunteer their time and resources to a cause and to access funding from all available sources was central to the success of these movements. These freedoms were often exercised in the face of tremendous opposition by the State, frequently at great personal cost. These movements were not just national; their ideals were shared and supported at the regional, continental and international level by other civil society groups.

19. In the development field, civil society has played a prominent role in critiquing, establishing and strengthening empowering discourses. If we recall the role in the last few decades of protestors during the "Arab Awakening", the Indignados movement in Spain, the peaceful anti-austerity demonstrations in Greece, the Occupy movement, anti-globalization protests and other movements in focusing attention on the gross inequalities that result from pervasive social and economic injustice. The Occupy movement's rallying call, "We are the 99 per cent", succinctly illustrated the gross economic inequalities between the vast majority of global citizens and the tiny minority that controls capital, political influence and means of production. Women's movements, meanwhile, have emphasized the inequalities that women suffer by having to take on more caregiving work, which is unrecognized and disregarded in a monetized economy, and the impact of weakening labour protection on a burgeoning informal sector dominated by women workers. These movements succeeded in mobilizing people across the globe to express their dissatisfaction with current global economic arrangements, illustrating the ability of ordinary people — comprising the diversity of the global citizenry — to rally around an issue and to question the status quo.

20. Civil society's contributions to peacebuilding can be traced back to the Geneva Conventions and their additional protocols that regulate the conduct of armed conflict and its effects. The Conventions owe their existence in large part to the work of the International Committee of the Red Cross (ICRC), established in 1863. Over the years, ICRC and its affiliate national societies have continued to play an instrumental role in providing humanitarian relief to prisoners of war, victims of conflict and people in other emergency situations. ICRC has also performed exemplary work by helping vulnerable

groups and advocating for adherence to, and the strengthening of, international humanitarian and human rights law.

21. The work of ICRC has inspired the establishment of organizations such as Save the Children International and generated many opportunities to collaborate with other organizations to advance humanitarian goals. Civil society has, over the years, augmented its presence in the peacebuilding field by advocating for conflict prevention, promoting disarmament, implementing early warning and conflict risk assessment systems, assisting refugees, participating in peacemaking negotiations and working on transitional justice and peacebuilding initiatives.

22. These examples touch only the tip of the iceberg of civil society's contributions to strengthening and promoting the three pillars of the Charter of the United Nations: human rights, development and peacebuilding. Whilst the examples above represent some of the most visible "achievements" of formal civil society, we should not overlook the collective achievements of untold numbers of local, grass-roots and informal civil society groups. We also need to recognize civil society's work in the arts, culture, sports, the sciences, technology and other fields. Though impossible to quantify, the Special Rapporteur considers the informal sphere of civil society to have been of critical importance to human rights, development and security.

## 2. Civil society's role and contribution in various fields

23. The rights to freedom of peaceful assembly and of association are essential components of democracy, since they empower women, men and young people to express their political opinions, engage in literary and artistic pursuits and other cultural, economic and social activities, engage in religious observances or other beliefs, form and join trade unions and cooperatives and elect leaders to represent their interests and hold them accountable (see Council resolution 15/21, preamble). These rights undergird the existence of a strong and vibrant civil society as conceived of in this report. Though not the sole determinant of a robust democracy, as government and the markets must also play their rightful role, a vibrant civil society helps to strengthen a State's democratic credentials and should therefore benefit from support and protection similar to the public and private sectors to enable it to make an effective contribution (see A/70/266). Civil society acts as both a counterweight and complement to government and business in a democracy, providing avenues through which people directly or indirectly exert their influence on public affairs and matters that affect them.

24. When societies are deprived of diverse forms and spaces for people to associate and mobilize, the opinions and preferences of those with privilege or access to power tend to dominate. Disfavoured viewpoints all but disappear and society loses the freedoms of choice and representation. Contestation through fair elections may be eliminated or rendered meaningless if people are not free to mobilize votes, articulate preferences and represent interests. Civil society promotes and facilitates these spaces of engagement (see A/68/299).

25. Perhaps most crucially, civil society's work in delivering services and seeking accountability provides hope to millions of people, who rely on the ingenuity, commitment, resourcefulness and drive of civil society actors to address their problems.

26. Even in established democracies, a robust civil society is necessary to challenge structural inequalities that may result from placing certain interests, voices or values above others. For example, political parties cannot be the sole voices heard during elections, to the exclusion of others. In Canada, "third parties" — namely, persons or groups other than political parties, candidates or electoral district associations — are recognized as participants in the electoral process for the purposes of election advertising.<sup>4</sup> Furthermore, civil society plays a critical role in between elections by continuing to monitor, influence and speak out on governance issues. This role is especially important for those who are unable to vote due to factors such as age, a past criminal conviction, gender or migration

<sup>4</sup> Contribution of Canada.

status. Therefore, it is commendable when States institutionalize dialogue between civil society and the authorities, as they have in Georgia, Greece, Latvia, Mexico, the Republic of Moldova and Romania.<sup>5</sup> By contrast, closing space for civil society, including by introducing subtle restrictions, such as choreographed consultations with hand-picked participants that fulfil procedural rather than substantive requirements, undermines democracy.

27. In a globalized world, decisions made by actors in one country can easily affect the livelihoods of people in other parts of the world. Transnational corporations wield immense power and control resources much larger than the incomes of many countries. In the Special Rapporteur's view, civil society's ability to act transnationally means it plays an indispensable role in counterbalancing this power.

28. Although many multilateral organizations have opened up some space for civil society in their deliberations, more needs to be done to recognize civil society as having a stake equal to that of other non-State actors.<sup>6</sup> International and local NGO participation in multilateral forums allows views that State delegations may not favour or represent to be expressed and local voices that may otherwise be obscured by international interests to be heard.

29. For example, the World Trade Organization's current nominal engagement with civil society fails to take advantage of civil society's capacities and experiences, such as the representation of marginalized voices and innovative ideas to advance development.<sup>7</sup> Civil society has fared better within the framework of the Financial Action Task Force. In particular, the Global Non-Profit Organizations Coalition on the Financial Action Task Force (a civil society coalition that works on Task Force issues) has made progressive gains in voicing concerns relating to the adverse impact on non-profit organizations of international policies on counter-terrorism and money laundering. The Platform has most recently helped non-profit organizations achieve representation on the Task Force's Private Sector Consultative Forum which, although it primarily consists of representatives from the business sector, regularly discusses issues affecting the non-profit sector.<sup>8</sup>

30. Meaningful participation requires that decision-making spaces should, in principle, be open and accessible to all, including to civil society in all its diversity. These spaces include geographical and physical locations at which meetings and consultations are held, as well as structural conditions that facilitate or hinder participation. The General Assembly recently granted observer status to the International Chamber of Commerce, in order to give greater opportunities to the business community to contribute to the realization of the goals and programmes of the United Nations.<sup>9</sup> It is telling that the equally important role of trade unions and civil society organizations is not similarly recognized.

