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## Human Rights Council

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### Annual report of the United Nations High Commissioner for Human Rights and reports of the Office of the High Commissioner and the Secretary-General

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

## Civil society space: COVID-19: the road to recovery and the essential role of civil society

### Report of the United Nations High Commissioner for Human Rights

#### *Summary*

In its resolution 47/3, the Human Rights Council requested the United Nations High Commissioner for Human Rights to prepare a report, examining in detail the key challenges that civil society faced in the context of the coronavirus disease (COVID-19) pandemic, both online and offline, and also examining best practices.

The present report is based on inputs from States and civil society and on research regarding challenges to civil society space arising in the context of the COVID-19 pandemic. In the report, the High Commissioner calls for a much more systematic investment in meaningful, safe and inclusive participation at all levels, together with effective measures to protect access to information, an enabling environment for debate and freedom from insecurity for those who speak up.



## I. Introduction

1. The coronavirus disease (COVID-19) pandemic took most people by surprise. It affected countless lives and sparked crises that had major impacts on all areas of life. As other emergencies have shown, including epidemics and pandemics, the trust of populations in the decision-making processes at all levels is a key factor in successfully overcoming them.<sup>1</sup> Trust relies on pluralism, on inclusive debate to agree on outcomes and on frank dialogues that involve a variety of communities whose concerns are taken seriously. In that regard, a respondent to the online survey noted that the pandemic had highlighted the gaps between centralized ministries and people on the ground, and that a complete review was needed in the coming year to learn from the lessons.

2. In its resolution 47/3, the Human Rights Council recognized that civil society was critical to providing accurate information about the situation and needs on the ground, designing responsive measures that were inclusive, safe and enabling, providing essential services and feedback on recovery and response measures and pursuing transparency and accountability. In his report to the General Assembly, entitled “Our Common Agenda”,<sup>2</sup> the Secretary-General made trust a pillar of his vision of the future of global cooperation, and emphasized the urgency of ensuring more systematic participation of previously underrepresented people and groups, including women and youth.

3. In the resolution, the Council recognized that the pandemic had exacerbated and accelerated existing challenges, both online and offline, for civil society space, including human rights defenders, including lack of diversity of participation; attacks, reprisals and acts of intimidation, including smear campaigns and use of hate speech; shortcomings in access and accreditation processes; and the use of legal and administrative measures to restrict civil society activity. In addition, the pandemic had led to restrictions on access to resources and on the rights to freedom of peaceful assembly and association and freedom of expression, and had increased the impact of the digital divide.

4. Against that backdrop, the Council requested the High Commissioner to examine in detail the key challenges that civil society faced, both online and offline, and to examine best practices in the context of COVID-19. The present report has been prepared on the basis of online surveys of Member States and civil society actors, reports of United Nations entities and human rights mechanisms and exchanges with key civil society networks, including those working on health-related issues, women’s equality, peacebuilding and the humanitarian sector, as well as on the basis of other resources related to civic space and the impact of the COVID-19 pandemic. The online survey was conducted from 1 December 2021 to 14 January 2022. Responses were received from 16 Member States, 2 national human rights institutions and over 160 civil society actors at the international, regional, national and local levels.

## II. Impact of COVID-19 on civil society space, and key challenges

5. Restrictions imposed in relation to the COVID-19 pandemic had multiple effects on all population groups in terms of social and economic impacts, as well as on how people were able to debate and participate in decision-making.

6. International human rights law recognizes that States may need special powers to address exceptional situations, stressing that such powers should be time-bound with the aim of restoring the full application of international human rights law as soon as possible. Even without formally declaring states of emergency, States can adopt exceptional measures that may restrict certain human rights to protect public health, subject to their being legal, necessary and proportional, and non-discriminatory. In such cases, States should inform the

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<sup>1</sup> See <https://apps.who.int/iris/bitstream/handle/10665/338000/9789240015814-eng.pdf?sequence=1&isAllowed=y>; [https://www.unaids.org/sites/default/files/media\\_asset/human-rights-and-covid-19\\_en.pdf](https://www.unaids.org/sites/default/files/media_asset/human-rights-and-covid-19_en.pdf).

<sup>2</sup> A/75/982.

affected population of the exact substantive, territorial and temporal scope of the application of the measures, in all official and other languages of the State, and in an accessible manner.

7. Between 1 January 2020 and 13 April 2022, the Secretary-General received at least 111 official depositary notifications from 24 Member States instituting states of emergency and derogations, pursuant to article 4 (3) of the International Covenant on Civil and Political Rights, including extensions or introductions of new restrictions specifically related to COVID-19.

8. More than 175 countries reportedly adopted legal or other forms of pandemic response measures<sup>3</sup> that limited civic freedoms, including freedom of assembly, association and expression. Respondents to the online survey stressed that COVID-19 restrictions affected a wide range of civil society actors, changing how they were able to reach the communities they serve, to engage with State and other counterparts and to influence policymaking. In many countries, measures were based on outdated emergency laws, decrees and regulations or on repurposed security-related legislation, and were enacted for prolonged periods or without termination dates.<sup>4</sup> Civil society responses to the online survey also indicated that, overwhelmingly, emergency measures were adopted without any consultations with communities. Efforts to involve civil society in reviewing the measures' effectiveness were also scarce.

#### **A. Negative impacts of movement restrictions on civil society participation in COVID-19 response**

9. International human rights law protects the right to take part in the conduct of public affairs without discrimination of any kind and without unreasonable restrictions, at all levels, from local to global. The right of all segments of society and civil society to participate meaningfully and safely in decision-making processes that affect their lives is particularly relevant in times of any crisis when responses are debated and decided.

10. The COVID-19 pandemic brought about barriers related to access to information, exacerbated discrimination and created a lack of resources for civil society. In the report of the Office of the United Nations High Commissioner for Human Rights on good practices and challenges faced by States in using the guidelines on the effective implementation of the right to participate in public affairs,<sup>5</sup> the barriers related to public participation were covered broadly. The present section will address the impacts of restrictions on the participation of civil society in decision-making and responses to COVID-19.

11. The majority of civil society respondents to the online survey found that, particularly at the onset of the pandemic, restrictions on in-person engagements and the general absence of established online channels drastically limited participation. They also observed that accessing updated information on COVID-19 developments and response measures was initially challenging and that few, and in most cases no, participatory mechanisms were established for discussion and decision-making about COVID-19 responses. As a result of those shortcomings, there was limited debate regarding possible pandemic response options. Even when governments attempted to put participation channels into place, they tended to be non-inclusive and less effective than in-person engagement. Online survey respondents noted that the above-mentioned circumstances had contributed to a lack of trust and uptake of COVID-related policies.

12. Many Governments created task forces and technical working groups to deal with the pandemic, which generally included government departments, health authorities, medical and research institutions and the private sector. It was reported that, during the initial stages of the pandemic, not all countries made their COVID-19 task force membership list public, with little transparency regarding who was consulted for advice and information, and that for the most part civil society and other experts on non-COVID-19 health, social and societal

<sup>3</sup> See <https://www.icnl.org/covid19tracker/>.

<sup>4</sup> See [https://www.americanbar.org/groups/human\\_rights/reports/covid-19-related-state-of-emergency-measures-impact-and-response/](https://www.americanbar.org/groups/human_rights/reports/covid-19-related-state-of-emergency-measures-impact-and-response/).

