

July 1st, 2026

Human Rights Committee

Office of the United Nations High Commissioner for Human Rights
CH-1201 Geneva, Switzerland

RE: Call for comments - Draft GC No. 38 on Art. 22 (the right to freedom of association)

I. Introduction

At its 144th session, held in July 2025, the Human Rights Committee initiated the process of developing a General Comment on Article 22 of the International Covenant on Civil and Political Rights (ICCPR) and called for stakeholder input to support the drafting process. The Committee subsequently completed a first reading of draft General Comment No. 38 during its 145th session in March 2026. The draft has been released for public consultation, enabling interested stakeholders to provide comments in advance of the Committee's second reading.

This submission is made on behalf of the "CIVITAS" research initiative, a collaborative project led by the *Red Jurídica CLACAI*, *Ríos Strategic Lawyering for Social Justice*, the *Preclusion Project*, and the *Robert & Ethel Kennedy Human Rights Center*. The CIVITAS project examines the impact of restrictions on civic space and specifically on the right of freedom of association on organizations working to advance sexual and reproductive rights and gender justice across Latin America and the Caribbean.

The CIVITAS project welcomes the opportunity to provide input on Draft General Comment No. 38 and respectfully submits the following observations for the Committee's consideration. The purpose of this input is to draw attention to the differentiated impact that the right to freedom of association, and its restrictions on its exercise, has on organizations working on gender justice and sexual and reproductive rights. In furtherance of this objective, the present submission proposes several minor revisions and additions to the proposed text.

II. Suggestions for the Draft General Comment

The proposed contributions and edits to strengthen the Draft General Comment are set out below, identifying the specific paragraphs in which they could be incorporated and integrating them directly into the corresponding text, under "**Proposed Additions [PA]**" to facilitate their reading and integration.

Para 3. More broadly, the right to freedom of association is a valuable tool to defend, promote, educate, raise awareness of, recognize and realize a wide range of other interests and rights, including economic, social, cultural, and environmental rights. Failure to respect and ensure the right to freedom of association is typically indicative of a broader repressive society. In this context, grass-roots **[PA: and civil society]** organizations, trade unions and political parties, have been instrumental in achieving fundamental goals and promoting values such as peace, social **[PA: and gender]** justice, sustainable development and the protection of the environment.

Para. 9. While the right to freedom of association in article 22 (1) applies to everyone, restrictions and interferences of the right may have a differentiated and heightened impact on marginalized, disenfranchised or disadvantaged persons, groups, communities and peoples. Particularly affected individuals include women, especially women human rights defenders **[PA: -including defenders of gender justice and sexual and reproductive rights-,]** women journalists and women trade unions members and representatives, Indigenous Peoples, people living in rural or remote areas, people living in overseas territories, environmental and land rights defenders, children and young people, trade union members and

representatives, LGBTQI+ persons, persons with disabilities, persons who use drugs, migrants and asylum-seekers, convicted persons, in particular when they are deprived of their voting rights, and members of political parties, especially when they are in opposition to the Government. [...]

Para 10. In addition, the right to freedom of association cannot be recognized only for activities, programmes and discourses that align with the opinions of the Government or the majority of the population in a State Party. The right to freedom of association applies also to ideas, activities and actions that might be seen as **[PA: progressive]**, controversial, dissent or disruptive, including human rights, **[PA: and reproductive rights and access to abortion]**, the denunciation of corruption and other politically sensitive issues. As the Committee has consistently stressed, the reference to “democratic society” in the context of article 22 indicates that the existence and operation of associations, including those that peacefully promote ideas that are not necessarily favourably viewed by the Government or the majority of the population, are a cornerstone of any democratic society. Attacks and infringements on the right to freedom of association of minority groups or marginalized persons or communities are thus a crucial barometer of a broader crackdown on human rights, the rule of law and democracy.

