

YEAR IN REVIEW

INTERNATIONAL
GOVERNANCE



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CIVIL SOCIETY AND THE INTERNATIONAL SYSTEM

ABOUT THIS REPORT

Each year the CIVICUS State of Civil Society Report examines the major events that have involved and affected civil society around the world. We seek to celebrate our achievements as civil society, identify the challenges we have faced and assess how recent events have impacted on civil society, as well as how civil society has responded to them. This section of the report looks at civil society's engagement with international governance. Other sections discuss the current crisis of democracy and its implications for civil society, the freedom of expression as a vital part of the space for civil society, and citizens' mobilisations in protest movements.

Our report is of, from and for civil society. As well as the four parts of our year in review, our report has a special section on this year's theme, civil society and the private sector, including 27 guest contributions from civil society activists, leaders, experts and stakeholders, and a thematic essay that draws from those contributions. This report is also informed by responses to our annual survey of members of our Affinity Group of National Associations (AGNA), made up of national and regional-level civil society coordination and membership bodies, and a series of interviews with members of our alliance who were close to the year's major stories. We are very grateful to all our contributors for their efforts in helping to develop this report.

INTERNATIONALISM UNDER ATTACK

A new regressive political project, described in part one of this review, is explicitly attacking and seeking to undermine internationalism. The pursuit of economic nationalism and renewed policies of building walls and strengthening borders cannot be reconciled with support for global values and international institutions. The human rights agendas of many international institutions, and some of the major United Nations (UN) institutions in particular, are at odds with neo-fascist politics that restrict human rights, seek to govern in the interests of dominant population blocs and work to isolate and attack excluded groups. The regressive political project therefore [attacks](#) UN institutions as sources of cosmopolitan 'globalist' values, including women's, LGBTI and minority rights. Attempts by international institutions to monitor human rights, and hold states to international law and norms, are seen as outside interference. Neo-fascist politicians seek a new global order, in which strongmen rulers can exchange tactics to reinforce each others' rule, and international cooperation focuses only on economic development and security; they want a world of parallel bilateralism, rather than multilateralism.

The international system has always been dysfunctional: the [2014 State of Civil Society Report](#), which had a special focus on global governance, identified some of the key challenges with international institutions: they are dominated by state interests, and the interests of powerful states in particular; closed to citizens but open to big business influence; engage superficially and unevenly with civil society organisations (CSOs); have not evolved as the

world has changed; and often fail to address the major challenges of the day. Recent political shifts have intensified these challenges, and thrown the international system onto the defensive.

Recently elected populist leaders have repeatedly attacked international institutions, US President Donald Trump [dismissed](#) the UN as “just a club for people to get together, talk and have a good time.” President Rodrigo Duterte of the Philippines [threatened](#) not only to leave, but also to “burn down” the UN. Israeli Prime Minister Benjamin Netanyahu simply [refused to recognise](#) a landmark UN Security Council (UNSC) vote in December 2016 demanding the halt of settlement activity on Palestinian territory. He branded the vote as “shameful” and recalled the ambassadors of some states that voted for it, further undermining the credibility of the international system. As highlighted below, President Vladimir Putin’s Russia has consistently blocked UNSC action on Syria, while several unaccountable African presidents have committed in public to withdrawing from the International Criminal Court (ICC). The UK’s June 2016 referendum decision to leave the European Union (EU), discussed in part one of this review, marked an explicit rejection of internationalism.

On 1 June 2017, President Trump announced that the USA was withdrawing from the Paris Agreement on Climate Change, which [became international law](#) in November 2016. The announcement positioned the USA, the world’s [second-largest](#) climate polluter, as a rogue state: the only other UN members that are not party to the deal are Nicaragua and Syria. The move was instantly and globally condemned, including by the leaders of France, Germany and Italy, a wide range of [civil society](#) and [major businesses](#). The challenge the rest of the world, including civil society, now faces is to show leadership on and ownership of the Paris Agreement, and not allow President Trump’s rash actions to wound it fatally.

The Office of the UN High Commissioner for Human Rights is a staunch ally of civil society, and in 2016 launched its ‘stand up for someone’s rights today’ [campaign](#), encouraging each of us to stand against hate and defend rights, but it is also a key target of the powerful forces that are trying to weaken the UN. As the recent stance taken by the Trump administration suggests, so is the UNHRC. Many in civil society, including CIVICUS, prioritise engagement with the UNHRC because we see it as a key arena for monitoring and asserting accountability over the human rights compliance of states, and for establishing progressive human rights norms. At the [March 2017](#) meeting of the UNHRC, CIVICUS and our allies were once again active, making 11 oral statements, co-organising 10 panel discussions and supporting five joint advocacy letters; our commitment to engagement with the UNHRC’s Universal Periodic Review Process (UPR), in which each state’s human rights record is subjected to scrutiny, also saw CIVICUS and partners make submissions on [nine countries](#) in advance of the November 2017 UPR session.

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But it is precisely because of its role in asserting human rights norms and exercising accountability over states that repressive states continue to seek and gain election to the UNHRC, in order to undermine it. The [2016 elections](#) saw China, Cuba, Egypt, Iraq, Rwanda and Saudi Arabia, all listed in the most serious categories for civic space restriction on the [CIVICUS Monitor](#), among the 14 states elected to membership. The presence of so many human rights-abusing states on the UNHRC prevents it from realising its full potential. Things could have been still worse: [Russia stood](#) but was not successful, with its role in human rights abuses in Syria and evident contempt for UN institutions evidently counting against it. Over 80 CSOs mobilised to call on states not to vote for Russia, indicating more positively how such processes can also present an opportunity for focused civil society advocacy to highlight states' poor human rights records.

In the current polarised circumstances, civil society may be in the somewhat uncomfortable position of having to mount a spirited defence of institutions that it knows to be imperfect. It may be hard, for example, to critique the practice of the ICC while calling for African states to remain engaged members. It also presents a new challenge for progressive civil society, which has long critiqued such instruments of narrow economic globalisation as the barrage of recently negotiated free trade treaties, when new right-wing populist leaders act to halt those treaties. This was seen when President Trump [withdrew](#) the USA from the Trans-Pacific Partnership (TPP) in January 2017. The challenge then becomes one of owning the narrative, and advancing alternatives rooted in human rights and international values.

PROGRESS AND SETBACKS AT THE UN

A CAUTIOUS WELCOME FOR A NEW UN SECRETARY-GENERAL

It is in these embattled times that a new UN Secretary-General, [António Guterres](#), takes the helm and faces a packed agenda. The [2016 State of Civil Society Report](#) welcomed the partial opening out of the selection process for the Secretary-General, in which public hearings were held and civil society had opportunities to ask the candidates questions. A year back, we also asked whether a more open process would lead to the appointment of the first ever female Secretary-General. Clearly, this did not come to pass, and there may be some grounds for disappointment that the winning choice was a white European man. Against this, Mr Guterres' broadly progressive track record as the [UN High Commissioner for Refugees](#) gave some grounds for encouragement.

While the UN can be characterised as a massive bureaucracy dogged by institutional inertia, experience shows that the personality and approach of the Secretary-General can make a difference to the tone and direction of UN institutions. The need for civil society now is to engage with the new Secretary-General, who has so far made some positive moves. Ahead of his selection, Mr Guterres played an active part in dialoguing with civil society, and in October 2016 he [welcomed](#) civil society's desire for deeper UN engagement and acknowledged that partnership with civil society is "a key element in solving global problems."

Further, as civil society had urged, in January 2017 he moved to address criticism of the gender imbalance at the top of the organisation by appointing [three women](#) to key positions, with two of them coming from the global south, renewing his pledges to "gender parity and geographical diversity." The appointment



World Economic Forum, Amina J Mohammed

as Deputy Secretary-General of Nigeria's [Amina Mohammed](#), who steered the development of the Sustainable Development Goals (SDGs) in a process characterised by high levels of civil society engagement, was particularly encouraging for civil society. Mr Guterres also held the [first-ever](#) women's rights town hall meeting as part of the annual Commission on the Status of Women Meeting in March 2017, although civil society present at the Commission on the Status of Women also [objected](#) to the increasing limitations to CSO access to key events.

