

Transparency International Anti-Corruption Helpdesk Answer

Parliaments and Civic Space

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Civic space continues to shrink around the world, with evidence indicating a rise in state surveillance of civil society, monitoring and suppression of online spaces and tools, arrest and prosecution of citizen and civil activists, and the introduction of administrative/regulatory bottlenecks which hamper and frustrate the work of civil society organisations (CSOs). While the executive branch of government is more commonly associated with such restrictions, parliaments too play an important role in shaping civic space through legislative and oversight functions. For instance, parliaments can introduce legislation to protect and promote civic space or use their oversight powers to hold the executive accountable for civic space restrictions. Parliaments can also contribute to a further shrinking of civic space through, for example, enacting restrictive legislation, as recently seen in countries such as Cambodia, Georgia, Malawi, Nigeria, Venezuela and Zimbabwe. Civil society can employ a range of strategies, including advocacy actions, leveraging international standards and platforms as well as building coalitions to support and engage with parliamentarians on defending and strengthening civic space.

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Query

Please provide an overview of the role played by parliaments in restricting and defending civic space, including some country examples (preferably from the Global South).

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Introduction

Civic space reflects the conditions that allow civil society and individuals to organise, communicate and participate in public life without overt restrictions or discrimination (Keutgen and Dodsworth 2020; OECD 2022). A vibrant civil society is an important cornerstone of democracy as it improves the culture of accountability and transparency, strengthens government effectiveness and responsiveness, and ultimately increases public trust in government (Sharma 2008; OECD 2022). When there is space for civic action, a country's governance processes are often characterised by the principles of transparency, accountability and public participation in decision-making (United Nations 2020).

However, civic space has been under threat, with civic space restrictions increasing in many countries

Main points

- Parliaments contribute to closing civic space through enacting restrictive legislation, falling short of ratifying international treaties and conventions, and failing to hold governments to account for civic space restrictions.
- Parliamentary enactment of laws is particularly impactful on civic space because it can confer formal legitimacy and endorse civil repression.
- Parliaments can defend civic space through proactively legislating measures that strengthen civic space, rejecting restrictive bills, as well as in exercising oversight of government's interactions with citizens and CSOs.
- Targeted advocacy and strategic engagement, along with raising awareness and building relevant capacity of parliamentarians are key ways to encourage parliaments to protect civic space.

across the world. According to the latest data on civic space monitoring by CIVICUS (2023a), only 3.2 per cent of the global population live in countries with open civic space (Civicus 2023a). Evidence shows that citizen and civil society voices are being muzzled in a variety of ways, including a rise in state surveillance of civil society, monitoring and suppression of online spaces, the arrest and prosecution of watchdogs, activists and right defenders, transnational repression and administrative/regulatory bottlenecks to hamper and frustrate the work of civil society organisations (CSOs) (Article 19 2021, 2022a; Civicus 2023a). Tighter controls and restrictions, often escalating to physical threats and attacks on media and CSO representatives, are also being reported more frequently. In 2022, around 200 CSOs were de-registered in Nicaragua, with reports suggesting that the primary objective of this decision was to neutralise or limit dissent of the government (The Guardian 2022).

Reinforcing this trend, legal measures are being introduced in several countries to formally restrict media and civil society rights and freedoms. For instance, in South Korea, the national security act has been criticised by civil society as “being used to suppress the free flow of information, restrict the freedom of the media and criminalise certain forms of expression” (Article 19 2022b). In Turkey, civil society claim the government has resorted to extending state of emergency provisions, forcing the closure of media outlets, blocking and filtering news sites, along with the reported arrests, trials and harassment of journalists, civil society and academics (Article 19 2019; Human Right Watch 2022).

The COVID-19 pandemic further empowered governments to increase restrictive measures at the

expense of civic freedoms. According to Lorchi, Onken and Sombatpoonsiri (2021), the pandemic was used as a pretext by some political authorities to consolidate power and introduce long-term measures which restrict civil society. In Thailand, for instance, an emergency decree that restricted freedoms of movement and assembly, was extended 13 times, despite declining rates of infection (Lorchi, Onken and Sombatpoonsiri 2021).