<sup>5</sup> A/HRC/49/42.

consequences of pandemic response measures were not included.<sup>6</sup> Similarly, representatives of civil society in Europe reported that the quality and impact of online exchanges with Governments on COVID-19 responses largely depended on the ministries and their pre-established relations with civil society organizations, and that national consultations served as tick-box exercises that did not lead to a concrete impact on policies and responses.<sup>7</sup>

13. COVID-19 further reduced women's ability to participate in official decision-making, owing to such persistent barriers as discriminatory laws and institutions.<sup>8</sup> While women comprised 70 per cent of health workers,<sup>9</sup> including midwives, nurses, pharmacists and community health workers on the frontlines, they made up only 24 per cent of COVID-19 task forces,<sup>10</sup> which may have resulted in a lack of gender-responsive measures.

14. Measures affecting schools and learning institutions were particularly notable, with school closures and remote learning resulting in significant educational gaps for more than a billion children, whose voices were rarely heard in COVID-19-related decision-making.<sup>11</sup> School closures have reportedly led to women having to disproportionately take on caregiving responsibilities, affecting their ability to engage in civil society spaces.<sup>12</sup> More broadly, the COVID-19 pandemic exposed legal and policy deficits relating to children's rights, as States' responses to the pandemic exacerbated pre-existing protection gaps, with some measures, such as certain curfews, which applied only to children.<sup>13</sup>

15. Members of civil society who expressed critical views, including journalists providing coverage critical of meetings and media briefings, were often not only left out, but faced specific hurdles, resulting in dissenting voices effectively being silenced and debate limited. The pandemic also exacerbated the exclusion of local peacebuilding civil society actors and communities who lacked meaningful access to digital tools, which occurred against a pre-COVID background of weak or missing local infrastructure for peacebuilding and a failure to reflect lived experiences in top-down policies and programmes to maintain peace.<sup>14</sup>

16. While civil society and the media were expected to support vaccination and awareness-raising campaigns, few channels or feedback mechanisms for meaningful consultation were put in place to feed into decision-making on the development, procurement and distribution of vaccines. Consequently, civil society was frequently excluded from critical processes despite being key to combating the pandemic. Better consultation channels could have enabled authorities to meaningfully consult with local communities in all their diversity, based on evidence-based ways forward, and answer burning questions in accessible ways, and could have contributed to tackling vaccine hesitancy.<sup>15</sup>

17. There have also been reports that information on vaccines was not available in local languages, in particular in remote areas, effectively excluding local communities from decisions and discussions on vaccines and their distribution. COVID-19 restrictions tended to exacerbate the underrepresentation of women and specific population groups from

<sup>6</sup> See <https://gh.bmj.com/content/bmjgh/5/5/e002655.full.pdf>.

<sup>7</sup> Submission of European Center for Not-for-Profit Law. For inputs from civil society mentioned in the present report, see <https://www.ohchr.org/en/documents/thematic-reports/ahrc5113-civil-society-space-covid-19-road-recovery-and-essential-role>.

<sup>8</sup> See <https://www.idea.int/news-media/events/impact-covid-19-pandemic-women-politics>.

<sup>9</sup> [https://www.ohchr.org/sites/default/files/Documents/Issues/Women/COVID-19\\_and\\_Womens\\_Human\\_Rights.pdf](https://www.ohchr.org/sites/default/files/Documents/Issues/Women/COVID-19_and_Womens_Human_Rights.pdf); <https://data.undp.org/gendertracker/>.

<sup>10</sup> See <https://data.undp.org/gendertracker/>.

<sup>11</sup> About one third of more than 1,000 teachers surveyed said students had no opportunity to participate in decision-making during lockdowns in Europe and in the Middle East and North Africa. See <https://rm.coe.int/finalpublication-theimpact-of-covid19-on-student-voice/1680a42e52#:~:text=The%20vast%20majority%20of%20young,a%20result%20of%20the%20pandemic>.

<sup>12</sup> See [https://www.ohchr.org/sites/default/files/Documents/Issues/Women/COVID-19\\_and\\_Womens\\_Human\\_Rights.pdf](https://www.ohchr.org/sites/default/files/Documents/Issues/Women/COVID-19_and_Womens_Human_Rights.pdf).

<sup>13</sup> Submission of Child Rights Connect.

<sup>14</sup> Submission of Global Partnership for the Prevention of Armed Conflict.

<sup>15</sup> See, for example, <https://www.who.int/news/item/14-03-2022-who-released-a-new-operational-guide-to-promote-covid-19-vaccination-uptake-and-tackle-vaccine-hesitancy-among-refugees-and-migrants>; <https://www.unicef.org/easterncaribbean/press-releases/covid-19-vaccine-hesitancy>.

decision-making relating to responses to the pandemic and health care, including youth, children, persons with disabilities, older persons, migrants, refugees, minorities, indigenous peoples, persons with chronic illnesses and other communicable or non-communicable diseases, persons living with HIV/AIDS, LGBTIQ+ persons and sex workers.

18. During the pandemic, the United Nations human rights mechanisms repeatedly raised concerns in their resolutions, decisions, communications and guidance to States and others in relation to unequal access to COVID-19 vaccines, medicines, health technologies and diagnostics, including the lack of meaningful and informed participation of those affected in decision-making.

19. In many countries COVID-19 measures also granted increased powers to the executive branch, weakening other branches of Government and the critical oversight functions they provide, for example, by suspending judicial proceedings and thus undermining civil society's ability to bring lawsuits to challenge COVID-inspired laws and practices that infringed rights.<sup>16</sup> Many Governments also defined "essential workers" narrowly, excluding lawyers, for example, and thereby effectively preventing them from providing their clients essential legal services and from accessing courts and justice, including in the context of COVID-19 curfews.<sup>17</sup>

## **B. Impact on public freedoms, and the move towards online channels**

### **1. Access to online channels and digital security**

20. A key change resulting from pandemic-related lockdowns and movement restrictions was the move to online and digital platforms as the main channels for engagement with civil society and with society at large. In some instances, online participation channels proved essential for maintaining dialogue and, in some cases, helped to expand outreach and engagement to previously excluded or underrepresented communities. In other instances, it had the opposite effect, narrowing representation owing to a combination of limited or no digital infrastructure, information technology tools and/or digital literacy. Such constraints deepened the fault line between those with access to information and decision-making processes and those without.

21. Generally, limitations relating to the affordability of technology, access to the Internet and knowledge of digital tools predominantly affected the poor, minorities, indigenous peoples, grass-roots and remote communities, older persons, persons with disabilities and children. Many grass-roots civil society actors lacked the infrastructure and skills to move their operations online, and no additional funding was made available during the pandemic, at least initially, to cover related costs. With an increased reliance on the Internet to access information, including information relevant to the pandemic, Internet shutdowns<sup>18</sup> and Internet and telecommunications taxes had the effect of limiting the flow of, and access to, lifesaving health-care information.

22. The massive move towards digital platforms also exacerbated related risks, including intrusion in people's private lives, interference with online content without adequate safeguards and coordinated online hostile acts, often gender-based, targeting and silencing women, girls and LGBTIQ+ persons as well as journalists, bloggers, academics, scientists and whistle-blowers for criticizing COVID-related measures or data. Based on indications from civil society, cases related to the security of videoconferencing platforms and issues relating to the safe storage and processing of confidential data rose significantly.<sup>19</sup> Furthermore, disclosures of common vulnerabilities and exposures by digital platforms highlighted the severity of risk for end-users of those tools,<sup>20</sup> which could potentially be exploited to infringe on privacy and digital security.

<sup>16</sup> Submission of International Center for Not-for-Profit Law.

