



ADVANCING FREEDOM OF EXPRESSION

14: FREEDOM OF EXPRESSION AND CIVIL SOCIETY

Across Africa, there are demonstrations, protests and marches every day. This is civil society in action: citizens practising their freedom of expression to call for the protection of human rights, to demand electoral reform or women's empowerment, to protest against corruption or poor service delivery. On occasion, to call for the release of a jailed journalist, or the repeal of a censorship law.

But there's more to civil society than just people out on the streets.

FORGING ALLIANCES

Civil society is the engine of public engagement, a network of organisations, groups, and associations that exist independently from government and the private sector. Its organised members create awareness on issues of common concern and mobilise support for concrete action. They give a voice to grassroots perspectives that might otherwise be overlooked. They point out injustices and deficiencies in government and call for necessary reform.

A vibrant civil society is a force to be reckoned with - and will help ensure that basic human rights are protected and promoted in policies, laws and regulations. And in the implementation of such governance.

Civil society groups must not do their work discreetly and largely out of public view. They need to beat their drum (perhaps even literally) to get their message across to as many people as possible, and to raise sufficient support to make an impact. The news media are a natural ally in this effort, and vice versa. In addition, civil society can deepen citizens' appreciation for the work of journalists, and it can hold accountable those news media that fail to follow professional standards.

Broad support for rights-based media and digital policy and practice is crucial not just in terms of numbers but also in terms of expertise. Civil society's contributions to the public discourse as well as to concrete reform and law-making processes gains value from alliances with people from other sections of society. For example with: environmental organisations, consumer protection groups, educational NGOs, women's and gender rights groups, faith-based organisations, trade unions, independent academic institutions, social movements and – of course – the news media.

Civil society groups that advocate for a better media and digital world need to build coalitions around particular causes. For example, robust guarantees for access to information held by the state are important for environmentalists and corruption monitors. Another example: disinformation is not just an academic research topic, but also serious problem for those working towards clean elections or wanting mitigation of concerned about climate change. For health professionals, migrants' rights defenders or digital rights and consumer rights groups, winning access to data from the public and private sector can make a big difference. All of these groups – and more - can be mobilised to take a strong interest in media and digital policy issues, and become actively engaged in deepening and defending free expression.

CIVIL SOCIETY CAMPAIGNS

Often civil society will have no choice but to react immediately and without the time for careful planning. For example, when governments take sudden repressive measures against media or when a law is pushed through parliament that curtails freedom of expression.

Or when a media worker is arrested, goes 'missing' or is killed. Urgent action from campaigners will be needed: public demands for thorough investigation of the precise circumstances of the incident by the police or the courts, sending out alerts to the international community, organising demonstrations to demand transparency, justice and the rule of law.

But civil society should also be proactive, put issues on the agenda or make suggestions for new policy, law and / or regulation. Some examples of causes to be advanced are: for community radio to be legally recognised as a distinctive media sector; for an independent mechanism to fund media startups; for grants for media without political strings; and for a fair and transparent government advertising policy.

There could be campaigns for multi-stakeholder consultation by Internet companies on issues like their rules and practices on policing hate speech; on how they should deal with electoral manipulation or on how to address attacks on women journalists and electoral candidates. The list is long.

STEPS FOR A CAMPAIGN

A comprehensive campaign mobilising civil society for digital and media policy issues can follow these steps:

- **Build coalitions:** Campaigns will be more effective if there are structured alliances with diverse civil society organisations and like-minded actors early on - in order to profit from their diverse experience and input. Make sure there is legal expertise on board. Informal contacts with reform-minded parliamentarians, editors, platform operators, regulatory officials, etc. can also build relationships and help to achieve the aims.
- **Proactive media relations:** Prepare and disseminate regular media releases on organisational objectives and messages, conduct media briefings and undertake media interviews. Good relationships between journalists and civil society will make it easier to get more widespread

coverage. To make your advocacy more attractive, it is important to persuade prominent people or "social media influencers" to promote short testimonies. Start a petition online. Create a blog.