31. Case studies involving informal workers in Brazil, Colombia, India and South Africa — mainly women performing low-wage unprotected work such as street vending, waste collection and home-based labour — found that improving livelihoods often relies on beneficiaries taking on leadership roles, equipped with opportunities and the ability to represent their own interests.<sup>10</sup> The successes of these groups capitalized on civil society's strengths, such as a bottom-up approach that encourages participation, community mobilization and partnerships with capacity-building and technical resources to build dialogue and develop negotiation skills. The ability to exercise the right to peaceful assembly and freedom of association was also central to these successes.

32. Civil society is also a significant contributor to the economy, particularly through the employment and volunteer opportunities it provides. A survey of 16 countries indicated

<sup>5</sup> See contributions of Georgia, Greece, Latvia, Mexico, the Republic of Moldova and Romania.

<sup>6</sup> See [https://www.globalpolicy.org/images/pdfs/GPFEurope/Corporate\\_Influence\\_on\\_the\\_Business\\_and\\_Human\\_Rights\\_Agenda.pdf](https://www.globalpolicy.org/images/pdfs/GPFEurope/Corporate_Influence_on_the_Business_and_Human_Rights_Agenda.pdf).

<sup>7</sup> Erin Hannah, James Scott and Rorden Wilkinson "Reforming WTO-civil society engagement", *World Trade Review*, available at <http://sro.sussex.ac.uk/63983/>.

<sup>8</sup> See <http://fatfplatform.org/latest-news-4-seats-pcf/>.

<sup>9</sup> Resolution 71/156.

<sup>10</sup> Contribution of Women in Informal Employment: Globalizing and Organizing (WIEGO).

that the non-profit sector employs a proportionately larger percentage of the workforce than some other industries, such as the transport sector, accounts on average for 4.5 per cent of gross domestic product (GDP) and provides a range of essential services. In 13 of the countries surveyed, the total number of people employed in the non-profit sector accounts, on average, for 7.4 per cent of the total workforce.<sup>11</sup> In Czechia, the non-profit sector has contributed about 0.7 per cent to the GDP in recent years. The voluntary sector in the United Kingdom contributed about 0.7 per cent to the GDP in 2013-2014, and in June 2015, employees in that sector accounted for about 2.7 per cent of the country's workforce.<sup>12</sup> In 2012, the value of voluntary activity in that country was estimated to be approximately 1.5 per cent of GDP.<sup>13</sup> In Slovenia, employees in the NGO sector accounted for 0.8 per cent of the active workforce in 2015.<sup>14</sup> Civil society contributed 3.2 per cent to the GDP of Sweden in 2014.<sup>15</sup>

33. Civil society also plays an important role as a conduit for development assistance, as civil society organizations are often better placed to work closely with beneficiaries and respond rapidly to emergencies. In 2014, for example, private donors channelled 86 per cent of their humanitarian funding through NGOs.<sup>16</sup>

34. Civil society's role in establishing lasting peace in conflict and post-conflict situations is becoming increasingly recognized. NGOs can take on roles that political actors are unable to perform because such organizations are potentially more independent, impartial and flexible. In some cases, civil society groups may also have better connections to grass-roots constituencies, are able to maintain confidentiality and have a relationship of greater trust with local populations.<sup>17</sup> In Colombia, civil society has been engaged in the peace process in various ways. Through social media campaigns, organizations such as El Avispero have offered spaces for people to participate in social development and peacebuilding activities.<sup>18</sup>

35. The growth of fundamentalism, violent extremism and terrorism is of great concern in the world today. It poses a threat to democracy and people's ability to participate in their societies, shape their destinies, voice their concerns and improve their lives. In many countries, civil society has become a casualty, either by design or default, of the fight against extremism. The rights to freedom of peaceful assembly and of association have been curtailed, while freedom of opinion, expression and other rights have been suppressed under the guise of combating extremism or terrorism. Ironically, curtailing rights and freedoms creates environments that propagate the very extremism that the authorities sought to eradicate. The existence of a robust civil society and respect for human rights in general is critical to combating extremism and channelling dissent and frustration in a legitimate way through the system (A/HRC/32/36, paras. 80-89). The Special Rapporteur is of the opinion that the Kenyan NGO Muslims for Human Rights, which promotes good governance and respect for the human rights of marginalized groups, is an example of the positive role that civil society can play in fighting extremism.<sup>19</sup>

<sup>11</sup> See [http://ccss.jhu.edu/wp-content/uploads/downloads/2013/04/JHU\\_Global-Civil-Society-Volunteering\\_FINAL\\_3.2013.pdf](http://ccss.jhu.edu/wp-content/uploads/downloads/2013/04/JHU_Global-Civil-Society-Volunteering_FINAL_3.2013.pdf).

<sup>12</sup> See <https://data.ncvo.org.uk/a/almanac16/economic-value-2/>.

<sup>13</sup> See <http://webarchive.nationalarchives.gov.uk/20160105160709/> and [www.ons.gov.uk/ons/rel/wellbeing/household-satellite-accounts/valuing-voluntary-activity-in-the-uk/art--valuing-voluntary-activity-in-the-uk.html](http://www.ons.gov.uk/ons/rel/wellbeing/household-satellite-accounts/valuing-voluntary-activity-in-the-uk/art--valuing-voluntary-activity-in-the-uk.html).

<sup>14</sup> Contribution of Slovenia.

<sup>15</sup> See [www.scb.se/en/finding-statistics/statistics-by-subject-area/business-activities/structure-of-the-business-sector/the-civil-society/pong/statistical-news/civil-societys-contribution-to-gdp-was-3.2-percent/](http://www.scb.se/en/finding-statistics/statistics-by-subject-area/business-activities/structure-of-the-business-sector/the-civil-society/pong/statistical-news/civil-societys-contribution-to-gdp-was-3.2-percent/).

<sup>16</sup> Development Initiatives, *Global Humanitarian Assistance Report 2016*, p. 66.

<sup>17</sup> Martina Fisher, "Civil society in conflict transformation: strengths and limitations" in *Advancing Conflict Transformation: The Berghof Handbook II*, Beatrix Austin, Martina Fischer, Hans .J. Giessmann, eds. (Opladen/Framington Hills, Barbara Budrich Publishers, 2011), p. 294.

<sup>18</sup> See <http://reliefweb.int/report/colombia/el-avispero-civil-society-network-promoting-peace-colombia>.

<sup>19</sup> See [www.muhuri.org](http://www.muhuri.org).

## C. Civil society's achievements

36. A report of this size and scope cannot do justice to the accomplishments and immense positive contribution that civil society makes every day throughout the world. The Special Rapporteur has therefore chosen to highlight contributions in a few areas where he considers that civil society has excelled in advancing democracy, development and peace. The themes he has selected draw out some of civil society's innate strengths as an aggregator of voices and a counterweight to State and private sector power. The examples provided demonstrate that civil society is a constituency that should not be ignored, undermined or undervalued by States.