<sup>17</sup> See [https://www.americanbar.org/groups/human\\_rights/reports/covid-19-related-state-of-emergency-measures-impact-and-response/](https://www.americanbar.org/groups/human_rights/reports/covid-19-related-state-of-emergency-measures-impact-and-response/).

<sup>18</sup> See, for example, A/HRC/50/55.

<sup>19</sup> Submission of Access Now.

<sup>20</sup> See <https://www.cvedetails.com/>.

## 2. Interference with freedom of expression and access to information

23. Meaningful participation always relies on the availability of timely, up-to-date and accurate information in relevant languages and accessible formats. Particularly during a crisis, it is key to effectively disseminating evidence-based information and supporting informed debate, which ultimately can save lives. For example, representatives of civil society reported that in the Plurinational State of Bolivia, Brazil, El Salvador and Peru, emergency measures in response to COVID-19 restricted the media's capacity to report freely and limited the public's access to information, including critical information about the pandemic and public health interventions.<sup>21</sup>

24. Civil society actors also reported steps taken in at least 83 countries, ostensibly to address "fake news", "false news", disinformation and defamation, including the adoption of vaguely worded laws and regulations aimed at countering disinformation that were used to intimidate critics, silence dissent and criminalize and arbitrarily restrict the dissemination of information.<sup>22</sup> Often such measures were implemented without public scrutiny owing to a lack of transparency.<sup>23</sup> For instance, laws in Bangladesh,<sup>24</sup> the Dominican Republic,<sup>25</sup> Indonesia,<sup>26</sup> Malaysia,<sup>27</sup> the Philippines<sup>28</sup> and the United Republic of Tanzania<sup>29</sup> made the alleged spread of false information punishable. In Cambodia, 30 individuals, including 6 women and a 14-year-old girl, were arrested for COVID-19-related public comments and social media posts, some of whom were charged with spreading fake news or false information.<sup>30</sup> In Ethiopia, a journalist and a lawyer were reportedly detained under the Hate Speech and Disinformation Prevention and Suppression Proclamation for social media posts related to the Government's response to the COVID-19 pandemic.<sup>31</sup> In Turkmenistan, an independent journalist and human rights defender was reportedly sentenced to four years in prison for fraud shortly after he had allegedly shared a photograph of a World Health Organization (WHO) delegation visiting the country.<sup>32</sup>

25. More broadly, in the context of COVID-19, attacks against and detention of human rights defenders, journalists, health-care workers, academics, whistle-blowers and others were reported in numerous countries. In Belarus, a human rights defender received threats and was arrested for publicly criticizing the Government's response to COVID-19.<sup>33</sup> In China, more than a dozen medical professionals, academics and ordinary citizens were reportedly detained, and in some instances charged, for publishing their views on the situation

<sup>21</sup> See <https://cpj.org/2021/06/in-five-latin-american-countries-covid-19-responses-restrict-press-freedom-cpj-trustlaw-find/amp/>.

<sup>22</sup> See <https://features.hrw.org/features/features/covid/index.html#violence>; <https://findings2021.monitor.civicus.org/>; <https://www.amnesty.org/en/wp-content/uploads/2021/11/POL3047512021ENGLISH.pdf>; <https://www.icnl.org/covid19tracker/>; and [https://www.americanbar.org/groups/human\\_rights/reports/covid-19-related-state-of-emergency-measures-impact-and-response/](https://www.americanbar.org/groups/human_rights/reports/covid-19-related-state-of-emergency-measures-impact-and-response/).

<sup>23</sup> The Access Now Transparency Reporting Index is a comprehensive database of technology companies' disclosures of threats to privacy and free expression. Available at [www.accessnow.org/transparency-reporting-index/#:~:text=Transparency%20reporting%20is%20one%20of,and%20safeguards%20against%20government%20abuses](http://www.accessnow.org/transparency-reporting-index/#:~:text=Transparency%20reporting%20is%20one%20of,and%20safeguards%20against%20government%20abuses).

<sup>24</sup> See <https://www.ohchr.org/en/press-releases/2020/06/asia-bachelet-alarmed-clampdown-freedom-expression-during-covid-19>.

<sup>25</sup> See <https://cpj.org/2021/06/in-five-latin-american-countries-covid-19-responses-restrict-press-freedom-cpj-trustlaw-find/amp/>.

<sup>26</sup> See <https://www.ohchr.org/en/press-releases/2020/06/asia-bachelet-alarmed-clampdown-freedom-expression-during-covid-19>.

<sup>27</sup> See communication MYS 5/2021. All special procedure communications mentioned in the present report are available at <https://spcommreports.ohchr.org/Tmsearch/TMDocuments>.

<sup>28</sup> See <https://www.ohchr.org/en/press-releases/2020/06/asia-bachelet-alarmed-clampdown-freedom-expression-during-covid-19>.

<sup>29</sup> See communication TZA 4/2020.

<sup>30</sup> See <https://www.ohchr.org/en/press-releases/2020/06/asia-bachelet-alarmed-clampdown-freedom-expression-during-covid-19>.

<sup>31</sup> See communication ETH 1/2020.

<sup>32</sup> See communication TKM 1/2021.

<sup>33</sup> See communication BLR 4/2020.

related to COVID-19 and the Government's responses.<sup>34</sup> In Egypt, thousands of critics, including health-care workers, were arrested for voicing concerns over the Government's handling of the pandemic.<sup>35</sup> In India, several journalists and at least one doctor were charged for their public criticism of the authorities' COVID-19 responses.<sup>36</sup> In Nicaragua, threats and intimidation against journalists, bloggers and defenders, particularly at the local level, were reported, with the apparent aim of discouraging criticism of the authorities' responses to COVID-19.<sup>37</sup> In Panama, there were allegations of anonymous threats against journalists for exposing illicit COVID-19 vaccinations, and online threats for questioning authorities about the numbers of people killed by COVID-19.<sup>38</sup> In the Russian Federation, a journalist allegedly received death threats after writing about the spread of the COVID-19 pandemic in Chechnya.<sup>39</sup> In South Africa, a journalist was reported to have been verbally and physically assaulted by police for taking photographs of six police officers enforcing COVID-19 lockdowns.<sup>40</sup> In the Sudan, a human rights defender was allegedly threatened after she published an article about the COVID-19 virus in North Darfur.<sup>41</sup> In the Syrian Arab Republic, a human rights defender was reported to have been killed for reporting on human rights issues related to COVID-19.<sup>42</sup> In the United States of America, in 2021, several journalists were reportedly assaulted while covering protests against COVID-19 vaccination requirements, mask mandates and other restrictions related to the pandemic.<sup>43</sup> In Uruguay, a senator reportedly stated in a televised interview that the Government was "investigating journalists" who allegedly worked against the Government and had political interests.<sup>44</sup> In addition, in Malaysia, Myanmar, Nepal, the Philippines, Sri Lanka, Thailand and Viet Nam, hundreds of persons were arrested and charged for activities in relation to COVID-19, for instance for social media posts.<sup>45</sup>

26. The United Nations Educational, Scientific and Cultural Organization, on the basis of data provided by the International Press Institute, reported 102 restrictions on access to information, 215 arrests and charges, 95 cases of media censorship and 238 verbal or physical attacks, of which at least 76 were attacks against journalists for reporting on or criticizing the COVID-19 response, between January 2020 and May 2021.<sup>46</sup> Furthermore, health-care workers in more than 30 countries were targeted, harassed and intimidated in the initial months of 2020 for sharing information about the pandemic and speaking out against government measures.<sup>47</sup>

### 3. Violations of the right to privacy

27. Since the beginning of the pandemic, more than 60 countries have reportedly adopted measures that affected privacy, including the use of contact-tracing apps, the use of cell phone data for movement control, cyber patrols of social media and other measures.<sup>48</sup> Digital contact-tracing apps and digital vaccine certificates were often developed and deployed

<sup>34</sup> See <https://www.ohchr.org/en/press-releases/2020/06/asia-bachelet-alarmed-clampdown-freedom-expression-during-covid-19>.

