

Discussion Paper

Civil society threatened all over the world

For just development, environmental protection,
democracy, human rights and peace



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Independent, vibrant and critical civic engagement is characteristic of pluralistic and democratic societies. It promotes political discussion about ideal solutions, initiates processes of change and contributes through participation in political and social processes and decisions to greater representation and legitimation. Civil-society organisations call on governments, enterprises and other actors to assume more responsibility and act transparently in the case of human rights violations and corruption. Thus, they exercise crucial control functions in democratic societies. The involvement of initiatives, associations, social movements, grassroots organisations, non-governmental organisations and human rights campaigners in political processes and their engagement for others is an important precondition for just development, environmental protection, democracy and the protection of human rights.

Civil-society actors frequently support people who would otherwise be beyond reach or who are particularly vulnerable, including women, children, sexual or gender minorities and others subjected to discrimination, and give a voice to victimised and socially excluded groups. In cases of conflicts, fragile states or transformation processes, civil-society actors can maintain important social structures and contribute to peace development. Their work depends on freedom to act and functioning state protective mechanisms.

Governments also underline the importance of civil societies, for example in Agenda 2030, the 2011 Declaration of Busan or the United Nations 1998 Declaration on Human Rights Defenders. Through the ratification of conventions on universal human rights, states have committed themselves to international human rights, which form the most significant international frame of reference for the civil-society sphere of action.

Civil society increasingly threatened

Yet, many states continue to violate the very human rights conventions they have committed themselves to respect. Civil-society organisations continue to address such grievances and consequently become themselves victims of repression and violence perpetrated by both state and non-state groups, and are subjected to restrictions through legal initiatives and administrative action. This has become a worldwide trend. Civicus, the World Alliance for Citizen Participation, revealed in 2016 that six of seven global citizens live in countries that to varying extents restrict universally recognised human rights (above all freedom of association, expression and assembly) of citizens, activists and their organisations.¹

Social movements, communities and civil-society organisations often become subject to defamation, intimidation and criminalisation if they address political, economic or environmental issues. Due to state pressure in some countries, civil society eventually begins to practise self-censorship when releasing statements or planning actions intended to protect campaigners and their families. Civil-society organisations and activists who defend certain social groups and minorities are facing the denial of their right to exist and also physical and psychological threats.

¹ According to CIVICUS, in 2015, 109 states restricted freedom and civil rights (<http://civicus.org/images/CSW-Report.pdf>)

Repression, bureaucratic and legal restrictions

In many countries, civil-society activists and staff are experiencing repression, attempts at intimidation, public discrediting, arbitrary arrests and violence. In some cases, their lives or their physical integrity are endangered, or they are even subjected to torture and illegal confinement. Women's rights defenders additionally suffer specific forms of oppression, including sexualised violence. Repression and intimidation against civil societies are initiated by state and non-state actors alike and are tolerated by many states. Media additionally enforce defamation through targeted campaigns and incitement to violence. Frequently, bloggers and journalists are severely threatened and hampered in their work, and therefore they cannot defend themselves against established media and their campaigns against civil society. All this significantly impacts economic, social and cultural human rights and development, as the restriction of civil and political rights jeopardises the commitment to respect, protect and safeguard economic, social and cultural rights. Defenders of these rights are often the ones most severely affected by persecution and intimidation.

Awareness of civil-society rights and their democratic functions are scarcely developed in some countries. Criticism of governments and state organisations is understood as unpatriotic and a threat to the internal political order by segments of local populations. Activists, organisations and representatives of victim groups are often exposed to intimidation and threats within their own societies. Frequently their actions are banned in public spaces. Some states even deny civil-society actors protection by refusing to implement existing laws or develop urgently needed legislation. There are no serious investigations of crimes against activists, and in many cases the perpetrators of violence benefit from universal impunity.

Apart from these repressive measures, civil-society organisations are legally and bureaucratically restricted, harassed and persecuted. Frequently, anti-terror, security, internet and media legislation, as well as criminal law are implemented to infringe on civil and political human rights and thus on the space for action of civil society in many countries. Restrictions are also the result of repressive NGO legislation and regulations that limit the transfer of foreign funds. Among the obstacles are bureaucratisation, over-regulation, rigid interpretation of regulations in the area of registration processes, control of financing possibilities from abroad, tax restrictions and the abuse of laws and regulations.

What are the causes of repression?