37. The examples provided by the Special Rapporteur are primarily drawn from his experiences during his term as mandate holder and suggestions from respondents to the questionnaires and from people who participated in the consultations held when preparing this report.

### 1. Pursuing accountability

38. Civil society's possibly most recognizable role involves ensuring accountability: promoting the rule of law, holding governments and businesses accountable, establishing limits to the abuse of power, transforming power relationships and demanding redress. It is also the role that most often draws ire from governments and the private sector alike. Accountability is an area where civil society has leveraged its capacity to act as a counterbalance while also taking advantage of cooperative strategies. Civil society plays an indispensable role in establishing or maintaining democracy by subjecting power to checks and balances, amplifying the plurality of voices and views and calling out State and non-State actors on failures to meet their obligations.

39. Civil society groups of different kinds seize the initiative to resist, alter or shape power relationships in their communities or countries at large. The starkest recent examples include an array of mass protest movements, such as the Black Lives Matter movement and the pro-democracy movements in North Africa, the Middle East and Ukraine. In Brazil, Guatemala, Iceland and the Republic of Korea, the population's demands for accountability led to changes in leadership. In Poland and Turkey, mass demonstrations led to the withdrawal of unpopular draft laws banning abortions and legitimizing sexual abuse, respectively. Human rights defenders and activists and development practitioners also participate in peacebuilding and conflict resolution work throughout the world.

40. Taking on the role of countering the unchecked power of State or market actors is often perceived by governments as political opposition, even when civil society groups do not seek political power for themselves. In Zambia, the Civic Forum on Housing and Habitat Zambia, an outspoken advocate for the rights of marginalized groups to land and housing, has been labelled as part of the political opposition because of its criticism of government policies. Among other things, the Forum has succeeded in raising the profile of housing concerns with the Government, resisted the arbitrary eviction of communities and mobilized grass-roots communities to participate in the revision of the housing policy.<sup>20</sup>

41. Civil society groups play a crucial role in preventing conflict and mass human rights violations, as well as in the aftermath of these events. In his report to the Human Rights Council, the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence has highlighted the contribution made by civil society, including trade unions in Poland, South Africa and Tunisia, religious institutions in Burundi, Chile and Uruguay and NGOs and victims' organizations in Argentina,<sup>21</sup> Chile

<sup>20</sup> Contribution from Civic Forum on Housing and Habitat (Zambia).

<sup>21</sup> Contribution from the Centro de Estudios Legales y Sociales: civil society organizations have played a crucial role in transitional justice, including in Argentina, where organizations such as the Asamblea Permanente por los Derechos Humanos, the Centro de Estudios Legales y Sociales and the Madres de Plaza de Mayo contributed to shedding light on and fighting against impunity relating to human rights violations that occurred during the military dictatorship in the 1970s.

and Guatemala (see A/HRC/30/42 paras. 85-87), in demanding accountability as part of the political agenda in the wake of mass atrocities.

42. Civil society's ability to shape and seek the enforcement of norms and values that promote a good society is greatly aided by its capacity to demand accountability. Through litigation, civil society has succeeded in enforcing empowering laws or repealing restrictive rules that undermine values such as equality and inclusion. In Zimbabwe, the marriage of underage girls was successfully outlawed following litigation proceedings. Waste pickers in Colombia successfully brought cases before the Constitutional Court to defend waste picking as a profession, thereby encouraging the upward movement of waste pickers in the recycling value chain, working towards integrating their activities into the public services system and ensuring that they were remunerated.<sup>22</sup> Finally, in the United States, the American Civil Liberties Union has played a leading role in using litigation to challenge the legality of some of President Donald Trump's controversial executive orders, notably the so-called Muslim ban.<sup>23</sup>

43. In 2009, as a result of pressure from civil society and its allies in the United States Congress, a bipartisan review of the State's past torture practices was initiated by the Senate Select Committee on Intelligence. It took additional pressure from civil society and the Senate Committee for the redacted executive summary from that report to be released to the public in 2014. The release of the executive summary contributed to the eventual passage of the McCain-Feinstein anti-torture amendment, which strengthened anti-torture prohibitions and oversight for detention on grounds of national security.<sup>24</sup> In the United Kingdom, sustained pressure from civil society groups led to the launch of a public inquiry into the Government's use of undercover police to infiltrate activist and protest groups (see A/HRC/35/28/Add.1 and A/HRC/23/39/Add.1).

44. Civil society can also strengthen institutions by providing a basis for upholding positive norms and values. In Malaysia, the national human rights institution, the Human Rights Commission of Malaysia, scrutinized police management of Bersih coalition rallies following violent crackdowns in 2011 and 2012. The Commission's report documented excessive use of force and recommended changes that resulted in a more facilitative attitude by police during subsequent rallies in 2015 and 2016. Bersih rallies are directed towards ensuring "clean" elections, and the Bersih 2.0 campaign in 2013 culminated in the highest voter turnout in Malaysian history, at 84.8 per cent.<sup>25</sup>

45. The credibility of elections can be enhanced by non-partisan citizen election observation. In Somalia, for example, civil society advocated extensively for transparent and credible elections and observed the parliamentary elections held in 2016, despite a challenging environment.<sup>26</sup> Election transparency has also been encouraged by civil society monitors in places such as Georgia<sup>27</sup> and Ghana.<sup>28</sup>

46. At the global level, the establishment of the International Criminal Court was a significant victory for civil society and its efforts to ensure accountability for human rights atrocities. Justice has also been pursued in national and specialized courts following advocacy by victims' groups. The trial and conviction of the former President of Chad, Hissène Habré, in Senegal in 2016 for crimes against humanity was initiated and driven principally by victims' associations and NGOs.<sup>29</sup> In Eritrea, sustained activism by citizens'

<sup>22</sup> Contribution from Women in Informal Employment: Globalizing and Organizing.

<sup>23</sup> See [www.aclu.org/blog/speak-freely/well-see-you-court-20-once-muslim-ban-still-muslim-ban](http://www.aclu.org/blog/speak-freely/well-see-you-court-20-once-muslim-ban-still-muslim-ban).

<sup>24</sup> Contribution from Center for Victims of Torture (United States).

<sup>25</sup> Contribution from Bersih 2.0 (Malaysia).

<sup>26</sup> Contribution from Forum Syd (Sweden), available at <http://www.saferworld.org.uk/news-and-views/news-article/698--civil-society-observes-somaliaas-2016-electoral-process>.

<sup>27</sup> See <http://iphonline.org/georgia-joint-statement-monitoring-elections-20161009.html>.

<sup>28</sup> See [www.codeghana.org/](http://www.codeghana.org/).

