

L'Année PhiLanthropique

The PhiLanthropic Year

Volume 5 | Printemps / Spring 2024



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Traduction | Translation

Sirois Translation

ISSN: 2563-3058

Dépôt légal - Bibliothèque et Archives
 nationales du Québec, 2024.

Dépôt légal - Bibliothèque et Archives
 Canada, 2024.

À propos du PhiLab | About PhiLab

Le **Réseau canadien de recherche partenariale sur la philanthropie** (PhiLab), anciennement Laboratoire montréalais de recherche sur la philanthropie canadienne, a été pensé en 2014 dans le cadre de la conception de la demande de financement du projet développement de partenariat CRSH intitulé « Innovation sociale, changement sociétal et Fondations subventionnaires canadiennes ». Ce financement a été reconduit en 2018 sous le nom d'« Évaluation du rôle et des actions de fondations subventionnaires canadiennes en réponse à l'enjeu des inégalités sociales et des défis environnementaux ». Depuis ses débuts, le Réseau constitue un lieu de recherche, de partage d'information et de mobilisation des connaissances des fondations canadiennes. Des recherches conduites en partenariat permettent la coproduction de nouvelles connaissances dédiées à une diversité d'acteurs : des représentants gouvernementaux, des chercheurs universitaires, des représentants du secteur philanthropique et leurs organisations affiliées ou des partenaires.

Le Réseau regroupe des chercheurs, des décideurs et des membres de la communauté philanthropique à travers le monde afin de partager des informations, des ressources et des idées.

The **Canadian network of partnership-oriented research on philanthropy** (PhiLab), previously called the Montreal Research Laboratory on Canadian philanthropy, was thought up in 2014 as part of the conception of a funding request by the NRCC partnership development project called "Social innovation, social change, and Canadian Grantmaking Foundations". From its beginning, the Network was a place for research, information exchange and mobilization of Canadian foundations' knowledge. Research conducted in partnership allows for the co-production of new knowledge dedicated to a diversity of actors: government representatives, university researchers, representatives of the philanthropic sector and their affiliate organizations or partners.

The Network brings together researchers, decision-makers and members of the philanthropic community from around the world in order to share information, resources, and ideas.



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NAVIGUER LA POLITIQUE | NAVIGATING POLICY





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Setting International Standards to Reverse Shrinking Civic Space

By Casey Kelso, *Senior consultant on advocacy and strategy, WINGS*



Casey Kelso is a senior consultant on advocacy and strategy with experience living in and working with activists in Sub-Saharan Africa (particularly Southern Africa) and the Arab world (Middle East and North Africa). He has held senior leadership positions at International Crisis Group, Transparency International and Amnesty International.

Major hurdles to philanthropy all over the world are rising. Registering foundations can be expensive, time-consuming and subject to official, often arbitrary discretion. Sometimes state harassment and negative campaigns are mounted, especially against human rights and watchdog organisations – and those who fund them. Tighter restrictions globally on cross-border charitable giving can undercut a healthy civil society and philanthropic ecosystem. All these barriers can block progress toward a more just, inclusive and sustainable world. Vigorous advocacy, however, has created legal yardsticks to promote and defend civic space, which is indivisible from the space for local

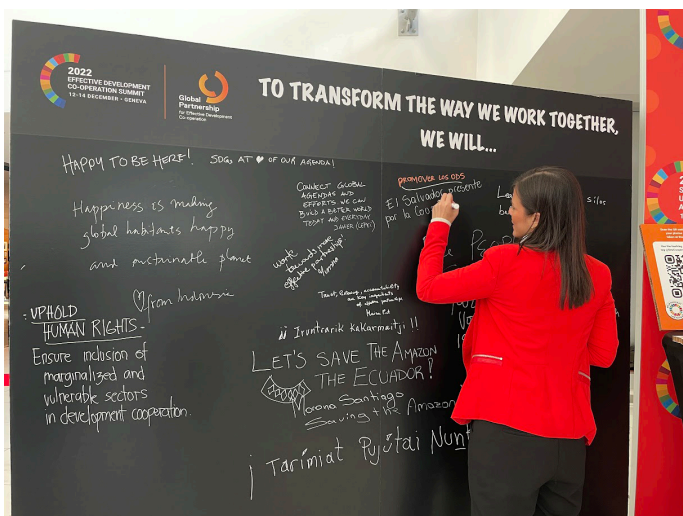
philanthropic giving to civil society.