<sup>35</sup> See communication EGY 10/2020.

<sup>36</sup> See <https://www.ohchr.org/en/press-releases/2020/06/asia-bachelet-alarmed-clampdown-freedom-expression-during-covid-19>.

<sup>37</sup> See [https://www.ohchr.org/en/statements/2020/06/44th-session-human-rights-councilglobal-update-human-rights-and-impact-covid-19?LangID=E&NewsID=26015#\\_ftn1](https://www.ohchr.org/en/statements/2020/06/44th-session-human-rights-councilglobal-update-human-rights-and-impact-covid-19?LangID=E&NewsID=26015#_ftn1).

<sup>38</sup> See <https://www.oas.org/en/iachr/docs/annual/2021/Chapters/rele-en.PDF>.

<sup>39</sup> A/HRC/46/35.

<sup>40</sup> See communication ZAF 1/2020.

<sup>41</sup> See communication SDN 4/2020.

<sup>42</sup> See communication SYR 1/2021.

<sup>43</sup> See <https://www.oas.org/en/iachr/docs/annual/2021/Chapters/rele-en.PDF>.

<sup>44</sup> Ibid.

<sup>45</sup> See <https://www.ohchr.org/en/press-releases/2020/06/asia-bachelet-alarmed-clampdown-freedom-expression-during-covid-19>.

<sup>46</sup> See <https://unesdoc.unesco.org/ark:/48223/pf0000380618.locale=en>. For additional information see <https://ipi.media/rush-to-pass-fake-news-laws-during-covid-19-intensifying-global-media-freedom-challenges/>.

<sup>47</sup> See <https://www.amnesty.org/en/latest/news/2020/07/health-workers-rights-covid-report/>.

<sup>48</sup> See <https://www.icnl.org/covid19tracker/>.

without consultation with concerned communities and civil society and lacked adequate safeguards, potentially exposing users to significant risks to their privacy.<sup>49</sup> Increased use of online surveillance technology against journalists and human rights defenders, including the use of the Pegasus surveillance mobile app,<sup>50</sup> as well as increased use of other surveillance technology to enforce quarantines and other COVID-19 measures, such as closed-circuit television cameras, facial recognition devices and drone surveillance, have also been highlighted as major causes of concern.<sup>51</sup>

#### 4. Violations of the right to peaceful assembly

28. Given physical distancing requirements worldwide, assemblies were banned and restricted, sometimes disproportionately and discriminatorily.<sup>52</sup> In many countries, police and military powers were expanded to monitor the implementation of emergency measures, enabling tighter control, and sometimes repression, of movements and peaceful protests, with heavy fines, intimidation and smear campaigns against and detention of peaceful protesters.<sup>53</sup> In at least 10 countries, protests against government responses to COVID-19 were reportedly banned or broken up.<sup>54</sup> Local civil society actors engaging in peacebuilding, especially in countries in Latin America and the Caribbean, had their rights to organize, demonstrate and mobilize curtailed.<sup>55</sup>

29. Use of excessive force on peaceful demonstrations and protesters, in violation of the principles of necessity and proportionality, was reported, for example, in Argentina,<sup>56</sup> Brazil,<sup>57</sup> Germany,<sup>58</sup> Guatemala<sup>59</sup> and the Netherlands.<sup>60</sup> In Hong Kong, China, pro-democracy activists were arrested and charged with organizing and participating in assemblies that were restricted for COVID-19 prevention.<sup>61</sup> In Guyana, in 2021, the authorities attempted to prevent demonstrations against the management of the COVID-19 pandemic, for example, by reportedly deciding not to pay teachers who supported a three-day strike and joined a protest against vaccination policies.<sup>62</sup> In Uganda, COVID-related restrictions were evoked to curb peaceful protests prior to and after elections on 14 January 2021.<sup>63</sup> Broadly, key global trends that stifled peaceful protests in crisis situations were also reported.<sup>64</sup>

#### 5. Measures affecting access to resources

30. The COVID-19 pandemic and emergency measures severely affected the functioning of civil society organizations and activists as well as their access to resources and funding at all levels, with drastic impacts on medium-sized and small organizations at the local and community levels. For instance, civil society respondents, noting that as small associations they were already subject to such measures as special taxes, financial reporting and stringent

<sup>49</sup> Submission of Access Now.

<sup>50</sup> Ibid.

<sup>51</sup> <https://www.icnl.org/wp-content/uploads/ICNL-Surveillance-and-Covid-Event-Summary.pdf>

<sup>52</sup> See <https://www.ohchr.org/en/2021/01/press-briefing-notes-uganda>; see also [https://www.europarl.europa.eu/cmsdata/226108/No.30\\_Restrictions\\_on\\_the\\_right\\_to\\_demonstrate\\_in\\_the\\_context\\_of\\_the\\_fight\\_against\\_Covid-19.pdf](https://www.europarl.europa.eu/cmsdata/226108/No.30_Restrictions_on_the_right_to_demonstrate_in_the_context_of_the_fight_against_Covid-19.pdf).

<sup>53</sup> [https://www.americanbar.org/groups/human\\_rights/reports/covid-19-related-state-of-emergency-measures-impact-and-response/](https://www.americanbar.org/groups/human_rights/reports/covid-19-related-state-of-emergency-measures-impact-and-response/).

<sup>54</sup> See <https://www.hrw.org/news/2021/02/11/covid-19-triggers-wave-free-speech-abuse>.

<sup>55</sup> Submission of Global Partnership for the Prevention of Armed Conflict.

<sup>56</sup> See <https://www.oas.org/en/iachr/docs/annual/2021/Chapters/rele-en.PDF>.

<sup>57</sup> See <https://www.ohchr.org/en/press-releases/2022/04/brazil-un-expert-decries-erosion-democracy-urges-safe-space-civil-society>.

<sup>58</sup> See communication DEU 6/2021.

<sup>59</sup> See <https://www.oas.org/en/iachr/docs/annual/2021/Chapters/rele-en.PDF>.

<sup>60</sup> See communication NLD 1/2022.

<sup>61</sup> See <https://www.ohchr.org/en/press-releases/2020/05/hong-kong-urged-not-silence-peaceful-protest-criminal-charges>.

<sup>62</sup> See <https://www.oas.org/en/iachr/docs/annual/2021/Chapters/rele-en.PDF>.

<sup>63</sup> See <https://www.ohchr.org/en/press-releases/2020/12/uganda-un-experts-gravely-concerned-election-clampdown>.

<sup>64</sup> See A/HRC/50/42.

control on foreign funding, reported that in some cases COVID-19 measures exacerbated those already prohibitive requirements. Furthermore, voluntary and involuntary diversion, reprioritization and reallocation of resources and funding to address issues related to COVID-19 prevented civil society actors from continuing their work in all sectors, including in local peacebuilding, preventing organized crime, supporting drug policy, monitoring anti-corruption measures and providing support in such areas as HIV/AIDS, communicable and non-communicable diseases and sexual and reproductive health and rights.