<sup>29</sup> See [www.ictj.org/news/reed-brody-hiss%C3%A8ne-habr%C3%A9-trial-shows-power-victims%E2%80%99-and-civil-society%E2%80%99s-agency](http://www.ictj.org/news/reed-brody-hiss%C3%A8ne-habr%C3%A9-trial-shows-power-victims%E2%80%99-and-civil-society%E2%80%99s-agency).

groups and associations in the diaspora informed the creation of the United Nations commission of inquiry on human rights in Eritrea.<sup>30</sup>

## 2. Supporting participation and empowerment

47. Citizens have the right to participate in public affairs, directly or indirectly, by holding office or decision-making positions, or by choosing representatives to do so on their behalf.<sup>31</sup> Civil society offers a suitable channel for people to get involved and take action on issues that resonate with them. In doing so, people can individually or collectively exercise more control over their livelihoods and personal well-being, influence the exercise of political power, manage their natural resources and build resilient societies for the future.

48. The Special Rapporteur has affirmed the important role that civil society organizations play in the context of elections by advocating for the interests of their beneficiaries, protecting democratic standards and holding authorities accountable (see A/68/299, paras. 42-43). Civil society also engages in political participation in other ways. In Tunisia, following the uprisings, a new constitution was considered to be an essential part of a successful transition architecture. Despite the challenging political climate, civil society groups played an important role in advocating for, and enhancing the transparency of, the drafting and deliberation process. Some groups organized town hall meetings and information sessions throughout the country, encouraging dialogue between citizens and National Constituent Assembly members, while others conducted awareness-raising campaigns, participated in strikes and protests and contributed their expertise and resources to the process.<sup>32</sup> Indeed, the constitution-making processes in Kenya, Somalia and Zimbabwe were driven by civil society organizations.<sup>33</sup>

49. In the Syrian Arab Republic, an emboldened civil society has emerged amidst the conflict and destruction that followed the uprising, determined to continue demands for democratic reform. Civil society groups and individuals are documenting human rights violations committed by combatants, engaging with armed groups to encourage adherence to a code of conduct, providing medical care and offering services such as psychosocial support, language courses and skills training. Civil society continues to demonstrate its resourcefulness in providing the tools and environments needed to survive the current crisis and by laying the foundations for democracy, justice and a pluralistic society.<sup>34</sup>

50. The ability and capacity to aggregate voices is especially important for marginalized communities. In this regard, civil society has a vast résumé of accomplishments. Civil society groups consisting of, and working with, an array of marginalized groups — including indigenous populations, persons with disabilities, young people and children, women, lesbian, gay, bisexual, transgender and intersex people, minority groups, internally displaced persons and non-nationals, including refugees, asylum seekers and migrant workers — have made tremendous progress in highlighting the disenfranchisement of these groups and in protecting their rights. In Colombia, for instance, the Comisión Étnica para la Paz y la Defensa de los Derechos Territoriales ensured that Afro and indigenous peoples took part in the peace process and their participation resulted in a chapter of the final peace agreement focusing on ethnicity.<sup>35</sup>

51. Civil society action has enabled the lesbian, gay, bisexual, transgender and intersex community to achieve tremendous advances in human rights, notably in the area of marriage equality. Largely thanks to that community's advocacy efforts, more than 20

<sup>30</sup> See [www.hrw.org/news/2014/09/26/eritrea-un-names-commission-inquiry](http://www.hrw.org/news/2014/09/26/eritrea-un-names-commission-inquiry).

<sup>31</sup> General comment No. 25 (1996) on participation in public affairs and the right to vote.

<sup>32</sup> See [www.cartercenter.org/resources/pdfs/news/peace\\_publications/democracy/tunisia-constitution-making-process.pdf](http://www.cartercenter.org/resources/pdfs/news/peace_publications/democracy/tunisia-constitution-making-process.pdf).

<sup>33</sup> Contribution from Forum Syd (Sweden) and Women and Law in Southern Africa Research and Education Trust (Zimbabwe).

<sup>34</sup> See [www.opendemocracy.net/Arab-awakening/hania-mourtada-penny-green/syrian-activists-repairing-fabric-of-civil-society-even-as-it-comes-undone](http://www.opendemocracy.net/Arab-awakening/hania-mourtada-penny-green/syrian-activists-repairing-fabric-of-civil-society-even-as-it-comes-undone).

<sup>35</sup> Contribution from Comisión Étnica para la Paz y la Defensa de los Derechos Territoriales.

countries now allow same-sex marriage;<sup>36</sup> at the beginning of 2000, that number stood at zero.<sup>37</sup> The community's advocacy work has also been extraordinarily successful in changing public opinion. In 1996, for example, only 26 per cent of people in the United States supported the idea of same-sex marriage. By 2015, that number had risen to 61 per cent.<sup>38</sup>

52. Groups that work to end discrimination based on caste and descent and groups that combat discrimination against people with albinism have succeeded in raising the profile of the often underreported violations that these groups face. As a result, the first comprehensive United Nations report on caste-based discrimination was presented by the Special Rapporteur on minority issues in March 2016 (A/HRC/31/56), and the mandate of the United Nations Independent Expert on the enjoyment of human rights by persons with albinism was established in 2015.<sup>39</sup>

53. The adoption of the Domestic Workers Convention, 2011 (No. 189) of the International Labour Organization happened primarily due to the efforts of a global network of domestic workers' organizations that came together under the auspices of the International Domestic Workers Network (now the International Domestic Workers Federation). This was a notable achievement in which domestic workers all over the world, who are often excluded from the purview of oversight mechanisms, played a direct and active role in articulating and advocating for clear demands to be addressed in the Convention.<sup>40</sup>

54. Civil society has succeeded in pushing multilateral organizations to open up their decision-making processes to public scrutiny and input. A notable achievement was the process adopted by the United Nations in selecting its new Secretary-General, who took up his post in January 2017. Under the campaign banner "1 for 7 Billion", civil society globally took part in what is considered the most open selection process for the United Nations Secretary-General so far.<sup>41</sup> Similarly, the Committee for the Protection of Journalists recently succeeded in gaining consultative status with the Economic and Social Council — a chance to participate in open United Nations processes — after years of opposition by some States.<sup>42</sup> This, however, is a one-off achievement, and does not signify a change in the attitudes or methods of the Committee on Non-Governmental Organizations, namely the body that grants consultative status to NGOs, which still needs major reforms.

55. In other situations, civic actions have galvanized the public, resulting in positive reforms. According to the Women and Law in Southern Africa Research and Education Trust, the enactment of the Domestic Violence Act in Zimbabwe in 2007 represented a victory after years of advocacy by civil society groups; the Act is credited with reducing the level of gender-based violence.<sup>43</sup> Likewise, in Zambia, the equal status of women has been established through a number of initiatives such as gender equality legislation, women's political and economic empowerment programmes and the eradication or transformation of cultural traditions and attitudes that are harmful to women's advancement.<sup>44</sup>

### 3. Driving and applying innovation

56. The Special Rapporteur conceives of innovation as civil society's ability to initiate, take advantage of or respond to emerging ideas, products or methods that improve society's well-being. Civil society's unique characteristics — particularly its not-for-profit motives

<sup>36</sup> See [www.lgbtqnation.com/tag/gay-marriage/](http://www.lgbtqnation.com/tag/gay-marriage/).

