

Call for Participants

A Comparative Examination of the Content and Potential of the Right to Freedom of Association across Multiple Jurisdictions

In order to explore the content and potential of the right to freedom of association, the Societas project is organising a virtual symposium in March 2023 and an in-person hybrid event in June 2023. At these symposia, we hope to hear from lawyers in as many jurisdictions as possible about the interpretation and potential of this fundamental right.

The right to freedom of association is protected by domestic constitutions around the world as well as by international human rights treaties including the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the African Charter on Human and Peoples' Rights, the European Convention on Human Rights and the American Convention on Human Rights. Compared with other rights, however, caselaw and scholarly commentary on the right to freedom of association is relatively sparse.

Perhaps this is because the right to freedom of association is so unusual: it recognises and protects individuals, but in their sociality rather than their individuality. It thereby transcends the individual-state paradigm by relying on the existence and flourishing of private associations.

The right to freedom of association is often three-fold, encompassing: (a) a right to associate, i.e., the right of an individual to form or to join an association; (b) a right to disassociate, i.e., the right of an individual to leave or refuse to join an association, and; (c) a right of organisational autonomy, i.e., the right of an association to determine its purpose, activities, and internal rules. It can apply to associations as diverse as political parties, trade unions, religious organisations, sporting organisations, cultural associations, residents' associations and charities. It can overlap with other rights such as the rights to freedom of expression, freedom of religion, and privacy. It is also explicitly or implicitly protected by many sub-fields of law, including labour law (although trade unions are often protected by distinct constitutional/treaty provisions and treated differently than other associations), charity law, sports law, etc. Without denying this complexity or these connections, the focus of the symposia will be on seeking to clarify what freedom of association means in its essence.

Virtual Symposium: "Mapping the Legal Landscape of Freedom of Association"

Friday 31st March 2023

The virtual symposium will explore how the right to freedom of association is currently protected by domestic and international legal orders. Participants are invited to contribute to a discussion of the nature and content of the right to freedom of association in their respective jurisdictions.

In-Person Hybrid Symposium: “The Purpose and Potential of Freedom of Association”

June 2023, date to be confirmed in December 2022

Having mapped out the legal landscape in the virtual symposium, the in-person hybrid event will focus on the deeper purposes of the right to freedom of association, considering the rationales for its protection and the value that it provides.

This event will be held in Cork, Ireland, in June 2023, and will be a hybrid event. Funding will be available to financially support contributors wishing to attend in person (subject to overall budgetary limits).

Next steps: These symposia will lead to an edited comparative study of the contours of the right to freedom of association in legal systems around the world. The in-person hybrid symposium will also provide an opportunity for reflection on further future collaboration within this network of freedom of association scholars.

Becoming a Collaborator

If you are interested in participating in these events and developing a country or regional report on how the right to freedom of association is understood and vindicated by a specific constitution or international treaty, please register by emailing Maria Cahill (maria.cahill@ucc.ie) or SocietasProject@gmail.com, using ‘FOA Comparative Symposia’ as the subject heading.

Please also send a 300-400-word abstract setting out preliminary details of how the right is protected in that jurisdiction/region, along with a short biography. The deadline to register as a participant will be **Friday 2nd December, 2022**. If you would like to discuss the topic or ask any questions before that deadline, please email us.

Questions and Themes for Discussion

Virtual Symposium: “Mapping the Legal Landscape of Freedom of Association”

1. Is there a specific right to freedom of association in the jurisdiction you are considering? If so, what is its nature in law: is it protected at constitutional level or international level or by incorporation of an international treaty (monist or dualist system); is it provided by statute; has it been developed by the courts? Are trade unions protected under the terms of the general right to freedom of association or by a separate/subsidiary right?
2. What is the history of the right within the jurisdiction you are discussing, e.g., drafting history, philosophical/historical roots, evolving political context, evolution of legal interpretation over time?
3. Are there associations that are banned by law? Are there types of associations that are, in principle, classified as suspect or requiring higher scrutiny? Is formal legal registration as an association at the discretion of members or is there a certain threshold of organisational formality that triggers a legal requirement to register/become an incorporated association?
4. What is the content of the right? Does it encompass a right to associate, a right to disassociate, and a right to organisational autonomy? Does it attract preventative duties? What, if any, are the

limits/qualifications that have been articulated? Does it empower procedural and/or substantive review of the decisions of an association? Is this content detailed in legislation and/or in caselaw?

5. How many cases on freedom of association have been decided by the superior courts? How does this compare with, e.g., the number of cases on freedom of expression or freedom of religion or privacy in the same jurisdiction? Are the disputes typically resolved unanimously or by split decisions of the superior courts?

6. What kinds of legal disputes arise? Are they mostly concerned with the right to associate, the right to disassociate or the right to organisational autonomy? How are these kinds of disputes usually resolved?

In-Person Hybrid Symposium: "The Purpose and Potential of Freedom of Association"

7. How do courts delineate the contours of freedom of association? How does it interact with other rights (e.g., freedom of expression, freedom of religion, freedom of thought and belief, privacy)? How does it interact with the principles of equality and non-discrimination? What does it protect that other rights do not protect?

8. When interpreting and vindicating the right to freedom of association, what do the superior courts consider to be the principal rationale for protecting freedom of association? Are they mostly concerned with protecting freedom of association for the sake of individuals in the defence of their liberty to pursue goals with others, or for the sake of the state in the defence of the conditions for pluralism and a vibrant democracy, or for the sake of the association itself in the defence of its right to pursue its own course?

9. How has the right to freedom of association been understood in academic scholarship and policy debates in this jurisdiction? Have any theories of freedom of association been developed alongside the judicial conceptions that have arisen in the caselaw? What do commentators consider to be the central value of freedom of association as a fundamental right?

10. Are there any law reform proposals in your jurisdiction concerning this right? Is it the case that the potential of freedom of association is under-explored in this particular jurisdiction? Are there ways that that potential could be better realised?

Maria Cahill is a professor of constitutional law and legal theory at the School of Law, University College Cork, Ireland. She is the principal investigator of Societās, a four-year funded project exploring the potential of freedom of association.