Making the EU Charter of Fundamental Rights a Reality For All: 10th Anniversary of the Charter Becoming Legally Binding

Intervention by Paul Maassen - 12 November 2019

Session 1: Towards a culture of fundamental rights at national level: making, implementing and enforcing law and policy

The ambition of OGP is to bring back citizens to the heart of government and ensure that governments serve them well. 79 countries have already joined OGP and endorse the Open Government Declaration, our version of the Charter if you like.

On a fundamental level, our members commit to a domestic dialogue between government and civil society. Working together to co-create and deliver commitments to make government more transparent, accountable, inclusive and responsive.

The foundation for real dialogue and participation are basic rights such as freedom of association, expression, and access to information. So we are very keen to promote and protect these rights on a domestic and international level.

We expect countries to adhere to specific participation and co-creation standards to ensure deep and inclusive dialogue. Countries are encouraged to bring in a wide range of ministries, civil society actors, as well as the private sector or parliament, in a national co-creation process to develop a 2-year Action Plan. OGP is often housed in the prime minister’s or president’s office, giving the process political momentum. The Action Plan is a set of commitments spelling out concrete reforms and who is responsible for each part of the process.
With varied national contexts - in terms of political support and needs for example - we don’t prescribe specific reforms or impose standards. We are encouraging certain reforms though. By sharing what other countries have done, by nudging certain thematic priorities that have traction internationally, by offering technical expertise, by suggesting model commitments.

Our role as an international partnership is to help national authorities collaborate with civil society - and citizens - in a meaningful, inclusive, permanent way, beyond tick-the-box type of online consultation.

At our core, we are a domestic reform mechanism disguised as a global initiative. That makes us well suited to translate global pledges into national action. A great example of the eb and flow between these national, regional and global conversations is beneficial ownership transparency.

During the OGP Global Summit in 2013, the UK announced it would create a beneficial ownership registry, critical for curbing illicit financial flows. At the London Anti-Corruption Summit in 2016, many countries pledged to tackle corruption. Out of the 43 countries that participated at the Summit, 22 countries have since used their national OGP dialogue to define 46 concrete commitments since. The UK government worked with civil society to implement at home and actively supports other countries with their implementation.

To help these international discussions take national shape we facilitate peer learning across the Partnership and foster connections with OGP members and thematic partners. Thus, OGP can also be used to stimulate national authorities to do more on the promotion of the Charter, either motivated by peers already doing it or by civil society pushing for it.
As OGP’s Global Report recently found, OGP Action Plans have helped institutionalize innovative policy and legal frameworks to protect the essential civic freedoms - of assembly, association and expression, including delivering on key instruments of international law. Quite a few OGP countries are already using their Action Plans for strengthening and implementing fundamental rights. For example, 60% have made commitments on the right to association.

There is definitely space for more and more ambitious commitments though. On a generous count, about 10% of the 4,000 commitments made to date relate to the key rights in the Charter such as freedom of assembly or association, civic space, defending journalists, justice or whistleblower protection.

- Bulgaria used their OGP plan to establish clearer rules for financing civil society organisations.
- In Slovakia, moving to an open contracting system doubled the number of bidders, leading to increased competition.
- Ireland used its Action Plan to begin to encourage, protect, and raise awareness about whistleblower duties and protections, and now has one of the most comprehensive whistleblower policies in the EU. Ireland also committed to lobby transparency through OGP.
- Latvia has made concerted efforts prior to and across several action plans to address sustainability, capacity and transparent funding of the nonprofit sector.

With the health of democracy at stake, we have to encourage countries to promote and protect fundamental civil liberties through their OGP action plans - including the EU Charter.

In short: good and inspiring policies, tools and trainings or model commitments on what could be done to promote or implement the charter, a data driven socio economic
arguments and evidence narrative beyond the inherent principled value of the charter and the right civil society partners, experts and authorities at the table.

We have the platform, we have the dialogue. How could OGP be used to promote and implement the EU Charter on Fundamental rights?

The Charter itself is a key resource, but beyond that we need practical examples of how it can - and had been - promoted - what policies, tools and trainings work and can help other countries learn and implement.

As OGP we often work with model commitments that almost allow copy pasting. The International Center For Not-For-Profit Lawnational made a guide for us with model commitments around the fundamental freedoms that countries have been using. Our Global Report, launched last May, also has very concrete suggestions for countries.

In this context it also imperative to move beyond arguments centered around values. As OGP we published the so called “Sceptics Guide to Open Government”, with data driven socio economic arguments and evidence to help convince reform sceptics. For example, data on a micro and macro-level has shown that free and independent media, strong civil society organizations, and governments that engage with citizens lead to societies with better health, education, and economic outcomes.

Besides clear guides with concrete suggestions for countries, which we already have, we need to make sure the right civil society partners, experts and authorities are part of a well-shaped dialogue in a true partnership. Invest time in resources for trust to build.

At least in our case that is what leads to ambitious commitments and collaboration to actually deliver them.
The crises unfolding in Europe pose a serious challenge to fundamental rights at a time when they are most needed. That’s why meeting here today is so valuable.

While data shows that OGP countries have a slower rate of decline of civic space than non-OGP countries, there is still need for action by these countries to prevent backsliding.

Bringing the EU Charter and OGP’s platform closer together is a great way to help promote the rights that are at the heart of OGP and at the heart of the society we live in.

The Charter has the potential to inspire and create a positive peer exchange and pressure amongst EU countries.