

CPDE Global Synthesis Report 2015

The State of Development Cooperation,
CSO Enabling Environment
and CSO Development Effectiveness



May 2015

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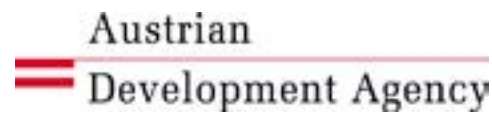
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ABBREVIATIONS AND ACRONYMS

AA	Auswärtiges Amt (Foreign Office)
AAA	Accra Agenda for Action
AAAQ	Availability, Accessibility, Acceptability and Quality
ACP	Aid Coordination Policy
ACSSC	Association of Civil Society Support Centres
ADB	African Development Bank
AECID	Spanish Agency for International Development Cooperation
AEG	Aid Effectiveness Group
AFF	Aid Effectiveness Forum
AFRODAD	African Forum and Network on Debt and Development
AI	Amnesty International
AIDA	Association of International Development Agencies
AIPPA	Access to Information and Protection of Privacy Act
ALOP	Latin-American Association of Promotion Organisations
ANDEN	National Association of Educators of Nicaragua
ANND	Arab NGO Network for Development
ANR	National Republican Association (Colorado Party of Paraguay)
AODE	Alliance of Civil Society Development Effectiveness
APC	All Progressives Congress
APCI	Peruvian Agency for International Cooperation
ASC	Continental Social Alliance
ASCA	Agency for the Support of Civil Society
ASEAN	Association of Southeast Asian Nations
AU	African Union
BASIC	Brazil, South Africa, India and China
BCP	Central Bank of Paraguay
BMZ	Bundesministerium für wirtschaftliche Zusammenarbeit und Entwicklung (Federal Ministry for Economic Cooperation and Development)
BOE	Official State Bulletin
BPEDC	Busan Partnership for Effective Development Cooperation
BRICS	Brazil, Russia, India, China and South Africa
BS	Budget Support
CACIF	Coordinating Committee of Agricultural, Commercial, Industrial and Financial Associations
CADEP	Centre for Analysis and Diffusion of the Paraguayan Economy
CAG	Comptroller and Auditor General of India
CARICOM	Caribbean Community
CBN	Central Bank of Nigeria
CBO	Community-Based Organisation
CCC	Cooperation Committee for Cambodia
CCER	Civil Coalition for Electoral Reform
CCSF	Church and Civil Society Forum
CDC	Council for the Development of Cambodia
CDCF	Cambodia Development Cooperation Forum
CDF	Cambodia Development Forum
CDM	Municipal Development Council
CEDAW	Convention on the Elimination of All Forms of Discrimination Against Women
CEIM	Centro de Estudios e Investigación sobre Mujeres – Centre for Studies and Research on Women
CEPEP	Paraguayan Center for Population Studies
CHRD	Centre for Human Rights and Development
CIVICUS	World Alliance for Citizen Participation
CMDG	Cambodian Millennium Development Goals

CN	National Constitution
CODENI	Council for the Rights of Children and Adolescents
CONCORD	European NGO Confederation for Relief and Development
CONFEBASK	Basque Business Confederation
CONGDE	Development NGO Coordinator – Spain
CONPES	National Council of Social and Economic Planning
COSADER	The NGO Collective for Food Security and Rural Development
COSEP	Higher Council of Private Enterprise
CPDE	CSO Partnership for Development Effectiveness
CSCPC	Citizen Social Control and Participation Council
CSE	Centre for Science and Environment
CSJ	Supreme Court of Justice
CSO	Civil Society Organisation
CSOF	Civil Society Open Forum
CSR	Corporate Social Responsibility
CZDA	Czech Development Agency
DAC	OECD's Development Assistance Committee
DAE	Development Aid Effectiveness
DAG	Decentralised Autonomous Governments
DCG	Donor Coordination Group
DE	Development Effectiveness
DevCoop	Development Cooperation
DGEEC	Department of Statistics, Surveys and Censuses (STP)
DGPOLDE	Directorate General for Development Policy Planning and Evaluation
DNGO	Developmental Non-Governmental Organisation
DO	Development Observatory
DP	Development Partner
DPA	Development Partnership Administration
DPCC	Development Partners Coordination Council
DPF	Development Partnership Forum
DTC	Direct Taxes Code
EAP	Economically Active Population
ECCAS	Economic Community of Central African States
ECLAC	United Nations Economic Commission for Latin America and the Caribbean
ECOSOC	United Nations Economic and Social Council
EE	Enabling Environment
EFCC	Economic and Financial Crimes Commission Act
EFP	Economic and Financial Program
EIA	Environmental Impact Assessment
ENREPD	National Strategy for Reducing Poverty and Inequality
EPH	Permanent Household Survey (DGEEC)
ERD	External Resources Department
ESAP	Economic Structural Adjustment Program
EU	European Union
FAD	Development Partners Forum
FAO	United Nations Food and Agriculture
FCONGD	Catalan NGOD Federation
FCRA	Foreign Contribution Regulation Act
FDP	Free Democratic Party
FGM	Female Genital Mutilation
FLEGT	Forest Law Enforcement Governance and Trade
FOCEM	Fund for Structural Convergence of MERCOSUR
FOI	Freedom of Information
FONPRODE	Development Promotion Fund
FoRS	Czech Forum for Development Cooperation
FRELIMO	Frente de Libertação de Moçambique (Mozambican Liberation Front)

FWNGO	Forum of Women's NGOs of Kyrgyzstan
GDCC	Government Donor Coordination Committee
GDP	Gross Domestic Product
GESP	Growth and Employment Strategy Paper
GIZ	German Agency for International Cooperation
GMD	Grupo Moçambicano da Divida
GNI	Gross National Income
GNP	Gross National Product
GNU	Government of National Unity
GOI	Government of India
GoKR	Government of the Kyrgyz Republic
GoM	Government of Mongolia
GPA	Global Political Agreement
GPEDC	Global Partnership for Effective Development Cooperation
GPP	Good Governance Project
GTEC	Aid Effectiveness and Quality Working Group
GTZ	German Agency for Technical Cooperation
HAC	Harmonization, Alignment and Coordination Donor Group
HDI	Human Development Index
HIPC	Highly Indebted Poor Country
HIV/AIDS	Human Immunodeficiency Virus/Acquired Immune Deficiency Syndrome
HLF 3	Third High-Level Forum on Aid Effectiveness in Accra
HLF 4	Fourth High-Level Forum on Aid Effectiveness in Busan
HLF	High Level Forum
HLM	High Level Meeting
HR	Human Rights
HRBA	Human Rights-Based Approach
IATI	International Aid Transparency Initiative
IB	Intelligence Bureau's
IBSA	India, Brazil and South Africa
ICPC	Independent Corrupt Practices and other Related Offences Commission
ID	Institute for Democracy
IDB	Inter-American Development Bank
IDEAR	Institute for Agriculture and Rural Studies
IDM	Institute for Democracy and Mediation
ILO	International Labour Organisation
IMF	International Monetary Fund
INDERT	National Institute of Rural Development and Land
INGO	International Non-Governmental Organisation
INSTAT	Institute of Statistics of Albania
IORA	Indian Ocean Rim Association
IPS	Institute of Social Welfare
IT	Income Tax
ITEC	Indian Technical and Economic Cooperation
JMI	Joint Monitoring Indicators
Kafa	Kafa (enough) Violence and Exploitation
KfW	KfW Development Bank
KR	Kyrgyz Republic
LADE	Lebanese Association for Democratic Elections
LDC	Least Developed Countries
LEP	Look East Policy
LGBT	Lesbian, Gay, Bisexual and Transgender
LIA	Livelihood Impact Assessment
LIC	Low Income Country
LOC	Lines of Credit
MAG	Ministry of Agriculture and Livestock
MDC	Movement for Democratic Change

MDG	Millennium Development Goal
MDN	Ministry of National Defence
MDRI	Multilateral Debt Relief Initiative
MEA	Ministry of External Affairs
MEC	Ministry of Education and Culture
MECIP	Standard Model of Internal Control for Public Entities Paraguay
MEFMI	Macroeconomic and Financial Management Institute
MERCOSUR	Southern Common Market
MFA	Ministry of Foreign Affairs
MH	Ministry of Finance
MIC	Middle Income Country
MINMUJER	Ministry of Women
Mj y DH	Ministry of Justice and Human Rights
MLMUC	Ministry of Land Management, Urban Planning and Construction
MMDG	Mongolian Millennium Development Goals
MMDR	Mines and Minerals (Development and Regulation) Bill 2011
MoF	Ministry of Finance
MoIM	Ministry of Interior and Municipality
MOPC	Ministry of Public Works and Communications
MP	Master Plan
MPD	Ministry of Planning and Development
MPs	Members of Parliament
MRE	Ministry of Foreign Affairs
MSP Internet BS	Ministry of Health and Welfare
MSSR	Multi-State Societies Registration Law
MT	Ministry of Labour
MTP	Medium Term Plan
NANGO	National Association of Non-Governmental Organisations
NASS	National Assembly
NAYO	National Association of Youth Organisations
NBS	Nigerian Bureau of Statistics
NCDD-DDF	National Council for the Defence of Democracy – Democracy Defence
NDCP	National Development Comprehensive Policy
NDP	National Development Plan
NEEDS	National Economic Empowerment Development Strategy
NFPO	Not For Profit Organisation
NGO	Non-Government Organisation
NGOD	Non-Governmental Organisation for Development
NGOF	The NGO Forum on Cambodia
NHDI	National Human Development Report
NHRC	National Human Rights Commission
NNPC	Nigerian National Petroleum Corporation
NSDP	National Strategic Development Plan
NSDP	National Secretariat for Development Planning
NSDS	National Sustainable Development Strategy for the Kyrgyz Republic
NSSED	National Strategy for Social and Economic Development
ODA	Official Development Assistance
OECD	Organisation for Economic Cooperation and Development
OIC	Office of International Cooperation
OJM	Organização da Juventude Moçambicana (Mozambican Youth Organizat)
OLCP	Organic Law of Citizens Participation
OMM	Organização da Mulher Moçambicana (Mozambican Women’s Organisation)
ONHRI	Organ on National Healing Peace and Reconciliation
OSBC	Osun State Broadcasting Corporation
PA	Palestinian Authority
PA	Partners Albania

PAHO	Pan American Health Organisation
PAP	Program Aid Partnership
PAPs	Program Aid Partners
PASOC	Support Program for the Structuring of Civil Society
PBO	Public Benefit Organisations
PCEI	Parliamentary Committee of European Integration
PCG	Partners Coordination Group
PD	Paris Declaration
PIL	Public Interest Litigation
PLANOSCAM	Platform of CSOs in Cameroon
PLC	Palestinian Legislative Council
PLO	Palestine Liberation Organisation
PLRA	Authentic Radical Liberal Party
PM	Prime Minister
PNGO	Palestinian NGOs Network
PNIO	National Plan for Equal Opportunities
POSA	Public Order and Security Act
PPP	Public-Private partnership
PRF	Poverty Reduction Forum
PRONASIDA	National AIDS Programme
PRS	Poverty Reduction Strategy
PRSP	Poverty Reduction Strategy Paper
PVO	Private Voluntary Organisation
PWC or PC	Public Watch Councils, and, since June 2014, Public Councils
PWYF	Publish What You Fund
RENAMO	Resistência Nacional Moçambicana (Mozambican National Resistance)
RGC	Royal Government of Cambodia
RIS	Research and Information System
RWB	Reporters without Borders
SAP	Structural Adjustment Program
SAS	Secretariat for Social Action
SCAAP	Special Commonwealth Assistance for Africa
SDCP	Strategy on Development Cooperation and Partnership
SDG	Sustainable Development Goal
SEAM	Secretariat of Environment
SECI	Secretary of State for International Cooperation
SECIPI	Secretary of State for International Cooperation and Latin America
SEDAMUR	Support Services for Women
SEEDS	State Economic Empowerment Development Strategy
SEGEPLAN	Secretariat for Planning and Programming of the Presidency
SETECI	Secretaría Técnica de Cooperación Internacional
SFIS	State Financial Intelligence Service
SFP	Ministry of Public Service
SFPFII	Strategic Growth and Fight against Poverty Framework
SG	Sector Group
SGKh	State Great Khural (Mongolian Parliament)
SHRC	State Human Right Commission
SIL	Social Interest Litigation
SILC	Saving Internal Lending Communities
SINAFOCAL	National Training and Workforce Training
SLR	Systematic Land Registration
SNNA	National Secretariat for Children and Adolescents
SNPP	National Career Development System
SPSCS	Support Program for the Structuring of Civil Society
SRD	Center for Sustainable Rural Development
SRHR	Sexual and Reproductive Health and Rights
SSC	South-South Cooperation

STP	Ministry of Planning, Economic and Social Development
SURE-P	Subsidy Re-investment and Empowerment Programme
TIZ	Transparency International Zimbabwe
TLAS	Timber Legality Assurance System
TSJE	Superior Electoral Court
TWG	Technical Working Group
UNA	Universidad Nacional de Asuncion (National University of Asuncion)
UNBO	United Nations Burundi Office
UNDCF	United Nations Development Cooperation Fund
UNDP	United Nations Development Programme
UNFPA	United Nations Population Fund
UNICEF	United Nations International Children's Fund
UNWomen	United Nations Entity for Gender Equality and the Empowerment of Women
USAID	United States Agency for International Development
VAT	Value Added Tax
VENRO	Association of German Development and Humanitarian Aid NGOs
VNFOREST	Vietnam Forest Administration
VNGO-FLEGT	Vietnamese NGOs Network for FLEGT
VO	Voluntary Organisation
VPA	Voluntary Partnership Agreement
VUSTA	Vietnamese Union for Science and Technology Associations
WB	World Bank
WFP	World Food Programme
WHO	World Health Organisation
WIDE+	European Network 'Women In Development Europe Plus'
YACYRETÁ	Binational Entity
YASA	Youth Association for Safety Awareness
ZAADDs	Zimbabwe Accelerated Arrears Clearance, Debt and Development Strategy
ZANU PF	Zimbabwe African National Union Patriotic Front
ZIDERA	Zimbabwe Democracy and Economic Recovery Act
ZIMASSET	Zimbabwe Agenda for Sustainable Socio-Economic Transformation
ZIMCODD	Zimbabwe Coalition of Debt and Development
ZLHR	Zimbabwe Lawyers for Human Rights

Background

A decade ago, governments and major donors signed on to the Paris Declaration (PD), promising a new era of development cooperation and aid effectiveness. Paris, however, came without clear provisions for civil society engagement in the agenda.

In 2008, the Accra Agenda for Action (AAA) at last acknowledged civil society organisations (CSOs) as development actors in their own right, committing governments and donors *to work with CSOs to provide an enabling environment that maximises their contributions to development* (AAA, Art 20c).

Busan recognised the need for all actors to play a complementary role in the achievement of development goals. One of the major features of the Busan Partnership agreement was the broadening of the development cooperation agenda to include other development actors such as CSOs, private sector and emerging donors. The Busan High Level Forum (HLF) on development effectiveness encouraged the participation of non-state actors as full and equal participants in shaping the agenda and developing the Busan Partnership agreement. Inclusive development partnerships form one of the principles of the agreement, underpinning their common goals and differentiated commitments. Therefore, while AAA acknowledged the important role of non-executive actors, particularly CSOs, business, parliaments and local governments, the Busan Partnership agreement elevates these stakeholders to full development partners with an equal say in how to foster sustainable growth, reduce poverty and share prosperity. The Global Partnership for Effective Development Cooperation (GPEDC) emphasised multi-stakeholder cooperation to facilitate efforts to eradicate poverty and promote sustainable development. Debates over a post-2015 Development Agenda have seen a notable shift in the development discourse since its formation in 2011.

All this paved the way for the Open Forum for CSO Development Effectiveness and BetterAid, precursors to the CSO Partnership for Development Effectiveness (CPDE), the main civil society platform in the GPEDC.

CPDE was founded on two key objectives: (1) *to secure positive outcomes in policy and practice rooted in co-operation between development actors*; and (2) *to build CSO capacity for engagement in this endeavour*. The Istanbul Principles for CSO Development Effectiveness¹ flows from this, as does the 2011 Siem Reap Consensus on the International Framework for Development Effectiveness that guide CSOs in carrying out the principles.

Although CSOs are diverse in nature, they play a crucial role in enabling people to claim their rights, in promoting rights-based approaches, in shaping development policies and partnerships and in overseeing their implementation. In addition, some CSOs, particularly non-governmental organisations (NGOs) and foundations, contribute actively to development cooperation using funds raised from public and non-public sources, or implementing specific programmes and projects funded by official development assistance. They also complement the action of states by delivering services to citizens.

CSOs contribute to development effectiveness though promoting sustainable change, within a democratic framework, that addresses the causes as well as the symptoms of poverty, inequality and marginalisation, through a diversity of instruments and policies. CSOs are thereby not merely actors of aid effectiveness; they are actors of development effectiveness.

While recognising that civil society has played a critical role through, for example, introducing progressive discourses around development effectiveness, gender equality, democratic participation and a human rights-based approach (HRBA) to development into official discussions leading up to 2015, it is pertinent to note that there are key issues that still need to be addressed. For instance, key issues concerning financing and means of implementation are

¹ http://csoeffectiveness.org/IMG/pdf/final_istanbul_cso_development_effectiveness_principles_footnote_december_2010-2.pdf

still to be tackled. Nevertheless, CSOs have done much to pressure governments to deliver on their commitments, within and beyond official negotiations, for a new development agenda.

Central to civil society's ability to contribute to that agenda is an environment where CSOs can raise their voices, influence policy debates and see real action on issues that concern them.

In this regard, it is important to recognise that the road for civil society has been far from smooth, and problems plague the pursuit of *an enabling environment for CSOs* at a global and country level, not least the lack of internal capacity on the part of CSOs to engage meaningfully in the day to day affairs of *development cooperation*—a term which has at times referred more to cooperation between governments and the private sector, with only limited, tokenistic space given to civil society.

While gains have been made toward institutionalising civil society participation at the global level, at a country level, recent years have seen renewed threats to CSO autonomy and an elbowing out of civil society in official policy engagements in countries both north and south.

As development actors move from policy debates to implementation, there is urgent need for taking stock of progress (or lack of progress) made on these issues through periodic reports that synthesise the experiences of CSOs on the ground in relation to other development actors. This is to be grounded in a concrete analysis of the nuances of CSO engagement and policy influencing at a country level, and the conditions for development success or failure.

This exercise aims to bring together critical perspectives on the current context of *development cooperation (DevCoop)* at a country level, which in turn hinges on fostering an *enabling environment for CSOs (CSO EE)*—the legal, regulatory, fiscal and political frameworks in which civil society operates, engages with and pressures governments, holds other development actors to account and delivers services in support of development efforts—and actively shapes the development agenda as indicators of their *development effectiveness (CSO DE)*.

The CPDE Global Synthesis Report offers base-line analyses of development cooperation, CSO EE and CSO DE two years into CPDE's existence, contributing to efforts to forge a clearer development effectiveness framework for the platform and its members, rooted in their experiences and sensitive to the diverse contexts in which they work.

In addition to providing an initial base-line status on the current state of DevCoop, CSO EE, and CSO DE at a country level, it further aims to:

- Provide the foundations for a monitoring report for CPDE that will evolve through time, with follow-up research based on the framework, themes and indicators developed in this initial report;
- Sharpen local civil society critiques of current development cooperation policy and practice, and allow these analyses to contribute to CPDE's work as a platform lobbying for concrete changes in development discourse at the global level;
- Feed into the work of CPDE's platform members as they carry out their work on the ground through an analysis of the contexts in which they operate, including the diverse actors and institutions that hinder or encourage progress on development objectives;
- Provide an update in advocating for inclusive development, gender equality, sustainable development and other objectives in line with the Istanbul Principles in country level work;
- Raise awareness on these objectives among CSOs and other development partners;
- Fulfil CPDE's own commitments as a platform in holding itself and other development actors to account; the report can be an important reference document for CPDE's future policy engagement.

Introduction

The present report is a global synthesis drawing on contributions from 23² selected country CSOs on the current state of development cooperation, CSO enabling environment, and CSO development effectiveness at a country level. Geographic, political and socio-economic criteria were consciously considered in selecting the diversified 23-country sample with a clear aim of generating quality data and conclusions credible enough to be applicable to a wider understanding of global trends.

Therefore, based on cross-country inputs and starting from an overview of development cooperation, this report attempts at bringing together critical perspectives on the current context for CSOs' engagement in the enabling environment for CSOs, as well as assess the added-value of their contribution (either through service delivery or advocacy activism) in shaping the development agenda and supporting development efforts—CSO development effectiveness. It will feed into the work of the CPDE platform, as well as on the work of its member CSOs around the world, galvanising future policy engagement initiatives at global and country level. Below are detailed summary and analyses of the trends and recommendations, as presented in the reports under the three areas of focus.

²Albania, Burundi, Cameroon, Cambodia, Czech Republic, Ecuador, Germany, Guatemala, India, Kenya, Kryghizstan, Lebanon, Mongolia, Mozambique, Nicaragua, Nigeria, Palestine, Paraguay, Peru, Spain, Tunisia, Vietnam and Zimbabwe.

Summary of Findings

DEVELOPMENT COOPERATION Legal and Regulatory Framework

Governments, in all countries under review, are signatories to major international conventions on human rights and all other laws and governing principles concerning development cooperation and inclusive development, particularly the Busan Partnership for Effective Development. However, their implementation remains dotted by yawning gaps.

The Busan framework is based on internationally-agreed and cross-culturally negotiated human right norms. This has been backed up by the notion that human rights are central to effective and sustainable economic and social development for all. An increasing number of multilateral and bilateral partnerships are committed to integrating human rights in their development cooperation policy. Each signatory state has an obligation to respect, protect and fulfil these rights, considering that the promotion and protection of human rights is a matter of priority for the international community.

As indicated in these reports, much as the governments are signatories to these rights and have enshrined them in their constitutions, there should be no excuse for not implementing them. In Guatemala, for example, criminalisation of social struggles is on the increase; this has led to incarceration of social rights defenders. Burundi and Zimbabwe have witnessed persecution and even assassinations of civil society staff, volunteers and human rights activists.

It is imperative to realise that core civil society freedoms to express, associate and assemble, which are contained in a vast body of international law and inter-governmental commitments, are critical to civic existence and effective citizen participation. Nevertheless, in various contexts, civil society faces new and increasing infringements in exercising these fundamental rights and freedoms.

Governance Context

The year 2015 comes as the implementation deadline for major international commitments:

- The 15-year UN Millennium Development Goals (MDGs), which were set to go hand in hand with the fulfilment by donors of the pledges made in Monterrey (2002) and Gleneagles (2005)
- The Busan Development Effectiveness targets reaffirmed the global commitment with the Paris/Accra-agreed aid effectiveness principles and called for a more proactive engagement of other development actors (civil society, parliamentarians, private sector and non-traditional donors) in the traditionally donor-government 'business' of development cooperation.

In spite of being a long-standing and repeatedly endorsed donors' commitment, the attainment of the 0.7% target of gross national income (GNI) as official development assistance (ODA) has fallen short throughout decades. Yet in the backdrop of the 2007/2008 global financial crisis, and more particularly the Euro zone recession, the fulfilment of that target turned even ricketier than ever, with gradual falls in ODA flows being reported across the bulk of partner countries. In middle income countries (MICs) such as Vietnam, this trend is said to be effectively reflecting a definitive phasing-out of donors from development cooperation interventions there.

With the due exception of some Nordic donors³ whose performance against the target has been remarkable, other major economies have persistently been way far from the target.

³ According to the 2012 and 2013 AidWatch Reports, Sweden, Luxembourg, Denmark and the Netherlands have achieved the 0.7% target.

Germany, the economic powerhouse of Europe and the third-largest OECD DAC (Organisation for Economic Cooperation and Development's Development Assistance Committee) donor, is currently allocating only 0.4% of its GNI to ODA, let alone the small donors such as Spain whose ODA/GNI ratio barely reaches 0.15%.

“
ODA commitments were not met over the past 15 years, amid growing economic cooperation
”

Spain has reduced the number of development partners from 56 to 23, under the new mantra of 'do more with less' and adapting an economist approach by channelling ODA through loan and credits. This has been viewed as a way of arousing recovery of Spain's economy. With the decrease of aid from traditional DAC donors, India's development assistance has increasingly grown. Its development co-operation has mainly been bilateral, and development partnerships and assistance have mainly been based on needs identification by the partner country. Rather

than give loans and credits like Spain, India Country Report points out that India attaches few conditionalities to its development assistance in an effort to create rapport and build relationships with the recipient country.

However, the recurrent blaming of the crisis for the ODA falls doesn't seem to hold. In fact, recent AidWatch reports have argued that decline in meeting ODA targets is not inevitable. 'Given that development cooperation budgets represent only a very small amount of EU states' budgets, cutting them to reduce deficits looks like cutting hair to lose weight.'⁴ Starting from the PRSPs⁵, ODA has supported and has been linked to some of the recent governance reforms that sought to enhance the rule of law, public transparency and civil society participation.⁶ It is therefore understandable that some circles, both among donors and civil society, fears that not meeting their target 0.7% of GDP, ODA could prompt a slowdown in the still much needed reform process.

Only time will tell whether those fears are justified or not, but as traditional ODA is progressively overlapped by economic cooperation, it is crucial for CSOs to readjust their engagement strategies to a changing playing field increasingly dominated by vested interests and powerful lobby groups. In almost every aid recipient developing country, civil society has enjoyed some space in decisive donor-government dialogue forums, even if only tokenistic. As ODA flows decline, this sort of 'free-ride' won't be of any help since key police dialogue is likely to shift to 'tables' where seats aren't *invited/ granted* but rather *claimed* through bold strategies.

“
When a substantial proportion of a country's population is poor, it makes little sense to detach poverty from the dynamics of development.
”

Actually, understanding that those are just the expressions of deeper problems is crucial here because that will drive civil society's engagement efforts to the underlying structural issues aforementioned. CSOs' policy advocacy around issues such as the fiscal framework for mega-projects/multinational corporations, as well as their participation in the making of policies with potential redistributive effects, is therefore critical in addressing those structural problems.

⁴ AidWatch 2012. *Aid We Can - Invest more in global development*. Available at http://reliefweb.int/sites/reliefweb.int/files/resources/report_37.pdf

⁵ The PRSPs outlines national programme for poverty reduction as a requirement for lending programmes with the International Monetary Fund and the World Bank and for debt relief for Heavily Indebted Poor Countries (HIPC).

⁶ *Synthesis of Budget Support Evaluations: Analysis of the Findings, Conclusions and Recommendations of seven Country Evaluations of Budget Support*. November 2014. Available at http://ec.europa.eu/europeaid/synthesis-budget-support-evaluations-2010-2014_en

Partnerships for Evidence-based Policy Advocacy: A Short Lesson from Mozambique

In order to be effective (mobilise public support and win over policy-makers), it is crucial for policy advocacy initiatives to be evidence-based. That is even more so when the aim is to influence macroeconomic and fiscal policy. That is precisely the challenge CSOs in Mozambique are confronted with, as a gigantic extractive industry establishes itself in the country with outrageously excessive tax benefits.

CSOs immediately stood up to demand the government to review the contracts with the multinationals and rebalance the benefits structure in favour of a larger taxation on the multinationals' profits.

But CSOs usually lacked the technical expertise and institutional capabilities to gather, document and analyse data to structure the arguments for the intended policy change. CSOs turned then to academic and research institutions (think tanks), which, in spite of having all the technical and logistical capacity to research and elaborate on macroeconomic policy issues, were also desperate for voices to help them get the message across in order to mobilise wider support beyond the strict boundaries of academia.

With massive technical backing from research institutions, CSOs' engagement in the debate around 'fiscal benefits to multinationals' was galvanised to unprecedented levels, forcing the government to admit a renegotiation of the deals with the multinationals.

In Mozambique, the fiscal framework in place for mega-projects in the extractive industry is far from desirable. But local CSOs' efforts to reverse the situation over the last few years has been remarkable and is worth sharing, since examples of CSOs engaging to such degree in other countries are rare despite the problem being somewhat common-place.

As discussed earlier, the AAA (Art 19) refers very explicitly to the added value of the CSOs as independent development actors in their own right. Recognising civil society as 'actor in its own right' is recognising that the emphasis of the development process lies in the constituency of the CSOs. This is a very powerful quality of civil society engagement and, in many ways, does make the difference and/or complement/supports the drive of governmental development cooperation. CSOs are not only aid donors but are channels and recipients who raise their own resources privately, or receive ODA to support their development activities or act as channels when playing an intermediary role between official donors and other CSOs. In Kyrgyzstan, donors do not recognise CSOs as development actors. This is evident in the fact that CSOs, both national and indigenous, are not represented in the Development Partners Coordination Council (DPCC). Furthermore, donors in the country do not solicit inputs from CSOs.

Political Context

The MDGs, as do the upcoming post-2015 development agenda and the introduction by many countries of targeted poverty reduction and social protection programmes, have increasingly focused on targeting the poor and reducing inequality. For countries that have been successful in increasing the well-being of the majority of their populations over relatively short periods of time, progress has occurred principally through state-directed strategies that combine economic development objectives with active social policies and forms of politics that are complementary and synergistic and that elevate the interests of the poor in public policy.

Recognition of CSOs as playing a core role in public policy-making in relation to political institutions, the private sector and other development actors is an essential element to any transparent, accountable and democratic political system. It ensures the continuation of dialogue between citizens and decision-makers outside of election times. Ideally it results in policy and legislation being more responsive to the needs of the people they affect. CSOs play an important role in such participation mechanisms, providing a link between citizens and decision-makers. Public participation is particularly important for marginalised groups such as minority communities and women whose voices are often neglected by decision-makers.

Czech Republic gives a good example of implementing CSOs' own commitments and advancing multi-stakeholder initiatives that put women, rural populations and other marginalised groups into consideration. In 2011, Czech Forum for Development Cooperation (FoRS) adopted its code on effectiveness, with five key areas linked to the Istanbul Principles: grassroots knowledge, transparency and accountability, partnership, respect for human rights and gender equality and accountability for impacts and their sustainability. The code is to help FoRS members enhance the quality and effectiveness of their operations. FoRS members agreed that breaching of 'key indicators' (e.g. corruption) could eventually result in the exclusion of a member from FoRS. This has also been incorporated into the FoRS Statute.⁷

FoRS members carry out an annual self-assessment according to indicators related to each principle. The FoRS secretariat monitors the annual changes and reflects learning needs in its capacity building plans. The findings are shared at the FoRS general assembly and discussed by the working group on effectiveness. In addition to self-assessment, peer-reviews were introduced in 2013 where peers provide mutual feedback on using the code, prioritise learning needs, set concrete plan of actions and assess progress.

In Mongolia, legal provisions and institutional mechanisms are in place to allow for CSO participation in policy and decision-making. However, such mechanisms are not being used effectively. There exists no systematic dialogue between CSOs and government institutions. Interaction mostly takes place on an ad hoc basis. In Czech Republic, at the local level, CSOs are continuously consulted on issues such as community planning and regional development strategies. In some regions, local authorities sign partnership agreements with CSOs; in some cases, these are only declarative, but in others, they lead to real cooperation. CSOs in Germany participated in dialogue with the government and influenced the government to develop a common position on the post-2015 agenda.

The Busan outcome document places a considerable emphasis on the private sector's role in development, stating that the private sector is important in 'advancing innovation, creating wealth, income and jobs, mobilising domestic resources, and delivering goods and services. Cooperating with the private sector has been the case in Kyrgyzstan, where a law on public-private partnerships provides a basis for long-term relationship between the state and private sector.

Civil society participates in the formulation and monitoring of the national development strategy, generally through networks and umbrella organisations that coordinate groups operating in a wide range of domains such as health, gender, education, poverty, environment and so on. While in some countries such as Zimbabwe it was noted that major actors from the civil society participated in the national development strategy, in others, important actors were not invited to the consultations or their contributions were disregarded. Respondents cite a number of reasons for limited participation by CSOs. However, in Cambodia, CSOs were invited to join consultative meetings but their viewpoints and inputs are often ignored. In other instances, an unreasonably short timeframe was given to CSOs to comment on extremely complicated pieces of legislation.

Due to resilience and lobbying in Cambodia, CSOs' inputs were accepted and incorporated into a number of important policies such as the National Strategic Development Plan 2012-2014. In Kenya, civil society participated in the formulation and continues to participate in the monitoring of the national development strategy.

On gender equality and women's rights, while the government of Czech Republic, as in many other countries, has been formally promoting legal frameworks in favour of women's rights in political participation and other domains, in practice, poverty, inequality, and gender discrimination continue to constrain women's capacity to engage in governance as active political subjects.

⁷ http://Internet.fors.cz/user_files/fors_code_on_effectiveness_en.pdf

Socio-Economic Context

It is every government's responsibility to end poverty and ensure equity in development. Recent decades have seen rising inequality and inequities, which are in turn partly responsible for the world 'lagging behind' in realising targets of the MDGs.

There's striking and extensive evidence that much of the success in poverty reduction the world has witnessed over the last decades was seen in East Asia, whereas poverty incidence in many parts of Africa and some parts of Latin America stagnated, and in some cases even deteriorated (Sachs, 2005⁸). This inability to tackle poverty despite consistently strong macroeconomic performance is largely associated with a growth pattern highly concentrated on a single extractive and export-oriented sector with extremely low job-creating capacity, shallow fiscal contribution and, therefore, a weak redistributive potential.⁹

These structural fragilities undeniably have drastic effects on the stability of societies. The Boko Haram rebellion in Nigeria, the emerging military insurgence in parts of Paraguay, the growing criminalisation of the Guatemalan society and the proliferation of armed gangs claiming no-go areas in Cameroon are all expressions of social desperation as the result of the inability of the states to set the grounds for societies of inclusion, justice and dignity.

Most country reports show that donor transparency and cooperation are still largely focused on government processes. CSO donor relations for policy dialogue are virtually non-existent in many countries. CSOs' autonomy from government, as well as their own accountability mechanisms, needs to be strengthened.

There's a widely held view that in most of the developing countries, civil society participation in government processes is designed to suit the interests of governments by ensuring the fulfilment of a donor-imposed aid conditionality. Though this view may not be entirely and always true, reality on the ground shows that despite efforts, the real effectiveness of CSOs' engagement and participation in such policy dialogue forums is still pretty much questionable. With donors and the private sector taking centre stage, civil society's side-lined involvement hasn't in fact been far more than symbolic, and such attitude tends to be exacerbated by the somewhat widespread perception within partner governments and among donors that civil society is fragmented and often lacking in capacity to engage meaningfully in development.

The fast-rising BASIC countries (Brazil, South Africa, India and China), together with other small newly emerging donors such as the Czech Republic, are undoubtedly imposing new dynamics in the global financial markets, allowing more options and greater room for bargaining manoeuvres for the investment-thirsty developing countries. Yet, development cooperation as such continues to be widely dominated by the traditional OECD donors, and the establishment of functional multi-stakeholder dialogue platforms aimed at bringing together all these emerging development actors to address harmonisation strategies and wider public policy challenges doesn't seem to be a near target.

Whereas a fully-inclusive platform was legally institutionalised and tried in Lebanon but later paralysed,¹⁰ the dialogue arrangements in place hardly ever engage all the relevant actors in most of the countries, being at best described as 'quasi-inclusive' (government-donors, government-civil society, government-private sector).

In Kenya, for example, devolved governments are an opportunity for resources to flow to the lowest levels of service delivery, hence potential for better impacts. However, the devolution

⁸ SACHS, Jeffrey. *The End of Poverty: How we can make it Happen in Our Lifetime*. Penguin Ed. 2005

⁹ *The move towards regressive Tax systems (e.g. Nicaragua), is likely to worsen further the income gap between the poor and the better-off.*

¹⁰ *The Economic and Social Council, a platform that was expected to host discussions and dialogue between*

statute gives powers to sub-national entities to directly negotiate grants with development partners. This presents a challenge regarding coordination of development assistance, but more importantly the danger of donors 'cherry-picking' projects, geographical areas or even pet sectors to the disadvantage of national priorities. An emerging theme from all country studies is that ownership and inclusion need to go beyond government and donor partners to include civil society, women's organisations, parliament and other actors in the formulation and delivery of development policies. In spite of existing challenges of limited spaces for CSOs to operate and participate in public policy and decision-making process, few countries have demonstrated that indeed there is change and the government is involving them more in policy-making issues, though the extent to which CSO positions are adopted remains to be seen.

MAIN RECOMMENDATIONS

To Government

- There is need for governments to create formal spaces for effective dialogue with CSOs and that CSOs are actively involved and represented in these spaces;
- Remove regulatory barriers that undermine or make it difficult for CSOs to perform their role in development processes;
- Partner countries and donors should open dialogue on increased involvement of CSOs in mutual government/donor accountability processes.

To Donors

- Provide support and encourage greater accountability and participation of democratic actors in development processes;
- Support capacity enhancement for CSOs through training and encourage the sharing of best practices at both the country and international level.

To CSOs

- Engage development actors to broaden the agenda from aid effectiveness to development effectiveness;
- Global civil society should continue to advocate for donor and government accountability and transparency in aid management.

CSO ENABLING ENVIRONMENT

In most of the developing world, the single-party regimes that followed national independencies prevailed until the 1980s, when the waves of democratic transitions swept through in the aftermath of the 1970s' stagflation which drove those economies to the path of structural adjustment programmes (SAPs) and later, the poverty reduction strategies (PRSPs). Drawing from a bitter lesson of the ill-designed SAPs, the World Bank and the International Monetary Fund (IMF) established that the PRSPs had to be prepared by governments through a participatory process involving civil society and development partners.¹¹

Therefore, in many cases, the PRSPs provided one of the first opportunities of effective/untied engagement of civil society in government processes. Drawing on that precedent, civil society in most of the countries already enjoys some degree of representation in several dialogue platforms including donor-government talks. Yet, questions arise on the buy-in of its contributions in such forums.

Both in partner and donor countries, there's mounting evidence of a shrinking space for CSO advocacy and effective influencing on development cooperation issues. In the early 2000s, while CSOs in donor countries strongly campaigned and pushed for the allocation of 0.7% of GNI to ODA, CSOs in developing partner countries were campaigning side-by-side with governments

⁸ Curran, Zaza. *Civil society participation in the PRSP: the role of evidence and the impact on policy choices*. PPA Synthesis Study. October 2005, London: Overseas Development Institute.
Christiansen, K. and Hovland, I. *The PRSP initiative: multilateral policy change and the role of research*. ODI working paper no 261. 2003, London: Overseas Development Institute.

for the highly indebted poor countries (HIPC) and multilateral debt relief initiative (MDRI) debt cancelling initiatives in an unprecedented show of joint collaboration. Both trends not only influenced development cooperation policies but also opened the ground for a greater and effective involvement of partner countries' CSOs in the broader policy-making, starting from conception and monitoring of the PRSPs.

In Busan, governments agreed to provide space for CSOs to exercise their role as independent development actors. Contrary to this, a pattern of deteriorating legal and political conditions for CSOs is increasing in a number of countries. In Albania, registration of an association, charity or foundation is not mandatory; however, one cannot operate legally without registration. Unlike Albania, the Burundi organic framework for not-for-profit organisations is an impediment to the registration process of CSOs in Burundi. This law gives power to the administrative authority, leading to abuse by using vague grounds for denial of registration. The law does not allow for appeal. Further, in Kenya, the state has the power to declare a CSO unlawful or withdraw its registration. Laws in Lebanon, Paraguay and Zimbabwe each prohibit certain 'spheres of activity' by CSOs, especially those dealing with governance and corruption. In Zimbabwe, the government frustrates CSO operations, for example by requiring them to submit registration details to the police and district administrators as a prerequisite to operate in the different districts.

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The lack of institutional space for CSOs limits the inclusion of the needs of the poor and vulnerable groups, and the implementation and monitoring of development cooperation commitments.
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The full realisation of the right to peaceful assembly is an essential condition for enabling civil society. Recently, restrictions have been imposed against the right to peaceful assembly in a number of countries. In Lebanon and Burundi, notification and authorisation to conduct peaceful assembly is required.

Political polarisation has directly impacted enabling environment for CSOs. In Cambodia and Zimbabwe, the Cambodian People's Party and Zimbabwe Africa National Union (ZANU-PF) have dominated all aspects of governments and this has been recognised as underlining the need for a strong and coordinated civil society. The Burundian government has, by default, branded CSOs as being part of the opposition.

Extra-legal attacks, including physical attacks on and assassinations of civil society staff, volunteers and activists were reported. In Guatemala, criminalisation of social struggles is on the increase and has led to incarceration of social rights defenders. Burundi and Zimbabwe too have witnessed an increase of persecution of human rights activists.

Countries such as Lebanon have prohibited certain types of online content or seek to impede bloggers and other Internet users; Cambodia has introduced the cybercrime law, and lawsuits are often used as threat against journalists, reporters or anyone criticising the government. Such measures stifle the right of individuals and CSOs to receive and provide information, and to meet online and exchange ideas with civil society counterparts inside and outside their home countries. Mozambique is yet to pass a law on right to information. On the other hand, the media in Mongolia, just as in other parts of the world, is being influenced by politicians. The media addresses their financial issues by signing off on closing agreements with political parties and huge companies. This clearly hurts transparency, journalistic independence and social justice. Barriers in access to relevant public information also stand as a weakness with far-reaching effects for CSOs' work. In Lebanon, this right is just not recognised. In Nigeria, though the Freedom of Information Act was passed at the national level, only two of 36 states of the federation have adopted it.

Trade unions and labour organisations are subject to extensive restrictions imposed by law and government policies. This is evident in Lebanon, Paraguay and Zimbabwe.

On the other hand, CSOs are failing to mobilise for and secure the rights of racial minorities, for example, afro-descendants and indigenous Indians in Latin American and sexual minorities of lesbian, gay, bisexual and transgender (LGBT) in Africa and Asia. For the particular case of sexual minorities, legislation in most parts of Africa and Asia is still by and large rigidly prohibitive, and cases of complete banning of any form of support to that cause are not particularly rare, which renders the environment for LGBT-focused CSOs completely hostile. It is also worth noting that in countries such as Lebanon and Kyrgyzstan, there are restrictions of rights of the LGBT community. This discriminates against them and is a violation of their freedom of expression, freedom of association and assembly.

Another challenge to enabling environment is the application of out-dated, colonial era laws which are not fit for purpose given contemporary realities of governance and the ways in which civil society has changed. Patchworks of different laws relating to different types of organisations are a related problem. An extreme example is that of India, which has a more than a hundred-year law that lumps together very different organisational forms. The same is the case with Lebanon, with the Ottoman Law still being used to govern CSOs for more than a hundred years. Although Albania has an agency for the support of CSOs (a public entity that provides funds for CSOs through public funding), the procedure for distribution of the funds is not transparent and the criteria for selection of CSOs who are to receive funds is not clear.

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Democratic participation, freedom and possibilities are increasingly being squeezed by new regulation grounded on government's mistrust and suspicion of CSOs.
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In other countries, though, progresses should not go over-stated without mention of particularly worrying challenges of looming insecurity (Lebanon and Nigeria); crippling violence and inequality (Guatemala); near economic stagnation and widespread unemployment (Cameroon and Zimbabwe); widening income inequality (Nicaragua, Cambodia and Paraguay), etc.

As developing countries grapple with these challenges amidst a growing democratic openness, a diversified civil society has emerged as a viable development actor. However, in spite of national constitutions being generally 'generously' permissive with regard to the exercise of the fundamental CSOs-related freedoms, newer and tighter regulations are tending to jeopardise those constitutional guarantees, reflecting the dropping trust and heightening suspicion of governments towards CSOs.

Such tensions threaten the progresses achieved over around two decades of consolidation of democratic participation practices. In fact, though many countries have institutionalised diversified spaces of dialogue, the laws and regulations put in place are largely reflective of the undisguised appetite of governments to control CSOs' activism.

A recent case in Vietnam is particularly glaring. In 2002, the government of Vietnam issued a decree outlining the legal framework for research-focused CSOs and then brought them (together with other professional associations) into a government-controlled trade-union with a clear aim of guiding and monitoring their members. Moreover, the Vietnamese government limited the scope of scientific and technical research by think tanks and other non-profit associations to 317 specifically approved topics. Topics not explicitly sanctioned by the law cannot be publicly discussed.

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Funding dilemmas: CSOs' institutional weakness make them vulnerable to powerful vested interest whose agenda often collide against those of civil society.
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In Zimbabwe, Kyrgyzstan, Cambodia and Nicaragua, recent changes in legislation have tightened further the space for CSOs' activism by introducing legal provisions to control and restrict their accessibility to desperately needed foreign funding. This move is, to a great extent, explained by the governments' attitude of suspicion with regard to CSOs, as well as a stiff stance towards public criticism perceived as a foreign-plotted 'direct assault on authority and unacceptable meddling in the affairs of government.'

In some cases, tax legislation also doesn't help for CSOs' survival. In Nicaragua, Kyrgyzstan, Vietnam and India, for example, CSOs have to report to the tax administration with the same costs, requirements and specificities as profit businesses do. Such perverse taxation systems only worsen the already dire financial situation of CSOs in those countries.

Political parties and CSOs can make 'unlikely' yet good allies when it comes to lobbying against or barring perverse legislation proposed by government. In Cameroon, for example, they have effectively collaborated in denouncing and blocking an anti-terrorism law that threatens the rights and freedoms of citizens.

But CSOs' connections aren't always benign. As Mongolia and Ecuador exemplify, CSOs' links can sometimes take a dramatic twist, driving CSOs to represent interests other than those they were supposed to, with severely damaging impact on their public reputation as well as on their mobilisation capacity. This is a central existential dilemma CSOs have to face every day: *how to keep 'afloat' without giving in to someone else's agenda.*

Quest for Survival: Implications for CSOs' Funding Patterns

Across the developing world and particularly in the countries covered by this study, CSOs are still heavily dependent on foreign donors' funding. However, the recent Eurozone crisis has prompted donor governments to cutback in allocations to intermediary donor NGOs, with a dramatic knock-on effect for the on-ground CSOs and NGOs. In Spain, for example, a more austere budget resulted in the disappearance of around 20–30% of intermediary NGOs in 2012. Most of the on-ground CSOs that depended on that funding were forced to shut down projects, as reported in many countries.

In some cases, the crisis prompted a change in donor priorities, leading a number of them to either terminate some of the CSOs-targeted programs or impose even tighter project requirements that are sometimes hard to be met at the local level, turning the prospects of survival for the smaller or emerging CSOs bleaker.

But there are lessons to be learnt in this hiccup. The impact of the crisis was much severe to local CSOs in part because of the donors' short-sighted and short-term project-based assistance strategy to CSOs, which has proved ineffective to allow the latter to develop more sustainably. Despite cross-country evidence suggesting otherwise, rather than supporting structured medium-term strategies of CSOs' *institutional capacity development*, donors tend to favour the sponsoring of **select projects**, which amounts to an *ad-hoc* interventionism. Plenty cross-country evidence leaves no doubt that this donor *modus operandi* left CSOs vulnerable and unprepared to shocks of any kind, including financial instability, which in turn set the stage for a crunching north to south chain effect on CSOs' finances.

In Cameroon, Albania, Mongolia and Kyrgyzstan, local NGOs and CSOs are benefiting from Government subventions. But, with eligibility criteria somewhat unclear, this line of funding has come under suspicion of being used as a government bait to lure, politically alienate and control or even co-opt dissenting voices (individuals and groups).

Public funding to CSOs heightens the risk of co-optation (of civil society leaderships) which is felt as significant even in countries without such funding schemes. That is, for example, the case of Lebanon, where activism based on temporary/circumstantial coalitions among CSOs was a strategy put in place by civil society aimed precisely at counteracting the risk of co-optation.

Bottom line, whereas public funding could address critical financial deficits of CSOs, it doesn't seem to be the ideal source of resources for CSOs in the medium/long term. This partnership could

easily unravel into a promiscuous symbiosis with dramatic effects on CSOs' public reputation and effectiveness.

Yet, there are other models of CSO-government partnerships that should be further explored. That is, for example, the model in place in Mongolia where, in order to reach out to issues such as environment conservation, the government outsources activities to on-ground CSOs under agreements that only include project-based operational costs, but without covering administrative costs and without any long term, predictable and sustainable funding scheme.

Legal and Regulatory Framework

Access to information and open data are crucial to establishing an open and accountable government. The access will enable the citizens to participate in the design, delivery and monitoring all of the development process. Today, freedom of information is recognised and enshrined in the constitutions of various countries the world over. However, this progress has not been without its drawbacks. Legislation, policies and institutions that would operationalise and entrench access to information in many countries across the globe remain either missing or ineffective.

This limited access to good quality information makes it difficult to inform resource allocation, track expenditures effectively and measure progress appropriately. This is exacerbated by the absence of an access to information law in some countries to compel the custodians of public information to make it available.

Additionally, in other countries, what initially appeared to be breakthrough in terms of institutionalisation of access to information rights has turned to be a disappointment. Legislative pieces with provisions that appeared to be favourable to a culture of transparency turned out to be fraught with loopholes carefully embedded into or attached to them, practically keeping 'business running as usual':

- 'Security reasons' and 'state secrets' are stated in Zimbabwe and Kyrgyzstan as justification to some restrictions in access to information.
- In Cambodia, access to information rights is mired by a smothery over-statement of the anti-defamation, disinformation and incitement legislation.
- In Mozambique, legislation on public disclosure and openness (e.g. Public Probity Act) is still rendered somewhat ineffective by dissonant 'confidentiality provisions.'

This dosage of 'legal dualism' regarding accessibility of public information overwhelmingly affects every dimension and area of CSOs' intervention by hampering a knowledgeable and effective engagement in public scrutiny, policy advocacy and policy dialogue.

Mozambique's lack of transparency about aid flows and budget planning limits possibilities for the parliament and for civil society to scrutinise the government budget. In India, the government does not provide information on ODA and other key policies issues on ODA.

On a more positive note, Mongolia has a law in place that gives CSOs and private sector right to access public information but within a limited time period. However, implementation of the law has been a challenge.

Governance Context

Cambodia launched the NGO Good Governance Project (GPP) in 2004 with the objective of strengthening the NGO sector, building trust among citizens and reinforcing accountability to stakeholders. In Nicaragua, since the current government assumed power in 2006, the national parliament has become highly polarised and its activity has been suspended at various times

over the years. The polarisation and tension within the chamber have turned development into a secondary issue and its role in this field has been limited to approving various development loans.

Though platforms for engagement at sector level have been created in most of the countries reviewed, the quality of participation has typically been poor. This is due to the nature of spaces available to civil society, to government attitudes towards civil society participation and to weak capacity amongst those civil society actors who do engage.

Notable in Kyrgyzstan, the establishment of the Public Watch Council (PWC) creates a space for holding government to account. CSOs are represented in them. Other countries such as Albania are making efforts to improve relationships with civil society through invites for consultations on policy/legal initiatives. In Mongolia, the government adopted the National Development Comprehensive Strategy which increases CSOs' participation in state policy-making processes. Furthermore, CSOs established the Civil Society Council which signed an engagement agreement with the government.

In Cambodia, CSOs are represented in the country's 19 technical working groups. In Cameroon, CSOs sit in various commissions and have influenced and supported the passage of various bills such as the bill against female genital mutilation (FGM) and the protection of people living with HIV/AIDS.

Government-CSO Relations: Example of Vietnam

Taylor et al. (2012) mentioned that the growth in the number of CSOs existing in Vietnam reflects a relatively more hospitable environment provided by the state for civic engagement. The development of a more vibrant civil society sector is a natural outcome of a more open economic system and society, increasingly connected to regional and global trends and information networks. In addition, the government increasingly recognises that the complex nature of the development process requires contributions from many stakeholders, and civil society organisations can play a constructive role in providing feedback to improve the effectiveness of government policies. This relationship between the state and civil society in Vietnam is still very much evolving. The ongoing lack of a clear legal framework for civil society organisations creates an uncertain operating environment and reinforces the importance of personal networks in getting things done, rather than a set of transparent procedures applicable to all NGOs. A Law on Associations has been debated in the National Assembly in the past but was shelved following a number of disagreements over its provisions in the mid-2000s. Thus, enacting such a law would improve the position of CSOs in Vietnam.

Political Context

In countries such as Kenya, Mozambique, Cambodia and Kyrgyzstan, civil society is already part of institutionalised dialogue platforms. Yet, the 'effectiveness' question lingers on precisely because there are hardly any mechanisms in place to ensure that governments adopt CSOs' contributions. The example of Kenya where CSOs are invited to budget hearings without enough and timely available preparatory information is clearly symptomatic of the government's half-hearted willingness to open up to a wider and effective policy dialogue. In some cases, the 'ineffectiveness symptoms' in such dialogue forums are strikingly evident. In Cameroon, for example, 37 'inclusive multi-stakeholder dialogue mechanisms' were reported to exist in 2010.

Analytically, this sheer number is in itself an indication that the establishment of such mechanisms seems to be taken as an end in itself rather than a means to an end. Furthermore, since all of those spaces were largely 'created' by the Cameroonian government rather than properly 'claimed' by civil society, one would argue in a more sceptical analysis that the establishment of these dialogue platforms is a conscious government strategy of fragmenting and controlling CSOs. The plummeting interest of Cameroonian civil society to engage and participate in these dialogue forums is probably a result of this strategy. But effectiveness of CSOs' engagement in multi-stakeholder dialogue is not only trapped by

tokenism. Perhaps as an effect of that tokenistic nature of the dialogue, CSOs' engagement is failing to reach beyond 'processes' and therefore, the pragmatist call from Busan to 'focus on results' hasn't unfortunately been appropriately responded. Political willingness is needed to reduce barriers to CSO participation and fulfil these constitutional promises.



In Cambodia, CSOs lobbied for policy changes in the national strategic development plan and their input were incorporated; however, CSOs are at times invited to comment when decisions have already been taken. It is felt on occasion that the presence of CSOs is 'window dressing' in order to meet donors' calls for greater civil society participation.

It can be safely said that in a number of occasions, vested interests do hinder CSO participation in governance and development initiatives in a credible manner. In India, for example, corporations have tried to leverage their donations to choke competition and create favourable markets for themselves. Some have even tried to influence government policies. For instance, if there are NGOs promoting small, distributed renewable electricity generation units on the one side, there are an equal number of dubious corporate-funded NGOs, promoting large centralised renewable energy units to develop a market for the corporates.

Socio-Economic Context

CSOs in many countries operate within different contexts. Sadly, many CSOs are trying to work in contexts that limit their ability to effectively undertake their development work. For example, in contexts which have legal restrictions on their rights and freedoms, challenging financial regulations, limited or lack of space for multi-stakeholder policy dialogue, etc.

Funding mechanisms for CSOs cannot be said to be totally reliable, transparent and easy to understand. In Albania, the funding of the Civil Society Support Agency is approved by the Council of Ministers, according to the Law of State Budget. However, Kyrgyzstan and Nicaragua have prohibited foreign funding in a bid to curb terrorism and money laundering. This has had a negative impact on the operations of CSOs leading to closure of some of them. Further, Nicaragua has experienced an increase in government interference, which saw the passage into law taxation of CSOs. This meant that CSOs must pay income tax. Vietnam, on the other hand, regulates the management and use of foreign non-governmental aid.



MAIN RECOMMENDATIONS

To Government

- Create an institutionalised and systematised process of deliberately seeking the inputs of CSOs in policy dialogue, through creating additional spaces for or by requiring CSO participation in various commissions relevant in planning, monitoring and evaluation;
- Pass access to information laws to facilitate the work of CSOs;
- Work with CSOs to develop the relevant legislation that not only anchors CSOs' legitimacy within the country's legal framework but also maximises their contribution

- in the development process of their countries;
- Harmonise overlapping legislative acts through a comprehensive review of legislation for CSOs.

To CSOs

- Define concrete strategies for opening up political space vis-a-vis other development actors to make room for more CSOs to engage.

CSO DEVELOPMENT EFFECTIVENESS

The report comes at a time of on-going profound changes within the civil society arena as a consequence of global geo-political and economic shifts. CSOs continue to face many challenges in response to these shifts, but they also present exciting opportunities for emerging forms of civil society to find their place and voice.

There have been many efforts—driven mostly by the donor community—to develop CSO capacity. However, these efforts have not been sustainable because they have been mainly focused on achieving specific project aims with little emphasis on or prioritization for developing strong, organisation-wide systems, structures and processes that are essential for sustainability. In order to improve their own effectiveness and accountability as independent development actors, and to ensure that governments and donors live up to their own commitments on development effectiveness, CSOs in Cambodia, Czech and Germany have developed a code of conduct in the spirit of the Istanbul Principles.

Compared to Cambodia, Czech and Kyrgyzstan, German CSOs participate in public policy changes through various working groups. In Paraguay, however, there is lack of a strong institutional framework for CSO participation in policy dialogues.

Kenya has established an aid effectiveness platform, despite the existence of an aid coordination policy (ACP). In Zimbabwe, there is no formal platform that brings CSOs, government and other aid players together to discuss development effectiveness. Furthermore, Zimbabwe has undertaken various initiatives to strengthen development effectiveness and international relations with the donors, albeit with limited participation of CSOs and other non-state actors. Even though civil society has recorded many successes along the way, it continues to face both external and internal challenges that curb its own effectiveness. These are challenges around the lack of timely access to information, capacity issues, misappropriation and inadequacy of funds, minimal collaborations between CSOs and shrinking CSO space, all of which make for a severe limitation to CSO development effectiveness.

People's Empowerment, Democratic Ownership and Participation: Example of Kenya

CSOs submitted memoranda to the Parliamentary Committee on Lands and Natural Resources and the Parliamentary Budget Committees during the public hearings across the country. As a result, the Kenyan parliament passed three land laws that incorporated many CSO proposals. Many CSOs also mobilised their constituencies to analyse and discuss proposed legislation and policies, including the County Governments Bill (2012), the Public Finance Management Transition Bill (2012) and the Leadership and Integrity Bill (2012).

Evidence from the country reports show that CSOs operate in environments that are far from perfect. Many countries reported that their countries had adopted or are considering new NGO framework laws which impose severe practical limitations on the ability of civil society groups to undertake their legitimate activities. Among other issues, many of these legislative developments jeopardise the flow of foreign funding to domestic CSOs, provide the government with excessive discretionary powers to restrict CSOs from working on certain sensitive areas and permit the government to arbitrarily and subjectively dissolve organisations without judicial oversight. Furthermore, assassination of civil society activists perpetrated by both state and non-state actors continued with impunity. Even in the hardest conditions and times, CSOs are fighting

for their right to occupy more spaces in the public sphere, gain access to more financial and political resources and increasingly influence public policies and fostering social change. Sadly, the promise of an enabling environment for civil society remains unfulfilled. Marginalisation of independent and vocal civil society groups and the failure to protect them in the exercise of their rights undermine the global compact on development effectiveness. Nevertheless, as the evidence generated in this report shows, they often pay a heavy price for their work.

Legal and Regulatory Framework

In Peru, restrictive legislation is in place. NGOs working on issues which do not favour the government, including human rights, face scrutiny. Economic growth has been accompanied by a reduction of external assistance. However, there has traditionally been a strong local civil society, and encouraging signs include new rights granted for indigenous groups to be consulted.

CSOs have been actively involved in development programmes by both cooperating and assisting in the implementation of the state's policies or programmes on the ground. A number of organisations have tried to bring people together around common social concerns to interact with the state in constructive ways—conveying their concerns toward authorities and suggesting that state agencies improve existing policies and point out weaknesses in their implementation.