The shrinking of civic space has also been extended to digital platforms and spaces, with such technologies having emerged as an important civic engagement tool. Apart from reports of governments hijacking these spaces and platforms to harass and silence opposition and civic voices, restrictive laws, regulations and outright proscription are also being introduced to regulate the digital space (OECD 2020). A recent amendment to the internet law in Turkey, for instance, has extended the powers of the presidency and the telecom authority to block and remove online content within hours of a complaint (Article 19 2019).

While evidence of shrinking civic space is most commonly linked to actions by the executive arm of the state, the role of the parliament in shaping civic space, whether it is to protect or restrict such space, is under-emphasised. This Helpdesk Answer analyses the role of parliament in both respects.

International standards on protecting and promoting civic space

There are international laws and standards that relate to civic space. It is typically the role of national parliaments to ensure that these international standards are translated and

transformed into domestic legislation through their law-making function.

The [Universal Declaration of Human Rights \(UDHR\)](#) is the fundamental global standard that outlines an international obligation to protect the rights and freedoms of citizens. Several regional instruments supplement this global standard, including:

- [European Convention on Human Rights](#), the [EU Charter of Fundamental Rights](#)
- [African Charter on Human and Peoples' Rights](#)
- [Asian Human Rights Charter](#)
- [American Declaration of the Rights and Duties of Man](#)

While each of these regional instruments provide for the protection of a wide range of civic freedoms and human rights, the vibrancy of civic space and the success of CSOs operating therein largely depends on the existence of an appropriate enabling environment at the country level.

To this end, there are several legal provisions which require governments to translate international laws and standards into national laws and provide an enabling environment for citizens and CSOs such as:

- Article 12 of the African Union Convention on Preventing and Combating Corruption, which requires states parties to provide an environment which enables civil society and media to hold governments accountable to the highest levels
- Article 13 of UNCAC, which encourages governments to promote the active participation of CSOs in the prevention of and the fight against corruption and to raise public

awareness on the existence, causes, extent and the threat of corruption

Role of parliament in safeguarding and expanding civic space

Parliaments play an important role in shaping civic space, particularly through their law-making and oversight functions.

Safeguard and expand civic space through parliament's law-making function

It is important to supplement international laws and standards with national laws that guarantee basic civil rights. Parliaments, through law-making and the domestication of relevant international laws and standards, can expand and defend the civic space.

Parliaments are responsible for ensuring that domestic laws comply with international commitments and standards, such as on freedom of expression, peaceful assembly, freedom of association, right to privacy and non-discrimination and others as provided in the international laws and standards. An example is the significant progress in freedom of information (FOI) laws across Africa. Though levels of implementation vary, many African countries now have legal provisions supporting FOI (UNESCO 2021).

In addition to ensuring legal backing for civil liberties, a suitable enabling environment is crucial to civic space. Parliaments, through their law-making function, are especially important in influencing the operating environments for CSOs. Parliaments can, for example, ensure that a country's legal framework supports, rather than

restricts, civil society to register, engage in various activities, access different sources of funding, report and participate in civic life.

Some of the typically problematic legal provisions include labelling NGOs as “foreign agents” if they reach a certain threshold of international funding (Dodsworth and Cheeseman 2018; Keutgen and Dodsworth 2020). According to a study by Amnesty International (2019), there are at least 50 countries with such provisions or where laws containing such provisions are in the pipeline. Parliaments thus stand to play a decisive role in ensuring that these legal provisions do not come into force.

When a bill or legislative amendment is proposed or introduced in parliament, parliamentarians are best placed to investigate the impact of the proposed laws on civic space and may reject provisions which restrict it. In doing so, parliaments can actively entertain views from alternative and dissenting voices on such proposed laws.

For instance, in 2013, parliamentarians in Kenya rejected proposed amendments to the Public Benefits Organisations Act 2013 which, among other restrictions, was introducing a 15 per cent cap on foreign funding for CSOs. This was a result of campaigns by CSOs against the passing of these amendments, including through the submission of impact assessment reports and open letters to parliament (see Baldus et al. 2019: 9-13)

Safeguard and expand civic space through effective oversight

Parliamentary oversight is the act and process through which parliaments hold government accountable. Oversight can therefore be used to provide an important check on government powers and protect civic space. Effective oversight will not only help protect civic space but it can also improve the quality of governance and help parliament achieve its foundational objective of ensuring government actions and policies reflect and represent the needs of the citizens.

