

Policy Brief on the protection and promotion of civic space in Latin America

Key highlights

- **The past decade has seen increasing international recognition of a protected civic space as a cornerstone of functioning democracies.** Defined as the set of legal, policy, institutional, and practical conditions necessary for non-governmental actors to access information, express themselves, associate, organise, and participate in public life, a protected civic space enables collaboration between civil society and governments throughout policymaking and thus fosters the necessary environment within which people can exercise their democratic rights.
- **The right to peaceful assembly is vital for a democratic society, enabling individuals to express grievances and promote equity.** Surveyed LAC countries permit and actively facilitate freedom of peaceful assembly, although there is room to enhance legal frameworks to align with international standards, adopt de-escalation tactics, establish dialogue structures between assembly organisers and law enforcement, and train security forces.
- **The right to freedom of expression fosters open debate and diverse perspectives within society.** LAC countries guarantee this right, but face challenges regarding vexatious lawsuits against journalists, activists and CSOs and the protection of Human Rights Defenders and journalists. Governments are beginning enhance defender protections, and to tackle online hate speech and ensure a safe online environment for free expression.
- **Freedom of association enables CSOs to enhance inclusive democracies by advocating for diverse groups and perspectives.** While LAC countries guarantee this right, they can further improve by simplifying administrative procedures and leveraging digital transformation to support CSOs effectively.

What's the issue?

Democracy is reinforced when all members of society can exercise civic freedoms and utilise civic space, both online and offline, on an equal basis with others. Discrimination or exclusion, on the other hand, undermine citizens' trust and their ability and willingness to engage with state institutions if they feel unprotected, or threatened. When civic freedoms are protected, citizens and civil society organisations (CSOs) or media workers can engage with public institutions, express their views, participate throughout

policy-making, and evaluate outcomes, without fear of repression, harassment, violence or vilification. Governments have national and international legal obligations in relation to civic space protection. Moreover, countries reap many benefits from higher levels of citizen engagement that protected civic space facilitates. These include strengthened transparency and accountability; more effective and responsive policy-making; greater ownership of public policies; and better and more inclusive outcomes.¹

The analysis that underpins this policy brief is based on the assessment of 13 Latin America and Caribbean (LAC) countries that responded to the OECD 2020 Survey on Open Government (SOG): Argentina, Brazil, Chile, Colombia, Costa Rica, Dominican Republic, Ecuador, Guatemala, Honduras, Mexico, Panama, Peru, and Uruguay. It draws on analysis from the first OECD comparative baseline report published in 2022 *The Protection and Promotion of Civic Space: Strengthening Alignment with International Standards and Guidance* and its twin publication from 2024 *Practical guide for policymakers on protecting and promoting civic space* (forthcoming). The results will be featured in a forthcoming publication on LAC that takes stock of government initiatives launched across various areas and existing challenges, with a focus on freedom of peaceful assembly, freedom of expression, and the CSO enabling environment. The survey data is complemented with desk research and consultations with public officials and relevant stakeholders.

Good practices from LAC countries

Tying together freedom of peaceful assembly and participation through open dialogue

In May 2022, the government of **Costa Rica** established a mechanism to address citizens' demands expressed through demonstrations by providing direct dialogue channels between public institutions and citizens prior, during and after demonstrations. In practice, when a demonstration occurs, government representatives proactively engage by attending the demonstration site and initiating open dialogue with demonstrators. Prior to demonstrations, government representatives discuss existing concerns with the population in different areas of the country. Follow-up agreements and cross-institutional coordination help to address demands of the population.² Recognizing protests as a form of citizen participation, albeit unsolicited, is pertinent to the broader discourse on citizen engagement. Addressing the root causes of protests and engaging with protesters holds potential for fostering constructive dialogue between citizens and governments and enhancing citizen participation in decision-making processes.

The management of peaceful assemblies

Facilitation of peaceful assembly requires a significant investment by the State in terms of administration, security provision, and training for security forces. Outbreaks of violence during assemblies are a risk and highly trained law enforcement are key to facilitate their peaceful conduct. When violence does occur, comprehensive legal frameworks, operating procedures, and dialogue between law enforcement and assembly organisers can help to ensure that responses are proportionate, necessary, and in line with international standards, with a primary focus on protecting the right to peaceful assembly and protecting peaceful participants. Countries can benefit from legal frameworks to incorporate international principles and guidelines on the management of demonstrations. In **Mexico**, the National Law on the Use of Force mandates trained agents skilled in negotiation techniques during demonstrations to prevent violence and maintain public order, and police forces may be required to prepare comprehensive reports.³ **Colombia** and **Chile** have enacted protocols placing emphasis on dialogue and preventive measures, as well as

¹ OECD (forthcoming), Practical Guide for Policymakers on Protecting and Promoting Civic Space.

² OECD (2024), OECD Webinar: Protecting and promoting civic space: Good practices from Latin America, <https://www.youtube.com/watch?v=AOO6qTnASgc>.