Vietnamese CSOs have developed a mode of advocacy, including soft advocacy, for example, through non-confrontational policy advocacy vis-a-vis the authorities on social issues and climate change, either through a series of CSO networks or together with VUSTA. CSOs build diversified network and involve in different forums and dialogues in different levels, which bring voice and input from CSOs from communal to national and international dialogues.

In Kenya, CSOs often establish loose coalitions to advocate for various causes. Active advocacy coalitions include the CSO Reference Group, which lobbied and advocated for the passage of the PBO Act; the Decentralised Governance Non-State Actors; the Freedom of Information Network; the National Peace Policy Advocacy Network; Kenyans for Peace with Truth and Justice, which works on human rights, governance, and rule of law; and the CSO Leaders Forum, all of which ably showcased the sector's potential. This potential, however, has not been fully realised because most of these organisations are faced with critical challenges related to limited institutional and technical capacities to deliver their mandates most effectively. Lack of financial resources, poor internal organization and lack of timely access to information also contribute to severe limits to CSO development effectiveness in that country.

In Germany, VENRO sits in the gender working group and, together with other CSOs, successfully lobbied and advocated for the inclusion of sexual reproductive health issues within the federal ministry of economy (BMZ) budget. However, in Mongolia, they themselves have had trouble developing their own capacity to contribute effectively to development, but have been moderately successful in lobbying for policy changes. For example, CSOs' inputs were accepted and incorporated into a number of important policies, such as the National Strategic Development Plan 2012-2014.

There is a risk that some CSOs may struggle to continue their work when many bilateral donors prepare to withdraw their fund resources. In addition to improving their capacity, CSOs also need to diversify their financial sources and explore other sources, such as private and corporate social responsibility. This requires CSOs to improve not only capacity but also visibility and/or credibility towards enterprises and corporations, the government and the public in general. A number of development partners fund local CSOs, either directly or via INGOs, but much of it is uncoordinated and mainly short-term project funding.

MAIN RECOMMENDATIONS

To Governments:

- Inclusive multi-stakeholder dialogue provides governments with a unique source of important contributions to address the problems of an ever complex society. This

means that it is primarily in governments' interest that such dialogue mechanisms are put in place and governments have to lead the way;

- Government should relax the suspicious attitude towards CSOs and allow an environment that could enable them to build strong institutional capacity to meaningfully engage in the dialogue, as well as collaborate in social interventions.

To Donors:

- Support CSO to develop or implement self-regulatory mechanisms such as codes of conduct, strategy and management systems development to help streamline and protect the integrity of their work.

To CSOs:

- Lobby government over multiple and overlapping legal and regulatory regimes, which present difficulties in carrying out their work;
- Put in place mechanisms for monitoring compliance to the Istanbul Principles and accountability by CSOs. These should explicitly address leadership and integrity issues and include provision for an independent body to provide checks and balances in cases where the self-regulatory mechanism has failed;
- Lobby for general framework of principles for collaboration between the government and CSOs, and other development actors;
- CSOs' choices of engagement areas have to be more strategic and results-focused in line with the Istanbul commitment to realizing positive sustainable change, as well as the Busan commitment of 'focus on concrete development results';
- Fiscal policy should immediately be turned into a key area of CSOs' engagement at country level. The assumption is that fair taxation systems could be the key to more inclusive growth, lower income inequality and lower social unrest;
- Produce evidence-based advocacy in order to ensure that they engage meaningfully in dialogue and effectively influence policy-making.

Country Reports

Albania

Summary

This report presents the context in which various development actors in Albania contribute to the establishment and development of democratic forms of governance, including civil society organizations. It presents an overview of the environment in which CSOs operate, and their efforts to establish relations with other political actors in pursuit of sustainable development.

The first part is concerned with the legal and regulatory framework impacting civil society activity in Albania, especially in regard to fundamental rights guaranteed by international and national laws and conventions, including the freedom of assembly, freedom of association and freedom of expression.

The report further describes the political environment in which CSOs operate, and the state of cooperation and collaboration with state structures on various socio-economic and human rights issues. This section analyses the presence of multi-stakeholder institutions that have enabled CSOs action at the political level.

Government context is another issue of importance described in this report. Issues of development cooperation between local and international actors are discussed and evaluated based on recent changes in the political landscape over recent years.

The report further looks into Albania's socio-cultural context, which evaluates how cultural institutions, religious groups, media and other institutions portray or interact with CSOs, and how this influences public perception of civil society.

The final part of the paper looks into the socio-economic context and the actions taken by CSOs to influence the design and implementation of the measures on poverty, economic development, inequality, among other issues, whether independent from or in close cooperation with the state and other development actors.

A summary of main conclusions is presented at the end of the document, highlighting issues related to development cooperation, CSO enabling environment and CSO development effectiveness.

Introduction

The development of civil society in Albania over the past two decades was hinged on major legal and institutional shifts that tended to create a more enabling environment for CSOs. The 1990s, with the end of totalitarian rule and the transition to democracy, marked a rapid growth of the CSO sector. Civil society developed concurrently with the creation and development of the private sector and a free market economy.

The initial stages (1990-2000) saw CSOs focus mostly on providing direct charitable assistance to disadvantaged sectors of society. This shifted gradually towards a stronger focus on advocacy and political lobbying through public education and the promotion of human rights. Today, civil society organisations in Albania are institutions, encompassing a diverse array of civic groups and think tanks, both big and small. This role has been driven and nurtured by political developments in the country, as well as by the strategies and development priorities of international donors (mainly bilateral governments).

Albania's first CSO, established in December 1990 and operationalised in January 1991, was the Forum for Defending Fundamental Human Rights and Freedoms (currently Albanian Helsinki Committee). Yet 24 years after the establishment of the first CSO, official data on the total

number of registered and active CSOs in the country is still lacking. According to a document accessed upon request by Partners Albania,¹² which listed all organisations registered from 1991 to 2014, there are approximately 8,449 CSOs registered in Albania, of which 6,263 are associations, 846 are foundations, 1095 are 'centres' and 245 are under the category of 'others.' However, there is no clear data on how many of these are still active or have re-registered under the law for CSOs of 2001.

Over the past 24 years, the CSO sector in Albania has provided a range of services to different target groups and communities, and its presence has been visible in providing valuable contribution to public welfare.

For years in Albania, many initiatives of citizens' engagement in defending priority issues of public interest can be counted, as well as cases of CSOs' active involvement in consultations with the government drafting new laws, reviewing and amending existing laws and developing strategic documents such as: the law 'on measures for prevention of violence within families'; law 'on gender equality in Albania'; law 'for the protection from discrimination'; National Strategy for People with Disabilities 2005-2010; National Strategies for Gender Equality and against Domestic Violence; National Strategy of War Against Human Trafficking 2008-2010; National Youth Strategy and National Action Plans 2007-2013, etc. There is still a lack of legal mechanisms to ensure CSOs participation in this.

With regards to financial and structural development of CSOs, there have been improvements since 2009 with the establishment of the Agency for the Support of Civil Society (ASCS), a governmental body of financial and capacity building support for CSOs in Albania using state funds. From 2009 onwards, through ASCS, the state accords 900,000 USD annually to CSOs projects. The Agency, though, is debatably judged due to the state source of financing and the selection process of the preferable CSOs to support. The state-funded support has not been seen as a good practice of funding. Since 2013, ASCS has undergone a process of reforming, through close partnership with CSOs, with the aim of improving the legal and regulatory framework for CSOs in the country.

The approved development strategies of the Albanian ministries and Council of Ministers address public for open consultation through the CSOs' members and representatives, and the CSO sector is addressed by the current government as a partner for development.

Despite efforts and some improvements in the relations between the state and CSOs, as a result of initiatives from both parties to establish a sustainable and effective partnership, the state has yet to fully recognise the importance and value of CSOs as an independent and crucial partner in national development. Along with the development of national strategies and action plans with wide public consultations, the review of the CSO-related legal and regulatory framework and the drafting of a law on the establishment of the National Council for Civil Society are some of the biggest steps of an inclusive national strategic planning that the Albanian government is undertaking as a deep reform for social services in the country, as well as introducing the social procurement as a tool of contracting CSOs and other private providers for the deliverance of social services and activities for people in need.

The Legal and Regulatory Framework

Freedom of association is a constitutional right for any individual and legal entity with no discrimination according to age, nationality, legal capacity, gender or ethnicity. The freedom and right of association are guaranteed by the Albanian Constitution and the Civil Code¹³ and are made operationalised through the Law on Non-Profit Organisations¹⁴ and Law on the Registration of Non-Profit Organisations,¹⁵ which regulates the implementation of this right.

¹² From the Tirana Court of First Instance (Accessed in April 2014)

¹³ Law No.8781, dated 03.05.2011, For Some Amendments to Law 7850, dated 07/29/1994 "Civil Code of the Republic of Albania"

¹⁴ Law No.8788, dated 07.05.2001 on "Non-Profit Organisations"

¹⁵ Law No. 8789, dated 7.5.2001 "For the registration on non-profit organisations"

Whilst the registration of CSOs is not mandatory,¹⁶ in practice, nearly all organisations can legally operate only by registering as an association, centre or foundation—these are the three forms of organisation recognised by law.¹⁷ Registration, though, becomes mandatory at the moment they are awarded a project or fund by a donor agency. The contracting terms for benefiting from these funds require an act of registration of the organisation and the specific number of taxable or juridical person issued by national tax administration offices. Registration is carried out based on an application submitted to the Tirana Court of First Instance, which is the only public institution in charge of the registration of CSOs in Albania. Overall, the legal framework for the registration of CSOs is considered adequate and allows for a relatively straightforward process of registration and operation in line with international standards.¹⁸

The legal framework in Albania guarantees the right to enjoy freedom of peaceful assembly.¹⁹ A specific law on assembly has been adopted and is being implemented in Albania. Experience shows that there are no major problems with the implementation of this law by CSOs. With regard to protests and other forms of civil disobedience organised by CSOs, there have been no cases of outright violation or repression. However, in more overtly political protests, such as those organised by specific political parties either directly or indirectly, protesters were assaulted and repressed. The events of January 21, 2011, where four protesters were killed under unclear circumstances by national guard officers shooting from within the Prime Minister building, were perhaps the worst in recent times in Albania.

The law guarantees the right for every citizen to organise and participate in peaceful and non-armed assemblies and gatherings without any discrimination, although such forms of gathering should be announced previously to the state police inspectorates in order for them to secure protection and needed services during the protests. Restrictions are applied in cases when the assemblies compromise national security and public security, the protection of public order and prevention of crime, preservation of health or morals or the protection of the rights and freedoms of other people.

Freedom of expression is a fundamental freedom guaranteed in the country. Albania offers constitutional and legal guaranties for citizens to express their opinions without restraint.

Any limitations, such as restrictions on hate-speech, imposed by legislation are described clearly and in accordance with international laws in the Penal Code of the Republic of Albania. Libel is regulated in the Penal Code of the Republic of Albania, Section VIII: Libel offenses against morality and dignity. In 2012, the Ministry of Justice proposed changes in decriminalisation of libel and defamation by making it subject of the Civil Code instead of Penal Code. However, the changes were not approved by the Commission of Laws in the parliament. The only change approved was the size of punishment for libel from prison to fines.

On the other hand, the fiscal treatment of CSOs is not considered effective and appropriate for CSOs, and this constrains CSO activity to some extent. There are no specific forms for accounting and financial reporting of CSOs to the tax offices, sensitive to the characteristics of CSOs, and these do not discriminate according to the size or nature of organisations. The CSOs, regardless of their focus and specifics in activities with public benefits, report to the tax administration of Albania with the same forms and specifics as businesses do.

This lack of clarity in financial reporting forms for CSOs is reflected in the sporadic cases of 'businesses' support for CSOs, or in cases of services provided to businesses from these organisations. This, along with few relations among CSOs and businesses, has limited the collaboration between these two sectors in the country. In the Albanian legal context, CSOs are referred to as 'non-profit organisations' and the concept is confusing, whereas the law that regulates the registration and organisation of CSOs allows them to have economic activities

¹⁶ Law No.8788, dated 07.05.2001 on "Non-Profit Organizations, Article 3

¹⁷ Idem

¹⁸ Monitoring Matrix on Enabling Environment for Civil Society Development Country Report for Albania, 2013, Partners Albania

¹⁹ Law No. 8773, 23.4.2001

within their mission and scope of work at the same time.

On donors, the financial reporting policies are smoother, but apply indispensably the rules and regulations of the Albanian tax administrations. The grants awarded to CSO on calls from foreign or local donor agencies, though, are not subject of taxation.

In this regard, there is a need to improve current tax and financial reporting-related legislation through a separate framework for the CSO sector, along with a need for an increase in internal transparency, accountability and democratic decision-making by CSOs themselves.

In conclusion, the policy and legal framework in Albania does enable CSO activities as they support the right to peaceful assembly, freedom of association and freedom of expression, and they are implemented on the ground while reflecting the international commitments signed by the government. By and large, CSOs operate freely without state interference in their internal governance and activities. There are exceptions. For instance in 2011, the government fined the Mjaft Movement without any well-argued basis. The fine was amended by Mjaft Movement, and the Legal Court of Tirana decided on Mjaft's favour in this process.

The Political Environment

The general assessment of legislation and practice shows that CSOs operate without formal restrictions but are nevertheless constrained by limited funding and real policy influence.²⁰ The CSOs register at Tirana Court of Justice according to the law 'for the registration of non-profit organisations,²¹ and operate under the provision of the law nr. 8788, date 7.5.2001 'for non-profit organisations' last amended in 2013.

Moreover, the right of citizens and CSOs to participate in policy and decision-making processes is not a specific right guaranteed by the Albanian legislation. Rather, this right derives from general principles of a democratic political system, different laws and other rights guaranteed by the constitution, such as the right to free access of information of public importance, the right to petition to authorities, the rights to a healthy environment, the right to propose laws, the right to referendum, freedom of speech, among others.

Over the last 24 years, involvement of CSOs in policy-making has not been inclusive, with some CSOs being favoured over others and otherwise limited to certain stages in political decision-making processes, while transparency and access to information have been poor and problematic.

Although there have been cases of government consultation with CSOs on several legal initiatives, these has mostly happened as a result of international pressure, in the context of the country's aspiration for EU membership status. For instance, the government consulted with CSOs on the action plan to Address the EC's 12 Priorities mainly to comply with EC conditions. According to the monitoring by the Institute for Democracy and Mediation (IDM), out of 39 meetings conducted by the Parliamentary Committee of European Integration (PCEI) in 2012 to discuss 28 draft laws and one normative act, only one civil society group was invited to participate.

Notably, CSOs influenced, through advocacy efforts in legislative and policy initiatives, the preparation and adoption of:

- Law No. 9970, dated 24.07.2008 'On Gender Equality in Society,²² provides under articles 13/1/c, 14/2, 17/1/a, 30/4 that not-for-profit and trade union organisations are actors of securing gender equity by monitoring, evaluation and advocating for its compliances, along the central and local government institutions.

²⁰ From the Tirana Court of First Instance (Accessed in April 2014)

²¹ http://Internet.partnersalbania.org/skedaret/1233137516-NGORegistration_alb.pdf

²² <http://Internet.osce.org/albania/36682?download=true> last accessed December 23rd 2014

- Law No. 10, 221 dated 4.2.2010 'On Protection from Discrimination,²³ provides under articles 32/1/b/k, 33/1/2, 43/3 that not-for-profit organisations are bodies who have the right to submit a lawsuit against discrimination, and provides for close consultative structures under the Anti Discrimination Commission.
- The Electoral Code of the Republic of Albania²⁴ provides under article 6/4 the status of process observer for non-profit organisations (national and international), and in article 85/1 provides for representative membership for non-profits at the Media Monitoring Board during elections.
- Law No. 92/2014 'On Value Added Tax in the Republic of Albania.' The amended law on VAT, after a long period of CSO lobbying, under Chapter ii, Article 3, exempts these organisations, including their sources of funds, grants, membership quotas and donations, from Value Added Tax. Article 51/ë provides that goods and services used for providing social services and within the scope of work of non-profit organisations are also exempted from VAT.
- Law No. 146 /2014 'On Public Information and Consultation' was passed in late October 2014 after more than five years of pressure from CSOs and assistance by the Albanian Parliamentary Laws Commission to draft and pass the law. Under article 2/4, this law provides a mechanism of public consultation for groups lobbying in the public interest, and also defines CSOs as one of the forms of interest groups for the purpose of this law.
- The National Strategy on Gender Equality and Reduction of Gender Based Violence and Domestic Violence 2011 – 2015,²⁵ the Decade Of Roma Inclusion National Action Plan 2010-2015,²⁶ which provided for policies for protection against any form of discrimination. Local and central government institutions, CSOs, active groups of citizens, among others, are designated as interest groups and implementation partners in both action plans of these strategies at the local and national levels until the end of 2015.

As a result of long advocacy and pressure by CSOs, the Parliament of Albania amended the Electoral Code in 2012 stating that, 'for each electoral zone, at least 30% of the multi-member list and/or one of the first three names on the multi-member list must be from each gender.'²⁷ This legally promoted gender equity, in the highest decision-making body of the republic.

Despite this, implementation of the gender quota was limited in major political parties and was subject to fines due to code violations. Women's groups focusing on gender mainstreaming and equality promised to continue their struggle in monitoring and lobbying for proper gender quota application.

With regard to CSOs, there are no specific provisions for CSO representation in government advisory bodies, though some do sanction their creation.

One example is the law on gender equality in society, which stipulates the creation of an advisory body, the National Council on Gender Equality, chaired by the Minister of Social Welfare responsible for gender equality issues. It is composed of 10 representatives appointed by the government, three being from civil society. Being a minority in these bodies, CSOs face difficulties in leveraging policy influence.

²³ <http://Internet.equalrightstrust.org/ertdocumentbank/Microsoft%20Word%20-%20English%20NDL.pdf> last accessed December 22nd 2014

²⁴ <http://Internet.osce.org/albania/14464?download=true> last accessed December 22nd 2014

²⁵ http://shtetiweb.org/wp-content/uploads/2014/05/nsge-gbv_2011-2015_final_-_english.pdf

²⁶ <http://Internet.al.undp.org/content/dam/albania/docs/The%20Decade%20of%20Roma%20Inclusion%20-%20National%20Action%20Plan.pdf>, last accessed December 23rd 2014

²⁷ Article 67, para. 6 of the 2012 Electoral Code

Overall, there are no precise and clear standards that enable CSO engagement in decision-making processes, which allow for CSO input, and in a timely manner, and CSO representatives are still not treated as equal partners in discussions over development cooperation and sustainable development policies.

The Governance Context

Albania does not have an official national strategy stipulating state support for the institutional development of CSOs and which targets civil society as a whole. Nevertheless, there have been attempts to draft political documents that regulate partnerships between the government and CSOs. Worthy of mention is the preparation of the Civil Society Charter by a joint task force of civil society representatives and the government, with the support of the German Agency for Technical Cooperation (GTZ) in 2009. The aim of the charter is to further develop the partnership between CSOs in Albania and the government, both at the central and local level, thus creating a sustainable and favourable environment in support of fruitful cooperation.

Another important development in state support for CSOs through public funding is the creation of the Agency for the Support of Civil Society (ASCS)²⁸ in 2009. The Agency is a public law entity managed by a supervisory board composed of civil society representatives and government officials. Based on the law, the representatives of the organisations of civil society are appointed on the basis of their contribution and experience, according to proportional representation of the main and priority fields of development and the strategic priorities for the development of civil society.

The political context after the election of June 2013 offers a much more positive and open approach by the government toward CSOs, and a momentum highly appreciated from the sector. CSOs are approached in consultations and dialogue on reforms and legislative changes on central and local level (though to different degrees). However, there is a need for critical analysis of the results of these consultations and the extent to which the input of CSOs are seriously taken into account in these debates. The country report on the enabling environment of civil society development in Albania, conducted by Partners Albania, Center for Change and Public management, under the initiative of Balkan Civil Society Acquis - Strengthening the Advocacy and Monitoring Potential and Capacities of CSOs (February 2014)²⁹ cites that 47% of Albanian CSOs surveyed and evaluated the level of involvement of CSOs in decision-making as low.

In December 2013, the national conference 'Social Partners – Time for Action' was organised by civil society actors with the aim of establishing a dialogue with the Albanian government, with the facilitation of Partners Albania. The conference resulted in a statement from CSO representatives calling on the government to address the issues discussed. The main pillars of dialogue between CSOs and government, presented in the conference, were as follows:

- CSO sector involvement in policy-making and decision-making, and the state's support in this process;
- Support of the CSO sector through an enabling legal framework;
- The CSO sector as a social partner of the state in providing services for citizens and public institutions.

Important developments have been made in 2014 in addressing the three main pillars, as follows:

- Establishment of a technical inter-sector working group, with representatives from CSOs and the government, for the creation of the National Council on Civil Society

²⁸ Law No. 10093, date 09.03.2009 "For the Organization and Functioning of Civil Society Support Agency"

²⁹ http://monitoringmatrix.net/wp-content/uploads/2014/01/Albania_Country_Report-ENG.pdf, last accessed December 22nd 2014

Development as an advisory independent structure of the Council of Ministers

- Presentation of The Charter for Civil Society for adoption to the Albanian Parliament, as political document of cooperation between the state/government and civil society.
- Adoption
- Preparation of the guidelines of the Albanian Government Politics in support of civil society
- Adoption of the Law on Public Information and Consultation.³⁰

In conclusion, initiatives do exist between governments and CSOs to establish meaningful partnerships for development effectiveness; however, it is too soon to tell to what extent civil society is actually able to influence policy-making on the ground, with multi-stakeholder development cooperation still in its earliest stages.

The Socio-Economic Context

The new government established in September 2013 has designed and published strategies and action plans to tackle the socio-economic issues facing its citizenry since the long path of transition. 'Transition' in Albanian new history is not only a word but a phenomena dating 1991, with a change in the governance system from a totalitarian communist system to democratic system. This transitory period was not only for a timeline of 23 years, but also a symbolism of economic, legal and political instability, continuous and never-ending reforms, permutation in the rule of law prevalence and disturbed image of the country in Europe and worldwide.

The National Strategy for Employment and Skills promises a new comprehensive approach to fight poverty through the integration of economical, educational (traditional and vocation education training) and entrepreneurial policies; a national action plan aims to ease unemployment after years of socio-economic instability. This policy targets increasing employment by matching the educational system to the market needs, while encouraging social inclusiveness. CSOs, both on an independent basis and sometimes in cooperation with governments, have played a significant role in assisting marginalised groups of citizens through poverty relief, empowering groups of citizens to demand for their rights through advocacy and lobby campaigns, and through capacity building for women and youth to be able to better access the labour market. In recent years, this has aided the government in applying successful models of economic empowerment for disadvantaged groups. The social enterprises model is one of these. Although there is no widely accepted definition, social enterprises are 'enterprises that combine social purpose with entrepreneurial spirit.' They are companies that provide profit, but the profit is re-invested in providing products and services to reach a wider social impact in the communities they serve and operate. The model of social enterprises, for example, was initially introduced and applied from CSOs in the early 2000s, and are now being promoted even by government institutions as a good model to fight poverty and contribute to sustainable development and the empowerment of vulnerable groups of citizens, protect the environment and encourage respect for cultural diversity and social cohesion.

Social enterprises in Albania operate at these main activity fields: employment of disadvantaged groups of citizens, education (formal and vocation for people out of the state and private education system), economic development and social and childcare.³¹ In close collaboration with business companies of banking and telecommunication, along with the support of international donors, there is developed support to establish emerging social enterprises through seed funding, smooth loans and donations to these enterprises, as well as support through employment facilitation and coaching for their target groups, mainly covering people in social and economic disadvantaged situation.

³⁰ Law no. 146/2014 "On public information and consultation"

³¹ http://Internet.partnersalbania.org/development_social_enterprises.pdf

The National Strategy for Employment and Skills (NSES) also foresees in its objectives a special focus on social inclusiveness and social and territorial cohesion, with a special focus on the development and support for social enterprises and attention to gender equity and women's access to the labour market. A detailed action plan for the NSES, however, has yet to become public.

On women's economic empowerment, social assistance is paid to women instead of men (to reduce the possibility of abuse from alcohol or gambling on the part of male heads of households) and support schemes for employment in collaboration with the business sector are being promoted. Though the relation with businesses is fragile and difficult to manage, both the government and CSOs are playing a good mediating role in reconciling business interests with the needs of communities through better employment opportunities and work standards. According to a Prime Minister order³² dating June 2014, the National Strategy for Development and Integration has been drafted since, a national document designed with the input of all ministries and core state institutions. The strategy is to be sent for approval to the Council of Ministers by December 24, 2014.

The abovementioned actions and strategies, and many other legal initiatives for the enhancement of the rule of law and the development of the country, manifest a positive trend from the actual government to open the 'development issues of the nation' to public consultations and collaboration. CSOs, among other public actors, have both the expertise and the know-how to assist government institutions with regard to socio-economic development, though much still needs to be done in order to design clearer mechanisms for collaboration and participation at the implementation of these strategies' action plans.

The dialogue and partnership with business actors is of a special focus and it is manifested through the Albanian Republic's Investment and Business Strategy of 2020³³ and its action plan. This strategy orients the Albanian economy toward a smart, sustainable and inclusive economic model, aiming at a considerable increase of jobs that will improve the situations related to labour market and will improve living standards of Albanian citizens. Referring to the Institute of Statistics of Albania (INSTAT) data of the third quarter of 2014, the overall unemployment rate has decreased compared to the same period of the previous year.

The Socio-Cultural Context

According to the CSO Index 2013,³⁴ the public image of CSOs in Albania was evaluated as 3.9 out of 7. Though at first sight this is still a low score, this indicator was one of the four index indicators that manifested improvement during 2013 for the CSO sector. The general public perception of CSOs improved between 2013 and 2014.

Over the past year, there were two major CSO initiatives that engaged citizens nationwide. These include the Alliance Against the Import of Waste Agreement (AKIP) and the Alliance Against the Import of Poisonous Materials (AKILH), which channelled spontaneous public anger towards the possibility that chemical weapons imported from Syria would be stockpiled for destruction in Albania, according to possible NATO agreement. An initiative of AKILH, it rapidly turned into a wave of massive protests involving thousands of citizens from various political affiliations. AKILH and citizens protesting (media, university and high school students and teachers, professionals, elderly etc.) pressured the central government and the newly-elected PM to say no to the action proposed by NATO.

CSOs were closely engaged in the monitoring of the parliamentary elections of June 2013. This included monitoring of financial funding and the voting and counting process. This gave a positive note to the legitimacy of the results, as evaluated in the ODIHR report, released in October 2013

³² Official Gazette nr.102, date July 3rd 2014

³³ http://Internet.ekonomia.gov.al/files/userfiles/Business_and_Investment_Development_Strategy_17_03_14_final.doc last accessed December 22nd 2014 ³⁴ http://shtetiweb.org/wp-content/uploads/2014/05/nsge-gbv_2011-2015_final_-_english.pdf

³⁴ The 2013 CSO Sustainability Index For Central And Eastern Europe And Eurasia

as 'competitive and characterised by genuine respect for fundamental freedoms.'³⁵ Along with the massive demonstration of public support on sporadic cases, both private and government media portrayal of CSOs are generally favourable. Televised media offered considerable coverage of CSOs' activities of public interest, and civil society leaders and activists appeared present regularly on talk shows and opinion-shaping in local and national media debates.

The atmosphere of camaraderie amongst CSOs and the media is rooted within very limited elite of thinkers and speakers on public issues and the fascinating and a vanguard topic the CSO sector covers in its activities. Among other articles, the law defines basic principles of radio and television activities in accordance with the fundamental rights and freedoms of individuals, and guarantees impartiality and tax-free policy in transmitting messages of social utility or high interest for the wide public. The printed media, though, tends to have a more critical and analytical approach toward the sector, at times affected by the political influence of media owners. Since 2013, some prominent CSO leaders have landed key government positions, and this has been subject to criticism by the print media that insists on the watchdog and opposition role of the CSO sector. Such individuals from a successful past in CSOs keep manifesting high civic values at serving the public, and have introduced new and daring trends of operations related to public services. Such is the example of the Minister of Social Welfare and Youth, former executive of Mjaft! Movement, a very successful and voiced citizens' awareness campaign initiated in 2003 to late 2009.³⁶

Major religious institutions, despite controversies over lesbian, gay, bisexual and transgender (LGBT) issues, also have a broadly positive attitude toward civil society, and have worked with CSOs in providing charity and support for marginalised communities.

Another important implication of the CSO sector in decision-making, especially in specialised research, relates to the involvement of CSOs in the EU integration process. After Albania was granted EU Candidate State status in June 2014, each stage in the negotiation process involved CSO experts in their respective fields. This form of open dialogue and consultations was by the need for extended expertise and recommendations of the European Commission Progress Report of 2014. Further monitoring and analysing of CSO input in this process is needed. In conclusion, the socio-cultural context in which CSOs operate in Albania is hardly homogeneous, with different sectors relating to CSOs differently. The image of CSOs is still fragile and at times convoluted by media and other socio-cultural organisations, leading to low confidence of citizens toward CSOs and their work.

Conclusions

Over the past 30 years, the CSO sector in Albania has been a dynamic force, serving various communities. Its presence has been more and more visible, providing a valuable contribution to the wellbeing of the citizens. But despite improvements in relations between the state and CSOs, the state has yet to fully recognise the importance and value of CSOs as an irreplaceable partner in the development of the country. Some of our suggestions to improve this situation include:

- The policy and legal framework in Albania regulating CSOs economical activities should be improved and clarified.
- Mechanisms for civic participation should be introduced and effectively implemented by all state institutions at the local and central government levels.
- Mechanisms and standards for public consultation processes should be established and operational to feed national discursions over development cooperation and sustainable development policies.

³⁵ <http://Internet.osce.org/odihr/elections/106963?download=true>

³⁶ Mjaft! Movement is an NGO that still operates in Albania but its visibility and impact has decreased with the entrance of its original leadership in politics in 2009

- Inter-sectoral partnerships among state institutions, CSO and businesses should be encouraged and monitored in order to successfully fight poverty in the country.

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Burundi

Summary

Recognised as a development actor in their own right, civil society organisations have come to play an essential role in governance. BIRATURABA believes that by making their voices heard on sensitive issues such as human rights, political transparency and the fight against corruption, civil society organisations can inspire others to also contribute to the social, economic and cultural development of the country at the national and local level. Increasingly, new actors have emerged in the development arena, from the private sector to civil society, spurring a momentum in multi-stakeholder partnerships in support of development initiatives at all stages, from policy formulation to project implementation. A participatory approach has been adopted by donors in Burundi, with steps taken to allow financing for projects and policies for local communities. This has been the trend since the drafting of the SFPF (Cadre Stratégique de Croissance et de Lutte Contre la Pauvreté), the Fight against HIV/AIDS National Strategy, the Governance National Strategy, among other milestones.

Civil society organisations have enormous comparative advantages as development partners alongside state actors. Their advantages lie mainly in their rootedness in local communities, their interests and their broad sectoral and geographic scope. The flexibility of these organisations has been proven by CSOs working in various areas.

But civil society in Burundi is quite young and is clearly facing a number of challenges. The larger ones are linked to the emergence of political opportunism, internal institutional and organisational weaknesses, and the fact that both the Burundian government and the wider public, even while being beneficiaries of CSO interventions, at times fail to support or appreciate the work of CSOs.

Despite these difficulties, the engagement of Burundian civil society in development effectiveness is beyond doubt, but discerning among the sheer number of CSOs has proven difficult, given the lack of detailed information about these organisations, and the fact that all or almost all of them require constant funding support from external partners.

The present case study presents the contributions of Burundian CSOs to the development effectiveness process. It comments on their own effectiveness as well, taking as its starting point an organisation that has contributed to poverty reduction in vulnerable communities through the Saving Internal Lending Communities (SILC) projects. It also takes stock of the economic, political, socio-cultural and legal contexts in which they work.

Introduction

Burundi has, for more than a decade, gone through waves of periodic violence that have severely strained the country's political and economic institutions, and left major challenges in their wake with regard to the fight against poverty, corruption and the pursuit of peace and security.

A significant proportion of the Burundian population lives under the poverty line, and social problems have grown to worrying proportions: from the growth of urban slums and the informal sector to higher rates of school drop-outs, mendicancy, crime and sexual violence.

The gross national income has experienced some growth in 2013: from 4.2% in 2012 to 4.6%; inflation has slowed from an annual average of 18.2% in 2012 to 7.8% in 2013; and the budgetary deficit has also gone down from 9.1% to 2%. The primary sector has gone back 2% between 2012 and 2013, mainly because of the environmental conditions that have affected

coffee production.

While overall economic indicators appear positive, the vast majority of the population remains poor and, through its numerous interventions in social welfare provision, civil society has often acted as a means to compensate for the state in the context of the latter's withdrawal from public services.

Quite a few Burundian civil society organisations complement state efforts in welfare provision, thus contributing to development through their work in sectors such as health, agriculture, education, disaster rehabilitation and recovery, education and transparency and monitoring of the government, among countless other initiatives. The next sections focus on BIRATURABA and the impact it is making in development effectiveness.

BIRATURABA's SILC Program and its Contribution to Community Rebuilding

BIRATURABA's SILC Program is inspired by the Grameen Bank ('rural or village bank') initiative founded in 1976 by economics professor Mohammed Yunus in Bangladesh. Yunus was moved by the poverty he saw in his village, poverty he saw rooted in a history of usury and exploitation.

Yunus began with 27 USD, which he distributed among 41 women in the village. It wasn't until Yunus saw that the poor were eventually capable of reimbursing the loan that he started to approach the local banks and foreign donors, offering himself as collateral. The idea turned into a pilot project in 1979, covering a whole district. The Grameen Bank was established as a formal financing institution in 1983.

The SILC credit system draws from the Grameen Bank and is rooted in the belief both in individual self-sufficiency and financial responsibility, and in solidarity among the poor. Only by acting together can they carry out an effective fight against poverty, through a credit system founded on mutual trust.

SILC's savings and credit system has also been inspired by other traditional methodologies such as the Kenyan merry-go-rounds. These associations allow other poor people to save enough money to buy household implements and long-term investments.

Structure and general functioning of SILC

In conforming with the basic principle of the SILC system, the self-chosen members of a group set up an SILC and set up a pool of money from which they can borrow. The goal of an SILC is, mainly, collecting savings and offering basic insurance services in a community without formal access to financial services.

However, as soon as the amount of money saved by the members is enough, anyone is free to borrow and must reimburse the loan at collectively-decided interest rates that allow for a steady and productive flow of finance.

The SILC are autonomous and self-generated. This is a fundamental characteristic of their operations. All transactions are made during the SILC reunions, for means of ensuring transparency and accountability. The savings and credit cycle is usually time-constrained. The members agree to save and borrow, as they wish, from the SILC's accumulated savings, during a limited period of time.

The SILC members are free to choose the activities in which they invest the money. In Burundi, the majority use it for agriculture, livestock farming, construction, basketry, mechanics, painting, sewing, hairdressing and other small enterprises.

The composition of the SILC can be limited to 10 members or reach up to 30 members. BIRATURABA has chosen not to exceed 25 people per SILC who can in turn divide themselves in small sub-SILC. Both women and men can become members, but, in the case of a mixed SILC, at least three out of the five chosen members of the committee must be women.

The SILCs meet on a regular basis, in agreed intervals. These meetings can be weekly or bi-monthly.

The management bodies of SILC consist of a general assembly and a management committee. The general assembly is the supreme body from which the management committee is chosen and draws its power. The members of an SILC agree on an internal regulation in order to better guide their activities.

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The SILC strategy

The goal of SILC is to ensure that group members move from financial dependence. The persons participating in the SILC groups acquire a new mindset around development linked to self-reliance and self-initiative, freeing them from manipulation by loan sharks that, in the Mutimbuzi and Buterere communities, on average demand 100% to 400% interest rate over a two to four month period. Group members are then freed from cycles of debt and usury that increase the vulnerability of poor households.

The goal of the methodology is to provide mutual aid, savings and loans services in communities that are not able to access financial services from the formal sector. BIRATURABA's interventions involve close trainings for the population, in a methodology of solidarity, internal community savings and loans. The basic principle of the methodology is that the members of a community choose among themselves to form small groupings (or associations) of 10 to 25 members. In each association and through the weekly or bi-monthly meetings, the members gather their contributions, allowing them to establish two funds: a solidarity fund and an internal savings and credit fund.

To facilitate the work, each group sets up an internal regulation and chooses a management committee of persons whose role includes organising all general assemblies. In the case of a mixed group (men and women), at least three out of the five management committee members must be women. To assure that the transactions are not made outside of the group's meetings, all the assets of the group (money, documents) are kept in a metal box with three locks.

The keys of each lock are kept by a member of the group who is not a member of the management committee, and the box is kept by a fourth person in a location agreed in general assembly. In order to open the box, at least four persons outside of the management committee are then needed. This reassures the members and prevents misappropriation by the members of the management committee. Before the associations begin savings and distributing loans, they start with six training sessions on the following areas:

- Group formation, leadership and elections
- Development of the association's funds
- Drafting of the internal regulations
- Running of the management support
- Meeting procedures
- Meeting for the constitution of the first savings and loans

SILC's impacts on the lives of poor/marginalised communities

For two years, BIRATURABA has guided the people of the Buterere and Mutimbuzi communities with this methodology, resulting in more 7,000 beneficiaries, 64% of them women.

The female members of the SILC groups carry out income generating activities, which enable them to contribute substantially to meeting the family's expenses.

The SILC methodology also strengthens social cohesion and solidarity, critical in the context of a post-conflict society.

Case of Masumbuko Jean

Testimonies from beneficiaries show that the SILC methodology has allowed them and their extended families to escape the misery in which they were living. This was certainly true for Masumbuko Jean, who is married and is father to eight children. He owns a small plot of land where he plants rice, which is not enough to feed his large family. Often Jean is forced to seek work as a day labourer in the fields of other farmers to meet his family's needs. In these conditions, it is impossible for him to make savings for buying seeds at the beginning of the rice season.

In the beginning of each harvest season, Jean takes a loan that he must pay back four months after the harvest season, and at a very high interest rate. Left with no other option, Jean is often forced to accept the offers from loan sharks who roam the area at this time, looking to take advantage of vulnerable farmers such as Jean. In practice, if the usurers give a sum of 10.000 BIF at the beginning of the season, come harvest season, he will have to reimburse the loan with a sack of rice valued at 50.000 BIF, an interest rate of 400% for a four-month period. It is in these conditions that Jean carried out his rice activities, like the majority of his neighbours.

On his involvement with SILC, Masumbuko Jean had this to say:

In less than three months as a member of the savings and loans group, I have received a 10.000 BIF loan to buy rice seeds. The group's internal regulations stipulate a 10% interest rate. This means that I had to reimburse only 11.000 BIF. With the usurers, I had to reimburse 50.000 BIF for the same loan. You can then understand that, thanks to this group, I have saved 39.000 BIF that I would have had to give to the usurers...

The SILC methodology has helped more than 10,000 families in Burundi's rural areas. BIRATURABA is seeking to expand in a few more provinces following similar successes.

However, challenges remain for Burundian civil society, and the next sections detail some of the reasons for this—the country's difficult political, legal, socio-economic and cultural environment.

Some figures

From 2010 to 2013 (June) BIRATURABA has provided support for more than 1,700 associations composed of over 7,000 members. Some associations are promoted after receiving support during a

one-year period, in which case they become autonomous associations, receiving sporadic support from BIRATURABA once every semester for occasional trainings.

Over the past three and a half years, the accumulated value of the agreed loans is estimated at more than 2.5 billion BIF, which is around 1.5 million USD. The amount of generated interests by these SILCs is estimated at 720 million BIF, which is around 500,000 USD. These funds enable those living in extreme poverty to invest for the long term.

The Legal and Regulatory Framework

The legal environment in Burundi remains quite constraining for the work of local CSOs, despite stipulations by the Constitution of the Republic of Burundi that proclaims the freedom of association in Article 32: The freedom of reunion and association is guaranteed, as well as the right to create associations or organisations in compliance to the freedom of reunion and association law; and Art 19, which incorporates all the internationally agreed conventions ratified by Burundi as an integral part of this constitution.

The organic framework for CSOs, statutory Order No. 1/11 of April 18, 1992, contains a variety of barriers for the registration of CSOs. This includes grey areas around the authorisation procedure in which the power of refusal by administrative authority has led to abuse, where CSOs have been prevented to register by high government authorities. The law grants no right to appeal in the case of a refusal of authorisation, and authorities are under no obligation to respond to CSOs in a timely manner.

In addition, Law No. 1/11, passed in June 2013 in modification of Law No. 1/025 of November 27, 2003, will have major implications on the freedom of the press.

With the enactment of this law, Burundi has fallen in the world rankings on press freedom, according to Reporters without Borders (RWB), noting that Burundi has dropped from 132nd place to 142nd.³⁸

The law contains several worrying provisions, including the denial of protection for sources of information, potentially forcing journalists to reveal the identity of their sources to the authorities in the cases enumerated by the law 'in infringement of the protection of the sources principle.'

The most recent and valid example concerns information on weapons which could be in the process of being distributed to youth affiliated to CNDD-FDD 'Imbonerakure' where two correspondents of radio ISANGANIRO and Bonesha FM (Eloge Niyonzima and Alexis Nkeshimana) appeared before the Tribunal de Grande Instance in Buzanza on April 21 and 24, 2014 to deliver the sources of information broadcasted on a likely distribution of weapons to the youth of CNDD-FDD party. Moreover, this information was contained in a confidential BNUB report that also alerted the Security Council about a possible genocide in preparation if care is not taken.

Just as worrying is the ban on releasing information perceived to threaten order and public or state security, including information pertaining to national defence secrets and economic policies. The law allows for strong fines against journalists, without right to appeal to the National Council of Communications.

The freedom to form unions and the right to public demonstration has also been put at bay by Law No. 1/28 (December 5, 2013), which is intended to regulate street demonstrations and similar activities. Organisers of all public demonstrations must first secure written consent from the authorities who have the sole right to deny the right to protest in the interest of 'public order.' The administrative authority holds the right to send to all public demonstrations one or several government worker(s) mandated to 'assist,' and hold the right to suspend or ban the

³⁸ *Internet.société civile-burundi.org : world ranking of press freedom, Burundi steps back 10 positions, February 2014.*

demonstration, if the enforcement of public order demands it.

The law on syndicalism is just as repressive, giving employers the power to fire striking workers en masse and deny them monetary compensation in the context of union organisations that are often unable to provide their members resources to sustain their strike. This has had a dampening impact on the morale of workers and exercising their right to protest.

Overall, the legal and regulatory context in which CSOs work are far from conducive. The requirement for all CSOs to have certificates of registration, subject to renewal by authorities on a yearly basis, has been likened by many to a 'sword of Damocles' hanging over their heads. While the right to form associations is technically guaranteed, this is subject to restrictions that some analysts consider incompatible with the freedom of association, not least with the constant need for CSOs to constantly renew their registration.

There is, above all, no room for debate around the enactment of these new laws that complicate relations between the state and CSOs, weakening hopes for establishing an enabling environment for civil society.

The Political Environment

The political environment from which Burundian civil society has emerged is characterised by an almost militant disregard for political accountability and chronic insecurity as to sources of financial and political support, both of which depend on the whims of those in power. With CSOs broadly regarded as members of the opposition by default, successive administrations have sought to foster their 'own civil society,' as a way to counter CSOs more critical of their policies.

Issues related to governance, security, corruption, democracy and the respect for human rights remain politically sensitive. Criticism of public policies in these domains is perceived as direct assaults on authority, as an unacceptable and inappropriate meddling in the affairs of government. Hence the episodic warning against whistle-blowers to: "Mind your own business!" Cases of libel or slander are often levied against state witnesses testifying against corruption, who at times become targets for extrajudicial killings.³⁹

Some politicians even regard civil society to be working for foreign intelligence, or a sort of fifth column of the opposition. Such accusations against journalists and CSOs often come amidst attacks on the publication of abuses committed by the state.

Globally, the political landscape is judged as rather constraining for CSOs: 'Relations with governments are good only and if only you don't touch the sensitive string.'⁴⁰ The situation is especially poor for women. Women's rights organisations point to impunity with regard to cases of violence against women, the general infringement of women's rights, the marginalisation of political participation for women in policy-making and delays in the adoption of the law for inheritance and marriage freedoms. The situation is made worse by the lack of judicial independence and unwillingness to redress crimes committed by state agents, ranging from corruption to torture and extrajudicial killings.

The Governance Context

The Strategic Growth and Fight against Poverty Framework (SFPFII) exists currently in Burundi as the official legal framework for the consultation and coordination of actors working on

³⁹ *The emblematic case is that of the murder of Ernest Manirumva, on April 9 2009, who was the Vice-president of the Observatory of Fight against Corruption and Economic Misappropriation (OLUCOME). Evidence points to high-level members of Police corps, but not a single investigation has been opened against them. Speculations about the reasons for the murder affirm that the victim was working on a big corruption case involving high-level members of the State. CSO involvement in the case in the search for the truth about the assassination has heightened tensions between Burundian civil society and the State.*

⁴⁰ NGAYIMPENDA, E., *Rapport sur la société civile Burundaise, Bujumbura, 2012, P 29.*

development and peace consolidation. It consists of the partners coordination group (PCG), established in 2008, which allows for coordination, monitoring and dialogue between partners around issues of development and peace consolidation. The PCG hosts discussions among sector groups, a monitoring and evaluation group, the Strategic Forum and the High Level Political Forum (HLPF), which involves all development actors, including civil society and the private sector, in the post-2015 negotiations.

At the local level, provincial development committees, community committees for community development and hill development committees exist, where CSOs are invited to engage. While official documents contain all details for their implementation, these development projects and monitoring structures are operational in only a few provinces.

Burundian CSOs have, for some time, played a significant role, alongside the government and other partners, in strategic planning as well as in the process of development aid mobilisation—a role that has at least been acknowledged by the government.

For example, CSOs have participated actively in consultations organised for the drafting of the SFPFII. The consultations aimed essentially at CSOs and the private sector and were organised with the triple goal of clarifying their role in the SFPF process, clarifying the modalities of their participation as various sector groups of the PCG and to listen to their recommendations as to priority areas for the SFPFII.

After the drafting phase, CSOs accompanied the government in the Burundi's partners conference held in Geneva on October 29 and 30, 2013, with a collective message of pleading to support the government.

Some CSOs engage directly in the facilitation of access to financing from non-traditional partners such as some Netherlands NGOs ATTEELO and Friends of Worlds. This is mainly the role played by BIRATURABA in the negotiations for financing waste management in the Bujumbura municipality, allowing contact between designated authorities and the providers of technical and financial assistance.

The Socio-Economic Context

Burundian civil society has evolved in a context of years of ethnic strife, leading to divides along racial lines that have not escaped CSOs, and this stigma continues to attach itself to their work. From the first moments of the crisis that followed the assassination of President Melchior Ndadaye in 1993, civil society found itself divided along ethnic lines, or were labelled that way, with some groups perceived to stand for one ethnic category versus another, severely weakening their capacity to work together on various issues.

Despite the impressive growth in the number of CSOs, broad cultural acceptance for civil society remains weak. Movements of solidarity around causes of general social interest are in their infancy, with poverty and inequality—while providing ample reason for resistance—also hindering their ability to sustain their activities. Members of CSOs often have limited time on their hands to work on a voluntary basis. Leaders of CSOs, in addition, are sometimes seen to be motivated by financial interest. Conflicts within CSOs' over-funding are also a source of concern.

Finally, while civil society engagement in governance is acknowledged on a formal basis, broad public support for the causes and principles for which CSOs advocate is still lacking. This has hindered their ability to mobilise people and the financial resources for the promotion of these causes. At times, resistance to political impunity and corruptions is characterised more by silent resignation rather than activism.

The optimal functioning of any organisation depends on its capacity to mobilise the necessary resources for its projects.

In Burundi, this has proved extremely complicated for two major reasons. Firstly, conditions of poverty in the country mean funding are hard to come by, if at all, and these are often not enough to sustain their operations. Resources from direct contributions by members cover barely 1% of their annual budgets. There is also a need to improve the capacity of CSOs to engage in financial mobilisation.

Secondly and largely for this reason, Burundian CSOs are for the most part dependent on external sources of funding.

While both the Paris Declaration on Aid Effectiveness and the Cotonou Agreement speak about the need for donors to align their funding in the interest of the priorities of the beneficiaries of aid, broad thematic or programmatic funding is often denied in favour of stand-alone projects; financing exists only for individual projects, while the Cotonou Agreement states that 15% of the financial contributions should be given to civil society.

Dependence on external funding remains a crucial problem for organisations' sustainability and financial independence. Donors often have requirements that are not necessarily aligned with the programmatic priorities of CSOs that work more closely with people on the ground.

Donors are more willing to finance awareness-raising and advocacy activities such as seminars, but rarely long-term development efforts, and even less on long-term institutional support crucial for ensuring wages for non-profit workers or the provision of office space for CSOs.

Cross-Cutting Challenges

Burundian CSOs are broadly confronted by the following major challenges:

- **Lack of strategic alliances:** While Burundian civil society is constituted by a wide range of organisations, including networks big and small, only a few CSOs have branches throughout the country. Many limit their field of action to Bujumbura or other key areas in provinces where they are established.
- **Lack of internal capacity:** Many organisations have weaknesses linked to both internal and external. Some of these weaknesses are structural and often linked to the lack of member engagement factors and organisational difficulties, in particular the lack of democratic management and alternation mechanism at the head of the organisations. Some organisations are strongly centralised around a person or a small clique, limiting their potential for expansion.
- **Lack of vision and weakness in leadership:** The future of CSOs relies heavily on the individuals, considered as locomotives or pillars for these organisations, leading them. The lack of clarity of vision on the part of CSO leaders is a major handicap in the development of civil society and its ability to contribute to lasting political and socio-economic change.

Conclusion

Burundian civil society is at its formative stage in its development, and is working in a difficult political, cultural and economic context. Difficulties are therefore understandable and expected. To meet these challenges, there is a need for CSOs to work and act together, if they are to carry any weight and exert influence vis-a-vis other actors in the development arena.

In many instances, this is already happening with support from national and international actors who are appreciative of the role CSOs play in the development process and who are willing to invest in them in this regard.

Nevertheless the political, legal, and socio-economic context in which Burundian CSOs work remain far from conducive to their development. The gradual implementation of formal

consultative frameworks between CSOs and governments will allow, optimistically, for reforms on this front. Though still few in terms of numbers, some organisations do relatively effective work in the monitoring of development effectiveness and they have expanded their reach beyond Bujumbura. While the government still hesitates to open the gate wide to civil society, some CSOs have already taken the first steps towards development effectiveness. BIRATURABA is a living example.

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Cambodia

Summary

Civil society in Cambodia encompasses a diverse array of organisations that have played an active and important role in poverty reduction and sustainable development during the country's challenging transition to democracy. While such a role has been recognised in a number of national policy documents including the Rectangular Strategy, the Political Platform for the 5th Legislature of National Assembly and the new Strategy for Development Cooperation and Partnership 2014-2018, CSOs are not regarded as development actors in their own right or treated as such.

In recent years, legal instruments have been used against civil society to deter free speech and free assembly, and an already restrictive regulatory framework will be tightened even further with the introduction of a new law on NGOs and association. Although the relationship between government institutions and civil society has been slightly improved, trust remains low. While a number of mechanisms for CSOs to engage in policy debates exist on a formal basis, de facto representation and actual influence over the direction of Cambodian politics are more difficult to assess.

Cambodian civil society works in a difficult cultural and political environment. Local mainstream media lack genuine autonomy, as coverage is often influenced by the Cambodian state. As a result, work by NGOs on sensitive issues such as land reform and national resource management is often not reported, limiting access to information for the public. While online platforms and the social media have somehow enabled CSOs to circumvent state-owned media, the adoption of a cybercrime law could put a stop to that.

Despite these worrying signs, there are also window of opportunities to increase the voice and space for civil society. The new Strategy on Development Cooperation and Partnership 2014-2018 promises to increase the representation of national stakeholders and strengthen mutual understanding and trust between civil society and state actors. It remains to be seen how these commitments work out in practice.

Introduction

Cambodia's post-war transitional economy has made significant progress on development over the last decades. Cambodia's Growth Domestic Product (GDP) has grown from 6% to 7% annually since the late 1990s. Poverty rates have fallen sharply from 39% in 2003 to just 19.5% in this year.⁴¹ With its GDP per capita exceeding 1,000 USD for the first time in 2013, Cambodia is now among the few low-income, post-war countries to soon graduate out of Least Developed Country (LDC) status.

Civil society is a key development actor in Cambodia whose activities have contributed significantly to this progress. A study in 2012 showed that total annual expenditure by international and local NGOs in Cambodia has been estimated at 600-700 million USD, and is comparable to current total government expenditure on social services. In 2012, CSOs in Cambodia implemented 4,000 projects across the country, employing around 43,000 people and providing direct benefits to 1.3 million Cambodians.⁴²

There are currently around 1,350 NGOs and associations in Cambodia working on broad and diverse range of issues, including political advocacy on human rights and the protection of the environment, building local capacity for poverty reduction and improving the livelihoods of marginalised people.

⁴¹ *National Strategic Development Plan (2014-2018)*, 2014, Royal Government of Cambodia, Phnom Penh

⁴² *Cooperation Committee for Cambodia 2012, CSO Contributions to the Development of Cambodia*, 2011, Cooperation Committee for Cambodia, Phnom Penh

Given the size, diversity and scope of work of the civil society sector in Cambodia, it is crucial to take stock of its role and contribution to national development. This report contributes to this endeavour by analysing the environment in which CSOs operate and assessing the areas where CSOs have been successful in making positive impacts on policies and on the lives of people on the ground, while looking at the challenges they face and ways forward.

The report is organised into six sections consisting of the assessment of Cambodia's legal and regulatory framework, political environment, governance context, socio-cultural context and socio-economic context. Each theme includes an analysis of the successes and challenges faced by CSOs, backed by concrete examples. A list of recommendations will be proposed as a way forward for CSOs and other development actors to work together in the promotion of development effectiveness.

The Legal and Regulatory Framework

As a signatory to the Universal Declaration of Human Rights, International Covenant on Civil and Political Rights, Paris Declaration and the Accra Agenda for Action (AAA), Cambodia has a binding commitment to create an enabling environment for CSOs to maximise their contribution to development.

Until recently, CSOs in Cambodia have been operating in a rather relaxed regulatory environment. The Civil Code of Cambodia 2007 determines how NGOs and associations can be formed and registered, but this was not strictly enforced.⁴³ CSOs are not subjected to government audit or inspection, and government oversight is moderate.

However, in recent years, the Cambodian government has attempted to tighten control on the CSO sector. The Penal Code 2009, the Peaceful Demonstrations Law 2009 and the draft NGO law place more stringent requirements and restrictions on the formation and operation of CSOs.

The Penal Code 2009, which establishes the legal framework for defamation, disinformation and incitement, has been repeatedly used to restrict the freedom of expression of civil society.⁴⁴ Independent media outlets find themselves closely scrutinised. Lawsuits are often used as threat against journalists, reporters or anyone criticising the government. Mam Sonando, owner of Beehive Radio that broadcasts commentaries that are often critical of government, was arrested, charged with 'insurrection' and sentenced to 20 years behind bars. After an international public outcry, he was released after serving eight months in prison.⁴⁵

The right of peaceful assembly is one of the fundamental freedoms guaranteed under the Cambodian constitution. Yet despite the Law on Peaceful Demonstrations that determines the legality of non-violent demonstrations, requests for peaceful protest have often been refused if they are perceived as politically sensitive.⁴⁶ Use of police violence and threats of arrest have also been used to intimidate protesters and prevent rallies from taking place.

In November 2013, a protest by garment workers to demand higher wages and better working condition led to a woman being shot dead by security forces, with 9 others injured and over 40 demonstrators arrested.⁴⁷ In January 2014, 11 human rights activists and peaceful protesters were temporarily arrested during a demonstration to deliver a petition calling for the release of the 23 activists and strikers imprisoned earlier.⁴⁸

The right to own land and other properties is a human right, but Cambodian state has not done enough to protect this right. While the law exists, the processes to gain full private

⁴³ <http://Internet.metheavy.com/File/Media/Civil%20Code-English%202007%281%29.pdf>

⁴⁴ <http://sogi.sithi.org/admin/upload/media/125-rlhnfhw1371009220.pdf>

⁴⁵ <http://Internet.theguardian.com/world/2013/mar/14/cambodian-activist-mam-sonando-freed>

⁴⁶ http://Internet.sithi.org/temp.php?url=publication_detail.php&mid=4769#.VGYds8kmFzA

⁴⁷ <http://Internet.cambodiadaily.com/archives/woman-killed-as-police-open-fire-during-garment-worker-clash-46896/>

⁴⁸ http://Internet.cchrcambodia.org/index_old.php?url=media/media.php&p=alert_detail.php&alid=48&id=5

ownership of land are overly complicated. The onerous requirement, together with the high cost, has prevented millions of Cambodians from applying for official title of their property. Since 2012, the government claimed it has granted 450,000 new titles, but the conditions and rules governing these titles have not been made available to the public, and it has refused to let NGOs monitor the process.⁴⁹

Since 2000, some 420,000 people have been affected by forced evictions and land grab,⁵⁰ most of whom were not properly compensated. Threats and violence were used against land activists. The court is corrupt and could not provide fair trial for victims of land dispute. Rather than upholding the rule of law and punishing violators, the court system has instead been used as a tool by land-grabbers to legitimise forced evictions and falsely prosecute housing rights defenders.

Access to information from the government is a big challenge for CSOs in Cambodia. Information on investment, government income and expenditures and national resources development are not available for the public, and request for such information by researchers and NGOs for study are often not granted. CSOs have been advocating for the law on the right to access to information, which has been in the making for 10 years but still has not been adopted.

The Political Environment

Until recently, the relationship between the government and CSOs can be described as 'untrusting.' There was a lack of political will to engage CSOs in policy-making process, and the credibility of CSOs was—and is—often questioned by policy-makers. The Cambodian government's overall attitude toward NGOs is more of suspicion than cooperation. Organisations promoting democracy, transparency and human rights, in particular, tend to have a sour relationship with government. For example, an international NGO, Global Witness, got kicked out of Cambodia for issuing a series of reports exposing political corruption.⁵¹

Nevertheless, the relationship between government institutions and CSOs has improved slightly in recent years. The government has now opened some space for CSOs to engage at the national policy level. A number of line ministries have agreed to host regular meetings with NGOs with whom they sign a memorandum of understanding. For example, the Ministry of Environment and Ministry of Land Management have allowed the NGO Forum (NGOF) to meet with them on a quarterly basis to provide updates on environmental and land issues.⁵² A limited number of consultative meetings have been done with NGOs on various draft law policies, although such consultations are usually not announced in a timely manner and not enough time is allocated for meaningful dialogue.