Repression against civil-society actors mostly occurs in countries where governments fear the loss of political and economic power, which they try to fight by safeguarding individual economic interests. When NGOs launch protests and legal proceedings against human rights violations and environmental pollution in areas such as land grabbing, large-scale projects in the energy sector, extraction of raw materials and offshore oil production, (which also benefit European companies), it is particularly disruptive for emerging markets trying to catch up economically. Further elements, such as the race for scarce mineral deposits and other resources, as well as dwindling fossil fuel supplies further exacerbate the situation. Usually, activists address violations of national law and environmental and social standards by investors and enterprises. But instead of the latter being reminded to comply with these standards, it is again and again activists who are criminalised and defamed.

Efforts to stay in power strongly impact the attitudes of governments towards civil-society actors. Thus, autocratic systems tend to increase repression and systematic restrictions by introducing new laws or legislative changes, particularly before and after elections. They also energetically

strive to block mass demonstrations for more democratic participation, as we have witnessed in cases such as the so-called »Arab Spring« or in Ethiopia or Russia.

The situation of Germany's civil society

Germany's civil-society actors are facing challenges as well, both at home and in cooperation with international partners – though on a different level from that of many other countries. Investigations of crimes against journalists in 2015 and the insufficient protection of whistle-blowers show that there are also deficiencies in the treatment of German civil-society actors. Lately, it has become clear in the context of civic engagement and coverage in the area of refugee work and integration that organisations and individuals have been subject to hostile action, defamation and threats. Some politicians fuel this mood with thoughtless or purposely incendiary statements.

Deficiencies continue to be found as well in German legislation: Different interpretations of the German tax code aggravate the legal situation of non-profit organisations that mainly work in political and social fields. Given the importance of a politically active civil society, organisations for the development of informed political opinion should be given clear legal status as non-profit organisations.

Civil-society organisations working at the international level are directly affected if their local partner organisations or local offices are subject to defamation, attacks or restrictions. In such cases, quick and functioning international protection mechanisms are of utmost importance.

In cooperation with local partner organisations, many German organisations are seeing that Germany's global political and economic engagement lacks coherence in various political sectors, such as German policy for human rights, foreign trade, global security, development and migration. Consequently, Germany is losing credibility and weakening parts of local civil societies, while supporting highly questionable regimes – and that must change.

Demands for the Federal Government:

Improvement of the coherence of its policies: Trade, development, migration or security policy must not harm human rights or civil society engagement: The Federal Government should introduce a screening process that ensures that political decisions and activities at German or European level have no negative impact on human rights or civic space in other countries, e.g. by general anti-terror measures, by the export of armaments or surveillance technology: By introducing binding and appropriate risk assessments, the Federal Government should ensure that political decisions and measures on German or European level have no negative impact for human rights or the space of civil society in other countries.

Commitment to the participation of civil society actors at international political and negotiation processes, as well as at national level in partner countries: The Federal Government should work towards the expansion and defence of civil society space in international organisations, fora and negotiation processes. This should also be addressed at EU and UN level. In this regard, specific attention should be given to include marginalised and discriminated groups and their representatives. Along these lines, civil society should be better involved in the implementation of the Agenda 2030 (SDGs). International mechanisms and fora for a better exchange between states and civil society should be established.

Strong commitment in intergovernmental negotiations and consultation for the recognition of civil society rights in partner countries and effective engagement against restrictions to the space of human rights defenders and civil society organisations: At the same time, the Federal

Government should contribute to dismantling repressive structures and to establishing and implementing protection mechanisms for civil society at international and national level.

Legal provisions for human rights due diligence for companies: In order to ensure that German companies are aware of and work to counter human rights risks of their business activities in foreign countries, the Federal Government should establish legal obligations. Human rights risk assessments by companies which would also include possible threats for human rights defenders and other civil society actors must be compulsory. Failure to implement human rights due diligence should be sanctioned. Additionally, effective conditions and assessments are necessary for public procurement and export business assistance. No investments which could contribute to threats for human rights defenders or other civil society actors should be financially supported by the Federal Government.

Specific Demands for the Federal Foreign Office

A) Systematic reactions to systematic repressions

- **Development of early warning systems** which cover systematic monitoring by embassies of fundamental freedoms, laws and rules for civil society organisations. Civil society must be involved in these processes.
- **Engaging against repressive legislative initiatives** and existing repressive laws together with EU delegations and other EU member states
- **Support for civil society and human rights defenders** by maintaining constant contact with local human rights organisations and through clear, precise and consistent statements as provided for in the EU Guidelines on Human Rights Defenders: Public statements show solidarity with a threatened civil society and influence other actors. This can be accompanied by discreet measures, but it cannot be replaced by them. In situations of acute threats, the German embassies should take a more active role in the country and also guarantee protection for threatened persons through facilitation of visas.
- **Improvement of international networking and cooperation** on this issue, for example by participating in the Enabling Environment working group of the Community of Democracies
- Committing in the Human Rights Council of the United Nations **for the inclusion of the situation of civil society in the compulsory section** of the regular UPR Reports in the framework of the monitoring process of the UN Human Rights Council
- **Integration of local civil society organisations** in the design of policies, for example in the development of country strategies for human rights. On this point, consideration of particularly vulnerable groups such as women, children and minorities is important.
- Commitment at EU level to the drafting, passing and implementation of **EU guidelines on freedom of assembly and freedom of association**
- **Engagement on the duty of states to protect and on the combatting of impunity:** Demanding effective investigation of human rights abuses and effective findings and criminal proceedings in cases of crimes against human rights defenders and other civil society actors.