In February 2017, there was a further sign of encouragement, as the UN rejected a [proposal from the government of China](#) that states that criticise CSOs during meetings of the Committee on Non-Governmental Organisations, which decides on CSO accreditation to the UN Economic and Social Council (ECOSOC), should be allowed to do so anonymously. If successful, the move would have lowered transparency on how accreditation decisions are made, something that is [already lacking](#).

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Further, in a small step forward for transparency, in April 2017, it was agreed that future public meetings would be webcast for the first time.

However, CSOs continue to face an uphill battle to become accredited: when the [Committee to Protect Journalists](#) (CPJ) was finally accredited in July 2016, it was the end of a four-year battle marked by seven deferrals and a vote against by the NGO Committee, something that must have entailed a huge time and energy commitment by CPJ and delayed its ability to engage with the UN on the freedom of expression. Key human rights-abusing states [voted against](#) accreditation. [CSW](#), an international religious freedom network, had its application deferred from 2009 until ECOSOC ruled that it should be accredited in 2017, during which time it attended several sessions of the Committee in New York and answered more than 70 questions. The latest challenge is faced by a group of [Turkish CSOs](#) and CSOs formerly based in Turkey, with the Turkish government claiming that since it has de-registered these organisations, they no longer exist. In April 2017, a number of Turkish CSOs duly had their accreditation withdrawn, denying them a key international platform. These challenges are indicative of a wider problem in which states that are suspicious of civil society hold positions on the NGO Committee and use their position to [block the accreditation of CSOs](#), particularly those that speak up for excluded groups and exercise accountability over rights: of 464 applications considered at the May to June 2016 session of the Committee, only 188 were successful, with 235 deferred until the 2017 session and 41 rejected. At a time when the space for civil society is under attack at the national level, states exploit their positions to [carry forward](#) practices of restriction into the international level.

More positively, civil society has been quick in coming forward with its recommendations to the new Secretary-General. The [1 for 7 Billion](#) campaign brought together over 750 CSOs and an estimated 170 million supporters worldwide to call for a better process to select the best possible Secretary-General. In follow-up in 2017, welcoming Mr Guterres' commitment to cooperation and dialogue with civil society, four of the founders of 1 for 7 Billion - Avaaz, CIVICUS, the Friedrich-Ebert-Stiftung New York Office and the United Nations Association - UK - worked with the campaign's supporters to [suggest an agenda](#) for improved UN-civil society relations. Key recommendations include:

- Improve the transparency of the NGO Committee;
- Have coherent and transparent UN rules, procedures and structures to involve civil society on a consistent basis, and on a wider range of issues;
- Act to protect the space for civil society (civic space);
- Mainstream action on gender equality;

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- Strengthen the UN's peacebuilding functions, with the full involvement of civil society;
- Engage with and improve access by young people, including in crucial discussions such as climate change negotiations, and through improved use of new technologies;
- Encourage the inclusion of civil society in the implementation and monitoring of the SDGs;
- Extend the UN's reach and engagement, including to the civil society and citizens of the global south and people from excluded groups;
- Continue and expand the practices of enabling civil society voice in high-profile recruitment processes that were modelled in the Secretary-General recruitment.

A clear agenda for future dialogue has therefore been established.

It should be apparent that, while the process for appointing the Secretary-General represented an innovation compared to past practice, it still [fell far short](#) of the inclusive process that civil society wants, with the majority of the process still conducted in secret. It should represent a line that cannot be moved back from next time, but rather should be advanced from. In the meantime, civil society will push for progress from UN institutions and the new Secretary-General on the above agenda.

A BATTLE WON ON LGBTI RIGHTS

The UN took another positive step forward in June 2016 with the agreement to institute a new [Independent Expert](#), on protection against violence and discrimination based on sexual orientation and gender identity (SOGI). The [historic vote](#) at the UNHRC reflected years of advocacy by [civil society](#), with 628 CSOs from 151 countries, 70 per cent of them from the global south, [calling on the UNHRC](#) to adopt the resolution. The championing of the issue by a group of states, from Latin America in particular, was also crucial. Conversely, it can be noted that none of the [18 states](#) that voted against the measure has a good human rights record.

The first [Independent Expert](#), [Vitit Muntarbhor](#) from Thailand, was appointed in September 2016 and began work in November 2016, but the issue was not yet closed. The [Africa Group](#) of states mounted a [rear-guard action](#) to have the adoption of the UNHRC's report that included the decision blocked at the Third Committee of the UN General Assembly in November 2016. The Africa Group called for more time and argued that the institution of the office should not be a priority compared to issues such as development and racism. Such a move would have undermined the [credibility](#) of the UNHRC and the UN system. Civil society again mobilised to defend the office, with [799 CSOs](#) signing an open letter. Ultimately, the attempt was [defeated in a vote](#), but only narrowly, with 84 states supporting a motion to delete the Africa Group resolution compared to 77 against, indicating how contested the issue remains at the UN level, and reflecting a world in which [over 70 states](#) still criminalise LGBTI relations. One state that should be acknowledged for having switched its position positively

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was [South Africa](#), which was criticised for abstaining in the June 2016 vote, given that it has the most progressive constitution for LGBTI rights in Africa. Following extensive civil society advocacy, South Africa broke from the Africa Group to vote in support of LGBTI rights at the November 2016 vote.

In January 2017, Professor Muntarhorn held his [first consultation](#) with civil society, a further landmark for the UN, and for civil society's work to realise LGBTI rights. The establishment of the role demonstrates the potential of the UN, and the UNHRC in particular, to set progressive human rights norms, and makes clear that rights are indivisible. A new opportunity has been created for civil society to report on and call attention to rights abuses. Civil society now must build on its impressive track record of advocacy to engage fully with the office, in order to help ensure that states are held to account.

DEFENDING THOSE WHO ENGAGE WITH THE UN

Another important step taken by the UN in defence of human rights came in October 2016, when Assistant Secretary-General Andrew Gilmour was given a [special mandate](#) to “receive, consider and respond to allegations of intimidation and reprisals against human rights defenders and other civil society actors engaging with the UN.” This important move recognises a growing trend of actions being taken against people from civil society who participate in UN processes, including those of the UNHRC and its UPR processes: in August 2016, the UN published [a report](#) setting out allegations of threats and reprisals made against those who cooperated with the UN in Australia, Burundi, China, Iraq, Japan, Morocco, Somalia, Sudan, Uganda, Venezuela and Viet Nam, indicating how widespread the problem has become. Australia found itself on this list of infamy when the special rapporteur on the human rights of migrants, [François Crépeau](#), was forced to postpone a planned visit to Australia out of fear that those who spoke to him would experience reprisals.

Meanwhile a 2016 report by the [Gulf Center for Human Rights](#) recorded that human rights defenders from Bahrain, Kuwait, Oman, Saudi Arabia, Syria, the United Arab Emirates and Yemen had experienced reprisals for cooperating with international human rights systems. A civil society leader in [South Sudan](#), who asked to remain anonymous, further reported on recent reprisals against those who cooperated with the UN in that country:¹

The actions of government against civil society activists and human rights defenders have forced many to leave the country and abandon their participation in UPR pre-sessions. After testifying in a meeting organised by a visiting UNSC delegation in the capital, Juba, national security agents blacklisted all those who spoke about the human rights situation, including those that called for justice and the need to expedite the establishment of a Hybrid Court for South Sudan.

One activist was killed the next morning. Others were being sought, while those who were fortunate managed to escape to neighbouring countries. As the government tries to deny the flow of information on South Sudan they are quite aware that the UPR pre-session would provide a platform to expose the human rights situation and probably make demands for international intervention. Members of civil society whose invitations were leaked to the security agents received anonymous calls threatening to deny them return to South Sudan if they dared attend the UPR pre-session.