<sup>37</sup> See [www.government.nl/topics/family-law/contents/same-sex-marriage](http://www.government.nl/topics/family-law/contents/same-sex-marriage).

<sup>38</sup> <http://www.gallup.com/poll/191645/americans-support-gay-marriage-remains-high.aspx>.

<sup>39</sup> See [www.ohchr.org/EN/Issues/Albinism/Pages/Mandate.aspx](http://www.ohchr.org/EN/Issues/Albinism/Pages/Mandate.aspx).

<sup>40</sup> Contribution of Women in Informal Employment: Globalizing and Organizing.

<sup>41</sup> See [www.una.org.uk/news/guterres-poised-become-next-sec-gen-after-historic-open-process-una-uk-campaign-victory](http://www.una.org.uk/news/guterres-poised-become-next-sec-gen-after-historic-open-process-una-uk-campaign-victory).

<sup>42</sup> See <https://cpj.org/2016/07/un-committee-grants-cpj-accreditation.php>.

<sup>43</sup> Contribution from Women and Law in Southern Africa Research and Education Trust (Zimbabwe).

<sup>44</sup> Contribution from Women for Change (Zambia).

and its ability to foster constituencies of people with shared interests — make it well suited to generate innovative solutions to problems. These characteristics also mean that civil society has great potential as a “third engine” of innovation, which is driven neither by profit (unlike business-led innovation) nor State interest (unlike government-led innovation).

57. One example of this is refrigeration technology known as Greenfreeze, which the NGO Greenpeace helped to develop in the 1990s.<sup>45</sup> Greenfreeze improved upon existing refrigeration technology by eliminating the need for gases that contributed to ozone depletion and global warming. Today, there are over 850 million Greenfreeze units in use globally.

58. The enthusiasm with which civil society has leveraged digital technology to organize, deliberate and innovate has been remarkable. While the role of social media in mobilizing people during the Arab Awakening is well known, it has proved just as useful in other contexts. In Saudi Arabia, women who are unable to freely operate in public due to severe societal restrictions, including a ban on women driving, use online spaces to participate in a virtually connected civil society. This is a perfect example of why the Special Rapporteur, the Human Rights Council and others have repeatedly underscored that the rights to freedom of peaceful assembly and of association apply online as well as offline (see A/HRC/26/29, para. 22 and A/HRC/RES/21/16).

59. Many civil society groups have developed applications that take advantage of technology to perform helpful functions, such as transferring money and arranging credit, tracking weather and rainfall patterns for agriculture and performing health- and education-related tasks. More broadly, the development of open source software, namely computer software that can be studied, changed and distributed to anyone and for any purpose, has been largely driven by civil society organizations such as the Mozilla Foundation,<sup>46</sup> the Open Source Initiative<sup>47</sup> and the Free Software Foundation.<sup>48</sup>

60. However, technology is a double-edged sword. Technological advancements can be used for both good and ill. Civil society groups operating in this field have remained at the forefront of the rapidly changing technological landscape, particularly as it affects privacy concerns. Civil society is involved in numerous efforts to protect people against censorship, surveillance and attacks on their persons or data perpetrated by States and other entities. For example, the Coalition Against Unlawful Surveillance Exports advocates against the export of digital surveillance technologies used to commit human rights violations and the Tactical Technology Collective helps human rights advocates, activists and journalists enhance their digital security skills.<sup>49</sup> Civil society also recognizes the unbalanced power relationships that underlie ownership and control of digital technologies, dominated largely by corporations, and is increasingly advocating for, and participating in, democratic forms of Internet governance and control.<sup>50</sup>

61. Civil society uses ubiquitous crowdsourcing platforms to expand the reach of its work, attracting broader audiences than was previously possible, in order to find solutions to problems. For example, the Ushahidi platform was developed to map and respond to electoral violence during the 2008 elections in Kenya, but has since been deployed for other crowdsourced information needs around the world.<sup>51</sup> Crowdfunding, which is also facilitated by digital technology, provides fundraisers with access to a diverse audience that they may not typically interact with and may help them to attract donors who might not ordinarily contribute to their cause.

<sup>45</sup> See [www.greenpeace.org/international/en/news/Blogs/makingwaves/happy-birthday-greenfreeze/blog/44473/](http://www.greenpeace.org/international/en/news/Blogs/makingwaves/happy-birthday-greenfreeze/blog/44473/).

<sup>46</sup> See [www.mozilla.org/en-US/](http://www.mozilla.org/en-US/).

<sup>47</sup> See <https://opensource.org/>.

<sup>48</sup> See [www.fsf.org/](http://www.fsf.org/).

<sup>49</sup> See [www.privacyinternational.org/node/602](http://www.privacyinternational.org/node/602) and <https://tacticaltech.org/projects/28>.

<sup>50</sup> See <https://community.icann.org/display/gnsononcomstake/About+Us>.

<sup>51</sup> See [www.usahidi.com/case-studies/uchaguzi](http://www.usahidi.com/case-studies/uchaguzi).

62. In the Russian Federation, the organization OVD-Info monitors arrests and detentions during protests and other aspects of freedom of assembly. The group nearly saw its funding wholly depleted after the country placed severe restrictions on civil society's ability to access foreign resources. With the help of crowdfunding, however, OVD-Info was able to replace its foreign funding with small, private domestic donations. Moreover, the crowdfunding process helped the organization to disseminate information on its work.<sup>52</sup> Crowdfunding has also been used to respond to humanitarian crises, such as the earthquake in Nepal in 2015.<sup>53</sup>

63. Innovation extends beyond the use of technology and can include social and political advances. The International Budget Partnership, for example, advocates for increased citizen participation in budget-making, budget transparency and stronger budget oversight. Since 2006, when the first Open Budget Survey (which assesses comparative budget transparency, participation and oversight) was conducted, the number of countries surveyed has increased, as has the amount of budget information that countries make publicly available.<sup>54</sup> An increased civil society role in budget-making challenges prevailing notions that resource allocation decisions are solely the domain of the government and are largely taken behind closed doors. Civil society participation has also raised awareness of the adverse impact of a seemingly gender-neutral budget on women (and potentially other marginalized groups) and thus the need for gender-sensitive budgeting.<sup>55</sup>

#### 4. Fostering sustainable development

64. The Special Rapporteur has previously stressed that civil society is an essential actor in fostering sustainable development.<sup>56</sup> Civil society's role in implementing the Sustainable Development Goals, which represent a global consensus to end poverty, protect the planet and ensure prosperity for all, is particularly important. The success (or failure) of the Sustainable Development Goals will not depend on governments and international donors; it will depend on the individuals and civic organizations that will help design, carry out and monitor the development projects on which the whole scheme depends. Without vibrant civil societies, the Sustainable Development Goals are dead in the water.

65. Civil society's role and its achievements in the area of sustainable development include mobilizing public opinion, providing expert advice, raising awareness (including by breaking down complex technical information into lay language), monitoring compliance with governance decisions, participating in decision-making (including by representing voiceless communities) and contributing to implementation of programmes. Civil society groups also play an important role in pushing back against actions by the State and/or private enterprises that threaten communities' well-being and physical environment.