This brief round-up of the advocacy experiences by WINGS' worldwide network of foundations and philanthropic support organisations reviews several global policy setting venues that have affirmed the fundamental right to contribute time, expertise and funds. In international standard-setting processes, WINGS elevated the diverse experiences of its worldwide network members in consultations to promote good public policy on philanthropy's civic space. Successful advocacy led to acknowledgements by government authorities in declarations and guidance about the need for an enabling environment for philanthropy to effectively resource civil society.

Shrinking philanthropic space versus "soft" legal standards

The Global Philanthropy Environment Index (GPEI, 2022) described how about one-third of the 91 countries and economies it studied experienced a

restrictive environment for cross-border philanthropic flows. While giving by private philanthropy – foundations, corporations, and individuals – grew worldwide between 2018 and 2020, transfers of private charitable contributions fell. Since 2012, 30 countries have introduced or extended restrictions on cross-border philanthropy (Rutzen, 2015). The causes vary from rising nationalism and a questioning of Western power, while some governments may have an ambivalence about philanthropy's tendency to support civil society's role in government accountability (OECD, 2018). It should be acknowledged that not all of the limits to cross border money transfers are negative. Nations have a legitimate interest in controlling money laundering and restricting support of terrorism. These legitimate concerns, however, should not lead to either unintentional or politically motivated restrictions that go beyond to close civic space.



"Participant from El Salvador at the 2022 Effective Development Cooperation Summit in Switzerland", Source: Global Partnership for Effective Development Cooperation, December 2022.

Sometimes national central banks block grants by international foundations to local community foundations and national philanthropy. More often, domestic grantees are overwhelmed by bureaucratic requirements for accessing foreign funding: local foundations may need prior government authorisation or specific bank accounts to receive funds from sources outside the country. And diaspora communities from many low- and middle-income countries find it challenging to send back voluntary gifts for building schools, hospitals, and other vital projects. All are symptoms of a sometimes "un-enabling environment" for philanthropy globally.

Unhindered giving by citizens domestically or across borders provides resources to civil society and other social change actors to address the critical challenges that face our planet, including climate catastrophe, the rise of authoritarian ruling parties, and recovery from armed conflict. In the long run, the solution is to build local funding ecosystems for sustainable local financing for bottom-up, locally led development. That can only happen in dialogue with governments, who bear the responsibility for setting responsible, proportionate legal regulations on national and community-level foundations. References to legal state obligations and prior official declarations and commitments take the emotional or political tone out of policy discussions, helping dialogue.

Emerging international standards on civil society's ability to receive and use funds for its activities have become a key lever in advocating with governments in push back to regulatory restrictions. Set out in Article 20 of the Universal Declaration of Human Rights and Article 22 of the International Covenant on Civil and Political Rights, the right to fund and receive funding is a human right. Freedom of association includes the ability (of civil society) to seek, receive and use resources – human, material and financial – from domestic, foreign and international sources, as defined by UN experts.

While official human rights treaties set "hard" legal standards that states ratify and become obliged to implement, there are also declarations and guidelines by the UN or the broader international community that are not seen as creating obligations. Nonetheless, those unofficial "soft law" standards can motivate countries to take corrective action when rights are violated, or civic space is hemmed in by overly restrictive regulations. The neutral wording of international "soft law" standards, in the absence of a concrete legal obligation, can help build common ground with national authorities.

With little fanfare among civil society, a human rights expert framed an important international standard last year.

A new UN standard on philanthropic space

In June 2023, the UN Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association, Clément Nyaletsossi Voule, issued detailed recommendations and best practice examples for the regulation of philanthropy and

the creation of an enabling environment for civil society organisations to enjoy their right to access resources. The General principles and guidelines on ensuring the right of civil society organisations to have access to resources (A/HRC/53/38/Add.)⁸ underscore civil society's right to access resources, including foreign funding, as an inherent part of the right to association. Principle 6 called for unrestricted international transfers, suggesting sectoral equity in access to resources by both the corporate and civil society sectors. The guidelines further called for tax incentives for donations to civil society which help convey the message that States recognize the important role of associations in addressing societal needs, thus combating the stigmatization they often face. "Best practice dictates that States should equally promote unrestricted philanthropic flows across borders," the UN Special Rapporteur said.

Under Principle 7, governments were asked to "... take positive measures to ensure associations are protected from harassment, smear campaigns, threats, and attacks, including on the basis of the sources of their funding" (para. 41). The Guidelines also made an unambiguous recommendation that "States must respect, protect and facilitate associations' right to freely seek, receive and use foreign funding and promote cross-border philanthropy" (para. 50).