Clerk of the Privy Council, Syrian Refugees

A further tactic used against activists who try to engage with the international system is to stop them travelling. 2016 saw several instances of people being prevented from attending UN meetings: [Nedal Al-Salman](#) and [Hussain Radhi](#) of the Bahrain Centre for Human Rights were prevented from travelling to the UNHRC in August 2016, alongside [several other travel bans imposed by the state](#), while [Khurram Parvez](#), a Kashmiri activist in India, was detained after trying to board a flight to Geneva in September 2016, and [subsequently](#) held for [76 days](#).

Egypt has become something of a market leader in the imposition of travel bans: [Mozn Hassan](#) of Nazra for Feminist Studies was stopped from travelling to a feminist meeting in Lebanon in June 2016, and [Ahmed Ragheb](#) of the National Community for Human Rights and Law was prevented from travelling to the 22nd Conference of Parties (COP 22) of the UNFCCC in Morocco in November 2016. A travel ban was also imposed on [Malek Adly](#) of the Lawyers Network of the Egyptian Center for Economic and Social Rights in November 2016.

These repressive measures by states undermine the integrity of the international system, and can exert a chilling effect, deterring civil society activists from cooperating with international

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institutions, particularly when actions taken against them go under-reported or un-investigated. Having signed up to the UN system, states must be held to account when they act to undermine it.

THE CARNAGE CONTINUES: THE FAILURE OF THE UN OVER SYRIA

The greatest failing of the UN is over Syria. Repeat editions of the State of Civil Society Report, in [2014](#), [2015](#) and [2016](#), have analysed the inability of the deadlocked UNSC to act against the murderous regime of President Bashar al-Assad in Syria. While official agencies have given up attempting to count the killings, the [Syrian Network for Human Rights](#) has estimated that over 450,000 people have been killed since the state launched its assault on pro-democracy protests in 2011, with around half the population – over 12 million people – displaced.

The overwhelming majority of these deaths have come at the hands of the state. Given this, the situation in Syria is not only the most profound humanitarian crisis of our times; it is also one of the most damning international governance failures in the history of the UN system. Key states in the UN system have failed to uphold the rights of Syrian citizens, and then, to add insult to injury, they have failed in their duty to give adequate help to [Syrian refugees](#).

Much of the attention in 2016 focused on the beleaguered city of Aleppo, described in September 2016 as the [worst humanitarian catastrophe](#) of the conflict by Stephen O’Brien, the UN’s Under Secretary-General for Humanitarian Affairs. For the first half of 2016, then-rebel-held Aleppo was under siege by Syrian state forces and their allies, which applied starvation tactics, until an all-out assault in the second half of 2016 saw state forces ultimately winning a decisive battle and effective control of the city. The Aleppo assault was brutal, sustained and indiscriminate. It saw the state deploy [chlorine gas attacks](#) and Russian forces accused of using bunker bombs and incendiary bombs against civilian targets. By November 2016, it was clear that state and Russian forces regarded anyone still living in Aleppo as a fair target; they bombarded the city with [chilling propaganda](#) warning citizens that they would be “annihilated” and that “everyone has given up on you... nobody will give you any help” to make clear their intentions towards anyone not prepared to flee their homes.

It is hard to avoid the conclusion that war crimes were committed as part of the assault on Aleppo. An airstrike on an aid convoy in [September 2016](#) killed around 20 people and denied essential supplies to the people of Aleppo; as only Syrian and Russian planes were in the area, it seemed clear where the responsibility must lie, but the Russian government outrageously described the attack as a [hoax](#). The then UN Secretary-General [Ban Ki-moon](#) used his farewell address at the UN General Assembly to denounce the “sickening, savage and apparently deliberate attack” and top UN officials described the attack as a

¹ This is an edited extract of an interview conducted in October 2016. The full interview is available at <http://bit.ly/2IG7HOQ>.

potential war crime. A subsequent [UN report](#) was careful to avoid laying blame on Russian or Syrian sources, while failing to suggest any plausible alternatives, but its findings supported a conclusion that war crimes may have been committed. And yet there was little follow-up on the report's findings, suggesting that those who committed war crimes could act with impunity. A [further report](#) from the UN Commission of Inquiry on Syria in March 2017 also concluded that war crimes had been committed in the forced displacement of citizens from Aleppo; at the time of writing, civil society again waits to see what consequences, if any, may ensue.

Accusations of war crimes continued to go hand in hand with apparent impunity as the destruction of Aleppo went unchecked. In a highly unusual exchange, the Russian state was directly accused of war crimes at an emotive [UNSC session](#) in September 2016. But when the representatives of France and Spain brought a resolution to end the aerial bombardment of Aleppo to the UNSC the following month, Russia predictably flexed its veto power to block yet another resolution. As Russia was chairing the UNSC at the time, the dysfunction could not have been more profoundly stated. Ban Ki-moon described the situation in Aleppo as "[worse than a slaughterhouse](#)," but could do nothing in the face of Russia's veto power. By February 2017, the Russian state had vetoed [seven](#) UNSC resolutions on Syria.

Similarly, when Stephen O'Brien described the UNSC's failure to stop the bombardment of Syria as "[our generation's shame](#)" and called Aleppo a "kill zone," the reaction of Russia's representative was bullish, calling the UN official's account "unfair and dishonest." When the head of Unicef, Anthony Lake, called the destruction of a [school complex](#) in Aleppo a possible war crime, and when the UN Envoy for Syria, [Staffan de Mistura](#), described indiscriminate rocket attacks on Aleppo as potentially amounting to war crimes, there was a similar lack of follow-up. The danger here was that even the notion of a war crime was becoming normalised, and the accusation something increasingly easy to brush off for the powerful; UN processes were being used as a vehicle to perpetuate precisely the kind of outrage that the UN was created to prevent. Such was the level of civil society anger that [over 200 CSOs](#) condemned the UN for its "shameful" inaction in December 2016.

One challenge in understanding the situation in Syria over the last five years has been that so much of the debate is dominated by the perspectives of the domestic state, various foreign states with a stake in the conflict, and the non-state combatant groups fighting it out. Information is filtered through their economic and geopolitical interests. For example, the [US bombing](#) of Syria in April 2017 in response to a chemical attack by Syrian forces on citizens, yet another act without UNSC authorisation, quickly became something debated only [through the prism](#) of what it might say about President Trump's broader foreign policy aims, and relations with Russia. The voice of civil society on the ground in Syria and among the Syrian diaspora that has largely been displaced into neighbouring countries is hardly ever heard in comparison. We asked [Nibal Salloum](#) of the Syrian peace-building organisation Nuon, which works in Southern Syria and with Syrian refugees in Lebanon, to assess the situation for civil society and human rights defenders in Syria:²

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In Syria there are two kinds of civil society; the first kind are organisations that are accepted and approved by the regime. These organisations can register and work in public. The other kind are independent CSOs that are forced to work illegally according to Syrian law because they work on human rights issues, including with political prisoners and people imprisoned after exercising their right to the freedom of expression. The offices of these CSOs are normally forced to be located in neighbouring countries, where CSO employees receive information from human rights defenders working inside Syria to document human rights violations.

Only a few CSOs working on human rights are still based inside Syria, but they are forced to work underground and many of their members are in prison. Human rights defenders inside Syria cannot work in public because they risk forced disappearance, being killed or being pressured through their families being targeted. The restrictions on human rights defenders vary depending on which party is in power in the area the defenders work in. The Syrian regime will often kidnap or arrest human rights defenders, whereas Islamic State and Al Nusra Front will kill them.

Most human rights defenders are aged between 22 and 35 years and lack specialisation. They need training as they were not active before the conflict broke out five years ago. Prior to documenting the violations, many of the human rights defenders are trained by the CSOs they provide information to. For security reasons, the human rights defenders that are able to travel will often deliver information in person in Jordan, Lebanon or Turkey, because it is safer than sending it through email and Skype because of surveillance. Others, however, are not able to travel and have to use insecure ways of communicating.