The NGO Forum has over the years advocated actively for more space for CSOs to contribute to policy development. By building trust and maintaining good working relations with the government, the NGO Forum and its network partners have provided substantial input on a wide range of national policies and laws such as Housing Policy, Food Security and Nutrition Strategy Policy, Pesticide and Fertilizer Management and Use Law, and Farmer Cooperative Law. Most notably, due to their active involvement in the draft Environmental Impact Assessment (EIA) law, 50% of CSOs' inputs were incorporated into the final draft of the law.⁵³

While progress has been made in opening up space for CSOs, the extent of their engagement remains limited. In some instances, CSOs were invited to join consultative meetings, but their viewpoints and inputs are often ignored. In other instances, an unreasonably short timeframe was given to CSOs to comment on extremely complicated pieces of legislation. The NGO Forum was once given less than two weeks to provide feedback to a 215-page-long National Strategic Development Plan 2009-2013.⁵⁴

⁴⁹ <http://Internet.cambodiadaily.com/opinion/cambodian-government-must-reform-land-rights-laws-60612/>

⁵⁰ <http://Internet.cambodiadaily.com/opinion/cambodian-government-must-reform-land-rights-laws-60612/>

⁵¹ http://Internet.slate.com/articles/news_and_politics/foreigners/2011/06/silence_of_the_lambs.html

⁵² Interview with staff of the NGO Forum on November 10

⁵³ The NGO Forum's Progress Report (January 1-June 30, 2014)

⁵⁴ Interview with staff of the NGO Forum on November 10

To enable CSOs to fully engage in the design, implementation and monitoring of national development plans and policy, a more open and transparent political environment is needed. Promoting a culture of honest discussion and creating opportunity for dialogue for government and civil society to provide meaningful input and feedback to each other is an effective way to build trust and establish long-term working relations.

The Governance Context

In principle, the government recognises CSOs as important development actors. The Political Platform for the 5th Legislature of National Assembly states that 'the government welcomes the participation of international NGOs in the process of improving and developing the socio-economy, as well as supporting and promoting the practice of democracy and respect of human rights.'⁵⁵ In practice, however, the extent to which CSOs are able to engage constructively and meaningfully in governance is debatable.

A number of mechanisms exist as a consultation platform for CSOs to provide input on Cambodia's development plan. One example is the Cambodia Development Cooperation Forum (CDCF), a high level meeting organised by the government and its development partners, where NGOs have an opportunity to report on Cambodia's development progress and challenges from the perspective of civil society. Ideally, the event is supposed to be held every 18 months, but the CDCF has not met in the last three years.

Another channel through which CSOs can influence national policy is through their representation in most of the 19 technical working groups (TWGs). These platforms allow CSOs to provide input on national policies such as the National Strategic Development Plan (NSDP). Questions remain, however, on the quality of representation of CSOs, as each TWG has only one NGO representative and they are often not allocated sufficient time and space to speak.

CSOs can also participate as observers in the Government-Donor Coordinating Committee, an important forum for both the government and its development partners to review progress every 12 to 18 months. They can offer feedback to the government and donors by preparing NGO position papers on joint monitoring indicators (JMIs).

To strengthen comprehensive partnership with all stakeholders, the government of Cambodia published a new Strategy on Development Cooperation and Partnership 2014-2018. Among a few positive signs in it is the transformation of the Cambodia Development Cooperation Forum (CDCF) into the Cambodia Development Forum (CDF), with an increase representation of national stakeholders and a focus on broader development effectiveness and financing issues.

The new strategy also includes the commitment to continue the Government-NGO consultative annual meeting which is established to promote mutual understanding and information sharing on development progress and challenges. NGOs are allowed to self-select their representative to dialogue with the government. Possibilities also exist to implement joint activities between CSO and government-led initiatives for development effectiveness. Nevertheless it remains to be seen how these commitments are implemented by Cambodian officials.

So far CSOs has been moderately successful in lobbying for policy changes. For example, CSOs' inputs were accepted and incorporated into a number of important policies such as the National Strategic Development Plan 2012-2014, EIA law, land policy, Cambodia Climate Change Strategic Plan, etc. A sustained advocacy campaign by CSOs has also resulted in a delay of a perverse adaption of the NGO law which could negatively affect the formation and operation of civil society organisations in Cambodia. If adopted, the law will impose mandatory registration of all NGOs, a violation of freedom of association and other fundamental rights. The law will also grant the government more power than ever to control the activities of CSOs, limiting their democratic space. Fear exists that the law's vague wording might be used to clamp down on groups that are critical of the government's policies.

⁵⁵ http://Internet.comfrel.org/eng/components/com_mypublications/files/289277114248434273_Political_Platform_of_the_Royal_Government_of_Cambodia.pdf

While the windows for CSOs to engage at policy level are potentially more open, it is important that their capacity and communication be improved. Currently, policy-makers are often unimpressed with the policy advice they receive; they are often dissatisfied with the way they receive it due to the inability of many CSOs to make their findings accessible, digestible and in time for policy discussions. Therefore, capacity building for NGOs regarding the use of evidence-based approach advocacy and an effective communication strategy is needed to maximise the influence of CSOs in policy development.

The Socio-Cultural Context

Historically, Cambodia has not been characterised by a strong tradition of civic engagement; civil society centres on pagodas largely playing religious, social and developmental roles rather than representing societal interests against the state.⁵⁶ Cambodians were also not used to actively engaging the government.⁵⁷ Since the U.N. Transitional Authority in Cambodia (UNTAC) in 1992–93, donors and international organisations have helped to create and expand civil society in an attempt to narrow the gap in power relations between the state and its citizens.

At the time, CSOs were perceived as playing a crucial role in providing and supporting basic social services strengthening human and civil rights and creating awareness of gender sensitivity, environmental sustainability and addressing a wide range of other socio-political and socio-economic concerns. However, because CSOs depended heavily on external funding, their agenda were predominantly donor-driven.

Today, CSOs' engagement with the government has improved considerably. Other than serving the role as a basic services provider, NGOs have contributed to policy development, monitored government and donor policies and development practices and empowered marginalised grassroots communities to claim their rights. Nevertheless, CSOs are perceived in different ways by cultural institutions. For instance, the majority of media, which is under the influence of the government, positively view CSOs engaging in health and education as they are seen as a service deliverer and are less critical of the government. But CSOs working in areas of advocacy on sensitive issues such as land and natural resource management are often viewed negatively. In fact the media do not report and discuss CSO efforts, events or publications, hindering access to information for the public.

To bypass the government-led media, many NGOs have turned to social media networks (especially Facebook and Instagram) as a means of expression and sharing information. The use of social media has so far gone unregulated by the government and provides an important tool for CSOs to reach out to the public, and the youth in particular. However, freedom of expression on the Internet could come to an end when the proposed new cybercrime law comes into effect. According to the draft document, anyone can be punished for publishing information that is 'deemed to be non-factual, which slanders or undermines the integrity of any governmental agencies, ministries, at all levels.'⁵⁸ CSOs are very concerned that, if adopted, the law can be used to arbitrarily punish people who share controversial opinions online or air complaints about the Cambodian government.

Evidence-based research does strengthen development cooperation practice at national and sub-national level. For example, the NGOF carried out research on access to land titles for poor households, especially on the issue that some of these households had been excluded from Systematic Land Registration (SLR) processes in the past. The research was carried out with the involvement of development partners active in the land sector; being a member of the research advisory board, the publication was presented to the Land Ministry. As a result, development partners and the Ministry worked on a concept of avoiding exclusions that are currently being implemented.

⁵⁶ Collins 1998

⁵⁷ Downie, S. and Kingsbury, D. 2001

⁵⁸ <http://Internet.cambodiadaily.com/archives/cybercrime-law-may-silence-critics-ngos-say-56288/>

Political support to enable CSOs to conduct such research is not visible. In fact, in some instances, local authorities tried to prevent CSOs from conducting field investigations to collect hard evidence for their advocacy projects. For example, an investigation team from the NGO Forum has been blocked numerous times by local officials during its fieldwork on illegal logging, land disputes and other human rights issues.⁵⁹

The Socio-Economic Context

Cambodia has a population of 14.5 million people and a GDP per capita of 1,038 USD in 2013. The majority of the population lives in the rural areas and are involved in agriculture-related activities. The population, particularly those in the impoverished countryside, still lacks basic infrastructure and social service such as education and healthcare. The Cambodian government is working with bilateral and multilateral donors and local and international NGOs to address the country's many pressing needs.

The Cambodian government's commitment in the past focused to a significant extent on poverty reduction. This was also a cornerstone of policy documents guiding the development of Cambodia, such as the National Strategic Development Plans, the Rectangular Strategy and the Cambodian Millennium Development Goals. In this regard, progress was made and poverty was indeed reduced from 39% in 2003 to just 19.5% in 2014.⁶⁰

The government has made commitments to inclusive growth, sustainable use of natural resources and democratic ownership. The National Policy on Green Growth was developed in 2013 with the aim of enhancing the wellbeing and livelihood of all people, in harmonisation with ecological safety, through green growth basing on green economy, blue economy, environment protection, social safety nets system and upholding of national cultural identity.

However, these commitments stand in contrast to the developments on the ground. While the economy is growing, the growth is neither inclusive nor equitable. Inequality remains widespread. In urban areas, the expenditure level of the wealthier quintile is 10 times as high compared to the urban poor.⁶¹ Development projects such as hydropower dam construction, mining and other projects have led to a rapid loss of forest cover with impacts on the water system, flora and fauna. For example, the China-funded 190-megawatt Kamchay dam in Kampot province in Cambodia has flooded more than 2000 hectares for projected forest and has negatively affected the livelihood of local villagers.⁶² In another case, 1,500 families were forcibly evicted as a result of a 79 million USD- development project of the Boeung Kak lake area of Phnom Penh in 2007.⁶³

Most CSOs in Cambodia operate according to the Istanbul Principles. To illustrate, in 2004, NGO Governance & Professional Practice (GPP) was established to promote professionalism and good practice within NGOs operating in Cambodia. In 2007, the Voluntary Certification System (VCS) was developed following examples of other NGO accountability and good governance models from around the world. VCS is an important tool that helps to ensure accountability and good governance in the NGO sector. It is currently one of only two known NGO self-regulation practices operating in Southeast Asia.

Democratic ownership and participation of CSOs are a challenge as well. Although it is mentioned in the constitution that Cambodia should be ruled according to the principles of liberal democracy and pluralism, elements of democracy such as a separation of power are almost non-existent. There are loopholes in the judicial law that provide the executive a free hand to interfere in the judiciary system. The legislative branch is weak and is lacking autonomy. Laws are often passed quickly without comprehensive debates. Even though the opposition is

⁵⁹ Interview with NGO Forum's Land and Livelihood Program staff on November 10, 2014

⁶⁰ National Strategic Development Plan (2014-2018), 2014, Royal Government of Cambodia, Phnom Penh

⁶¹ <http://Internet.fao.org/docrep/012/i1664e/i1664e03.pdf>

⁶² http://Internet.ngoforum.org.kh/administrator/components/com_ngoforum/files/hcpr_kam_chay_dam_eng.pdf

⁶³ <http://Internet.amnesty.org/ar/library/asset/ASA23/004/2009/en/ba799041-ea9d-4f49-bcc8-616b65780780/asa230042009en.pdf>

represented now in the National Assembly, their roles and voice are still limited.

Access to funding is one pressing challenge for CSOs in Cambodia who rely heavily on funding from external donors, mostly international NGOs. While the donors' funding mechanisms are responsive to CSOs' programmatic priorities, the funding requirement has become more complicated, making it difficult for smaller CSOs to apply for funding. Because donors prefer to fund short-term projects with clear measurable results, and are not as supportive of non-project costs such as staff benefits or training, many CSOs are not able to develop their institutional capacity or build stronger organisations. Furthermore, funding continues to be on time-bound projects, limiting CSOs' ability to plan strategically for the long-term.

Conclusions and Ways Forward

Cambodian civil society is diverse, active and eager to contribute to the national development agenda. As a signatory to the Paris Declaration, the Accra Agenda for Action and Busan Partnership Agreement, Cambodia has committed itself to contributing towards an enabling environment for CSOs. While progress has been made, CSOs are still faced with many challenges that prevent them from contributing meaningfully to development effectiveness. The following are some suggestions to address some of the pressing issues discussed above.

- Secure and expand democratic space for CSOs to contribute to development effectiveness through the protection and promotion of freedom of speech and freedom of assembly.
- Promote further dialogue between civil society actors and the government to increase mutual understanding, trust and partnership.
- Facilitate inclusive engagement of civil society actors in policy-making, and facilitate their involvement in the implementation of development initiatives at all levels by increasing CSO participation in the TWGs, CDF and other development consultative platforms.
- The government should facilitate and protect members of CSOs who conduct independent investigations into sensitive issues such as illegal logging, land dispute, human rights violations and corruption.
- Increase support for strengthening the institutional capacity of CSOs to apply for funding to effectively implement their activities and meaningfully influence local and national development policies.

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Cameroon

Summary

As the international development community steps into the Millennium Development Goal deadline of January 1, 2015,⁶⁴ there should be no room for complacency over progress achieved so far. Much criticism, of course, has been levelled at the MDG parent framework.⁶⁵

Global civil society in particular, despite numerous inputs in popularising the framework,⁶⁶ has often pointed to and always deplored its lack of inclusiveness; for the most part, civil society actors felt left out of the mechanism's closed circle-like policy-making bandwagon. At the time of its adoption in 2000, the overall picture was thus of world citizens forever standing on the margins of change—critical decision-making processes not only affected their livelihoods but shaped their children's future.

With the creation of the CSO Partnership for Development Effectiveness (CPDE) in 2012, this all changed. Its umbrella platform, the Global Partnership for Effective Development Cooperation (GPEDC),⁶⁷ through its Indicator Two, placed civil society at the heart of the development debate, as outlined in the Busan Commitments.⁶⁸ CSOs were now actively sought for fresh ideas on how to eradicate worldwide poverty; their guiding values,⁶⁹ the Istanbul Principles, readily upheld by former ideological opponents. The balance of power between state, private sector and civil society, finally, looked to have evened out.

But civil society in Burundi is quite young and is clearly facing a number of challenges. The larger ones are linked to the emergence of political opportunism, internal institutional and organisational weaknesses, and the fact that both the Burundian government and the wider public, even while being beneficiaries of CSO interventions, at times fail to support or appreciate the work of CSOs.

In October 2014, Cameroon's 4th National Household Survey⁷⁰ was launched in the country's economic capital Douala. With only weeks to go before MDG D-Day, how much richer as a whole did Cameroonians feel? Were they hopeful for the future? Did having both the MDG framework and Busan Commitments anchored in their country's development policies make a difference in their everyday life?

Whilst prerequisite to Cameroon achieving better development results, these questions which would indeed be associated with result-oriented development policies were quickly overshadowed by news that 40% of the country's population still lives in poverty—the same percentage as half a decade earlier.⁷¹ What, then, had happened to its ambitious Millennium Development Goal⁷² commitments? How could things have improved so little?

Part of the answer is to be found in the extent to which Cameroonian civil society has impacted SDG (Sustainable Development Goal) ownership at local level. In August 2013, a CPDE Pilot Study on the Enabling Environment for Civil Society in Cameroon⁷³ found that too much power remained in the hands of public authorities and that this is having a negative incidence over civil society-state relations. In a nutshell, the Cameroonian study showed that when CSOs were not

⁶⁴ <https://Internet.un.org/millenniumgoals>

⁶⁵ <http://Internet.theguardian.com/global-development/interactive/2013/sep/24/millennium-development-goals-data-interactive>

⁶⁶ <http://Internet.un-ngls.org/orf/MDG/civilsocietyaction.htm>

⁶⁷ <http://effectivecooperation.org/>

⁶⁸ <http://Internet.oecd.org/dac/effectiveness/49650173.pdf>

⁶⁹ http://cso-effectiveness.org/IMG/pdf/final_istanbul_cso_development_effectiveness_principles_footnote.pdf

⁷⁰ <http://allafrica.com/stories/201410271119.html>

⁷¹ http://Internet.afdb.org/fileadmin/uploads/afdb/Documents/Project-and-Operations/CAMEROON_2010-2014%20COUNTRY%20STRATEGY%20PAPER.pdf

⁷² <http://sustainabledevelopment.un.org/index.php?menu=1300>

⁷³ http://Internet.ccic.ca/_files/en/what_we_do/2014_02_20_CPDE_Summary_Country_Evidence_on_EE.pdf

misconstrued as development actors, they were made to feel part of the problem; individual organisations continually having to defend their right to exist, or mostly calling on government to be more accountable, eventually led to CSOs being deemed 'social agitators' acting under the influence of foreign powers.⁷⁴

Further, widespread corruption at all levels of Cameroonian society⁷⁵ suggests that the link between transparent governmental practices, stakeholder mutual accountability, respect for human rights and better development results has yet to permeate through all sides of the development debate. Far more important for those with little or no awareness of local civil society's key asks is the 'Cameroonian exception' of being a peaceful nation in a part of the world deep in crises.⁷⁶

This report highlights the need to foster a socio-political climate that will be conducive to CSOs. The government and other development actors are all working together in strengthening Cameroonian stakeholder ownership of the 'common goals and shared principles' vision on which SDGs and, by some measure, MDGs before them, were founded. The report will thus examine five strategic areas for effective development cooperation to work both in theory and in practice, namely:

- Socio-economic context
- Legal and regulatory framework
- Political environment
- Governance context
- Sociocultural context

Last but not least, the report builds on the CPDE Case Study of 2013 where a number of key recommendations were made. In addition, it touches on transversal enabling environment⁷⁷ indicators such as CSO-private sector partnerships, migration, or regional terrorism, which were either not featured or emphasised in the initial Cameroonian Enabling Environment Report.⁷⁸ Nevertheless, these growing trends affect not just the capacity of CSOs to optimise their gains, but that of the state to tap into these for its own survival.

The core rights of civil society—the rights to freedom of association, assembly, and expression—propel and underlie all aspects of development.⁷⁹

Legal and Regulatory Framework

Some analysts have suggested that the rule of law must be the bedrock for the present economic recovery of Cameroon.⁸⁰ It is therefore prudent for the country's laws relating to civil society to be independently assessed and open to reform to ensure that their implementation or interpretation does not prevent local CSOs from participating meaningfully in the socio-economic progress that they themselves are seeking.

Since 1990, Cameroon devised a framework for NGOs and civil society entities to operate legally. The term civil society is now widely used locally to refer to organisations that are not set up for the express, specific purpose of creating profit. The legal provision under which these entities can work forms part of the French Civil Law which permits **NGOs and CSOs to be registered by the Government of Cameroon under the Law on Freedom of Association (Law No. 90/053 of**

⁷⁴ <http://allafrica.com/stories/201409041550.html>

⁷⁵ <http://blogs.worldbank.org/trade/eliminating-customs-corruption-new-approaches-cameroon-afghanistan>

⁷⁶ <http://Internet.crisisgroup.org/en/regions/africa/central-africa.aspx>

⁷⁷ http://Internet.post2015hlp.org/wp-content/uploads/2013/05/CSI-Submission-to-HLP_Enabling-Environment-for-Civil-Society.pdf

⁷⁸ *The CPDE Cameroon Case Study was carried out in September 2013 by Elomo Andela, African Representative in the CPDE Enabling Environment Working Group (WG EE)*

⁷⁹ http://Internet.post2015hlp.org/wp-content/uploads/2013/05/CSI-Submission-to-HLP_Enabling-Environment-for-Civil-Society.pdf

⁸⁰ http://Internet.commonwealthministers.com/special_reports/the_rule_of_law_the_way_out_of_economic_quagmire_the_case_study_of_cameroon/

19 December 1990), the Law relating to Cooperative Societies or Common Initiative Groups (Law 92/006 of 14 August 1994), or both.

Extension of the civil society legal framework in 1999 through an NGO law was designed to grant NGOs access to public funding only. This was followed by reports that some associations were claiming to have NGO status without prior registration.

At best, the new regulatory environment for civil society has crystallised divisions within the sector, with four different laws created to regulate CSOs' work: one for community-based organisations, one for associations and another for NGOs, while trade unions have had to rely on international provisions. This may explain why later adjustments brought in by the government are yet to produce a national consensus over the real merit of the resulting framework, as shown among 2013 study respondents who were said to be unsure of what is entailed or who benefits.

The 1990 law has a fundamental flaw. CSOs have been given a lot of information relative to 'public utility organisations,' but objective criteria on how to become one are more difficult to find.

Human Rights and Civil Society in Cameroon

Amnesty International (AI) has published a series of reports⁸¹ on the human rights violation in Cameroon. These highlights the 'human rights violations that were ordered, condoned or perpetrated by the Cameroonian authorities in contravention of their national and international human rights obligations.' Threats against and ill-treatment of human rights defenders and journalists; denial of the rights to freedom of expression and association; harsh prison conditions; torture and other forms of cruel, inhumane or degrading treatment; and failure to protect the rights of women and girls are all cited in successive AI papers as being a common occurrence in Cameroon.

Other reports carried out that are parallel to AI's paint a similar picture. For instance, the USDOS - US Department of State: Country Report on Human Rights Practices 2014 - Cameroon lists further cases of interest involving human trafficking.⁸²

In November 2011, seven trade union members were arrested following a public demonstration organised by the Central Public Sector Union (CSP) in front of the Prime Ministerial Office in Yaoundé. They included Jean-Marc Bikoko, President of the CSP, and leading members of several education trade unions. They were charged with offences relating to an unauthorised demonstration, and their trial was continuing until the end of the year.

Partial law reform is also said to be responsible for the security woes of Cameroonian CSOs due to 'public authorities' selective interpretation of the individual law articles.' This in turn had led to the rights of civil society representatives being 'constantly and gratuitously violated.'

But a new anti-terrorism law which was being drafted by the Senate as of December 2014 is likely to complicate matters further. The draft law is a direct response from government to the Boko Haram insurgency that has resulted in civilian casualties in Cameroon's northernmost towns and villages. As of November 2014, Cameroon had deployed 2000 soldiers and recorded 32 deaths from attacks mounted by the Islamist group. The new law makes punishable by the death penalty 'activity which can lead to a general revolt of the population or disturb the normal functioning of the country' and for 'anyone who supplies arms, war equipment, bacteria and viruses with the intention of killing.'⁸³

In their annual general meeting on December 12, 2014, PLASNOSCAM, whilst acknowledging

⁸¹ <http://Internet.amnesty.org/en/region/cameroon>

⁸² http://Internet.ecoi.net/local_link/278646/395111_en.html

⁸³ <http://Internet.globalissues.org/news/2014/12/05/20390>

the necessity to diminish the capacities of Boko Haram to harm local people, denounced the anti-terrorism law as a threat to the rights and freedoms of Cameroonian citizens. CSOs and political parties have corroborated this view, vowing to block its adoption.

The Political Environment

Cameroon's presidential system of government was, until 1990, based on a one-party system. Following extended popular riots to denounce this state of affairs, democratic reforms began in 1990 with the legalisation of political parties other than the Cameroon People Democratic Movement (CPDM).⁸⁴ The country's most recent general elections held in 2011 were won by CPDM, led by current president Paul Biya who has been in power since 1982. Amidst relatively low voter turnout,⁸⁵ CPDM accounted for close to 78% of the votes;⁸⁶ for the first time in the country's history, two women, Edith Kabbang Walla of the Cameroon's People Party (CPP) and Esther Dang of the Bloc for the Reconstruction and Economic Independence of Cameroon, vied.

According to figures from 2007, opposition parties in Cameroon number 207.⁸⁷ The Social Democratic Front (SDF) headed by Ni John FruNdi has long been the main challenger, with large percentage of his supporters coming from the Anglophone regions of the country. Yet, in the 2011 presidential poll, SDF was a distant second with just 10% of the electorate⁸⁸ considering them to be a credible alternative.

Until a decade ago, political parties were still the dominant critical voice in Cameroon. Since 2005 however, and no doubt boosted by the Paris Declaration on Development Effectiveness and the subsequent Accra Agenda for Action,⁸⁹ Cameroonian CSOs have found a new lease of life. HLF4 gave local civil society further momentum to demand for increased accountability both from global organisations working in the country and, crucially, from poorly-managed governmental projects.

The Governance Context

Following a decade-long socio-economic struggle, the government launched its National Decentralisation Strategy in 2004, aiming to increase the capacity of citizens to implement localised poverty reduction strategies. Much of local civil society advocacy has since focused on the link between laissez-faire public sector governance and lack of encouraging development results.

To the government's credit, Cameroon is one of only 13 countries which gained recognition from the Food and Agriculture Organisation (FAO) for their substantial efforts toward the eradication of hunger. Food security, by definition, is already a central theme of COSADER (The NGO Collective for Food Security and Rural Development) advocacy and the organisation's proposed law on agriculture is currently under study by the government. At the very least, this demonstrates the need for a national governance structure where the government and CSOs can combine mutual learning and knowledge-sharing to help advance local development agendas.

The new state financial regime (NRFE) has since January 1, 2013 been enshrined in law no. 2007/006 of December 26, 2007. NRFE came into being following 45 years of the national budget law being governed by the February 7, 1962 provision. Implementation of the NRFE began in 2009 and was to be effective in three sectors (institutional, regulatory and communication/information-driven) at central administration office level. Decentralised state authorities (CTD) are set to benefit from the new regime from 2015.

⁸⁴ <http://Internet.encyclopedia.com/topic/Cameroon.aspx>

⁸⁵ http://en.wikipedia.org/wiki/Cameroonian_presidential_election,_2011

⁸⁶ http://en.wikipedia.org/wiki/Cameroonian_presidential_election,_2011

⁸⁷ http://Internet.dibussi.com/2007/06/cameroon_why_so.html

⁸⁸ http://en.wikipedia.org/wiki/Cameroonian_presidential_election,_2011

⁸⁹ <http://Internet.oecd.org/development/effectiveness/34428351.pdf>

a) Transparency and accountability: Getting Government on board (too)

Civil society activities to reduce the accountability deficit in Cameroon have taken different forms. These in turn depend on the range and continuity of resources at CSOs' disposal; key areas of intervention include investigating, monitoring, publicising and advocating for greater consultation as well as access to information. Indeed over 3,000 organisations categorised under the not-for-profit umbrella now work alongside Cameroonian public authorities, political parties, the private sector, technical and financial partners, and the international community at large, everywhere global development challenges need local answers.

Typically, CSOs are involved in education, health and agriculture sectors. Their inputs are helping to sustain a vision of social justice fundamentally at the service of local livelihoods. Further, organised citizen engagement should increase the likelihood of Cameroon's broader SDG obtainment in line with the country's plans to achieve emergence by 2035. This is highly significant given the current national poverty rate of 40%.

It should be noted that ownership of these indicators by CSOs, whilst tolerated, is not always welcome. It often involves criticising the government's track record, which public authorities still largely regard as undermining to their political personas. There is also a need to engage in a constant balancing act, distancing themselves from opposition parties' outright anti-establishment propaganda whilst maintaining their independence.

Particularly welcome in this regard has been the establishment of national commissions in which civil society actors sit on behalf of their grassroots constituencies. These include:

- The Lake Chad Basin Commission
- The National Decentralisation Council
- The Anti-Corruption Commission
- The National Commission of Human Rights and Freedoms

Bills supported by civil society have also been passed in the National Assembly, including a bill on the fight against female genital mutilation (FGM),⁹⁰ and a bill for the protection of people living with HIV/AIDS.⁹¹

b) Fighting corruption: Another common ground

Since 2000,⁹² in an effort to weed out corruption, more than 100 former ministers, public administrators and state corporation managers have so far been convicted, charged with embezzling public funds and plundering national resources.⁹³

In the context of rampant corruption, the existence of civil society is viewed as one way to hold government to account. CSOs, in large part thanks to their evaluation and monitoring activities vis-à-vis Government, are now seen as antidotes to bureaucratic state institutions.

Nevertheless, CSOs have found it difficult to perform that crucial role in the context of strained resources. For instance, the law on political party funding does not have a civil society equivalent. With no funding laws to support their activities, respondents pointed to CSOs having to carry the often excessive burden of self-financing, a situation exacerbated by CSOs not being familiar with the official public funding channels due to 'lack of system transparency and lack of information, despite what appeared to be favourable provisions in the 1990 NGO/CSO law.'

Furthermore, a system of 'administrative tolerance'⁹⁴ long adopted by the government has led to associations openly receiving funding under as NGOs. Though illegal, the phenomenon remains

⁹⁰ http://en.wikipedia.org/wiki/Female_genital_mutilation

⁹¹ <http://Internet.who.int/hiv/en/>

⁹² <http://Internet.voanews.com/content/a-13-2009-11-10-voa31-69822757/415526.html>

⁹³ <http://Internet.voanews.com/content/a-13-2009-11-10-voa31-69822757/415526.html>

⁹⁴ <http://Internet.africareview.com/News/Cameroon-says-church-closures-to-go-on/-/979180/1966272/-/>

widespread and no remedial measures have so far been announced.

Various multi-stakeholder mechanisms, which are designed to foster dialogue and partnerships between CSOs, public authorities and other development partners, have nonetheless been created by the government.

A study carried out by AID GROUP Cameroon⁹⁵ in 2010 found that there were 37 inclusive mechanisms in existence. In terms of focus areas within the relevant instruments, the study cited public finance, decentralisation, agriculture, forests and the environment, health and education. Positive outcomes are subsequently noted as being:

- Mutual learning among stakeholders
- Stakeholders having greater access to information
- Greater opportunities for CSOs to directly influence policy debates and shape policy outcomes
- Possibility of CS ideas being capitalised through the adoption of new laws, as evidenced in the Social Housing Law initiated by the Resident National Network; also, the agriculture law reform project proposed par COSADER in 2011.

Despite such advances in policy influence, there is still work to be done to convince some sections of civil society of the veracity of the aforementioned mechanisms. Back in 2013, improvement in access to information was the only policy-influencing indicator which overall scored a higher proportion of favourable respondent views. This could in part be owed to CSOs such as COSADER having adopted a cooperative approach vis-à-vis the government who has in turn shown itself more willing to take into account CS views.

By contrast, issues of donor transparency and more responsive donor funding mechanisms were also significantly raised during the CPDE Study of 2013, yet 71.6% of respondents in the 2013 Study considered the current funding mechanisms to be short on these indicators. On the other hand, only 12.35% per cent of respondents judged current donor mechanisms to be responsive enough to CSOs programmatic priorities.

The Socio-Cultural Context

Cameroon is home to 230 languages. These include 55 Afro-Asiatic languages, two Nilo-Saharan languages and 173 Niger-Congo languages. This latter group is divided into one West Atlantic language (Fulfulde), 32 Adamawa-Ubangui languages and 142 Benue-Congo languages (130 of which are Bantu languages).⁹⁶

Football remains a key topic of conversation between Cameroonians of all ages and ethnicities. With regular appearances in major world tournaments, the Cameroonian Football Team (Indomitable Lions) gives hope especially to socio-economically disadvantaged youth. Some have argued that its nation's love for football has been a major contributing factor to Cameroon staying an otherwise peaceful nation. Others see football as a means to divert attention from the real socio-economic issues affecting the local population.

Much like the rest of Africa, in recent years, Cameroon has witnessed a proliferation of independent churches. Government has taken drastic measures to stem this flow and random establishment of new religious cults in local towns and cities. In August 2013, President Paul Biya ordered the closure of nearly 100 Pentecostal churches, citing criminal practices by church pastors, which potentially undermine local security efforts.⁹⁷ Cameroon thus has been able to preserve its strong Roman Catholic heritage. There are an estimated 4.25 million baptised Catholics in the country, 26% of the population, spread among 24 local dioceses.⁹⁸ Here the

⁹⁵ *Aid Group resulted from the participation of Cameroon CSOs at the Paris HLF*

⁹⁶ <http://newuh.wordpress.com/2012/12/13/cameroon-africa-in-miniature-in-what-sense/>

⁹⁷ <http://Internet.africareview.com/News/Cameroon-says-church-closures-to-go-on/-/979180/1966272/-/ie8px9z/-/index.html>

⁹⁸ http://en.wikipedia.org/wiki/Roman_Catholicism_in_Cameroon

cohabitation of Islam and Catholicism is still a case of best practice and is often cited as a model of socio-cultural cohesion.

Equally, the influence of colonialism has led to the emergence of two distinct regional cultures: the Anglophone and Francophone regions, speaking English and French respectively, use different legal systems.

Ultimately, its rich national culture and diverse geographical landscape, among others, have led to Cameroon being described as *Africa in miniature*.

Fighting Boko Haram: Cameroonians on the Front Line

One of the biggest socio-cultural threats in recent months can be attributed to dissident group Boko Haram, with the Cameroonian government having now declared a full-blown war against its membership. In April 2014, the group who advocates for a ban on 'western education' kidnapped 270 schoolgirls in the Nigerian town of Chibok.⁹⁹ Spreading fear and terror by killing innocent civilians and disrupting local livelihoods has been its hallmark, something which all countries in west and central Africa now have a duty to address. Indeed the international community has closely been monitoring events in these parts of the world and a lot is expected of Nigeria's most affected neighbour Cameroon in terms of its capacity to stop the Boko Haram ideology from flourishing on its relatively peaceful shores.

The Socio-Economic Context

Cameroon is a country of 22.3 million people,¹⁰⁰ of which one fourth is aged between 10 and 19.¹⁰¹ The world's wettest nation is also evenly split between its urban and rural dwellers.¹⁰² It shares its western border with Africa's biggest economy, Nigeria.¹⁰³ But compared to the latter, at least in strict socio-economic terms, Cameroon remains disadvantage based on a number of key development indicators, among which 'a 2013 Human Development Index value of 0.504—in the low human development category—positioning the country at 152 out of 187 countries and territories.'¹⁰⁴

As the most important market in the Economic and Monetary Community of Central Africa (Communauté Économique et Monétaire de l'Afrique Centrale, or CEMAC), accounting for 30% of the regional GDP,¹⁰⁵ Cameroon only achieved a ranking of 161—out of 189 countries listed for this purpose—in the World Bank's 2013 Doing Business report, the same position it held in 2012.¹⁰⁶ While it had moved to 148th place by 2014, a new regression is already foreseen for 2015,¹⁰⁷ with the country's 'ease of doing business' parameters relegating it to number 158. Equally, Cameroon's economic growth is being closely monitored. In 2013, it reached 4.9% and should have stayed around this level in 2014, and again in 2015,¹⁰⁸ a noticeable recovery from a low of 1.9% in 2009.¹⁰⁹

For many Cameroonians, their nation's dismal socio-economic performance and the perceived degradation of their own financial prospects are intertwined. Online discussion forums,¹¹⁰ for instance, suggest that Cameroonians generally do not feel that their country is making effective use of its plural socio-economic, cultural and environmental resources, not to mention its relative stability when compared to other countries in the sub-region.

⁹⁹ <http://edition.cnn.com/2014/06/10/world/afrika/boko-haram-hunt-arwa-damon/index.html>

¹⁰⁰ <http://en.wikipedia.org/wiki/Cameroon>

¹⁰¹ http://Internet.unicef.org/infobycountry/cameroon_statistics.html

¹⁰² <http://en.wikipedia.org/wiki/Cameroon>

¹⁰³ <http://Internet.bbc.co.uk/news/business-26913497>

¹⁰⁴ <http://countryeconomy.com/hdi/cameroon>

¹⁰⁵ <http://Internet.housingfinanceafrica.org/country/cameroon/>

¹⁰⁶ <http://Internet.housingfinanceafrica.org/country/cameroon/>

¹⁰⁷ <http://Internet.doingbusiness.org/data/exploreeconomies/cameroon>

¹⁰⁸ http://Internet.africaneconomicoutlook.org/fileadmin/uploads/aeo/2014/PDF/CN_Long_EN/Cameroun_EN.pdf

¹⁰⁹ <http://Internet.gfmag.com/global-data/country-data/cameroon-gdp-country-report>

¹¹⁰ <http://Internet.iomdakar.org/profiles/content/migration-profiles-cameroon>

The recent escalation of tensions in the Central African Republic led to the arrival of 184,000 refugees in Cameroon and is now thought to host the largest number of Central African refugees.¹¹¹ As a case in point, Garoua Boulai—a council located in the northern part of the country—has seen the size of its population double, from 40,000 in March 2013 to 80,000 in March 2014.¹¹² A number of expatriate communities are also well-established locally. In 2007 it was estimated that 1,250 Americans live and work in Cameroon.¹¹³

Crucially, high literacy rates, a young population and having English as one of its two official languages (French is by far the most understood¹¹⁴), to name but a few of Cameroon's well-documented strengths, have not been enough to help transform it into an 'economic miracle' in the sub-region. Many Cameroonians living abroad blame poor governance at home for their reluctance to return.

With migration now a global phenomenon¹¹⁵ and Cameroon itself having become a full-fledged destination for socio-economic migrants,¹¹⁶ it is difficult to say whether the country's so-called *brain drain*¹¹⁷ is linked to fewer prospects in the homeland, or to Cameroonians also wanting a piece of the expatriate lifestyle, one that often carries with it its own risks. On December 12, 2014, French newspaper *Le Point* published an article highlighting what some of these are: unexpectedly low wages, a solitary existence and for too many Cameroonian migrants still, the pressures inherent to being their family's only breadwinner.¹¹⁸

Against this background, the removal of visa controls within Cameroon's main economic block, the Economic Community of Central African States (ECCAS), had been set for January 1, 2014. Implementation of the Schengen-inspired¹¹⁹ scheme would have gone some way to solving Central Africa's major handicap of being the least integrated region on the continent.¹²⁰ So far, there has been no clear indication as to when the measure will take effect and could potentially provide a boost for the Cameroonian economy. Until then, Cameroonians wanting to visit neighbouring Gabon for instance will be subject to often tighter immigration checks than travellers arriving from overseas.¹²¹

As Cameroon secured its independence from France in May 1960,¹²² gaining access to United Nations membership later that year, local peoples' expectations were to see their country entering a new era of effective governance and greater prosperity.

For a quarter of a century following independence, Cameroon was able to rise, perhaps surpassing the aspirations of its citizens, by becoming one of Africa's most prosperous economies.¹²³

Beginning 1986, however, its economy shrank drastically owing to low prices of oil, coffee and cocoa, all of which are the country's main exports.¹²⁴

In the early 1990s, Cameroon took a more difficult turn largely due to structural adjustment programs¹²⁵ advocated for by the International Monetary Fund and World Bank, which in 1995 led to the local currency—the CFA franc—losing half its value.¹²⁶ Of importance was the

¹¹¹ <http://Internet.unhcr.org/pages/4a03e1926.html>

¹¹² <http://Internet.ipsnews.net/2014/03/cameroon-counts-cost-cars-crisis/>

¹¹³ <http://Internet.encyclopedia.com/topic/Cameroon.aspx>

¹¹⁴ <http://en.wikipedia.org/wiki/Cameroon>

¹¹⁵ <http://Internet.1stcontact.com/blog/migration/20-interesting-facts-migration/>

¹¹⁶ <http://Internet.iomdakar.org/profiles/content/migration-profiles-cameroon>

¹¹⁷ http://en.wikipedia.org/wiki/Brain_drain

¹¹⁸ <https://fr.finance.yahoo.com/actualites/qatar-bienvenue-enfer-121900268.html>

¹¹⁹ http://en.wikipedia.org/wiki/Schengen_Area

¹²⁰ http://Internet.africaneconomicoutlook.org/fileadmin/uploads/aeo/2014/PDF/CN_Long_EN/Cameroun_EN.pdf

¹²¹ <http://Internet.gfmag.com/global-data/country-data/cameroon-gdp-country-report>

¹²² <http://Internet.afdb.org/fileadmin/uploads/afdb/Documents/Policy-Documents/RISP%20CENTRAL%20AFRI-CA-ECCAS%20English%20FINAL.pdf>

¹²³ <http://Internet.britannica.com/EBchecked/topic/90925/Cameroon/55100/Economy>

¹²⁴ <http://Internet.afdb.org/fileadmin/uploads/afdb/Documents/Project-and-Operations/ADF-BD-IF-2001-37-EN-CAMEROON-PCR-STRUCTURAL-ADJUSTMENT-PROGRAMME-II.PDF>

¹²⁵ <http://Internet.afdb.org/fileadmin/uploads/afdb/Documents/Project-and-Operations/ADF-BD-IF-2001-37-EN-CAMEROON-PCR-STRUCTURAL-ADJUSTMENT-PROGRAMME-II.PDF>

¹²⁶ <http://bux-toweb.blogspot.co.uk/2012/11/the-cfa-franc-pros-and-cons-brief.html>

categorisation of Cameroon the following year as a highly indebted poor country (HIPC),¹²⁷ a denomination widely used at the turn of the new millennium to describe the most socio-economically challenged nations in the world.

Having had 27% of its total debt subsequently written off in 2006,¹²⁸ Cameroon reached a milestone. In a country such as Ghana where similar debt relief initiatives were being undertaken, the government was able to generate strong growth rates of 5% to 6%.¹²⁹ This is not the case in Cameroon where growth is said to have stagnated at 3% to 4%,¹³⁰ thus taking longer to trickle down to the local population through adequate investment in health, education and other key socio-economic infrastructure.

A 2009 World Bank report¹³¹ noted that Cameroon was not on track to meet the Millennium Development Goal 2015 deadline. In fact, the report noted that the country will face social unrest due to slow growth and incrementally high poverty and unemployment levels. *In recent years, concerns have been raised about the proliferation of armed gangs mostly comprised of unemployed youth who have turned parts of the country into no go areas.*¹³²

When it adopted its first Poverty Reduction Strategy Paper (PRSP) in 2003, amidst efforts to alleviate its HIPC burden, the government of Cameroon placed great emphasis on growth and employment to help galvanise national development policies.¹³³ In 2007, the government began a comprehensive consultative process to fully update the previous PRSP, resulting in cabinet subscribing to a new Growth and Employment Strategy Paper (GESP) in August 2009, covering the period 2010-2019.

In 2006, faced with a decade-long economic decline, former Minister of State and Planning for Cameroon Augustin Frederic Kodock had underscored the necessity to take action. This, Kodock¹³⁴ said, could be achieved by affording Cameroonians greater purchasing power so as to spur and, ultimately, boost consumption.

Salary increase may not give a lasting solution to the economic problem, but it is imperative to increase salaries as contribution to solving the problem.¹³⁵

This contrasts with news that four of the largest trade unions in the country recently vowed to take to the streets if their demands of a higher living wage (i.e. 62,000 CFA francs against the current minimum guaranteed wage of 28,216 CFA francs)¹³⁶ and better social security were still unmet as of December 31, 2014. Following an increase in petrol prices in July 2014, the same trade movements had called for public demonstrations. In the end, talks were held with the government and the initial plans for mass movements were dropped. This has led to trade unions losing their credibility amongst their constituents and members, many of whom cast a doubt on the capacity of union representatives to advocate for better living and working conditions by and large.

On a positive note, the grant provided by the Ministry of Economy to Cameroon's townships to promote the implementation of high labour intensity (HLI) development projects has progressed

¹²⁷ <http://web.worldbank.org/WBSITE/EXTERNAL/TOPICS/EXTDEBTDEPT/0,,contentMDK:20260049~menuPK:64166739~pagePK:64166689~piPK:64166646~theSitePK:469043,00.html>

¹²⁸ <http://Internet.turkishweekly.net/news/31050/-cameroon-sees-5bn-debt-erased.html>

¹²⁹ <http://worldwrite.org.uk/debtanddevelopment.pdf>

¹³⁰ <http://Internet.afdb.org/fileadmin/uploads/afdb/Documents/Publications/30727886-EN-CAMEROON-AEO2008.PDF>

¹³¹ <http://documents.worldbank.org/curated/en/2009/01/11178210/sustaining-reforms-inclusive-growth-cameroon-development-policy-review>

¹³² http://Internet.sipri.org/research/security/africa/case_studies/research/security/africa/uploaded/cameroon_study_2011

¹³³ <http://Internet.cameroon-info.net/stories/0,17687,@unemployment-true-figures-out.html>

¹³⁴ http://en.wikipedia.org/wiki/Augustin_Fr%C3%A9d%C3%A9ric_Kodock

¹³⁵ <http://Internet.cameroon-info.net/stories/0,17687,@unemployment-true-figures-out.html>

¹³⁶ <http://Internet.wageindicator.org/main/salary/minimum-wage/cameroon>

sharply since 2012. From 500 million FCFA at the initiative's launch that year, it had risen to 600 million FCFA by 2014. In November 2014, it reached the billion FCFA mark with the signing of the 3rd phase of the agreement between the Cameroonian government and five districts.¹³⁷

The government is said to have been encouraged to do more HLI projects after seeing promising results from the programme's implementation by selected communities; according to the Ministry of Economy, 350 young people have been trained in various fields, with 1,200 new jobs created between 2012 and 2014 alone, of which 300 were reserved for women.¹³⁸ Based on these findings, the government now aims to have 20% of the country's investment projects follow the HLI model.¹³⁹

If Cameroon is to realise its 2035 vision as set out in the country's GESP,¹⁴⁰ initiatives such as this offer a glimmer of hope that a greater diversity of Cameroonians will share in the fruits of local development.

Cameroon ratified the Convention on the Elimination of All Forms of Discrimination against Women on August 23, 1994. In 1992, the Committee on the Elimination of Discrimination against Women (CEDAW) adopted General Recommendation 19 in which it confirmed that violence against women constitutes a violation of human rights.¹⁴¹ The government's initiative to empower women all over Cameroon and to promote their influence in the community is thus in recognition of the pivotal role they play in uplifting living standards and alleviating poverty, particularly in the rural communities, which also falls within Cameroon's overall development plans.¹⁴²

The government has made efforts to improve local socio-economic indicators, among others, by promoting women empowerment and reversing youth unemployment in collaboration with civil society. However, there are real concerns over the fact that a majority of the 13% of Cameroonian youth who are economically inactive are female.¹⁴³

At best, local unemployment statistics can be described as patchy, with the government often having to rely on external expertise to generate relevant data.

As a case in point, the June 2006 survey carried out by the National Institute of Statistics showed that 36.6% of university graduates were unemployed;¹⁴⁴ nevertheless, it is still not known what proportion of second-hand market sellers are state university graduates; but so widespread is the phenomenon that it has become symptomatic of lack of decent and well-paid jobs, whilst at the same time demonstrating government's inability to optimally manage national tax revenues. Cameroon's informal economy has long been thriving, creating a shortfall in state revenue that the Cameroonian economy can ill afford.

Extensive bureaucracy around setting up business, meanwhile, has done little to help young people choose the entrepreneurial route.¹⁴⁵ Worryingly, a direct consequence of unemployment among Cameroonian youth has been alcohol abuse, with dozens of bars located near colleges and university campuses having been forced to close in recent years as the Cameroonian

¹³⁷ <http://Internet.businessincameroon.com/public-management/1411-5125-cameroon-s-townships-create-1-200-jobs-in-3-years-with-himo-method>

¹³⁸ <http://Internet.businessincameroon.com/public-management/1411-5125-cameroon-s-townships-create-1-200-jobs-in-3-years-with-himo-method>

¹³⁹ <http://Internet.businessincameroon.com/public-management/1411-5125-cameroon-s-townships-create-1-200-jobs-in-3-years-with-himo-method>

¹⁴⁰ <http://Internet.platform2035.com/index.php/cameroon-2035/cameroon-vision-2035>

¹⁴¹ http://Internet.omct.org/files/2004/07/2409/eng_2003_03_cameroon.pdf

¹⁴² <http://eprints.soton.ac.uk/69585/>

¹⁴³ <http://Internet.youthpolicy.org/peacebuilding/2013/10/action-against-youth-unemployment-in-cameroon/>

¹⁴⁴ <http://Internet.cameroon-info.net/stories/0,17687,@unemployment-true-figures-out.html>

¹⁴⁵ <http://Internet.doingbusiness.org/data/exploreconomies/cameroon/starting-a-business>

government tries to address this challenge. Cameroon, it must be noted, has some of the highest alcohol consumption levels across Africa.¹⁴⁶

Lessons Learned

- Absence of rule of law: So-called 'administrative tolerance' has been detrimental to law observance across the board, with public authorities, CSOs and the international development community of Cameroon so far turning a blind eye
- Cameroon is often cited as a model (for peace and stability), yet this view is not shared by all; all too often civil society actors are seen as part of the opposition
- The perception among parts of society is that free travels and governmental favours could be the main reason why some join the civil society movement
- All too often, the choice and identification of CS representatives at key governance and dialogue frameworks remain in the hands of the government when these should be handled by civil society itself
- Technical and financial partners (TFPs) prioritise their programmatic line of action over local civil society's key asks.
- A clause stating that public authorities must be notified of CSOs' intention to hold a public meeting is repeatedly and deliberately being misinterpreted; more often than not, CSOs are required to obtain a formal authorisation to host such a meeting

Conclusion

This report has shown that many factors affect the capacity of Cameroonian civil society to play a meaningful role in the implementation of the post-2015 development agenda. The onus is on its actors to find new ways to engage an array of development partners that have traditionally been on the other side of the development debate.

On closer look, however, the government and the private sector have more in common with civil society than we have been led to believe. The fights against regional terrorism and corruption, the preservation of peace and stability and the environmental costs of globalisation, to name but a few common grounds, will all require long-term commitment from local development stakeholders. Because these issues are complex, resources to address them will come in many forms as well, each with its own merit.

The Millennium Development Goal framework and Busan Partnership have tested the capacity of the international development community in general, and that of Cameroon in particular, to embrace these multiple resources. Often it has been through citizen power being exercised at the expense of civil liberties being protected.

Until and unless the two are reconciled, neither side of the development debate will make the kind of progress that is required to make poverty history. This is true of Cameroon where CSOs have never been stronger than when they focus on the common good and speak out for the voiceless. Indeed it is on this terrain that their next victories will not just be won but preserved for future generations of socio-political change agents.

The Enabling Environment National Assessment (EENA)¹⁴⁷ project currently underway in Cameroon will no doubt build on the present body of evidence. After the CPDE Study of 2013, and Synthesis Report in 2014, EENA is yet another tool to facilitate the strengthening of Cameroonian civil society and the improvement of CSO-government relations. Crucially, it is a reminder that the enabling environment should be everyone's concern.

Recommendations

- Set up a skills and career forum in partnership with local public authorities aimed at

¹⁴⁷ <http://civicus.org/index.php/en/link-to-related-newsresources2/2110-enabling-environment-national-assessment-lebanon-country-report>

- Cameroonian youth
- Create a young entrepreneur award
- Promote women and youth parliamentary discussions involving thematic CSOs
- Reform the civil society legal framework to reflect the diversity of actors working under the CSO label
- Establish a multi-stakeholder post-2015 governance commission
- Leverage stakeholders to adopt necessary reforms through the organisation of at least two advocacy meetings in 2015 for post-2015 appraisal and monitoring of the Busan Commitments

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Summary

The Czech Republic, a relatively small donor country and only a recent member of the Development Assistance Committee of the Organization for Economic Cooperation and Development (OECD DAC), accomplished a transformation of its Official Development Assistance system in 2012. Yet increased commitments on ODA quality and quantity have still to be met, and political support for ODA remains low. In addition, while official documents proclaim the eradication of poverty and inequality as an explicit priority of Czech ODA, the focus of ODA efforts is still influenced by economic interests.

With regard to civil society participation, the Czech NGO platform FoRS (Czech Forum for Development Cooperation) has become a respected partner of Czech institutions and other development stakeholders since its foundation in 2002. FoRS members participate in shaping ODA and related policies through monitoring as well as through direct engagement in strategic consultations. However, they also face funding constraints, some legal barriers (e.g. with this year's new Civil Code) and internal constraints related to insufficient capacities and resources. While they advocate for the fulfilment of development commitments by the Czech government, they too have adopted their own code on effectiveness.

FoRS members participate in both inter-sectoral partnerships (with entities from the public, non-governmental and private sectors) and cross-sectoral cooperation (among development, environmental and educational CSOs), and consider these as key areas for effective development. Key issues related to Czech ODA, an enabling environment for CSOs and CSO development effectiveness are reflected in this study.

Introduction

The position of the Czech Republic as a development actor on the international stage has changed fundamentally over the last 25 years. Formerly, Czechoslovakia was a donor country in the 'Eastern Block.' With the end of the communist era, the Czech Republic as a transition country was, until recently (2006), an aid recipient. Today, the Czech Republic is once again a donor, being the 37th richest country of the world¹⁴⁸ and a member of the OECD DAC. The current system of Czech ODA was (re-)established after the Czech Republic joined OECD in 1995 as the first transition country of the Central and Eastern Europe region.¹⁴⁹ The Czech Republic accepted its share of responsibility and demonstrated its interest in addressing global problems and sustainable eradication of poverty. The establishment of FoRS in 2002 and the accession to the EU in 2004 reinforced the impetus for change in the development cooperation system.

In 2008, the Council for International Development Cooperation was established as a multi-stakeholder coordination and advisory body for the Minister of Foreign Affairs. In 2010, the Act on International Development Cooperation and Humanitarian Aid Provided Abroad was adopted, forming the ODA system transformation and establishing the Czech Development Agency (CZDA). In May 2013, the Czech Republic became a member of OECD DAC, which was declared big political success and a confirmation of positive progress.¹⁵⁰ This increased the international prestige of the Czech Republic and strengthened its commitments to aid quality and transparency, including the commitment to increase the ODA budget.¹⁵¹ These commitments,

¹⁴⁸ FoRS, *AidWatch Report (2014): What Czechia is doing (is going to do) to contribute to eradicate poverty in the world by 2015 and onwards. NGO View on Czech ODA*, <http://internet.fors.cz/wpcontent/uploads/2014/11/aidwatch-final-4-web.pdf> (only in Czech)

¹⁴⁹ TRIALOG Systematization (2014) (draft outcome document, page 79)

¹⁵⁰ CPDE, *The Journey from Istanbul: Evidences on the implementation of the CSO Development Effectiveness Principles (2014)*, <http://internet.csopartnership.org/the-journey-from-istanbul-evidence-on-the-implementation-of-cso-de-principles/>

¹⁵¹ FoRS, *AidWatch Report (2014)*

however, have not been fully met. Equally missing is a clear and binding commitment to policy coherence for development. The Czech contribution to the global development is far from perfect.¹⁵²

Development CSOs associated with FoRS are the main focus of this study. They represent an important part of Czech ODA efforts and are key development actors that play multiple roles: they implement projects; they are endowed with grassroots knowledge of problems and challenges in partner countries; they work as mediators and defenders of interest of vulnerable groups; and they participate in political discussions. FoRS aims to become a focal point for strengthening the roles of development CSOs and enhancing their political recognition. These CSOs together aim at ensuring that Czech ODA maintains the eradication of poverty and inequality as its core objective, and that ODA is not affected by narrow political and economic interests. However, resource and capacity constraints still limit the effectiveness of their joint efforts.

There are two other CSO platforms working in related fields: Association for Democracy Assistance and Human Rights (DEMAS) founded in 2008 and currently composed of 13 CSOs, and Green Circle founded in 1989 that brings together nearly 30 NGOs working mainly in the fields of environmental awareness and advocacy. Until recently, development CSOs worked with these platforms and their members on a rather ad hoc basis. In the context of the post-2015 processes, the cooperation on policy engagement and awareness-raising has increased significantly.

The Legal and Regulatory Framework

Major international conventions on human rights, and other laws that concern civil society

All fundamental CSO rights¹⁵³ are reflected in the Czech legal framework and mechanisms exist to implement them on the ground, including the right to information. However, in the field of ODA, there are significant financial constraints due to the modest ODA budget and one-year funding schemes. Only in August 2014, the government issued a decree making multi-year grants possible, but this system will only be piloted in 2015.

In addition, issues have been raised regarding the new Civil Code (enforced since January 1, 2014) that requires new registration and changes in the statutes of many non-governmental organisations.

The commitments made in the Accra Agenda for Action, the Busan Partnership and other international agreements are still not fully reflected in the legal or policy frameworks, and there are no explicit road maps to fulfil these commitments. On the other hand, some operational mechanisms have already been adopted. For example, there is an on-going policy dialogue between FoRS and the Ministry of Foreign Affairs (MFA), the commitments from the Paris Declaration are included in the ODA Strategy, a grant scheme on triangular cooperation was launched in 2004 (the Czech government promoted this form of cooperation in Accra) and the Declaration on Good Humanitarian Donorship was approved in 2006. More recent commitments from Busan (2011) and Mexico (2014) emphasise mainly support for private sector engagement in development.

¹⁵² FoRS, *Country page for the CONCORD AidWatch Report (2014)*

¹⁵³ *The Czech legal framework promotes and protects the respect of freedom of association including:*

- i) the rights of all individuals to form, join and participate in an association, at national and international levels, with legal entity status if the founders so desire;
- ii) the right of CSOs to operate free from unwarranted state intrusion or interference in their affairs;
- iii) the right to pursue a broad range of self-defined objectives, including to seek and secure funding from domestic, foreign and international sources; and
- iv) other basic rights, mainly the right to freedom of peaceful assembly; the right to freedom of expression; and the right to communication and cooperation with others in all sectors, within and across borders.

CSOs' ability to follow the regulatory framework and to access and use information

CSOs are only partially able to navigate in the complexities of the Czech legal system. Reasonable—timely and cost-effective—access to legal services is missing, especially in light of the new Civil Code, which is too complex (3,081 paragraphs). In addition, some implementing regulations to this law are still missing.

The Act on Free Access to Information was approved in 1999, and CSOs are technically able to access and use information essential to their work from governmental institutions, including statistical data on financial flows according to the OECD DAC standards. However, the available information is not sufficient and some data are provided only in a consolidated form, with no disaggregated information on crucial social indicators (e.g. per gender, diverse actors or target groups).

There is a need to improve publishing and accessibility of Czech ODA information. An important step is the foreseen adherence to the International Aid Transparency Initiative (IATI) in 2015. An independent ODA monitoring initiative, Publish What You Fund, assessed the transparency of Czech ODA as 'poor' in both 2013 and 2014. In 2014, the Czech Republic fell from the 7th to the 10th place among the EU countries in terms of transparency. Nevertheless, the Czech Republic remains one of the most transparent donors among the 'new' member states of the EU.¹⁵⁴

CSOs' engagement in expert consultations on the legal system

CSOs have limited capacity to engage in expert consultations on the legal system. In particular, small organisations have limited capacity and expertise to study and comment on the country's legal framework. FoRS endeavours to reduce these gaps by organising special workshops and other information and capacity building events based on the needs of its members.

The Political Environment

Democratic institutions and recognition of CSOs

The accomplished transformation of the Czech ODA system in 2012 concentrated responsibilities and ODA budgetary mechanisms under the MFA. The Act on Development Cooperation and Humanitarian Aid defines eradication of poverty as the main goal, and identifies roles and responsibilities of different state actors. The Development Cooperation Strategy of the Czech Republic 2010-2017 is a programme framework that concretises the objectives and principles of Czech ODA, geographical and sector priorities and modalities.¹⁵⁵ The organisational setting and division of competencies between the MFA and the implementing body CZDA seems to be relatively effective, providing better planning and coordination.

FoRS is a respected partner for state institutions and participates in consultations on strategic issues such as the Development Cooperation Strategy and its mid-term revision or on modalities of cooperation with the private sector. FoRS, together with the Platform of Entrepreneurs for International Development Cooperation,¹⁵⁶ has an observer status in the Council for International Development Cooperation. FoRS is also represented in several working groups of the Council, for example in the working group on evaluations.

CSOs' participation in policy formulation and development initiatives

Only a few political leaders advance development cooperation policies and practices that address the structural causes of poverty and inequality. The current approach focuses more on economic growth and pro-export policies. ODA now is under the responsibility of the Economic

¹⁵⁴ FoRS, *AidWatch Report (2014)*

¹⁵⁵ *There are other related strategies such as the National Strategy for Global Development Education (2011-2015) or the Strategy for granting scholarships to students from developing countries (2013-2017)*

¹⁵⁶ *Internet.ppzrs.org*

Section of the MFA, and commercial tie-ups have been strengthened. Besides bilateral projects implemented by private companies, a new programme of development/economic partnership ('B2B' or Business-to-Business) has been piloted since 2013.¹⁵⁷ New tools supporting private sector engagement including its cooperation with other actors are in the pipeline and CSOs are engaged in these discussions.