³ Government of Mexico (2019), National Law on the Use of Force (Ley Nacional sobre el Uso de la Fuerza), <https://www.diputados.gob.mx/LeyesBiblio/pdf/LNUF.pdf>.

differentiated use of force during protests⁴. The Colombian protocol also foresees coordination roundtables among relevant executive secretaries, the local police forces and civil society, as well as civil society verification commissions to oversee the functioning of the coordination tables and demonstrations.⁵

Embracing a comprehensive approach to curb online hate speech

Online hate speech Online hate speech threatens freedom of expression as it may cause individuals to refrain from discussing certain topics or withdraw from public debate due to fear of vilification or discrimination. Social media and instant-response platforms amplify this issue, spreading silencing tactics and potentially leading to hate crimes. International bodies have reaffirmed that countries should adopt a broad approach that includes not only legal measures but also preventive and educational mechanisms to fight against hate speech.⁶ In March 2024, **Costa Rica** launched the National Strategy to Prevent and Address Hate Speech and Discrimination, the first of its kind in Latin America and the Caribbean. The strategy foresees key measures, including guides to combat hate speech in education, sports and recreation; the creation of a national network for research; communication campaigns; reviews of legal mechanisms.⁷ While OECD countries deploy a range of different measures to address online hate speech, there is significant room in LAC countries to respond to this challenge in a range of fields.

Protecting Human Rights Defenders

Human rights defenders play (HRDs) an essential role in democratic societies in promoting and protecting human rights and drawing public attention to violations when they occur. Their protection is crucial for social inclusion as they advocate for marginalized communities and ensure their voices are heard in decision-making processes. To strengthen the protection of HRDs that are under threat, **Peru** established an Intersectoral Mechanism in 2021, coordinated by the Ministry of Justice and Human Rights and comprising eight other executive entities. With a gender perspective, it features an early permanent monitoring system for defenders to report risks. Through collaboration with the police and public institutions, the mechanism responds to imminent threats. The mechanism includes a register for defenders at risk, allowing authorities to track and gather data and analyse evolving trends. Finally, regional roundtables are organized on a regular basis to facilitate dialogue between national and regional governments and HRDs. They streamline coordination efforts and enable responses to precarious situations faced by HRDs, particularly in regions with heightened risks.⁸

⁴ Government of Chile (2021), Orden 2870. Protocolos para el mantenimiento y restablecimiento del orden público, <https://www.bcn.cl/leychile/navegar?i=1165383&f=2021-09-20>.

⁵ Government of Colombia (2021), Decreto 3 de 2021 por el cual se expide el protocolo de acciones preventivas, concomitantes y posteriores, denominado "Estatuto de Reacción, Uso y Verificación de la Fuerza Legítima del Estado y Protección del Derecho a la Protesta Pacífica Ciudadana", <https://www.suin-juriscol.gov.co/viewDocument.asp?ruta=Decretos/30040318>.

⁶ IACHR (2015), Violence against Lesbian, Gay, Bisexual, Trans and Intesex Persons in the Americas, Inter-American Commission of Human Rights, <https://www.oas.org/en/iachr/reports/pdfs/ViolenceLGBTIPersons.pdf>.

⁷ Government of Costa Rica (2024), Estrategia nacional para prevenir y abordar los discursos de odio y discriminación.

⁸ Ministry of Justice and Human Rights of Peru (2023), Dirección General de Derechos Humanos - Mecanismo Intersectorial para la Protección de Personas Defensoras de Derechos Humanos, <https://www.gob.pe/50403-ministerio-de-justicia-y-derechos-humanos-mecanismo-intersectorial-para-la-proteccion-de-personas-defensoras-de-derechos-humanos>.

Promoting an enabling environment for CSOs by streamlining administrative procedures

There is significant scope in the LAC region to improve administrative procedures for CSOs to foster an enabling environment. Countries could benefit from leveraging digital transformation to explore opportunities to simplify procedures for CSOs, ideally towards one-stop digital portals. Digital tools offer opportunities to address some challenges, such as notarization of multiple documents for CSO registration, lack of integration of notary services to digital identity or signature systems, the need for onsite presence before notary services and government entities, as well as limited coordination among public institutions, limited digital follow-up and appeal mechanisms. In the framework of its digital transformation agenda, **Uruguay** enacted a decree in 2023 to ensure that public entities do not impose additional requirements beyond those stated in the catalogue of procedures, including for CSO registration, nor request other documentation when the information can be obtained through secure digital means from other entities.⁹

Creating a favourable financial framework for CSOs

A favourable financial framework for CSOs is a key pillar of an enabling environment. While international guidance suggests that CSOs should be free to seek and receive funding, just over half of LAC respondents provided central government funding to CSOs. In cases where no government funding is provided, CSOs can be supported through beneficial tax regimes, training, networking opportunities, and foreign and international funding. The project Dialogues in Social Accountability provides a network for CSOs to exchange knowledge in **Brazil**. Carried out by the Office of the Comptroller General, it enables CSOs to explore synergies and connect or develop projects in partnership. It is a platform for CSOs to access information on public policies and to voice concerns and share their expertise with public officials.¹⁰ Furthermore, collecting consolidated data on government funding for CSOs, including on the modalities, length and recipients of funding, remains a challenge for OECD Members and LAC countries alike. In the **Dominican Republic**, the National Center for the Promotion and Encouragement of Non-profit Associations (CASFL) keeps an online site with information about CSOs, displaying ready-made graphs and interactive maps, with data that can be filtered by provinces, sector and fiscal year. The CASFL publishes annual reports on CSO's accountability and transparency.