In addition to the torture and violence all human rights defenders face, women activists are particularly exposed. While gender-based violence, and in particular sexual violence, has been used in Syria as a weapon of war, it is also being used against women human rights defenders. This can also lead to society rejecting women human rights defenders who are survivors of sexual violence, and they will become neglected people in society.

In general, all Syrians face issues when it comes to visas for Europe, and that makes it difficult to be a human rights defender. It has been difficult for me to get visas to speak at international institutions in Europe, and this is something that affects Syrians.

² This is an edited extract of an interview conducted in January 2017. The full interview is available at <http://bit.ly/2jnoMcQ>.

As Nibal Salloum relates, the failure to hear the voices of Syrian civil society extends to the international donors and international CSOs that are trying to respond to the Syrian situation:

In my opinion the international donors and international CSOs working in Syria unfortunately do not understand all the circumstances or the mentality here. This does not of course apply to all of them, but many. Most of the international donors and CSOs come with their own plans and try to make them fit the situation instead of listening to the activists or planning with the CSOs and human rights defenders inside Syria and in the border countries. Normally, they have already decided on the topic or issue they find interesting and if they have decided that something is not a need they will not give money to it or try to listen. Unfortunately we also see that money is wasted on issues that are not pressing or that are done in a manner that does not fit the Syrian reality. For example, documentation is being mentioned, but many Syrian human rights defenders don't know what the meaning of documentation is or what to do with it. This is where someone who knows the context must be involved.

We also see that a lot of the support for Syrian refugees from international donors is not working or fulfilling the needs of refugees. Instead of giving money to the Lebanese government to ensure that Syrian children can go to Lebanese schools for three hours a day, specific education and care must be provided for these children of war who have been out of school for three or four years. For this reason, we must look at the issues from all sides before deciding what the solution is. Too often, we unfortunately see that the projects end up suiting the donors rather than the beneficiaries.

We need to be true partners with international donors and organisations so that the cooperation goes two ways. We have expertise and knowledge about the situation and they have capacities, funds and knowledge of various techniques. One way to ensure that the programmes actually fit the needs of the beneficiaries is through joint monitoring, evaluation and planning. In this partnership, it would be great if the international donors and organisations would improve their working streams by listening more to the Syrian CSOs.

As well as its failures at the UNSC level, the role of the UN on the ground in delivering humanitarian aid in Syria was also controversial. There were numerous accusations from civil society that in working with the Assad regime to obtain humanitarian access, UN agencies had failed to negotiate with the regime sufficiently strongly, effectively [conceding their neutrality](#). The Syrian state's assertion of sovereignty exploited a weakness in a UN system that privileges states over all other actors. It meant that UN agencies could only work with a list of [state-approved organisations](#). It left UN agencies reliant on state-supplied data

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that deliberately understated the needs in rebel-held areas. This meant that most aid went to government-controlled areas: it was revealed in September 2016 that UN aid deliveries were [failing to reach](#) most people in besieged, rebel-held areas, while state forces were also removing vital supplies from aid convoys. This raised the difficult question of whether the UN's cooperation was helping to shore up the Assad regime, by enabling the regime's deliberate strategy of [besiegement and starvation](#).

Proposals to create 'humanitarian corridors' to help supply and evacuate Aleppo saw UN agencies at further risk of being deployed as a tactic to help crush the rebellion: state forces and allies might presume, once windows of evacuation had closed, that all remaining in Aleppo were rebels who they could kill at will, leaving the UN in the position of effectively aiding one party in the conflict. Even compliance with the regime did not necessarily bring cooperation: during a September 2016 ceasefire, the state was reported to have [blocked](#) an aid convoy into rebel-held areas of Aleppo. In late September, [over 80 per cent](#) of UN aid convoys were reported to have been blocked or delayed. Russian pauses in the Aleppo bombardment in October and November 2016 offered [few further chances](#) to bring in humanitarian supplies or [evacuate people](#) from the city.

There were also questions about corruption. Because Syria is an autocratic state, close [friends and relatives of the leader](#) hold many positions of power. When UN agencies were accused of handing [lucrative contracts](#) to people closely connected to the Assad regime they ran the risk that they would be seen as complicit in financially supporting a murderous state. Such was the concern about the state's influence that in September 2016, [over 70 aid groups](#) suspended cooperation with the UN in Syria.

There are no easy answers for external agencies in responding to complex humanitarian contexts with human causes, in which some aid may well be better than no aid at all, and questions will continue to be asked for years. [Leaked UN documents](#) showed that UN agencies were troubled by these dilemmas, while the Syrian Arab Red Crescent faced similar accusations of close connections with the regime. At the very least, a full and open [inquiry](#) will be needed to ensure that the UN learns the lessons of its role in Syria.

Nibal Salloum acknowledges the dilemmas that UN institutions faced, but highlights a lack of flexibility and a distance from civilians as challenges in its approach:

The UN is trying to help but there are various issues with the cooperation. First of all, not all Syrian CSOs understand the UN mechanisms and they do not know how to communicate with them. Second, there is an ingrained mistrust among the Syrian people towards government institutions, which the UN suffers under since it's a government institution. The Syrian CSOs must help open the UN's eyes to the specific situations where their help is needed. There is a willingness from the UN to work with more grantees, but it is important that the UN shows flexibility in this outreach, as many Syrian CSOs are hard to reach.



Oxfam International, Syrian Peace Activist

Meanwhile, peace processes sparked up and flared out a number of times in 2016 and into 2017, with talks being held between various parties in Switzerland and Kazakhstan. Two ceasefires were called and broken. The suspicion was that state forces and their Russian allies were using ceasefires strategically, to give themselves a chance to restock and reposition for renewed assaults; that no compromise could come while Syria and Russia saw themselves in sight of a [military victory](#). Sure enough, when Russia secured a [fresh ceasefire](#) deal at the end of December 2016, it was only after the objective of taking Aleppo by force was achieved.

Once again, the challenge was that the voices of combatants and external states were asserting themselves in peace processes, but the voices of domestic civil society were not being heard. This is not easy when factions involved in peace talks are simultaneously [restricting civil society](#) at home. But it should be understood that there can be no real peace [without civil society](#), not least because it is civil society that is asserting the [voices of women](#) in peace. If peace is to be built, Nibal Salloum tells us, those who can build peace on the ground need to be heard:

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It is important that independent civil society is involved and that they are advisors in the peace process, but unfortunately that is not the case right now. Firstly, we see that those CSOs involved in the peace process are not completely independent and let their political views lead their involvement, resulting in them not sharing all necessary information or truly representing civil society. Secondly, we see that Syrian CSOs don't have capacities or understanding of the mechanisms to participate.

I believe that we should first map out the independent and non-partisan Syrian CSOs and then help them in building their capacities, particularly in conflict management and transitional justice. A true partnership should be established with Syrian CSOs, and their involvement in any peace process or at least consultation with them should be ensured. Their opinion should be taken into consideration and they should be allowed to monitor the situation, as we believe that Syrian CSOs are the ones who really know how things are on the ground.

At the very least, what those who have been killed or have suffered in the Syrian conflict deserve is that the world, and the UN, learn the lessons of the mistakes made. Sentiments of 'never again' that are not acted upon will do nothing to respect the millions of Syrian citizens caught up in a conflict that passed all comprehension. In February 2017, in the first major policy announcement under the new Secretary-General, it was announced that a [new UN team](#) had been set up to prepare prosecution files on potential war crimes in Syria. Civil society will scrutinise the progress of this team closely, paying attention to who is investigated and how powerful they are; it represents an opportunity for the international system to make some small amends for huge failures. Long-term reform of the UNSC should also result as the legacy of the dreadful recent failures, and civil society should continue to push for this.