FoRS monitors Czech ODA and provides recommendations for its improvement. Some recommendations related to the Czech ODA Strategy or to project cycle management are already reflected in policy documents and operational procedures. Since 2008, FoRS regularly publishes a Czech Aid Watch report, evaluating the Czech ODA in the past year with the aim of spurring discussion with other actors.¹⁵⁸ With regard to the private sector, FoRS acknowledges its role in development as a potential source of job opportunities, income (incl. taxes) generation, new investments, knowledge transfer and capacity building. However, FoRS affirms that economic interests should be promoted by different tools than ODA. The primary goals of ODA should be poverty and inequality eradication. These goals cannot be met by economic growth alone. In that regard, all development cooperation initiatives, including foreign investments and commerce-related policies, must not impact negatively on the rights of people on the receiving end of ODA.¹⁵⁹ The engagement of the private sector, as well as of other development actors, must follow the cross-cutting ODA principles (good governance, respect for the environment and the climate and respect for human rights, including gender equality) and the principles of development effectiveness (ownership, transparency and shared responsibility for results).

Consultations between CSOs and government representatives on key policy issues pertaining to ODA continue both on a formalised and on an ad hoc basis. For instance, FoRS created ad hoc geographical working groups during the mid-term revision of the Czech ODA strategy. However, the impacts of these consultations have still been limited—priorities are politically driven and there is limited space for CSOs' right of initiative. For example, the grants for bilateral or triangular cooperation can be provided only for the projects in several priority countries or sectors set by the government. The effects of open dialogue are also limited due to generally low political support for ODA and due to low decision-making power of civil servants engaged in these debates. It is therefore necessary to set more effective cooperation mechanisms with parliamentarians and with other ministries.

The ODA budget has stagnated in several past years (149.5 million EUR in 2013, only 0.11% ODA/GNI), a ratio of bilateral cooperation¹⁶⁰ is only 27%, and support for least developed countries is decreasing (comparing to 2012, there was 10% fall).¹⁶¹ This can partly be attributed to the reconstruction project in Afghanistan, which formed a significant part of the Czech ODA support for LDCs.

CSO consensus on political objectives

Development CSOs consider extreme poverty as one of the most pressing global problems. FoRS envisions the eradication of poverty through environmentally sustainable and socially just development, human rights protection, conflict prevention and peaceful conflict resolution.¹⁶² Development, prosperity and decent life are not possible without environmental protection and respect for planetary boundaries, inter-sectoral cooperation and linking domestic and foreign as well as development and non-development agendas. ODA should contribute to economic growth that does not put in danger long-term conditions for a quality life that is enjoyed also by the most vulnerable population groups such as women, children, small farmers and elderly

¹⁵⁷ FoRS, *Country page for the CONCORD AidWatch Report (2014)*, FoRS, *AidWatch Report (2014)*

¹⁵⁸ FoRS, *ODA of the Czech Republic in 2011 - Perspective of the non-governmental organizations joined together in FoRS, Briefing paper (2012)*, <http://Internet.fors.cz/wp-content/uploads/2012/12/AW-brief-EN.pdf>

¹⁵⁹ FoRS, *AidWatch Report (2014)*

¹⁶⁰ *The bilateral ODA includes development and transition projects, grant programs for NGOs (including triangular projects), small grant program at the embassies, humanitarian aid, programs for migrants, scholarships, peace missions, and other modalities, plus monitoring, evaluation, and administration costs.*

¹⁶¹ FoRS, *AidWatch Report (2014)*

¹⁶² FoRS *Strategy 2011-2015 (2011)*, http://fors.cz/user_files/strategiefors_final19.12.2011.pdf (only in Czech)

or disabled people.¹⁶³ Consensus on key principles of effective development was confirmed by adoption of the FoRS Code on Effectiveness¹⁶⁴ in 2011.

The Governance Context

ODA policies and practices

Cooperation with five priority countries is defined by multi-annual cooperation programmes. Projects in other partner countries reflect the priority needs in several generally defined sectors. The Czech MFA prepares an annual implementation and financial plan of bilateral ODA with a mid-term outlook for the following two years. These plans are negotiated within the Czech Council for International Development Cooperation. During the consultations on 2015 plan, FoRS remarked favourably continuity of the Czech ODA and the strengthened focus on human rights, but also provided a number of recommendations, including the need to increase and better use the ODA budget.

In the frame of bilateral ODA, a special Transition Promotion Programme was established in 2005 as a financial instrument of the Czech MFA, with the goal of supporting democracy and human rights, in light of the Czech Republic's history of social transition and democratisation. The total allocation for 2015 is 1.8 million EUR. Its projects are implemented in cooperation with Czech CSOs and their local partners, underpinning the importance of civil society in democratisation processes, with a broader notion of human rights.¹⁶⁵

The grant programmes for CSOs include a programme on awareness and education (0.54 million EUR in 2015), a programme on capacity building and partnerships (0.11 million EUR in 2015) and a programme on capacity building of the platforms (0.09 million EUR in 2015). The CSO must usually provide 30% of own co-financing. This disqualifies many small CSOs. A special grant programme supports triangular cooperation with other donors, in particular with the European Commission (1.23 million EUR in 2015). A budget of 0.18 million EUR is then allocated for ODA evaluations.

Czech bilateral projects are divided between CSOs and the private sector on a relatively even basis. The projects implemented by CSOs receive 39% of the allocated bilateral budget, while the projects implemented by private sector receive 36%. Universities and other academic institutions have 6%, and governmental and local authorities around 6% share. Most of the projects are launched through public tenders, with most of the supplies provided by the private sector. CSOs can submit their own projects in the relevant grant programmes but must ensure their own co-financing.

Though official strategy documents acknowledge development effectiveness, the Czech Republic has never had a clear implementation plan to fulfil its commitments with binding targets, indicators or time schedules. This has not changed much since Busan. Some positive steps have been taken in terms of improving coordination and harmonisation with other donors and implementing bodies, such as involvement of the Czech Republic in so called Joint EU programming.¹⁶⁶ New themes have emerged, such as the private sector's role in development. During the mid-term review of the Czech ODA strategy, an increased attention was given to development effectiveness and sustainability of impacts. In the recent study, FoRS proposed several measures to improve sustainability of the Czech ODA projects.¹⁶⁷

Constraints for inclusive engagement of CSOs

The governance of ODA programs is still not fully satisfactory. For example, the usual cutting of the budgets of the approved project challenges the principles of good governance, effectiveness

¹⁶³ FoRS, *AidWatch Report (2014)*

¹⁶⁴ Downie, S. and Kingsbury, D. 2001

¹⁶⁵ FoRS *Code on Effectiveness (2011)*, http://Internet.fors.cz/user_files/fors_code_on_effectiveness_en.pdf

¹⁶⁶ Internet.mzv.cz

¹⁶⁷ Körner, M., Píbilová, I., FoRS, *Sustainability of Czech ODA Projects (2013)*, http://Internet.fors.cz/wp-content/uploads/2014/04/sustainability-web-FINAL_ENG.pdf

and transparency. The role of Czech embassies is also unclear, and new guidance on institutional competencies has not been completed yet. New development diplomats in priority countries should help improve the design and monitoring of development projects.

Predictability and continuity of funding is fundamental for effective development cooperation. The up-to-date system of one-year grants within a fiscal year complicates the implementation of development projects or programmes and reduces their impacts. Based on the new Government Decree (August 2014), the system of multi-year grants and programme funding will be piloted from 2015. The system of ODA tenders should also allow for multi-year projects, which is already possible in other areas, including for projects supported by the EU Structural Funds or the environmental projects managed by the Ministry of Finance and the Ministry of Environment.

Mechanisms for the implementation, monitoring and evaluation of cross-cutting ODA principles are still not fully in place.¹⁶⁸ FoRS, in cooperation with the Czech Evaluation Society, prepared a guideline for assessing gender aspects in development projects, and this guideline has been incorporated in the Terms of Reference for evaluations since 2014.¹⁶⁹ The ODA plan for 2015 emphasises support of all generation of human rights, in accordance with the Policy Statement of the Czech Government.¹⁷⁰

CSOs' own commitments and advancing multi-stakeholder initiatives

In 2011, FoRS adopted its Code on Effectiveness, with five key areas linked to the Istanbul Principles: grassroots knowledge, transparency and accountability, partnership, respect for human rights and gender equality, and accountability for impacts and their sustainability. The code is to help FoRS members enhance the quality and effectiveness of their operations. FoRS members agreed that breaching of 'key indicators' (e.g. corruption) could eventually result in the exclusion of a member from FoRS. This is also stated in the FoRS Statute.¹⁷¹

FoRS members carry out an annual self-assessment¹⁷² according to indicators related to each principle. FoRS Secretariat monitors the annual changes and reflects learning needs in its capacity building plans. The findings are shared at FoRS General Assembly and discussed by the working group on effectiveness. In addition to self-assessment, peer reviews were introduced in 2013 where the peers provide mutual feedback on using the code, prioritise learning needs, set concrete plan of actions and assess progress.¹⁷³

FoRS is also engaged in designing and piloting a peer-learning process on effectiveness policies and practices among member organizations of CONCORD.

Open partnerships of entities from the public, non-governmental and private sectors are key assumptions for effective development cooperation. Though this is also an important aspect declared in official documents, there is no systematic support for joint projects carried out by CSOs, private companies and other actors. FoRS has thus initiated or participated in several multi-stakeholder initiatives. Besides the on-going dialogue within the Council for International Development Cooperation and FoRS participation in thematic workshops organised by the MFA or CZDA, the first big inter-sectoral event was a FoRS International Conference on Development Effectiveness organised during the Czech presidency of the European Council in 2009. The process of searching for possible ways of cooperation with private companies as well as

¹⁶⁸ FoRS, *AidWatch Report (2014)*

¹⁶⁹ FoRS, *Czech Evaluation Society, How to mainstream the different roles, needs and priorities of women and men in development, humanitarian, educational and awareness raising projects (2014)*, http://Internet.fors.cz/wp-content/uploads/2014/04/FoRS_CES_Metodika_gender_projektyZRS.pdf (only in Czech)

¹⁷⁰ FoRS *position to the Plan of Czech ODA for 2015 and for a mid-term outlook till 2017 (2014)* (only in Czech)

¹⁷¹ http://Internet.fors.cz/user_files/fors_code_on_effectiveness_en.pdf

¹⁷² <http://bit.ly/MmlxjC>

¹⁷³ CPDE, *The Journey from Istanbul: Evidences on the implementation of the CSO Development Effectiveness Principles (2014)*, <http://Internet.csopartnership.org/the-journey-from-istanbul-evidence-on-the-implementation-of-cso-de-principles/>

academia is on-going, and FoRS has commissioned several studies on this matter. CZDA and MFA representatives are invited to all FoRS expert events and they regularly participate in the FoRS general assemblies.

An important cross-sectoral cooperation of development CSOs (FoRS), environmental CSOs (Green Circle) and educational CSOs has begun during preparations for the European Year for Development 2015. Recently, they presented joint 'starting points' for discussions about the global development agenda post-2015 to the MFA, sharing a joint vision of the world—one where all human beings enjoy the right to a secure, decent and meaningful life without exceeding planetary limits. Beyond fulfilling the unmet MDGs, they will also strive for changes in diverse areas such as energy sector transformation, better monitoring of development efforts, education for global citizenship, tax justice, gender equality, the protection of biodiversity, democratic participation by citizens in decision-making processes and access to justice.¹⁷⁴

FoRS sees the European Year for Development as an opportunity to draw public and political attention towards the global development problems. FoRS will aim both to raise awareness and to engage in the policy debates by clarifying Czech position to the post-2015 global framework (post-MDGs/SDGs). CSOs will also support the Czech negotiations in the United Nations and the European Council and will contribute to CONCORD, Beyond2015 and CPDE initiatives. In addition, FoRS aims to increase dialogue and cooperation with the private sector, especially with the Czech Business Council for Sustainable Development and the Platform of Entrepreneurs for International Development Cooperation.¹⁷⁵

The Socio-Cultural Context

Respect for diverse cultural, social and political views

MFA and CZDA recognise and, in general, respect the diverse cultural contexts of countries where Czech ODA projects are implemented. On the other hand, development diplomats in partner countries are still often missing and the role of embassies is unclear. There is insufficient political and financial support for in-depth research on development issues or for enabling CSOs to conduct such research (within limited budget for bilateral cooperation). The total ODA budget is modest, bilateral budget even more so, and specific support for research is limited. Some surveys, advocacy or policy activities, trainings, conferences or internships can be partially funded from the ODA programmes for CSOs.

Recognition of rights and freedoms affecting CSOs, and public recognition of civil society

Though fundamental rights and freedoms are well recognised, some minority groups, including small NGOs, do not have access to national or European funding schemes due to restrictive eligibility criteria or due to the required co-financing. For example, for the EC awareness projects, only consortia of at least 10 countries can apply. Some politicians also still challenge the role of CSO sector—this may relate to the fact that this relatively new sector was created only after the 'velvet revolution' of 1989.

Lately, the role of CSOs in addressing development challenges has been well-received by the mainstream and social media. The public appreciates real life stories and the visible outcomes of development interventions.

Czech citizens' support for development cooperation and humanitarian aid was confirmed by the results of the annual Eurobarometer opinion poll,¹⁷⁶ and the opinion poll commissioned in

¹⁷⁴ FoRS, *Inputs from development, environmental and other NGOs for discussions on global development agenda post-2015, addressed to the Czech MFA (2014) (only in Czech)*¹⁷⁵ Downie, S. and Kingsbury, D. 2001

¹⁷⁵ FoRS letter to the MFA (deputy minister for non-European countries and economic diplomacy) (2014):

Engagement of FoRS in the European Year for Development 2015 (only in Czech)

¹⁷⁶ EC(2014): *EU Development aid and the Millennium Development Goals, Special Eurobarometer 405*: http://ec.europa.eu/public_opinion/archives/ebs/ebs_405_en.pdf; EC(2012): *Solidarity that Spans the Globe*:

Europeans and Development Aid, Special Eurobarometer 392: http://ec.europa.eu/public_opinion/archives/ebs/ebs_392_en.pdf

2013 by FoRS and carried out by NMS Market Research agency (1,210 respondents).¹⁷⁷

According to the results of the FoRS survey, non-profit organisations should be the main recipients of financial resources for humanitarian aid and development cooperation. Traditional big NGOs, two of them are FoRS members, rank among the best known non-profit organisations, partly due to their engagement during humanitarian crises, e.g. after the typhoon Haiyan in Philippines. The main argument that would persuade people to financially contribute is the guarantee that their money will get to where it is intended. The main motives of both ODA and humanitarian aid were assistance to people in need, improvement of health situation in poor countries and ethical and moral motivations. Support for education is also important, as well as maintaining the positive image of the Czech Republic in the international arena. On the other hand, support for the Czech economy and domestic businesses, as so often mentioned by politicians, does not belong among the key motivations for ODA according to respondents. In addition, 75% of respondents support at least maintaining or increasing the ODA budget, and 85% of respondents support teaching the topic of global responsibility in schools.

CSOs do not discriminate

In the annual self-assessment carried out by FoRS members on the basis of the Code on Effectiveness, respect for human rights and gender equality has constantly been very well evaluated ('...members and observers strive to improve the situation of socially excluded and other vulnerable groups and to strengthen their role in the society, with special attention to women and girls' empowerment...'). The responsible approaches in this regard are confirmed by peer reviews among the members and by concrete projects directly focused on these issues. The joint communication framework of FoRS proposes a series of rules including respect to those values that aim at achieving sustainable development, eradication of extreme poverty, achieving gender equality, meeting human rights and preventing and peacefully resolving conflicts, as well as not criticizing or defaming the work of other NGOs without any serious ethical motive.¹⁷⁸

The Socio-Economic Context

Broadly shared understanding of the structural causes of poverty and inequality

Attention to the complex causes of poverty and inequality frame Czech development cooperation, as reflected in relevant policy documents.

Funding mechanisms are formally responsive to priorities of CSOs and governments in partner countries, but there are legal constraints for decentralised funding; only the Small Grant Scheme for Embassies has been allowed. After the Czech Republic became a DAC member, the commitment on untied aid has become more urgent. FoRS started preparation of an analysis on this topic which will include a participatory dialogue with the members on potential effects and impacts.

Reliable funding mechanisms for CSOs

Funding mechanisms for CSOs are in general reliable, transparent, easy to understand, and disbursed impartially. CSOs contribute to poverty alleviation and equitable development through community work, on-the-ground service delivery, capacity building, policy advocacy and lobbying. On the other hand, the ODA budget does not respond to emerging needs and to the international commitments. There is still low predictability and no long-term programme funding. In addition, due to the modest ODA budget and due to inappropriate appraisal criteria, even the approved projects get their budgets cut. This approach challenges the basic principles of effectiveness and accountability for results.

¹⁷⁷ FoRS, *Opinion poll: Czech citizens significantly support development cooperation and humanitarian aid, Press release (2014)*, <http://Internet.fors.cz/sdruzeni-fors/dokumenty/tiskove-zpravy/#.VF5-gdEtDIU> (only in Czech)

¹⁷⁸ FoRS, *Communication Compass for Development NGOs: Practical Tips and Suggestions for Quality and Effective Public Relations (2014)*, http://Internet.fors.cz/wp-content/uploads/2012/08/fors_manual_A5_Inter_net.pdf (only in Czech)

CSOs' policy and advocacy

Besides basic requirements on meeting the commitments on increasing ODA budget, FoRS requires more proportionate disbursement of financial resources for priority sectors of the Czech bilateral ODA, in particular, for education, good governance and civil society. Czech ODA should focus on sectors where the Czech Republic can use the added values and own transition experience. These sectors do not necessarily need to belong to the priority sectors of central governments or big international donors, but they are still essential for sustainable development. Many national strategies do not reflect the principle of democratic ownership and many do not reach the most vulnerable communities and actors. Educational, social and infrastructure projects implemented with the co-operation of various actors should complement each other and enhance their impacts and sustainability. These joint approaches should be reflected in complex programming. However, in the education sector, the budget decreased from 1.12 million EUR in 2014 to 0.83 million EUR in 2015. Of the Czech bilateral ODA budget, 60% is allocated for the projects in the sectors of water and sanitation, agriculture and energy.¹⁷⁹

In order to increase effectiveness and contribution to poverty reduction and environmental sustainability, development CSOs have adopted their own commitments in the Istanbul Principles, with special emphasis on democratic participation, human rights-based approaches and gender equality. FoRS approved its Code on Effectiveness in 2011 and continues its monitoring initiatives through annual self-assessment and peer reviews. The self-assessments have continually revealed two strongest areas: 1) respect for human rights and gender equality and 2) transparency and accountability. On the contrary, the weakest area has been accountability for impacts and their sustainability, concretely, a proper assessment of impacts. FoRS addresses these gaps through targeted capacity building activities.

At European level, a peer-learning system for sharing experience and best practices among national CSO platforms has begun.

Conclusions

Despite a number of positive achievements in Czech development cooperation over the past years, challenges remain in the areas of development effectiveness and the promotion of more equitable and inclusive partnerships of CSOs and other development actors. Key successes, challenges and lessons learned are summarised below.

Successes/Achievements

- Enactment of the Law on International Development Cooperation and Humanitarian Aid and the Czech ODA Strategy 2010-2017 which highlights the key principles of sustainable development
- Establishment of the Czech Development Agency and the Council for International Development Cooperation (and engagement of FoRS)
- System of development evaluations (with some areas to be still improved)
- Relatively high and stable public support for development cooperation and humanitarian aid
- An intention to access IATI in 2015 (FoRS will urge the MFA to fulfil this promise)
- Engagement of FoRS in national, European and global strategic discussions on development effectiveness; increasing engagement of the private sector in policy dialogue

¹⁷⁹ FoRS position to the Plan of Czech ODA for 2015 and for a mid-term outlook till 2017 (2014) (only in Czech)

- Code on Effectiveness adopted by FoRS in 2011, with practical monitoring mechanisms including self-assessment and peer reviews

Challenges

- Recognition of CSOs as development actors in their own right is quite good at the political level, but practical instruments and means of implementation are still missing and CSOs are still required to follow governmental priorities. ODA is still endangered due to the short-term political and economic interests.
- Lack of policy documents reflecting the Accra, Busan and Mexico commitments on increasing development effectiveness; absence of commitments on policy coherence for development. There are no stated commitments of the private sector either
- Limited budget for ODA and no plan to reach the related international commitments;¹⁸⁰ however, a policy debate on increasing the ODA budget has just started.
- Relatively good access of CSOs to policy engagement is hindered by limited knowledge, the lack of internal capacity and financial constraints, including modest budget and low predictability of funding (e.g. core funding or mid-term framework agreements are still missing among ODA modalities). CSOs have to nurture the capacity to organise among themselves and lobby for concrete policy changes. The mechanism for internal consultations must be strengthened in order to increase ownership and build wide consensus on joint positions.
- Further improvements of the evaluation system are needed, with a focus on Theory of Change, on systematic assessment of cross-cutting principles (good governance, human rights and gender equality and environmental protection), and on the use of evaluation results.
- There is space for political dialogue but its impacts are limited due to low political support for ODA. The European Year for Development 2015 is an opportunity to increase awareness and engagement of various stakeholders, including the private sector, on ODA issues.

Lessons Learned

- FoRS members are still in the process of learning appropriate ways to enhance development effectiveness in practice. Ways forward need to be built on the basis of an open and fair relationship, peer-learning, willingness to improve, and sufficient capacities, resources and time. Knowledge exchange with other CSOs, platforms and bodies such as CPDE has been essential.
- CSOs must engage actively in global policy debates—presenting their political messages with a realistic understanding of the limits of these engagements, and buttressing their demands with their own commitments to development effectiveness

¹⁸⁰ Despite the resumption of economic growth, total ODA/GNI ratio fell back to 0.11% in 2013 – the lowest percentage since 2007 (ODA budget stagnates in spite of the commitment of 0.33% ODA/GNI by 2015); multilateral aid amounted to 73% of total aid and consisted mainly of mandatory contributions (e.g. to the EU budget and the European Development Fund), instead of bilateral and triangular projects and programs; the share of bilateral aid to Least Developed Countries is decreasing.

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Ecuador

Summary

Historically, Ecuador has been a country with a rich civil society and citizen participation that has been characterised by a culture of participation. Many factors could help explain this. It is a country with—like many countries in Latin America—relatively weak states; therefore, communities have looked for other mechanisms to solve collective problems. Essentially, Ecuador is one of the Latin American countries with the greatest density of civil society organisations.

The Ecuadorian civil society sector has had a long history, very dynamic and creative, in the sense that it has proposed ideas and new knowledge, often on the frontier of important debates. In the last 20 years, civil society organisations had provided several of the proposals for reform and institutional changes that were reached in Ecuador's new 2008 Constitution of Montecristi. Civil society organisations generated and constructed the social base for new ideas so that today Ecuador has rights for nature and is very progressive in the realm of other rights such as rights for women and rights to political participation.

CSOs in Ecuador over the last decade have gained a more vocal role, demanding not only greater accountability and transparency from the state, but also greater opportunities to engage in public policy-making and in the monitoring of state actions. Today, Ecuador has an active and diverse civil society. It is composed of NGOs, foundations, think tanks, private and public sector unions; professional, business and neighbourhood associations; women's, indigenous and Afro-Ecuadorian organisations and a plethora of informal organisations, including, for example, church groups, sports clubs and youth groups.

Introduction

This paper gives an overview of the legal and regulatory framework and the political, governance, socio-cultural and socio-economic context in Ecuador with regards to CSO enabling environment. Finally, this report examines the state of development cooperation in Ecuador.

Civil Society Enabling Environment in Ecuador

Legal and Regulatory Framework

In Ecuador, the hierarchy of laws is made up of: the political constitution of the republic, international treaties and accords, organic laws, ordinary laws, regulations, decrees, agreements and resolutions.

From when Ecuador was established as a republic till 2007, the country has had 20 constitutional charters and each one has been a manifestation of global trends and government in power. However, with respect to CSOs, the most significant charter was undoubtedly the one of 1906 that ushered in new freedoms and profound reforms in the political life of the state.

The right of citizens to associate and form civic, non-profit associations is encoded in the constitution and the civil code, and in a number of different laws. These support organisation of civil society in various areas and of various interest groups, including children, youth, students, women, farmers, tourism professionals, lawyers, teachers and consumers. The constitution of Ecuador further guarantees the right to free assembly for peaceful purpose. Despite this, there are no organic laws in the Ecuadorian judicial system that refers to the civil society; to regulate it, rules have been enacted using executive decrees. These rules have classified the operations, orders and oversight of these organisations.

The Civil Code recognises three types of legal entities:

- Corporations and public benefits foundations: these are non-profits governed by the civil code and regulations. For them to become legal entities, they must be created

- through the passage of a law, or be approved by the president who delegated this authority to each minister of state, depending on the relevant area.
- Industrial legal entities: these are governed by the commerce law and the law of companies.
- Public law entities: these are governed by all current public laws and regulations.
- The registration process of CSOs is dispersed among different line ministries and between the national and local levels. While criteria for registering, monitoring, and closing CSOs are harmonised through an executive decree, the registration of CSOs is done with the relevant line ministry.

The 1998 Constitution defines the government as a 'participatory entity' and establishes the right of citizen participation in various areas beyond the electoral process. The 1998 Constitution further promotes citizen participation in the formulation of health and education policies; in planning; in policies directed to youth and children; in policies and programs aimed at indigenous peoples, Afro-Ecuadorians and women; and in agricultural, environmental and cultural policies. It firmly enshrines the right of citizens to participate in public consultations, in presenting bills to Congress, and in revoking elected mandates in cases of corruption.

The constitutional and legal framework in Ecuador provides a solid base for citizens to access public information. As previously stated, the current legislation is the result of a civil society and media campaign for legislation on access to information. However, while the constitution was largely the result of heavy social mobilisations, the legislation on access to information is the fruit of a collaborative effort between different non-governmental sectors and the congress to enhance citizen access to information. The constitution guarantees citizens' right to access information. In addition, two important laws, the Law of Fiscal Responsibility, Stabilization and Transparency and the Law of Transparency and Access to Public Information, further specify the state's obligation to share public information and citizens' right to demand and access it.

Governance

The 1997, social uprisings gave rise to important constitutional and legislative changes that formed the basis for the creation of new public bodies that would allow for greater civil society representation and participation in policy-making processes. These include the Civic Commission for the Control of Corruption, the Ombudsman, CONAMU (National Council for Women), CODENPE (Development Council for Nationalities and Populations) and CODAE.

The legal framework has also created a relatively enabling environment for innovative participatory experiences at the local level. Some municipalities have established participatory budgeting processes and some regional governments have initiated processes of participatory planning.

Diversity and Reach of the Citizen's Participatory System in Ecuador

With the passing of a new Political Constitution (PC) in 2008, participation in matters of public interest has been enhanced (PC, Art 95).¹⁸¹ The Citizens' Social Control and Participation Council or the CSCPC (PC, Art 207) was approved in 2010, giving a new mandate to the state to promote transparency in elections.¹⁸²

In 2010, the Organic Law of Citizens Participation (OLCP, 2010) deepens efforts to: "Promote, encourage and ensure the exercise of participation rights of the citizens, collectives,

¹⁸¹ "All citizens will participate, individually and collectively, in a leading role for decision making, planning, management of public matters and in the social control of State institutions and the society, its representatives in a continued process of common construction. It will be guided by the principles of equity, autonomy, public deliberation, respect for differences, popular control, solidarity and inter culturality.

¹⁸² The CSCPC will elect the following authorities: Peoples' Defender, Public Defender, Attorney General, Comptroller General and members of the National Electoral Council, Contentious Electoral Tribunal, Judiciary Council and any other needed to designate the members of other bodies of State according to the Constitution and national law. (Art 55 OLCP)

communities, peoples and indigenous nationalities, Afro-Ecuadorian peoples and Montubio, as well as legal organisations, to be main stakeholders in the decisions that correspond, the collective autonomous organisation and the permanence of public management that involves the participation of the people (Art 1, LOPC).” (Non-official translation)

Development Cooperation and CSOs in Ecuador

Development cooperation flows have been on a downward trajectory in recent years.

Trends in ODA to Ecuador

In terms of Official Development Assistance (ODA), the country receives a comparatively small amount of resources in the Andean sub-region, a little over Venezuela. According to the Development Aid Committee, ODA received in 2013 was reduced by almost 40% in comparison to 2007.

	2007	2008	2009	2010	2011	2012	2013	2013-2017
Total Donors	223,45	219,86	204,14	157,128	152,07	149,43	139,27	1245,51
AC countries	190,33	188,43	146,89	136,63	123,76	115,96	119,76	1021,76
Belgium	19,72	17,12	11,87	11,84	11,44	14,92	14,26	101,71
Germany	21,89	23,12	23,62	27,7	38,56	36,36	30,23	201,48
Korea	3,73	3,92	3,3	4,03	16,73	23,4	19,79	74,3
Spain	68,62	78,45	44,99	53,69	20,32	14,79	7,88	288,74
United States	46,02	49,05	54,67	34,24	34,35	27,12	26	271,45
Total Multilateral	32,81	31,14	56,92	29,24	27,59	32,7	19,24	220,64
EU Institutions	34,84	37,57	59,73	24,61	26,73	41,87	25,36	252,71
Interamerican Development Bank	-17,22	-19,59	-22,12	-18,26	-16,34	-22,52	-22,69	-138,54
No AC countries	0,32	0,29	0,33	0,41	0,72	0,77	0,27	3,11
B&M Gates Foundation	-	-	1,46	0,88	1,55	0,31	0,93	5,13
ODA per capita (USD)	15,23	15,89	14,09	10,47	10,42	9,65	9,39	-
ODA % GDP	0,44	0,38	0,34	0,24	0,21	0,18	0,17	-

Source: CPDEStat report consulted January 30, 2015

Table 1. Ecuador: Net ODA Flows 2007 - 2013 (USD millions of 2012)

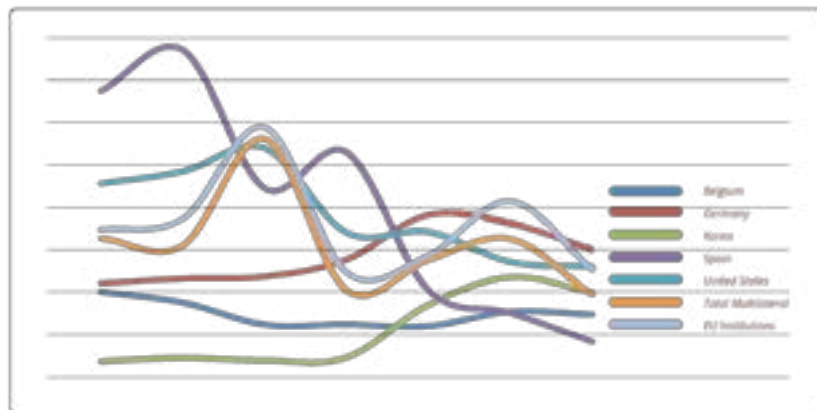


Illustration 1. DevCoop trends in Ecuador according to main donors. Source: CPDE (2015), own elaboration

EU institutions remain the main multilateral donors while bilateral cooperation has experienced significant decreases. Main donor partners in Ecuador during this last period have been Spain, the US, Germany, Belgium and Korea.

Reductions in Spanish ODA (from near 70 million USD to less than 8 between 2007 and 2013) can be explained by the internal situation of Spain. The global economic crisis and consequent cuts in global aid. Nevertheless there have been increases in ODA from Belgium and Korea, in the first case, in the area of education and in the second case, in areas of research, innovation and protection of national industries.

Relations with the United States, whose ODA has been cut by more than half during this period, were weakened given to disputes in the political field. The government of Ecuador has criticised in particular the behaviour of USAID on national territory and its partner organisations, accusing it of political interference against the national government (similar to situations in Bolivia and Venezuela). For some organisations, this represents an intolerant attitude on the part of the government, and for others it is seen as a legitimate action. In any case, this has impacted on the policies of the government.¹⁸³

The distribution of ODA, with data from the SETECI 2012 reflect that the main source of finance is bilateral with 81%, followed by multilateral aid constituting 13% in funds and 21.9% in projects. This shows that NGOs are the ones that assign the least per project (121,657 USD), compared to the multilateral (336.000 USD) and the bilateral (645.644 USD). See Illustration 2.

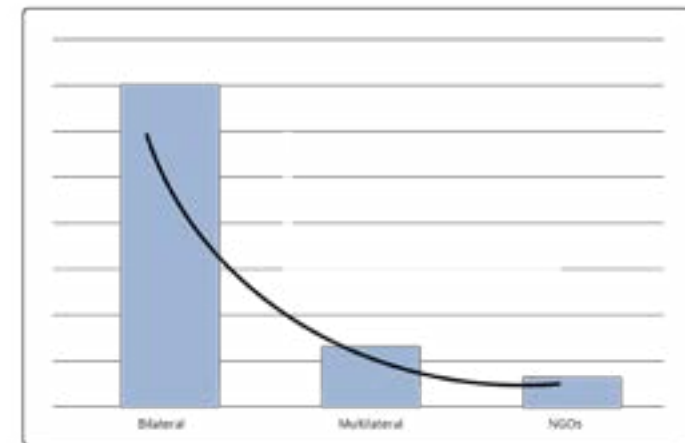


Illustration 2. Distribution of ODA in Ecuador by source of cooperation until 2012. Own source and elaboration: SETECI, 2014.

Out of the 5, 6% that come from ODA by NGO, almost half of the resources are executed by NGOs registered in the system of the SETECI (44, 6%) followed by local NGOs (27%) and the Central Government (21.6% through only one project). See Illustration 3.

¹⁸³ Some of the events that caused a tense relation between the governments of Ecuador and the US: The decision of not renewing the agreement on the US military base in Manta in 2009; the declaration of the US ambassador as persona non grata; the decision to grant Julian Assange asylum in Ecuador; and also in 2014 the retirement of anti-narcotics and the non-renewal of the Andean Trade Promotion and Drug Eradication (ATPDEA).

After a year of receiving a missive from the TSIC warning that the USAID could not start new activities or continue the ongoing ones as long as the framework agreement between the two countries weren't re-negotiated. When this processes failed, the US embassy announced in September 2014 that they would cease operations in Ecuador. You can find more information on this issue at <<http://spanish.ecuador.usembassy.gov/policy/usaid.html>>. You can also see declaration of TSIC's Director Gabriela Rosero: 'USAID cooperation is through intermediaries and is not sustainable' at <<http://Internet.eluniverso.com/noticias/2013/12/21/nota/1941916/gabriela-rosero-cooperacion-usaid-se-intermedia-no-es-sostenible>>.



Illustration 3, Distribution of international cooperation of NGO by type of executing entity until 2012

According to the assigned amounts, the NGOs concentrate their action in the modality of social development (39.1%), health (32%), environment (13%) and refugees (8%). See Illustration 4.

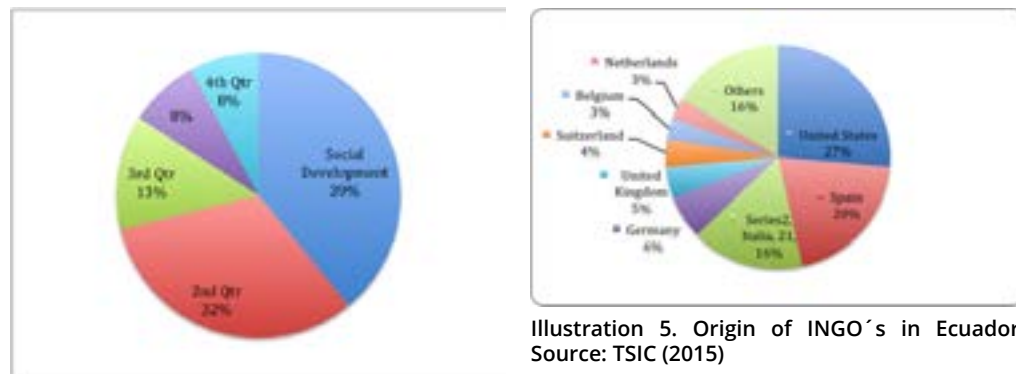


Illustration 5. Origin of INGO's in Ecuador. Source: TSIC (2015)

Illustration 4. Distribution of international cooperation of NGOs by sector of intervention until 2012.

As highlighted by Ayllón (2014), greater clarity is required since tensions exist over who should manage DevCoop (usually among the institutions in charge of planning, including the Department of Foreign Affairs and the Finance Ministry). There have been difficulties putting it all into practice.¹⁸⁵ (See: Molina, Toro and Celi¹⁸⁶, 2011)

In addition, there is no space for CSOs to work in with regard to DevCoop,¹⁸⁷ and ODA matters are usually restricted to INGOs (registry, follow up, monitoring and catchment in the information system) since this is under the jurisdiction of the SETECI under the current model (Decree 812),¹⁸⁷ and policies tend to follow along donor models.

¹⁸⁴ Carlos Arcos. (2001). *Ecuador: Cooperation for development. A decade balance*. Quito: AbyaYala: AbyaYala; Bruno Ayllón. (2014) *Citizens' Revolution and Well Living: challenges of South-South cooperation in Ecuador*. Amawta. Research Seminars. Quito: IAEN. pgs 75-106; NSDP: available at: Internet.NSDP.gob.ec

¹⁸⁵ For example, during negotiations in 2014 with the German Government, the agenda was led by the Strategic Insertion Coordination of the NSDP and the TSIC had a more technical role. A controversy was generated when German parliament members intended to visit the country to verify the use of funds intended for environment. This was rejected by the Ecuadorian government who even said through the Foreign Affairs Ministry that the money of IC would be given back in this field if that was the case.

Year	Planning Institution	IC Management Model
1988-2000	The first Ecuadorian Agency of Foreign Aid (AGECI) is created.	Assigned to the Finance Ministry. Broad functions of the IC and non-refundable economic assistance.
2000	The AGECI is eliminated. The Advisory Council on Foreign Aid is established and the Ecuadorian Institute for Foreign Aid (INCEA) is created.	The technical cooperation system is re-structured to calibrate demand and offer and strengthen capacities of management in national entities. The advisory council has the faculty to create funds from non-refundable resources for projects. The governmental and non-governmental assistance were among its competencies. It could guide NGO actions. There was no participation of CSO, DAG or private sector in this body. Participants were: Presidency, Ministries (Economy and Finance, Social Care, Tourism), National Council of Modernization (CONAM) in Spanish and the National Planning Office (CONAPLAN). Exclusive competency of the executive power. It depended on the Foreign Affairs Ministry.
2004-2007	In 2004, NSDP is created.	In 2001, the National Secretariat for the Development Goals and the CONAM are fused to NSDP.
2007	The Ecuadorian Agency for International Cooperation (AGECI) is created. The Ecuadorian system for International Cooperation (SECI) is created. The International Cooperation Board (COIC) is created.	The INCEI is suppressed and the AGECI is assigned to NSDP. The AGECI is the technical and executor entity for the IC. Management of activities related to IC, includes NGO, DAG and stakeholders related to foreign or non-refundable funding. SECI leads and approves policies related to IC. Members are NSDP, Foreign Affairs Ministry, Social Development, Coordination Ministry and DAG.
2010	Technical Secretariat for International Cooperation (TSIC). The COIC is eliminated and the Committee for International Cooperation (COIC) is created.	Competencies are shifted from the AGECI to NSDP, currently the Ministry of Foreign Affairs and Human Mobility (MAREM). There's no direct participation of the CSO.
2011	Decree #11 (July 5, 2011)	TSIC regulates the actions of foreign NGOs.
2013	Decree 18 Resolution 16057500	Regulation of foreign NGOs based on SUKOSC. New guidelines to be subscribed with NGOs.
2014	IC Public Policy	It incorporates three goals to the Foreign Affairs Ministry: 1) that 50% of the IC is complementary to national priorities; 2) increase by 70% the number of CSO projects; 3) increase to 55 the points of efficiency of the IC at local level. There's a focus on the change of the productive matrix.

Source: Arcos (2001), NSDP (2013), Ayllón (2014) Own elaboration

One final and crucial point is the relation between CSOs and DevCoop since the Organic Law of Citizens Participation (OLCP) establishes, in Article 8 on citizens' participation in international affairs, the possibility of calling for a referendum in the case of international treaties, as well as the freedom to call for legal solutions considering the origin of the external debt which should be subject to principles of transparency, equity and international justice.

Conclusion

The report addresses socio-economic progress in Ecuador during the past few years that are connected to current government policies and the leadership of President Correa. Poverty reduction is evident, including political stability, as well as improvements in infrastructure, all of which have ensured popular support for the current administration. Similarly, the government has opened up more channels for public participation, along the spirit of the 2008 Constitution, which aims to deepen democracy in recognition of, and in harmony with, the country's ethnic, political, and cultural diversity.

There are several positions shared in this document such as those from governmental institutions that affirm that what is needed is the recovery of the role of the state in planning and social balance, the centrality of human beings over business and the overturning of neoliberal policies that have negatively impacted on Latin America for decades.

On the other hand, CSOs continue to pressure the government and hold it to account for its weaknesses.

The slowness of some institutions to enhance spaces for public participation and to solve critical knots that are a legacy of the past should also be noted. There is, in this context, a need to truly deepen democracy.

¹⁸⁴ Camilo Molina, Ana Toro and Carla Celi (2011). *Between the citizen revolution and the difficulties for civil society: Shadow Report*. Manila: Reality of Aid.

¹⁸⁵ It is worth mentioning that CSOs were called to attend thematic round tables and a follow up committee of effectiveness in the country but it reduced its phase, and there are expectations to re-activate it. On its side, the Foreign Affairs Ministry has called CSOs to become involved in UNASUR, although it hasn't had enough impact.

While the legal framework for citizen participation and access to information has significantly improved in recent years, particularly with the approval of the Law of Transparency and Access to Public Information, a number of supply-side factors continue to pose challenges for effective civil society engagement. The capacity of the public sector to generate and disseminate information to citizens remains insufficient, and a weak culture of transparency and accountability continues to plague the public sector.

- CSOs should enhance governance and internal accountability systems to systematically subscribe to codes of conduct, employ external and independent evaluations, financial audits and other measures to enhance transparency and access to information on organisational finances (including sources of funding) and programs.
- Document good-practice examples of CSO systems of internal accountability, transparency and access to information, and make these accessible on the web.
- Form a CSO-monitoring mechanism to ensure CSO accountability and transparency.

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¹⁸⁶ Camilo Molina, Ana Toro and Carla Celi (2011). *Between the citizen revolution and the difficulties for civil society: Shadow Report. Manila: Reality of Aid.*

¹⁸⁷ It is worth mentioning that CSOs were called to attend thematic round tables and a follow up committee of effectiveness in the country but it reduced its phase, and there are expectations to re-activate it. On its side, the Foreign Affairs Ministry has called CSOs to become involved in UNASUR, although it hasn't had enough impact.

¹⁸⁸ The last modifications were given by Executive Decree 16 of 2013. For this purpose, the TSCI modified its registry process and updated the projects form in 2013 and 2014. Currently INGOs are requested to register with the following information: 1.) Their annual operational plan, 2.) Projects form, 3.) Report on the level of execution and evaluation of executed programs in Ecuador, 4.) Data update form, and 5.) Form of volunteers and experts. This is a requirement for the devolution of VAT valid in the country for NGOs.

Germany

Summary

In 2011, the Fourth High-Level Forum on Aid Effectiveness in Busan (HLF4) broadened discussions around aid and development effectiveness and significantly enhanced the role of civil society in this context. The present report takes into account the various contexts in which CSOs operate with regard to both Germany's external development cooperation work and to the enabling environment for civil society domestically. Moreover, it gives an overview on the approaches of German CSOs with regard to promoting their own CSO development effectiveness.

The report shows that, while departing from a good starting position, there is considerable room for improvement for Germany's contributions to development effectiveness. This is true not only on the part of the German government, which needs to comply with its international commitments on development quantity and quality, but also for German CSOs. Civil society organisations in Germany operate with considerable freedom, both with regard to their policy engagement and funding mechanisms. Yet, within the area of co-financing, government policies have increasingly restricted the independence of CSOs and challenged their capacity to contribute to development effectiveness.

Introduction

The HLF4 in Busan shifted international discussions from aid to a more holistic approach rooted in development effectiveness. This included widening the view from a narrow and more technical perspective on development assistance toward the broader context of development and, correspondingly, to a broader spectrum of actors. In this context, civil society, whose own principles for effective development were recognised for the first time in Busan, had an important role to play.

In Germany, organisations that focus largely on development policy account for roughly 5% of all civil society organisations, but belong to the sector with the highest growth rates. However, three quarters of these organisations operate on a volunteer basis. Even the organisations with paid staff usually only have a small number of employees. Research counts a total of roughly 42,000 organisations that are active in the field of development policy (Krimmer, 2013b). CSOs operate in an environment comparatively favourable to development effectiveness: Germany is the third-largest OECD DAC donor and has actively participated in the development effectiveness process since it began in 2003. However, the level of engagement varied with shifts in political leadership and significant challenges remain with regard to meeting Germany's international commitments on ODA as well as the Busan targets on development effectiveness.

The present report gives an overview on the state of development cooperation in Germany as well as on the environment in which German CSOs operate. It pays special attention to their access to political decision-making processes and to public co-funding instruments that have impacts on the capacity of CSOs to act as development actors in their own right. Finally it also covers the contribution of German CSOs to development effectiveness.

The report pays special attention to the member organisations of the Association of German Development and Humanitarian Aid NGOs (VENRO), which together turn over 1.3 billion EUR in annual revenues and predominantly employ paid staff (as of 2009, VENRO 2011b: 4). VENRO, founded in 1995, has about 120 member organisations and is the most important interest group of NGOs focused on development policy in Germany. Its members are active in private and church-based development cooperation, humanitarian aid as well as development education, public relations and advocacy.

German Development Cooperation

Contributing 14.1 billion USD in 2013, Germany is the third-largest OECD DAC donor and allocates 0.38 per cent of its gross national income (GNI) to development cooperation (OECD 2014: 305). This is a clear shortfall of its commitments to raise the ODA-budget to 0.7%, according to the EU timetable for ODA growth. The passing of the budget for the year 2015 removed any remaining doubts that the German government will miss the target of allocating 0.7 % of the GNI to development cooperation by 2015.

ODA funds are disbursed mainly by the Federal Ministry for Economic Cooperation and Development (BMZ), but also by the Foreign Office (AA), the Ministry for the Environment and the Ministry of Education, as well as by federal states and municipalities. While the BMZ has the lead role in development policy and controls the largest share of the funds (60%), the AA is responsible for humanitarian aid (9% of the funds) (BMZ, 2014a).

Combating poverty and hunger in German partner countries as well as the promotion of democracy and the rule of law are the overarching goals of German development politics (Coalition Agreement, 2013). The current Minister for Economic Cooperation and Development, Dr. Gerd Müller (CSU), took office in December 2013. He precedes Dirk Niebel whose liberal party failed to be re-elected to parliament in October 2013.

The political priorities set by Müller are food security and rural development, combating causes of displacement, as well as stabilisation and development in North Africa and the Middle East. Müller also emphasises the need for binding international environmental and social standards within the textile industry. In October 2014, he launched an alliance of industry associations, importers and NGOs to press for a more socially responsible and ecologically sustainable clothing supply chain. However, the alliance works on a voluntary basis and has been criticised for failing to integrate key industrial players. Other aspects Müller wants to take forward are climate and sustainability policies, as well as the post-2015 agenda.

While the former government emphasised private sector development as the best development strategy, Müller points out the need for a market economy based on ecological and social principles. NGOs in Germany welcome the political priorities set by Müller, although they see a risk that German development policy may focus too narrowly on individual projects and initiatives, thereby neglecting Germany's key role in global political decision-making, such as in the upcoming post-2015 or financing for development negotiations (CONCORD, 2014).

Implementation of the Development Effectiveness Agenda

The German government, represented by the BMZ, has actively participated in the debate on the effectiveness of development cooperation since the Aid Effectiveness process was launched in 2003. In 2005, it was the first donor to put in place a plan of operations for implementing the Paris Declaration on Aid Effectiveness, which was updated in 2009 after extensive consultations with civil society organisations. However, the level of engagement in this area varied with the political leadership of the ministry, and a plan of operations for implementing the Busan commitments is still due to be worked out. Under the leadership of Minister Dirk Niebel (FDP, 2009-2013), a national process was placed at the centre of German efforts toward more effective development co-operation, namely the merger of three German implementing organisations tasked with the technical development cooperation (German Technical Cooperation, or GTZ, German Development Service, or DED, and Inwent) to the newly-formed aid agency Gesellschaft für Internationale Zusammenarbeit (GIZ). The merger was long overdue but has been criticised for failing to integrate the German implementing agency tasked with the financial cooperation, namely the KfW Development Bank. At the same time, Niebel argued that more effective development cooperation would obviate the need for providing more ODA funds and meeting the 0.7% target (BMZ, 2013). The current leadership under Minister Dr. Gerd Müller so far has not defined any priorities in the effectiveness agenda. Some tentative conclusions about the

future policy of the German government can be drawn from the German Position for the 'Post-2015 Agenda for Sustainable Development,' which reinforce the principles of transparency and accountability, good governance and rule of law, political participation and strengthening of civil society, as well as equal rights and the principle of non-discrimination (Bundesregierung, 2014).

BOX 1: Busan principles for effective development

The Busan Outcome Document identifies four principles as prerequisites for effective development, which are to be applied to all development actors:

- Ownership of development priorities by developing countries
- Focus on results
- Development partnerships inclusive of all actors
- Transparency and accountability also towards the intended beneficiaries, citizens and other development actors

Source: Busan Partnership for Effective Development Cooperation (2011)

The Global Monitoring Report on the implementation of the Busan commitments, compiled by the OECD and UNDP in 2014, shows that Germany is near the donor average in the implementation of most of the targets in the effectiveness agenda. The German government, like most donors, is therefore falling well short of the targets for 2015 (OECD/UNDP 2014).

Yet some progress has been achieved within the area of transparency. Since 2013, Germany has been reporting its ODA disbursements and development programmes in accordance with standards set by the International Aid Transparency Initiative (IATI). However, so far, the reporting only covers 37% of German ODA and accordingly falls short of the IATI standards (Publish What You Fund, 2014). This is partly due to the fact that the AA is not taking part in the reporting and is 61st among the 68 donors in the Aid Transparency Index of the civil society initiative Publish What You Fund (Publish What You Fund, 2014). The BMZ, with its implementing organisations German Agency for International Cooperation (GIZ) and KfW Development Bank (KfW), ranks 17th and 20th respectively. The schedule for further implementation of the IATI standards is viewed as only moderately ambitious by PWYF.

With respect to the implementation of other indicators for measuring progress of the Busan Partnership, such as the predictability of payments, German development cooperation is slightly ahead of the donor average. For instance, 87% of ODA funds were disbursed as planned. However, in implementing the indicator 'Aid on Budget,' which measures the proportion of ODA that make up the national budgets of partner countries and are thus subject to parliamentary control, German cooperation lies well under the target of 85% with 48% (OECD/UNDP 2014: 134-136). This relates to the traditionally high proportion of technical cooperation in German development cooperation. Unlike financial cooperation, it is based mainly on consultancies carried out by international experts which, as a result, counter-acts the goal of increased ownership of partner countries as it does not use country's own administrative systems to deliver aid.

Beyond the quantity and quality of German development cooperation, policy coherence for development remains a crucial challenge for German politics. According to the Commitment to Development Index, by which the Centre for Global Development regularly measures to what extent the 27 richest countries of the world help poor countries with their development policies, Germany ranks 13th place and is thus in the middle of the field (Centre for Global Development, 2014). Germany's mediocre showing is due not only to the level and quality of ODA payments, but above all to its political conduct in other policy fields, for instance, the insufficient German commitment to regulate the financial markets, high agricultural subsidies for German farmers and German arms exports to poor and undemocratic governments. There is therefore a clear need to develop further awareness and expertise in development issues throughout German

ministries, combined with a clear structure to monitor how policy coherence for development is embedded within other policy areas.

Enabling Environment for German CSOs

Advocacy work and access to decision making processes

Civil society organisations are recognised as a mainstay of development cooperation in Germany (BMZ, 2014b: 5). Their involvement in development policy processes is comprehensive and, in particular with the BMZ, there are fixed dialogue formats on a wide range of development policy issues. These include regular conversations from the working level up to Minister Dr. Gerd Müller himself. There is also a regular exchange with other ministries, such as the Foreign Office, the Ministry for the Environment and the Ministry of Finance, as well as the Chancellery.

However, such dialogues have not been consistent and need to be formally institutionalised.

The relatively good access to political decision-making processes also manifests in dialogue with parliamentarians. For instance, a survey among members of the German Bundestag carried out by VENRO in 2011 found that more than 70% of the respondents regarded the activities and contacts to NGOs as important or very important for their work (VENRO, 2011a:16).

BOX 2: The Charter for the Future

A current example of broad participation of civil society in development policy processes is afforded by the drafting of the Charter for the Future. According to the ministry, the charter is meant to 'identify topics that move Germany.' In a process initiated by the BMZ, 'the voices and opinions of active and engaged citizens, the churches, as well as NGOs and associations that deal with development issues' are meant to 'contribute to the process of designing sustainable development goals' (BMZ 2014d). Between April and September 2014, interested organisations and individuals had the opportunity to participate in an online forum, as well as attend five thematic forums on the economic, ecological, social, political and cultural dimensions of sustainability. VENRO and its member organisations participated actively in this dialogue process. The result is the Charter for the Future, which minister Müller presented to the Chancellor on November 24. Although the process of drafting the paper has been assessed positively by German NGOs, the implementation of the goals formulated therein is as yet unclear. As this is a product of the BMZ, its implementation by other ministries is particularly doubtful. There are also no plans for incorporating the content into the German negotiating position on the post-2015 agenda.

Source: Internet.zukunftscharta.de

Political dialogue with different intensity

In 2013, VENRO conducted a qualitative survey of political decision-makers, in connection with the mid-term review of its strategy, showed that the association is regarded as an influential actor in professional development policy circles. However, outside of the development policy circles, the influence of NGOs on policy-making appears to be far more limited. In the election year 2013, despite the political efforts of many development and humanitarian aid organisations, development policy positions rarely made it into the election platforms of the big parties (VENRO, 2013b), and the ensuing coalition negotiations were also dominated by domestic issues.

Although civil society organisations are an integral part of German development politics, their access to decision-making processes in other policy areas is much more limited. The limited influence of the BMZ within the federal cabinet and the insufficient consideration of the concerns of developing countries by the other ministries pose a central challenge to civil society actors in improving the coherence of German policies.

Co-financing and access to public funding

According to the OECD DAC, 6% of German ODA is allocated to NGOs (OECD, 2011: 57). A large part of this goes to churches and political foundations connected to major political parties. Within the BMZ budget, there are various funding sources for civil society. In the federal budget 2015 of the BMZ, they include about 775 million EUR and thus make up just fewer than 12% of the budget (BMZ 2014e). For the most part, these funds go to programmes abroad, mainly channelled via German NGOs, with an additional 11 million EUR per year going to development education in Germany. Funds of the BMZ are only given through project and programme applications, and long-term institutional funding or support is not possible.

On average, 50% of the revenues of development NGOs in Germany are donations or private funds (Krimmer/Weitemeyer, 2014:61). Public funding of NGOs is often complemented by a share of 25% contributed by the NGO itself in order to ensure ownership of the projects. In recent years, the absolute funds for NGOs have increased in proportion to the development of the BMZ budget, and in particular the programmes Private Träger (Private Providers) and Förderung Entwicklungspolitischer Bildung (Funding Development Education) benefited from funding increases, albeit on a relatively low level. Since 2012, Engagement Global, a non-profit company owned by the BMZ, has been tasked with advising and processing NGO funding.

Governmental control of civil society activities

The BMZ emphasises the independence of NGOs and their affinity to underprivileged population groups as two of their main strengths (BMZ, 2014c). Nevertheless, the federal government has increasingly attempted to control civil society activities in recent years. For instance, within the programme Private Träger, which is an important instrument in the overall confusing funding system, funds are provided exclusively for thematic and regional priorities laid down by the BMZ and awarded to NGOs under special funding conditions. In the past legislative session, this led to serious controversies between NGOs and the BMZ. The NRO-Fazilität Afghanistan (NGO Facility Afghanistan) was a particularly controversial case. Within this line of funding, the Minister ordered to provide funds only to organisations that committed to aligning their projects with the political and military goals of the German government in Afghanistan. This sparked broad resistance among civil society organisations, with the result that significant departures from the funding requirements were implemented in practice.

Although the political priorities of the current government (cf. Section 2) cover topics which correspond to some of the main subject areas of NGO work and are thus less controversial than the NRO-Fazilität Afghanistan, the fact that the BMZ thematically and regionally integrates civil society organisations into its development policy strategies carries significant risks for the work of NGOs. To the extent that German NGOs increasingly align themselves with the political strategies of their donors, they risk moving away from the interests of their target groups. The comparative advantages of civil society development cooperation, which include cooperation with local partner organisations and joint identification of project proposals, are thereby lost.

At worst, NGOs become service providers of official development cooperation. In recent years, the risk of German NGOs being instrumentalised in the official development cooperation is all the more real since projects that will be funded within the framework of the so called 'special initiatives' are to prove their progress based on fixed standard indicators, allowing the BMZ more room to directly influence the goals and contents of projects it finances (cf. Section 4).

Another gap in the German co-funding structure lies in the fact that, although forming alliances, representing interests and finding common positions for political processes are central functions of an active and critical civil society, there are no public funding options for these areas of work for development NGOs in Germany.

The central challenge for German organisations with respect to the co-financing of their work lies in defending their independence vis-à-vis their donors. Further, reforming the funding

system, e.g. within the BMZ, should provide funding support for the formation of independent civil society networks.

CSO Development Effectiveness

German Development NGOs organise among themselves to advocate for policy changes and develop further the quality of their work through the exchange of information and best practices. They have joined together within VENRO with the aim of strengthening their contribution to more 'Justice in One World' (VENRO, 2009). The current strategy of VENRO (adopted in 2010 and valid until 2016) includes, among others, the need to strengthen VENRO's role in influencing German positions on the post-2015 agenda, to influence political decision-making processes, to promote quality standards and to contribute to the abolition of structural disadvantages and discrimination (VENRO, 2011).

Through various working groups, NGOs in Germany advocate for policy changes in the areas of gender equity, child protection, economic inclusion, social security and climate protection. One example of influencing decision-making processes relevant in the context of development effectiveness is the new BMZ gender strategy in which the VENRO gender working group successfully advocated for highlighting the topic of sexual and reproductive rights (BMZ, 2014f). The VENRO working group on disability (BMZ, 2013a) also intervened in the BMZ strategy for the inclusion of people with disabilities, and highlighted the need to take up the issues of displaced peoples and the participation of people with disabilities within German voluntary services.

Currently, the post-2015 agenda negotiations have been a major focus of VENRO's advocacy work. Together with coalitions of environmental and human rights NGOs, VENRO has organised several conferences to develop common positions on the post-2015 agenda and brought these into dialogues with the German government. Several of these positions are reflected in the official position on the post-2015 agenda which the government published in 2014, such as the principle of universality, the multi-stakeholder approach and the promotion of sustainable production and consumption patterns worldwide (Bundesregierung, 2014).