"From left to right, Peter Laugharn, CEO, Conrad N. Hilton Foundation; Sara Aviel, President and CEO, Inter-American Foundation; Sean McKaughan, Board Chair/President, Avina Foundation; and Rose Maruru, founder and CEO, Epic Africa; speaking together about locally led development at a WINGS side-event to the UN General Assembly". Source: InterAmerican Foundation, September 2023.

WINGS members in the UK, USA and across the world inputted case studies, best practice examples, and suggestions for wording about tax incentives for charitable giving, repeal of laws and regulatory

measures that unduly restrict foreign funding, and the reduction of administrative burdens or unduly high fees charged differently than those for corporations to mobilise international resources. The UN Special Rapporteur's Guidelines include all of the aspects that WINGS advocated. So far, however, this new standard has received limited public attention or press coverage.

Other standards, however, have the full engagement and attention of international donors at the OECD.

Donor learning materials on funding space

The OECD Development Assistance Committee (DAC) Recommendation on Enabling Civil Society in Development Co-operation and Humanitarian Assistance⁹ is "the first international framework to guide and incentivize development co-operation and humanitarian assistance providers in advancing their policies and practices to support civic space and civil society actors, at home as well as in partner countries or territories". As a standard developed jointly by the 32 member countries at the OECD, the Recommendation includes provisions on respecting, protecting and promoting civic space, and supporting and engaging civil society. Governments are asked to "... work to strengthen civil society actors, including their ability to develop local financial resource streams and to protect and promote civic space".

To steer the OECD's work on civic space, there is a DAC Community of Practice on Civil Society that brings together representatives of major donor agencies. As a counterpart, the OECD also created the DAC-CSO Reference Group of civil society organisations, which was closely consulted in the drafting of the civil society recommendation. This Reference Group of civil society experts continues to play a role in developing materials to help donors understand and implement best practices on how to protect civic space in OECD and partner countries.

As a member of the Reference Group, WINGS and its members provided important input from a philanthropic perspective into draft toolkits¹⁰ for implementing the DAC Recommendation on Civil Society. WINGS contributed to OECD DAC toolkits that address issues such as "Shifting power within partnerships", "Funding civil society in partner countries", and "Respecting, protecting, and promoting civic space in partner countries". Each draft has been circulated to interested WINGS members

for comment.

The OECD is also the secretariat for the Global Partnership for Effective Development Cooperation (GPEDC), another global grouping that has taken “soft law” action for civic space.

National dialogues on philanthropy’s contribution to development

The Global Partnership for Effective Development Cooperation (GPEDC)¹¹ brings together 161 countries and 56 organisations to strengthen the effectiveness of development co-operation to achieve progress towards the SDGs. The GPEDC promotes four development effectiveness principles¹², which are 1. country ownership, 2. a focus on development results, 3. inclusive partnerships, and 4. enhancing transparency and mutual accountability between all development actors. The GPEDC grouping of governments aims to strengthen the effectiveness of multi-stakeholder development co-operation to achieve progress towards the SDGs.

In its fourth monitoring round¹³ taking place between 2023 to 2026, a multi-stakeholder monitoring exercise is being led by some 54 country governments with input from national actors including philanthropy, CSOs, local authorities, private sector, trade unions and parliamentarians, as well as international development partners and other development actors. That assessment will then ground discussions at country-level with evidence about the national enabling environment for CSOs, among other issues. As part of this process, WINGS members are involved in providing feedback in their countries about their enabling environment and their own effectiveness.

A “soft law” standard was set in Switzerland at the GPEDC 2022 Effective Development Co-operation Summit in 2022, which had more than 600 participants from over 111 countries. WINGS facilitated a delegation of 15 representatives of the global philanthropy network, from the Bill and Melinda Gates Foundation and Charities Aid Foundation UK to the Arab Foundations Forum, CivSource Africa and Comunalia of Mexico. WINGS lobbied before and during the Summit for a strong outcome statement to reaffirm the importance of a positive political, financial, legal and policy context in which philanthropy works. The GPEDC Geneva Summit Declaration¹⁴ emphasised creating the necessary trust for inclusive partnerships and improved sustainable development

outcomes, with governments pledging to “...build trust (and) safeguard stakeholders’ enabling environment.” (para. 24)



“WINGS member Tatiana Fraga Diez, former Executive Director of Comunalia Foundation of Mexico, speaking on a panel with USAID, SIDA and the UNDP about the localisation of aid at the 2022 Effective Development Cooperation Summit in Switzerland.” Source: Global Partnership for Effective Development Cooperation, December 2022.