31. In 2020, the European Union Agency for Fundamental Rights conducted online consultations with civil society organizations. Based on its research and the consultations, it found that over 60 per cent of those organizations had difficulties accessing adequate funding, and that over 42 per cent faced financial difficulties as a direct result of measures related to the COVID-19 pandemic.<sup>65</sup> Donors reportedly faced increasing difficulty in providing support to grass-roots organizations working on issues perceived as sensitive.<sup>66</sup>

### C. Engagement with forums and processes of the United Nations system

32. Owing to COVID-19 restrictions and lockdowns since March 2020, many United Nations entities at the headquarters and field levels, mostly following health and safety instructions of their host countries, postponed or cancelled in-person meetings at the beginning of the pandemic, and subsequently put in place virtual engagement modalities. The transition depended, among others, on the type of meeting, location, existing infrastructure and requirements of diverse United Nations processes, and on the technical and financial resources available to make a transition to online modalities of engagement.

33. Representatives of civil society raised concerns that more than 18 months after the start of the pandemic, even when representatives of Member States and sometimes journalists were allowed to enter United Nations premises, accredited non-governmental organizations remained unable to access United Nations Headquarters in New York, including the General Assembly, the Security Council and the Economic and Social Council premises.<sup>67</sup> Online participation formats at times eliminated or reduced speaking times and led to technical challenges related to the uploading of video statements and interpretation-related drawbacks during virtual participation. On occasion, inflexible meeting agendas and session timings failed to take into account participation from different time zones. Older persons and persons with disabilities often faced additional technical barriers to meaningful participation, including the use of online platforms unable to accommodate a variety of accessibility requirements and participants' lack of knowledge of using those tools. Furthermore, most United Nations processes fell short of adopting a proactive institutionalized approach to children's participation, both offline and online.<sup>68</sup>

34. A limited number of regular sessions of the United Nations human rights mechanisms were postponed due to COVID-19 restrictions at the beginning of the pandemic. For instance, the Human Rights Council suspended its forty-third session on 13 March, resumed it with a fully online format on 15 June 2020 and subsequently held hybrid sessions. Since March 2020, there have been no non-governmental organization in-person side events in the Palais des Nations during sessions of the Human Rights Council and the Working Group of the Universal Periodic Review, resulting in ongoing limitations to civil society engagement with the Council and the Universal Periodic Review mechanism to date.

35. The number of reported acts of intimidation and reprisals by State and non-State actors against those who cooperated or tried to cooperate with the United Nations remained high, with States using measures adopted in response to the COVID-19 pandemic as a pretext to stifle civil society and target those who engaged with the Organization. Many individuals and

<sup>65</sup> See [https://fra.europa.eu/sites/default/files/fra\\_uploads/fra-2021-protecting-civic-space\\_en.pdf](https://fra.europa.eu/sites/default/files/fra_uploads/fra-2021-protecting-civic-space_en.pdf).

<sup>66</sup> Submission of Access Now.

<sup>67</sup> Submission of International Service for Human Rights.

<sup>68</sup> See <https://resourcecentre.savethechildren.net/pdf/Together-We-Decide-6th-pp.pdf/>.

groups exercised self-censorship and refrained from engaging with the United Nations, online and offline, for fear of harm or retribution.<sup>69</sup>

36. Other instances of limited civil society participation in United Nations processes have also been reported. For example, in 2021, civil society actors were concerned about participation modalities in the twenty-sixth Conference of the Parties to the United Nations Framework Convention on Climate Change, owing to lack of online participation at the beginning of the negotiations and to technical glitches in the new online platform, which allegedly made access a logistical nightmare.<sup>70</sup> At the sixty-fourth session of the Commission on Narcotic Drugs, its first session online, the Commission substantially reduced the number of civil society representatives in its proceedings, including in negotiations on resolutions in the Committee of the Whole. Some reported that, as a result, there was a lack of opportunities for civil society representatives to interact with State delegates.<sup>71</sup> In respect of the WHO process to develop a convention, agreement or other international instrument on pandemic prevention, preparedness and response, concerns were expressed about, *inter alia*, how the results of virtual public hearings with interested stakeholders would be used.<sup>72</sup>

37. Input was provided in relation to equitable access to COVID-19 medical technologies, specifically the work of the Access to COVID-19 (ACT) Accelerator, a global collaboration to accelerate development, production and equitable access to COVID-19 tests, treatments and vaccines. Representatives of civil society reported that in its priority-setting, governance and accountability systems, the Accelerator provided for limited engagement with civil society and community organizations in low- and middle-income countries, and that it lacked accessible communication and information-sharing channels.<sup>73</sup>

### **III. Practices promoting civil society space in the context of the pandemic**

38. Following such emergency measures as lockdowns and physical distancing in the initial phase of the pandemic, some States made efforts to find ways to ensure civil society participation and involve civil society in decisions related to COVID-19 responses, including with regard to service delivery and rollout of vaccines. Civil society actors at international, regional, national and local levels played a critical role in awareness raising about COVID-19 safety and sanitary requirements among the general public. Entities at the headquarters and country levels of the United Nations system also convened various constituencies to support responses to the pandemic.

#### **A. State practices in ensuring participatory and enabling space**

##### **1. Reviewing emergency measures**

39. Assessing, on an ongoing basis, the necessity, proportionality, legality and non-discriminatory nature of emergency measures is a key requirement of international human rights law. The Parliamentary Joint Committee on Human Rights of Australia scrutinized laws relating to the COVID-19 response to ensure that measures were reasonable and proportionate. In Austria, special regulations issued by the Federal Ministry of Social Affairs, Health, Care and Consumer Protection required parliamentary approval after a period of 10 days to four weeks. In Belize, civil society participated in parliamentary debates on COVID-19 measures and the work of the National Oversight Committee to monitor the

<sup>69</sup> A/HRC/48/28, paras. 138–140.

<sup>70</sup> See <https://www.theguardian.com/environment/2021/nov/08/cop26-legitimacy-questioned-as-groups-excluded-from-crucial-talks>.

<sup>71</sup> Submission of International Drug Policy Consortium.

<sup>72</sup> See <https://www.ohchr.org/en/statements/2022/05/negotiations-international-instrument-pandemic-preparedness-must-be-guided-human>.

<sup>73</sup> Submission of Health Global Access Project; see also <https://covid19advocacy.org/wp-content/uploads/2021/10/Statement-on-the-ACT-Accelerator-Strategic-Review-12-October-2021.pdf>.

implementation of those measures.<sup>74</sup> In Ireland, the Department of Justice limited the duration of restrictions, and the national police, An Garda Síochána, involved human rights non-governmental organizations in the oversight of enforcement measures.

## **2. Ensuring access to information**

40. Timely access to information is vital for saving lives and conducive to inclusive and participatory responses to the pandemic. In Chile, the “InfoBus”, a vehicle for disseminating public information, and helplines were used to disseminate information. Ireland published the National Action Plan in response to COVID-19 to share information on how volunteers could engage, and provided helpline information for older people and helpdesk support to smaller communities to access information. To ensure updated COVID-19 information reached all communities, the Government of Japan made websites and leaflets available in multiple languages.

## **3. Hearing a diversity of voices**

41. Involving a diversity of voices in the decisions and responses to the COVID-19 pandemic is key for meaningful and effective outcomes. In Austria, a project of the Federal Ministry of the Interior, “Polizei.Macht.Menschen.Rechte”, served as a forum for dialogue between the police and civil society to address human rights challenges related to assemblies and demonstrations, restrictions on press freedom, transparency of COVID-19 measures and health protection measures for asylum seekers. The Government of Chile set up working groups known as “Mesas de Grupos Vulnerables”, which included representatives of civil society, academia and the business sector, to devise strategies for responding to the pandemic.