Besides these lobbying efforts, campaigning is an important instrument of German NGOs to advocate for political commitment to end poverty. Since 2013, one focus of the NGO-campaign 'Global Call for Action against Poverty' is to mobilise for decent work worldwide. Ahead of the elections in 2013, it motivated 246 candidates in parliament to support NGO demands such as enshrining core labour standards within international trade agreements or making legal provisions on transparency and accountability for enterprises. Building on this initiative, a manifest with concrete demands to implement decent work worldwide was supported by 197 parliamentarians after the German parliament took office in October 2013 (VENRO, 2014a).

NGOs have also developed several codes of conduct that form important tools to take forward accountability among German CSOs on their own development effectiveness. Best practice examples are:

- Code for development-related public relations work (1998)
- Code of conduct on transparency, good governance and control (2008)
- Code on children's rights (2009)

The codes contain guidelines for aligning CSOs' work with standards developed among the organisations themselves, and they are binding for all organisations that are members of VENRO. While VENRO can verify adherence to the standards only in individual cases, the process of drafting the codes and the accompanying discussions within the association have sparked a positive dynamic among member organisations. A majority of the members who took part in an electronic survey about the code of conduct on transparency, good governance and control in 2013 stated that they implement a large part of its standards (VENRO, 2013c).

With more than 100 standards on good governance, communication, sound management and impact monitoring, the code of conduct is quite comprehensive. However, small organisations in particular often lack the capacity required to comply with the standards it sets. A survey from 2012 shows that implementation processes within the organisations are also on-going with respect to the code on children's rights (VENRO, 2012), although here, too, a number of organisations are in need of support.

In addition, several VENRO working groups are currently drafting common principles on CSO development effectiveness that are meant to provide orientation for good project work abroad. The principles in their current form originate from an on-going discussion about co-financing with the BMZ and comprise areas such as independence and pluralism of NGOs (VENRO, 2013d: 2). They are to be supplemented by criteria such as gender equality, inclusion of people with disabilities and children's rights, and the content is to be coordinated with further quality standards.

Linkage with international debates

While the discussions among German NGOs on what characterises CSO development effectiveness and how it can be improved are growing, they have been relatively isolated from international debates until now. For instance, in a non-representative poll among employees of association members, only 12% of respondents stated that they work with the Istanbul Principles on CSO Development Effectiveness, while 42% have at least heard of them. However, a significant proportion of respondents (44%) stated that they have not heard of the Istanbul Principles at all (VENRO, 2014). This is particularly remarkable in that the topics of the Istanbul Principles (cf. Box 3) are part of the work of German NGOs and play an important role both in their political work in Germany and in their project work abroad. Integrating the Istanbul Principles into the work of German NGOs could make these approaches more systematic and provide them with additional legitimacy by linking them to international debates.

Box 3: Istanbul Principles for CSO Development Effectiveness

Civil society organisations are effective as development actors if they:

1. Respect and promote human rights and social justice
2. Embody gender equality and equity while promoting women's and girls' rights
3. Focus on people's empowerment, democratic ownership and participation
4. Promote environmental sustainability
5. Practice transparency and accountability
6. Pursue equitable partnerships and solidarity
7. Create and share knowledge and commit to mutual learning
8. Commit to realising positive sustainable change

Source: Internet.csopartnership.org

Impact orientation in NGO work

In the context of CSO development effectiveness, the question of impacts plays an important role. German NGOs organise themselves within the VENRO working group on impact monitoring and connect with other actors within the DeGEval - Gesellschaft für Evaluation (Evaluation Society) to take impact orientation of their own work forward. In a position paper from 2010, they argue for using impact orientation mainly as a tool of empowerment and participation of local target groups (VENRO, 2010a). This assumes that impact monitoring does not primarily serve for reporting to donors, and rather NGOs apply their own instruments that match their principles, goals and capacities.

Related to this, the project NGO Ideas is an excellent example in which corresponding instruments for impact monitoring are being developed together with German NGOs and local partners (Internet.ngo-ideas.net). This is in the context of civil society actors taking a more

critical stance toward current discussions within the BMZ about introducing standard indicators across projects and programmes in the framework of the special initiatives (VENRO, 2015). Such indicators, which are to be collected in a standardised manner in all funded projects, would result in the BMZ exerting increased control over civil society projects.

Conclusion

The present report shows that conditions in Germany are comparatively favourable for development effectiveness. Germany is one of the world's largest donors and has shown significant engagement within the development effectiveness process. There is a broad range of civil society organisations active in the field of development politics that have considerable freedom to act and contribute to development effectiveness through lobbying for concrete policy changes, as well as project work abroad.

Nevertheless, significant challenges remain that restrict Germany's contribution to development effectiveness:

- Germany is off track to meet its target of allocating 0.7% of its GNI to development co-operation by 2015, and the passing of the budget for the year 2015 removed any remaining doubts that the German government will fail to deliver on its commitments for ODA growth. The German government should increase annual aid to 0.7% of GNI by 2017 and agree to deliver climate finance additional to the 0.7% target.
- Germany falls short of many of the Busan targets for development effectiveness and needs a firm political commitment towards better development cooperation. The German government should work out a plan of operations for implementing the Busan commitments that includes a clear monitoring framework and allows civil society to hold the government to account for delivering on its aid effectiveness commitments.
- The German government should put in place a clear structure to monitor how development issues are embedded within other policy areas in order to increase policy coherence for development in German politics.
- In order to promote an enabling environment for civil society in Germany, it is crucial to maintain the independence of German NGOs. The BMZ should therefore respect their right of initiative throughout their funding structure and resist the temptation of imposing its own development priorities on German civil society.
- German NGOs need to both develop further their own principles and standards for development effectiveness and advocate for policy changes in the political priorities of the German government. To couple their debates more strongly to the international discussion processes on CSO development effectiveness would help to promote the Istanbul Principles as one important cornerstone of CSO development effectiveness in Germany.

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Guatemala

Summary

Guatemalan civil society is today a reflection of the confluence of a number of historical factors, including 36 years of internal armed conflict (1960-1996), as well as major political restructuring after the signing of the Peace Accords (CIVICUS, 2011).

The process of democratisation has not been easy. However, civil society organisations have sought different mechanisms to get their voices heard and participate actively in national development. This has involved working together as a sector at the national and global levels.

Yet despite the Busan agreements (2011), progress on the work of CSOs as independent development actors has been limited, according to the Alliance of Civil Society Organizations for Development Effectiveness (AODE). As demonstrated through this case study on the political, legal, economic and socio-cultural contexts in which CSOs work in Guatemala, the reduction of space and voice for CSOs in political life in the country has been alarming and is in contradiction to rhetoric heard at the international level.

Therefore, Guatemalan CSOs should increase their efforts to push for greater and more meaningful engagement in all political and development processes, with well-defined responsibilities for all stakeholders at national, regional and global levels.

Introduction

Guatemala is a society of contradictions—one shaped by its complex history as one of the most unequal and war-torn countries in the world. The Peace Accords, signed in 1996, raised expectations and offered hope in the possibilities promised by the reconstruction of the country's institutions. Eighteen years later, millions of Guatemala's indigenous and rural poor look on in frustration at how the same causes that led to the armed conflict are far from disappearing and have, in fact, worsened through the years. Guatemala today remains one of the most violent countries in the world, a situation compounded by the growing gap between rich and poor.

It is in this context that CSOs expected a 'fertile ground' for their work, but the government is yet to recognise them as partners in development. On the contrary, in recent months, there has been an increase in the criminalisation of CSOs by the central government, ignoring the commitment as a country to foster an environment in which all the development actors can coordinate actions to meet the pressing demands of the people.

Nevertheless, CSOs have played an increasingly active role in recent years in defining the priorities of international development cooperation, primarily in the debate on development effectiveness.

This report highlights the legal and regulatory framework in Guatemala, its political environment and governance context, its socio-cultural and socio-economic context, and how all of these factors together impact on development cooperation and the pursuit of an enabling environment for CSOs in Guatemala.

The Legal and Regulatory Framework

Guatemala is a republic, politically divided into 22 departments, governed by the same constitutional and legal framework.

The constitution grants the same rights both for individual persons and CSOs, including the right to association and manifestation, freedom of expression, religious freedom, right to property,

right to culture and cultural identity, right to work, right to education, right to health, petition, free access to courts and state premises, right to strike, free access to information and state files and registers, among others. It further states that the government cannot prevent the registration of CSOs on a legal basis, except for reasons of public order.

The Guatemalan legal framework for CSO work is quite broad, including Peace Agreements, Civil Associations Registration Regulation, Social Development Law, National Persons Register Reforms, Public Information Access Law, General Budget of the State's Income and Expenditure Law and its Reforms, Decentralization General Law, Urban and Rural Development Councils System Law, Municipal Code, Anti-Eviction Law, Tax Updating Law, Handbook of Procedures for the Budgetary Execution through Agreements with Non-Governmental Organisations and International Organisations, among others. However, the administration of justice in the country is poor and does not favour an enabling environment for the actions of CSOs. For example, the Non-Governmental Organisations for Development Law (Congress of the Republic Order No.02-2003) lacks clear provisions for its implementation. In the past five years, the criminalisation of social struggles, especially those who claim indigenous and peasant rights, has affected the work of organisations.

On the other hand, Guatemala is a signatory to various international treaties and conventions on human rights and other laws.

As part of its commitments to the Paris Declaration, the Guatemalan government, together with the Donor Group of G13 countries,¹⁹⁰ organised two high level meetings in Antigua, one in May 2008 and one in November 2009. These meetings were supposed to ratify and then evaluate the progress of the commitments made by the country in Paris.

One critical weakness is that citizens generally are not aware of the implications of these international treaties and conventions, and are not in a position to demand or oversee their compliance. Worse still, government institutions, despite repeated efforts, lack the resources needed for the implementation of various projects and end up becoming isolated projects that respond only to the demands of the international community and not to what the country really needs.

The Political Environment

The Peace Accords¹⁹¹ (1996) are the only agreed national development agenda; however, these have proven to be difficult to implement due to traditional power elites (military, economic, political) that have prevented these agreements from translating into tangible actions on the ground, particularly to the Indigenous Peoples Rights, socio-economic issues and agrarian Reform, and the pursuit of justice for crimes against humanity.

The political environment in Guatemala is one that is heavily dominated by military and state violence, where peace is understood in terms of the status quo and the ability to advance an agenda of privatisation, the protection of capital investments and the neo-liberalisation of the economy. A general climate of impunity and corruption has caused Guatemala to rise on international indexes on common and organised violence. According to Velásquez (October 2014), this is a step back from the democratic aspirations expressed in the Peace Accords and the 1985 Constitution. These agreements were meant to address social conditions that gave rise to the Internal Armed Conflict through the consolidation of a democratic state with equity and social justice at its core.

¹⁹⁰ created in 1999, as a coordination between countries, bilateral and multilateral agencies, formed by the nine countries that allocate more resources cooperation Guatemala: Canada, Germany, Italy, Japan, Netherlands, Norway, Spain, Sweden, United States, and the following multilateral organizations: Inter-American Development Bank, World Bank, International Monetary Fund, United Nations Program for Development, European Union and the Organization of American States

¹⁹¹ The process of peace negotiation began in 1987 and ended with the Peace Accords, a dozen agreements signed by the Government of the Republic of Guatemala and the Guatemalan National Revolutionary Unity between 1991 and 1996. This formally put an end to the Internal Armed Conflict that lasted over 36 years, leaving a total of over 200,000 dead and missing persons, as well as thousands of orphans and widows.

The year 2015 marks another election, but with few genuinely transformative political alternatives. Public trust is at its lowest ebb, and few political parties exist with a serious proposal for change for the country, and few last any longer than 30 years. Despite its flaws, the Guatemalan Left has gained some influence with its ability to forward a concrete ideology and platform, though its electoral performance has been weak.

The Governance Context

Guatemala is ranked 70 out of 178 nations assessed by the Foreign Policy Review on failed states,¹⁹² as assessed on a number of social, economic, political and human rights indicators. The survey ranked Guatemala last in Central America. Its worst score out of the 12 indicators was on economy inequality, with 8.1 out of 10 points. Other aspect evaluated by the survey was the number of atrocities committed against community groups and civil society organisations, ranking Guatemala high on the impunity index at 7.3 points, just below Libya. In addition, it is ranked 83 out of 99 countries in the global ranking of countries, and position 13 of 16 countries in the regional rank that are weak on Rule of Law according to the World Justice Project, Index of Rule of Law (2014). This is because the country shows a low trend factor in terms of constraints of open government access and enforcement of justice.

State institutions are weak in general, mainly: 1) because the political system is subject to significant pressure from the vested interests of an entrenched oligarchy, and 2) public sector employees change every four years, with each new government. This has had implications on the continuity and consistency of public policies.

However, what harms national governance the most is corruption, and Guatemala scored 33 points out of 100 in the Transparency and Corruption Index (Acción Ciudadana, 2013 Report).

High rates of violence, lack of public safety, a weak judiciary and various corruption scandals implicating various state entities, plus the resurgence of vigilantism and parallel bodies of justice, are causing an atmosphere of lawlessness where crime can flourish.

The current government of Guatemala under the Pérez-Baldetti administration has pushed for a contradictory mix of policies—emphasising neo-liberal policies under an agenda for economic competitiveness (export-oriented, energy-intensive, with an additional focus on tourism), while also claiming that the agricultural sector and inclusive development are its top priorities. Inconsistencies in government policy have made it difficult for CSOs to work in the country. In many cases, they have had to stand for the government in its obligations to the population, especially in relation to education and health services.

There is a clear lack of public policies that benefit the general population. There is little interest in creating conditions for higher living standards and structural changes to promote sustained and sustainable human development. The Coordination of Non-Governmental Organisations and Cooperatives (CONGCOOP), through its Institute for Agricultural and Rural Studies (IDEAR), continues to conduct research with high accuracy, providing data that allow channelling advocacy and political lobbying that can be translated into public policy proposals.

Some steps have been taken to address this. For instance, decentralisation and other policies aimed at creating new spaces for public participation, wherein authorities would consult with community representatives and jointly make decisions regarding social investments catered toward the needs of the population, especially in rural areas. Implementation has been weak, however, given the lack of political will and any concrete proposals to take this forward.

The actual impacts of development projects are difficult to assess, and international development cooperation through the President's Secretariat for Programming and Planning (SEGEPLAN) and CIC has been poorly coordinated. For example, there is a lack of data on south-south cooperation

¹⁹² *Prensa Libre*, June 2013 - taken from the *Foreign Policy Magazine*

flows in the country, and what information is available is limited to Guatemala's relations with Colombia and Mexico, in sectors such as agriculture, industry and trade.

To try to minimise this lack of information and coordination, the central government approved the Policy for International Cooperation Non-Refundable through the publication of Government Agreement 17-2015, made by SEGEPLAN to harmonise efforts. For its implementation, state agencies, public companies and decentralised, autonomous entities, including municipalities, should coordinate and inform SEGEPLAN on the external grants that they receive and manage.

In addition, the Law on Partnerships for Economic Infrastructure Development (Decree 16-2010) establishes the regulatory framework for the public sector to enter into contracts with the private sector for the development of infrastructure. This law allows for the construction or upgrading of roads, ports, airports, power projects or urban development with private funds. The state is then expected to pay a commitment fee to private companies, which requires the creation of a fund to repay approved projects and guarantee investments against risk. This commitment is to be counted as public debt. The law could have important implications in strengthening the historical control of business elites in national and economic affairs.

The Guatemalan government has tried to strengthen its capacity to design, manage and implement inclusive democratic public policies, but results have been scarce. Where government institutions have been weak, CSOs have stepped in to improve their work primarily in the defence and promotion of human rights (children, youth, women, environment, etc.), service delivery and democracy.

CSOs continue to intervene through the use of public pressure, including street protests and civil disobedience.

The Socio-Cultural Context

Guatemalan society is characterised by its rich and diverse culture owing to its four big ethnic groups: Mayas, Xincas, Garifunas and Ladinos. Collectively, with an estimated population of 15 million, Guatemala accounts for 36% of the total population of Central America, with a GDP per capita about half that of the average for Latin America and the Caribbean. The agricultural sector accounts for almost 15% of GDP and half of the labour force.

Women make up 51% of the population, and men 49%. Indigenous groups represent 41% of the population and the non-indigenous ones, 59%. The total urban population is 46% and the rural, 54%. Some 24 different languages are spoken in the country, with Spanish as the official language.

The distribution of income remains highly unequal, with 10% of the population accounting for more than 40% of total consumption in Guatemala. More than half of the population is below the poverty line and 15% live in extreme poverty. Poverty among indigenous groups, representing 38% of the population, averages 76%, and extreme poverty rises to 28%. Of children under five years, 43% are chronically malnourished, one of the highest rates of malnutrition in the world (Banco de Guatemala, 2013).

Poverty in Guatemala disproportionately affects the Mayan indigenous groups of the country. They account for less than a quarter of the total income and consumption. A typical Mayan worker earns less than 4 USD a day. Poverty rates in rural areas of Guatemala often exceed 90% (Cooperative for Education, 2013).¹⁹³

In relation to gender equity, according to the United Nations Economic Commission for Latin America and the Caribbean (ECLAC),¹⁹⁴ equality indicators in physical autonomy highlights the difficulties that women live daily in terms of sexual and physical violence by their partners or ex-partners (17 annual deaths per 100,000 inhabitants in 2013), child-mothers (15.4% in 2012),

¹⁹³ <http://coeduc.org/es/guatemala/pobreza.html>

¹⁹⁴ <http://Internet.cepal.org/oig/WS/getCountryProfile.asp?language=spanish&country=GTM>

unmet need for family planning (20.8% in 2009) and maternal mortality (140 per 100,000 live births in 2013). As far as autonomy in decision-making is concerned, there is a big gap in political participation of women—in 2013 there were 2.1% of women mayors against 97.95% of male mayors. Mechanisms for the Advancement of Women (MAM), a government body tasked to address this, is hierarchically dependent on the Presidential Secretariat for Women.

As to economic autonomy, inequality remains evident in the benefits received by women. Only 32% of poor women in rural areas and 46.3% in cities have access to formal employment. Even non-poor women in rural areas account for only 50.9% of the workforce (in urban areas, 58.6%). The women's movement and the feminist movement have kept up the pressure to ensure public policies in favour of women are implemented and respected in all government institutions.

However, as Velásquez (October 2014) points out, social movements in Guatemala have been torn between the need to address their long-term goals and a kind of political short-termism, which has prevented them from forging consistent strategies.

This has meant that they are weak, they disappear, and they are victims of state repression or are co-opted by private companies. Today the hope is set on peasants and indigenous resistance movements which have continued their campaigns in defence of nature and territory, despite criminalisation and repression by the state and traditional corporate elite.

The Socio-Economic Context

Guatemala is ranked as a middle income country. However, this is not the case as Guatemala has recorded high indexes of extreme poverty faced by peasant and indigenous populations in particular. Its economy is pegged on an unsustainable model of development hinged on the exploitation of natural resources, cheap labour and foreign aid dependence that militates against inclusive growth and development.

The World Bank's study, *Evaluation of Poverty in Guatemala* published in 2011,¹⁹⁵ indicates that the country was able to reduce poverty levels from 56% to 51% between 2000 and 2006. However, official figures from 2011 indicate that poverty rose to 53.7%. The situation is particularly difficult in rural municipalities, covering 44% of the country. There, nearly 8 in 10 people live in poverty, according to the results of Rural Poverty Map 2011. The country is ranked 133rd out of 187 countries in the United Nations Human Development Index, and is the fifth most unequal country in Latin America, with a Gini Index of 0.52. It has a tax burden of approximately 10% of the Gross National Income (GNI). But inequalities are further deepening:

In rural municipalities, 8 out of 10 persons are poor (World Bank, 2011). In San Juan Atitlán, Huehuetenango, poverty reaches 95%, and in the whole Department of Huehuetenango, extreme poverty reaches 30.3%; Alta Verapaz, 41.2%; Quiché, 33.2%; and in Quetzaltenango, 34%. According to poverty mapping by SEGEPLAN, the situation hasn't changed.

The annual income per inhabitant is estimated at 3,347 USD, and the public debt (internal and external) is calculated at 130,000 USD, equivalent to 22% of GNI. The government's emphasis on ensuring the 'economic competitiveness' of the country has turned it into a net exporter of raw materials, generally non-processed. The cheap labour costs of a largely illiterate work force with limited technical qualifications is seen as a 'comparative advantage.'

CSOs, on the other hand, have presented proposals for better distribution of the nation's income and expenditures for the year 2015. The national budget is currently under discussion and is targeted for approval at the National Congress. Adding up to a total of 71,840.8 million GTQ (14.71% of the GNI), the national budget will require a public debt increase of 15.6 billion GTQ, while utterly failing to prioritise social expenditure.

The Guatemalan government's budgetary priorities put at risk the democratic ownership of sustainable development processes by the population, stemming from the lack of a comprehensive national development plan, high levels of corruption, the use of aid for

¹⁹⁵ <http://Internet.bancomundial.org/es/country/guatemala/overview>

patronage politics and the absence of participatory mechanisms for social monitoring of the national budget. Donors must ensure that policies on development effectiveness, transparency and accountability are not susceptible to exceptions, and that democratic clauses are applied to government institutions so that resources are invested in addressing the needs and demands of people on the ground, especially the most vulnerable.

Capacity of CSOs to Engage in Development Policy and Development Practice

"Civil society organizations best placed to manage public resources, are those with a focus on charity and actual relief delivery for the poor, and are best placed to align themselves with national development objectives. A critical stance on government, with advocacy efforts aimed at broader societal changes, tends to limit the possibilities of NGOs to be incorporated into the new development dynamics..... It is essential for NGOs to maintain their autonomy, identifying from civil society those initiatives that take them away from the dependence established with International Cooperation Organizations."

Guatemalan CSOs are going through a period of transition toward development effectiveness, in which many run the risk of disappearing due to dependence on international cooperation and the subsequent incapacity to diversify sources of financing. This has sparked a debate among CSOs on the need to strengthen and reposition themselves in the new national and international context.

According to CIVICUS, there are more than 2,500 NGOs legally established in Guatemala, over 25,000 grassroots and community organisations, about 76 civil foundations, large numbers of civilian organisations linked to the churches, strong professional organisations and some with great power of influence such as the Coordinating Committee of Agricultural, Commercial, Industrial and Financial Associations (CACIF), as well as several academic institutions providing highly regarded research. It is clear that sharp ideological divisions and political polarisation persist among CSOs that have prevented the construction of long-range strategic alliances.

Currently, Guatemalan CSOs are highly fragmented, but clear efforts have been made in coordination and solidarity on relevant themes and campaigns. It is imperative to strengthen the role of CSOs as development actors and recover the role of independent verification of government's actions, while fostering dialogue between the people, government and other development actors. This demands better communication channels and better partnerships.

For over four decades, Guatemalan CSOs have proved their ability to engage in development practices with significant political, social and economic progress; however, the fragility of governments and the lack of political will have continued to reduce the effectiveness of dialogue and negotiation spaces because of institutional weakness.

Nevertheless, political advocacies by CSOs on public policies have seen real results such as the approval of the law against Femicide and other forms of violence against women, the Integral Rural Development National Policy, among others, that have had the leading, active and resolute participation of CSOs.

Although CSOs in Guatemala do have the capacity for dialogue and advocacy, there are informal or extra-legal 'advocacy' channels by individuals or groups that achieve more and better results in less time (through influence peddling, campaign promises, extortion, bribery, among others), which tend to weaken or nullify the efforts of CSOs.

As mentioned in the previous section, the decentralisation process has resulted in a more streamlined registration of CSOs in the municipalities; however, it is important to promote avenues for better training and support in the context of the decentralisation process and in the operation of the Urban and Rural Development Council System, with greater emphasis on the communal and municipal levels that can promote more active political engagement for local communities.

CSOs should also push for the human rights-based approach (HRBA) as a development model, which demands concrete changes in existing power relations. Implementation of HRBA is not easy, given highly skewed relations between governments and CSOs.

One important starting point would be to initiate dialogue on development that is equitable, inclusive and just, and emphasise that in the context of a world characterised by significant inequality and injustice, the pursuit of human rights—despite political slogans—has been rendered null and void. The principles and values of human rights must guide both public policy and the work of CSOs in a political arena where market relations and public private foundations are the order of the day.

CSOs must take steps to improve both the quality of their political proposals and their concrete impacts for people on the ground. They should not only improve the quality of their proposals but their impacts.

Conclusions

The international context marks a new direction for CSOs who should be seen not only as beneficiaries of aid but as actors and development protagonists by governments, the private sector and international cooperation actors. This necessitates strengthening dialogue between all parties involved. It is important to recognise and address the dependence of CSOs on development cooperation for their institutional survival, in the context of reductions in ODA and financing.

While CSOs will be most affected, their continued and active engagement in debates on policies, strategies, tools, mechanisms and programs is essential. This is made all the more difficult by businesses and private foundations that, under the umbrella of corporate social responsibility, are attracting and capturing more financial resources. This requires a frank and honest negotiation to allocate resources in education and training for capacity development for CSOs, which will result in higher quality in the execution of their development efforts, while strengthening democracy in the country.

The political atmosphere in Guatemala is still far from fully conducive for CSOs. Mechanisms for dialogue among all sectors and actors should be established, with CSOs considered complementary to government allies and not perceived as adversaries.

CSOs, meanwhile, must build medium and long-term alliances among themselves, prioritise the interests of the wider public, better coordinate their diverse agendas and work together if they are to regain institutional credibility.

Efforts at the local, national, regional and international levels should be in tune with the new architecture of international cooperation and with due recognition of the role of CSOs in development effectiveness.

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India

Summary

Indian development assistance has risen in scale scope over the past decade. India is not a new donor, having provided its first aid package in the late 1940s, shortly after its independence. Until the turn of the century, Indian development assistance remained small compared to traditional DAC donors. However, Indian foreign aid has risen significantly over the years, and has reached countries beyond South Asia. This has been considered a bold step for a country with a significant proportion of its population still living in poverty.

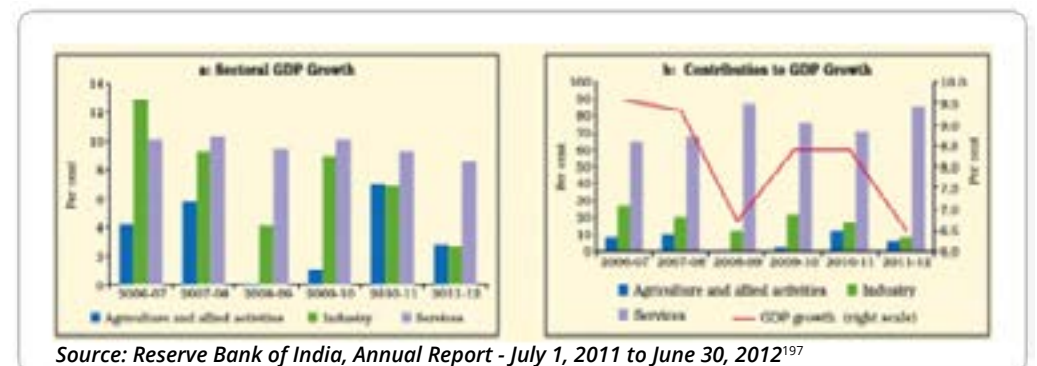
Particularly controversial has been India's refusal to receive further aid from the UK government to project its status as a rising super power.

This paper examines the historical underpinnings driving India's approach to its development assistance programme. It also studies the evolution of its development assistance and the recent changes in its volume, diversification of lending instruments, regional refocus and increasing regional and global ambitions that drive its development assistance program. The paper also attempts to examine the enabling environment for the Indian voluntary organisations around the legal and regulatory framework, socio-economic, socio-cultural and political contexts as they relate to India's aid programme and the capacity of Indian civil society. Lastly, the paper also attempts to examine the limited roles of Indian civil society in development effectiveness in the shrinking space. The paper attempts to study the contribution of Indian civil society organisations in development cooperation, while stressing the importance of actively involving Indian CSO in various development initiatives.

India's Development Cooperation

India has pursued policies of south-south cooperation since independence, but only recently has its role in providing foreign assistance to low-income countries become prominent. India's economic growth appears to be providing a basis for real technical cooperation, and the potential for a new type of aid policy. 'Recognizing this, the Development Administration Partnership (DPA) was created in the Ministry of External Affairs in January 2012 to effectively handle India's aid projects through the stages of concept, launch, execution and completion.'¹⁹⁶

India's development partnership is based on the needs identified by the partner countries and the effort of the ministry is geared towards accommodating as many of the requests received from partner countries as is technically and financially possible. DPA has started to create in-house, specialised technical, legal and financial skills in order to fast-track all stages of project



¹⁹⁶ <http://Internet.mea.gov.in/development-partnership-administration.htm>

¹⁹⁷ <http://Internet.rbi.org.in/scripts/AnnualReportPublications.aspx?id=1039>

implementation. DPA has three divisions. Currently, DPA I deals with project appraisal and lines of credit; DPA II deals with capacity building schemes, disaster relief, Indian Technical and Economic Cooperation Programme; and DPA III deals with project implementation.

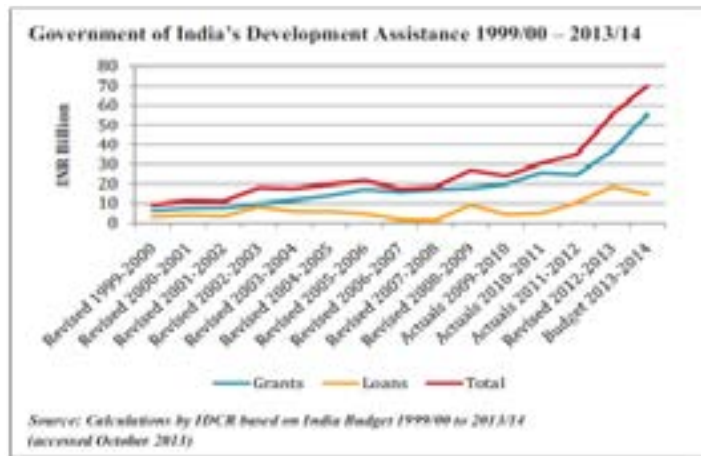
Discussion

The growth of India's economy over the past two decades (although it faltered in 2011-2012, followed by steady growth) has renewed India's international prominence, with the country seeking to transition itself from one of the largest beneficiaries of North-South cooperation to a leader in south-south cooperation.

Under the aegis of south-south cooperation, India engages with other countries through the following processes:

- Development Partnership Assistance (DPA)
- Various multilateral fora such as G20,¹⁹⁸ a group of five countries Brazil, Russia, India, China and South Africa called BRICS, another group called IBSA (India-Brazil and South Africa), IORA (Indian Ocean Rim Association, formerly known as IOR-ARC) and BASIC (Brazil, South Africa, India and China).

Little attention has been focused on India's development assistance until recently because, historically, the volume of India's foreign aid has been significantly smaller in US dollar terms than foreign aid from traditional DAC donor countries. That, however, has changed over the past few years. In 2012, the Indian government reported that 7,019 crore rupees or approximately 1.3 billion USD were budgeted for development assistance for the fiscal year 2013/14. India's development assistance budget for 2012 was comparable to Austria's foreign aid budget for the same year and higher than the foreign assistance of 4 of the 23 DAC countries in 2011 (OECD 2012¹⁹⁹). Moreover, the trend of India's aid commitments also differs markedly from those of the traditional DAC countries. India's development assistance has grown dramatically, rising four-fold in the decade between 2003/04 and 2013/2014. By contrast, the total of foreign aid from DAC countries decreased in 2011 and is likely to stagnate in 2012. Finally, a dollar of development assistance given by India is not the same as a dollar given by DAC countries. The nature of Indian development assistance and the purchasing power parity of a dollar of Indian aid spent in India or in the recipient country means that a dollar of Indian foreign assistance has greater purchasing power than a dollar in foreign assistance from any DAC country.



¹⁹⁸ G-20 Countries Argentina, Australia, Brazil, Canada, China, France, Germany, India, Indonesia, Italy, Japan, Mexico, Russia, Saudi Arabia, South Africa, Korea, Turkey, United Kingdom, United States, European Union* (The European Union is represented at the leaders' level by the presidents of the European Union and the European Commission and at the finance level by the rotating presidency of the European Council and the European Central Bank).

¹⁹⁹ OECD (2012). "Development: Aid to developing countries falls because of global recession." Retrieved March 10, 2012, from <http://Internet.oecd.org/newsroom/developmentaidtodevelopingcountriesfallsbecauseofglobalrecession.htm>.

India's DPA: Salient Features of Policy

India's foreign assistance programme was conceptualised based on a shared sense of history of colonialism and protracted independence struggles of developing countries of the south. Therefore, it focuses on partnership and solidarity among developing countries and adheres to the salient features of south-south cooperation, which are respect for national sovereignty, national ownership and independence, equality, non-conditionality, non-interference and mutual benefit.

Instruments



Source: <http://idcr.cprindia.org/indian-development-cooperation>

Technical Assistance and Training through ITEC: The ITEC programme is managed by the DPA-II within MEA.

The ITEC and its sister programme, SCAAP (Special Commonwealth Assistance for Africa), lend assistance to almost 160 countries in Asia, Africa, East Europe, Latin America and the Caribbean. In recent years, ITEC resources have also been extended to groupings such as G77, AU (African Union), ASEAN (Association of South East Asian Nations), IORA (Indian Ocean Rim Association) and CARICOM (Caribbean Community).

The ITEC includes trainings, project assistance and project-related activities such as feasibility studies and consultancy services, sending experts on deputation and study tours. In 2013-14, over 8,280 civilian training slots were offered to ITEC partner countries for programmes supported by the Indian government.

Lines of Credit (LOCs): The Government launched the Indian Development and Economic Assistance Scheme (IDEAS) in 2004, under which the government of India backed concessional LOCs as provided by the EXIM bank upon the suggestion of MEA.



The LOC decision-making process in India. Source: <http://idcr.cprindia.org/blog/lines-credit>

These LOCs are provided in support of developmental projects and have replaced the earlier bilateral support provided by the Ministry of Finance.

During the year 2013-2014, the Bank extended 24 LOCs, aggregating 1.77 billion USD, to support export of projects, goods and services from India.

A total of 189 LOCs covering 75 countries in Africa, Asia, CIS, Europe and Latin America, with credit commitments aggregating 10.03 billion USD, are currently available for utilisation, while a number of prospective LOCs are at various stages of negotiation.

Country	2012-13 (in USD Million)	2013-14(BE)
Bhutan	568.16	602.33
Afghanistan	81.83	108.04
Nepal	45.06	63.33
African Countries	39.50	50.05
Mongolia	0.16	0.41
Sri Lanka	48.33	83.33
Myanmar	20.83	75.00
Eurasian Countries	5.20	6.66
Bangladesh	46.66	96.60
Maldives	5.00	5.00
Latin America	4.60	5.00
Others	46.76	65.37
Total	911.98	1161.16

India's Bilateral Assistance under the DPA, BE=Allotted Budget expenditure (BE)

Mixed Views on Line of Credits

It has been questioned whether lines of credit should be categorised as development assistance within and outside of India. However, the government of India officially considers LOCs as one of its three instruments for providing development assistance and reports the interest rate equalisation support as development assistance. Moreover, although India is neither a member

of OECD nor considers development partnerships to be official development assistance (ODA), under OECD guidelines soft loans such as the concessional government of India-backed and Exim-bank distributed LOCs are considered development assistance. In addition, the Ministry of Finance in its guidelines for LOCs uses the OECD formula to calculate the grant component of its LOCs (see Table 1). Finally, borrowing nations must submit proposals indicating the projects, goods and services they plan on importing from India, and the Indian government gives funding priority to economic and infrastructural projects that are of mutual benefit – thus underscoring that these LOCs are to be seen as development partnerships between two developing countries.

asda's paper gives an overview of the legal and regulatory framework and the political, governance, socio-cultural and socio-economic context in Ecuador with regards to CSO enabling environment. Finally, this report examines the state of development cooperation in Ecuador.

Legal and Regulatory Framework

India is party to the 1949 Geneva Conventions²⁰⁰ and several additional weapons treaties, but not the 1977 Additional Protocols.²⁰¹ In the human rights field, it is party to many major treaties but not the 1994 UN Convention against Torture. It has not adhered to the major instruments of refugee law nor has it ratified the 1998 Rome Statute. In December 2002, India signed a bilateral non-extradition treaty with the USA regarding the International Criminal Court.

The various aspects and facets of human rights have been enshrined in the Constitution of India, which can be claimed as the largest written laws of the world. The Supreme Court has adopted an activist approach in dealing with matters for the protection of human rights over the years involving judicial techniques such as PILs (Public Interest Litigation) and SILs (State Interest Litigation). Further, the Supreme Court, in disposing of various cases of human rights, have relied upon major international human rights instruments such as the Universal Declaration of Human rights, the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights. Also, relating to protection of human rights, the whole Indian judiciary system requires major reforms, given a history of impunity and slow justice. The National Human Right Commission (NHRC) and State Human Right Commission (SHRC) need to be given more power, and an independent, effective investigation agency with sufficient personnel under their commands is required to be effective in the matter of serious violations.

Inhibiting Environment of the Indian voluntary sector

As far as Indian civil society is concerned, a number of restrictive regulatory and statutory requirements inhibit the proper functioning of their organisations, including:

Old registration laws: The legal framework for registration of voluntary organisations or civil society organisations in India is based mostly on colonial era legislation, and fails to take into account the constitutional imperatives of a democratic India. For instance, the Society Registration Act of 1860 is more than 150 years old. Today's civil action does not address the same issues that were addressed by the 1860 Act. Under Section 20 of the Act, societies which may be registered range from being of the nature of charitable societies, military orphan funds, foundations or for maintenance of libraries or reading rooms for general use among the members, among others. This signifies the age of the law and need for redefining organisations that can register under the Societies Act. Most of the VO registering laws have almost no regulatory content but merely serve as a listing of VOs. At the time these laws were written, no one had any idea that VOs

²⁰⁰ The Geneva Conventions and their Additional Protocols form the core of international humanitarian law, which regulates the conduct of armed conflict and seeks to limit its effects. They protect people not taking part in hostilities and those who are no longer doing so.

²⁰¹ Protocol I is a 1977 amendment protocol to the Geneva Conventions relating to the protection of victims of international armed conflicts. It reaffirms the international laws of the original Geneva Conventions of 1949, but adds clarifications and new provisions to accommodate developments in modern international warfare that have taken place since the Second World War.

would play such a vital social role, generating social movements and designing public policies. There is a need for clear segregation and definition of the voluntary sector as any non-profit entity ranging from large private hospitals to private corporate schools, sports club foundations, among others, all registered under the same Act. This has led to ambiguity about the identity, nature, scope and scale of the voluntary sector. Section 20 of the Act showcases the age of the law and the need for redefining the organisations that can register under the Societies Act. The demand for periodic renewal of registration in some states has complicated matters for voluntary organisations. Apart from this, societies registered in certain states are not allowed to operate outside the state of registration. This creates serious issues for VOs wanting to work in cross border areas or in multiple states.

This issue was however addressed in the 2007 National Policy on voluntary sector; and it is hoped that the government will take this up at the earliest so that Indian VOs are benefited, protected and regulated by a suitable law.

Resistance to Rights based work – the relationship of the voluntary sector with the government is mixed, faced by a convergence and divergence of interests between governments and civil society actors. Service delivery initiatives by civil society, as in the case of organisations collaborating with local governments on village water schemes, are deemed uncontroversial. However, when organisations raise more political concerns, for instance by speaking out against corruption, then the relationship becomes more confrontational. To control the activities of the civil society sector, stricter provisions such as the FCRA 2010 and the Direct Tax Code Bill 2009 have been introduced. It is felt by majority of the representatives from the sector that FCRA 2010 has been introduced to restrict the flow of foreign contributions to civil society organisations. A leaked Information Bureau (IB) report had recently alleged that protests against development projects fuelled by certain foreign-funded NGOs had caused a presumptive loss of 2-3% to India's GDP.

Restrictive Taxation law

The Income Tax Act is designed to prevent leakage of tax revenue rather than allow VOs to raise resources and spend them as per their needs, as an alternative to the government spending. In the case of the current provision in section 2(15) of the IT Act, even the nominal recoveries made from beneficiaries are considered profitable by the taxation system in India. These are not made for profit but to ensure efficient use of material, to give more control to beneficiaries and for ensuring sustainability of interventions. Similarly, as per the existing provisions of Income Tax Act 1961, surplus income can be accumulated for a maximum period of five years for specific projects. Such provisions are restrictive and create hardship for a large number of CSOs or VOs. On the other hand, taxation authorities do not understand the non-profit sector and often confuse the terms “bidding and contracts” as a profit-making business. It is due to their lack

The IB report says that while caste discrimination, human rights and big dams were earlier chosen by international organisations to discredit India at global forums, the recent shift in the choice of issues was to encourage ‘growth-retarding campaigns’ focused on extractive industries, genetically-modified organisms and food, climate change and anti-nuclear issues.

According to the report, the funding for such campaigns came from foreign donors under charitable garb for issues ranging from protection of human rights, violence against women, caste discrimination, religious freedom, and so on, or to provide a ‘just deal’ to the project-affected displaced persons or for the protection of livelihood of indigenous people.

The NGOs become the central players in setting the agenda, drafting documents, writing in the media, highlighting scholars-turned-activists and lobbying diplomats and government, it says. “These foreign donors lead local NGOs to provide field reports which are used to build a record against India and serve as tools for the strategic foreign policy interests of the Western government,” adds the report.

“The strategy serves its purpose when the funded Indian NGOs provide reports, which are used to internationalise and publicise the alleged violations in international fora. All the above is used to build a

record against a country or an individual in order to keep the entity under pressure and under a state of under-development,” says the IB report.

Four NGOs were put under the scanner in 2012 for allegedly fuelling protests against the Kudankulam nuclear project in Tamil Nadu. The accounts of several Indian NGOs were put in the watch list with regard to allegations of funds diversion after a discreet probe by security agencies, with the help of Directorate of Revenue Intelligence and Central Economic Intelligence Bureau.

of knowledge about the sector and its functioning that the organisations have to suffer. The complex administrative procedure for taxation has been reported as a major problem by civil society.

The Political Environment

Much has happened in the country with the election of Narendra Modi of the Bharatiya Janata Party in May 2014. The new ruling party carefully blended promises of economic development—reforms, better services, more jobs and security for all—with references that were both religious and cultural.

These ideas were rarely explicitly articulated but were nonetheless clear in the new Prime Minister's choice of Varanasi, the holy city on the Ganges, in contravention of electoral codes, behind the stage at meetings. There have been more assertive statements directed at neighbouring countries such as Pakistan—with which India has fought four wars, and China—with which India has had conflict, and a promise that the new PM would create an India that no one could talk down to on the international stage. There was even an apparent threat to revise India's ‘no first strike’ nuclear weapons policy. This way, India is gaining more prominence in the global platforms such as G20, IBSA and BRICS, apart from showcasing its power in the transition from developing country status to that of a developed country, as it emerges as a leading economy in the south Asia region. India is also extending its support to neighbouring countries such as Nepal, Bhutan and Burma, to aid in their infrastructural development.

At the domestic front, India's new government outlined an ambitious plan to try to remedy the country's persistent gaps in basic infrastructure such as electricity and water supply, while also pressing ahead with more futuristic investments in high-speed rail and so-called smart cities. It is known that the country is passing through an extremely difficult phase, and putting the economy back on track is paramount. This comes amidst the initiation of Swachha Bharat Abhiyan, a campaign that aims to accomplish the vision of ‘Clean India’ by October 2, 2019, the 150th birthday of Mahatma Gandhi. Packaged as ‘beyond politics’ and ‘inspired by patriotism,’ the campaigns expected to cost over 62,000 crore (10 billion USD). More than three million government employees and Indian students are going to participate in this event. Many civil society organisations are expected to participate in the campaign, which has acted to reinforce the divisions between CSOs oriented toward service delivery and those more open to political contestation.

The PM has said he wants to ease infrastructure bottlenecks and pursue more business-friendly policies. The government seeks to boost foreign investment, particularly in defence companies, and offer incentives to promote labour-intensive manufacturing, while simplifying tax laws. It would also undertake measures to attract private investment in the coal sector.

The government pledged to create a universally affordable healthcare system, put toilets in every home and connect every Indian school to the Internet. But Modi's inaugural address offered no details as to how these projects would be financed or carried out.

At the end of the fiscal year in March, the Indian government's budget deficit was equivalent to 4.5% of gross domestic product. This significantly limits its capacity for new spending without more revenue or cuts elsewhere.

Critics have accused the new PM of focusing too much on big business and urban Indians instead of the rural poor.

Along these lines, the government has promised to forge new public-private partnerships to overhaul India's infrastructure, set up civil nuclear power projects, build 100 smart cities with modern telecommunications and create a network of high-speed railways. It has also promised to set up industrial regions aimed at making India a 'globally competitive manufacturing hub,' including for defence manufacturing, while also developing India's tourism industry.

The Governance Context

India's development cooperation policy is based on a holistic approach (including trade and investments) and is comprised of two main pillars: 1) economic cooperation, focusing on trade and technology flows among developing, including the removal of discrimination in institutional and regulatory frameworks; and 2) technical cooperation, focusing on technical capacity building through training, exchanges of experts and sharing of experience and know-how.

'India attaches little conditionality to its grants and also gives beneficiaries a greater voice in the process. India's assistance is focused on promoting goodwill, long-term economic development and promoting influence rather than exporting skilled manpower and repatriating profits. It focused mostly on promoting local capacity. However, there are indications that India is moving from exerting soft to hard power. The goodwill generated could very well get diluted with India emerging as a major donor.'

Although the focus of Indian development cooperation has primarily been bilateral, New Delhi has taken part in the OECD-led international dialogue on development. This process seeks to enhance agreement on norms governing development assistance, promote information exchange between providers of assistance, and create a global regime under which there would be better coordination of delivery, more sensitivity to the needs of recipient countries and objective yardsticks for impact assessment. This dialogue has strengthened mutual understanding regarding perceptions of aid and development cooperation, both among 'southern' actors and between the north and south.

One of the main challenges in documenting the development assistance policy of India is the lack of sufficient information. Researchers resort to estimation and manual gathering of information from different sources, and the voluntary organisations depend on the limited materials available on the ministry of external affairs website, use their own channels or create their own database by constant research.

The Socio-Cultural Context

As discussed in the previous sections, the Indian Society Registration Act is almost 160 year old and has never been updated, and various big and reputed educational, religious and private CSR bodies are registered under the same act and are considered voluntary or civil society organisations. The government, media and the larger public are mostly unaware of this fact and hence treat them as one. This has also created misunderstandings and, on many occasions, media has come up with news on how large of chunk of foreign money is coming to the voluntary organisations, which have further maligned the name of the sector.

For example, in June 2014, the IB document has criticised foreign-funded NGOs and is now available in the public domain. This report was badly circulated amongst various media groups, which generated intense public debate and negative perceptions of the civil society sector. Meanwhile 'several corporates have tried to leverage their donations to choke competition and create favourable markets for themselves. Some have even tried to influence government policies. For example, if there are genuine NGOs promoting small, distributed renewable electricity generation units on the one side, there are an equal number of dubious corporate-funded NGOs on the other side, promoting large centralised renewable energy units to develop a market for the corporates.'

Also, with India declaring itself as a donor country and an emerging developed economy, most sources of multi-lateral funding have closed down, putting many VOs and CSOs in a major

financial crunch. The situation is even worse for organisations working on rights-based issues. Overall, the socio-cultural situation for CSOs is not so good, and they face limited political support.

The Socio-Economic Context

India faces a number of socio-economic challenges. With the onset of globalisation, Indian society has witnessed rapid changes that have compounded these problems. This has resulted in an increase in the number of CSOs that have stepped in to undertake various development and service-oriented initiatives. These organisations come in various forms.

Despite India's rapid economic development, it can be said that India has the best of both the First World and the worst of the Third World within its borders, and faces unprecedented human security challenges. India now has 410 million people living below the UN poverty line—37.2% of its population, and actually 100 million more people than in 2004—and millions of India's rural poor are faced with food price inflation of up to 17%. Sixty per cent of Indian labour is still agricultural, and the integration of hundreds of millions of peasants into a modern economy may be an extremely painful process.²¹⁰ And while Indian infrastructure such as roads, civil aviation, ports, and telecommunications have experienced noticeable improvements in recent years, electricity, railways, and irrigation still need significant investment. India also continues to lag in social infrastructure, such as education and healthcare.²¹¹ These social inequalities have fuelled the widespread 'Naxalite' Maoist insurgency, affecting vast areas throughout eastern and central India and whose 20,000 insurgents have been identified as the 'greatest internal security threat' facing the nation.²¹² These internal issues pose the first challenge to India's rise as a great power, as its aspirations for global prominence depends on domestic stability. The requirements for domestic stability in turn shape India's international needs. Pant asserts that, 'The biggest challenge for India remains that of continuing to achieve the rates of economic growth that it has enjoyed in recent years. Everything else is of secondary importance. ... Unless India can sustain this momentum, its larger foreign policy ambitions cannot be realised.'²¹³

The Indian government recently lauded the fact that they were huge donors of charitable aid to Africa. That being said, policies regarding VO or CSO activities overseas, as dictated by the DTC, are very different from those that exist among other donor nations. Presently, money collected in India for public benefit activity overseas is taxed at the highest rate in the nation.²¹⁴ So despite civil society being very vocal in challenging various socio-economic issues, their voices remain mostly unheard.

Challenges

The contribution of voluntary sector in India cannot be undermined, especially when one looks at the huge contribution the sector has made toward the country's social and political development. Nevertheless, the government has always had many reservations regarding the working pattern of the sector, especially their empathy towards the rights and entitlements of the marginalised. Also, very little information has been made available to the public on India's foreign policy and ODA policy—in that context, the establishment of the DPA offers some hope. At the same time, awareness is low among the general population on issues relating to India's global footprint and broader policy issues and debates. It is very important for the people to understand India's positions on international matters such as foreign aid, and India's positions and commitments at the international forums including BRICS and G20 in order to get their voices heard and demands taken into account. So far, Indian VOs and CSOs themselves have

²¹⁰ Bardhan, Pranab. "Crouching Tiger, Lumbering Elephant? The Rise of China and India in a Comparative Economic Perspective", *Brown Journal of World Affairs*, Fall/Winter 2006, Vol 13, No 1, p51.

²¹¹ Bardhan, "Crouching Tiger", p52

²¹² Pant, "Indian Foreign and Security Policy", p231

²¹³ Pant, "Indian Foreign and Security Policy," p226.

²¹⁴ VANI, 2011, *Review of Legal and Fiscal Regulatory Mechanism of Voluntary Sector: Comparing India and the World*, <http://vaniindia.org/Download/regulationstudy.pdf>

much to learn on these issues. It is crucial for the government to be fully transparent to civil society on their foreign policies in line with commitments made at the global level.

CSOs work closely with people on the ground and have a better sense of the sentiments of the common person. There is, however a different side to this story. Indian CSOs are not allowed to work in other countries apart from a handful selected, based on criteria not known to most organisations. Indian CSOs are not allowed to work abroad and most development projects in other countries are mostly government-to-government affairs. In exceptional cases, the government selects specific CSOs to work on development projects. In this context, the media and lawmakers are important stakeholders in the process of building more accountable and transparent dialogue between government and civil society groups.

In addition, civil society has come under intense government scrutiny and surveillance, the latest expression of which was the leaking of an IB report in August 2014. The leaked report released the names of some 70 organisations that were in the IB list. Voluntary Action Network India (VANI) ran a huge media campaign by clarifying the confusion in various newspapers and TV channels, apart from writing to the finance minister, commerce minister, related secretaries of the government departments appealing to lend their ear to the situation of NGOs. The case didn't get any attention as it was a deliberate attempt to provoke the newly-formed government into 'taking action' against the civil society sector.

After VANI saw the list of some 4000 VOs on the website of FCRA department of MHA in 2011, the information was immediately conveyed to the members and other contacts of VANI. It has been organising consultations with some senior persons including CA, financial consultants, and lawyers and affected VOs, apart from attending various meetings with the government, especially with the Ministry of Home Affairs (FCRA Department) on a regular basis.

Apart from this, VANI has been doing various advocacy campaigns for national registration laws as a result of which the government came up with a Multi-State Societies Registration Law (MSSR) that was not well taken by the voluntary sector. Now VANI is running a massive advocacy campaign to have a national registration law for civil society organisations in India, and is also working toward making a more transparent and democratic model for formulating the law.

Successes/Achievements

Development actors in India have been working very seriously toward meeting their commitments with regard to development cooperation.

On the part of civil society, steps have been taken to emphasise the need for greater transparency and accountability through self-regulation, and VANI, being the apex body of Indian voluntary organisations, took some important initiatives in this direction.

When VANI was formed in 1988, it was mandated to promote value-based voluntarism in society. Among many interventions toward this end, VANI defined a set of norms and standards of good governance practices for those voluntary organisations, which became its members. This is precisely why none of VANI's member has ever been included in periodic 'black lists' by the government. VANI's campaign to reform the policy and regulatory environment for voluntary organisations in the country is based on this premise of making the governance of such institutions more transparent, accountable and effective. It is also a strong aspect of the National Policy on Voluntary Sector in the country.

The Forum for Indian Development Cooperation (FIDC) was launched at a seminar held on January 15, 2013 in RIS (Research and Information System), a think tank body of the Ministry of External Affairs (MEA). The idea was to have a forum for exploring various facets of development cooperation that would also seek to draw upon India's own experience. VANI and some leading organisations such as PRIA, Development Alternatives, Gram Vikas, CBGA, among others, are the founding members of FIDC. During one of their meetings, the DPA, Ministry of Welfare asked for an NGO directory, a list of genuine voluntary organisations in India, that would be

interested in engaging in the development work from the government side in different countries whenever required. It was a huge achievement as VANI, along with PRIA, created the directory and provided the first copy to DPA. This will provide a great opportunity to some grassroots-level organisations to gain visibility at the national and global levels.

Access to Justice: Utilization of Innovative Good Practices in the Villages through RLEK²¹⁵

RLEK is training paralegal workers identified in target areas to strengthen the legal support system for marginalised communities at the grassroots level. These paralegal workers are seen as emerging barefoot community lawyers. Intensive training is given to them on various socio-legal issues, including: fundamental and constitutional rights; rights against police atrocities; rights of SCs & STs against caste-based discrimination and atrocities; MGNREGA, motor vehicles compensation; writing RTI application; process for availing benefits of free legal aid; process of registering FIR; forests rights; special rights of women; prohibition of child marriage; prohibition of female feticide, among others.

There are many organisations in India working for the rights of people who are engaged in environmental issues. Centre for Science and Environment (CSE)-New Delhi has worked towards pushing for policy changes promoting people's rights. It has been advocating for the profit-sharing provision in the Mines and Minerals (Development and Regulation) Bill 2011 (MMDR). The organisation's report on the bill, Sharing the Wealth of Minerals, looks at profit-sharing in different countries and then does an analysis of what it would mean in the context of India's mining industry. CSE was one of the first organisations to talk about the concept of benefit/profit-sharing from mining in the publication Rich Lands, Poor People. They then worked very closely with the Ministry of Mines as they drafted the MMDR Bill. The organisation has since released the profit-sharing report in Orissa and Jharkhand. CSE sent its representations to the Parliamentary Standing Committee and the Group of Ministers, which accepted some of the key recommendations of the report and incorporated them in the MMDR Bill.²¹⁶

Ways Forward

As an emerging donor, India should develop its financial assistance credit line framework to carry out proper governance and reporting structures. This way, India would be seen as a country capable of executing sovereign debt workout, lending to a perception of the country as a reliable partner in nation building.

As a new entrant, India is faced by some shortcomings such as institutional problems, an inadequate system for monitoring and evaluation and the lack of a more transparent decision-making process with regard to aid size and agreements with partners. As part of south-south cooperation, India's profile is constant in its history of being a developing nation with domestic socio-economic challenges that is, however, willing to share their experiences with other countries (Chaturvedi, 2012).

With the creation of DPA, India should now be able to articulate its development cooperation agenda in a well-defined manner where its unique model of 'development compact' depicts diversity in engagement through trade and investment, technology transfer finance through credit lines and capacity building by means of a flagship program. India's aid assistance program is mostly dedicated toward creating technical capacities and the provision of production support. To create a lasting mark on development cooperation, India needs to finely balance its domestic politics with a desire for greater international status.

It is very important for the government to understand the civil society or voluntary sector

²¹⁵ RLEK is implementing Access to Justice Project supported by Department of Justice, GOI- UNDP in fifteen districts of three states in India namely, Orissa, Rajasthan and Uttar Pradesh. The project aims at legally empowering the marginalised communities, including minorities, with a special focus on women.

²¹⁶ <http://Internet.cseindia.org/node/4982>

and its contribution to social development. The government should be more open about the potential role of this sector and make the procedures simpler to enable them to work in foreign countries where their services are required. Regular meetings and dialogues with the sector's practitioners and creating a directory of organisations on specialised theme are important tasks. It is also important for the government to train and do capacity building workshops for voluntary organisations on various thematic issues.

In addition, there is a need to renew and update the taxation system for CSOs working in foreign countries. Also, like private bodies, voluntary organisations should also be allowed to work on development projects abroad independently apart from their engagement in government-initiated plans.

Above all, there is a need for greater transparency on the part of the government, and a willingness to share information on key policy issues debates on a public platform.

CSOs themselves need to demonstrate high levels of transparency and accountability both downward toward communities and beneficiaries, and upwards toward the government, donors and civil society through self-regulation. There are various models of self-regulation such as self-certification and accreditation, or at least following the criteria of due diligence. As discussed earlier, the voluntary sector is highly regulated in India, with various ministries and monitoring mechanisms.

But a system that keeps the independence of the sector intact as well as enables civil society's role to act as a check on other social sectors needs to be developed. It is important to recognise civil society's role as an independent actor with a vital contribution to make to the democratic development of India, and is thus on equal standing with the media and other social sectors.

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Kenya

Summary

This report is a desk study that aims to assess the degree to which various development actors contribute to democratic forms of governance that include civil society (development cooperation); the ability of CSOs to respond to changes in their socio-political contexts is in turn a measure of the enabling environment in their countries (CSO enabling environment), as well as an indicator of their own effectiveness (CSO development effectiveness).

In the quest to achieve the country's development goals and contribute to development cooperation, the government of Kenya and development partners have taken steps to harmonise, align and coordinate their activities with the aim of increasing the efficiency and effectiveness of aid. Following the Third High Level Forum in Accra, Ghana, the government has taken stronger leadership of the whole development effectiveness agenda, with a sharper focus on delivery of the Paris, Accra and Busan agendas, in partnership with not only the development partners, but with CSOs and other partners as well. However, though there has been more partnership, it is evident that this engagement is more form than substance, and the country systems in place are still weak.

CSO empowerment and equal participation in decision-making and in all aspects of the development process remain prerequisites for substantive development effectiveness. This is evidenced by the current governance reforms where the government has recognised the inclusion of parliament, citizens and CSOs as an underlying principle in development planning. Though the pivotal role of CSOs is recognised and emphasised today, concerns are also raised—and not only by governments—about the accountability of CSOs and their ability to show results and demonstrate impact. This has in turn fuelled the need for CSOs to have a set of values in place that essentially guide their development work. While there has been notable progress in the areas of promotion of human rights and the embodying of gender equality and equity, a lot still needs to be done to ensure CSO effectiveness in pursuing equitable partnerships, mutual learning and sustainability in CSO work.