Parliaments can deploy different oversight tools such as summons, interpellations, votes of no confidence and impeachment against the government for human rights violations or actions that restrict or constrain civic space. In 2022, the Ugandan senate proactively summoned the prime minister and party leaders in the senate to deliberate and find solutions to perpetual allegations of human rights violations in the country (Parliament of Uganda 2022).

Existing laws can also lead to unintended outcomes or be improperly implemented, resulting in a range of negative impacts on CSOs including restrictions on their funding, registration hurdles, etc. Post-legislative scrutiny (PLS), as an oversight tool, entails reviewing laws to ensure they are properly implemented and unintended impacts are detected and addressed. PLS is often carried out by parliamentary committees and help to ensure that laws benefit society as intended. Hence, MPs can scrutinise laws which have unintended consequences on civic space and amend or repeal them as a way of safeguarding and expanding civic space.

Safeguard and expand civic space through meaningful public engagement in parliamentary processes

Meaningful public engagement in parliamentary processes can send strong signals that parliaments respect space for public discourse and that all voices should be heard in the functioning of the legislature. According to the Global Parliamentary Report of 2022, parliaments can engage with CSOs and the public in the following areas (IPU and UNDP 2022: 21)

- i. information: keeping citizens and civil society well informed on parliamentary business
- ii. education: increasing citizen understanding of parliaments and the country's parliamentary process
- iii. communication: introducing and establishing channels and avenues for interaction between citizens and parliamentarians
- iv. consultation: building on collective knowledge to inform parliamentary work and processes
- v. participation: actively involving CSOs and the public in parliamentary processes

The engagement and participation of citizens and civil society presents an important opportunity to both expand and safeguard civic space. In expanding civic space, the inclusion of the public in parliamentary activities provides a venue and space for citizen voices to be heard in critical legislative decision-making. In safeguarding civic space, the inclusion of the public in parliamentary processes will allow citizens and civil society to provide important input into law-making processes and thereby oppose provisions or government actions that could lead to a shrinking of civic space.

Role of parliament in closing civic space

Though most restrictive actions against civic space are typically attributed to the executive, parliaments can also be enablers and perpetrators of civic space restrictions (Keutgen and Dodsworth 2020; Lorchi, Onken and Sombatpoonsiri 2021). Parliaments' contribution to the closing of civic space relates to the extent they enact restrictive laws and not hold governments to account for actions that restrict civic space.

Laws which restrict civic space are usually introduced, debated supported and eventually passed in parliament (Keutgen 2022). This is especially the case when a ruling party with a parliamentary majority use their majority status to push through restrictive legislation. For instance, in El-Salvador, despite appeals and campaigns against the foreign agent bill, the country's ruling party through its parliamentary majority, continues to advance the bill that will classify NGOs receiving funds from international sources as foreign agents (Keutgen 2022).

Restrictive laws enacted by parliament confer legitimacy and endorsement of civic space repression (Keutgen and Dodsworth 2020). These laws provide governments with a legal basis for restrictive domestic practices and empower them to deflect international criticism.

Another common trend linked to shrinking civic space backed by parliaments are efforts to use legislation to re-conceptualise or restrictively demarcate activities that are permitted by civil society (Dodsworth and Cheeseman 2018; Brechenmacher and Carothers 2019; Keutgen and Dodsworth 2020).

In Egypt, for example, laws prohibit and restrict civil protests, complicate the registration of NGOs and impose restrictions on funding from foreign sources and on the media and social media (Civicus 2023b). Despite resistance, the government is also set to implement the 2019 law that restricts NGOs from working on “societal development”. The law required NGOs to seek government authorisation before conducting and publishing research (Amnesty International 2023). Under Israel’s version of the foreign agent law, NGOs receiving funding from abroad above a certain threshold are labelled foreign agents (Civicus 2023b).

The parliament of Zimbabwe recently passed a law that essentially outlaws criticism of the government, and many are concerned that the law will be used to punish citizens, civil society organisations and political opponents of the ruling party (The Guardian 2023). The parliament also passed the “PVO bill” which regulates NGO activities in the country. Though the government said the law is targeted at stopping terror funding, there are concerns that the additional monitoring regulations could be used to stop and even seize funds received by NGOs in the country (Moyo 2023).

