Policy Brief
Civic Space Scan Enabling Environment at the Sub-national Level, a Case of Four States-Borno, Enugu, Kano and Lagos
The laws that govern the creation and operation of civil society organisations are a core tenet of ensuring an enabling environment. At its thirty second session, the Human Rights Council received the report of the United Nations Human Rights Commissioner for Human Rights on “Practical recommendations for the creation and maintenance of a safe and enabling environment for civil society, based on good practices and lessons learned”. The Human Rights Council in its resolution (A/HRC/32/L. 29) welcomed the report and:

Urges States to ensure the creation and maintenance of a safe and enabling environment for civil society in the context of the universal periodic review, and encourages States in that regard to consult civil society in the preparation of their national reports, to consider including in their national reports information on relevant domestic provisions and steps, to consider making relevant recommendations to States under review, and to assist States in the implementation of relevant recommendations through, inter alia, the sharing of experiences, good practices and expertise and offering technical assistance on the basis of requests and with the consent of the States concerned, and conducting broad consultations with civil society in the follow-up to their review;

In the report, the High Commissioner focuses on examples of practices that optimise civil society’s transformative potential. It is in reference to the United Nation’s report that we conducted a qualitative research on the civic space scan enabling environment at the sub-national level and developed our civic space research scan report with focus on shaping the domains around freedom of association based on recommendations and best practices identified in the report, using it as an essential to defining a “safe and enabling environment” and defining what data needs to be collected. As a result, we focused on pairing the best practices with definitions used by the Open Government Partnership (OGP):

An enabling environment for CSOs protects and promotes the exercise of the freedom of association. Freedom of association is the cornerstone of an effective civil society as it allows people to come together to improve their lives, communities, and the world at large. It enables citizens’ participation and advocacy, including working collectively towards open and responsive governance. Basic protections for civil liberties, which include the freedom of association, are also part of the criteria for membership in the OGP. (1)

For the purpose of this policy brief, we defined freedom of association as an “organised, independent, not-for-profit body based on voluntary grouping of persons with a common interest, activity or purpose”. The key recommendations framing the research were drawn from 2 broad clusters of recommendations by the UN High Commissioner under the freedom of association section of the report:

- Minimal legal and administrative provisions, favouring simple notifications to a neutral body and available to all at little or no cost, with no compulsory registration requirement for basic operations, best encourage a diverse and independent civil society.

- Ensuring that public freedoms are guaranteed by law and upheld by institutions is certainly a foundation for an enabling environment for civil society to work freely and independently. But it must be complemented by a political culture that recognizes the value of civil society and encourages its engagement.

Central to these clusters are best practices from the report which were framed into seven broader domains that shaped the design of key research questions, and they are:

1. Minimum legal and administrative provisions.
2. Existence of systems for self-regulation or co-regulation.
3. High level messages and honours.

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Long-term support and resources for civil society organizations.

Nurturing culture of volunteerism.

Addressing threats and attacks on civil society actors.

Use of derogatory terminology.

These seven key domains were used in measuring a safe and enabling environment at the sub-national level. The research report acknowledges and presents in some instances a summary of examples of the best practices seen at the Federal level in contrast to those at the sub-nationals. It recognises that a cumulation of practices, laws, regulations, and policies across local, state, and federal levels provides the national enabling environment outlook for civil society in the country.

## Findings, Promising Practices, and Considerations

### 1 Minimal legal and administrative provisions

At the national level, civil society organisations wishing to become legal entities are registered under the Companies and Allied Matters Act, 2020 (CAMA). Civil Society Organisations at the sub-national level are subjected to further registration with Ministries and Agencies of Government in instances where they need to access government facilities or work with the government on issues such as education, health, environment, women empowerment among others. This practice is prevalent across the 36 states of the federation.

Findings from Enugu and Lagos shows that there are no known legal frameworks for registering civil society organisations in these states. None of the ministries responsible for registering civil society organisations in the state have developed real expertise in dealing with and registering organisations as this is usually a sideline activity for them.

However, at the validation workshop in Enugu, the Social Development Decree No 12 of 1974 was pointed out as a law promulgated under the military administration which provides the regulatory cover used by sub-national governments in Enugu to regulate civil society organisations. While the Decree has not been repealed it provides the legal framework for the Ministry of Gender Affairs and Social Development with the social welfare department established in 1989 following the establishment of the Federal Ministry of Culture and Social Welfare.

