

# International Principles Protecting Civil Society

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To protect civil society organizations from the application of the legal barriers described in this paper, this section seeks to articulate principles that govern and protect CSOs from repressive intrusions on the part of governments.

## **Principle 1: The Right to Entry (Freedom of Association)**

1) International law protects the right of individuals to form, join and participate in civil society organizations.

(a) Broad scope of right. Freedom of association protects individuals in their right to establish a wide range of civil society forms, including trade unions, associations, and other types of NGOs.

(b) Broadly permissible purposes. International law recognizes the right of individuals, through NGOs, to pursue a broad range of objectives. Permissible purposes generally embrace all 'legal' or 'lawful' purposes and specifically includes the promotion and protection of human rights and fundamental freedoms.

(c) Potential founders. The architecture of international human rights is built on the premise that all persons, including non-citizens, enjoy certain rights, including freedom of association.

2) Individuals are not required to form a legal entity in order to enjoy the freedom of association.

3) International law protects the right of individuals to form an NGO as a legal entity

(a) The system of recognition of legal entity status, whether a "declaration" or "registration/incorporation" system, must ensure that the process is truly accessible, with clear, speedy, apolitical, and inexpensive procedures in place.

(b) In the case of a registration/incorporation system, the designated authority must be guided by objective standards and restricted from arbitrary decision-making.

## **Principle 2: The Right to Operate Free from Unwarranted State Interference**

(1) Once established, NGOs have the right to operate free from unwarranted state intrusion or interference in their affairs. International law creates a presumption against any state regulation that would amount to a restriction of recognized rights.

(a) Interference can only be justified where it is prescribed by law, to further a legitimate government interest, and necessary in a democratic society. States must refrain from restricting freedom of association through vague, imprecise, and overly broad regulatory language.

(b) It is incumbent upon the state to ensure that applicable laws and regulations are implemented and enforced in a fair, apolitical, objective, transparent and consistent manner.

2) NGOs are protected against unwarranted governmental intrusion in their internal governance and affairs. Freedom of association embraces the freedom of the founders and/or members to regulate the organization's internal governance.

3) Civil society representatives, individually and through their organizations, are protected against unwarranted interference with their privacy.

### **Principle 3: The Right to Free Expression**

Civil society representatives, individually and through their organizations, enjoy the right to freedom of expression.

(a) Freedom of expression protects not only ideas regarded as inoffensive or a matter of indifference but also those that offend, shock or disturb, since pluralism is essential in a democratic society. NGOs are therefore protected in their ability to speak critically against government law or policy, and to speak favorably for human rights and fundamental freedoms.

(b) Interference with freedom of expression can only be justified where it is prescribed by law, in the interests of a legitimate government interest, and necessary in a democratic society. States must refrain from restricting freedom of expression through vague, imprecise, and overly broad regulatory language.

(c) Stemming from the well-recognized protection of individuals to freedom of assembly, NGO representatives have the right to plan and/or engage in the advocacy of legal aims, including human rights and fundamental freedoms

### **Principle 4: The Right to Communication and Cooperation**

(1) Civil society representatives, individually and through their organizations, have the right to communicate and seek cooperation with other elements of civil society, the business community, international organizations and governments, both within and outside their home countries.

(2) Individuals and NGOs have the right to form and participate in networks and coalitions in order to enhance communication and cooperation, and to pursue legitimate aims.

(3) Individuals and NGOs have the right to use the Internet and web-based technologies to communicate more effectively.

### **Principle 5: The Right to Seek and Secure Resources**

Within broad parameters, NGOs have the right to seek and secure funding from legal sources. Legal sources must include individuals and businesses, other civil society actors and international organizations, inter-governmental organizations, as well as local, national, and foreign governments.

### **Principle 6: State Duty to Protect**

(1) The State has a duty to promote respect for human rights and fundamental freedoms, and the obligation to protect the rights of civil society. The State's duty is both negative (i.e., to refrain from interference with human rights and fundamental freedoms), and positive (i.e., to ensure respect for human rights and fundamental freedoms).

(2) The State duty includes an accompanying obligation to ensure that the legislative framework relating to freedom of association and civil society is appropriately enabling, and that the necessary institutional mechanisms are in place to ensure the recognized rights to all individuals.