66. Advocacy by civil society groups, including Greenpeace, the Green Belt Movement in Kenya founded by Nobel Peace Laureate Wangari Maathai, the Sierra Club, the World Wide Fund For Nature and hundreds of others, has been a principal force behind the public's growing awareness of environmental problems, such as climate change, deforestation and threats to wildlife. Indeed, environmental civil society groups play a unique role in this regard, since businesses and governments may prioritize other interests, such as profitability, increased tax revenue and (unsustainable) job creation, which diminish their willingness to voluntarily take measures to protect the environment. Action by businesses and governments to combat environmental problems has frequently been taken in response to advocacy and awareness-raising campaigns by civil society groups. The future of our planet could quite literally depend on meaningful civil society engagement on environmental issues. To that end, the Special Rapporteur is pleased that the twenty-first session of the Conference of the Parties to the United Nations Framework Convention on

<sup>52</sup> See [www.opendemocracy.net/openglobalrights/grigory-okhotin/crowdfunding-to-bypass-russia-s-civil-society-crackdown](http://www.opendemocracy.net/openglobalrights/grigory-okhotin/crowdfunding-to-bypass-russia-s-civil-society-crackdown).

<sup>53</sup> See <http://www.cnn.com/2015/05/02/crowdfunding-generates-millions-for-nepal-earthquake-.html>.

<sup>54</sup> See [www.internationalbudget.org](http://www.internationalbudget.org).

<sup>55</sup> Contribution from Women and Law in Southern Africa Research and Education Trust (Zimbabwe).

<sup>56</sup> See A/69/365 and <http://foreignpolicy.com/2016/07/19/its-time-for-development-banks-to-start-listening-maina-kiai/>.

Climate Change saw the active participation of a strong grass-roots movement that is prepared to mobilize around the systemic changes needed to tackle the causes, and not just the symptoms, of global warming.<sup>57</sup>

67. In many regions, the unsustainable exploitation of natural resources has led to community resistance through protests, for example to draw attention to injustices, foster debate about the roles and responsibilities of actors or put a stop to exploitation activities. One example is the series of protests against the Dakota access pipeline in the United States, which were led by indigenous populations whose land is affected by the project. Despite efforts by the authorities to disperse the protestors, the demonstrations drew national and international attention and constituted the largest gathering of indigenous people in the United States for a generation. Although the protest campaign did not ultimately succeed in stopping the project, it did garner the support of diverse civil society actors, including presidential candidates, environmental activists and celebrities, and led to recommendations on the effective engagement of indigenous peoples in infrastructure-related projects.<sup>58</sup>

68. Civil society groups in Gabon and Peru have engaged with corporations from China over the financing or implementation of projects that would have violated the rights of indigenous peoples and had adverse environmental repercussions. In Gabon, corporations suspended the financing of the project until concerns were addressed, while in Peru the companies concerned decided not to pursue drilling for oil in the contested areas.<sup>59</sup>

69. In the Philippines, farmers' organizations have pushed an agrarian reform agenda, including land titling and the strengthening of farmers' organizations, to help them provide direct services to farmers, such as appropriate farming technologies, and to find markets for their produce. They have also encouraged farmers to use soil and water conservation techniques.<sup>60</sup>

70. In the early 2000s, a union of informal self-employed waste pickers in Pune district in India advocated for a planned and sustainable approach to solid waste management that included the segregation of waste at source, the separate collection of non-domestic waste and recycling, among other strategies. The union also argued for a user fee-based door-to-door waste collection initiative as an alternative to the privatization of waste collection and management services. In 2008, this initiative was approved and the union, through a wholly worker-owned cooperative, now provides environmentally sustainable waste management. Just as importantly, it has also successfully defended the right to livelihood for informal workers who were previously excluded from the formal workforce.<sup>61</sup>

71. Sustainable development must necessarily include the next generation of leaders, meaning that children and young people are a crucial constituency. In the Special Rapporteur's view, maintaining strong civil societies — with a view to building strong and democratic States in the future — requires mentoring and inspiring upcoming generations. He is therefore encouraged by the successes of youth movements in drawing attention to pressing injustices. For example, the “umbrella movement” in Hong Kong, China in 2014, mobilized young people (as well as the general population) into political activism and participation in public affairs, including standing for elected office. Likewise, students in South Africa in 2015-2016 advocated for the transformation of higher education to correct the historical legacies of apartheid.

## 5. Raising awareness

72. Creating change requires a thorough understanding of a problem, as well as the appropriate skills to address that problem. Raising awareness and closing the knowledge gap between ordinary people and those with greater access to power and resources — e.g.

<sup>57</sup> See [www.tni.org/en/article/cop21-charades-spin-lies-and-real-hope-in-paris](http://www.tni.org/en/article/cop21-charades-spin-lies-and-real-hope-in-paris).

<sup>58</sup> See [www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=21290&LangID=E](http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=21290&LangID=E).

<sup>59</sup> See A/HRC/31/60/Add.1, paras. 73-74.

<sup>60</sup> Contribution from We Effect (Philippines).

<sup>61</sup> Contribution from Women in Informal Employment: Globalizing and Organizing.

governments and business — levels the playing field and opens up opportunities for more diverse interests to shape decisions and governance. Civil society is an important source of both information and skills, often filling gaps left by other sectors and fostering creative and novel approaches to addressing concerns.

73. Civil society groups may seek to raise awareness of an issue in order to galvanize public opinion and demand accountability. This was the case with the peaceful assemblies organized by Bersih in Malaysia, which highlighted electoral flaws and offences and helped to sensitize Malaysians to the need for “clean” elections.<sup>62</sup> Similarly, information leaks by whistle-blowers can expose original documentation that raises awareness about problems that may have been relatively unknown to the public, such as the extent of mass surveillance and the collection of private citizens’ data. Civil society groups such as Witness also provide training to people around the world on how to use video safely, ethically and effectively to expose human rights abuses and fight for human rights.<sup>63</sup> Furthermore, Amnesty International’s campaigns for the release of prisoners of conscience have served as both a beacon of hope and a model for civil society action since 1961.<sup>64</sup>

74. Civic action may have a deeper aim of sparking or changing the prevailing narrative or discourse or bringing to light obscure or repressed information. The Documentation Center of Cambodia, in the belief that knowledge of past events is crucial to preventing future atrocities, has engaged in a long campaign advocating for the teaching of the Khmer Rouge period in schools. In 2011, the Ministry of Education agreed to include this period of history in the national school curriculum.<sup>65</sup> In Indonesia, civil society groups stage literary and film festivals to promote discussion about the State-sponsored purges in 1965/-1966 that led to the killing of hundreds of thousands of Indonesians.<sup>66</sup> Moreover, civil society work to abolish the death penalty has resulted in a dramatic increase in the number of countries that have outlawed the practice. In 1977, the death penalty was banned in only 16 countries;<sup>67</sup> today, roughly 140 countries have abolished it in law or practice.<sup>68</sup>

75. Knowledge may be directed at helping organizations develop effective working methods. An example of this is approach is the New Tactics in Human Rights programme, which has been credited with helping human rights activists in various countries become more effective through strategic thinking and tactical planning. For example, a group in Tunisia has used skills and resources from the New Tactics programme to carry out a successful campaign to make public transport accessible to persons with disabilities.<sup>69</sup>

76. Sharing information, knowledge and skills can be a means to build consensus on issues such as normative standards in a particular field. For example, data collected since 2009 by the Global Network of Domestic Election Monitors, a platform for exchanging best practices, resources and lessons learned on election monitoring, has fed into a widely endorsed set of norms and principles to guide election observation. These norms have helped to counter pushback against nonpartisan election monitoring activities in closed societies.<sup>70</sup> Civil society’s prison reform work also played a central role in informing the revised version of the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules), which were released in 2015.<sup>71</sup>

<sup>62</sup> Contribution from Bersih (Malaysia).