In Kano, there are two laws, the Youth Edict Law which was promulgated in 1976 to register youth organisations and provides for the registration of youth clubs in the state and performs oversight functions to keep custody of the register of the youth club, supervise activities of the youth council and submits annual progress report on youth council to the Commissioner. And the Kano State Corporative Society Law (Cap 33) that regulates activities formed freely by individuals to pursue the economic interests of their members.

In Borno, the Borno State Agency for Coordination of Sustainable Development and Humanitarian Response (BACSDAHR) and Borno State Emergency Management Agency (BSEMA) registers and maintains the profiles of all humanitarian and development partners including national and international NGOs and civil society/community-based organisations operating in Borno State, indicating their precise sector affiliations and locations of their project(s).
While BACSDAHR could be easily taken as a model for states to follow in terms of the legal framework for registering civil society organisations at the sub-national level, of particular concern is the noncompliance with the provisions of the African Charter on Human and People’s Rights (African Charter) Guidelines on Freedom of Association and Assembly in Africa. With regards to the legal personality of associations, the Guideline states: “States shall not compel associations to register to be allowed to exist and to operate freely. Whereas in Borno the certificate or registration by BACSDAHR is “issued upon completion of registration procedures, shall be conclusive evidence of authority to operate in specific location(s) or throughout the State as agreed between the Agency and the operating partner(s). These provisions under the law setting up the agency are not in line with the protection of fundamental freedoms of association.

2 Existence of systems for self-regulation or co-regulation

As part of best practices to promote a safe and enabling environment, the UN Human Rights Commissioner recommended the introduction of systems for co-regulation or self-regulation in areas where civic space issues can be managed by civil society organisations.

In Borno, networks are recognised as self-regulation mechanisms as membership of networks forms part of registration requirements when registering with ministries and agencies in the state. Civil society organisations reported the existence of standards or codes of conduct for civil society organisations operating in the state.

In Enugu, civil society organisations reported that the recognition of umbrella networks by the government is subject to interest and noted that if the government recognises umbrella associations in the state, then there will be no instances of multiple registrations in the state. CSOs also reported that there are no standards or codes of conduct for civil society organisations in the state. ENSNET the main organisation championing self-regulation in the state has been disbanded owing to an internal crisis and political interference.

In Kano, the Kano State Network of NGOs has adopted the harmonized code of conduct which is at the point of implementing this among its members.

In Lagos, networks such as the Lagos Civil Society Participation for Development, Civil Society for HIV/AIDS in Nigeria, Association of Civil Societies on Malaria, Immunization and Nutrition, Tuberculosis Disease Networks and other thematic networks are recognised by the state and often consulted by relevant ministries and agencies of government.

It is impressive to see that civil society networks are recognised by the government across the 4 states. Education and advocacy on the part of proponents at the national level targeting civil society networks at the sub-national level is the best and most cost-effective mechanism for establishing systems for self-regulation and as a means of shifting the focus away from legislative initiatives in areas where civil society organisations can self-regulate to public enlightenment that can garner support from anti-regulation nonprofit leaders and nonprofit accountability.

3 High level messages and honours

In its recommendation, the UN High Commissioner for Human Rights noted that “High-level messages, awards and honours send important signals to the public concerning the value of civil society’s contributions, such as the International Day of Democracy or Human Rights Day among many others.
To assess how public leaders have used high-level messages in raising the profile of civil society among citizens in Borno, Enugu, Kano and Lagos, democracy day address by the governors of the states from May 29, 2019, to May 29, 2023, was used as a reference point.

Across the four states, none of the governors referred to civil society publicly in their address during this period except in 2022 when the Lagos State Governor mentioned civil society in his democracy day speech, and in 2021 when during a political party rally the Kano State Governor referred to civil society within the contest on anti-Federal Government protests. The role of civil society was also reinforced in the Enugu State Government speech when inaugurating the steering committee on the harmonization of civil society regulatory frameworks in the State.

## Long-term support and resources for civil society organisations

States can create and maintain an enabling environment for civic activity by investing in the development of civil society, taking measures to build participation capacities, especially for marginalized voices, and facilitating access to diverse funding sources and technology. Empowering and strengthening civil society capacities contribute to a protective environment (A/HRC/31/55).

Under this recommendation, only the Lagos State Government was found to have been publicly reported to provide grants to civil society organisations. The Ministry of Women Affairs and Poverty Alleviation and the Office of Sustainable Development Goals and Investment were the two agencies of government that led this effort.