- Funding of the campaign: Even with the support of volunteers you will need money to sustain your activities. You may go for crowd-funding, and/or approach partners in your alliance and/or business people, unions and philanthropists who appreciate your efforts. As a last resort you can also try to get international donors on board. In most cases, you have to write a project and funding proposal to back up your request and show that you are working in a professional manner. Show what you can do at different scales of resource mobilisation.
- Escalate it: To give added impetus to your campaign you could organise demonstrations or protest marches to a government or a court building, a regulator's office or media houses. Other forms of protest could be boycotts of goods and services, strikes or civil disobedience.

In democratic states, demonstrations are usually legal if approved beforehand by the authorities. But sometimes onerous demands may be imposed that are (next to) impossible to meet, for example, requiring three weeks advance notice to the police. Such demands can be challenged for contravening citizens' right to free expression and association.

Semi-spontaneous demonstrations without any formal permission may be risky for the personal safety of participants. Often, police will arrive and try to disperse the crowd. The demonstration may deteriorate into chaos – a result which could be counterproductive for achieving the goals of the campaign.

Peaceful demonstrations provide strong opportunities for social mobilisation and capturing public attention. They give room for creative ideas and have no established rules and processes other than non-violence and respect for the rights of others. The visible rallying of substantial public support can open the door for more formalised channels in future.

You can do well to seize opportunities to make a bigger impact - like World Radio Day, 13 February; International Women's Day, 8 March; World Press Freedom Day, 3 May; Africa Day, 25 May; International Day for Universal Access to Information, 28 May; or International Day to End Impunity for Crimes Against Journalists, 2 November.

Such occasions can provide topicality, as well as legitimacy and protection, since they put the country into the international context and possibly into an

international spotlight. You can involve international organisations, such as the United Nations, UNESCO or the African Commission on Human and Peoples' Rights.

ENGAGEMENT ON A FORMAL LEVEL

Civil society engagement is essential when it comes to law making. The procedures differ from country to country but democratic states usually provide opportunities for civil society activists to make an input.

Some states have a transparent and orchestrated procedure. A government ministry publishes a policy paper (sometimes called a Green Paper) and thus opens public debate. This is a first chance for civil society to influence the law-making process. Once comments have been received, another position document (White Paper) is produced and the public again has a chance for commenting. The final document is approved by parliament and forms the basis for a bill to be tabled to parliament where it is refined by a committee (again a chance to take part if there are public hearings) before being passed by the legislature.

In other cases, the way is shorter. A ministry will prepare a regulation and may invite experts and civil society groups to give their input, coordinate it with other departments interested in the matter and then pass it on to Cabinet (the executive) for approval. Experts and civil society groups may be invited to give feedback on draft regulations. Where the process just goes its bureaucratic way without formal inclusion of 'outsiders', civil society activists and the media in particular need to keep their ears to the ground and have a network of contacts in the political arena in order to create informal opportunities for consultation.

Lobbyism

Lobbyists attempt to establish face-to-face contact and good relations with decision makers to influence the legislative or regulatory process. This is done on behalf of companies, including big tech, pursuing their business interests. But it can also be done by civil society associations seeking to achieve their missions. Such activities are ethically controversial if done without transparency, because groups with socioeconomic power are likely to gain undue influence. But lobbying is part of the political game. Media and digital policy activists should

not shy away from playing their part for a good cause. Just make sure you are on top of the issues so that you will be taken seriously.

Going to the courts

Where such activities fail to produce results, civil society organisations can institute legal proceedings. In countries like Kenya or South Africa the highest courts allow the participation as “amicus curiae”, which means “a friend of the court”. Friends of the court assist a court by offering information, expertise, or insight that has a bearing on the issues before it. This is typically presented in the form of a brief.

Sometimes civil society organisations may decide to challenge a law or regulatory practice in court - to set legal precedent to be referred to in future cases, or in an attempt to change policy, potentially escalating the case to the highest court of the land. This can also be effective.

PROS AND CONS OF FORMAL CHANNELS

When successful, the use of formal channels may result in tangible outcomes, for example, a changed law. But the process needs patience and perseverance. Public attention may flag on the way and the initiative may run out of steam – and money. That is why cross-sector coalition building is essential, in particular between journalists, civil society and the legal fraternity. Sound legal expertise is vital in the law-making process.