As much as strong legislative action can contribute to protecting civic space, ineffective or poor parliamentary oversight can lead to a closing of civic space.

There are also non-legislative ways that parliamentarians can adversely affect civic space. These involve parliamentarians using their positions of authority to orchestrate the harassment and intimidation of civic actors or the general obstruction of civic activities. SLAPPs (strategic lawsuits against public participation) are one example of

direct obstructions that can be initiated by parliamentarians on civic actors or civic action.

SLAPPs often entail entities, in this case parliamentarians, instituting meritless lawsuits to intimidate, silence or drain the financial and physical resources of the targeted victims (Crego & Monte 2022). Reports from Article 19 and the Coalition Against SLAPPs in Europe indicated that this is often targeted at journalists, activists and CSOs (OECD 2022). MPs could use their powers to frustrate investigations, harass whistleblowers or use SLAPPs to introduce injunctions on civic actions they are not in favour of, often related to the investigation and reporting of corruption.

Strategies for CSOs to engage with parliament on civic space issues

Engage in advocacy on defending and strengthening civic space

Civil society has a key role play in ensuring that parliamentarians are aware of the value and importance of meaningful and inclusive citizen and civil society participation in democratic processes. CSOs can engage with parliaments to safeguard and strengthen civic space. Keeping in mind that MPs are politicians, with diverse opinions and political interests, engaging with parliamentarians in some contexts may be challenging.

In engaging parliamentarians, it is important to determine whether a non-confrontational engagement approach would be more successful than a more confrontational approach. While a non-confrontational approach may work in some contexts, it may not work in contexts that are less conducive to cooperation. In such situations, civil

society may need to pursue a more forceful approach (such as protests or strategic action lawsuits) to engage with parliaments. It is, however, important to exercise caution and discretion in such approaches, especially in hostile environments.

As the best approach is contingent on the context, it is important to conduct a situational assessment to determine the best route of engagement. According to de Soysa (2022), a political economy analysis is a key initial step to ensure that engagements with duty-bearers are appropriately positioned.

Lawsuits by CSOs against a potentially restrictive law or practice can also be a strategic advocacy tool. A CSO or a collation of CSOs can institute lawsuits strategically to protect the civic space. The lawsuit may be seen as adversarial to the parliament, but it may be necessary to pushback on repressive steps. There are examples of such lawsuits being instituted against laws seeking to increase the regulation of the civic space in Nigeria and Egypt (Egypt Independent 2015; Premium Times 2017).

To effectively engage parliamentarians, in both difficult and less difficult situations, some useful approaches include providing and relying on objective evidence, locating entry points and deciding on how best to frame and communicate key advocacy messages. A study discussing these and other strategies for engaging duty-bearers in detail can be found [here](#) (de Soysa 2022).

Explore opportunities for strategic and timely engagement with parliament

One of the ways to ensure that parliaments play their role effectively in supporting a free civic space is through strategic engagement. This can be through direct engagement with relevant MPs,

through relevant parliamentary committee(s) and creating dedicated communication channels and platforms. Parliament is representational and, ideally, they should and often do have windows of engagement with their constituencies. There are also often official processes for public participation in the work of many parliaments. This can be through the parliamentary committee system, public hearings, written submissions, petitions, etc. These are common features of the parliamentary process in most countries, according to the Inter-Parliamentary Union (IPU & UNDP 2017; Yamamoto 2007). Ideally, parliament should want their work to reflect public wishes, thus, engagement with them is an opportunity that is mutually beneficial to civil society, citizens and parliamentarians.

CSOs could also identify and engage MPs that are supportive of free civic space. These allies can push for difficult reform can be identified, for instance, through their work in committees, commitment to upholding human rights or through parliamentary caucuses such as those on anti-corruption.

Leverage international standards and platforms

Parliaments can also be engaged through global and national networks, forums and platforms. International platforms that focus on strengthening civic space could be leveraged to both pressure and support national parliaments to ensure consistent alignment with global standards. The Open Government Partnership (OGP), for instance, through its memorandum on parliamentary engagement, outlines several programmatic elements to help open parliamentary processes. In addition, the [Parliaments in OGP – Recommendations](#) encourage parliaments to

adopt, review or amend laws to strengthen the legal frameworks governing access to information, public accountability and civic space.