Setting the foundation for future national dialogues on civic space, the GPEDC Declaration affirmed: “We are determined to reverse the trend of shrinking of civic space wherever it is taking place, and to build a positive environment for sustainable development, peaceful societies, accountable governance and the achievement of the 2030 Agenda and the SDGs. We are determined to accelerate progress in providing an enabling environment for civil society, including in legal and regulatory terms, in line with internationally agreed rights.” (para.25) It is significant that those promises will be assessed by the GPEDC-mandated monitoring process and future national dialogues with civil society including philanthropy.

Through these less formal general principles, recommendations and declarations, philanthropy organisations have an opportunity for follow-up accountability advocacy on their implementation at country level to improve the national enabling environment.

Conclusion

Philanthropy remains a vital part of civil society, yet it also is a distinct subset that brings a unique set of opportunities and abilities that make it particularly constructive as a funder and conduit of resources to civil society. The sector also can have both national and international influence with governments including donor nations, corporate foundations

and the private sector. Philanthropic organisations therefore can become a major target when authorities tighten the political, financial, legal and policy context in which civil society operates. On the other hand, philanthropy's unique position allows it to convene multi-stakeholder collaborations to advocate for an enabling environment for all civil society.

The value of informal international standards for civic space -- as an important lobbying lever that can help build bridges with governments and allies among international development partners -- lies in their use by advocates at national and local community levels. The key question is how to make that link from global to local advocacy. This is a programmatic question for WINGS and other networks to answer through good information sharing, co-creation of policy positions, support for local advocacy capacity, and resource mobilisation for national or regional campaigns. At stake is the effective development that contributes to achieving the ambitious 2030 Agenda goals.

Notes

- 1 WINGS is a global network of philanthropy support and development organisations committed to ensuring philanthropy reaches its fullest potential as a catalyst for social progress. Its growing community of thought leaders and changemakers include more than 200 members across 58 countries. See the WINGS [website](#) for more information about its advocacy and policy work.
- 2 Indiana University, Lilly Family School of Philanthropy, "The Global Philanthropy Environment Index 2022", accessed at [here](#).
- 3 Rutzen, Douglas, "Protectionism chills cross-border giving" (Special Feature), Alliance Magazine, September 2015, accessed [here](#). See also Rutzen, Douglas, "Aid Barriers and the Rise of Philanthropic Protectionism", International Journal of Not-for-Profit Law, March 2015, accessed [here](#).
- 4 OECD, "Private Philanthropy for Development - Second edition: Data for Action," The Development Dimension, December 2021, accessed [here](#).
- 5 Una Osili and Aloysius Uche Ordu, Brookings Institute, "How remittances and philanthropy meet development challenges in Africa". Foresight Africa, April 2023, accessed [here](#).
- 6 United Nations, Universal Declaration of Human Rights, Article 20, accessed [here](#) and also the United Nations, "International Covenant on Civil and Political Rights", Article 22, accessed [here](#).
- 7 United Nations General Assembly, Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, Maina Kiai, April 2013, A/HRC/23/39, accessed [here](#).
- 8 United Nations, "General principles and guidelines on ensuring the right of civil society organizations to have access to resources", Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, June 2023, A/HRC/53/38/Add., accessed [here](#).
- 9 OECD, Development Co-operation Directorate, Development Assistance Committee (DAC) Recommendation on Enabling Civil Society in Development Co-operation and Humanitarian Assistance, OECD/LEGAL/5021, April 2023, accessed [here](#).
- 10 OECD, Development Co-operation Directorate, Development Assistance Committee (DAC), "Update: DAC Recommendation on Enabling Civil Society in Development Co-operation and Humanitarian Assistance", April 2023, DAC Meeting, 8 March 2023 (Session 2/2), accessed [here](#).
- 11 GPEDC (Global Partnership for Effective Development Cooperation), Infographic: "The Global Partnership at a Glance", October 2020, accessed [here](#).
- 12 GPEDC, "The Effectiveness Principles", accessed [here](#).
- 13 GPEDC, "Effective Development Co-operation GLOBAL DASHBOARD", accessed [here](#).
- 14 GPEDC, "2022 Effective Development Co-operation Summit Declaration", December 2022, accessed [here](#).

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