Formal channels are not meaningfully available in undemocratic systems of government that, routinely, ignore the voices of ordinary people and civil society. Some states may allow a certain space for public input, but only to give the appearance of listening to citizens, or as a token legal requirement. Civil society participation can then be exploited to justify a foregone conclusion.

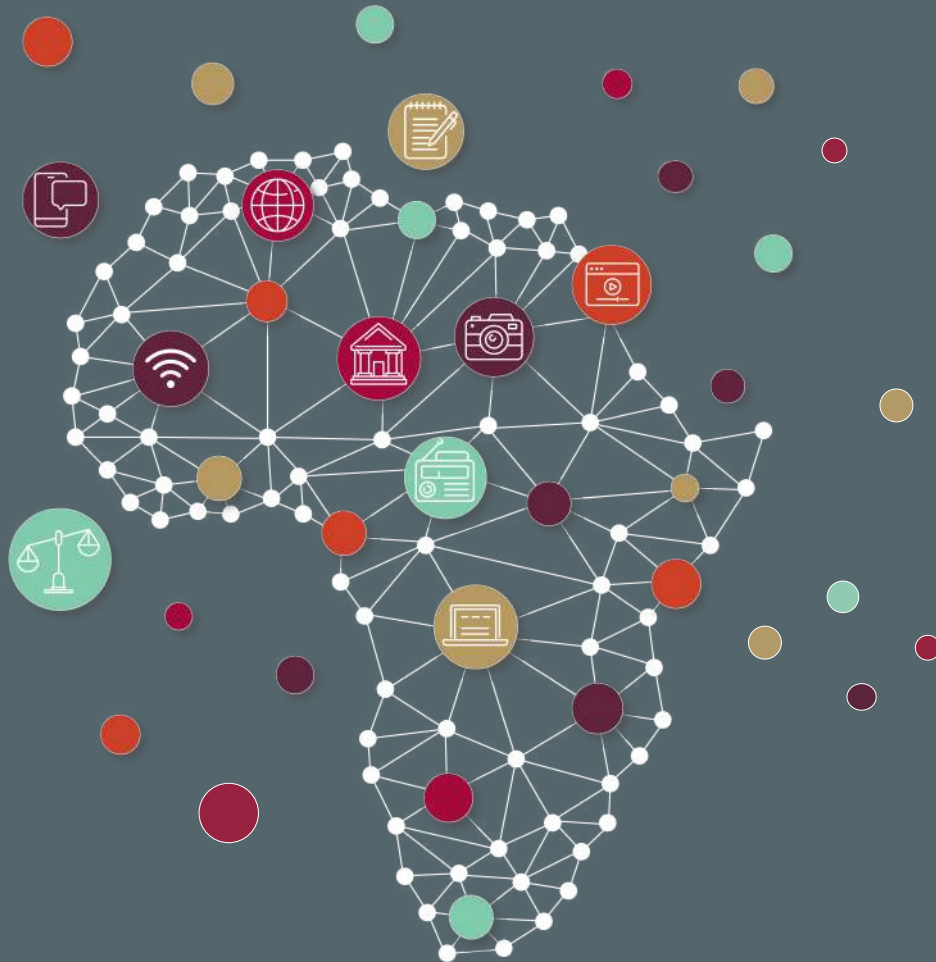
Assessing what may be a genuine opportunity to engage, and what is a “political theatre” trap, is a decision that civil society groups have to take on a case-by-case basis. While they should always keep their independence, sometimes it may be wiser to engage cooperatively, and at other times to take an adversarial position.

IN SUMMARY

Democracy is work in progress. And civil society must not leave this work to politicians, state office bearers or powerful interest groups.

Societies need to adapt and find new ways and rules for dealing with new challenges and technological advances. That is why the input from civil society and media must be constant and substantial, so as to be heard and taken note of by those in power. And to make sure that respect for the rights of all citizens remains their guiding principle.

Freedom of expression and civil society are natural allies and need each other to thrive and flourish. There is no civil society without freedom of expression and no freedom of expression without civil society.



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