THE CHALLENGE WAS THAT THE VOICES OF COMBATANTS AND EXTERNAL STATES WERE ASSERTING THEMSELVES IN PEACE PROCESSES, BUT THE VOICES OF DOMESTIC CIVIL SOCIETY WERE NOT BEING HEARD

POSITIVE CHANGE AT THE FINANCIAL ACTION TASK FORCE

The Financial Action Task Force (FATF), an international organisation that seeks to combat money laundering and terrorism financing, has long presented something of a challenge for civil society: it took the view, in [Recommendation 8](#) of its International Standards on Combating Money Laundering and the Financing of Terrorism and Proliferation, that CSOs were "particularly vulnerable" to being abused for the financing of terrorism. Given that civil society is often restricted on the pretext of countering terrorism, as discussed in part one of this review, this language gave states that seek to restrict civil society new opportunities to clamp down on civic space [under the guise](#) of compliance as part of its anti-terrorism strategy. Some banks also responded by closing the accounts of CSOs or delaying payments to them. The scale of this problem is indicated by [recent research](#) that shows that two-thirds of US-based CSOs that work internationally have faced challenges in accessing financial services.

FATF Recommendation 8 therefore became a target for civil society advocacy. A group of concerned CSOs formed the [Non Profit Platform on the FATF](#) and began a process of constructive engagement with the FATF. The group convened the FATF's first-ever dialogue with civil society in 2013, and engagement led to revisions to its guidelines and the development of a more refined typology for its approach to civil society.

The process of engagement produced more success in 2016, when [Recommendation 8](#) and its accompanying Interpretive Note was reworded to urge states to “review the adequacy of laws and regulations” on civil society and to apply “focused and proportionate measures.” Blanket approaches to CSOs are now replaced by the encouragement that states should take a nuanced view, and one that recognises the need to ensure that legitimate civil society activity can flourish, and the impact of compliance measures on legitimate activities should be minimal. This [removes incentives](#) for states to legislate and regulate excessively to demonstrate compliance, as this would go beyond the minimal impact specified. The new measures also include a welcome recognition of the role of CSOs in combating terrorism.

While the FATF's approach to civil society is still far from perfect, it has shown an encouraging willingness to listen to civil society, and the changes give increased scope to call to account the actions of states when they go beyond the levels needed to comply with FATF standards. The changes would not have come about without sustained [civil society advocacy](#), and civil society will continue to engage on these issues.

AFRICA AND THE INTERNATIONAL CRIMINAL COURT

The [2015](#) and [2016](#) State of Civil Society Reports tracked a growing discontent among the leaders of some African states with the International Criminal Court (ICC). 2016 was the year when the leaders of three, Burundi, The Gambia and South Africa, ramped up the pressure by stating that they would withdraw their membership. The year also saw the government of Russia, which never joined the ICC, symbolically [withdraw its signature](#) from its founding treaty.

On [3 November 2016](#), South Africa's Justice Minister presented a Bill in Parliament to repeal South Africa's membership of the ICC. The [previous month](#), South Africa's Minister for International Relations and Cooperation had handed notification to the UN Secretary-General informing him of South Africa's decision to withdraw. The governments of [Burundi](#) and [The Gambia](#) quickly followed suit. All three accused the ICC of unfairly targeting African states.

While the decisions were the same, the stimulus behind them varied. The South African decision to withdraw came after the state [refused to arrest](#) Sudanese President Omar al-Bashir during the 25th African Union (AU) Summit, held in South Africa in June 2015. President al-Bashir has two arrest warrants outstanding against him for genocide, crimes against humanity and war crimes. As a member of the ICC, South Africa was obliged by the Rome Statute, the ICC's founding treaty, to arrest President al-Bashir. Subsequently, South Africa's [Supreme Court of Appeal](#) ruled on 15 March 2016 that the state indeed had a duty to arrest President al-Bashir, after the Southern Africa Litigation Centre (SALC) brought a case, and [following this](#) South African officials were asked to appear at the

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ICC in April 2017 to explain their failure to respect the arrest warrant. It was this issue, and the domestic and international criticism it sparked, that seem to lie behind the government's thinking.

[Angela Mudukuti](#) of SALC sets out some key civil society criticisms of South Africa's decision:³

³ This is an edited extract of an interview conducted in December 2016. The full interview is available at <http://bit.ly/2gBY5Tt>.

It sends the wrong message to the victims of crimes. It shows that South Africa has chosen to support impunity. South Africa could potentially become a safe haven for suspected perpetrators of genocide, war crimes and crimes against humanity. In addition, if justice fails at the domestic level, there is no African court with criminal jurisdiction, and if South Africa successfully leaves the ICC, there will be no justice at the international level either. This creates an untenable situation that will leave the victims with nowhere to turn.

The state seems to advance a number of misplaced excuses for withdrawal in its legal papers and media statements. This includes the allegation that the ICC is targeting Africa, which is of course unfounded, as evidenced by the number of self-referrals and the fact that the ICC has preliminary examinations in Afghanistan and Iraq, for example. The state also alleges that its commitments to the Rome Statute are a hindrance to peace and security efforts in Africa, yet this does not make any sense, as South Africa has been engaged in peace and security initiatives for several years while being a member. South Africa signed the Rome Statute in 1998 and ratified it in 2000, and not once has the Rome Statute been raised as a hindrance to peace-keeping efforts. It is only since the arrival of President al-Bashir in 2015 that South Africa has had problems with the ICC. Thus it cannot really be about peace-keeping, as South Africa does not have to host suspected perpetrators to conduct peace-keeping activities successfully.

Burundi's decision to leave follows the [ICC's announcement](#), in April 2016, that it had opened a preliminary investigation into extrajudicial killings, rape, imprisonment and torture in the country. There has been [systematic state violence](#) ever since the widespread protests that greeted President Pierre Nkurunziza's decision to stand for a third presidential term in 2015 were suppressed. The report of an independent [UN investigation](#), published in September 2016, found "abundant evidence of gross human rights violations" perpetrated by the state, possibly amounting to crimes against humanity, and that same month the UNHRC established a [Commission of Inquiry](#) on Human Rights in Burundi.

As [Cyriaque Nibitegeka](#), a Burundian human rights defender and lawyer suggests, the government's motivations behind its decision to leave the ICC seem clear: to prevent its leaders being held to account for their human rights abuses:⁴

Since April 2015, several cases of arbitrary deprivation of life, torture and other cruel, inhuman or degrading treatment, sexual violence on men and women, countless arbitrary arrests and detention, including mass arrests, have taken place in Burundi. These actions are systematically perpetrated by members of Burundi's National Police Force, the armed militia of the party in power - the Imbonerakure - and, to a lesser extent, members of the National Defence Force.

Within such a context and in a country like Burundi, where crimes under international law are committed as the state's general policy and where the danger of genocide is highly critical when we take into account the history of Burundi, international criminal justice remains the only way to bring the perpetrators of crimes to justice. It is therefore obvious that the authorities in Burundi decided to withdraw Burundi from the Rome Statute in order to avoid being held accountable by the international justice system and to guarantee total impunity to perpetrators of these crimes.

Since the beginning of the current crisis, the ICC has seemingly been aware of the atrocities committed and there is a feeling that sooner or later a decision will be taken by the Court to hold to account criminals of the regime guilty of massacres, rapes, forced disappearances and acts of torture. The regime and its supporters see this as a threat. Now, by withdrawing from the ICC, the government is basically making sure that those complicit avoid prosecution.

The implication then is that, since the crimes against citizens are for the most part committed by members of the defence and security forces with the complicity of the judiciary and with orders from top members of the regime, human rights violations are only likely to get worse.

The danger of these moves is therefore that victims of human rights violations are likely to feel exposed, because they are unable to seek redress for injustice at the international level. There is also the risk that the deterrent effect that ICC membership can exert, not least because there is no immunity under the Rome Statute, will be lessened. Without the prospect of accountability being exercised by the ICC, impunity will flourish. This is particularly the case in countries where the institutions of justice are weak and judicial independence is lacking, leaving few national level avenues for justice. Cyriaque Nibitegeka highlights the hope that Burundian citizens have placed in the ICC:

The ICC serves as a deterrent to those who potentially will use extreme violence to target opponents or those critical of the regime. Without the ICC, the regime carries out human rights abuses with utmost impunity.