## **4. Reaching out to underrepresented groups**

42. To hear a diversity of voices, special measures were adopted to reach underrepresented and excluded groups. In Chile, the department of training and citizen participation supported virtual participation of community leaders and civil society and proactively sought to include older persons in training sessions and dialogues. The Government of Costa Rica developed technical guidelines and action plans to ensure participation of indigenous communities in the prevention and treatment of COVID-19. In Ecuador, the undersecretariat of diversities prepared a diversity action plan 2021–2025 through a process that included defenders and organizations working on the rights of LGBTIQ+ people and, based on consultations and free and informed consent, prioritized vaccination programmes in eight Waorani communities. Japan increased civil society participation in decision-making processes through online meetings on COVID-19 measures, including with organizations of persons with disabilities.

## **5. Establishing feedback channels**

43. Providing channels for critical feedback and complaints is key to ensuring that policies are grounded in reality and corrective actions can be taken. In Austria, a digital discussion platform, the COVID Pop-up Hub, accessible to anyone, was intended to promote the exchange of ideas and to propose response solutions. In Indonesia, the Government repurposed the existing SP4N-LAPOR! platform for anyone to submit complaints or recommendations on public policies and services related to COVID-19. In Mauritius, the Citizen Support Portal allowed citizens to submit individual requests, needs and suggestions with respect to services provided by the authorities in the context of COVID-19.

## **6. Ensuring access to resources and funding**

44. Unhindered access of civil society to resources and funding can offset negative impacts of the pandemic on the functioning of civil society actors, making them effective partners in the fight against the pandemic. For example, the Government of Ireland implemented several funding streams to ensure civil society’s access to resources, including for LGBTIQ+ community services, integration of migrants and refugees and participation of

<sup>74</sup> Submission of International Center for Not-for-Profit Law.

persons with disabilities. In Palestine, the authorities set up the Waqfit Izz Fund to fight the pandemic, which involved civil society, including in the management of funds to ensure transparency. In Slovakia, measures to reduce the economic burden on the population were discussed with civil society. Other countries, including Czechia, Germany, Hungary and the Netherlands, provided tax incentives and deductions on both individual and corporate financial contributions to civil society.

## **B. Civil society responses to the pandemic, and COVID-19 measures**

45. Civil society actors in many countries made vital contributions to the COVID-19 response by providing life-saving services, advocating for people-centred policy decisions, promoting vaccination campaigns, raising awareness and disseminating information about the pandemic and response measures, including sometimes to remote communities with no connections to the Internet and other media.

### **1. Responding to community needs**

46. In its response to an online survey, a Cabo Verde civil society platform noted that the best way to make a difference was to be responsive to local community needs and build positive narratives to promote behavioural change and increased awareness. In Nigeria, civil society groups spoke out about some of the shortcomings of public health and response policies, which at times resulted in corrective actions by authorities and greater attention to the poor and excluded groups in the COVID-19 context.

### **2. Disseminating health information**

47. Volunteers in Nepal disseminated health information, regularly collected health data, and translated information into local languages, including for persons with hearing impairments. Similarly, to address information and other gaps in government services, in many countries organizations of persons with disabilities stepped in, raised awareness and shared vital information in formats accessible to persons with disabilities.<sup>75</sup> In many countries, civil society helped to dispel misinformation about vaccines. For example, in India, civil society groups reached out to underrepresented groups to provide online and offline counselling, and helped to address vaccine misinformation and hesitancy among migrant workers and in remote villages. In Uganda, civil society initiated campaigns for different communities about the benefits of and access to vaccination.

### **3. Campaigning in relation to online surveillance and online content**

48. Many civil society organizations raised awareness about surveillance abuses and content management, and explored strategies to ensure accountability in relation to online content. In India, the Internet Freedom Foundation and other civil society actors advocated together with Jan Swasthya Abhiyan (People's Health Movement-India) on pandemic-related surveillance overreach, underlining the value of collaboration and knowledge sharing among diverse civil society groups. In Lebanon, digital rights organizations reviewed the Government's use of digital technology to address the pandemic and provided detailed feedback to the Ministry of Public Health. In Palestine, an informal civil society coalition from the Middle East and North Africa held discussions with Facebook, Twitter and Instagram to press for transparency and halt improper content removal, including in the context of COVID-19.

### **4. Influencing and providing funding**

49. Civil society actors used some of their funding for COVID-19-related causes, and for improved transparency in the use of public funds. In Malawi, a coalition of human rights defenders, aware of the risk of corruption, led a successful public pressure campaign to audit COVID-19 spending by the Government.<sup>76</sup> In Nepal, many civil society organizations

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<sup>75</sup> Submission of Global Disability Inclusion.

<sup>76</sup> See [https://www.icnl.org/wp-content/uploads/Corruption-and-Covid\\_ICNL-Event-Summary.pdf](https://www.icnl.org/wp-content/uploads/Corruption-and-Covid_ICNL-Event-Summary.pdf).

working in the health sector mobilized their financial and human resources, including up to 20 per cent of their budgets, to support health institutions. Another example is the Resilience Fund of the Global Initiative against Transnational Organized Crime, which provided funds to civil society groups to repurpose their activities from addressing crime to COVID-19 support efforts in Cambodia, Colombia, the Democratic Republic of the Congo, Guatemala, India, Liberia, the Philippines and South Africa, to respond to the immediate needs of communities.<sup>77</sup>

## 5. Employing strategic litigation of emergency measures

50. In various countries, lawyers, human rights defenders and minority rights activists, bar associations and others conducted strategic litigation to counter the negative human rights impacts of disproportionate restrictions of COVID-19 emergency and other measures. While some of the petitioners challenged the state of emergency measures directly, as parties before the courts, others were involved as *amici curiae*, in such countries as Brazil, El Salvador, India, Israel, Kenya, Malawi, Malaysia, Nepal, the Philippines, South Africa and Uganda.<sup>78</sup>

## 6. Volunteering

51. Civil society actors helped to bridge the gap in essential services and in protecting marginalized groups. For example, in Algeria, the Hirak protest movement focused on organizing food and medical supplies for persons living in areas affected by the virus.<sup>79</sup> In the Islamic Republic of Iran, a group of businesses and volunteers delivered 70,000 respirators and other protective gear to Iranian health workers. In Tunisia, more than 100,000 people joined a Facebook group bringing together volunteers to help fight the virus by raising funds, collecting medical supplies, disinfecting public spaces and working with regional authorities to identify families with urgent financial needs.

52. A joint academic project covering 21 countries and territories in Asia and South-East Asia documented examples of COVID-19-related initiatives by individuals and organizations aimed at identifying and filling gaps in the protection of human rights, especially in relation to people and communities in vulnerable situations. For example, in Indonesia, the modified “door-to-door teaching” approach of elementary school teachers exemplified how small community actors could be conscious of human rights and make a significant and tailored contribution to protect them despite COVID-19 restrictions. An initiative of the Philippine Disaster Resilience Foundation improved coordination between civil society and other stakeholders in protecting human rights, with a view to delivering food, particularly for the poorest segments of society, and to distributing certificates that could be used to purchase food items in supermarkets during the pandemic.<sup>80</sup>

## C. Practices relating to global and regional processes

53. COVID-19 has brought about changes in the modes of engagement of civil society with United Nations processes. While information communication technologies have enabled more diverse and inclusive engagement through remote participation – including the participation of women, gender-diverse and LGBTIQ+ people, children and youth – they have also introduced new restrictions.