A new enabling legal environment is essential in ensuring good governance by the CSOs on the one hand, while protecting legitimate civil society activity on the other. It provides a pertinent framework for the engagement of CSOs in executing their mandate. Despite notable achievements in engagement of global processes, the reality on the ground reflects little change in opening real spaces for CSOs in official dialogue mechanisms. Challenges still remain as evidenced by shrinking CSO spaces in official processes, as well as general lack of an enabling environment as development actors.

Efforts continue to go into addressing the gaps in the current legal and regulatory framework, as well as strengthening the capacity of the CSO sector, factors that will go a long way in strengthening their engagement in shaping policy decisions in the country.

Introduction

The principles established in Busan call for ownership and leadership of development strategies by aid recipient countries, a focus on results that matter to the poor in developing countries, inclusive partnerships among development actors based on mutual trust and transparency and accountability to one another. They also emphasise the need for recipients of development aid to work together and form partnerships, to have a greater influence in designing development strategies and to guarantee that the funds will be used effectively in projects. Suffice to say, therefore, that translating Busan commitments into reality is everyone's responsibility. No commitment can be implemented by one constituency or stakeholder alone. In trying to translate the shared principles into practice, CSOs have since adopted the Istanbul Principles to strengthen effectiveness of their own development efforts.

In trying to do this, the sector has been keen on working on its credibility and accountability, especially with the growing realisation that a few bogus actors can damage the image and reputation of the wider sector. Evidently, there is also great effort going into pursuing equitable partnerships, sharing knowledge and committing to mutual learning.

Previously in Kenya, there existed no major policy framework in the dialogue. The structure of dialogue was mainly centred between government and development partners, and it was clear there was a continued lack of participation of a wide range of stakeholders, especially CSOs. The growing debate around aid effectiveness called for a broader engagement with CSOs. Now through the monthly aid effectiveness group meetings, the government is increasingly playing its leadership role, with the continued participation of development partners and CSOs, in an effort to promote aid and development effectiveness through improvements in harmonisation, alignment and coordination in Kenya. Reality of Aid Africa Network is one of two CSOs that are represented in these meetings and has been instrumental in the development of the Mutual Accountability Framework, and in pushing for CSOs to be recognised and included in the aid architecture, among other things.

Though there has been undeniable progress, due to challenges in areas of access to useful information, capacity issues and shrinking space for CSOs, among others, the complete achievement of these principles have not been a reality, especially for Kenyan CSOs. The civil society in Kenya has tremendous roles to play in the Kenyan landscape. They have been vital in the promotion of peace and security, ethnic cohesion and religious tolerance, and are playing an important role in the implementation of Kenya's vision 2030. They are doing this by setting a civil society agenda in respect to vision 2030, focusing on health, education, water and sanitation and housing under the social pillar, as well as mainstreaming of other key issues such as gender, the environment, the marginalised, the vulnerable and persons with disabilities. Civil societies are doing this alongside the government and private sector, among other development partners.

Even though there have been many successes in the sector, it continues to face challenges around the lack of timely access to information, capacity issues, misappropriation and inadequacy of funds, minimal collaborations between CSOs, and shrinking CSO space, all of which make for a severe limitation to CSO development effectiveness.

Therefore, in order to maximise the successes and address the challenges faced by the country post-2015, the challenge that lies ahead will be to establish development policies that are clearly influenced by civil society's positions on human rights, democratic ownership and inclusive partnerships, and practices that push for international standards on an enabling environment, more so in the thematic areas of development cooperation, CSO development effectiveness and CSO enabling environment.

This desk study aims to contribute to a global report that intends to bring together critical perspectives on the current context of development cooperation, CSO enabling environment and CSO development effectiveness at country level. The report is divided into four sections. The first section touches on the degree to which various development actors contribute to democratic reforms of governance that include CSOs. The second section highlights the nature of the environment within which Kenyan CSOs operate, including the successes and challenges they encounter as they execute their mandate. The third section is about CSO development effectiveness as an indicator of their own effectiveness. The last section draws a conclusion from the evidence and offers a few recommendations all development stakeholders should consider going forward.

Development Cooperation

Development partners have made considerable progress in expanding and improving the quality of official development assistance (ODA) since the agreements on the Millennium Development Goals in 2000. This has seen a culmination of a series of high level meetings and commitments that date back to 2003 in Rome, Italy, to 2011 in Busan, South Korea. The common narrative

has been the urgent need to rework the development assistance architecture to involve as many stakeholders as possible in determining how best different streams of financing for development can address the socio-economic needs of emerging and developing economies across the globe.

In Kenya, in particular, the quest for sustainable socio-economic development has been a challenging endeavour, influencing some policy shifts. The strident call has basically centred on poverty reduction, inclusion of those excluded from the enjoyment of the benefits of economic growth and the redistribution of productive resources. What have consequently changed are the strategies to achieve the objectives of sustainable human development focusing on improving the quality of life of the majority poor. These have changed to now include policy-makers, implementers, civil society, local communities and other stakeholders. CSOs in particular have been very active in poverty reduction interventions, especially at grassroots levels. They do so by empowering grassroots to articulate issues, strengthen their capacity and influence the direction of their lives. Their active involvement has also been noted in the monitoring and evaluation of poverty reduction efforts, for example, in participating in the implementation and progress report of international convention declarations such as the World Summit on Sustainable Development (WSSD) and the Millennium Development Goals (MDGs), among others.

In the quest to achieve the country's development goals, development partners and the government of Kenya have taken steps to harmonise, align, and coordinate their activities with the aim of increasing the efficiency and effectiveness of aid, and of reducing transaction costs to government in line with Paris Declaration 2005. The Harmonization, Alignment and Coordination Donor group (HAC) was established in 2004 as a subgroup of the Donor Coordination Group (DCG), with World Bank as permanent co-chair and an initial membership of seven bilateral and multilateral agencies. In 2008, after the Third High Level Forum in Accra, Ghana, the government felt the need to take stronger leadership of the whole aid effectiveness agenda, and it was agreed that all HAC meetings will be held at the Treasury Building which houses the MoF, and that all meetings would be jointly chaired by the government and development partner co-chair.

A further need arose to review the HAC group based on the recommendations to restructure it. A review of HAC was finalised in February 2009; this was followed by a retreat in September 2009 in order to discuss the recommendations. An outcome of the September 9-11, 2009 Aid Effectiveness Retreat recommended that the Aid Effectiveness Group (AEG) would replace the HAC group and would be firmly rooted in the External Resources Department (ERD), Ministry of Finance, with increased participation from the Planning Ministry, along with the then Office of the Prime Minister and other line ministries.

The AEG continues the role of the HAC, but now with a sharper focus on delivery of the Paris, Accra and Busan agendas. It serves as the information clearing house collecting and sharing information about emerging good practice at sector level, analysing and addressing challenges to achieving the Paris/ OECD indicators and reporting on their progress. It reports to the Development Partnership Forum (DPF) on the aid and development effectiveness agenda.

The following reveal the extent to which the set of principles agreed on in Busan is working to enhance effective development cooperation in Kenya:

- **Less aid but more partnership.** Despite spending a relatively small proportion of external resources (an average of 5% of total government revenues), the government of Kenya continues to foster good, working relations with development partners. Perhaps due to the need to attract other resource flows such as foreign direct investment, loans and other private flows that also depend on good foreign relations.
- **Systems are in place but are weak.** While the government of Kenya has introduced country systems to ensure that resources are administered prudently, they remain weak and vulnerable to corruption. This continues to discourage effective partnerships

for financing development in the country and creates uncertainty on external resource flows.

- **Development partners maintain stringent processes.** Stringent processes for negotiating project terms, approval and monitoring preferred by some development partners slow down implementation of projects and concessions that lead to low absorption of development finances.
- **Engagement is more form than substance.** Engagement with development partners from emerging economies, civil society and private sector on development cooperation has increased. However, the depth of engagement is yet to be seen to influence patterns of resource allocation on development programmes in the country.
- **Progressively, the space for CSOs is shrinking.** While CSOs do not operate in a hostile environment in Kenya per se, compared to the neighbouring countries, there is an emerging trend of active alienation of CSOs and shrinking of democratic space that sets bad precedence for effective development cooperation.
- **Access to information.** There is limited access to good quality information, which makes it difficult to inform resource allocation, track expenditures effectively and measure progress appropriately. This is exacerbated by the absence of an access to information law to compel the custodians of public information to make it available.
- **Devolution.** Devolved governments are an opportunity for resources to flow to the lowest levels of service delivery, hence, potential for better impacts. However, the devolution statute gives powers to sub-national entities to directly negotiate grants with development partners. This presents a challenge regarding coordination of development assistance and more importantly, the danger of donors 'cherry-picking' projects, geographical areas or even pet sectors to the disadvantage of national priorities.

There is no universal formula for achieving the ultimate goal of poverty alleviation, and development effectiveness needs to incorporate learning from successes as well as failures. Building mutual trust and responsibility (related to timely and transparent decisions and operational financing on the donor side and effective, and transparent use of the provided resources on the recipient's side), open communication, learning from mistakes and paying attention to impact evaluation are key success factors of development cooperation.

The Reality of Aid 2010 global report clearly captures that only when development cooperation is recast as a relationship of committed solidarity in the fight against inequality can it lead to social and environmental justice.

CSO Development Effectiveness

Civil society organisations make a difference in international development. They provide development services and humanitarian relief, innovate in service delivery, build local capacity and advocate with and for the poor. Acting alone, however, their impact is limited in scope, scale and sustainability. As such, governments have increasingly accepted CSOs as policy interlocutors and intermediaries that promote civic participation and representation of minorities and disadvantaged groups in decision-making processes. With increased democratisation, reductions in conflict, and advances in information and communication technologies, more room has been opened for progressive partnerships between CSOs, policy-makers and other development actors in Kenya.

CSO empowerment and equal participation in decision-making and in all aspects of the development process remain prerequisites for substantive development effectiveness. This is evidenced by the current governance reforms where the government has recognised the

inclusion of parliament, citizens and CSOs as an underlying principle in development planning. There are now structured mechanisms in place in the bid to achieving this, with specific reference to the issue of budget hearings. However, the extent to which this has made a real contribution towards the budget outcomes is questionable. While they have included ad hoc invitations to civil society, they are also conducted with an absence of public information about the process.

The pivotal role of CSOs is recognised and emphasised in a number of international agreements today, for example, the Paris Declaration and Accra Agenda for Action on Aid Effectiveness. But, at the same time, concerns are also raised, not only by governments, about the accountability of CSOs and their ability to show results and demonstrate impact. There is, therefore, a growing interest and demand from not only donors, governments and development practitioners, but also from a range of CSOs—from large international non-governmental organisations to local community-based organisations—for practical tools to assess and evaluate their performance, and capacity to deliver results and be accountable to their constituents.

Captured below are some of the ways Kenyan CSOs have fared and are faring in the domestication of the Istanbul Principles:

Respect and promote human rights and social justice: There is a great aspiration to ensure that Kenyans have effective exercise of their human rights, and the sector has played essential roles in facilitating this progress. For instance, many CSOs also mobilised their constituents to analyse and discuss proposed legislation and policies, including the County Governments Bill (2012), the Public Finance Management Transition Bill (2012) and the Leadership and Integrity Bill (2012).

Embodying gender equality and equity while promoting women and girl's rights: CSOs have been at the forefront of protecting and promoting women's rights, supporting actions for gender responsive budgeting, resource planning, allocation and expenditure for gender equality, women's empowerment and the pursuit to ending violence against women. One of the evident outcomes from CSO involvement is women no longer being underrepresented in leadership, and discriminated against in legislation.

Focus on people's empowerment, democratic ownership and participation: CSOs have played a substantive role in promoting effective citizen participation, especially in the devolved government, and generally in the implementation of the constitution. The increased level of citizen engagement in the devolution process has had a lot to do with the civic education programs initiated by CSOs.

Promote environmental sustainability: The National Environment Management Authority (NEMA) is the overall environmental management authority in Kenya and is responsible for coordination, supervision and regulation of the management of the environment and natural resources. CSOs are also involved and their areas of concern such as environmental protection, natural resources management, urban greening and waste management, development of alternative community livelihood systems, capacity building through training, education awareness creation among the communities, enhancement of health and sanitation services, water harvesting, etc.

Promote transparency and accountability: There exist gaps in the current legal and regulatory framework including difficulties in monitoring compliance and accountability by CSOs. But the PBO Act seeks to achieve a new legal, regulatory and institutional framework for public benefits organizations (PBOs) in Kenya with one of the main principles being to ensure high standards of governance, transparency and accountability by PBOs. It advances and demands good leadership and accountability from PBOs in line with the spirit of Chapter 6 of the new constitution on leadership and integrity.

Pursue equitable partnerships and solidarity: The country has a large CSO sector undertaking a wide spectrum of activities in health, education, environmental sustainability, governance,

just to mention a few. All these organisations now see the need to work within the national development plan and the government's vision 2030, and also wish to adopt stronger evidence-based advocacy roles, guided by the human rights-based approach. However, while considerable progress has been made in the last three years in terms of quantitative engagements for Kenyan CSOs with other stakeholders at the global level, much still remains to be done qualitatively at the country level.

Create and share knowledge and commit to mutual learning: Combining the spread and reach of government with the depth and flexibility of CSOs is one of the most effective methods for achieving development objectives. The process of ceasing to view the state and civil society as adversaries, with the gains of one party being the loss of the other, has worked to promote the kind of engagement that opens civil societies up to see the need to quickly fill their knowledge and skill gaps to address and enhance the ways they learn from their experience, from government, other CSOs and development actors.

Commit to realising positive sustainable change: Needless to say, CSOs must have robust technical capacities, efficient management systems and focused leadership structures if development is to be sustainable and centred on people. Unfortunately, limited capacity continues to be a major hindrance to the achievement of sustainability in CSO work.

Though Kenyan CSOs have a commitment to the Istanbul principles, there is dire need to strengthen their capacity to sustainably discharge their mandates efficiently. There have been many efforts—driven mostly by the donor community—to develop CSO capacity over the last three decades. These efforts have not been sustainable because they have been mainly focused on achieving specific project aims with little emphasis on or prioritisation of developing strong, organisation-wide systems, structures and processes that are essential for sustainability. Today, Kenya's government, civil society and development partners recognise that for these organisations to deliver their mandates effectively and sustainably, capacity strengthening initiatives must address organisation-wide systems for leadership, management and governance. They must adopt an integrated approach that addresses knowledge, skills and attitudes of individuals; the systems, structures and processes within organisations; and institutional culture and environment in order to generate sustainable results.

CSO Enabling Environment

CSOs in Kenya essentially exist to promote the public good, support democratic development, social cohesion and tolerance within society and respect for the rule of law. They complement the primary duty of the county and national governments to provide essential public services. As such, a new enabling legal environment is essential in ensuring good governance by the CSOs on the one hand, while protecting legitimate civil society activity on the other. It provides a pertinent framework for the engagement of CSOs in the implementation of the new constitution.

The bill of rights and the principle of the freedom of association, as enshrined in the constitution, allows all Kenyans to establish associations, including CSOs, without necessarily registering them. Chapter 4 of the constitution provides for the rights and fundamental freedoms for each and every individual. Article 19 (1) States that 'The Bill of Rights is an integral part of Kenya's democratic state and is a framework for social, economic and cultural policies.' Article 36 provides for the freedom of association, which includes the right to form, join or participate in the activities of an association of any kind.

Despite engagement in global processes, little change is reflected on the ground in terms of opening real spaces for CSOs in official dialogue mechanisms. Challenges in shrinking CSO spaces in official processes and general lack of an enabling environment still remain. While CSOs are diverse in nature, there are many registration and regulatory regimes for CSOs in Kenya, making it difficult for effective legal and statutory compliance and accountability for CSOs. The various laws including the NGO Coordination Act of 1990, the Companies Act Cap 486 (for Companies Limited by Guarantee), Societies Act CAP 108, Trustee Perpetual Succession Act

CAP 164, and Trustees Act CAP 167 have been unable to adequately accommodate the diverse spectrum of civil society organisations.

Consequently, gaps in the current legal and regulatory framework exist, including:

- Multiple and overlapping legal and regulatory regimes presents difficulties for those seeking a harmonised reporting framework;
- Difficulties in monitoring compliance and accountability by CSOs;
- The current CSO laws are centralised in Nairobi and presents challenges to the spirit of devolution as enshrined in the new constitution;
- Inadequate mechanisms and processes of self-regulation for CSOs in Kenya; The current laws for CSOs do not explicitly address leadership and integrity issues as provided for in the constitution;
- Absence of an independent body to provide checks and balances in cases where the self-regulatory mechanism has failed;
- Absence of complaints and dispute resolution mechanism for CSOs and their members;
- Lack of a general framework of principles for collaboration between the government and CSOs.

The government recognised these weaknesses through the Sessional Paper No. 1 of 2006 which states that the existing fragmented and uncoordinated legal and institutional framework gives CSOs multiple avenues for registration. This Sessional Paper recommended harmonisation of the overlapping legislative acts through a comprehensive review of legislation for CSOs in Kenya.

Since then, several CSOs in Kenya, under the umbrella of the CSO Reference Group spearheaded a campaign to mobilise CSOs to participate in the development of a new enabling legal, regulatory and institutional framework for CSOs in Kenya. This process led to the development of an all-inclusive bill for CSOs engaged in public benefits activities, the PBO Bill 2012.

PBO essentially means a voluntary membership or non-membership grouping of individuals or organisations which is autonomous, non-partisan, non-profit-making, organised and operated locally, nationally or internationally, and engages in public benefit activities.

After the successful consultation and drafting process of the PBO Bill, it has since been passed as an act and received assent by the former President Mwai Kibaki on January 14, 2013, but unfortunately is still awaiting commencement. This delay falls short of the constitutional best practice threshold of a bill being commenced 14 days after it has been passed by parliament and assented to by the president. It also continues the atmosphere of uncertainty for PBOs provoked by the recent attempt to seize 85% of their assets and foreign funding. The delay also falls short of the government's promise to create and maintain an enabling environment for all to work towards the fulfilment of national development goals.

The PBO sector comprises of 8,800 organisations, employs over 250,000 Kenyans, has a combined annual budget of 80 billion KES and directly provides essential services to millions of Kenyans. Needless to say, it requires proper regulation and coordination, and the delay in commencement of the act negatively affects this. This is because the PBO Act makes for the formation, operation and growth of PBOs, and establishes a regulatory and institutional framework within which PBOs can operate.

Key Highlights of the PBO Act:

- Prescribes minimum provisions to be included in the governing documents of PBOs, as

well as financial transparency and reporting by PBOs;

- Advances and demands good leadership and accountability from PBOs and Regulator in line with the Spirit of Chapter 6 of the constitution;
- Provides for an institutional framework for principled partnership between government and PBOs at all level;
- Allows PBOs to determine standards, certification and adherence to a professional code of conduct;
- Allows different types and forms of CSOs doing public benefit work to operate under a single act.

Status of PBO Act as of the Moment:

- Commencement date of the ACT is yet to be set by the cabinet secretary
- Miscellaneous amendments introduced to the ACT
- Work on rules and regulations continuing with consultation with various PBOs at county level

Conclusion

A great deal of progress has been made by the country in developing a policy framework and a structure of dialogue which is no longer dominated by the government and development partners, but which includes participation of other development stakeholders, especially CSOs. With this milestone achieved, the third sector has wasted no time in taking advantage of the opportunity to not only complement the government in providing services, but also play the much needed advocacy role in speaking for the rights of citizen at all levels. This, however, has not been without its many challenges, the most severe being the continued shrinking space of CSOs to carry out their work. Efforts continue to go into addressing the gaps in the current legal and regulatory framework, as well as in strengthening the capacity of the sector—factors that will go a long way in strengthening their engagement in shaping policy decisions in the country.

Some recommendations:

- Full implementation of the PBO Act 2013 so that its provisions on self-regulation, financial probity and good governance can be realised
- Strengthen country systems to ensure that resources are administered prudently in order to encourage effective partnerships for financing development
- A more deliberate effort by the government and donors to strengthen institutional and technical capacities of CSOs and their coalitions to deliver their mandates most effectively

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4. Reality of Aid 2011 report on Democratic Ownership and Development Effectiveness: Civil Society Perspectives on Progress since Paris
5. See the Public Benefit Organizations Act accessed at <http://Internet.pboact.or.ke/media-centre/news/112-state-of-the-civil-society-sector-in-kenya>
6. See "Institutional strengthening standards for Kenyan CSOs" accessed at http://Internet.msh.org/sites/msh.org/files/final-is-standards-for-kenyan-csos_feb2014_red.pdf
7. See "The 2012 CSO Sustainability Index for Sub-Saharan Africa" accessed at http://Internet.usaid.gov/sites/default/files/documents/1860/CSOSI_AFR_2012.pdf

Kyrgyzstan

Summary

The Kyrgyz Republic before 1991 was part of the Soviet Union. The transition from socialism to a capitalist market economy has since shaped the course of economic development. Poverty today is at all-time high, reaching rates of 37%. Lack of jobs has led to high levels of migration, one of the most significant characteristics of the current socio-economic context of the country. As UNDP estimates, the total number of labour migrants from Kyrgyzstan is between 700 thousand to a million—this in a country with a population of little more than 5.5 million.

Development remains dependent on external ODA. In the context of high levels of corruption, poor management of ODA, growing inequality and big burden of debt repayment, it is crucial that CSOs remain engaged in aid and development effectiveness processes at the national and international levels. There are positive aspects with regard to CSO engagement in development, but in general, CSOs lack institutionalised space in the spirit of 'partnership for development.'

There are no multi-stakeholder discussions over critical aid and development effectiveness issues. Nevertheless, Kyrgyzstan's CSOs are proactively taking steps toward meaningful participation in the aid and development effectiveness process. But a lot remains to be done to improve the enabling environment for CSOs' effective involvement. Women, feminists and women's organisations and movements play key roles in development at all levels. CSOs are, in addition, concerned with restrictive laws relating to CSO voices, access to information and advocacy initiatives.

Introduction

Kyrgyzstan is a comparatively young state, receiving independence upon the collapse of the Soviet Union in 1991. It is essential to recognise the political transition as a persistent challenge that has shaped the current development context.

The transition from socialism to a capitalist market economy led to the progressive fragmentation of major economic and social infrastructures, including the privatisation of a number of public services. This led to sharp rises in poverty rates throughout the 1990s, alongside heightened social inequality. In Kyrgyzstan, social development faces a number of key challenges, including poor governance, lack of accountability, weak democratic country ownership, lack of transparency, weak rule of law, lack of civil society engagement in public policy-making and high levels of corruption. But the Kyrgyz Republic has been re-classified from a low income country to a lower-middle income country, according to the 2014 Income Classifications released in July 2014 by the Bank's Office of Development Economics and Chief Economist.²¹⁸

Broadly speaking, democratic institutions in Kyrgyzstan are quite strong—civil society organisations, professional associations, community groups and political parties are active and diverse. Yet state policy on CSOs is somewhat controversial. On one hand, the state appears committed at enabling growth and strengthening CSOs through the adoption of conducive legislation and institutionalisation of CSOs' engagement; on the other hand, though, it limits space and tries to gain control over CSOs through other legislative means. Over recent years, there have been numerous attempts to control the work and funding sources of CSOs under the apparent motive of protecting national sovereignty and combating terrorism. This took the form of amendments in the registration requirements for public associations, which in turn cracked down hard on funding sources for CSOs.

²¹⁷ *National Statistical Committee of the Kyrgyz Republic. Women and Men of the Kyrgyz Republic. Bishkek -2014. P. 12*

²¹⁸ <http://Internet.worldbank.org/en/news/press-release/2014/07/24/kyrgyz-republic-becomes-lower-middle-income-country>

Kyrgyzstan civil society is working on several initiatives for aid and development effectiveness, including monitoring of ODA at various levels. CSOs, under the leadership of the Forum of Women's NGOs (FWNGO), have formed several groups focusing on these issues since 2007. FWNGO held a series of events on aid effectiveness in 2008-2011, including multi-stakeholders' consultations. In 2011-2014, FWNGO managed to integrate the issue of accountability for aid and development effectiveness into the CSO agenda.

The Legal and Regulatory Framework in Kyrgyzstan

The legal framework in Kyrgyzstan relevant to civil society is based on national and international legislation. Kyrgyzstan is a signatory to major international conventions on human rights and other regulatory frameworks that concern civil society. At local and national levels, laws of the Kyrgyz Republic facilitate and do not hinder CSOs, including their ease of registration. CSOs in general are regulated by a law 'on non-commercial organisations' which was adopted on October 15, 1999 and replaced a previous law 'on public associations' of 1991.

There are more than 6,000 CSOs registered in Kyrgyzstan, but approximately only 1,500 are currently active as many of them have suffered due to lack of capacity and funding constraints. Trends in CSO EE are mixed. Over the past decade, CSO-related reforms in the legal system have in some ways enabled, and in other ways hindered, their freedom to operate in the country. The inconsistency is itself a threat to the opportunity for CSOs to contribute concretely to Kyrgyzstan's development.

For instance, the country does have a very progressive new law on civil society (2014), one of the biggest achievements of CSO advocacy, which institutionalises the role of CSOs as a watch body for state institutions, such as ministries and agencies. This law was finally signed in 2014, after debates that stretched for nearly two years.

The other legislative change with potential impact on development is a law on PPP (public-private partnerships) in Kyrgyzstan. This law was adopted by the parliament on January 12, 2013 and signed by the president of the Kyrgyz Republic in February 2012. This law provides a basis for long-term relations between the state (state bodies, local authorities, municipal companies) and the private sector through state support of private investments.²¹⁹

Positive Tendencies to Widen and Strengthen Enabling Environment for CSOs in Kyrgyzstan

According to the 2012 CSO Sustainability Index for Central and Eastern Europe and Eurasia, Kyrgyzstan's CSO-related legislation continues to be generally favourable.²²⁰

Between 2011 to 2013, the registration process for CSOs has been simplified compared to the past.²²¹ In previous years, CSOs had to collect and submit a huge pile of documents to register, but today it takes considerably less time and effort on their part. It is now possible to register CSOs at both the district and local government level. The National Sustainable Development Strategy for the Kyrgyz Republic (NSDS) plans 'to formalise, both in terms of legal requirements and in administrative practice, acceptable methods of collaboration between government and civil society. In order to ensure direct feedback, it is necessary to introduce the practice of civic involvement in assessing the quality of government and municipal services using best international and national practices'.²²²

²¹⁹ http://Internet.president.kg/ru/news/zakony/299_prezident_almazbek_atambaev_podpisa_zakon_o_gosudarstvenno-chastnom_partnerstve_v_kyrgyzskoy_respublike/

²²⁰ The 2012 Cso Sustainability Index For Central And Eastern Europe And Eurasia. <http://peremena.kg/wp-content/uploads/2013/11/SCO-Sustainability-Index-in-Kyrgyzstan-2012.pdf>

²²¹ See new amendments to Articles 8, 9, 10, 11 of the law "On registration of legal entities and their branches" with setting dates, fees and peculiarities of registration - amendments of 13 December 2012 # 199

²²² National Sustainable Development Strategy for the Kyrgyz Republic for the Period of 2013-2017.

²²³ http://Internet.president.kg/ru/podpisannye_dokumenty/3965_podpisan_zakon_ob_obschestvennyih_sovetah_gosudarstvennyih_organov

Law 'On Public Councils of State Bodies'

In May 2014, the Kyrgyz President²²³ signed a draft of the law 'on public councils of state bodies'.²²⁴ From 2010 to 2014, Kyrgyzstan has experimented with this new and unique form of institutionalisation of CSO engagement with the government. Public watch councils (PWCs) were started by a presidential decree in 2010 and in 2014, under a law on Public Councils, adopted by Joroku Kenesh (the National Parliament). A unique form of partnership has been established by the Presidential Decree on Public Watch Councils, creating a new form of social and political engagement by the state with CSOs and business bodies. In 2011, the first PWCs were established.

They have become a significant factor for strengthening various stakeholders' relations with the state in terms of transparency, accountability, democratic ownership of development and the monitoring of state-led programmes and processes. Among the duties of the PWCs are structuring cooperation between a government body and civil society, through dialogue and consideration of citizens' and CSOs' proposals within the state body's remit.²²⁵

Public watch councils have since been renamed by the new law and are now simply called public councils.²²⁶

As far as laws are concerned, the freedom of association and right to peaceful assembly are formally guaranteed in Kyrgyzstan.

In 2012, the parliament adopted the Law on Peaceful Assembly, which is based on democratic principles and standards. Promoted by local CSOs, this law provides citizens and civic organisations with greater political rights to organise and participate in peaceful assemblies.

However, despite a relatively favourable legal environment, CSOs in practice face a number of challenges and violations of these rights.

Negative Legislative Tendencies to Enabling Environment for CSOs in Kyrgyzstan

The year 2011 saw attempts to restrict political and legal space for CSOs—their voice, independence and access to information and resources—alongside damage to their the public image.

This proved so serious that the UN Human Rights Committee, at its 3060th meeting (CCPR/C/SR.3060²²⁷) in March 2014, notes, 'reports of possible restrictions on non-governmental organisations in several legislative proposals, including restrictive reporting obligations to state authorities in the draft bill on Fighting against Legalization (Laundering) of Criminal Revenue and Financing Terrorist or Extremist Activity (Art. 2, 22 and 26). The state party should ensure freedom of association, in accordance with Article 22 of the Covenant, and refrain from imposing disproportionate or discriminatory restrictions on the freedom of association'.²²⁸

Below are a few recent examples of legislation along these lines:

²²⁴ See <http://Internet.president.kg/files/docs/ONS.PDF>. The law "regulates the formation of, and activities of, Public Councils of Ministries, State Committees and Administrative Agencies, and is aimed at implementation of the public monitoring of activities of State bodies and their civil servants, of taking into account of public opinion in the decision-making, including during development and implementation of the State Policy"

²²⁵ NurgulDzhanaeva. "Enabling environment for civil society in Kyrgyzstan: recent developments" in STATE OF CIVIL SOCIETY 2013: Creating an enabling environment. CIVICUS, P. 102-108. At http://socs.civicus.org/?page_id=4289

²²⁶ A more description of these new bodies was published in CIVICUS Report: 2013 State of Civil Society Report <<http://civicus.org/resources/reports-and-publications/the-compendium>>

²²⁷ "Concluding observations on the second periodic report of Kyrgyzstan" * in article 25 on Freedom of association

²²⁸ http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2fKGZ%2fCO%2f2&Lang=en

²²⁸ http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2fKGZ%2fCO%2f2&Lang=en

- On November 29, 2011, members of the parliament submitted a draft of the law 'on foreign aid (assistance) to the Kyrgyz Republic and making amendments and additions to some legislative acts of the Kyrgyz Republic,' for consideration of the parliament. On January 26, 2012, this law draft was divided into two drafts and again submitted to the parliamentary consideration with slight technical changes. These introduced new regulations for CSOs, including the need to seek permission from various state institutions to receive foreign funding, even after passing registration in the Ministry of Justice. These changes, however, were not approved and have not become part of legislation as a result of strong campaigning by CSOs.

A similar draft law was in the pipeline in September 2013, which blamed NGOs for acting as foreign agents and receiving funds from foreign sources. More than 80 CSOs in Kyrgyzstan signed a petition to national authorities with a call to reject the draft law which essentially deprived citizens of the right to freely form non-registered non-commercial organisations.²²⁹

- In January 2013, the State Office of the Financial Intelligence under the Government of the Kyrgyz Republic (SFIS)²³⁰ initiated a draft law designed to combat money laundering and financing of terrorist activities, said to be based on Financial Action Task Force (FATF) recommendations. The draft contained numerous provisions that would prevent CSOs from receiving foreign funding by, among other things, requiring them to submit additional reports to three state bodies and subjecting them to other forms of unwarranted scrutiny. Following recommendations of the FAFT, article 12, within the framework of combating terrorism, the Kyrgyzstan Parliament initiated changes in laws to restrict CSOs. This was widely discussed and criticised by Kyrgyzstan CSOs. Nevertheless, the draft of the law with restricting amendments to the law on CSOs was registered in the Jogorku Kenesh on May 25, 2014.²³¹
- On June 18, 2013, a draft law was submitted for public discussion by the National Parliament 'on introduction of changes and amendments to the Criminal Code of the Kyrgyz Republic,' aimed at protection of National Security Information from criminal infringement. This was criticised severely by CSOs for its implications on political transparency and freedom of information.
- A discriminatory and stigmatising bill has since been passed that restricts the rights of lesbian, gay, bisexual and transgender people, violates freedom of expression, freedom of association and assembly and discriminates against the LGBT community in Kyrgyzstan.²³² The bill amends the Criminal Code, Administrative Code, the Law on Peaceful Assembly Act, the media, and introduces a number of criminal and administrative sanctions against those who speak or act in a way that creates a 'positive attitude toward sexual orientation.'

CSOs and Development Cooperation

In 2013, the government of Kyrgyzstan took steps to ensure that the NSDS is implemented under the close supervision/monitoring of civil society, with the aim to facilitate better collaboration between state bodies and civil society with respect to the achievement of strategic national development objectives.

However, what remains unclear is the extent to which this process has contributed to concrete changes in development policies, improvements in political accountability and the democratisation of policy-making. Kyrgyzstan CSOs do not have institutionalised space in the spirit of 'partnership for development.' There are no multi-stakeholder mechanisms for public discussion and debate over critical aid and development effectiveness issues. CSOs are poorly engaged in the design, implementation and monitoring of national development plans and policies.

²²⁹ <http://civicsolidarity.org/ru/article/971/grazhdanskoe-obshchestvo-kyrgyzstana-obespokoeno-novym-zakonoproektom-o-nekommercheskih>

²³⁰ On introduction of changes and additions to some Legislative Acts of the Kyrgyz Republic (into laws of KR "On non-commercial organizations", "On State registration of judicial persons, branches (representatives)", "Criminal Code of KR"). This draft law was initiated by three MPs – Bakiruulu T., Madaliev N., and Narmatova N.

²³¹ <http://Internet.kenesh.kg/lawprojects/lps.aspx?view=projectinfo&id=126137>

²³² <http://Internet.hrw.org/node/124275>

In addition, women's empowerment is an essential part of strengthening aid management and governance. The lack of significant participation of CSOs, including women's NGOs, in the process remains a major concern. The lack of institutional space for CSOs limits the inclusion of the needs of poor and vulnerable groups; and there is a lack of measurable human rights and gender equality indicators in the country's domestic development strategies, and in the implementation and monitoring of development cooperation commitments vis-a-vis donor governments.

While space for CSOs is formally guaranteed, the degree to which they are able to intervene in policy debates is greatly limited or is inconsistent. For instance, the National Council on Sustainable Development is chaired by the president of Kyrgyzstan, and out of the 23 members, only 4 are from CSOs, while the National Council on Gender Equality has an identical number of representatives.²³³ Yet the Coordination Council on Micro-Financing²³⁴ does not provide for CSO membership²³⁵ among its 14 members, including government representatives, and representatives from banks, international donors, and the private sector. The same was true during meetings focused on the country's national development priorities. In July 2013, a very important document was discussed and approved at the High Level Development Conference, A Reform-Based Development Partnership for 2013 – 2017. The meetings provide for very limited space for CSOs. This limited participation was achieved only after intense lobbying on the part of the Kyrgyzstan CSO community.

The Restrictive Donor Attitude Towards CSOs

On the part of donors, however, relations with civil society have deteriorated of late. None of Kyrgyzstan's major donors, apart from the World Bank, have solicited input from CSOs in Kyrgyzstan in an open or institutionalised way to aid their development and partnership strategies. Where they do exist, documents pertaining to such projects are not made available in local or sub-regional languages (Russian, for example).

Despite some positive initiatives by individual donors, the results from multi-stakeholder consultations led by CSOs on aid and development effectiveness in 2011 is that the overall approach of donors downplays the role of Kyrgyzstan CSOs as development partners.

For instance, the country's Development Partners Coordination Council (DPCC) does not include any national or local CSO. But among its members is the Soros Foundation-Kyrgyzstan, an international private foundation, as well as major donor agencies in Kyrgyzstan. This demonstrates lack of recognition of CSOs as development actors in their own right, on equal terms with other development actors. The request to include local CSO representatives was rejected in June 2014. This goes against what the DPCC proclaims itself as: 'The Development Partners Coordination Council has been established with the purpose of improving multi-way flow of relevant information among donors, government agencies and civil society institutions. This facilitates networking and broader collaboration within the donor community, a more constructive dialogue and shared vision with the government of the Kyrgyz Republic on country's priorities, and serves to strengthen overall aid coordination and management.'²³⁶

Furthermore, according to Article 23 of the Joint Declaration by the Development Partners of the Kyrgyz Republic at the close of the High Level Development Conference July 10-11, 2013: 'We intend to measure and review progress towards the implementation of these commitments and towards the achievement of a set of agreed national development targets. To that end, we

²³³ http://Internet.k-news.kg/society/16000_obyavlen_konkurs_v_sostav_natsionalnogo_soveta_po_gendernomu_razvitiyu/

²³⁴ http://Internet.knews.kg/econom/17222_v_kyrgyzstane_zavershilos_formirovanie_koordinatsionnogo_soveta_po_razvitiyu_mikrofinansirovaniya/

²³⁶ http://donors.kg/en/about-us#.U_hv7_nV9PI

²³⁷ http://donors.kg/images/docs/reports_and_studies/Joint_Declaration_en.pdf

will meet on a quarterly basis in the framework of the Coordination Council under the Prime Minister and a donors' representative and will make public the outcome of such monitoring.²³⁷

Despite these commitments, no multi-stakeholder consultations were initiated. A new vision of a joint accountability framework and a platform designed and offered by CSOs were hardly taken seriously, apart from some efforts by the Ministry of Economy of the Kyrgyz Republic. Kyrgyzstan has, moreover, not joined the first round of aid and development effectiveness monitoring by the GPEDC.

Political Environment

- **Access to Information** - Public access to information concerning government is restricted in Kyrgyzstan, a lot of which is not open to CSOs and filed away as state secrets. A number of NGOs have contested these trends, favouring instead a process of judicial investigation initiated by a CSO 'precedent.' DCA and ICCO data show negative trends in relation to access to information, with 60.3% of the respondents finding it difficult to access information on government budgets and policy decisions on development issues. Of the survey participants, 67.1% noted that it was significantly easier to get this information five years ago.
- **CSO involvement in Aid and development effectiveness in Kyrgyzstan** - Overall, participation by CSOs in development cooperation and aid issues is weak. There is a lack of monitoring mechanisms to enable civil society to deal with these issues, and a need to institutionalise CSO engagement in development policy discussions. In Kyrgyzstan, democratic development is limited by weak government accountability, lack of transparency, lack of CSO engagement in public policy-making and high levels of corruption.

According to the Worldwide Governance Indicators, Kyrgyzstan in 2012 scored poorly: less than 300 - Voice and Accountability, Rule of Law - 12.8 and Control of Corruption - 10.4 on a scale from 0 to 100.

With the economic development of Kyrgyzstan still heavily dependent on ODA, Kyrgyzstan CSOs have taken steps to implement the PD, AAA and Busan agreements. The year 2013 marked a CSO decision to develop a monitoring framework of the National Partnership on Aid and Development Effectiveness, with indicators based on GPEDC monitoring in Kyrgyzstan and plan of actions.

CSOs also started a new social accountability process based on creating a new accountability process and timely and meaningful and systematic involvement of wide range of CSOs from all provinces and other stakeholders as active actors in this new accountability process. This spearheaded the creation and development of a joint platform to improve country accountability in development and partnership processes.

All public sector institutions and agencies must cooperate with CSOs, according to various national and international documents. These include the National Strategy for Sustainable Development (NSSD - 2.6 'Strengthening of State authorities with civil society) for 2013-2017 and a 2013 Governmental Program on implementation of the NSSD. The Kyrgyz government also signed on to the Accra Agenda for Action (AAA, 2008) and the Busan outcome document (2011), taking commitments on improving accountability and transparency and work with CSOs.

The Governance Context

NSDS clearly states that achieving the transformations and implementing elements of the National Sustainable Development Strategy will require increased collaboration of the branches with civil society.²³⁸ Yet 'government agencies still lack the citizen-centred and quality-first approach in their services, which continues to disorient ministries and agencies.'²³⁹

²³⁸ National Sustainable Development Strategy for the Kyrgyz Republic for the Period of 2013-2017. P. 109.

²³⁹ National Sustainable Development Strategy for the Kyrgyz Republic for the Period of 2013-2017.

²⁴⁰ http://Internet.knews.kg/econom/17222_v_kyrgyzstane_zavershilos_formirovanie_koordinatsionnogo_sove-ta_po_razvitiyu_mikrofinansirovaniya/

The economic development of Kyrgyzstan today relies heavily on external ODA. Volume of aid for 2014-2016 is 1.347 million USD.²⁴⁰ It is estimated that International Development Partners have resources of over 2 billion USD available for new projects to support the Kyrgyz Republic over the period of the National Sustainable Development Strategy 2013-2017.²⁴¹ SSC - aid from Russia and China - has constituted a growing share of official ODA. However, HRBA principles, as well as development effectiveness parameters and obligations, have not been followed and are not being monitored.

But the GoKR and country donors don't have a concrete Action Plan for the implementation of AAA and the Busan commitments. Kyrgyzstan lacks a coherent aid and development coordination structure. Currently, ODA is coordinated by several state institutions that have been poorly organised, leading to a much weaker process of aid and development effectiveness monitoring, especially on the part of CSOs that have to deal with government representatives. Lack of transparency is another issue. For instance, an analysis of the SWAP²⁴² application in the healthcare sector and the subsequent decision to use it in the education sector were made without public consultation.

In specific sectors, international development partners will work with the government towards a sector-wide approach with a commonly-agreed upon strategy, focal point, financing plan and monitoring and evaluation framework.²⁴³

Bishkek, 19 April 2013 - The Government of Kyrgyz Republic and the Donor Partners signed a Joint Statement regarding the modalities of future cooperation with all Donors in the Education Sector based on Sector Wide Approach to Programming (SWAP). It aims to harmonise and coordinate donor support, enhancing aid effectiveness and predictability of aid flows. Republic of Kyrgyzstan Aid Effectiveness in the Education Sector 2010 is being discussed predominantly at international sites such as - <http://Internet.globalpartnership.org/content/republic-kyrgyzstan-aid-effectiveness-education-sector-2010> or <http://Internet.worldbank.org/projects/P132490?lang=en>. Project Information Document (Appraisal Stage) - Kyrgyz Global Partnership for Education (GPE) - 3 - P132490 (English) December 19, 2013.²⁴⁴ Yet, these documents practically are not accessible to the public.

In a situation of weak governance and high levels of corruption, as recognised by international organisations²⁴⁵ and by the GoKR,²⁴⁶ the role of CSOs is increasing importance. GoKR in NSDS stated that, 'the legal and institutional side of preventive anti-corruption measures also requires strengthening and involvement of the civil society institutions as an integral part of any anti-corruption measures.'

NGO played a big role in this process within the "Anti-Corruption Business Council" in 2012-2014. The NSDS stated that, 'the key indicator of success of implementation of anticorruption policy will be the 'confidence indicator' of the civil society—its confidence in the results of the national anti-corruption policy, which shall be constantly measured.' It also included 'unification of efforts of government and civil society in combating corruption' as one of 'priority areas' of the implementation of the National Anticorruption Strategy in 2013-2017.

²⁴¹ http://donors.kg/images/docs/reports_and_studies/Joint_Declaration_en.pdf

²⁴² SWAP, a sector-wide approach, is one of aid modalities. "Programme-Based Approaches (PBAs) emerged in the 1990s in response to growing evidence on the shortcomings of traditional, stand-alone aid projects.... They include general and sector budget support, sector-wide approaches (SWAPs) and similar programmes at a cross-sectoral, sub-sectoral or regional level" - <http://Internet.aideffectiveness.org/Tools-Aid-modalities-PBAs-SWAPs.html>.

²⁴³ http://donors.kg/images/docs/reports_and_studies/Joint_Declaration_en.pdf

²⁴⁴ <http://Internet.worldbank.org/projects/P132490?lang=en>

²⁴⁵ According to Worldwide Governance Indicators Kyrgyzstan in 2012 scored poorly - less than 30,0 - Voice and Accountability, Rule of Law - 12,8 and Control of Corruption - 10,4 on a scale from 0 to 100

²⁴⁶ The NSDS recognises that "Corruption is still a real threat to the national security of Kyrgyzstan. GoKR devoted a chapter in the NSDS for 2013-2017 "2.6. Increasing effectiveness and ensuring transparency of governance Strengthening co-operation between the government and the civil society"

CSO Development Effectiveness

Few opportunities exist for capacity development with regard to turning CSOs into development partners in Kyrgyzstan. There have been some attempts to train CSOs on aid and development effectiveness issues, but the gap between demands and availability of resources is huge.

Kyrgyzstan CSO in October 2014 discussed details of implementation of the Istanbul Principles. It is important to ensure that Istanbul Principles of CSOs effectiveness are widely discussed and applied in our countries. This process will assist not only strengthening CSOs' institutional capacity but the cross sector interaction for mainstreaming for example of women's rights protection approach. In other words civil society is working on its effectiveness and accountability. CSO development effectiveness is measured also by its sustainability. In August 2014, the NGO Peremena held a dissemination of the results for Kyrgyzstan of the 2012 CSO Sustainability Index for Central, Eastern Europe and Eurasia. Almaz Tajybai from Peremena reported that CSO sustainability is scored at 4.0.²⁴⁷ According to this analysis, 'the overall sustainability of civil society improved slightly in 2012. Improvements were noted in legal environment, advocacy, and public image, while organizational capacity, financial viability, service provision, and infrastructure all remained fairly stable.'²⁴⁸

CSO advocacy capacity²⁴⁹ also improved slightly over the past year. CSO advocacy activities continue to be quite dynamic. CSOs gathered 30,000 signatures in favour of the draft law on lustration, which would ban corrupt officials from the previous two governments from getting government positions in the future. However, since the initiative did not receive the support of the parliament or president, it is unlikely to move forward. Advocacy also prevented the adoption of bills that would have been harmful to civil society. For example, the draft Law on Foreign Gratuitous Aid would have introduced undue limitations on foreign sources of funding for CSOs.

State authorities increasingly consider CSOs as experts and engage their services accordingly, but relations between CSOs and government are not always effective. There is a need to build capacity of CSOs to advocate for development oriented toward human rights and social justice, transparency and accountability.

At the international level, participation by CSOs in global processes has been limited due to language barriers faced by a majority non-English speaking CSO community.

The Socio-Economic Context

The socio-economic situation in Kyrgyzstan has not significantly improved during the last years. Lack of jobs led to a high level of migration, and it is one of the significant characteristics of the current socio-economic context of the country. Kyrgyzstan has a big informal sector, where human rights are not ensured and not monitored. 'Aside from children, the self-employed, or people detached from the formal labour market, are most at risk of falling into poverty in the Kyrgyz Republic. Over half of all self-employed people are living in poverty, reflecting the subsistence nature of employment of most self-employed people in the Kyrgyz Republic.'²⁵⁰ As UNPD informs, 'the country's economy is largely informal (40-60% GDP by different estimations), especially in the service sector and agriculture. In 26% of households, at least one family member

²⁴⁷ *The 2012 cso sustainability index for central and eastern europe and eurasia*. <http://peremena.kg/wp-content/uploads/2013/11/sco-sustainability-index-in-kyrgyzstan-2012.pdf>

²⁴⁸ *The 2012 cso sustainability index for central and eastern europe and eurasia*. <http://peremena.kg/wp-content/uploads/2013/11/sco-sustainability-index-in-kyrgyzstan-2012.pdf>

²⁴⁹ *The 2012 cso sustainability index for central and eastern europe and eurasia p. 4*. <http://peremena.kg/wp-content/uploads/2013/11/sco-sustainability-index-in-kyrgyzstan-2012.pdf>

²⁵⁰ *The World Bank. Kyrgyz Republic: Growth Rebounds, Risks Remain. Kyrgyz Republic Economic Report No.5. March 2014. P. 9.* http://donors.kg/images/ECSP1_KGZ_Spring_2014.pdf

²⁵¹ <http://Internet.undp.org/content/kyrgyzstan/en/home/countryinfo.html>

is working abroad. The total number of labour migrants from Kyrgyzstan is estimated between 700 thousand to 1 million, with majority of them working in the Russian Federation.²⁵¹ The majority of CSOs in Kyrgyzstan continue to depend mainly on foreign donors for financial support, which provides mainly for the implementation of individual projects, as opposed to long-term institutional funding.

According to the DCA and ICCO report:²⁵² 'Kyrgyz CSOs reported a decline in their levels of funding. They felt that the situation was further exacerbated by the uneven distribution of scarce resources, and maintained that only a select few receive funds, while smaller CSOs struggle to get a share. Kyrgyz CSOs get most of their funding from foreign and international organisations. However, the decline in funding has made maintaining a sustainable financial position for Kyrgyz CSOs a cause for concern. The reasons can be attributed to a reduction in the number of donor programs available, stringent project requirements for accessing funds, and not least, the introduction of anti-democratic legislative initiatives over the past five years, especially in 2013. All of these elements contribute towards limiting CSOs' ability to get support from abroad. As far as UN funds are concerned, CSOs are of the opinion that, while internal financial and administrative requirements have increased, institutional support has diminished, making it increasingly harder for smaller CSOs to access financing. Kyrgyz CSOs believe that there is a need for donors to be more transparent in the disbursement of grants and the monitoring of implementation.'

The government has tried to address this through social order grants for CSOs from the state, and through the institutionalised participation of CSOs in the decision-making process in the ministry during the decision-making a process on selection of submitted proposals from CSOs. But the law 'On Social Services Contracting' (July 21, 2008) has its limitations. A law on social services contracting was enacted in 2008, which establishes a competitive tender mechanism for government financing (outsourcing) of social services provided by NCOs. Up to now, however, only the Ministry of Social Development has used this mechanism, even though it is available to other government agencies. Moreover, the volume of financing has been extremely low due to the country's economic hardships and deficiencies in implementation. Kyrgyz legislation does not provide conditions for economic (as well as entrepreneurial) activities of CSOs.²⁵³

Nothing was done in the aid-reforming process as part of the PD and AAA implementation to facilitate an enabling environment for the empowerment of women. Women's organisations should be recognised as development actors and development partners.²⁵⁴ Women, feminists and women's organisations and movements play key roles in development at all levels.²⁵⁵

FWNGO held a national conference where women expressed their position in demanding gender equality and women's empowerment. In connection with this, it is necessary to include in the post-2015 development agenda and framework gender equality and women's rights as a standalone goal, and to ensure that specific gender targets and indicators are integrated into all sustainable development goals of Kyrgyzstan. To reach substantial and sustainable progress on gender equality, the post-2015 development framework should prioritise these areas and put women's rights at the heart of the development agenda.²⁵⁶

In Kyrgyzstan, there is a lack of political attention to women's issues, despite commitments by the government, nor have donors fully approached women's issues as a priority goal for development.

²⁵² *DCA and ICCO. How to Protect and Expand an Enabling Environment Kyrgyzstan.P. 7.* at <http://Internet.icco-international.com/int/linksevid/BCAE3CFC-04D4-A66B-1BBF53C8CB065B65/showMeta/0/>

²⁵³ <http://Internet.icnl.org/research/monitor/kyrgyz.html>

²⁵⁴ *AAA, article 13 and 20.*

²⁵⁵ *Women's organizations key demands for Busan and 2012 DCF*

²⁵⁶ *Statement of the January Women's conference "Post 2015- Kyrgyzstan future – women's vision", held in Bishkek, Kyrgyzstan in 22-23 January*

There is no institutional space for women's regular and systematic participation in aid and development effectiveness discussions and monitoring. It is desirable to increase to at least 30% women's representation in all financial aid and development effectiveness, decision-making and monitoring bodies and processes.

Conclusions

Despite a number of positive achievements in Kyrgyzstan development during the last several years, challenges remain in the areas of aid and development effectiveness, democratic ownership and inclusive partnership of CSOs and other development actors. Development and ODA results for the people are not visible and lack proper implementation and monitoring. There is no national social accountability framework for development results. There is a need to institutionalise CSO engagement in the development process discussions. The ability and capacity of CSOs to engage in these areas as independent development partners is also crucial. Key successes, challenges, recommendations and lessons learned are summarised below.

Key Successes

- The Law "On Public Councils of State Bodies" was adopted. After the adoption, CSOs struggled long and hard against resistance by the president to actually implement it. Nevertheless, a consensus was reached, and in June 2014, this law became one of the strong elements of the CSO enabling environment;
- Kyrgyzstan CSOs formed several platforms and groups to work on aid and development effectiveness issues, which became a big focus for CSOs;
- Increased capacity by CSOs, which proposed a joint accountability platform between state and donors;
- CSOs started their own monitoring of aid and development effectiveness with the first pilot of complex monitoring of ODA in the Ministry of Healthcare of the Kyrgyz Republic.
- The work of CSOs has been crucial in shifting public and state perceptions in favour of civil society. These include initiatives by FWNGO, the Coalition on Aid and Development effectiveness, Nash Vek/Our century, Anticorruption Business Club, Coordination Council of PWC\PC and intra-working groups of PC in the aid and development effectiveness area.
- Challenges and Recommendations
- The Kyrgyz government should stop passing laws that restrict CSO voices, access to information and advocacy initiatives;
- Kyrgyzstan urgently needs a coherent aid and development coordination structure with institutionalised and full participation of CSOs;
- Carrying out aid and development effectiveness commitments in Kyrgyzstan needs both political will and the appropriate means of implementation;
- The government of Kyrgyzstan and country donors must have a concrete action plan for the implementation of AAA and the Busan commitments;
- There is a need for national legislation on aid and development effectiveness, reflecting AAA and Busan commitments and strengthening national democratic ownership of development;
- The state should strengthen and expand the enabling environment for CSO engagement on aid and development effectiveness issues;
- The international donor community should shift from symbolic recognition of CSOs to practical implementation of commitments in Accra and Busan;
- There is an urgent need for multi-stakeholder dialogues in the Kyrgyz Republic. In 2014, the Coalition for Aid and Development Effectiveness will receive its first monitoring results and its effectiveness will depend on the opportunities to discuss these results with all development stakeholders;
- Women's issues, at least in the form agreed in the National Gender Equality action plan, should be an integral part of the country's development strategy with sufficient funding. The work of women's organisations should also be supported by the state budget, and women's organisations need to be part of all aid and development planning and

monitoring processes.

- Access to resources should be guaranteed for development cooperation: country development supported by aid must meet basic requirements in the promotion of human rights, gender equality, social justice and democratic country ownership.
- Lessons Learned
- CSOs can and should engage with aid and development effectiveness issues despite a restrictive political environment;
- The internal capacity of CSOs to engage in these issues should be strengthened;
- Kyrgyzstan CSOs benefit from global CSO processes on aid and development effectiveness, and CSOs can improve national advocacy initiatives through active engagement in global policy debates.

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Introduction

Civil society in Lebanon has evolved through its activism and advocacy efforts, striving to reflect the needs and interests of people on the ground. Throughout Lebanon's history, civil society organisations (CSOs) have been crucial channels for relief and development assistance, to a large extent compensating for the lack of state provision of basic social services. With stronger recognition of the role CSOs play as "independent development actors", Lebanese CSOs have sought to press the government and engage more closely in public policy-making.

However, a number of challenges have hindered civil society at the national level. In its report, CIVICUS highlighted the shrinking space for CSOs worldwide, noting that "there is an urgent need to democratise global governance, to support greater participation of citizens in decision-making and to engender an environment that enables civil society to substantively engage in these processes."

Since independence, Lebanon has been a refuge for thinkers and free speech, in the troubled Middle East region but a number of recent crises and military conflicts have impacted on the flexibility of its political and social institutions with regard to civil society.

With the end of Lebanon's 15-year civil war (1975-1990) and the beginning of the reconstruction process, CSOs were supposed to do more than provide services and relief; they were expected to play an additional role in contributing to and calling for development through advocacy and political pressure on the state, especially on its socio-economic policies.

The presence of the Syrian army on Lebanese territory (1990-2005), increased pressure on civil society activism in Lebanon; restrictions included unconstitutional and illegal regulations suppressing the freedom of association and severe practical violations which impacted on CSOs. While more CSO involvement in decision-making was expected after Syria's army pulled out of Lebanon, armed conflicts in many Arab countries, especially in Syria (starting in 2010 and worsening ever since), burdened Lebanon and prevented civil society from playing a more political role with the flow of international resources and aid efforts shifting towards providing relief for more than 1.5 million refugees.

In light of the radical changes witnessed by Lebanon, and while Lebanese CSOs are numerous and diverse in reach and political persuasions, the conditions under which CSOs operate must be assessed. This report helps analyse to what extent the Lebanese government and society facilitate CSO engagement and their effective role in development.

Recently, there has been more talk about an enabling environment for CSOs; the latter can be assessed through the examination of the legal, executive and practical (or political) conditions within which CSOs operate, receive funding and are able to lead activities to reach their goals. This possibility of reaching its objectives falls within the concept of "development effectiveness," where activities and aid should support the development process. A guideline for developmental CSOs, known as the Istanbul Principles for CSO Development Effectiveness, provides a framework for a CSO willing to engage in the development process.

The Legal and Regulatory Framework

The Lebanese Constitution endorses many basic rights and freedoms. The Universal Declaration of Human Rights was later adopted by the constitution's preamble (following the Taif Agreement in 1990) and affirmed by the Constitutional Council. Lebanon has also passed laws providing implementation mechanisms and enjoyment of these rights and freedoms. This paper highlights the main aspects of these laws and sheds light on irregularities in their application and main loopholes.

The most important feature which affects civil society action is the right to create and operate free legal associations. In this regard, the law in force is the 1909 law or the Ottoman Law, which was passed under Ottoman occupation. It regulates the different stages of a CSO's life, from registration to dissolution. The law is generally liberal, using the notification system contrary to the majority of Arab countries where the licensing system is applied. In fact, a notification system (also known as declaratory system) is premised on the theory that associations are formed solely by the will of their founders without any intervention by the administration; the latter plays a passive role and notes the formation of the association by virtue of a declaration presented to the competent administrative authority by the founders. The notification is finalised by the delivery of a receipt for the declaration. On the other hand, under a registration system, the formation of an association is subject to registration before the competent authority. Registration only occurs with the approval of this authority; thus, the administration plays an active role since it must acknowledge the existence of the association.

Civil society has been active in all stages of Lebanon's history and has responded in various forms to shortfalls by the state in the delivery of basic social services. In his article, Georges Corm noted that the "The grassroots of Lebanon's civil society date back to the political events seen by Lebanon in the 19th century, especially the popular uprisings of 1819, 1845 and 1858 that were led by peasants." Corm adds, "The history of CSO development explains the various areas of operation of CSOs today."

In addition to the 1909 law, other laws and regulations governing the operation of CSOs assign them under different categories, leading to inconsistencies implementing laws concerning civil society. While the Ottoman Law governs CSOs providing development services and dealing with development and rights, alongside political parties, many organisations are subject to the licensing system. Labour unions and federations are subject to the labour law and to strict regulations and monitoring.

Overall, the political situation pressured, fragmented and weakened the labour movement, leading to negative repercussions on economic and social rights. In addition, youth and sports associations, including scouts, are under the Youths and Sports Ministry's supervision and are subject to the registration system. On a separate note, Palestinian refugees, who constitute a significant proportion of Lebanon's population, are not allowed to establish their own organisations, and are thus deprived of this right despite the fact that their presence in Lebanon dates back to the 1940s and '60s. The concept of reciprocity applies in this case; it hits with the absence of a Palestinian authority caused by the Israeli occupation of Palestine.