Para 15. The freedom of every association to carry out its activities is based on the core principles of independence, autonomy and self-governance. Therefore, associations have the right to freely determine their membership, provided they respect the right to non-discrimination, and their purposes, programmes and actions, without restriction incompatible with article 22(2). A law granting the Government undue power or influence to decide on the registration or deregistration of an association and on authorization of public or foreign funding for an association would be at odds with article 22. **[PA: The same conclusion applies to regulatory frameworks that, although do not formally prohibit associations, subject them to excessive compliance, reporting, or review requirements and impose disproportionate sanctions for non-compliance.]**

Para 19. [...] The principles of independence, autonomy and self-governance apply not only to the creation, membership and activities of the association but also to its termination and dissolution. Compulsory dissolution can occur only as an exceptional measure **[PA: , must be duly reasoned,]** and must strictly follow the restriction requirements set out in article 22 (2). [...]

Para. 30. [...] Accordingly, measures that are prohibited include arbitrarily refusing to register an association, dissolving or banning an association, imposing a travel ban on association members or making it compulsory for them to request travel authorization, ban on the right to enter their own country, withdrawing association members’ nationality, cancelling their passports and identity documents, performing surveillance, including online, of the organization’s activities, infiltrating an association with covert police or intelligence services, carrying out police raids and search of private homes, reprisals, and harassment of association’s members, including through administrative proceedings and requirements, misuse of counter-terrorism and anti-money-laundering measures, imposing restrictive and burdensome funding or tax regulations on associations, **[PA: freezing association bank accounts without prior judicial authorization, prohibiting associations from bringing legal claims against the State,]** criminalizing association activities or membership or criminalizing legal aid associations, and instrumentalizing defamation proceedings and other means of “strategic litigation against public participation” (SLAPP lawsuits). [...]

Para. 35. Under the positive obligations of article 22, States Parties are required to ensure the existence of a functioning environment for associations. They are also obliged to address hostile actions, discourses and narratives, including online, vis-à-vis associations and their members, whether they emanate from public figures or private persons or actors. This is especially so where associations focus on issues considered by

the majority of the population or the Government to be controversial or sensitive, such as gender issues, **[PA: sexual and reproductive rights,]** migrants' rights, corruption, business projects in the context of extractive industries, opponents to economic development projects or megaprojects or other opposition political issues.

Para. 42. Applied to the right to freedom of association, this long-standing strict interpretation of restrictions implies a general presumption in favour of the lawfulness of the creation of associations, their objectives and their activities that must guide the interpretation and implementation of article 22, as well as the requirement that any restrictions be accompanied by adequate procedural safeguards, including prior review where appropriate and effective access to independent and impartial judicial oversight. **[PA: This requirement extends to judicial review of laws, regulations and administrative practices that restrict freedom of association or adversely affect the work of human rights defenders.]**

Para. 48. Regarding “public morals”, it has been stressed that “since public morality varies over time and from one culture to another, a State which invokes public morality as a ground for restricting human rights, while enjoying a certain degree of discretion, shall demonstrate that the limitation in question is essential to the maintenance of respect for fundamental values of the community”. Public morals, as invoked as grounds for a restriction, are not equivalent to social sensibilities. Any such limitations must be understood in the light of the rights to non-discrimination and equality before the law. In this regard, the banning of associations or the criminalization of their activities for obscenity, for disseminating “propaganda” on non-traditional sexual relations among minors or “non-traditional” sexual orientations or for denying family or community values, **[PA: including when invoked against associations defending gender justice or sexual and reproductive rights,]** are seen as discriminatory restrictions of the right to freedom of association.

III. Conclusion

The organizations participating in the CIVITAS project welcome the opportunity to contribute to the Human Rights Committee's consideration of Draft General Comment No. 38. We appreciate the Committee's efforts to advance the interpretation and protection of the right to freedom of association and hope that these observations will be of assistance in the finalization of the General Comment. We remain available to support the Committee's work and look forward to continued engagement throughout this process.