The Ministry of Women Affairs provided a N250,000 grant to 54 women focused nonprofits registered with the Ministry while the Office of SDGs and Investment, was “designed to award the sum of N5 million each to three winning ideas that target each of the Sustainable Development Goals. In total, the grant seeks to fund 51 projects addressing SDGs targets (three projects per SDG) across Lagos state”.

In Kano, the Kano State government has funded the Open Government Partnership (OGP) where CSOs benefited from implementing activities. Some selected organizations were supported; some civil society groups were given cars, and some received support through the umbrella of OGP. In Lagos, the Lagos State Office for Disability Affairs (LASODA) provided a 5 million grant to provide a home for persons with disabilities in the state in December 2022.

A N500 million annual disability fund was established by Lagos State Special People’s Law (SPL) in 2016 to advance the cause of Persons with Disabilities which also includes support to civil society organisations working in the field of disability. There are allegations that funds have been misappropriated.

## Nurturing culture of volunteerism

In line with the recommendation, nurturing a culture of volunteerism by enabling students to work with civil society organizations, as is the case of human rights organizations in Hungary, has the potential to increase young people’s interest in civil society work. Initiatives offered by the business community, including law firms and networks, volunteer projects, or working for part of a year with civil society are similarly supportive of an environment conducive to civil society activity.

In Borno, opportunities exist for students to volunteer including those undergoing national service under the National Youth Service Scheme (NYSC). Students from the fields of public administration, geography, social sciences, regional planning and physical and health education are seen more often. Corporate organisations are reported to allow their staff to volunteer with civil society organisations in the state, however, this is not a frequent occurrence. Civil society organisations celebrate International Volunteer Day however this is not recognised by the state.

In Enugu, students and serving youth corps members can volunteer with civil society organisations across the state. They come from fields such as business administration, development, computer science, history,
education, arts and social sciences. Staff of corporate organisations are allowed to volunteer with CBOs, depending on partnerships that exist between both organisations. Civil society organisations have heard about International Volunteer Day however it has never been celebrated by the state.

In Kano, civil society organisations reported that while students can volunteer, this is often driven by expectations for payment. Whereas volunteering is unpaid and paying expenses to remove barriers to volunteering for volunteers on a low income or with little spare cash is allowed, organisations are often not able to cover these expenses. Students of political science, social science, law, education, engineering, and medicine are fields that often volunteer. Corporate volunteering is not happening in the state.

In Lagos, civil society organisations felt that the culture of volunteering needs to be promoted as it is hard to find undergraduates interested in volunteering with nonprofits in the state. However, where students have been successfully recruited for volunteering, it is dependent on the availability of projects, with students coming from the fields of communication, biological sciences, zoology, botany, forestry, and fishery.

Most organisations, however, have received corps members through the NYSC. In the opinion of focus group participants, corporate organisations in Lagos State are “in their own space. Because most of them have their own foundations, their staff most times volunteer directly there”. International Volunteers Day is not celebrated in the state.

**Addressing threats and attacks on civil society actors**

Addressing threats and attacks targeting civil society actors should be part of building a tolerant culture. Across the focal states, civil society organisations reported that attacks on civil society actors are rare. They opined that the level of threat depends on the nature of the work of the organisation, location, operations, and approach. However, instances of attacks were mentioned in Borno, Enugu, and Kano.

In Borno, instances of attacks on nonprofit staff were cited such as kidnapping for ransom and shooting by military personnel. The government intervened by introducing reintegration programmes and providing security for the civil society actors including a framework for reporting such incidents to the Department of State Services.

Validation workshop participants explained that the Northeast Peace and Security network provides a forum for NGOs and humanitarian actors to address issues relating to security and threats while encouraging further awareness of the network and how civil society organisations can access them.

Threats faced by civil society actors in Kano are linked to freedom of peaceful assembly. Protest leaders are sometimes arrested to prevent protests from being held. Actors advocating against government policy are often targets of government threats in the state, in most instances government rhetorics have been used in addressing such with no action. Actors affected have had to resort to using the services of lawyers in the civil society community.

In Enugu, human rights defenders often face threats because of their activities. The attacks can be subtle, and, in some cases, strategies used by the government include extra-legal means. The report of the panel set up to investigate the ENDSARS protests and make recommendations to the government is yet to be made publicly available. Civil society organisations have also demanded accountability in this regard.