Moreover, organisations working on LGBT rights are still illegal in Lebanon; a 2009 court ruling made an improvement on this level and ruled that homosexuality is not against nature as condemned by Article 534 of the Lebanese Penal Code.

In addition to the freedom of association, other factors, rights and freedom influence the availability and enjoyment of an enabling environment for civic action, especially the rights of expression, peaceful assembly and access to information. At the international level, Lebanon endorsed the International Covenant on Civil and Political Rights and other relevant conventions and thus has an international obligation to safeguard and guarantee the full enjoyment of these rights.

On a national level, freedom of expression is noted explicitly in the constitution and is consecrated by law. However, implementation has been weak in practice. First of all, vague laws on freedom of expression mean they are often open to interpretation. In some cases, these same laws can be used, when the authorities find it necessary, to strangle civil society activism especially if the political context and sectarian and political divisions are taken into consideration. Court rulings and a number of new security laws also hinder free speech.

Some examples of these include Article 386 of the Penal Code, which criminalises any disparagement of the president, the courts, the army, public representatives, among others

and the Publications Law, which bans running any news deemed contradictory to public ethics or harmful to national or religious sentiments or national unity.

In addition, out of the many cases of activists or bloggers being sentenced based on current laws, the Lebanese Court of Publications sentenced a journalist, Mohamed Nazzal, for having published an article regarding judicial corruption.

The 2013 World Press Freedom Index reveals an increase of violations of free speech in Lebanon, and ranks the country 101st among 179 countries.

With regard to Internet freedom, the publication court (an exceptional court established to deal with issues related to defamation) now considers information exchanged via social media “a form of publication rather than private correspondence”. The absence of a law to deal specifically with online media or the Internet is being exploited by the authorities as a tool to strangle this form of communication. This situation calls for the adoption of a law that will specifically address Internet freedom and which takes into account international standards and a human rights-based approach.

As for the right to peaceful assembly, Lebanon still adheres to the 1911 Ottoman law, known as the Public Meetings Law. It adopts, as in the case of the association law, the notification regime which requires primarily notifying the administration, i.e. the Ministry of Interior and Municipality (MoIM), of the place, time and objectives of any form of assembly, but theoretically does not require explicit permission from the authorities. Nevertheless, the law imposes a burden on those seeking to organise public assemblies, as it holds organisers responsible for making sure these legal obligations are carried through. Another challenge facing peaceful assembly relates to the attitude of the security forces and their use of violence against protesters in many cases. Limited accountability for the use of excessive violence by the authorities is a serious cause for concern.

One of the main challenges facing CSOs and the accountability of a state's institutions is the lack of free access to information. Access to information is not recognised in Lebanon, facilitating or even encouraging corruption and bureaucracy. CSOs, as development actors, should be able to assess and monitor the performance of state actors. Non-recognition of the right to access information hinders CSO engagement in political advocacy and policy dialogue. It is worth mentioning that a draft law on this issue was proposed by a civil society coalition, the “national network for the right to access information”, to regulate access to information and its adoption, which will contribute much to the ability of CSOs to participate actively in the political arena.

So far as long as the draft law is not endorsed, Lebanese citizens will remain deprived of one of their main rights and civil servants will continue to act arbitrarily, each according to his/her principles, interests and affiliations. Nevertheless, some specific regulations guarantee the right to access some type of information in Lebanon and offer a good example to be generalised; these regulations concern environmental information, land registration, real estate ownership, electricity and telecommunications.

Another important precedent is the State Council's recent ruling in favour of the right to the families of persons who went missing during the Civil War to know the fate of these persons by receiving a copy of an investigation into the matter.

Overall, the legal framework in Lebanon can be generally assessed as acceptable and permissive of civil society engagement. Nevertheless, and as is the case worldwide, recent developments pose threats to the enjoyment of some rights and liberties. This situation requires genuine will to remove the ambiguous and wide legal dispositions which impact on the implementation and protection of basic civil liberties as has been noted above.

The Political Environment and the Governance Context

The political environment in Lebanon, which examines the recognition of CSOs as playing a core role in policy-making, including the design and implementation of development plans and policies, cannot be addressed without assessing at the same time the governance context within which they operate.

The role of CSOs has extended from pure philanthropy and service provision to active engagement in public policy and decision making. Although a larger percentage of civil society still focuses on service provision and relief, more and more CSOs are taking part in advocacy and lobbying in order to address the root causes of social problems; namely wrong policy choices taken so far by successive governments. Unfortunately, such efforts have not been met with the same enthusiasm by political parties and actors which, on several occasions, have tended to ignore popular demands.

Over recent years, Lebanon has been through something of a political deadlock affecting key state institutions due to political and sectarian divisions in Lebanon and more generally throughout the Arab region. Lebanon has been without a president for more than 226 days; former President Michel Suleiman's term expired on the night of May 24-25, 2014, and no new president has since been elected. This will have major negative repercussions on democratic life in Lebanon.

A study prepared by ANND on the enabling environment for CSOs in Lebanon, after a thorough examination of civil society engagement in Lebanon, concluded that the effectiveness of CSOs depends to a large extent on the existence and seriousness of dialogue, coordination and communication mechanisms and channels between government institutions and civil society. This situation places CSOs' effective role as development actors in Lebanon, hostage to political will in the context of political paralysis and rivalries in the country.

Success Stories

Despite the limited number of organisations engaged in development and advocacy for a human rights-based approach from the government, a number of initiatives and campaigns addressed policy and decision-making in this regard, and called for more transparency and developmental initiatives from the state. Over the years, CSOs have developed their own expert capacity and areas of specialisation in development work: “Specialisation in [CSO] work [has reached the level of professionalism] for some activists... one of the most important changes known by Lebanon's civil society after 1990. Specialisation is now a basic condition for contributing to making public policies.”

A successful example of the influence of civil society and its success in influencing public policies is the effort made by YASA (Youth Association for Safety Awareness), an organisation specialising in road safety. It took part in the discussions and all stages of the drafting of the new traffic law which was passed by parliament. This is a good example of an effective partnership. Another example concerns KAFA, an organisation calling for ending discrimination and violence against women. It drafted a law to criminalise violence against women and submitted it to the parliament through some lawmakers. The law was successfully adopted, with amendments. In addition, the Lebanese Association for Democratic Elections (LADE) has contributed to transparency efforts as an observer to the municipal and parliamentary elections in Lebanon.

In 2012, ANND and a group of CSOs sent to the Lebanese prime minister, upon his designation, a letter reflecting Lebanese civil society's view regarding the Cabinet's policy statement and the government's policies. The letter addressed all the concerns and issues deemed necessary alongside a list of recommendations.

ANND, in a national workshop to discuss EU's policies towards Lebanon, urged the European Union (EU) to involve civil society in all stages of its Neighbourhood Policy; civil society should not only be asked to comment on outcome documents but should also be granted the opportunity to influence the content and EU's approach to Lebanon's development priorities.

The private sector and its role in development: The role of the private sector in development should be well defined to assure a correct approach where civil especially economic and social rights can be guaranteed. The profit-oriented nature of the private sector poses challenges for these rights. With the increasing reliance on Public Private Partnerships (PPPs), ANND decided to engage and monitor these sorts of partnerships and launched work on the regional level to develop principles that will guide PPPs and guarantee their transparency and effective contribution to development.

Challenges

The state's approach to development still needs to take into consideration the role of the emerging actors. In reality, the examples mentioned above remain limited since there are no real partnerships and forums for exchanging ideas, information and experiences between different development actors. Civil society activists, when invited to dialogues or consultations with the government, are often invited on an expert, individual basis, and there are no mechanisms to guarantee that their opinions are actually taken into consideration.

Limited institutionalised dialogue: The Economic and Social Council is a platform expected to host discussions and dialogue between different stakeholders, including the private sector and civil society. Its main role is to advise the state on its economic and social policies. However, the Council has been paralysed since 2005, rendering the main institutionalised platform for discussions ineffective. It is of critical concern to call for the revitalisation of the Economic and Social Council in order to build bridges between all development actors. ANND called in different occasions to restore the Council and stressed this need in its reaction to the European Union's (EU) National Action Plan with Lebanon.

Weak accountability and monitoring mechanisms: The absence of freedom of information and the lack of transparency initiatives for political institutions in Lebanon has made it difficult for CSOs to monitor and hold authorities to account. Government institutions and administrations are beset by allegations of corruption and clientelism.

The absence or weakness of accountability mechanisms for different stakeholders hampers effective development. One aspect of corruption relates to national funding mechanisms which rely mainly on contracts sealed with relevant ministries. These contracts are influenced by political and sectarian considerations; no clear and defined criteria are adopted for these contracts, facilitating corruption and favouritism in contracting.

When it comes to international partners and foreign donors, the funding mechanisms and overall relations between donors and CSOs are facing some major challenges. The pre-defined agendas of donors, which do not take into consideration national and local needs, have hampered the usefulness and effectiveness of aid. A more participatory approach should be adopted to allow CSOs to participate in defining or influencing the donors' agenda and implementation modalities. In fact, many CSOs are noting that donors' agendas are not reflecting the real national requirements and priorities. In addition to that, complaints regarding the intermediary organisations are rising in the Arabic region and Lebanon. These organisations take a part of the aid (coordination or commission) and pass the project or donation to another organisation, affecting "end beneficiaries" and hampering the aid effectiveness.

The Syrian crisis repercussions as an example of bad governance: The bad management of the conflict in Syria has had major repercussions on Lebanon, and attests to the importance of joining all efforts to guarantee a long-term and effective response: "The government must lead the initiative by coordinating not only with international donors but also with municipalities, municipal unions and NGOs". However, the potential and effective contribution of CSOs in

dealing with the influx of refugees is underestimated by the Lebanese officials. In fact, a proper and organised response by these organisations can be decisive to whether the response to the refugee crisis is successful or not, since CSOs are present in operations at the grassroots level in Syria.

In addition, there is lack of coordination among responders to the Syrian crisis. Duplication of the efforts has not ensured a long-term response to the ongoing crisis. Further, the initial reaction ignored the different needs of the refugees and host communities, leading to severe cultural tensions between refugees and local Lebanese civilians. The responses so far brought are temporary and unsuitable, "the refugee crisis is a medium-term problem and should be dealt with as such."

In sum, the governance context in Lebanon is one where the roles of various development actors are still not well defined and where state authorities still hold most of the responsibilities though they are incapable and unwilling to assume them. It is imperative to institutionalise relations between state institutions and the civil society in order to guarantee recognition of civil society organisations as development actors in their own right.

Participation in Monitoring and Accountability

Some CSOs are hesitant when it comes to monitoring the government's performance. In fact, civil society is very reluctant and hesitant when it comes to monitoring the state's performance in some sectors, especially with regard to the national budget. In light of widespread corruption and its influence on all aspects of life in Lebanon, there are no serious initiatives to shed light on this issue. "A survey of CSO accountability's attempts to monitor the state's budget reveals general hesitation. A key obstacle or hindrance to CSO accountability's attempts relate to the budget's legal framework, which bans citizens' access to information and undermines transparency in the budget's preparation. Lebanon is one of the countries that provide minimal information according to the criteria of the International Budget Partnership Organisation. The legal framework does not guarantee official mechanism for citizen participation in the budget's preparation; it restricts most involvements to unofficial initiatives, which are not binding for the state."

In conclusion, consecutive policies adopted in Lebanon have led to higher unemployment rates while a coherent strategy to address the socio-economic challenges is absent. ANND and its member and partner organisations have continuously called for the adoption of a strategy that aims to increase the productive capacities of Lebanon. CSOs must build on their previous experiences and move from monitoring to more proactive positions, where they are able to put effective pressure on the state and propose concrete recommendations. Public discontent against policy makers gives additional value for the role and potential impact of civil society and this situation must be exploited to fulfil its development role.

The Socio-Cultural Context

Coordination and partnership among CSOs: Coordination between CSOs is characterised in most cases by its temporary character and limited scope. It appears that campaigns led over a limited number of issues and for a limited period of time impacts on the prospects for their success. Several examples bear witness to that fact, e.g. the National Network for the Right of Access to Information, the Civil Campaign for Electoral Reform (CCER), the National Coalition for Legislating the Protection of Women from Family Violence, etc.

In reality, "the temporary character of these coalitions reduces the risk of co-optation, and the limited scope reduces the number of stakeholders threatened by the campaigns". The failure to establish permanent coalitions among CSOs can be partially attributed to the political and sectarian environment. In case a permanent structure is created, its efficiency on the long term could be questioned. In fact, it will most likely be infiltrated to a point where it will lose its credibility and neutrality.

¹⁹⁵ <http://Internet.bancomundial.org/es/country/guatemala/overview>

There is an urgent need to reassess the ability of CSOs to strategise and cooperate among themselves.

Religious and sectarian context: Lebanon is a multi-confessional state where religious affiliations carry significant weight in society. Many organisations have a religious orientation and base their contribution and operation on religious considerations. These are mainly service-delivery or charity organisations. On many occasions, CSOs have had to confront religious authorities when advocating for their causes and pushing for their demands. The adoption of a civil code and allowing for the celebration of civil weddings in Lebanon is one of the main demands of civil society and it is strongly opposed by different religious authorities. It can be said that religious authorities and affiliations are one of the main challenges facing civil society, especially with regard to issues surrounding the family and personal affairs.

Media and civil society: The media has generally portrayed CSOs and their value in politics in a favourable light. Over recent years, partly as a reaction to the political and legislative paralysis in Lebanon, TV channels and media engaged with civil society and have highlighted their activities and demands. This increased the public perception of CSOs, thus paving way for more sound and important participation of CSOs in official processes related to the issues they cover. In addition, it allowed some to have power to mobilise people around secular political issues in a country where the first appurtenance of people is to their religion. The media and the coordination of its relation with civil society can help build a civil sense of belonging and help to shift focus to major developmental and socio-economic concerns.

Relations with research institutions: More agreements are being signed between CSOs and research institutions which aim to enhance cooperation in all domains. This collaboration has been constructive in terms of enhancing civil society's capabilities in gathering, documenting and analysing information. This leads to more credible and effective recommendations that can be used and invested in increasing civil society involvement in public policies and boosting their influence on making policies and decisions.

Universities are also encouraging and promoting civil and voluntary work in their premises by creating spaces for civil participation. Agreements and coordination with civil society is increasing as a sort of recognition of the key and important role played by CSOs on the national level. Examples include cooperation between the Lebanese-American University and Makhzoumi Foundation and the creation of the Asfari Institute for Civil Society and Citizenship at the American University of Beirut.

Judiciary's role in consecrating democratic practices and enhancing human rights in Lebanon: Though some courts have had a negative impact on some rights especially extraordinary courts (mainly the publications and military courts), which hand down decisions that do not respect the rights to defence or that violate some basic rights such as the right of expression, the Lebanese judiciary is fulfilling in general a key role in consecrating rights and thus allowing civil society to advocate for basic rights. Many CSOs are resorting to the judiciary, especially the State Council, to hold state authorities in check. Examples include the previously-mentioned State Council ruling about the right of the families of persons who went missing during the Civil War to know the fate of these persons. Another example is a ruling by the Council in which it annulled a Cabinet decision to delay the implementation of the new traffic law: "The decision is absolutely null and non-existent because it amounts to trespassing by the executive authority over the legislative authority." The ruling came after Roads for Life, YASA and families of road accident victims challenged the Cabinet decision on February 27, 2013.

There is proof for the possibility of a promising future for CSO engagement in development. Nevertheless, on the socio-cultural level, it is mainly the sectarian context, including religious and cultural divisions within Lebanese society which has fed armed conflicts which endangers the construction of a civil state and the efficiency of social work.

Conclusion

Lebanon has faced difficult times and ongoing instability on all levels since its existence. The failure of the state, the emigration of skilled labour, the destruction of infrastructures during wars, the absence of governmental involvements in social sectors, and many economic and social challenges led to individual involvements to provide aid and to the expansion of CSOs in Lebanon. In fact, the rise and dynamism of CSOs in Lebanon can be attributed to two facts: the sectarian mix and the weak state. With the absence of confidence in political parties, more is expected from CSOs, which are being seen as complementary to the state and the private sector.

Analysis of civil society's role in development and democratisation in Lebanon: Development and human rights CSOs require more information sharing and the existence of serious mechanisms for accountability not only in the state, but in donors and international partners as well. A partnership for development effectiveness requires engagement of all partners to accomplish their respective roles, allowing others to do theirs while leaving the door open for accountability to ensure transparency.

While there is a growing reliance on civil society to advance and advocate for the various rights of Lebanese citizens (civil, social, economic, social, and environmental), the state must react better and engage in real discussions and dialogue with CSOs. Media can play a significant role to disseminate and highlight developmental initiatives.

Many factors threaten development initiatives in Lebanon and require case-by-case responses. The armed conflict in the region, especially the neighbouring Syrian crisis, has caused a shift in aid towards assisting refugees and providing for the daily needs of the affected population. This situation has hampered the implementation of a long-term development strategy for the country.

It is important to remind CSOs, the state and international donors alike of the responsibilities they are not assuming. Adherence to the principles set by the Paris Declaration can be of great benefit for all actors, especially those on mutual accountability and democratic country ownership.

The current situation requires stricter implementation of development effectiveness principles. It may be important to focus on three factors or proposals that can contribute to better development effectiveness:

- Develop and implement code of conducts for CSOs according to the Istanbul Principles;
- Create institutionalised channels for dialogue between public authorities and CSOs (working seriously on reviving the Economic and Social Council) and enable CSOs to influence policy choices (ownership principle);
- Enhance and create effective accountability mechanisms: involving in and encouraging mutual accountability among development partners. This should include the process of agenda-setting by donors and international partners since they should take into consideration national and regional priorities and the needs of people on the ground.

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Mongolia

Summary

Foreign loans and aid in the form of ODA have contributed significantly to Mongolia's economy especially during the period of economic, social, and political transition in the 1990s. Today, foreign aid still plays a significant role in addressing the country's socio-economic problems. However, aid has not brought about sustainable gains in poverty reduction, gender equity, or environmental sustainability.

Mongolia has been considered one of the fastest growing economies in the world. Since 2000, economic growth has been on a yearly increase of about 8% on average. Between 2011-2013, economic growth reached double digits. In terms of human development and household incomes, Mongolia is ranked among the average performers (Middle Income Countries). Ironically, the poverty level has risen to 27.7%,²⁵⁷ and the plight of the 20% lowest income earning persons has not changed since 2000, despite the economy's seemingly non-stop growth.

The Mongolian state has yet to build sustainable cooperative relations with Civil Society Organisations (CSOs) in terms of policy development, project planning and implementation and budgeting in accordance with its development effectiveness commitments under the Paris Declaration (PD) in 2005, the Accra Agenda for Action (AAA) in 2008, and the Global Partnership for Effective Development Cooperation (GPEDC), Busan, 2011.

Nevertheless, CSOs have been active across the Mongolian society, and have been a real actor in social development. CSOs have raised public awareness on human rights and ensured public participation in governance through information dissemination, research and policy advocacy. Over the past six years, CSOs have been working on foreign development effectiveness issues since 2008 united under one umbrella body structure called the Civil Society Open Forum (CSOF). Last year, the forum was renamed as Development Observers and continues its work with national and foreign governments and non-governmental organisations.

Overall, the government of Mongolia has made some efforts toward providing a more supportive legal and regulatory environment for CSOs, but such efforts have so far not gone much beyond official program and policy documents.

Enabling Environment

The Legal and Regulatory Context

Mongolia is a signatory to a number of international human rights conventions and has taken part in a number of conferences and forums concerned with development cooperation and civil society.

The 1992 Constitution of Mongolia²⁵⁸ affirms the right of citizens to 'voluntary associations', or the right to form civil society organisations. Article 16.10 of the Constitution states: "The right to establish political party and other public organisations in the best interest and consideration for the development of a humane, civic, and democratic society in the country."

According to The Law on Government of Mongolia,²⁵⁹ adopted in 1993, "Principles to cooperate with non-governmental organisation and public organisations" was approved for the very first time by the State Administrative Organisations. Also, the Law on Demonstration and

²⁵⁷ UN Development Project's Deputy and Representative Tomas Ericson's Report on International Anti Poverty Day on October 17, 2014 http://Internet.mn.undp.org/content/dam/mongolia/Articles/20141017_PovertyDayOp-Ed_Final_Mon.pdf

²⁵⁸ Law on Constitution of Mongolia <http://legalinfo.mn/law/details/367?lawid=367>

²⁵⁹ Law on Government of Mongolia <http://legalinfo.mn/law/details/344?lawid=344>

Gathering²⁶⁰ was adopted and implemented in 1994 in order to affirm the public's right to voluntary associations.

The Law on Non-Governmental Organisations was adopted in 1997 and followed by the mission for "Publics and communities to reconcile establishing of NGO and regulation of NGO operation." The law includes provisions on the establishment of non-governmental organisations and specifies requirements as to their administration, structure, abolishment, and other duties.

Mongolia's parliament, the State Great Khural's (SGK) decision #12²⁶¹ in 2008, adopted the National Development Comprehensive Strategy based on the Mongolian Millennium Development Goals. Article 2.4 of the decision included "Ensuring state administration's accountability, transparency, pressing, information transparency and increasing CSOs and private sectors' participation in state policy-making processes"; Article 7.1, on strategic objectives, included "Developing [the] political structure and democracy: sustainable support for CSO operation and initiating democratic administration mechanism between state organisations and CSOs"; and Article 7.2 remarks on the need to "[exercise] a direction that allows private sectors and non-governmental organisations to handle some of the state responsibilities."²⁶²

The National Security Act, adopted by the State Great Khural's decision #48 in July 2010, was about "Ensuring public policy processing, equal participation and negotiation of non-governmental organisation to monitor the government actions by supporting civil society development growth and establishing legal and regulatory environment for CSOs that serve society and developing creative methods for statecivil society cooperation."

The Law on Information Transparency and Right to Information²⁶³ was adopted in 2011 and it included 42 articles on the need for state organisations to be transparent about their operations, budgetary and procurement protocols and human resource policies. It also included 46 articles on ensuring the public's right to information and the law also provided individuals and CSOs to have access to information within a given timeframe, and issued responsibilities on the part of state institutions to declare information concerning their operations public.

However, significant gaps remain in the implementation of the law on transparency. CHRD has faced intimidation by representatives of mining companies as well as by the Mineral Resources Authority of Mongolia, the agency responsible for the issuance of mineral mining licenses. When requested information regarding mining contracts, an official of the Mineral Resources Authority shouted at CHRD's staff, threatening to report their activities to the police and investigate CHRD.²⁶⁴

The law clearly has not been implemented properly as it does not guarantee or provide for full transparency or complete information from government institutions.

Another example is in the drafting of Mongolia's 2nd Periodic Report of the Human Rights Situation to the UN's Human Right Council in January 2015. This report should have been produced by the government in cooperation with CSOs, but the actual drafting process bypassed civil society almost entirely. For this reason, the published report was strongly criticised by CSOs which concluded that the report could not possibly be considered a legitimate "national report."

²⁶⁰ *Law on Demonstration and Gathering* <http://legalinfo.mn/law/details/252?lawid=252>

²⁶¹ *Mongolia's Parliament, the State Great Khural's (SGK), decision # 12 in 2008 National Development Comprehensive Strategy based on the Mongolian Millennium Development Goals* <http://legalinfo.mn/law/details/7045?lawid=7045>

²⁶² *It is indicated in "Implementing Plan for Economic and Social Development of Mongolia in 2009" by Government of Mongolia's decision #2 in 2009, "Reflecting CSOs rights in related laws to conduct monitoring in state operation and implementing such rights by creating negotiation methods with CSOs in order to address facing social issues"; "Reflecting CSOs rights in related laws especially in the Law of Nongovernmental Organizations to monitor state organizations' actions and establish mechanisms for dialogue between the government and CSOs on critical issues*

²⁶³ *Law on Information Transparency and Right to Information* <http://legalinfo.mn/law/details/374?lawid=374>

²⁶⁴ *International fact-finding mission, Mongolia: The Situation of Human Rights Defenders Working on Mining Issue* <http://Internet.forum-asia.org/uploads/books/2013/March/FFM-Mongolia.pdf>

In addition, the Government Action Program for 2012-2016²⁶⁵ adopted new laws on Public Benefit Operations to create new funding options for CSOs. These allow for contracting of public services to CSOs and professional unions, and more scope for the latter to carry on some of the duties of the state.

The government program also allows for greater freedom for CSOs to go to court on behalf of the general public or specific communities to protect their interests on issues of environmental protection, children's rights, public health, and basic social infrastructure.

The state has also included issues concerning CSO participation in laws, decisions, policies, and plans, but establishing an enabling environment for CSOs and capacity building issues have been left out. There is a need for a concrete mechanism for permanent funds and tax benefits for CSO operations, which are currently project-based funding. Donor countries and organisations have tended to ignore such issues as well. As previously mentioned, CSOs are technically free to establish themselves, express their opinions, and organise demonstrations and to have access to information, at least as far as the law is concerned. However, implementation has been more difficult due to a lack of concrete mechanisms for government transparency and meaningful participation of CSOs in policy decision-making, implementation, and monitoring.

In addition, both the government and donor organisations have yet to genuinely accept initiatives and decisions made by CSOs. For instance, it has been reported that "some donors refuse to disclose information as they inform to cooperate with governments only. There is almost no information about loans or their amounts [due to limited information] that were collected by CSOs. Most of the 23 projects that were funded by loans were [mining] and power-related projects. Only four donors have responded out of 26 were requested. There is a lack of CSO participation in the planning, monitoring, and evaluation [of development projects unless implementing organisations require some extra assistance."²⁶⁶

Political Context

Supporting CSOs has been more intensive since 2008. For instance, former Prime Minister Batbold Sukhbaatar once emphasised in his speech made in 2008 that, "We have to learn from central and east European countries' practices to include CSOs and professional unions in policy-making and planning processes." Soon after, the government created a new position by the state to work with CSOs and create national policy documents together in order to build a stronger relationship with CSOs."

In February 2008, Mongolian NGOs gathered together and established a Civil Society Council to work with the government and signed off an engagement agreement. Later in March 2008, the government made resolution #93 to work with CSOs and ordered local governors to allow NGOs to conduct monitoring of the Mongolian economy, including state budget expenditures. This was the start of many mutual agreements signed between NGOs and government ministries for further engagement initiatives.

The drafting of a state policy on CSOs for sustainable development started in March 2011. The "Draft State Concept on Civil Society Organisations' Development" was issued by the working group, which was established by representatives from both the state and CSOs as ordered by the prime minister. The draft concept was adopted after discussion among all CSOs operating in Mongolia. It was then discussed in government meetings and handed over to the State Great Khural in May 2012. However, the draft was not discussed until both SGK and GoM were replaced after election. The political party that won the election did not continue the adoption of Draft State Concept on Civil Society Development, instead they agreed to improve related laws and regulations for NGOs and established a new working group from the Ministry of Justice in 2013 in order to make necessary amendments to the Law on Non-Governmental Organisation and have started working on the new draft for the Law on Public Benefit Operation.

²⁶⁵ *The Government Action Program for 2012-2016-* <http://Internet.legalinfo.mn/annex/details/5591?lawid=8722>

²⁶⁶ *Operational report from CSOs working group to monitor implementation of Paris Declaration and Accra Agenda for Action*

It appears such changes only depend on a certain political party's will that might be replaced in the next election, rather than following medium and long-term strategic plans. In other words, rather than continuing work by former administrations, they prefer to initiate new projects and plans for their elected term of four years.

Achievements: Mongolian CSOs have been engaged at the international level with some success. For instance, the "First Periodic Report for Mongolia's Human Right Issues" was reviewed by the United Nation's Human Rights Council in 2010. The shadow report was presented at the Council review meeting by a number of CSOs in Mongolia. After the review, the Council announced the need to pay special attention to the Second Periodic Report, and assess whether the recommendations from the first periodic report were acted on.

The Mongolian government accepted to implement 126 recommendations from the first periodic report and conduct a midterm review, and sent the report in April 2014. The National Human Rights NGO Forum of Mongolia has sent 10 shadow reports, including those on legal and regulatory reforms, nondiscrimination, individual and political rights, environmental, mining and herders rights; food and poverty; LGBT rights; disabled people and human trafficking for the second cycle of the Universal Periodic Review of the UNHRC in September 2014.

The Governance Context

Mongolian CSOs are active throughout society and most of them concentrate on gender equality, rights for marginalised communities, human rights, environmental issues, poverty reduction and democratic development. They have also contributed favourably to human rights discourse in the country, increased public participation in policy decision-making, conducted surveys and monitoring work to advocate for sustainable development.

According to research²⁶⁷ conducted in 2013, only The National Security Policy adopted by State Great Khural in 2012 explicitly included a constitutional concept. Apart from the constitution, this is one of the few documents that we can consider which followed the Busan Commitments. Prior to this, civil society's contribution to development was accepted and reflected in few development policy documents, including the National Development Comprehensive (Strategy (NDCS) based on Mongolian Millennium Development Goals (MMDG), which was adopted by State Great Khural in 2008 and the government resolution #93 to cooperate with CSOs.

However, these documents limit the participation of CSOs to monitoring alone. The National Development Comprehensive Strategy defined civil society's role as "to conduct effective monitoring of state organisations and their executive administration' actions and to have their own voice for state decisions that reflect publics and communities" and CSOs development issues in democracy as "Supporting CSOs operations; formulating democratic mechanism where it provides civil society and state mutual cooperation and developing civil society". Unfortunately, even these are rarely implemented. The concept of Civil Society Development has not been adopted as of today after being reviewed in March 2011 and handed over to State Great Khural's meeting in May 2012 as a result of the elections.

Overall, the state has not followed through on its own policy to develop and consolidate CSOs, and has failed to reflect their role as independent development actors in national policy documents, even though the state claims to accept CSO's contribution to development. CSOs are losing the opportunity for wider acceptance in society. They have themselves had trouble developing their own capacity to contribute effectively to development. This could have a negative impact on democratic development and consolidation. Capacity development for CSOs is directly dependent only on their mission, strategy, human resource capacity and international cooperation framework. Unfortunately, it is clear that some CSOs cannot afford to keep up with full human resource capacity as a result of the world economic crisis, and the withdrawal of international funding support for local CSOs.

²⁶⁷ "Politik, regulatory and philosophy issues of CSOs in Mongolia" Survey by Amarsanaa. J

Achievements: "NGOs Ethic Codex/Principles" were adopted in 2007. Initially, it had 38 NGO members and then expanded. CSOs were accepted as social independent participants and the government announced in 2008 that each year, January 31 will be the day for Civil Society Organisations. CSOs have accomplished good practice and experiences in addressing social issues, drawing the government's attention.

Better cooperation between the government and CSOs has begun and the state has started to contract out some of its duties to CSOs. For instance, six ministries – including the Ministry of Social Welfare and Labour, the Ministry of Health, the Ministry of Environment, the Ministry of Education, the Ministry of Food and Agriculture – have signed off on engagement contracts with over 100 CSOs. The contracts amounted to a total of 957.8 million MNT in 2010. The amount has not been updated since, however, the Ministry of Environment and Green Development has signed off on more than 400 million MNT worth engagement agreements with 45 NGOs in 2014. Over the past few years, CSOs have united with each other as networks, committees, and unions to share best practices and accomplish better development results. CSO staff focusing on human rights issues have also been receiving better education on their respective fields as a result of cooperation between CSOs and international organisations.

Difficulties: Conducting monitoring on development effectiveness is next to impossible. Currently, we face government bureaucracy, lack of initiative for CSO capacity development on the part of donors, and CSOs' own lack of funding and dedicated staff. In addition, when the government signs off on engagement agreements with CSOs, they only include project-based operational costs but not administrative costs, and there is no sustainable long-term, financing for CSOs. The selection process for CSOs in such agreements is also often based on political considerations by government officials. This has had a negative impact on public perceptions of CSOs.

The Socio-Cultural Context

CSOs have had a difficult time improving their overall public image due to resource constraints on strategic communications, but are well-recognised by partners, supporters, and communities where their services are directly felt.

CSOs depend in part on the mass media in influencing public opinion. Unfortunately, the media industry in Mongolia tends toward the yellow press and their news frames are limited within "Closing Agreement"²⁶⁸ with²⁶⁹ political parties, politicians, and businessmen. The media only tends to take interest in civil society activity in the case of specific human rights violations or other exceptional events. There is a tendency to portray CSOs in a narrow light, as solely service providers, or quotable sources for such issues as domestic violence or voter education, to the exclusion of drawing attention to the state's own duties and responsibilities to act on these issues.

There are quite a few cases of mass media broadcasting false information²⁷⁰ to the public about CSOs and their employees as requested by some politicians and businessmen. Yet reporters themselves can be victims in some cases by hurting someone's reputation through libel or slander.

Over the past couple of years, CSOs have organised yearly training workshops for journalists to provide them proper knowledge and education about democracy and human rights issues.

Religious organisations prefer to focus on pure development or charity work as opposed to

²⁶⁸ Mongolia was ranked at 80th country according to the world mass media freedom index in 2014

²⁶⁹ This agreement is not to broadcast negative news about certain individual or organization. "Uniting Mission" movement has disclosed that GoM has signed off on 40 Closing Agreements with mass media in 2014. Average cost for one agreement is 5 to 10 million MNT

²⁷⁰ For instance: there was news about: "NGOs are taking advantages of fund under working against human in trafficking" and also on NBS TV broadcasted acquisition against CHRD for doing money laundry without even any evidences.

political campaigning. However, such organisations have worked²⁷¹ with CSOs and shared their expertise on certain occasions. Cultural organisations mainly pay attention to preserving²⁷² national heritage. CSOs need to conduct more research and analysis on social, development, economic, political, and cultural issues, but it has been difficult to secure funding from the government. The government of Mongolia is contracting out necessary research analysis and surveys to research institutes such as the “Institute of Philosophy, Sociology and Laws” only for a number of planned activities. Some ministries contract out research studies to CSOs.

Achievements: Media institutions have recently broadcasted live debates and consultations on social issues like mining and the environment, while welcoming experts and analysis from NGOs and human rights campaigners.

Challenges: It has become common in the media to address their financial issues by signing off on Closing Agreements with political parties and huge companies. This clearly hurts transparency, journalistic independence, and social justice, while negatively impacting on the public image of civil society and democratic processes.

The Socio-Economic Context

Foreign investments have increasingly played a major role in the Mongolian economy through various projects. These projects, however, have not brought sustainable results in terms of environmental sustainability and poverty reduction.

In relation to debt, the government of Mongolia has utilised about 214.0 million USD in 2013 out of a total 2.8 billion USD received as loan from donor countries and organisations between 1990 and 2013. There were 189 projects funded by such loans, of which 161 projects were successfully implemented, while 28 projects remaining are being implemented. There are 30 projects that have fully paid back their initial loans, though 159²⁷³ projects are still following their related repayment schedules. Total debts incurred by the government of Mongolia reached MNT 10.4 trillion as of September 30, 2014. The government has been using such loans to contribute to the state budget, fund development projects, repay other loans, or give loans locally.

CSOF²⁷⁴ conducted a survey in 2011 to assess how the government of Mongolia, its ministries, by-lateral and multi-lateral development organisations, as well as international financial organisations are fulfilling their development effectiveness commitments. The request to participate in the survey was sent to 12 ministries and 26 donor organisations. Ten ministries and 10 donors accepted the request. The results of the survey revealed the following:

Employees from the ministries did not have capacity to answer many of the survey's questions due to unfamiliarity with certain terms on development effectiveness and cooperation. The survey also concluded that “Donors were only naming their projects to answer many questions but they did not provide any information whether they have evaluated their projects in accordance to the country's development and social issues and social issues strategy.” Information on development policies, implementation strategies and projects funded by international ODA have not been transparent. Distribution and preparation capacity is very poor. Government ministries and donors must take steps to address these issues. There is, in addition, no mechanism that was established for multi-stakeholder discussions of development and aid effectiveness issues.

²⁷¹ “Big Brother,” “Not Late,” “Sochi” and “The Last Decision” dramas were played in National Drama Theatre on International Anti-Corruption Day and International Human Rights Day as ordered by UNESCO and Open Society Forum.

²⁷² The State's policy on cultural sector consists of 4 main sections including: 1) Increasing art and cultural role and its effectiveness in national development; 2) Establishing pleasant environment to encourage communities to create cultural heritage and inherit, expand, own and distribute such heritages; 3) Protecting cultural heritages, inheriting and enriching them and 4) Advertising and publicizing Mongolian culture to the world and expanding foreign cooperation.

²⁷³ <http://mof.gov.mn/wp-content/uploads/2014/04/%D3%A8%D1%80%D0%B8%D0%B9%D0%BD-%D1%82%D0%BE%D0%B9%D0%BC-2013-121.pdf>

²⁷⁴ Civil Society Open Forum

Challenges: Internal and external issues impact on CSOs' attempts to secure development effectiveness objectives. For instance, the current Law of Non-Governmental Organisation does not meet modern criteria, and there is a lack of monitoring due to funding constraints and lack of access to information.

There is no open standing for CSOs to make claims to court on public interest issues on behalf of victims. Political parties have been inconsistent in the implementation of key development and CSO co-operation initiatives. Also, there are many difficulties, including the lack of coordination among state organisations and ministries, lack of initiative by donor organisations for CSO capacity development, lack of core funding for CSOs and support for CSO staff, especially when donors and government fund only operational costs, without taking into account the need for long-term financing for CSOs.

Conclusion

It is essential for the government of Mongolia and donor organisations to accept CSOs as independent development actors, and to establish an enabling environment for CSOs by improving the implementation of already existing policies commitments. Current events also clearly reflect on the need to speed up the review and amendment process of the current law on non-governmental organisations.²⁷⁵

It is important to establish an environment where CSOs can have access to development policy information, projects and their implementation strategies and other information about projects funded through foreign loans and aid, while providing CSOs the opportunity to participate meaningfully in policy-making, assessing, and monitoring these projects.

The government of Mongolia must fulfill its commitments to the Paris Declaration, the Accra Agenda for Action (AAA) in 2008 and the Busan Commitments in order to establish an enabling environment where sustainable sources of finance and a favourable legal and regulatory environment exists for CSOs. It should translate, disseminate and popularise these documents and implement their provisions through a dedicated national plan of action.

Recommendations

- CSOs should eschew “mission creep,” to lure donor funding. This detracts from their core mission and may undermine their reputation and that of civil society in general. Instead, their energies should be directed toward lobbying for greater access to GoM tenders, competitive donor funding, and the development of autonomous resources (membership fees or donations).
- Donors should consider longer term commitments and the need to finance institutional and administrative costs, while bearing in mind the origins, purpose, and sustainability of the CSOs they fund.
- Donors should provide technical and financial support to expand current CSO efforts at institutionalization, while targeting programs that assist in the creation and development of community-based organisations (CBOs) and CSO branches outside of Mongolia's capital. They should also promote CSO umbrella organisations that may be more efficient and effective at social accountability. The Mongolian Government should provide appropriate mechanisms for CSOs to access information on development projects funded through foreign aid and loans.
- Given the importance of CSO media relations, CSOs should double their efforts to develop strong relations with various media outlets and individual journalists. Sound media relations would ensure publicity of civic engagement/social accountability activities.

²⁷⁵ Law on Non-governmental Organisations <http://legalinfo.mn/law/details/494?lawid=494>

- CSOs and the government should consider formal mechanisms to encourage civil society and citizen input into the legislative process and policy formulation. This should be done in consultation with international donors, who may provide initial financial and technical support, including comparative studies of best practice. Civil society input could include expert testimony, preparation of draft legislation, participation in working groups, and in public hearings on pending legislation and public policies, which they could also help to disseminate.

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Mozambique

Summary

The collapse of the Party-State regime in the late 1980s and the establishment of a multi-party constitution in 1990 stands out as the main landmark and legal reference point for the emergence of a vibrant civil society in Mozambique.

However, the pace of legal and political reforms that will enable full and effective engagement for civil society in governance has been markedly slow. CSOs are constrained by a legal and regulatory environment in Mozambique characterised by hesitant legislation on one hand and political institutions that operate in a manner somewhat reminiscent of the days of the party-state. The sluggish pace in reforms of the legal and regulatory system in the country appears to be the best that a conservative political establishment can do as it stands between its “comfort zone” and the pressures of an increasingly “noisy” civil society.

Policy debates are still predominantly a winner – take all game between the two major political parties in parliament with little space for other development actors to effectively engage. Yet a few legislative victories and lessons learned have granted CSOs some room for tactical manoeuvres in the increasingly complex and polarised political arena.

The influence that CSOs have in Mozambique also reflects the still slow development of a critical and active citizenry – in the context of a largely traditional society based on rigid hierarchical structures, where open criticism of public authorities is actively discouraged. Notwithstanding the apparent waning of the Budget Support Partnership, Development Cooperation flows to Mozambique are still on the rise, and sources of financing are diversifying, reflecting broader, global changes in the aid landscape.

Nevertheless, aid flows as a proportion of the national budget have declined, lowering the country's dependence on external financing, with important implications for broader ownership over development policy. Still, the partnership instrument between the government of Mozambique and the group of 19 donors providing the modality on budget support (G-19/PAPs) is still far from responsive to the development effectiveness agenda.

Meanwhile, implementation of the Busan principle of inclusive development partnerships has proved challenging in the face of apparent indifference among a number of development actors (G-19 donors, the non-traditional donors, private sector, civil society and parliament). Opportunity for these actors who have initiatives for broad policy debates are still fragmented. There are hardly any regular mechanisms for multi-stakeholder dialogue established.

The Development Observatory (DO), a government-CSO dialogue forum attended by G-19 donors as observers, seems to be the furthest Mozambique has been able to go in terms of inclusiveness of its development partnerships. Initiatives by CSOs to use the DO as a space for evidence-based discussions of selected government sectoral policies (introduced in 2013), certainly represents a huge qualitative leap in terms of the engagement of civil society in Development Effectiveness efforts. However, what remains unclear is the extent to which the government of Mozambique actually takes the contributions of CSOs on board.

Mozambican CSOs tend to treat foreign donors and the private sector as circumstantial allies, while relations between CSOs and domestic political actors (parliament, government and political parties) are described by Francisco et al (2008) as “convenient tutelage.”

Committed to the principles of Development Effectiveness, CSOs in Mozambique have refocused their attention on the need to address growing social inequalities and the contradiction between the country's rising economic growth rates and macroeconomic performance amid disappointing performance on human development indicators.

In addition, the risk of Mozambican Public Debt rising to unsustainable levels has caused some CSOs to raise the alarm, given the potential implications of a debt crisis for the social stability of the country.

Introduction

The present country report was commissioned by the CSO Partnership for Development Effectiveness (CPDE) and written by Grupo Moçambican oda Dívida (GMD) as the Mozambican contribution for the CPDE 2015 Global Synthesis Report on the State of Development Cooperation, CSO Enabling Environment and CSO Development Effectiveness.

After a brief review of the history of civil society in Mozambique, the report expands on the following key areas: i) CSO enabling environment; ii) the state of development cooperation, and iii) CSO development effectiveness.

In the first theme, we discuss the:

- the legal and regulatory framework;
- the political environment and;
- the socio-cultural context.

Next, we discuss in detail the governance context in Mozambique. The last part addresses the country's socio-economic context.

The Roots of Mozambican Civil Society

Mozambique's history in part explains the belated emergence of a viable, independent civil society: 500 years of colonial rule under Portugal, followed in 1975 by more than a decade of communist rule under a one party state.²⁷⁶

The "third wave" of democratic transitions swept through Mozambique in the early 1990s, when 16 of civil strife following the proclamation of the country's independence in 1975 came to an end. Amid waves of political and economic liberalisation policies, a multi-party constitution came into force in 1990, opening the ground not only for the first general elections in 1994, but also institutionalizing, among others, the right to free association,²⁷⁷ free assembly and free expression.

Under the new legislation, and with extensive support and incentives from the international donor community, a flourishing associative movement found fertile conditions to define and empower itself not only by assuming a critical role towards state institutions and the political establishment, but also by its role in advocating for the pluralistic values of local democracy, participatory development, and citizen engagement (Biza, 2009; Lourenço, 2009).

On the other hand, with an underfunded post-conflict government still barely capable of providing essential goods and services, significant external funding allowed a segment of emerging CSOs to complement the state as a welfare provider.

Advocacy and social intervention simultaneously became the two expressions of the emerging CSO movement in the early 1990s and have since evolved to adjust to the changing reality of a country emerging from post-war reconstruction to a period of rapid economic growth.

²⁷⁶ From the late 1970s up until the late 1980s, Mass Organizations served as mere adjuncts of the Party State [e.g. Organização da Juventude Moçambicana (OJM), Organização da Mulher Moçambicana (OMM)]

²⁷⁷ The right to free association was introduced as a Constitutional guarantee in 1990 and regulated in the so-called "Associations Act" a piece of legislation enacted in 1991 and applicable to all kind of associations.

Civil Society Enabling Environment

The Legal and Regulatory Framework in Mozambique

The Access to Information Act,²⁷⁸ approved by parliament in August 2014, represents a milestone in the efforts of Mozambican CSOs to push towards effective democratic participation and citizen engagement in governance.

Only now can Mozambicans fully enjoy a guarantee (access to public information) that was granted to them in the constitution (of 1990 and 2004). Despite persistent pressure from a coalition of civil society organisations,³ the Access to Information Act had been on the parliament's waiting list since 2005 and the lengthy delays in its approval stands as stark evidence of the incredibly slow pace of reforms on CSO EE.

Notwithstanding recent progress, the legal and regulatory infrastructure for CSOs in Mozambique is still saddled by a number of flaws, including:

Hesitant legislation: the disposition and content of legislation raises questions concerning their enforceability and effectiveness beyond the merely formal scope.

E.g.1: The newly enacted Public Probity Act is a glaring example. When it came into force in November 2013, it was highly praised as a bold step towards the strengthening of public transparency. However, the initial triumph was muffled when, to the disappointment of many, the Act still retained a regime of confidentiality in the declaration of rights, incomes, bonds, shares or any other kind of property and assets of public servants, which were supposed to be made public in the interest of effective public scrutiny.²⁷⁹ In fact, some CSOs claim the Act is in direct contradiction with the Press Act.²⁸⁰

E.g.2: Amidst reiterated calls for public transparency in the ongoing negotiations on Concessions for Natural Resources exploration, a counter-move by the government caught almost everyone by surprise. In August 2014, the executive, backed by a qualified majority in the parliament, successfully requested a parliamentary mandate to legislate by decree on the attribution of a special regime to the incoming LNG (Liquefied Natural Gas) industry.

Decrees are by nature government orders subject to neither parliament debate nor public consultations, meaning that their content is only publicly known after the legislation is issued.²⁸¹ This effectively blocks the opportunity for CSOs to intervene in policy making on such critical issues.

Institutional reminiscence: the burden of Mozambique's recent history is still in a way reflected in the character of the country's institutions. Relations between citizens and the government are still strained, in the context of a public bureaucracy which still mirrors to some extent the operating logic of the Party-State. This is particularly true when it comes to public disclosure issues (on openness, communication, and accountability) and there is widespread consensus that transparency and accountability become even harder to get by the further you get from the major cities. A strong civil society capable of holding the public administration in urban areas to account is largely absent in rural Mozambique.

²⁷⁸ Faced with an apparently deliberate delay in the approval of the Access to Information Act, 9 CSOs (individual organizations and platforms), decided to join efforts in a Coalition (Coligação DAI – Coligação do Direito de Acesso a Informação), in order to harmonise their actions and step-up political pressure.

²⁷⁹ "Lei de probidade pública com pontos que ferem a liberdade de imprensa". Available at <http://Internet.verdade.co.mz/destaques/democracia/34939-lei-de-probidade-publica-com-pontos-que-ferem-a-liberdade-de-imprensa>. Accessed on 02 November 2014

²⁸⁰ Ibid.

²⁸¹ CIP (2014). "Concessões no âmbito do LNG: Governo Insiste em Legislar sem Consulta Pública e sem Transparência". Edition no. 6/2014. Maputo.

Even with the yet to be passed Right to Information Act which turned back some of the Party-State era's "anti-media legislation," journalists, CSOs, and citizens in general claim that there are still considerable obstructions in access to or disclosure of public information,²⁸² limiting space for public advocacy initiatives and critical citizen engagement.

The Political Environment

Despite recent governance reforms, the enabling environment for CSOs in Mozambique still reeks of the legacy of the over-centralised, authoritarian and profoundly alienating logic of the post-independence nation-building state – the first republic as described by Geffray (1990). For the political establishment, the emergence of active CSOs understandably marks a move away from its "comfort zone." Therefore, the markedly sluggish reforms in CSO EE, reflect the half-hearted willingness of a conservative political establishment to respond to the unavoidable internal/external demands of an increasingly "noisy" civil society.²⁸³

Budding democratic institutions in Mozambique are still struggling to take-off in a political environment shadowed by political polarisation between the ruling FRELIMO and the leading opposition party (ex-guerrilla movement) RENAMO, leading to claims that all too often, the policy agenda debate ends to turn into an over-politicised zero-sum game between the two former belligerents, allowing little, if any room, for other development actors to effectively engage in the process. The fact that the government, the state and the main political parties will only turn or open up to CSOs when it suits them, led the 2007 CIVICUS Mozambique Country Report, to categorically describe those relations as ones of "convenient tutelage"(Francisco et al, 2008).

Therefore, in the face of such challenges imposed by the political environment, the limited achievements of Mozambican CSOs represent politically meaningful victories. One example includes recent advocacy initiatives by CSOs which reaped surprisingly positive results, forcing at least two controversial legislative projects from the parliament to be reviewed:

In March 2014, nine CSOs marched to the Parliament Building (Assembleiada República), demonstrating against what they denounced as blatant violations to women and children's rights in the project of the new Mozambican Criminal Code which had been approved by the MPs in December 2013. At the end of the march, a petition listing the articles viewed by CSOs as violating human rights in the project was handed to the Parliament's Commission for Human Rights and Legal Affairs. A month later, all the CSOs' demands had been fully accommodated by the parliament after a revision of the project.

In May 2014, CSOs took to the streets again to contest the "outrageously excessive benefits/perks" granted to the president and MPs in the newly enacted President's Rights and Duties Act and Parliament Staff Regulation. In a country where widening social inequalities are a growing concern, the contentious laws sparked widespread wrath and shock for clashing above all with the fundamental principles of justice, equality, and equity set out by the constitution. Street demonstrations and online campaigns called for the president not to push through with these provisions in the law. Under enormous pressure and in a last-ditch attempt to save his own and his party's popularity ahead of elections in October, the president returned the law proposal to the parliament, arguing that "he thought they had to be re-examined, taking into account their negative socio-economic impact as well as their heavy financial and budgetary implications."

These, among other initiatives, are also learning opportunities for CSOs on organising for joint collaboration and solidarity in the context of a challenging political environment. In fact, with the polarisation of debates over public policy, only by advocating and mobilising together can CSOs gain leverage in the development arena – one characterised by vested interests and powerful lobby groups, including that of the mining industry.

²⁸² *Ibid.*

²⁸³ *The latest Mozambique Civil Society Index (Mozambique CIVICUS Country Report), suggests that rather than a genuine, effective partnership with the Civil Society, State's concessions favouring CSOs EE were all too often oriented at pleasing the international donor community or fulfilling certain conditionalities imposed by them (Francisco et al, 2008: 25).*

Individual CSOs have long advocated actively for reforms in Mozambique's extractive sector, and are now working on a framework for joint activism initiatives in 2010. Eight CSOs²⁸⁴ participated in the Civil Society Platform on Natural Resources and Extractive Industry, a forum aimed at ensuring and promoting transparent, responsible, and sustainable management of the country's natural resources, and envisaging a holistic approach toward development with greater sensitivity to the environment and the wellbeing of local communities located on exploration sites.

The Socio-Cultural Context

Mozambican society has traditionally been characterised by a rigid social hierarchy, where questioning decisions from the top was seen as a direct challenge to authority.

In a way, such traditional perceptions and power dynamics have been transposed to formal relations between citizens and the modern state.

This socio-cultural dimension of the Mozambican society can partly explain the stunted development of a critical dimension of citizenship in the country, which has had implications on the work of CSOs.

Media institutions, supported for the most part by public funding, also tend to be highly politicised, with "loyalist" elements portraying or explicitly favouring a one-sided perspective of the public debates, raising questions as to their political independence. For instance, opposition parties and the most outspoken CSOs and individual stand little, if any, chance of exposure in the official media (AfriMAP, 2009: 15).

While the national media is still overwhelmingly dominated by official channels, independent media initiatives have emerged over the past few years, providing ample opportunities for independent CSOs to get their messages across.

Public opinion is broadly supportive of the role the independent media can play, and is also increasingly informed about, and supportive of, the advocacy initiatives of CSOs. Today, more than ever, CSOs have the ability to mobilise people around their advocacies, as proven in this year's street demonstrations (referred to in the Political Environment section).

However, the still flimsy adherence of CSOs to values of integrity as well as internal democracy and transparency has marred public perceptions around CSOs. There is broad consensus that the legitimacy of CSOs depends extensively on their performance on this front (Values-Impact).²⁸⁵ GMD, MASC (Civil Society Support Mechanism) and CIP (Public Integrity Centre)²⁸⁶ for instance, have clearly been an example on that regard, for regularly making available to public access their respective annual reports and Accounts. With the example set by the leading CSOs, the smaller ones are also trying to adopt such good practices of transparency and accountability.

The State Of Development Cooperation

The Governance Context

From the early 2000s and particularly following the 2005 Paris Declaration (PD), Mozambique has been at the forefront of the implementation of the internationally-agreed aid effectiveness agenda.

In 2004, one of the world's largest partnerships for budget support provision was set up in Mozambique, aimed at supporting the government in the implementation of the Poverty

²⁸⁴ *IBIS, Centrode Integrada de Pública (CIP), Instituto de Estudos Sociais Económicos (IESE), WWF Moçambique, ObservatóriosobreMeioRural, KUWAJAJDA, Associação para Sanidade Ambiental and Associação de Apoio e Assistência Jurídica às Comunidades.*

²⁸⁵ *Interview Comments from individual CSO members (07 November 2014)*

²⁸⁶ *A major CSO working on Anti-corruption issues*

Reduction Strategy (PRS) and the achievement of the Millennium Development Goals (MDGs). By 2009, when this so-called Programme Aid Partnership (PAP) was going through its heyday, the group comprised a total 19 budget support providers (MPD, 2013).²⁸⁷ After the withdrawal of Belgium, Spain, and Netherlands, the group is now composed of 16 donors,²⁸⁸ though the “brand” G-19 is still widely used to refer to them.

While the Euro-zone financial crisis ranked as the top reason for the exit of these three donors from G-19, their exit also comes at a time when the partnership around budget support provision in Mozambique is showing signs of waning, as confirmed by a recent report commissioned by the European Commission (EC).²⁸⁹

Through the aggregate volume of Official Development Cooperation (ODA) flows have kept rising, budget support, as an aid modality that was a key source of optimism around the aid effectiveness agenda, is now falling into uncertainty.

Budget support as a share of total aid delivered to the government shrank from 39% in 2009 to 31% in 2013 (MPD, 2014). On the other hand, the financial contribution of this aid modality in Mozambique is declining both as a percentage of GDP (from a peak of 5% in 2007 to 3.1% in 2012) and as a share of total public expenditure – from 18.8% in 2006 to 9.4% in 2012 (EC, 2014).

While non-traditional partners have always opted for the project modality, G-19 partners are now also switching back to financing individual projects, making it by far the most relevant modality in terms of ODA flows to Mozambique. This could portend a shift back to flag-waving aid behaviour prior to the Paris Declaration in 2005, when the bulk of aid went through donor’s Parallel Implementation Units (PIUs) that allowed for little country ownership over development initiatives and imposed serious managerial constraints.

As the implementation deadline of the Busan commitments in 2015 draws closer, few indicators are expected to make significant breakthrough (when compared to 2011). The dwindling share of Programme Aid (including General Budget Support) in the total volume of aid disbursed to the government, is likely to significantly impact on the performance of other indicators, particularly those related to the use of national Public Finance Management (PFM) systems and procedures.

Nevertheless, though the fiscal importance of budget support is falling, the group of donors providing this modality of aid (G-19/PAPs) form what is still by far the most active and prominent development cooperation platform in Mozambique and which still holds substantial influence as a relevant forum of policy dialogue with the government.

Alignment of the PAP to the Paris and Busan Declarations is monitored and assessed through a Performance Assessment Framework (PAF), comprising a set of indicators for each of the key aid effectiveness and effective development cooperation principles:

- Ownership of development priorities by developing countries
- Donor’s alignment to national priorities
- Harmonisation of donor interventions
- Transparency and mutual accountability

Meanwhile, implementation of the Busan-adopted principle of inclusive development partnerships has proved challenging in the face of apparent indifference among a number of development actors (G-19 donors, the non-traditional donors, private sector, civil society and parliament). Opportunities for engagement among these actors are small, with hardly any regular mechanisms for multi-stakeholder dialogue as yet established.

²⁸⁷ Austria, Belgium, Denmark, European Commission, Finland, France, Germany, Ireland, Italy, Holland, Norway, Portugal, Sweden, Switzerland, Great Britain, Spain, Canada, the World Bank and the African Development Bank [MPD (2013)]

²⁸⁸ Ibid.

²⁸⁹ European Commission (2014). *Independent Evaluation of Budget Support in Mozambique. Vol 1*

The most moderate analyses describe CSOs and those other development actors as circumstantial allies – a description that reflects the irregularity of their dialogue, with each one of them interacting only on an individual basis with the government on different platforms, none of which have proven inclusive enough. Attempts at bringing them under the same dialogue platform in the spirit of the Busan Declaration are proving insufficient to pull them out of the sidelines particularly for the non-traditional donors and the private sector.²⁹⁰ The good news is that Mozambican CSOs have actually been ahead of the international directives in that regard. Though the PAP is formally an exclusive government-G19 arrangement, a biannual government-civil society dialogue forum, the Development Observatory (DO), was established within it in 2003 (before Paris and Accra), originally with the purpose of monitoring progress in poverty reduction.²⁹¹ In 2008, when the world gathered in Accra to define the role of Civil society in the aid effectiveness agenda, the Development Observatory experience in Mozambique had already been replicated from the central to provincial level by 2005.

In 2013, CSOs began to use the DO as a forum for evidence-based discussion of selected government sectoral policies. Yet since the DO is a largely consultative forum and contains no binding mechanisms to ensure effective follow up of the sessions, it is unclear whether the contributions of CSOs have actually secured the buy-in of the government of Mozambique.²⁹²

In fact, the government’s stance toward criticism by CSOs on policy issues has been described by some as invariably defensive, bypassing the active public debate on policy alternatives.

While the traditional development cooperation arrangement between the government and [northern/traditional] donors (G-19) tends to be reasonably responsive to the internationally agreed commitments on country ownership principles, sustainable development, gender equity, and development effectiveness, the cooperation mechanisms with non-traditional donors and private sector actors are still lagging behind despite the Busan agreements.

Emerging non-traditional donors have undoubtedly added value to the development cooperation landscape in Mozambique. Yet, the perceived capacity of the lending agreements between this group of donors and the government has given rise to some suspicion that certain “conditionalities” associated to some of those loans could be detrimental for the national interest over the medium and long-term, including the consolidation of a culture of government transparency and accountability. E.g. several CSOs and prominent individual activists in Mozambique have openly expressed their discontent at the apparently promiscuous symbioses between the local political elite and Chinese business interests, fearing that they might actually stem from those bilateral intergovernmental agreements (Chichava, 2009).