⁴ This is an edited extract of an interview conducted in December 2016. The full interview is available at <http://bit.ly/2lheKKh>.

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Igor Rugwiza



Since the beginning of the repression, the people of Burundi, and especially the victims, have made it clear that the only hope for justice rests with the ICC. Indeed, in view of a national justice system that has itself become an instrument of repression, several victims have given mandates to lawyers' collectives to obtain justice from the ICC.

During the brutal repression, demonstrators chanted songs about the fact that the perpetrators of crimes will one day face justice at the ICC. This shows that Burundians are convinced that they cannot depend on national judicial systems that are controlled by the executive. In the absence of impartial national judicial processes, Burundians are of the view that any hope of justice against the very powerful politicians, defence and security forces and the Imbonerakure rests with the international justice system.

On 10 November 2016, the Lawyers' Collective for Victims of crimes under international law perpetrated in Burundi (CAVIB), wrote to the Chief Prosecutor of the ICC requesting her to initiate an investigation into the current crimes perpetrated in Burundi. In addition, on 11 November 2016, the leaders of Burundi's civil society initiated and organised an ICC support protest at The Hague, its

headquarters. Further, a delegation of Burundi's civil society went to The Hague to carry out advocacy at the Assembly of State Parties to the Rome Statute.

When the three states decided to withdraw, the fear was that there would be a domino effect: that other African states would follow, and mass withdrawal would collapse the credibility of the court. However, the decision of The Gambia to pull out was short-lived. As discussed in part two of this review, while dictatorial former President Yahya Jammeh had a habit of leaving institutions that could criticise him, new President Adama Barrow moved to end the country's self-imposed isolation in [February 2017](#), [formally reversing](#) its decision to leave the ICC.

The Gambia's decision left Burundi and South Africa as outliers, because the predicted domino effect of African withdrawals did not occur. While the agreement of an ICC [Withdrawal Strategy](#) at the AU Summit in February 2017 might appear to suggest that positions were hardening, the resolution was [non-binding and weak](#). [Netsanet Belay](#) of Amnesty International suggests that it may instead be the case that the majority of African states are committing to continued engagement with the ICC.⁵

Contrary to what many believe and what is being reported, 2016 saw a tempering of the rhetoric of African mass withdrawal from the ICC. While people expected a domino effect, the outcome went in the opposite direction. Since the last Assembly of State Parties to the ICC in November 2016, many African states unequivocally rejected calls for mass withdrawal. A number of countries, including those who had been silent supporters, publicly affirmed their support of the ICC. This includes Botswana, Burkina Faso, Côte d'Ivoire, Democratic Republic of Congo, Ghana, Lesotho, Mali, Malawi, Nigeria, Senegal, Sierra Leone, Tanzania and Zambia.

Building on this momentum, at the 28th AU Summit in January 2017, many African countries effectively refuted any myth of mass withdrawal. While the AU Summit adopted what is called a mass 'withdrawal strategy', it is actually nothing like this. To the contrary, the strategy sets out a roadmap for engagement with the ICC and other stakeholders. It makes clear that the concept of mass withdrawal is not recognised under international law and clarifies that if member states chose to withdraw, they should do so according to their domestic mechanisms. Further, many states - Cabo Verde, Liberia, Malawi, Nigeria, Senegal, Tanzania, Tunisia and Zambia - made reservations on the decision. Others, notably Nigeria, opposed the adoption of this strategy.

What this is telling us is that what once looked like a trend of mass withdrawal by African nations is not there. Those countries that were silent before are now saying they will not stay silent any more and will support the ICC. The Gambia's

⁵ This is an edited extract of an interview conducted in February 2017. The full interview is available at <http://bit.ly/2nvwRgh>.

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return is also a significant game-changer for a number of reasons: it was the only misfit in West Africa, a region that is traditionally a staunch supporter of the ICC. The Gambia is also the human rights capital of Africa, given that it is the seat of the African Commission on Human and Peoples' Rights. Burundi and South Africa are left alone at the moment, and they need to use this opportunity to change their minds.

The rhetoric that the ICC unfairly targets Africa is beginning to be taken on, including by African civil society, and false claims separated from genuine criticisms and suggestions for constructive reform. Angela Mudukuti disputes many of the criticisms made:

The allegation that the ICC is targeting Africa is the main reason advanced by a number of African leaders. This is not factually accurate. In addition to the fact that this is because of a lack of understanding about the jurisdictional limits of the Court, it is also an excuse that is conveniently used by politicians to further their political agenda instead of prioritising justice, accountability and the victims of international crimes. While the ICC is not a perfect institution, it requires support and critical yet constructive engagement from member states.

As Netsanet Belay adds, there is always a need for civil society to engage with the question of how the ICC can be improved:

Despite the tampering of anti-ICC rhetoric in Africa, we should not downplay the legitimate concerns that African member states have about the ICC. The Court is a far from perfect institution. There are legitimate questions to be raised about why the ICC has not progressed on its preliminary investigations on non-African situations.

The role of the UNSC and the politicised nature of referrals is also a very important question that should be addressed – not by the ICC but by the UNSC itself. As we saw from the failures on Syria, South Sudan and elsewhere, the UNSC is in dire need of reform and needs to be engaged.

There are also legitimate reform proposals on the table with respect to the Rome Statute system. For instance, weeks before its decision to withdraw, the South African government tabled a proposal on the development of rules and procedures for consultation processes with ICC members, under Article 97 of the Rome Statute. One of South Africa's concerns was the lack of a clear process for consulting with the ICC when the country was faced with a dilemma on whether to arrest President al-Bashir in 2015. The government felt that the procedures were not clear enough, and it suggested clearer procedures. Amnesty International agrees that there is a gap there that needs to be filled, and has proposed [recommendations](#) on how this proposal should be taken forward.

Part of the reaction in Africa has been to suggest African alternatives, which firmed into the [Malabo Protocol](#), adopted by the AU in June 2014. This intends to extend the jurisdiction of the African Court of Justice and Human Rights to cover crimes under international law and transnational crimes. Such a move is

compatible with the Rome Statute, which encompasses the [principle of complementarity](#): the ICC is positioned as the court of last resort in a comprehensive system of international justice, tackling cases that cannot be addressed by national jurisdictions. Regional justice mechanisms can easily be accommodated within this model, and the debate could therefore be about additional, rather than substitute, justice mechanisms, something that would further challenge impunity. To date, however, progress has been slow: 15 states need to ratify the Malabo Protocol before it enters into force, and at the time of writing, [none have](#). As Netsanet Belay suggests, many difficulties remain:

Nobody, including civil society, is challenging the advantage and significance of having a regional accountability mechanism. In principle, it is to be welcomed, as an additional accountability mechanism where people can obtain redress and victims seek justice, and where African-specific contexts can be addressed.

The problem is that the proposal as it currently stands has several problematic legal and institutional implications. The fact that the Protocol stands to give immunity from prosecution to heads of state and senior government officials while they are still in power is a serious deviation from international standards on accountability, and also contrary to the AU's own constitutive act, which champions a complete rejection of impunity. A deviation from this ideal is regressive. It would only embolden dictators who commit atrocities and human rights violations to remain in power. Secondly the definition of some transnational crimes is problematic, and violates the international principle of legality. For example, terrorism is vaguely defined. The risk of peaceful dissent being criminalised as terrorism remains high. In Africa, there are so many living examples where peaceful dissent is being crushed as terrorism, so this is a huge risk.

The second issue is the implication of adding a criminal jurisdiction to an already existing, heavily under-resourced and weak human rights court. The new Court, if and when it becomes operational, would have a human rights mandate, a general affairs mandate and a criminal mandate. There is no comparable model out there. It's a heavy and ambitious undertaking, and an expensive and complex venture. As such, it is highly doubtful that the continent will have the right political will and sufficient financial and other resources to enable this proposed Court to succeed.