**Use of derogatory terminology**

Labeling civil society organisations and actors as “foreign agents”, “moles” or “unpatriotic” in laws or in state-supported media generally aims to deter criticism, discourage free expression, increase negative public opinion of civil society actors, and distract attention from the issues at stake. States have an obligation to protect people from acts by private individuals or entities that would impair the enjoyment of freedom of opinion and expression.
Across the focal states, respondents mentioned that public officials often do not use derogatory words about the sector publicly but have in private meetings used words such as “fake”, “unregistered”, “noise makers.” The only time civil society was used by the governor of Kano State in its democracy day speech was in a negative sense: “The AUTHORITY reports that while other states across the federation battle to contain with the anti-Federal Government protest organized by a section of the Civil Society Organizations.

The use of the word “section” is common within the corridors of power when describing civil society activities in relation to protests or anti-government policy and is used to connote only a few, not a majority.

In Borno, civil society organisations working in the field of accountability have been accused of “brainwashing” and teaching community members to be “disrespectful” to their leaders. Words such as “thieves”, “troublemakers” and “money launderers” are used especially when civil society organisations are demanding accountability in Enugu. For Kano, phrases such as “enemies of progress” “groups in opposition” “they are with the opposition party” are used in delegitimizing civil society.

Recommendations

Specifically, and in the context of the recommendations, lessons, and best practices provided by the United Nations, it is suggested that governments at the Federal and State levels bear the following in mind to promote and protect the civic space in Nigeria:

Minimal Legal and Administrative Provisions

To ensure minimal legal and administrative provisions for the promotion and protection of civic space at the sub-national level. The National Assembly should repeal Decree 12 of 1974. At a minimum, State Assembly should deploy legal safeguards that commensurate with the degree of civic space infringements associated with freedom of association to protect civil society organisations in their states.

Administrative provisions should be found in the law, simplified with the use of online platforms, social media, and other resources to ensure consistent messaging on eligibility, scope, benefits (incentives to register), fees, and method of application among others.

Existence of systems for self-regulation or co-regulation

Civil society networks/coalitions should ensure that their members are mobilised to subscribe to the self-regulation models of their choice and such mobilisation activities are accompanied by adequate education and awareness including guides, toolkits, and templates to ensure those needing capacity receive the right resources and information to aid subscription. National and sub-national governments should support and incentivise these voluntary efforts of civil society to self-regulate but must refrain from mandating membership in any including networks/coalitions.

High-Level Messages and Honours

The increasing role of civil society organisations in a democracy has required that governments must use the right narratives and messaging in acknowledging and reinforcing their role in
several thematic areas. Governments should therefore establish appropriate frameworks for recognising the contribution of civil society to local, state, and national development. While civil society organisations hold governments accountable to their promises and policies including pressures, policy makers must be wary of labelling these organisations as anti-government or opposition. Civil society organisations working in the field of accountability, democracy, and good governance must also do well to balance collaboration with confrontation.

**Long-term support and Resources for Civil Society Organisations**

National and sub-national governments should consider creating flexible multiyear funding for schemes for civil society organisations to cover administrative expenses and support institutional and resilient building while ensuring that the provision of this support does not deprive benefiting organisations of their independence and is not used as leverage to control or excessively monitor them. Provide tax deductions for all private contributions and donations to not-for-profit organizations working towards public benefit objectives.

**Nurture a Culture of Volunteerism**

National and sub-national governments must genuinely, proactively, meaningfully, and constructively engage with a broad representation of civil society actors to support a more conducive environment for volunteering. Strengthen the Nigeria National Volunteer Service to shape and inform along with civil society input in the development, implementation and domestication of laws, regulations, policies, and other measures that can promote and make formal volunteering (individual and corporate) more attractive to citizens and as a way of participating in a democracy.

**Addressing Threats and Attacks on Civil Society Actors**

Attacks on civil society actors continue to happen at the sub-national level. National and sub-national governments must ensure that civil society actors can have access to effective remedies for violations of their right to access resources. Access to an independent, impartial, and effective judicial remedy. Make available legal aid to civil society organizations and actors to claim their rights and provide training to judges on international human rights norms and standards concerning freedom of association. Civil society organisations must work with parliamentarians to recognise violations of freedom of association and understand how these can be protected including how national security legislation may be used to deter civil society organizations.

**Use of Derogatory Terminology**

National and sub-national governments must develop clear policies and messaging on the value of inclusive and independent civil society and on the importance of respecting, protecting, and promoting civic space. Policy makers must engage in dialogue with civil society to prevent unintended consequences due to misrepresentation of the sector and explore strategies to counter misinformation, harassment, discrimination, and anti-democratic narratives targeting civil society. Include the positive role of civil society and their rights to fundamental freedoms in staff training and senior leadership briefings and speeches.
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