Involving citizens beyond consultation to address pressing policy issues

Citizen and stakeholder participation in policymaking can build trust between governments and citizens, but it requires authorities to actively include and listen to diverse voices, including those that are in vulnerable situations. LAC countries are adopting innovative approaches, such as representative deliberative processes, which address inclusion issues better than traditional consultations by offering support like remuneration and expense coverage. In **Brazil**, authorities and CSOs organised deliberative panels to discuss budget priorities in Sao Paulo, and to create recommendations on waste management in Fortaleza.¹¹ Moreover, digital technologies can increase the reach and scope of participatory processes with new channels for citizens to express their needs and interact with representatives. In **Colombia**, the City of Bogotá has designed *Chatico*, a chatbot that informs citizens in a clear, simple, and user-friendly on participation in local governance, in particular the design of Bogotá's development plan. So far, *Chatico* has attracted more than 10,000 interactions and gathered 22,000 proposals.

⁹ Government of Uruguay (2023), Decreto N° 353/023 - Reglamentación del art. 76 de la ley 19.355, relativo al procedimiento aplicable por las entidades públicas, a los efectos de simplificar sus trámites, siguiendo los lineamientos de la AGESIC, <https://www.impo.com.uy/bases/decretos/353-2023>.

¹⁰ OECD (2024), OECD Webinar: Protecting and promoting civic space: Good practices from Latin America, <https://www.youtube.com/watch?v=AOO6qTnASqc>.

¹¹ OECD (2022), Open Government Review of Brazil: Towards an Integrated Open Government Agenda, <https://doi.10.1787/3f9009d4-en>.

Suggested Policy Actions

- Regarding **freedom of peaceful assembly**, countries in the LAC region could consider:
 - Enacting dedicated laws to incorporate international standards on the respect, protection, and facilitation of the right to freedom of peaceful assembly.
 - Introducing dialogue channels between protesters and the government to follow-up on protests and anticipate societal needs.
 - Adopting de-escalation tactics in protocols and operational guidelines for managing peaceful assemblies, along with training security forces, to ensure accountability and minimize disproportionate force.
 - Collect and disclose accessible, open, and reusable data on relevant events related to the exercise of freedom of assembly, such as sites of occurrence, employment of state forces, and civilians and state forces harmed in protests.
- Regarding **freedom of speech**, countries in the LAC region could consider:
 - Implementing comprehensive measures to tackle hate speech, including data collection, national strategies, communication campaigns, training of officials, and legislation for digital platforms.
 - Establishing mechanisms to protect human rights defenders or strengthening the existing ones in consultation with relevant stakeholders.
- Regarding the **enabling environment for CSOs**, countries in the LAC region could consider:
 - Adopting overarching policy frameworks to strengthen the CSO enabling environment.
 - Harness digital transformation to make procedures for CSOs more agile, transparent and efficient, ideally towards a one-stop online portal.
 - Establish judicial appeal procedures against denials of CSO registration and ensure that appeal processes are impartial, timely and transparent.
 - Collect and proactively disclose open, reusable data on CSOs registration and activities.
 - In the absence of government funding, supporting CSOs through beneficial tax regimes, training, networking opportunities, rewards for public interest activities, and facilitating foreign funding, while implementing risk-based regulations to assess security risks.
 - Enhance data gathering and disclosure of government funding with a view of having an overview of sectors and types of CSOs supported.
- Regarding **citizen and stakeholder participation**, countries in the LAC region could consider:
 - Creating opportunities for citizens and stakeholders to participate at all stages of the policy cycle, with different policy instruments and at all levels of government.
 - Putting emphasis on involving underrepresented groups in society, in particular young people, women, LGBTIQ+ people and indigenous communities.
 - Adopting legal instruments and policy frameworks that embed participation and deliberation in decision making processes.
 - Promote participatory skills among civil servants by providing trainings and creating supporting materials like guidelines and handbooks.
 - Experimenting with innovative methodologies such as deliberative processes.

Further reading

- OECD (2022), The Protection and Promotion of Civic Space: Strengthening Alignment with International Standards and Guidance, <https://doi.10.1787/d234e975-en>.
- OECD (2022), Open Government Review of Brazil: Towards an Integrated Open Government Agenda, <https://doi.10.1787/3f9009d4-en>.
- OECD (forthcoming), Practical Guide for Policymakers on Protecting and Promoting Civic Space.
- OECD (forthcoming), The protection of Civic Space in Latin America and the Caribbean.