So broadly, while in principle the decision to establish a regional criminal court is a good idea, there are a number of legal and institutional implications of the current proposal that may necessitate rethinking the model and discussing substantive amendments before member states rush to sign and ratify the Malabo Protocol. In any case, as a viable alternative to the ICC, as a permanent international justice mechanism, it is not there yet.

It is also an important principle that if any additional justice structures are created, civil society's input should be at least as strong as it was in the ICC. Angela Mudukuti sets out what South African civil society is doing in this regard:

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Civil society is actively supporting the development and improvement of domestic justice mechanisms, as the ICC was designed as a court of last resort and will only function as such if domestic systems are willing and able to deal with international crimes. Though the Rome Statute does not recognise regional courts, civil society are actively seeking to promote credible, impartial regional courts that will not provide immunity for heads of state or senior government officials, as we see justice as a three-layer system where each layer functions in a complementary fashion.

South Africa's government already [experienced a setback](#) in February 2017 when its decision to leave the ICC was ruled as unconstitutional and invalid by its high court, following extensive civil society advocacy. The government officially [withdrew](#) its notification of withdrawal the following month, as parliament would now have to approve the move. This leaves Burundi isolated at the time of writing. South African civil society will continue its advocacy, including along the lines Angela Mudukuti suggests:

SALC was actively involved in legally challenging the constitutionality of South Africa's notice of withdrawal. SALC will also continue with advocacy to raise awareness and sensitise the general public on the importance of supporting international criminal justice, as the move to repeal the Implementation Act should go through the parliamentary process which also includes a process of public participation. Hence it is vital that the general public understand the importance of supporting international criminal justice.

Similarly, Netsanet Belay suggests some directions for further action in South Africa:

Views are quite polarised in South Africa, as elsewhere, about the ICC: to some extent state propaganda has worked and quite a significant part of the population believes what the government is saying, that the ICC is a western, imperialist tool that is attacking Africa. Civil society's starting point should be to demystify the facts from the myths and win people's heart and minds. For example, not a lot of people know that the reason so many African cases have come before the ICC is because of self-referrals by African states. Civil society needs to explain why the ICC was created and how it operates, as a court of last resort.

South Africans need to know the historic, moral and legal implications of withdrawal, including the fact that this nation stands to withdraw from one of the few international instruments that codifies apartheid as a crime against humanity. For a country that has lived through that experience and a nation that was born out of such crime, and as a nation that led the creation of the ICC to ensure that such a crime will not happen again anywhere in future, it cannot afford to withdraw. Now more than ever, South Africa's leadership in promoting justice and human rights is needed in the global arena.

While the recent debate has focused on African states, Netsanet Belay suggests that civil society should take heed that bigger challenges could be coming from outside the continent:

The biggest threat approaching for the ICC and international justice globally seems to come from powerful nations outside Africa, as the Court moves to undertake preliminary examinations and ultimately investigations on crimes committed in Afghanistan and Palestine. If reports are correct, the ICC is very close to opening an investigation into crimes under international law committed in Afghanistan, which could possibly result in some US nationals facing prosecutions. Even though the USA is not a member state of the ICC, because the crimes were committed in Afghanistan, a member state, US citizens suspected of committing crimes there might face prosecution. This move is likely to face stiff political challenge and backlash from the USA.

Already we see signs of countries putting pressure on the ICC about its examination on Palestine. Israel is lobbying a number of European governments. In a possible sign of things to come, at the last Assembly of States Parties session, the ICC was squeezed to its absolute limit on its budget by the Court's key financial contributing states, including Canada, France, Germany, the UK and others.

So the next biggest threat to the ICC will come from outside Africa, from powerful nations in the global north. Hence all the more reason why the global south, including Africa, which has been demanding a balancing of ICC prosecutions, should strongly support the ICC at a time when it is becoming more courageous.

Broadly speaking, with the rise of toxic populist agendas in the USA and Europe, global accountability and human rights mechanisms are facing threats. We are increasingly seeing the USA, for instance, threatening to withdraw its financial and political support to the UN. The deadlocks at the UNSC continue and can be expected to worsen, enabling mass atrocities to continue unabated. There is also the UK's eventual withdrawal from the EU, including from the European Human Rights Convention. All of these point to what I would call the normalisation of indifference in the face of mass atrocities. This indifference is growing. One possible outcome of this trend will be a weakening of international accountability mechanisms, including the ICC. This is another reason why civil society needs to come together to stand in support of these mechanisms.

There is a need for progressive civil society engagement on the ICC, and for African civil society voices to be represented strongly in the debate, on African but also global issues. It must be clear that no state should go unchallenged when it attempts to assert narrow national sovereignty over universal human rights standards. The weakening of the ICC would strike a blow against the years of work, and the long-cherished ideals of civil society, to develop a progressive, rules-based international system with human rights at its heart. If the ICC fails, then much more than the institution itself is at stake.

TAKING ON TRADE DEALS

While President Trump flourished the pen that killed the TPP free trade agreement, [withdrawing](#) from it as part of the flurry of executive orders issued shortly after taking office, it was civil society that made the TPP a key political issue. It was notable that [both](#) major US presidential candidates, along with former Democrat challenger [Bernie Saunders](#), ultimately ran on tickets of opposing the TPP. To oppose it became a vote-winner. Events had moved fast: only in

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February 2016 had 12 states signed the TPP. Similarly, when the government of Germany declared the Transatlantic Trade and Investment Partnership (TTIP), a trade deal under negotiation between the EU and USA, as [good as dead](#) following President Trump's election, it was the efforts of civil society that had made what once seemed a routine process of negotiation controversial.

Past State of Civil Society Reports, in [2015](#) and [2016](#), have tracked the efforts of civil society to make what were once a series of obscure trade deals – the TPP between the US and a number of Pacific Rim countries, the TTIP and the Comprehensive Economic and Trade Agreement (CETA) between Canada and the EU – issues of major political importance. A range of civil society bodies, including trade unions, social justice movements and environmental organisations, worked to expose to public scrutiny deals negotiated in secret, with privileged private sector access. Almost everything that is known about the text of the deals came from leaks: the CETA was only published after its contents became known through a series of leaks. The anger levelled against the treaties was in part focused on the way that wide-reaching decisions that could have profound effects on citizens' lives were being made with [little consultation](#), by remote decision-makers in conditions of secrecy.

As well as concerns about secrecy and lack of transparent process, civil society mobilised on the content of the deals. Civil society identified key dangers with the current suite of deals: of lowering standards to a lowest common denominator; of promoting a wage race to the bottom as industries concentrate in locales with the lowest wages; of opening up aggressive privatisation of key public services, such as health services; and of creating new spaces for large corporations to subject states to binding legal actions if they fail to open up for businesses, through investor state dispute settlement (ISDS) mechanisms.

Bearing in mind this report's special focus on civil society and the private sector, the broader civil society concern is that what is called free trade now seems more about [protecting large corporations](#) from citizens. The promise of some uncertain economic benefit that may only further enrich elites seems insufficient to balance these concerns: [projections](#) of economic gain from CETA are modest, ignore risks, and are based on an assumption of continuing policies of neoliberalism; [another study](#) suggests that CETA will result in over 220,000 lost jobs in Canada and the EU, and lower incomes. The [Committee on Employment and Social Affairs](#) of the European Parliament found the economic arguments for CETA unconvincing and foresaw harmful social impacts. Even an [International Monetary Fund \(IMF\) study](#) has found that free trade is increasingly seen by citizens as benefiting only the already wealthy, while making jobs more precarious. In short, these are [not trade deals](#); they are attempts to lock in neoliberalism for the benefit of large corporations and prevent laws being passed in the public interest that constrain those corporations, regardless of what citizens might think now or in the future.

Now civil society, having worked on these issues for years, finds itself with some unlikely bedfellows. As well as President Trump's opposition to TPP, in Europe, Austria's far-right 2016 presidential candidate and neo-fascist political parties in France and Germany have [stood on platforms](#) of strong opposition to TTIP.