<sup>63</sup> See <https://witness.org/>.

<sup>64</sup> See [www.amnestyusa.org/our-work/issues/prisoners-and-people-at-risk/prisoners-of-conscience](http://www.amnestyusa.org/our-work/issues/prisoners-and-people-at-risk/prisoners-of-conscience).

<sup>65</sup> See <https://www.usip.org/publications/2015/04/cambodias-schools-breaking-silence-over-killing-fields>.

<sup>66</sup> See <https://www.theguardian.com/books/2015/oct/23/indonesian-writers-festival-forced-to-cancel-events-linked-to-1965-massacre>.

<sup>67</sup> See [www.amnesty.org/en/what-we-do/death-penalty/](http://www.amnesty.org/en/what-we-do/death-penalty/).

<sup>68</sup> See [www.amnesty.org/en/latest/news/2016/04/death-penalty-2015-facts-and-figures/](http://www.amnesty.org/en/latest/news/2016/04/death-penalty-2015-facts-and-figures/).

<sup>69</sup> Contribution from Center for Victims of Torture (United States).

<sup>70</sup> Contribution from the National Democratic Institute.

<sup>71</sup> See [www.penalreform.org/news/mandela-rules-on-prisoner-treatment-adopted/](http://www.penalreform.org/news/mandela-rules-on-prisoner-treatment-adopted/).

## 6. Cultivating alliances

77. In our increasingly interconnected world, no single association or sector can work in isolation. Values such as solidarity and cooperative relationships (in addition to countervailing ones) characterize civil society's interactions with other actors within and outside of a sector, with like-minded groups and even with those that have disparate ideas. These interactions help to create unlikely allies, to encourage the kinds of debate and discourse that define civil society as a public space for engaging with ideas and to develop a reservoir of strategies to use in accomplishing goals.

78. Civil society constantly uses alliances and collaboration to address complex problems that benefit from the involvement of multiple stakeholders; it also typically has experience of bringing marginalized and excluded voices and interests to the table. Despite the fact that civil society, governments and the private sector may have conflicting objectives, collaboration is increasingly necessary because of the nature of the interconnected world in which we live and the fact that we might find solutions to society's problems by harnessing each sector's advantages.

79. A number of coalitions and alliances have brought together groups within civil society to achieve a common goal, despite their different or competing interests. For example, the 2015 Nobel Peace Prize laureates — the Tunisian National Dialogue Quartet — embody the role that civil society can play in strengthening a flagging democratization process in a fragmented society. The Quartet's success hinged on its willingness to work with a broad array of actors towards compromise and negotiation. They achieved success despite internal differences, even rivalries, among the groups representing trade unionists, employers, lawyers and human rights activists, as well as political and ideological differences characterizing the transition to democracy.<sup>72</sup>

80. Similarly, collegiality and trust rather than competition characterized the International Consortium of Investigative Journalists' collaboration with more than 100 media partners to analyse and then simultaneously publish the "Panama Papers" — a large leak of financial and legal records that exposed a system of secret offshore companies that enable crime, corruption and wrong-doing, largely hidden from the public eye.<sup>73</sup> Alliances across different disciplines within civil society, such as collaboration between human rights activists and the arts sector, encourage the making of films, theatre and images to convey, in compelling ways, human rights messages to the public.<sup>74</sup>

81. Partnerships between civil society and government have led to positive development outcomes in many countries, particularly at the local level. For example, civil society in the State of Palestine predates political structures such as the Palestinian National Authority, but is increasingly partnering with local authorities to address persistent socioeconomic problems, including by pioneering ideas such as cooperative housing.<sup>75</sup> A strategic partnership between the popular participation committee of the Minas Gerais state parliament in Brazil and a movement of waste pickers, the State Waste and Citizenship Forum, resulted in a solid waste policy that recognizes and explicitly includes the role of informal waste pickers in the state's waste management efforts.<sup>76</sup>

82. A successful collaboration between SEWA Bank, a microfinance institution operated by the Self Employed Women's Association, and the Gujarat Mahila Housing Trust, a women-run sister organization that addresses issues relating to the living conditions of poor self-employed women, is credited with broadening the impact of the bank's credit assistance programme beyond simply providing housing to individuals. The Trust supports the bank's housing work by bringing members' voices into urban planning processes, supporting local mobilization and providing technical assistance, and works with

<sup>72</sup> See [www.nobelprize.org/nobel\\_prizes/peace/laureates/2015/press.html](http://www.nobelprize.org/nobel_prizes/peace/laureates/2015/press.html).

<sup>73</sup> See <https://panamapapers.icij.org/blog/20160425-data-tech-team-ICIJ.html>.

<sup>74</sup> See contribution of Irish Council for Civil Liberties.

<sup>75</sup> Contribution from We Effect (State of Palestine).

<sup>76</sup> Contribution from Women in Informal Employment: Globalizing and Organizing.

specialized housing finance and urban planning stakeholders, such as local government and private contractors.<sup>77</sup>

## 7. Shared humanity

83. Civil society collectives have been credited with contributing to poverty reduction and emergency relief by meeting basic needs and providing public services to communities at the margins. Whether formally or informally, the less fortunate in many societies depend on social structures such as community groups and friendship ties; such groups may also improve people's lives by pooling community resources or collectively seeking external assistance.