Build civil society coalitions

Collective action, or working in broad coalitions to call for change and reform, is a tried-and-tested strategy for engaging with duty-bearers (de Soysa 2022: 5). In advocating for parliaments to expand and safeguard civic space, strong coalitions which involve diverse voices and non-traditional partners can strengthen the legitimacy of civil society demands and may compel MPs to take greater notice. Resistance against proposed NGO laws in

some countries has been recorded, with coalitions of CSOs submitting memoranda against bills or specific sections (Dodsworth and Cheeseman 2018). In Georgia, a coalition of civil society is opposing a draft law that any NGO receiving over 20 per cent of their income from foreign sources should be registered as “agents of foreign influence” (Transparency International 2023).

A similar law in Kyrgyzstan is being resisted by a civil society coalition with calls for parliament to reject the foreign agents law which required organisations receiving foreign funds to register as foreign agents (Dodsworth and Cheeseman 2018).

Case studies: Kenya and Azerbaijan

In January 2013, the Kenyan parliament adopted a new public benefits organisations (PBO) act to replace the existing NGO coordination act of 1990 which restricted civic space in the country. In October 2013, soon after the elections, the new Kenyatta government proposed amendments to the PBO act to parliament which would further restrict civic space, including a 15 per cent cap on foreign funding for CSOs. In response, locally operating NGOs collectively campaigned against passing the amendments, including through submission of impact assessment reports and open letters to parliament as well as social media campaigns. Several international NGOs, such as Freedom House and International Federation for Human Rights, the African Development Bank and the World Bank, also supported the call for parliament to prevent the adoption of the amendments bill. As a result of these campaigns, the parliament dropped the amendments (see Baldus et al. 2019: 9-13).

In 2009, the Azerbaijani government proposed amendments to the law on non-governmental organisations to parliament. The proposed amendments included banning NGOs from receiving more than 50 per cent of their funding from foreign sources, as well as imposing mandatory registration for all NGOs with a penalty for non-compliance of €50,000 and possible imprisonment. Soon after the announcement, about 50 local NGOs formed a coalition and collectively campaigned against the proposed amendment through a series of public debates, roundtable discussions and seminars. A body established by the Azerbaijani government to manage state-civil society relations, the NGO Council, also joined the call for more discussions before passing the law. In addition, international actors such as Amnesty International, the International Freedom of Expression Exchange and the US Embassy reminded the Azerbaijani government of its international obligations to democratic and human rights norms. As a result, the Azerbaijani parliament were empowered to significantly water down the proposed amendments which restricted civic space, including dropping measures restricting foreign funding (see Baldus et al. 2019: 4-8).

Build knowledge, awareness and capacity of parliamentarians around tackling civic space issues

Strong and effective parliaments are likely to prevent government threats to civic space. Hence, building the capacity of MPs on civic space issues could be useful. This can also be in the form of exposing parliament to relevant evidence, which involves research and knowledge generation in areas relevant to parliamentary focus. This could be with a view to build capacity of individual MPs, a committee or the parliament. According to the Inter-Parliamentary Union and UNDP, “effective parliamentary oversight is a rigorous, constructive and evidence-based process designed to improve all aspects of society and national governance” (IPU & UNDP 2017). CSOs can use evidence generation to gain respect and expertise in a way that allows them to build a good reputation with parliamentarians.

As part of building knowledge, it is important that CSOs also collect and present to parliament evidence on civic space restrictions and what the consequences of this have been for democracy. This allows CSOs to approach parliamentarians with concrete action points and make it harder for reluctant MPs – those who are unwilling to engage – to ignore or dismiss the need to safeguard and expand civic space.

Conclusion

Civic space is an enabler of open government, and it is important that this is not restricted. Parliaments have a key role to play in both expanding and defending such space through, for instance, the exercise of legislative and oversight functions. In doing so, parliaments can help to ensure that

countries can reap the many benefits of a vibrant civic space, characterised by transparent, inclusive and accountable governance.

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