While the motivations and prescriptions vary, from those rooted in narrow economic nationalism to those grounded in expansive concerns about social

justice, the common ground of agreement between those opposed to the deals is that economic neoliberalism as it has been practised must end. For all opposed, treaties such as TTIP came to symbolise a shift too far, and represent all that is wrong about globally connected elites making decisions that will likely further increase economic inequality. As discussed in part one of this review, public anger, about the distance of political elites, declining living standards and increasingly insecure work for many, has largely been directed and exploited by a new wave of far-right, populist leaders, but this is not the only channel that citizen anger can take. The European movement against the TTIP demonstrated that effective progressive responses can also be mounted.

Stop TTIP, an alliance of over 500 CSOs, has been the most active Europe-wide voice on CETA and TTIP. It organised a petition in which 3.5 million European citizens stated their opposition to the treaties, and from mid-2016, ran the [CETA CHECK](#) initiative, which enabled 120,000 Europeans to discuss CETA with their European Parliament member (MEP). The petition was the largest such initiative in the EU's history, while CETA CHECK was the largest ever exercise to connect voters to their MEPs on a single issue. In October 2016, Stop TTIP also presented a [legal statement](#), signed by over 100 law professors from 24 European countries, giving their opinion that the CETA and TTIP ISDS mechanisms were not compatible with the rule of law and democratic principles. At the same time, noisy protests at EU headquarters in Brussels were a feature of every landmark moment of CETA and TTIP. These included a gathering of [10,000 people](#) in September 2016. People protested further afield in Europe; in September 2016, protests in [seven German cities](#) mobilised over 320,000 citizens against CETA and TTIP.

The strain on TTIP as a result of these civil society actions began to show in 2016, as mainstream politicians started to come out against it: in August 2016, [Germany's economy minister](#) stated that TTIP talks had failed, [Belgium's prime minister](#) suggested that the proposed deal might be abandoned for a while, and [France's trade minister](#) and [Austria's economy minister](#) both called for the talks to end. Negotiations ground to a halt soon after, and emphasis moved to CETA. The [initial aim](#) of passing TTIP before the US change of presidency and the 2017 French and German elections had long since failed. TTIP seems at the time of writing to be on the back burner; the suspicion can only be that it was effectively dumped to concentrate on getting CETA through, perhaps as a dry run for more controversial and difficult negotiations to come.

Even CETA, an agreement that received less attention, had a rocky ride. Attention focused on the half of Belgium that is [Wallonia](#) in October 2016, as its regional parliament voted to block the passage of CETA, something that led to [talks collapsing](#). The [howls of complaint](#), from Canada's trade minister and top EU officials, about the ways in which a small, sub-national parliament could stand in the way of a deal, spoke eloquently of an elite contempt for the democratic process when it obstructs their high diplomacy; diplomats seemed [more concerned](#) with trying to avoid the embarrassment of cancelling a ceremony with Canada's

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prime minister than with listening to the concerns of citizens. Clearly, this cannot be the kind of internationalism that civil society stands for. [Alfred de Zayas](#), UN Independent Expert on the promotion of a democratic and equitable international order, called attention to the “culture of bullying and intimidation” being exercised to get the deal passed, and the prioritising of trade deals over human rights, describing ISDS mechanisms as incompatible with the International Covenant on Civil and Political Rights.

In the end, a compromise was reached and the government of Wallonia agreed to withdraw its objection, but without agreeing to ratify CETA when the time comes. It [extracted concessions](#) that means the issue of ISDS mechanisms will be considered by the [European Court of Justice](#), along with a number of concessions on agriculture. CETA was finally passed by the [European Parliament](#) in February 2017, in the face of a barrage of protests, including sit-ins at the gates of the parliament building. However, because trade deals are now politically controversial, CETA [must be ratified](#) by each EU member country parliament individually, as well as sub-national parliaments, such as that of Wallonia, where national parliaments mandate this role.

TPP was effectively killed by President Trump, as it is hard to see how it could function or indeed have much relevance [without the presence of the USA](#). But it is important also to recognise the civil society voices that opposed it. For example, [Australia’s trade unions](#) broke with their [traditional political allies](#) to oppose it, and Australian [campaigning movement GetUp](#) researched the likely impact of ISDS mechanisms, showing that the use of these is on the rise, with a record number of cases, 72, brought by corporations against governments in 2015; the research also found that corporations win more cases than states.

These battles are far from over, and the focus of advocacy for the European-wide movement against CETA will now fall more strongly on the country level as ratification processes begin. Civil society attention is also now increasingly turning to the negotiation of the Trade in Services Agreement (TISA), a proposed treaty between the EU, USA and some of their allies, which to date has had [less exposure](#). Civil society needs to make clear, when it engages on such negotiations, that there are more possibilities than building walls and borders on the one hand and internationalising trade, in ways that harm citizens or do little for them, on the other: it is not a reductive choice between Trump or TPP. Both can be opposed, and there can be another direction in which internationalism is cherished, because it has at its heart values of human rights and social justice, and works to advance these. Making this clear, and making its voice heard above the noise, are the challenges civil society now faces in forging ahead with an alternative, progressive, rights-based narrative around CETA, TPP, TTIP and now TISA.

LOOKING FORWARD: THE INTERNATIONAL SYSTEM

As a whole, the above suggests that the international system, and the UN in particular, is trying to take some strides forward during difficult and contested times for internationalism. But familiar challenges remain: dominance by states, limited access for civil society and a failure to address many of the profound challenges of the day. Most notably, while the UN’s human rights agenda strives to be progressive, it is undercut by the continuing failures of the UN’s dominant

institution, the UNSC, which remains the place where the most powerful states assert and negotiate their interests, irrespective of the human cost of their manoeuvrings. Whether the UNSC can be reformed remains the critical question concerning the international system.

In these polarised times, it is not enough to assert a belief in internationalism; civil society needs to debate and articulate the kind of internationalism that it wants. There is a need to distinguish between the narrow economic globalisation that is only about the opening of space and protections for transnational business, and the progressive internationalism that believes in human rights, diversity and the value of the international exchange of beliefs and ideas. Current criticisms of the practice of economic globalisation need not entail rejections of internationalism, but civil society needs to be at the forefront of its interrogation, and to make criticisms that are progressive and rooted in human rights concerns.

Public support for international institutions, including the UN and its agencies, will be essential if they are to survive the political attacks currently being made on them by neo-fascist leaders. That public support can only be fostered if people know and understand international institutions, believe they can access them and be heard by them, and feel a sense of ownership of them. People whose rights are being denied and who are being excluded need to feel that the international system is on their side.

It would be a mistake if, rather, as some governments are doing in response to the rise of regressive populism, international agencies tried to appease regressive forces by granting concessions and self-censoring on more progressive agendas. As discussed in part one of this review, doing so only serves to normalise toxic discourse and fuel demands for further concessions. It would be a mistake as well to hide behind protestations of neutrality. As the example of Syria most starkly suggests, attempts to remain neutral in the current global battle of ideas will not be respected by political leaders who attack human rights and interpret neutrality as weakness. In contested times, neutrality can equate to an abandonment of duty. We do not expect our international institutions to be politically partisan, but we expect them to take sides, and to take the side of human rights and progressive values, and join with civil society in fighting for these. When UN staff were told that they should not take part in the mass protests across the USA in January 2017, something discussed in part three of this review, it sent all the [wrong signals](#). If it is to defend internationalism and maintain its relevance, the UN needs to open up. It can only do this, and mount a positive campaign in defence of internationalism, by working in partnership with civil society. States made the international system, but now states are failing it; only civil society can save it. The UN needs civil society, while civil society will continue to look to the UN, and other international institutions, to ensure that human rights are realised, including civil society rights. A

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YEAR IN REVIEW INTERNATIONAL GOVERNANCE



new alliance is needed in which the UN and civil society work together to make the UN more than an alliance of states, to become one of citizens. The alternative is to stand idly by as powerful waves of regression sweep the globe. We cannot do that.

UK Mission to the UN New York, questions from CSO reps