### 1. Global and intergovernmental processes

54. The Human Rights Council has allowed non-governmental organizations to participate through video statements in its regular and special sessions, and the number of written statements they submitted to the Council increased by 63 per cent compared to the pre-pandemic period, partially offsetting the lack of in-person side events of non-

<sup>77</sup> Submission of Global Initiative Against Transnational Organized Crime.

<sup>78</sup> See, for example, [https://www.americanbar.org/groups/human\\_rights/reports/covid-19-related-state-of-emergency-measures-impact-and-response/](https://www.americanbar.org/groups/human_rights/reports/covid-19-related-state-of-emergency-measures-impact-and-response/).

<sup>79</sup> See <https://carnegieendowment.org/2020/04/21/civil-society-and-coronavirus-dynamism-despite-disruption-pub-81592>.

<sup>80</sup> See <https://www.pdfrf.org/news/report-on-covid-19-responses-by-non-governmental-actors/>.

governmental organizations and the limited in-person participation.<sup>81</sup> Online modalities have also allowed more children to advocate for their rights directly with the Council, with child defenders from India and South Africa, from the Amazon region and the Gaza Strip addressing the forty-sixth session of the Council. Several United Nations human rights treaty bodies have held virtual meetings and briefings with civil society and victims at the local and grass-roots levels.

55. Many virtual events offered simultaneous interpretation into sign language and closed captioning services as well as live broadcasts through the United Nations WebTV streaming service and United Nations social media platforms. For example, the United Nations Office at Geneva provided the Listen Live streaming service for all public meetings. During the sixty-fifth session of the Commission on the Status of Women, the NGO CSW Forum enabled 27,000 civil society participants to join more than 700 non-governmental organization side events. In 2021, the High-Level Political Forum on Sustainable Development and the sixty-fourth session of the Commission on Narcotic Drugs provided guidance on participation and published their list of online side events. The Joint United Nations Programme on HIV/AIDS employed a multi-stakeholder approach during the preparation of the High-Level Meeting on HIV/AIDS in June 2021, and reached out to people living with HIV/AIDS, including youth, women, indigenous peoples, sex workers and LGBTIQ+ people as well as people in faith-based organizations and the private sector.

56. Positive policy developments related to civil society engagement occurred among other international organizations as well. For example, in July 2021, the Development Assistance Committee of the Organisation for Economic Co-operation and Development prepared ground-breaking recommendations on enabling civil society in development cooperation and humanitarian assistance, including by respecting, protecting and promoting civic space, including in the context of COVID-19.<sup>82</sup> The World Bank also recognized the importance of participation in the context of COVID-19, including through its Environmental and Social Framework, and of support for civil society oversight through the trust fund of the Global Partnership for Social Accountability.<sup>83</sup> During the COVID-19 pandemic, the European Union expanded its engagement with civil society and human rights defenders, holding its global Policy Forum on Development in 2020 fully online, and strongly advocated for civil society participation during negotiations of resolutions setting participation modalities for General Assembly events.<sup>84</sup>

## 2. Country level processes

57. The United Nations Development Programme brought together Governments and civil society to respond to the pandemic in Albania, Armenia, Bangladesh, the Plurinational State of Bolivia, Cambodia, Chile, the Democratic Republic of the Congo, Ghana, Iraq, Liberia, Mexico, Moldova, Mongolia, Somalia and Tunisia, among others.<sup>85</sup> From 1 April to 30 June 2021, the COVID-19 Solidarity Response Fund of the World Health Organization allocated \$5 million to strengthen the engagement of 54 front-line civil society organizations in their COVID-19 response at the national and local levels, reaching out to over 80 million hard-to-reach and marginalized people in vulnerable communities in 40 priority countries around the world.<sup>86</sup>

58. The United Nations Children's Fund (UNICEF) carried out consultations with children and youth on the ways in which COVID-19 impacted them and on harm mitigation measures.<sup>87</sup> For example, early in the pandemic, the East Asia and the Pacific Regional Office of UNICEF conducted a Facebook Live online survey with 6,700 adolescents. The United

<sup>81</sup> Submission of International Service for Human Rights.

<sup>82</sup> See <https://legalinstruments.oecd.org/Instrument%20s/instruments/OECD-LEGAL-5021>.

<sup>83</sup> See <https://thedocs.worldbank.org/en/doc/875401606251371090-0090022020/original/FactSheetCitizenEngagementandStakeholderConsultationsduringCOVID19.pdf>.

<sup>84</sup> Submission of European External Action Service.

<sup>85</sup> See <https://www.undp.org/publications/strengthening-governance-during-covid-19-pandemic-snapshot-undps-work-across-globe>.

<sup>86</sup> See <https://covid19responsefund.org/wp-content/uploads/2021/11/SRF-Impact-Report-April-June-21-4.pdf>.

<sup>87</sup> See <https://www.unicef.org/innovation/U-Report>.

Nations High Commissioner for Refugees (UNHCR), as part of a “localization” process, strengthened direct support to organizations formed and run by affected people. The 2020 UNHCR Non-Governmental Organization Innovation Award recognized innovative solutions and responses to COVID-19 developed by refugee-led organizations.<sup>88</sup>

#### IV. Lessons from the pandemic

59. In the overwhelming majority of cases, civil society documented and reported that, as a result of COVID-19-related emergency measures, participation in decision-making decreased and became less safe and inclusive. Most felt that online channels were unfit to replace face-to-face engagement, as they were not accessible to many communities (particularly the poorest and most excluded, including older persons, women and girls, indigenous peoples and people in rural areas) and replicated or expanded restrictions that existed offline, with critical voices in particular being affected by censorship, online hostilities and surveillance.

60. Significant interference with the flow of information was recorded around the globe, ostensibly to address vaguely defined concepts of “disinformation” and control information in the context of the pandemic, often contravening human rights law. It included the adoption of laws restricting expression, often not in compliance with international human rights law; arbitrary administrative or criminal charges; and detention and imprisonment for criticizing COVID-related government measures and questioning the accuracy of official information on the pandemic. Other violations of human rights commonly reported included arbitrary or discriminatory restrictions relating to assemblies, privacy and association in the context of physical distancing and movement restrictions.

61. The right to participate in public affairs and to freedoms of expression, thought, association and assembly are protected under international human rights law at all times. Representatives of civil society, including human rights defenders, journalists and even protesters, are sources of vital information and feedback that enable States to devise effective, sustainable and gender-responsive policies. Dialogues and exchanges with people and communities, particularly those at risk of being left behind, vibrant debate, and safe and effective channels for people to influence their futures and identify common ground, are key to countering disinformation and fostering trust. Trust, in turn has been shown to be a precondition to broad-based ownership of decisions and greater resilience.<sup>89</sup>

62. Trust, dialogue and the exercise of rights, including participation, are of even greater importance when shaping responses in health emergencies. Such measures as censoring content, suppressing debate, limiting the independence of the media and the ability of civil society to operate, banning protests and cracking down on independent voices are likely to amplify the negative effects of a health crisis, can sometimes even lead to loss of life and can undermine the effectiveness of measures taken to combat the pandemic. Transparency with regard to any interventions with freedoms and access to information for all people and communities is critical for overcoming such crises and has also been found to be a key element of the right to health.

63. The findings of the present report confirm that the recipe for effective crisis response and for trust and resilience is a more systematic investment in meaningful, safe and inclusive participation at all levels, coupled with effective measures to protect access to information and an enabling environment for debate as well as the security and holistic protection of those who speak up. Recognizing trust as critical for resilient societies and for sustainable development and peace, the Secretary-General has placed it at the core of his response to COVID-19,<sup>90</sup> including in “The highest aspiration: a call to action for human rights” and in his report entitled “Our Common Agenda”.