- **Actively informing companies of human rights risks and risks for civil society** through embassies. Embassies should gather country-specific information about human rights risks and actively advise companies. Embassy employees should receive appropriate training. In these protected spaces, the diplomatic missions can, where necessary, offer to facilitate initial contact between German companies and local civil society organisations.

B) Concretisation and binding implementation of the EU Guidelines for Human Rights Defenders in all diplomatic missions

- **Commitment at EU level to:**
 - a) **The strengthening of human rights capacities in EU delegations:** More positions in EU delegations which deal with human rights and human rights defenders and which can provide protection locally
 - b) **Dissemination and translation of the EU Guidelines** through EU delegations into local languages, along with the naming of contact persons and stating contact options for emergencies and of financial support in emergencies
 - c) **Sanctioning of serious human rights abuses:** Concrete measures against persons responsible for human rights offences (eg. military personnel, members of governments) such as travel restrictions, freezing of foreign accounts, use of international criminal law
- **Simplification and acceleration of visa-issuing processes** for human rights defenders
- **Mandatory anchoring of knowledge of the EU Guidelines:** The EU Guidelines and their implementation should form part of eg. the curriculum of future diplomats.

Specific Demands for the Federal Ministry for Economic Cooperation and Development

A) Strengthen civil society space in development cooperation

- **Prioritisation of human rights** and space for civil society as guidelines of the national development policy. The Human Rights Plan of the Federal Ministry for Development Cooperation, which was approved in 2011, and in which human rights are elevated to binding principles of German development policy, as well as the examination process contained in the plan, must be implemented in a binding manner, taking into account the affected civil society.
- **Recognition of the key role of the right to freedom of expression, freedom of association and freedom of assembly** in development cooperation, and the strengthening of these rights in national development cooperation (particularly in the area of governance, but also in the areas of environment, justice, media, and other areas in which critical civil society is active)
- Better use of available scope, through financial and technical development cooperation, against systematic restrictions of freedom of association and freedom of assembly by the state: **Coherent, human rights based development policies**
- **Expansion of exchange and consultation with local civil society actors and human rights defenders** for state development cooperation. These exchanges should take place regularly; they should reflect the plurality of local civil society; and they should enable real participation.

- **Strengthening of local civil society actors with respect to the relevant governments** through active involvement and support in projects and fora as well as in institutional support of civil society organisations.

B) Rethinking of Standards of Development Cooperation for Civil Society Recipients

- **Facilitation of more flexible support:** for example through institutional support or emergency help for civil society organisations under pressure
- Facilitation of **exceptions to the standards and processes for civil society organisations under pressure** (for example for regulations regarding outflow of funds, number of audits, number/comprehensiveness of reports, etc.)

Specific Demand for the Federal Ministry of Finance

- **Commitment to the Removal of Recommendation 8 of the Financial Action Task Force (FATF)**, which views non-profit organisations as being at risk of being misused for the financing of terrorism and which therefore demands a large degree of state monitoring for non-profit organisations. In the past, this has contributed to repressive NGO laws or legitimised them.

Specific Demands for the Federal Ministry for Economic Affairs and Energy

- **Consideration of the human rights situation** and repressive policies toward civil society in **decisions on exports of armaments, dual use equipment and surveillance technology**
- **Implementation of due diligence with regard to human rights as a condition for state aid** such as, for example, in the promotion of foreign trade or for public procurement contracts
- **Sanctioning of breaches of the OECD Guiding Principles** and the establishment of an independent National Contact Point of the OECD (*Nationale Kontaktstelle, NKS*) outside of the Federal Ministry for Economy and Energy

Specific Demands for the Federal Chancellery

- **Protection of freedom of expression and freedom of the press worldwide through a formulation of the Federal Intelligence Agency (*Bundesnachrichtendienst, BND*) Law that is compatible with fundamental rights:** No surveillance by the BND of human rights defenders in non-EU countries
- **Placing of the issue in the framework of pending negotiations** in the upcoming G7 and G20 meetings and in the context of the implementation of Agenda 2030

Imprint

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Design

just in print, Bonn

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