84. Whereas the State might provide tangible goods and services that the poor may need, civil society groups provide avenues for them to share their experiences and contribute to a more comprehensive analysis of the responses. Civil society also goes beyond meeting basic needs by contributing to the empowerment of beneficiaries and ensuring the sustainability of initiatives. In Bangladesh, for example, the Bangladesh Rural Advancement Committee has provided much needed basic services to millions of poor people. Their package of services has evolved from disaster relief to empowerment through education, health services, agriculture and income generation for lasting change.<sup>78</sup>

85. The diversity of civil society enables it to respond to emergency situations in a variety of ways, from providing immediate essentials to medium- and long-term aid. In emergency situations, partnerships with civil society are often necessary to provide longer-term aid because government resources are stretched and focused on the immediate crisis. For example, at the height of the Ebola crisis in West Africa, most government resources were focused on the needs of patients affected by the virus.<sup>79</sup> Of course, civil society groups also contributed greatly to the initial response. However, they also recognized the devastating and long-term effects that Ebola would have on society as a whole, including on children's access to education and the country's broader socioeconomic development; the work of the national education coalition Education for All Sierra Leone on these issues is one example of civil society's contribution.<sup>80</sup>

86. In the area of service delivery, civil society is in a relatively better position than the State or private enterprise to demonstrate the value of shared humanity of those ravaged by conflict, natural disasters and other crises. In Europe, the recent influx of refugees provided civil society groups with an opportunity to show humanity to those fleeing conflict and oppression in their home countries, a role that European Governments were either unwilling or unable to play.

87. At the migrant camp known as "the jungle" in Calais, France, where in October 2016 an estimated 7,000 to 9,000 asylum seekers waited in the hope of gaining entry to the United Kingdom, volunteers and international aid agencies were the primary providers of much needed basic supplies.<sup>81</sup> Volunteers elsewhere strove to address non-material concerns, such as countering anti-immigration sentiment and providing support services, including language, art and skills classes — services that civil society and individuals, working at a person-to-person level, are best placed to provide services.<sup>82</sup>

88. Although, in many cases, civil society steps in when governments withdraw or otherwise fail to provide public services, civil society can also challenge this withdrawal and push for reform of policies that deny much-needed services. In South Africa, the Treatment Action Campaign used a multifaceted approach to force the Government to reverse a policy decision to not provide antiretroviral drugs to individuals infected with

<sup>77</sup> Ibid.

<sup>78</sup> See [www.brac.net/#what\\_we\\_do](http://www.brac.net/#what_we_do).

<sup>79</sup> See [www.doctorswithoutborders.org/article/sierra-leone-front-line-fight-against-ebola](http://www.doctorswithoutborders.org/article/sierra-leone-front-line-fight-against-ebola).

<sup>80</sup> See [www.globalpartnership.org/blog/civil-societys-response-ebola-crisis-sierra-leone](http://www.globalpartnership.org/blog/civil-societys-response-ebola-crisis-sierra-leone).

<sup>81</sup> See <http://time.com/4504479/calais-jungle-migrants-volunteers-teachers/>.

<sup>82</sup> See [www.opendemocracy.net/transformation/honour-bayes/meet-dancers-who-are-making-refugees-welcome](http://www.opendemocracy.net/transformation/honour-bayes/meet-dancers-who-are-making-refugees-welcome).

HIV, including pregnant women who risked passing the virus to their newborn children.<sup>83</sup> Globally, the Clinton Health Access Initiative has used its leverage with pharmaceutical companies to negotiate drastically reduced prices for HIV/AIDS drugs, helping to ensure the supply of those drugs to people in lower income countries.<sup>84</sup>

#### **IV. Conclusions and recommendations**

89. Civil society has a long history of contributing to freedom, dignity, development, peacebuilding and other pursuits that enhance human well-being. However, perhaps civil society's most important contribution has been its ability to give people hope. While this achievement may not be quantifiable, it is the starting point for every tangible success listed above. Without hope, there is no action and there is no change.

90. Unfortunately, the actions of many State and non-State actors throughout the world today are attempting to destroy that hope, and civil society's future contributions are far from guaranteed. The trend for closing civic space — laws and practices that restrict civil society's ability to operate — is threatening to take the air from civil society's lungs. This is unfortunate because it is both a self-destructive and short-sighted move, even for those orchestrating the closure. Repression today may help a government silence a critic tomorrow or boost a business' profits the next day — but at what cost next month, next year and for the next generation? The present report makes it clear that those costs would be monumental and would touch us all — regardless of geography, gender, wealth, status or privilege. Imagine a world without civil society. That world is bleak.

91. In the spirit of encouraging a more hopeful future, supported by a more vibrant civil society, the Special Rapporteur recommends that States:

(a) Recognize in law and in practice that civil society plays a critical role in the emergence and continued existence of effective democratic systems;

(b) Ensure that conducive legal, political, economic and social environments exist for civil society to freely operate, including by ensuring that the rights to freedom of peaceful assembly and of association and other human rights are enjoyed by everyone, without discrimination;

(c) Ensure that civil society and private enterprises are treated equitably in law and in practice;

(d) Ensure that any restrictions to the rights to freedom of peaceful assembly and of association are prescribed by law, are necessary in a democratic society, are proportionate to the aim pursued and do not conflict with the principles of pluralism, tolerance and broadmindedness;

(e) Ensure that victims of human rights violations and abuses are able to obtain timely and effective remedy and redress and safeguard civil society's ability to provide the full range of support necessary to achieve this;

(f) Recognize civil society's legitimate role and interest in pursuing accountability and take measures to establish independent judicial and administrative mechanisms to facilitate accountability;

(g) Take all measures necessary to ensure that civil society can participate in decision-making processes and in public affairs at the domestic and international level, without discrimination or undue restrictions;

<sup>83</sup> See <https://academic.oup.com/jhrp/article/1/1/14/2188684/South-Africa-s-Treatment-Action-Campaign-Combining>.

<sup>84</sup> See [www.clintonfoundation.org/our-work/clinton-health-access-initiative/programs/hivaids](http://www.clintonfoundation.org/our-work/clinton-health-access-initiative/programs/hivaids).

(h) **Implement thorough and consistent policies that emphasize the importance of substantive engagement with civil society organizations at the domestic and international levels and facilitate such engagement in a comprehensive manner;**

(i) **Take positive measures to ensure that all individuals belonging to marginalized and other groups most at risk have the ability to effectively exercise their rights and participate in decisions that concern them;**

(j) **Encourage and facilitate innovation within civil society, including by ensuring unimpeded access to, and use of, information and communication;**

(k) **Recognize and respect the significance of civil society as a stakeholder in fostering sustainable development, particularly in the context of natural resource exploitation and the conservation and management of environmental resources;**

(l) **Ensure the ability of civil society to seek, receive and use funding and other resources from natural and legal persons, whether domestic, foreign or international, without undue impediments;**

(m) **Recognize and facilitate civil society's role in assisting those facing humanitarian crises, without abdicating the State's responsibilities under international law, including those relating to migrants, refugees, conflict prevention and disaster mitigation.**

92. **The Special Rapporteur encourages civil society to:**

(a) **Maintain and strengthen its role in advancing the ideals set out in the Charter of the United Nations and the Universal Declaration of Human Rights;**

(b) **Consider increasing research into, and documentation of, civil society's achievements and successes, in order to promote incentives to protect civic space.**

93. **The Special Rapporteur recommends that businesses:**

(a) **Recognize the significant value that civil society adds to building democratic, fair and just societies that benefit business interests and thus take a more proactive role in supporting and influencing measures that enhance civic space;**

(b) **Work collaboratively with civil society where interests align to shape solutions that benefit society.**