<sup>88</sup> See <https://www.unhcr.org/innovation/unhcr-ngo-innovation-award-2020/>.

<sup>89</sup> See [https://www.thelancet.com/journals/lancet/article/PIIS0140-6736\(22\)00172-6/fulltext](https://www.thelancet.com/journals/lancet/article/PIIS0140-6736(22)00172-6/fulltext).

<sup>90</sup> See <https://unsdg.un.org/sites/default/files/2020-04/COVID-19-and-Human-Rights.pdf>.

## V. Recommendations

64. The recommendations contained in the present section provide a civic space recipe for fostering trust. Given the challenges and practices described above, the United Nations High Commissioner for Human Rights has identified three areas as key to preserving and growing trust, which is a centrepiece of every healthy society, but even more critical during emergencies and health crises. Progress in each of the areas should be measured and reported more systematically.

65. The High Commissioner urges States and, as appropriate, other actors, including businesses, under the Guiding Principles on Business and Human Rights, donors and entities of the United Nations system, to invest in inclusive and diverse participation; provide the space and means for an empowered civil society and vibrant debate; and ensure a protective environment for civil society. Concrete steps to achieve those aims are set out below.

### A. Inclusive and diverse participation

66. To invest in inclusive and diverse participation, States and other actors should:

(a) Promote representation of a variety of constituencies and voices and views in decision-making at all levels, including through formal, permanent and institutionalized participation structures in various government bodies and ministries (such as joint committees, participation and civil society focal points), making parliaments and elected bodies at the local and regional levels more accessible and representative, including the use of temporary special measures such as quotas to increase women's meaningful participation, and building on good community engagement models, investing in technologies and adopting innovative solutions, in particular those developed in epidemic contexts;

(b) Tackle barriers to representation of diverse communities and concerns,<sup>91</sup> including those at risk of being left behind, and ensure accessibility for a variety of communities, including persons with disabilities. Civil society in all its diversity should be consulted when devising and reviewing the channels for engagement. Proper analysis, including gender analysis, is required to understand specific contexts, challenges and needs of women, youth, children, persons with disabilities, older persons, indigenous peoples, minorities, rural communities and migrants, among others;

(c) Build trust with civil society by creating channels and platforms for exchange, including at the grass-roots level, to facilitate genuine listening and exchanges of ideas, and to involve people and communities in problem solving. Facilitate community organizing and invest in leadership skills at the local level through inclusive neighbourhood forums and outreach to those who are often denied access;

(d) Invest in making Internet access available more widely to bring new voices to the table and, when needed, support civil society in acquiring hardware and necessary skills; cover travel costs, or arrange other ways to allow individuals, including from rural areas, to participate; compensate grass-roots civil society for additional costs arising from the use of new technologies (including connectivity and electricity), and recognize and address the barriers posed by age and gender and digital divides;

(e) Leverage technologies to reach constituencies, such as through social media discussions for different communities, including young people, incorporating lessons learned during the pandemic. In parallel, enable and institutionalize meaningful online participation in hybrid meetings, addressing particular challenges in accessing and participating effectively in online spaces;

(f) Involve civil society in the development of the WHO international instrument on pandemics. The Intergovernmental Negotiating Body established by the

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<sup>91</sup> [A/HRC/49/42](#).

World Health Assembly should urgently and actively facilitate meaningful participation of diverse civil society entities, through offline and online channels, in the process of developing a WHO convention, agreement or other international instrument on pandemic prevention, preparedness and response.

## **B. Empowered civil society and vibrant debate**

67. To provide the space and means for an empowered civil society and vibrant debate, States and other actors should:

(a) Enable civil society, including the academic community and media, to operate freely and without discrimination. The only permissible restrictions of civil society operations are those that are strictly necessary, proportional, legal and non-discriminatory. Their effectiveness and duration must be reviewed on a regular basis, with the active participation of civil society, including community representatives. The impact of restrictions should be assessed on a case-by-case basis and through a civic space and gender lens. There should be a presumption that blanket restrictions on peaceful assemblies are disproportionate;<sup>92</sup>

(b) Facilitate vibrant debate offline and online, including of controversial measures and restrictions. Recognize peaceful protests<sup>93</sup> as a legitimate form of participation. Enable online assemblies, including by maximizing connectivity and ensuring that the legal framework enables the free flow of information, requires transparency to prevent any interference and protects encryption;

(c) Make long-term, flexible funding for civil society available, on the basis of equality and clear criteria, simplify registration rules, allow for adjustments in emergencies and tax exemptions, and refrain from limiting receipt of funds, including from foreign sources;

(d) Empower civil society to monitor the implementation of health, education, and other pandemic measures and to access information about budget allocation and use, including emergency budgets and funds, for medication and vaccinations, to ensure government accountability; and provide civil society with funding to carry out monitoring, proactively enabling access to all the necessary data and evidence;

(e) Ensure transparency, media pluralism and access to information to counter disinformation. States should fulfil their duty to ensure full access to information in accessible languages and formats, prioritizing efforts to increase digital literacy, maximize transparency and involve civil society in their efforts. Censorship not only violates freedom of expression, but also exacerbates confusion and distrust, making it harder to effectively combat disinformation. Opaque rules and overbroad policies on content removals and restrictions are contrary to the public interest. Governments and government officials should not make, sponsor, encourage or disseminate statements not supported by solid, verifiable evidence.

## **C. Protective environment for civil society**

68. To ensure a protective environment for civil society, States and other actors should:

(a) Recognize and celebrate the key role of a pluralistic civil society at all levels, from global to local, including journalists, whistle-blowers, academia and human

<sup>92</sup> Human Rights Committee, general comment No. 37 (2020), para. 38.

<sup>93</sup> See also the 10 human rights principles for States to adhere to in public emergencies, contained in the statement by the Special Rapporteur on the rights to freedom of peaceful assembly and of association, available at <https://www.ohchr.org/en/statements/2020/04/states-responses-covid-19-threat-should-not-halt-freedoms-assembly-and?LangID=E&NewsID=25788>.

rights defenders, take their contributions seriously and engage with civil society in good faith;

(b) Take measures to protect privacy and refrain from using and exporting surveillance technologies. Involve civil society in deciding which online channels are most secure and appropriate, and conduct joint assessments of their digital security and privacy configurations;

(c) Refrain from, prevent and respond to threats. Online and offline threats aimed at silencing dissent, persecuting critical voices, organizing smear campaigns against and attacking the diversity of civil society actors, especially those perpetrated by, or on behalf of governments, must be investigated and prosecuted;

(d) Establish effective protection mechanisms and protocols to respond to attacks against those who speak up, and equip those mechanisms so they are gender-responsive and can address the specific contexts and needs of different groups and communities, including whistle-blowers, journalists and bloggers. Protect against and support efforts to eliminate strategic litigation against public participation that seeks to silence critical and dissenting voices;<sup>94</sup>

(e) Ensure that protection responses take into account the online dimension, for example, systematically monitor and report on online threats and attacks and document how they shrink civil society space, and prepare to respond to specific incidents with appropriate measures, focused on the well-being of the victim;

(f) Integrate risk assessments and safeguards, through a human rights and civic space lens, in all grants and programmes that promote or affect civil society participation.

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<sup>94</sup> For example, see Coalition against SLAPPs in Europe, available at: <https://www.the-case.eu/tell-eu-stop-abusive-lawsuits>.