Throughout the text, this report presents some concrete evidence to show that development actors in Mozambique and CSOs in particular, are individually engaged in advancing quite a number of initiatives. However, engaging those individual actors (government, civil society, G-19 donors, emerging donors, private sector and parliamentarians) in a multi-stakeholder coordinated action around common ground issues is still a formidable challenge. Over the next few years, the Mozambican political and policy spectrum is likely to become increasingly divisive, and that could become an opportunity for civil society to take the lead in building such a platform of multi-stakeholder dialogue intermediation.

²⁹⁰ Interview with a leading CS representative (12 November 2014)

²⁹¹ Interview with MPD Aid Coordination and Effectiveness staff (10 November 2014)

²⁹² G19 attend the Development Observatory Sessions as Observers

Development Effectiveness: CSOs and Development Results

The Socio-Economic Context

Indicator	2005*	2014*
GNI per Capita, Atlas Method (current USA \$) ^a	290	590
Population, million ^a	21,01	25,20
% Poverty headcount ratio at national poverty line	54.1	54.7
(% of population) ^a	(2003)	(2009)
Life Expectancy at Birth ^b	48.1	50.7
HDI (Score) ^b	0.287	0.393
HDI (Ranking) ^b	168	178
Literacy Rate ^a	48.16	50.58
	(2003)	(2009)
Prevalence of HIV	11.3	11.1
total (% of population ages 15-49) ^a		

* Where 2005 or 2014 data were not available, the most proximate year has been used.
Sources: ^a World Development Indicators 2014; ^b Human Development Report 2014

The average growth rate of the Mozambican economy between 2000 and 2012 was 7.5% according to the World Bank Development Indicators 2014. Such robust growth rates compare favourably both with the Sub-Saharan African (SSA) average (5.0%) and the Low-Income Countries' (LICs) average (5.6%).

Yet progress on poverty reduction has been far from impressive. The second generation of the Mozambican Poverty Reduction Strategy (PARPA II) envisaged a reduction in absolute poverty from 54% in 2005 to 45% in 2009. However, the final PARPA II assessment in 2010 revealed that no progress had effectively been achieved and poverty incidence rate stagnated at 54.7%.

A third generation PRS (PARP 2011-2014) was then introduced, aiming at cutting poverty from 54% in 2009 to 45% in 2014. With preparations for the final PARP assessment now underway, Mozambique is still listed among the 10 poorest nations in the World (ranked as 178 among 185 countries in the 2014 HDI report).

The paradox of a consistently brilliant macroeconomic performance and disappointing performance on inclusive human development has given rise to justified claims that social inequalities are on the rise, though the HDI reports indicate a stagnant income Gini coefficient, equalling an average of 45 from 2000 to 2012. In fact, there is actually a visibly widening gap between the increasingly opulent elites and the poor majority which already looms as a latent threat to the social, economic and environmental sustainability of the country, as many experts, activists and CSOs have repeatedly warned.

The perception of widening inequalities is augmented by the glaring contradiction between the increasingly eye-catching consumption patterns of the elites and slow-changing hardships of the poor. Today, the mining boom has raised perhaps unrealistic expectations on the performance of the economy, and if these are not at least partially satisfied in the medium term, pockets of unrest could emerge particularly in urban areas.

Understandably, fears that a significant proportion of the population could end up sidelined and marginalised despite the mining boom has helped shape the focus and tone of CSOs on the issues of development inclusivity and sustainability.

But Mozambique is also facing a looming macroeconomic threat that could have devastating impacts down the line. Wealth from mining is not expected to contribute much to the national economy at least until 2020, but the government, speculating on the potential for future earnings, has embarked on a borrowing frenzy.

CSOs are monitoring the rise in debt stock, and agree that betting on nothing but mining prospects is a risky affair. Recent moves by the government into the financial markets (including loans worth US\$850 million invested in tuna fishing and naval patrol vessels), have been at the heart of growing concerns that the public debt burden could be heading it on to unsustainable levels.

It is worth noting that CSOs, particularly Grupo Moçambicano da Dívida (GMD), Instituto de Estudos Económicos e Sociais (IESE) and Centro Terra Viva, were the first to sound the alarm on the risk of public debt unsustainability a couple of years ago, though the alarm probably sounded louder for the authorities in November 2014, when the IMF Mission assessing the Mozambican performance under the Policy Support Instrument (PSI) called for a less expansionary budget and a narrowing of the fiscal deficit.

Conclusions & Recommendations

The present report concludes that amidst a challenging environment, CSOs in Mozambique have, since the early 1990s, walked a long way, transforming themselves into relevant actors to be taken into account in the development process. Although the Enabling Environment is far from perfect, evolving social and political conditions as well as growing pressure from an increasingly knowledgeable public offers hope that the country will pursue its track of reforms, oriented at allowing greater space for civil society.

Ever since the debt cancelling initiatives in the early 2000s, civil society has engaged actively in development cooperation initiatives in Mozambique. However, the development cooperation framework in Mozambique is still quite fragmented and interaction between CSOs and other development actors lacks the necessary level of institutionalisation, tending rather to take an ad-hoc character, according to the political conveniences of the moment. If the Busan target of inclusive development partnerships is to be met, political commitment at higher levels will be crucial.

Despite the growing complexity of the governance arena and the polarisation of the policy debate, CSO engagement with the Mozambican Effective Development agenda is showing signs of strengthening, particularly regarding policy advocacy. Over the last few years, and with the strong support of independent media, CSOs have been strongly committed at generating an inclusive and comprehensive evidence-based public debate, on the country's future. This is likely to play out positively on the quality of the public policies in the medium term.

But if civil society's presence is kept limited to consultative fora such as the Development Observatory, it could take much longer for their proposals to be taken into account, if at all. CSOs must find a way of stepping up their leverage towards decision makers and Joint Collaborative Action could be an important strategy in that direction, so as to mobilise a wider support base for their advocacy initiatives.

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Nicaragua

Summary

The Civil Coordinator of Nicaragua (CC), established in 1998, is an umbrella organisation composed of a diversity of Nicaraguan CSOs united by an inclusive vision for the nation. Since 2008, it has engaged in a series of High Level Forum debates, in Rome, Paris, Accra, and Busan.

Various laws and international conventions concerning civil society exist in Nicaragua, granting space to CSOs in accordance with the Busan Partnership, the Accra Agenda for Action and other agreements. However, 2007 marked a repressive turn in government policies toward CSOs, which have been forced to find alternative means to survive.

The political environment has changed and civil society organisations have worried about the deterioration of democratic institutions, given moves to change the constitution which would lift restrictions for re-election to the presidency, on top of concerns over the independence of the Nicaraguan judicial system.

Political institutions are characterised by a breakdown of the social state governed by the rule of law, violating the independence and the separation of powers, and favouring the concentration of power among elites. This has hampered the exercise of rights and freedoms by CSO and citizens.

Most concerning for civil society are trends that would further liberalise the economy and open it up to foreign investors, as seen starkly with the establishment of a foreign enclave in Nicaragua's territory, a concession given to a Chinese investor for a period of 50 years starting at the beginning of the commercial operations and extendable for another 50 years, for the construction of the \$US 40-50 billion Interoceanic Grand Canal.

Introduction

Knowledge building and practice: In Nicaragua, the Civil Coordinator is the only organisation that has, since 2008, been building the 'route of knowledge' starting in the HLF1 in Rome, HLF2 in Paris, HLF3 in Accra, until the HLF4 in Busan, all of which paved the way for a significant reform of the international aid architecture, and the establishment of the five principles of the Paris Declaration: Appropriation, harmonisation, alignment, results management, and mutual accountability. In Accra, a commitment was made by governments of developing countries to involve CSOs in the drafting, implementation, monitoring, and evaluation of development plans, while Busan marked new commitments toward enhancing the quality of aid or development assistance.

In Nicaragua, these processes kick-started for both CSOs and the government a period of analysis, debate, and awareness-raising about these official processes to build a position on development effectiveness based on Busan.

Participation in the international arena: The Civil Coordinator has been participating in international debates over the future of development, and played a crucial role in the working group for the open forum that led to the formation of CPDE. With CC was CSA, Bolivia's UNITAS, ALOP, among other organisations. The principle of CSO EE was developed out of these processes. Since 2009 and the formulation of the Istanbul Principles, the Civil Coordinator, has stressed the second principle: *Embody gender equality and equity while promoting women and girl's rights* in all of our proceedings.

One of the key methods for the development of this common framework for CSO development effectiveness is through a series of national, regional and thematic processes. One of those

thematic consultations refers specifically to issues of development effectiveness and the contributions of CSOs working in the fields of gender and development.

National and regional consultations: Based on the Istanbul Principles' perspective, in the year 2010, the Civil Coordinator held two consultations, regional and national. This was the first CSO consultation in Nicaragua, achieved through our own resources and the support of the open forum. In the consultation with the regions, the country was divided in six regions: West, North, Central, Chontales, Caribbean and San Juan River, and the national consultation in Managua with representatives of the regions in addition to the Civil Coordinator providing its regional delegates. This was the official representation of the bulk of Nicaragua's national consultation that saw the participation of other sectors beyond civil society: Government, private sector, and other organisations that previously had not been involved. We managed to unite more than 150 people at Managua in the national consultation according to a handbook developed by the open forum.

In 2011, the Civil Coordination participated in the gender board, in the issue of development cooperation and aid effectiveness having as our main reference points the Paris agreements, Accra, and Busan outcome.

Over the past years, relations between the Nicaraguan government, CSOs, and International Development actors have been strained at best, with civil society left out for the most part. The International Cooperation matrix has changed with the withdrawal of a significant amount of aid and support to CSOs, including for governance and human rights projects.

The Legal and Regulatory Framework

Nicaragua has signed major human rights international conventions and other laws concerning civil society that formally guarantee the rights to peaceful assembly, freedom of association, and freedom of expression. They reflect the engagements made in the Busan Partnership, the Accra Agenda for Action and other agreements.

These developments were reversed in 2007 with the change in government²⁹⁴ which sought to extend stronger control over the judiciary system, threatening its independence and ability to protect these rights. Civil society had previously succeeded in defining appropriate spaces through the legal framework provided by the Citizen Participation Law (Law 475); however, with the change in the government administration, other participation spaces for civil society opened up through the so-called "Citizen Power Councils."

Article 49 of the Nicaraguan Constitution stipulates that all Nicaraguan citizens hold the right to form organisation of urban and rural workers, women, youth, farmers, artisans, professionals, technicians, intellectuals, artists, religious groups, Atlantic Coast communities and settlers in general, free from any discrimination, with the goal of achieving the realisation of their rights and aspirations.

The Citizen Participation Law (Law 475, October 2003) institutionalised national, sectoral and territorial processes of advocacy, formulation and implementation of policies that were being developed de facto in different work schemes. Another law, the general law about legal non-for-profit entities (Law N° 147) was passed in 1992. Published in the official Journal N° 102 of May 29, 1992, this regulates the registration and operation of all non-for-profit CSOs existing in the country.

At the local and regional levels, laws for civil society include the Law of Budget Transfer to Nicaragua's municipalities law (N° 466 approved July 2, 2003), and the Municipalities Law (N° 40 of July 2, 1988).

Various institutions have been developed for this purpose, but are currently weak or non-functional:

²⁹⁴ From Enrique Bolanos (Constitutionalist Liberal Party PLC) to Daniel Ortega (Sandinista Front of National Liberation FSLN)

- National Council of Economic and Social Planning (CONPED) - an institution established by the constitution of the republic, articulating all the country's economic, social and productive sectors, the COSEP and the SME and CONIMIPYME.
- CONADES - National Development Council
- CONAPINA - like CONPES, this brought together all the economic and social sectors and CSOs for the monitoring and application of child and young adult protection policies, who make up more than half of the national population.
- The CDD and the CDM institutions established by the LAW N° 475.
- Sector boards for education, health, production, food security, water, and other utilities - these functioned with the participation of the government's highest level officials in cooperation with civil society.

However, the government of the Ortega Administration that took office on February 2007 has not articulated in a meaningful manner through its official documents and actions its plan to carry out the Paris Declaration, despite having initiated in July 2007 a dialogue through the Global Board and through the Budget Support Annual Meeting. The previous government, as a signatory country of the Paris Declaration, left the Operational Development National Plan. However, the new government after a process of negotiations with the International Monetary Fund published the Economic and Financial Program (EFP), where it is pointed out that "the elaboration of the EFP has a content and a scope relatively different to the National Development Plan," due to considering that the former makes a "short and medium term financial programming" and the NDP is a "long-term strategy". In that context, the EFP will not replace the NDP but both will complement each other.

There is no clear mention in the document of the Paris Declaration, although the issues of harmonisation and alignment come up with reference to the country's financial capacity to address gaps in its economic infrastructure and basic services expenditures in sufficient amounts to achieve the MDGs.

The Nicaraguan government has, for the most part, stayed on the sidelines of the international negotiations around development effectiveness, which would permit a more equitable convergence between the government, donors and CSOs, strengthening aid effectiveness and CSO effectiveness. For its part, the government has set up parallel allied structures which critics allege have created barriers for CSOs and inclusive participation in governance.

It has tried to support organisations sympathetic to the government's party under the Citizen Power Council's denomination, through the Order 03-2007, under the reform of the Law 290 without having the authority to do so. With a new Presidential Order 112-2007 in November 2007, the Citizen Power Councils (CPC) and the Offices of Citizen Power were created, which would be established in all of the country's administrative structures, in communities, counties, neighbourhoods, districts, municipalities, departments, autonomous and national regions. A parallel structure has been created, responding to the party in government, independent of those already established by the Municipalities Law and the Citizen Participation Law. Indeed, the Departmental Development Councils (CDD) and the Municipal Development Councils (CDM) Bodies of Local Power are actually being replaced by the Citizen Power Councils and the Citizen Power Offices. Political tensions have emerged as a result of this, although the potential for cooperation between these different council formations does still exist.

So far the Nicaraguan government has also prevented CSOs from receiving funding from abroad. CSOs like the Civil Coordinator, the Women's Autonomous Movement, and OXFAM have in fact been accused of money laundering, being the main targets for government control, while chasing away cooperation aimed at governance projects.

Since 2007, CSOs and development agencies have largely refused to accept the national government's blackmail and conditionalities. Some have had to close down their offices while searching for ways to maintain financial sustainability. This is on top of some loss of credibility on the part of CSOs due to government propaganda, shrinking space for public dialogue, and negative press from the largely state-owned national media.

CSOs have been accused of receiving illegal funding for "irregular and unusual operations" according to the Register and Control Directorate of the Ministry of Government (MIGOB). The criminalisation of civil society has seen the government impose sharp restrictions on external funding mechanisms for CSOs, especially in the case of non-state funding.

This has hampered opportunities for cooperation between NGOs and other organised sectors of civil society, especially for independent organisations most critical of the government.

After a series of legal battles and five-month long protests, the attorney of the republic issued a resolution which dismissed the report presented by the MIGOB, after which the persecution of NGOs should have ended.^{295, 296}

In addition, NGOs were in the past tax exempt, but a recently introduced Tax Agreement Law (Law 822), transitioned the country to a regressive ID tax system, which now requires all non-governmental associations to pay Income Tax, as well as a direct and personal tax.

The Political Environment

Changes to the political constitution of the Republic of Nicaragua were approved under Law 854, passed in February 2014. These changes have led to a further centralisation of power in the executive branch of the state, supported by the military. Moreover, the constitutional reforms were passed without popular consultation on the initiative of a group of congressmen from the parliament following instructions from the president.

CSOs are worried over the deterioration of democratic institutions, and wonder if this marks a new authoritarian era, as the new constitution allows for indefinite re-election for the presidency, in addition to stronger executive powers to appoint civil servants according to the whims of the ruling party of the day.

This has accorded broader political and judicial scope to the president in a National Assembly made submissive to his dictates.

The new constitution has stripped the National Assembly of the powers to oversee the performance of political posts like judges, leaving their appointment to the discretion of the Executive, which is under no obligation to do so in the context of democratic debate. It has also invested in the president much stronger powers over the military, and to issue executive orders to organise paramilitary forces at his prerogative.

With the approval of the law No. 854 on the 10th of February 2014, partial reform to the constitutional politics of the republic of Nicaragua for the next years looms a new political scenario.

In the new political constitution, Daniel Ortega, for his position as president of the republic, is invested as supreme leader and commander-in-chief of the armed forces (army and police), allowing him to manipulate them through Executive decrees and the organisation of paramilitary forces at his disposal and control.

The Nicaraguan Centre for human rights (CENIDH), in its annual report 2013, stands out as the mechanism used to "restrict freedom of expression, manifestation or organisation to intimidation, threat, aggression, and the criminalisation of social protest. Some leaders who

²⁹⁵ Public Ministry. District's Attorney. DISTRICT'S ATTORNEY RESOLUTION File N° 4805-JD-08. PUBLIC MINISTRY, MANAGUA, NICARAGUA, January 22, 2009, 9 AM

²⁹⁶ <http://cinco.org.ni/es/news/categoria-2/persecucion-politica-sobre-cinco-Internet-osc/>

were able to exercise that right were suppressed, arrested, and brought to the judge's order, in addition to continue to use the forces of shock related to the Sandinista Front, becoming one force state with apparent complicity and support of the police forces.²⁹⁷

It should be pointed out that vested interests have long shaped policy-making in Nicaragua, with political parties often in cahoots with powerful businessmen united in the Superior Council of Private Enterprise (COSEP). COSEP's lobbyists were deeply involved in the process of changing the constitution, and were only recently exposed for these activities. In November 2013, the Episcopal Conference described constitutional reform as unnecessary, pointing out their suspicions as to the real motivations behind it: political strengthening of the president and the further enrichment of the presidential family and an entrenched oligarchy.

Article 2 of the original political constitution of the republic expresses: "National sovereignty resides in the people and it is exercised through democratic instruments, deciding and participating freely in the construction and refinement of the nation's economic, political, and social system." It adds that the people will be able to exercise such power in a direct manner through referendum and plebiscite and other procedures established in the current constitution and laws.

This was altered fundamentally by the latest constitutional reform law, which is only the latest in a series of laws that have begun chipping away at the citizen participation system and the rights of civil society.

Since 2007, new laws justified a combination of policies of discrimination, persecution, division and criminalisation of organisations critical of the government.

Nor has the government acknowledged the role that CSOs, trade unions, and other social sectors play as key actors in development, and has largely avoided engagements with civil society at the national level.

On top of the withdrawal of budgetary support by foreign donors to CSOs since 2007, this has worn down a number of organisations, which have since chosen to avoid critical political positions as much as possible, refocusing attention to relatively uncontroversial service delivery and development initiatives. Civil society organisations have seen reduced funding on the part of the international cooperation agencies, by aggression and persecution that the current government has promoted. The most affected have been mainly the members of the federation of organisations, NGOs, FONG including the centre's initiatives and advisory services (CISAS), the National Institute for Health of Social Management, and the Nicaraguan Institute of Human Promotion (INPRHU).²⁹⁸

However other sectors, especially the private sector – including the burgeoning micro-tourism and real estate industries – are engaging in dialogue with official institutions like the Tourism Institute, as well as with NGOs and unions that work in these sectors.

In other areas, the Nicaraguan government has shown some interest in engaging CSOs, for example in discussions over new Free Trade Agreements.²⁹⁹ In such cases, it is possible to insist on space for CSOs in official debates, though for the most part, these are apolitical affairs,

²⁹⁷ *The most paradigmatic case is the young people mobilized in #OcupalNSS to support a group of elders who complained about their pensions. On June 22, 2013 paramilitary forces composed of workers from the municipality of Managua and members of the Sandinista youth disappeared 4 motorcycles, 9 digital cameras, 27 mobile phones, 4 Ipads (tablets), 25 briefcases with documents of identity, 3 computers, 8 glasses, 11 debit and credit cards. In the eyes of the police, which has been declared a victim of dark interests at the time, also 3 watches, 2 Ipods, 3 guitars, 1 cajónperuano, 1 passport, 1 of Littman stethoscope, 1 sphygmomanometer and 6 memories of cameras they stole. Although the most significant theft was of 7 vehicles that until today have not appeared.* <http://Internet.confidencial.com.ni/articulo/17587/ocupainss-un-ano-de-impunidad>, http://Internet.cenidh.org/media/documents/docfile/Informe_CENIDH_2013_FinalWEB.pdf

²⁹⁸ <http://Internet.elnuevodiario.com.ni/imprimir.php/43050>

²⁹⁹ Interview of Key Actor

focused on soliciting the advice of CSOs on the technical aspects of development initiatives without touching on broader political concerns.³⁰⁰

The Governance Context

Nicaragua is a country with a population of 5.9 million inhabitants,³⁰¹ of which 52% are young men and women. Both population groups have been described as highly vulnerable for age, gender, and geographical reasons, and have historically been excluded from national political life.

The Political Constitution of Nicaragua establishes in its Article 7 that Nicaragua is a democratic, participative and representative republic. For the Civil Coordinator, Nicaragua is a country with a judicial framework which, even despite the recent constitutional reforms, in theory, guarantees and enables CSOs to proactively engage in development initiatives. But to be able to fulfil their objectives requires strong political will from the government to reduce barriers to CSO participation and implement these constitutional provisions.

Social policies, such as the Zero Hunger Program, Productive Bonus, Zero Usury, Plan Ceiling, among others, for the most part seek only temporary solutions to deep-rooted socio-economic problems, and are often subject to partisan and patronistic politics. The reduction and eradication of structural inequalities, which CSOs have long worked hard toward, is not yet a reality.

In its official discourse, the Nicaraguan government has been promoting a judiciary framework in favour of women's rights in political participation, access to property, gender equality, the eradication of violence against women in practice; however, economic and political conditions for most women in Nicaragua militate against their participation as active political subjects and the exercise of their full rights as equal citizens.

With regards to CSOs, their role as social actors and their capacity to engage in advocacy, organisation and mobilisation have been reduced to various factors including: 1) The reduction and/or suspension of financial assistance to CSOs due to a shift in donor priorities to other thematic axes and geographical regions; 2) self-censorship caused by fear of critical political positions and the possibility of state repression; 3) The co-optation by the ruling government party; 4) lack of internal capacity, including for coordination, planning and long-term strategies; 5) resources allocated for development projects are often implemented by donor agencies in the absence of civil society participation.

Despite an exceptional constitutional framework and laws that should ideally protect the fundamental rights and public freedoms of CSOs and ordinary citizens, actual implementation has been next to impossible given the lack of political will.

The Socio-Cultural Context

Nicaragua has a population of 5.9 million inhabitants, and is a multi-ethnic, multi-lingual, and pluricultural society. Making up the majority of its territorial area, the Caribbean coast is formed of the south and north autonomous regions rich in water, lumber, and mineral resources. These territories are populated by indigenous populations, including the Misquitas, Mayagnas, Zumos, Ramas, and those of mixed Afro or Spanish descent.

Currently, some 500,000 girls, boys and adolescents approximately are outside the formal school system, and more than 200,000 girls and boys between the ages of three and five are child labourers.

Growing unemployment, inequality, and the lack of social protection have meant that over 60%

³⁰⁰ Interview of Key Actor

³⁰¹ Source: World Bank, last update September 2013. [obre-cinco-Internet-osc/](http://Internet-osc/)

of young people have expressed a willingness to leave the country, according to CSO network *Nicas Migrants*.

The remittances that these workers send reached 1 billion USD over the past year alone and have served as a support for their families.

Poor healthcare and education systems are have not contributed to holistic perspectives for integral human development and are characterised by low quality of service. Budgetary deficiencies have led to serious shortfalls in investment in basic social services.

As stated previously, state control of the media has served largely to neutralise political dissent.

The Socio-Economic Context

On a formal basis, Nicaragua is said to have achieved relative macroeconomic stability and modest economic growth, even as the country is characterised by a weak economy with a low productive capacity. The economy remains dependent on the export of agricultural products and raw materials vulnerable both to climate shocks and the vagaries of the world market. Imports of intermediate consumer goods and basic food items exceeded exports by 1 billion USD annually over the past years.

This has been compounded by the lack of economic diversification, the decline in real industries, and the continued neo-liberalisation of the economy. Policies continue to be implemented with a technocratic emphasis on defending macroeconomic stability, in accordance with the recommendations of institutions like the World Bank and the International Monetary Fund. Far from resolving the structural causes of socio-economic dependence and inequality, these have been promoting the development of the agro-export economy.

A regressive and unequal tax policy has widened gaps between rich and poor, with consumer and indirect forms of taxation favoured over a progressive income tax. Government policies have fed the rapid divestment of natural resources like forests and mines into the hands of politically connected elites,³⁰² foreign investors³⁰³ and financial corporations.

In addition, gaps in the labour market and lack of adequate training for workers have led to rising in formalisation of the national economy. Workers suffer a lack of income security, low wages and an overall decline in unionisation, while workers in the informal sector and in export enclaves have been left especially vulnerable to abuse.

Recent Free Trade Agreements have been signed with the United States (DR-CAFTA), on top of an Association Agreement with the European Union (ADA), both of which seek to expand the market of goods and services through a substantial reduction of custom duties on imports.

High dependence on Venezuelan aid has, in addition, been used to finance populist and highly partisan projects like the Zero Usury and Zero Hunger programmes mentioned previously.

According to the national survey of measurement of the level of life (Encuesta Nacional de Medición del Nivel de Vida, EMNV) of 2009, whose database was published by the National Institute of development information, (Instituto Nacional de Información de Desarrollo INIDE), only 12.5% of the population said to have been beneficiary of the government's social programs funded primarily by ALBA CARUNA (Zero Usury, Zero Hunger, Streets for People, Houses for the People, etc.) which, according to the survey, would have only benefited, among them, the 3.2% of the population.³⁰⁴

³⁰² *Small and medium forest producers have denounced the privileged treatment of Alba Forestal company Albanisa linked be protected by the government in the case of ordering release ten harrows with illegal wood seized by the army, which had been retained by inconsistencies*

³⁰³ *B2Gold Corp. a Vancouver based gold producer with two operating mines in Nicaragua, and a strong portfolio of development and exploration assets in Namibia, Nicaragua, Mali, Burkina Faso and Colombia*

³⁰⁴ *Encuesta de Hogares sobre Medición del Nivel de Vida 2009 - Inide, Internet.inide.gob.ni/bibliovirtual/.../Informe%20EMNV%202009.pdf*

According to official figures, the flagship program of the Sandinista government has delivered approximately 128, 336 productive bonds since its creation until 2014, the years with greater boom in 2008 and 2011, both being corresponding to election days

The Grupo Venancia, a feminist movement, has found in an investigation³⁰⁵ that the Zero Hunger programme goes through tough times, not only because of the budget cuts that will be in 2015, but by the many challenges facing its implementation in rural areas. Although they claim that the programme had a positive impact in improving the families' diet, the "dynamics of gender have not been sufficiently transformative."

"While it has generated certain changes in dynamics to families and women feel that they acquire certain decision-making powers, this program does not break, but it reproduces the sexual division of labour," says the research. "It may be that women earn more self-esteem, but the role of the men remains intact."

Ironically classed as "lower middle income" by the World Bank with relatively high rates of Gross Domestic Product (GDP), Nicaragua continues to suffer from high rates of poverty and inequality. The difficulty of maintaining decade-long, growth in GDP of over 5% while reducing structural inequalities and ensuring the protection of democratic institutions has placed Nicaragua in what has been called the Middle Income Trap.

All this is on top of proposals for mega-projects like the Bolivar's Dream Refinery, the Tumarín Hydroelectric Power Station, and projects for oil, gold and silver mining. The underlying premise is that such projects are to create lasting jobs for young people

The economic future of Nicaragua has been compromised by the establishment of a foreign enclave on Nicaraguan territory, through a concession given to a Chinese investor³⁰⁶ for the construction of the 40-50 billion USD Interoceanic Grand Canal. The enclave is to last for 50 years from the beginning of commercial operations, and is extendable for another 50 years. The company is to manage virtually all aspects of the project including design, development, engineering, financing agreements, construction, property, ownership, maintenance, and administration of a traditional canal and a series of subprojects.

The handover of national territory to the HKND Company was enacted through Law 840, or the Special Law for the Development of Nicaraguan Infrastructures and Transportation, relevant to the canal, free trade area and associated infrastructure.

To date, the company has yet to fully disclose the details of the mega project, and its social and economic benefits are as yet unclear.

For this reason, the Academy of Sciences of Nicaragua (ACN) has encouraged a series of workshops on the canal, which would be the most ambitious infrastructure project not only in the history of the country but of the whole continent and has prepared a document³⁰⁷ showing the results of the study for debate.

Recommendations

- Real citizen participation in Nicaragua, and opportunities for CSOs to interact with other development actors at the national and international level, are weak in Nicaragua.
- Urgent and thoroughgoing measures are needed to address this, through better communication between all development actors, while acknowledging the roles and responsibilities of each of these actors.

³⁰⁵ <http://grupovenancia.org/wp-content/uploads/2014/12/InvestigacionHambreCero1.pdf>

³⁰⁶ *Mister Wang Ying owner of the ChinWei company and HKND, <http://hknd-group.com/portal.php?mod=list&catid=3>*

³⁰⁷ *Academy of Sciences of Nicaragua. The Interoceanic Canal through Nicaragua. Contributions to the debate. Managua, 2014*

- With respect to the aid effectiveness agenda, few opportunities exist for CSOs to engage the Nicaraguan government, and the challenge for civil society would be to define concrete strategies for opening up political space vis-a-vis other development actors.
- Nicaragua is a country with a judicial framework which, despite the recent constitutional reforms, in theory, guarantees and enables the proactive role of civil society in development.
- Political willingness is needed to reduce barriers to CSO participation and fulfil these constitutional promises.
- Civil Society Organisations need to promote the study and application of an enabling environment for CSOs at the domestic level, while developing and promoting new development paradigms for Nicaragua.
- Develop new ways of exercising citizenship and new leadership to allow CSOs and citizens to participate actively and meaningfully in policy-making.
- Formulate and define strategies for state civil society engagement through a process of dialogue to promote consensus depending on the development and the construction of a national agenda.
- A genuine national development strategy should consider at least two fundamental issues: improving the educational levels of the population and promoting the country's scientific technical development.
- On women's rights: while the government has been formally promoting a judicial framework in favour of women's rights in political participation, in practice poverty, inequality, and gender discrimination continue to constrain women's capacity to engage in governance as active political subjects.
- Recent reforms to the Nicaraguan Constitution tend to favour the concentration of presidential power and the interests of big business. Indeed, we have seen the breakdown of the social and democratic state governed by the rule of law, which has breached the exercise of fundamental human rights
- Re-establish a social state governed by the rule of law, assuring the respect of human rights, gender equality, sustainable development, sovereignty, and peace.
- Civil society should be allowed space to participate in all aspects of development projects, from implementation to evaluation, in line with the strengthening of democratic institutions. For their part, CSOs should continue to engage in proactive dialogue with other development actors, as they demand the reactivation of mechanisms for citizen participation in governance.

Nigeria

Summary

This paper analyses the challenges facing Nigeria in its developmental process in the global arena through three indices: development cooperation, the enabling environment for CSOs, and their development effectiveness. Each of these thematic areas is considered within the purview of some country-specific indices of performance such as the legal and regulatory framework, the political environment, the governance, and the socio-economic context.

The paper scores the federal government of Nigeria high in terms of ratification of international instruments and churning out legal and regulatory frameworks in relation to its socio-economic and political operation, including its development cooperation. Unfortunately, the paper argues all these frameworks are mere beautiful paper policy documents as government lacks the political will to walk the talk. Nigeria's malaise is leadership failure. This explains why there is so much sleaze in the system permeating into government ministries, department, and agencies, and reaching the fabric of the leadership, including the cronies and allies of government while the leadership seems helpless.

The author considers some specific issues making Nigeria's political environment un conducive not only for politicians themselves, but also for the minority, the youth, the poor, the women, and invariably to international investors. The paper identifies contentious separation of powers, internal conflict, impunity, media clamp downs, systemic corruption, unemployment, menace of Boko Haram, among others, as a threat to Nigeria's development and economic prospects.

Of grave concern is the Nigeria's dwindling economy, whose pangs Nigerians are feeling, already has over 70 % of population, and is living in poverty, including many unemployed young Nigerians whereas the executive and the parliamentarians are living in opulence. The paper decries Nigeria's economy managers' lack of foresight, which poses some challenges to the Nigerian economy which include falling oil prices reaching as low as 73 USD per barrel, declines in foreign exchange earnings, and devaluation of the Naira from N155 to N168 to a dollar as at December 2014. Case studies are provided for a better understanding of the situation.

Concluding, the paper clamours for a consistent fight against corruption and impunity which would consolidate democratic gains. It challenges government to focus on restructuring both human and infrastructural capital, considered the potent instrument of development, while civil society should be involved in development cooperation in the spirit and letters of Accra Agenda for Action, and the Global Partnership for Effective Development Cooperation.

Introduction

Located in the West African sub-region, Nigeria is bounded in the west by the republic of Benin, in the north by Niger Republic, in the northeast by Chad, in the east by Cameroun, and in the south by the Atlantic Ocean. With a population of 177.5 million, Nigeria remains the most populous country in Africa and the seventh most populous in the world (Population Reference Bureau, 2014). With a presidential system of government, the country consists of 36 states and a federal capital territory (Abuja) and 774 local government areas with 109 senatorial districts, 360 federal constituencies, and 990 state constituencies. The country is further subdivided into six geopolitical zones, comprising north-central, north-eastern, north-western, south-eastern, south-south and south-western zones.

English is Nigeria's official language. There are more than 350 ethno-linguistic groups, yet Nigeria recognises three major ethnicities: Hausa-Fulani (mainly dominant in the north), Igbo (in the east) and Yoruba (in the southwest). These groups incidentally double as the three predominant indigenous languages in the country, though other languages such as Edo, Efik, Fulani, Fulfulde, Idoma, are widely used in their communities. Similarly, three major religions are practised in Nigeria – traditional faith, Islam and Christianity. The last two imported religions are dominant

in the country. Rivalries among ethno-religious groups have been a source of instability since 1991. Nevertheless, questions about religion and ethnicity have not been included in the national census whose results have always been controversial (Library of Congress – Federal Research Division, Country Profile: Nigeria, July 2008).

Nigeria is blessed with both human and natural resources. It is, for the most part, an oil state, having transitioned from a predominantly agrarian to a petro-chemical economy in the early 1970s. Nigeria has proven oil reserves which are the 10th largest in the world, while its proven natural gas reserves are the seventh largest in the world and the largest in Africa. In addition to a skilled workforce, Nigeria has abundant mineral resources such as hydrocarbons (petroleum and gas), coal, tin, lead, lime stone, gold, quartz sand, iron ore, aluminium, nickel and zinc to mention but a few. Despite it all, over 70% of Nigerians still suffer from poverty, hunger, and disease (Winjobi, Tola 2011).

The Legal and Regulatory Framework

Nigeria scores highly in terms of signing and ratification of major international and regional instruments and conventions.³⁰⁸ There are also regional policy frameworks such as the Abuja Call for Accelerated Action towards Universal Access to HIV/AIDS, Tuberculosis and Malaria Services by 2010, African Health Strategy 2007-2015, Maputo Plan of Action for Implementing the Continental Sexual and Reproductive Health (SRH) and Rights Policy Framework 2007-2010, and NEPAD Comprehensive Africa Agricultural Development Plan (CAADP). Guaranteeing the freedom and rights of individuals, and curtailing impunity in Nigeria are the Constitution of the Federal Republic of Nigeria, Freedom of Information Act, Electoral Act, National Human Rights Commission, National Gender Policy, and regulatory frameworks such as Independent Corrupt Practices and other Related Offences Commission (ICPC) Act, and the Economic and Financial Crimes Commission Act, etc.

However, policy implementation is fraught with irregularities. A few examples would suffice for illustration, using corruption and impunity as a case study. Apart from national security, corruption and job creation remain top issues that Nigerians want the government to address in 2014, according to the results of the 54th Independence Day Special Edition Poll.³⁰⁹ Though Nigeria has two key anti-corruption bodies, the problem proportion remains entrenched and has increased at alarming rates. Yet the government still treats the issue with kid gloves, shielding corrupt officials from prosecution. The federal government's insincere war on corruption and opportunistic protection of suspected government officials have eroded public confidence in political institutions. Since 2013, the current Minister for Petroleum Resources Mrs Diezani Alison-Madueke and the Nigerian National Petroleum Corporation (NNPC) have been under investigation by the National Assembly for their alleged involvement in 10 billion NGN (over 64 million USD) private jet lease scam. Yet the probe has been stalled by the petroleum minister, who has gone to court challenging the locus standi of the House of Representatives, which would have called her to stand trial on how she spent 10 billion NGN as a rental fee for the jet.

³¹⁰ As of press time, both Mrs Madueke and NNPC have refused to honour invitations by various committees set up to probe the allegations against them.³¹¹

³⁰⁸ These include: the Universal Declaration of Human Rights, Convention on the Elimination of all Forms of Discrimination against Women, African Charter on Human and People's Rights, African Charter on Democracy, Elections and Governance, African Charter on the Rights and Welfare of the Child, African Convention on the Conservation of Nature and Natural Resources, African Union Convention on Preventing and Combating Corruption, African Youth Charter, Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa, Protocol to the Treaty Establishing the African Economic Community relating to the Pan-African Parliament, revised African Convention on the Conservation of Nature and Natural Resources and the Treaty Establishing the African Economic Community.

³⁰⁹ Conducted in the week of September 22nd 2014 by NOI Polls

³¹⁰ According to her lawyers, if she needs to answer the call of the honourable members, she has to seek the President's approval or consent the action which many Nigerians see as "a panicky measure to prevent National Assembly from performing its constitutional role of checking the excesses of the Executive" (Ikhilae, Eric. #10 billion jet probe; Alison-Madueke, NNPC knows fate December 17: The Nation, Thursday November 20, 2014 p.5).

³¹¹ Oyesina, Tunde N10bn jet Scandal: Alison-Madueke frustrating probe, Reps tell court New Telegraph Wednesday, November 5, 2014

The lack of an enabling environment for CSOs could stifle their development effectiveness, due to widespread political impunity and anti-people laws and policies. One example is a bill pending before the National Assembly titled Establishment of the Non-Governmental Organisations Regulatory (Establishment, etc.) Agency of Nigeria Bill, 2014. This bill seeks to provide for, among other things, the establishment of the Non-Governmental Organization Regulatory Agency of Nigeria for the supervision, coordination and monitoring of Non-Governmental Organisations, Civil Society Organisations, and Community- Based Organisation in Nigeria, and for Matters Incidental Thereto. CSOs are wary that this could be another way of entrenching the government bureaucracy, with stricter protocols governing their activities. As one of the clauses in the bill puts it, "a project shall not be implemented unless it has been approved by the relevant ministry and registered with the agency," Regulatory mechanisms for CSOs already exist,³¹² making the proposed bill unnecessary and irrelevant apart from a new fee charged to each NGO, seeking to register with a government agency.

On the issue of freedom of expression, Nigeria has passed into law Freedom of Information Act 2011, but the law has faced controversies in actual implementation. Though passed at the national level, only two states – Ekiti and Lagos states – have enacted their own version, while it is not yet applicable in the remaining 34 states of the federation. The implementation of the act has been so problematic in view of the conflicting court judgments in Abuja, Edo, Lagos, and Oyo states. This situation has hampered the work of CSOs, while information and public records are still not freely accessible to all.

The Political Environment

The separation of powers in Nigeria has been tenuous, with the presidency often arbitrating between the national and state assemblies in what often amounts to a political showdown of corruption and impunity.

Building democracy, as expressed in the Busan Outcome Document and Accra Agenda for Action, has proven to be a challenge. In practice, minority positions often win out over the majority, with popular participation in democratic institutions little more than a ruse. This makes some people opine that democracy in Nigeria should be redefined as government of the few by the few lording it over the majority. Blatant acts of illegality and corruption have infected all arms of government, especially at the legislative and executive level in some states of the federation. The police have, in addition, proven a ready instrument in the hands of the executive for various political vendettas. The ruling party, Peoples' Democratic Party (PDP), has unfortunately encouraged and embodied violations of the rule of law. This was seen clearly at the Ekiti State House of Assembly where, with the tacit support of the federal government, police protected seven PDP lawmakers against 19 APC lawmakers, when the former group purportedly sacked the incumbent Speaker of the House and his deputy.

Nigeria's ridiculous democracy played out earlier on Monday, 17th November 2014, where a controversial and surreptitious sitting by the seven PDP lawmakers in Ekiti State House of Assembly reportedly screened and cleared three commissioner nominees. Constitutionally and according to the Standing Orders of the House, the required quorum for legislators to conduct the business of the House is one-third of the total number of the legislators. In other words, the seven lawmakers did not meet the threshold of at least nine members out of 26 to sit, let alone to consider the serious business of the house, like appropriation and ratification of appointees. There are 26 members in Ekiti State House of Assembly, if 19 members were on a radio programme in Akure, only seven should be sitting in the assembly; and if they were more than seven it means they were rented. Yet the seven claimed they were 10 to form a quorum! So, where did they get the additional three ghost members? (Hardball – Power and A Shadowy Trio; the Nation, Thursday November 20, 2014 p.72)

In addition, the political environment in Nigeria has been ridden by internal conflict, regardless of attempts by the government to project a different image abroad. Security is the greatest

³¹² These include the Corporate Affairs Commission, National Planning Commission and related structures at the state level.

of all the three challenges (security, corruption, and job creation) facing Nigeria. The unsafe political environment is a threat to Nigeria's development and economic prospects as there would not be any development in the face of destruction of lives and property. If a country wishes to solve social inequality, it must place education at the centre of development efforts, but terrorism would not allow education to thrive. Nigeria has since been classified amongst terrorist countries going by the spate of unabated killings and destruction unleashed by Boko Haram, an Islamist sect dominant in the country's northeast. The spate of attacks on schools and churches later extended to mosques, and the slaughter of school children and women have been unprecedented, reaching their apogee in the mid-April 2014 abduction of 276 girls from their secondary school in Chibok in Borno State, though 57 of them courageously managed to escape, leaving behind 219 girls for government to bring back from the gulag of Boko Haram in Sambisa Forest.

The case of Boko Haram is worth emphasising on in view of the grave security threat they pose not only to Nigeria, but also to the neighbouring countries like Niger, Chad and Cameroun. Indeed, the Islamist sect presents a dangerous socio-political environment for both state and non-state actors in Nigeria to operate as the environment is not conducive. Unfortunately, Nigerian government cannot offer what it does not have – an enabling socio-political environment. For instance, the ferocious Boko Haram killers had taken over and occupied about 16 local government areas across the three states of Adamawa, Borno, and Yobe; and hoisting their flags and installing the caliphate regime in some of the conquered territories. Specifically in Adamawa by Tuesday, November 4, 2015, Madagali, Gulak, Michika, and Mubi towns had been taken over by Boko Haram in spite of the fact that the listed towns were under dusk-to-dawn curfew. The terrorist group was having a field day as they were seen patrolling Mubi town while others were at strategic locations brandishing their rifles, but asking the residents not to panic or run away. In addition, they held open courts and preaching sessions just as they changed the name of Mubi town to Madinatul Islam. Ironically, Boko Haram warlord provided security during the market day of Uba town while promising to continue to give traders and residents who might like to come to the area utmost security as long as the latter comply with Islamic rules (Abdul, Ibrahim; New Telegraph Wednesday, November 5, 2014 Boko Haram renames Mubi, Madinatul Islam p.3).

Boko Haram appeared to be gaining the upper hand to the extent that the Nigerian soldiers deserted the battlefield, running for their lives by tactically retreating to neighbouring Cameroun for safety. It grew worse at a time that demoralised soldiers protested against the military hierarchy's ineptitude and insensitivity to the welfare and security of the troops, and they were tried for mutiny. Worse still and in appreciation of the Nigerian government's losing the war against terrorism, the Nigerian defence authorities announced they had brokered a ceasefire agreement with Boko Haram warlords, only for the latter to deny such agreement as a ruse, following it up with fresh rounds of bombing and killing just hours after the premature ceasefire.

The official response to terrorism has been weak at best, to the extent that people begin to suspect the government itself as an accomplice in the Boko Haram saga. Sheikh Muhammad Mahmoud Turi, leader of El-Zakzaky Muslim sect in Kano, in December 2014, declared that there was no way the federal government could exonerate itself from the activities of the Boko Haram sect. Speaking to reporters at the Nigerian Union of Journalists (NUJ) Press Centre, Sheik Turi added, "It is an open secret that the present government cannot exonerate itself from all these mayhem that is happening in the country. It is so obvious that whatever may be the reason, nobody in the country can tell us that the government is not aware or has no hand in what is happening, the government is fully responsible and there is no doubt about it."³¹³

The president himself once admitted that there were Boko Haram sympathisers within his government, which makes it difficult to resolve the insurgency. The hired Australian interlocutor between Boko Haram and Nigerian government, Davis Stephens, has named prominent

³¹³ *Even the Governors of the northeastern States affected by the insurgency had on various occasions expressed the same sentiment. For example, "Governor Gaidam believes that President Goodluck Jonathan has a very urgent responsibility to explain to the people of Yobe State and people all across the affected states why murderous and callous insurgent and criminal attacks are still on the rise despite the State of Emergency".*

Nigerians including Senator Alli Ndume, Azubuike Ihejirika, and Ali Modu Sherif as sponsors of Boko Haram. The former Borno Governor Ali Modu Sherif³¹⁴ is a close ally of both the Nigerian president, and the government of Chad. Unfortunately, none of these people have been questioned by the Nigerian authorities. Similarly, prosecuting terrorist suspects in the court of law has become problematic for government, reinforcing the belief of citizens that the federal government is an accomplice in terrorism in Nigeria. For example, the suspected mastermind of the April 2014 blast in Nyanya, Abuja, Aminu Sadiq Ogwuche, asked the federal high court to release him from incarceration, following the inability of the federal government to bring fresh charges against him, and asking for a sum of 100 million NGN in damages against the respondents – the Directorate of State Security (DSS) and Attorney-General of the Federation (AGF).

Worse still, government often resorts to self-denial and a campaign of calumny against opposition and CSO activists on the activities of terrorists in Nigeria. For instance, denials by the government with regards to the abduction case led to conflicts between the federal government and the ruling party on one hand, and the opposition party and CSOs, on the other. CSOs, piqued by the government's slow response to the case of the kidnapped girls, built a media campaign tagged #bringbackourgirls while the government and its quasi-NGO supporters formed #releaseourgirls propaganda in order to counter the CSOs, which had gained both local and international sympathy. The former hashtag focuses attention on the government's own responsibility; it is the constitutional duty of government to protect its citizens while the latter passes the blame on to Boko Haram who should release the girls in its captivity.

Nigeria's political environment is not favourable to various social groups, especially the middle class, the youth, and the poor who have been disempowered and prevented from running for political office. There is no level playing field for everyone as election to high positions, across nearly all the political parties, has become a cash-and-carry affair. The two major political parties are guilty of this even as they are subsuming and buying other parties less able to field their own candidates. Though free for women aspirants, the party's nomination fee, for example, is beyond the reach of common people as the presidential nomination and expression of interest form costs as much as a whopping sum of 27.5 million NGN (177,419 USD) and 22 million NGN (132,000 USD) respectively for all progressives congress (APC) and PDP. This winner-takes-all syndrome, with political positions going to the highest bidder, is against the spirit of democratic ownership and mutual accountability. This works against development effectiveness as only the affluent and powerful can assume positions of authority and might not be accountable to the majority who have little or no say in governance because of their disadvantaged positions.

In addition, the recent clampdowns on the Nigerian press, from the outright closure of media houses, to the seizure of large numbers of newspapers are seen as anti-establishment. A recent case in point was the confiscation in the first week of June 2014 of thousands of copies of several newspapers, most notably the Daily Trust, The Nation and Leadership, and the sealing of their distribution points in several major town across the country by soldiers (Bayo Oladeji, November 13, 2014).

All this is perpetrated by government agencies, especially by the security forces who always act under the guise of protecting the national interest against terrorism. State-run media has played a significant role in this, often sparking outright wars between various media entities, which have become an expression of partisan politics, exacerbating tensions between various factions of the central and local governments. Such controversies reach a disturbing crescendo during electioneering and political campaigns where media violence often further fuels the already charged political atmosphere, especially in opposition states. There are numerous examples of this, but the outstanding one is in the southwest Nigeria, which pitted a state-owned radio (Osun State Broadcasting Corporation) in Osogbo against a federal government-owned Crown FM in Ile-Ife.

³¹⁴ *"A 2010 Intelligence report by a Nigerian security agency suggested that Mr. Sheriff was personally involved in the recruitment, training and dispatch of Boko Haram fighters, under the full cover of Idris Deby, the Chadian president" (Premium Times 7 December 2014).*

Both have offered conflicting reportage on election results, along partisan lines, calling starkly into question the independence of a supposedly free and open press.

The Governance Context

A history of mis-governance and corruption has reinforced civil society's demand for transparent and accountable governance. There has been no improvement in Nigeria's corruption ranking, going by the Corruption Perception Index 2014 released by Transparency International,³¹⁵ which ranked Nigeria 136th out of the 175 countries surveyed for the report.

Corruption has permeated every fabric of the society. Embezzlement and mismanagement of funds in government circles are well-entrenched in nearly all arms of government. The presidency alone has a fleet of no less than 11 presidential jets³¹⁶ while plans are underway to acquire even more at the expense of taxpayers. Travel expenses of officials often cost the government tens of thousands of dollars, at clip money better spent on anti-poverty programmes. Monies for all these must have undergone appropriation regimen, but the point is, the president is living under a heavy moral burden because his opulent lifestyle is not consistent with what he preaches. For example, Nigeria does not have a national carrier yet the president and his cronies fly about in both presidential and private jets; Nigerian citizens travel in rickety motor vehicles on sorely bad road networks, decimating their lives, yet the president travels in choppers.

Governance in Nigeria is synonymous with power arrogance, executive recklessness and fiscal indiscipline. The former Minister for Aviation Mrs Stella Oduah was not lucky as she was unceremoniously removed from office as a result of opprobrium over invoiced 25 million NGN bulletproof cars. One wonders what a civilian minister would need two bulletproof cars for. The current Minister for Petroleum Resources Mrs Diezani Alison-Madueke widely believed to be a sacred cow and crony of the incumbent president is stifling all efforts by the National Assembly to probe the allegation against her pecuniary incontinence of 10 billion NGN jet scam. In addition, a private jet was used to ferry a sum of 9.3 million USD arms deal to South Africa, which is against the CBN cash-less policy; the seized cash was linked to the federal government for the purchase of arms while the jet belongs to one of the Pentecostal Ministers believed to be a friend of the president. It was widely rumoured and reported in the media that some members of the House of Representatives indeed had taken between 20,000 USD and 50,000 USD bribes in order to truncate the motion to probe the seized money (The Nation Thursday September 25, 2014 p.4). This goes to show that the legislature has its own share of sleazebag. Mr Faruk Lawan, a key member of Integrity Group in the National Assembly had his hand soiled with 628,000 USD bribe in exchange for not publishing the names of the cartel behind petroleum subsidy scam.

Relations between the National Assembly, especially the lower chamber or the House of Representatives, and the executive have always been tense, even as the judiciary strives to remain impartial. Successive presidents have often sought to stay in power by manipulating other arms of government. This has erupted in violent conflict as seen starkly in the invasion of the National Assembly by the police and members of the state security in November 2014. The recent outburst of the Inspector-General of Police against Rt Honourable Aminu Waziri Tambuwal as the Speaker of the House of Representatives is a clear pointer to abuse of power and disregard for constitutional authority by the executive. Some days earlier, the police had stormed the NASS, locked the gates, and tear-gassed politicians to the extent that the National Assembly was locked at the order of the Senate President David Mark.³¹⁷

This violent invasion of the National Assembly by the presidency, using the police and other security agencies, is a grave threat to the survival of democracy in Nigeria. When armed police invade the precincts of the national parliament, lock out the speaker and other legislators and

³¹⁵ <http://transparency.org/cpi2014/results>

³¹⁶ http://Internet.premiumtimesng.com/news/headlines/171947-jonathan-governors-others-keep-long-motor-cades-private-jets-nigeria-struggles-falling-oil-revenues.html?utm_source=dlvr.it&utm_medium=twitter

³¹⁷ <http://huhonline.com/index.php/more-news/14753-david-mark-orders-closure-of-national-assembly-as-tension-escalates>

brutally teargas them, the country descent into anarchy, fascism, and a police state appears real indeed. Unless they bow to reason and show restraint, President Goodluck Jonathan and the security agencies may soon violently push Nigeria into an abyss. Despite Nigeria's disastrous past experiences, it is depressing that Jonathan has failed to appreciate that only a primitive society seeks to resolve its political disagreements by force of arms. This executive gangsterism is outrageous as there is no justification for a violent assault on another arm of government by the executive, and it is a pointer to the increasing misuse and abuse of the state by the presidency. The Inspector-General of Police Abba and Director-General of the DSS Ita Ekpenyong are doing Nigeria a great disservice by using their personnel as political muscle when their loyalty should be to the Nigerian state, not to those who temporarily control the levers of power. As these fascist tendencies are threatening the very survival of Nigeria's civil rule, all stakeholders should rise in protest against this rapid descent into perdition (Editorial: Invasion of National Assembly is an ill-wind; The Punch Wednesday November 26, 2014 p.30).

In general, governance in Nigeria has assumed dangerous dimensions as officials at all levels have paid less and less attention to critical development issues. Rule of law has given way to impunity, "keeping control of the state takes precedence over formulating policies that benefit society" (Pierre Englebert, 2014). As a result, development projects are often abandoned, salaries of civil servants come irregularly if at all, state resources are being plundered, industrial disputes have become ever more pronounced, and basic public services are of persistently low quality, while terrorism gains ground by the day. Political patronage also persists in civil society, with politicians openly sponsoring NGOs of their own to support them, reminiscent of Abacha military era. The more visible and vociferous among these groups is the Transformative Ambassadors of Nigeria (TAN), which is heavily financed by the government, with proceeds from the oil bloc. It is an open secret that TAN's membership is an assemblage of government contractors; their lead coordinator being the chief executive of Capital Oil Ltd, whose lawfully seized assets by Asset Management Corporation of Nigeria (AMCON) were recently released by the order of government (Odigie-Oyegun, The Guardian Tuesday November 18, 2014³¹⁸). The legislative and executive arms, at both national and regional levels, are devising underhand tactics to pave the way for electoral victory in 2015, in a country where elections and state violence are near-synonymous.³¹⁹

At the international level, however, Nigeria has proven itself adept at gaining positions of leadership on issues of development effectiveness,³²⁰ even while attempts at better cooperation with CSOs domestically have been shallow at best. Similarly, CSOs in Nigeria have played an active role in development cooperation, especially in relation to MDG 8 – Developing Partnerships for Global Development. While the government has not engaged the AAA or Paris Declaration (Winjobi, Tola 2011) and GPEDC back home, civil society has been active in collaborating under different networks and coalitions, such as the Civil Society Partnership for Development Effectiveness, to discuss implementation and monitoring of development cooperation, including ODA. There is a need for the Nigerian government to recognise CSOs as development actors in their own right.

³¹⁸ *Capital Oil Ltd was said to have been involved in the fuel subsidy scam which is under probe by the House of Assembly*

³¹⁹ *The Presidency is "...deploying strong-arm tactics, and the nation's resources whenever he (Dr Goodluck Jonathan) deemed necessary; whether in dismantling the Governor's forum, which threatened his re-election bid, or sacking errant Governors through instigated impeachments" (Okotie Chris, Jonathan's race in whirl wind of crises. The Guardian Internet.ngrguardiannews.com Tuesday November 11 2014 p.19). Indeed, at the eve of Goodluck Jonathan's declaration for his second term bid when on Monday 10 November 2014 over 50 students in Potiskum had earlier been murdered cold blooded, he said, "Government Science Secondary School in Yobe State was bombed by the insurgents, killing our promising young children who were seeking education to build the country and support their parents". And Mr President displaying insensitivity to the lost lives still went ahead on Tuesday 11 November 2014 in an orgy of wild celebration declaring his ambition to contest the 2015 presidential election.*

³²⁰ *Nigeria has been represented at all High Level Fora (HLF), beginning from HLF1 in Rome in 2003, through Paris in 2005 to HLF3 in Accra in September 2008 (Winjobi, Tola 2011), HLF-4 in Bussan and HLM in Mexico while it held the Co-Chair position on the HLM/Global Partnership for Effective Development Corporation till April 2014*

Meanwhile, the presence and support of development partners³²¹ in Nigeria is an opportunity for many CSOs to take a proactive role in development initiatives. United Nations Development Programme-Democratic Governance for Development (UNDP-DGD) for example, supported many Nigerian CSOs to provide their inputs in the review of the 1999 Constitution of the Federal Republic of Nigeria in 2012, while other partners also supported CSOs in the area of advocacy on the Freedom of Information Act, peace and conflict resolution, voter education, poverty alleviation scheme, access to justice, climate change and environmental justice, among other issues.

However, there seems to be shrinking space for CSOs in terms of funding as donor fatigue has set in, while some donors still attach some conditions to their grants. Nigerian CSOs are among other CSOs in Africa where there is a reduction of the amount of grants going to, for example, HIV/AIDS programmes, owing to Nigeria's policy on same-sex marriage (anti-gay law), which is not favourable to American and European donors. Many persons living with HIV/AIDS do not have access to facilities such as anti-retroviral drugs because of the high cost attached to it, whereas these drugs were free in the past.

The Socio-Economic Context

With a population of about 177.5 million, Nigeria (Population Reference Bureau, 2014) has a GDP of 521.8 billion USD, an annual economic growth rate of 6.5% and an inflation rate of 8.1% (NBS, 2014). This is a considerable improvement in the economy over the previous years where in 2009, Nigeria had 173.0 billion USD in GDP and 166.8 billion USD in 2007 (CIA, 2011). Nigeria's external (foreign) reserves stood at 36.85 billion USD by November 2014, while the excess crude account was 4.11 billion USD (CBN, 2014). While its value of import totalled 91.6 billion USD, Nigeria's value of export was 56.4 billion USD (Renaissance Capital, 2014), an indicator of poor management of the economy. Oil still accounts for 75% of the government's revenue, while it accounts for 95% of foreign exchange earnings. If care is not taken, the non-investment or disinvestment in the oil and gas sector by major international oil companies might deal a great blow to Nigeria's oil-dependent economy.

The Nigerian government has, over time, put in place measures to curtail poverty, reduce unemployment, and improve economic development. Replacing National Economic Empowerment Development Strategy (NEEDS) and State Economic Empowerment Development Strategy (SEEDS), economic policy is Vision 20:2020, the Nigerian government's current official socio-economic policy framework, which aims to turn the country into one of the top 20 economies of the world by year 2020. This is mostly focused on the oil sector. While the National Directorate of Employment and National Poverty Eradication Programme are age-old structures essentially created to tackle the issue of poverty, Subsidy Re-investment and Empowerment Programme (SURE-P),³²² with its various subsets, is one of the pillars of the transformation agenda of the federal government for the progressive 'deregulation' of the petroleum industry. SURE-P programme ensures that the federal government's part of the savings from fuel subsidy removal or reduction is applied on critical infrastructure projects and social safety net programmes that will directly ameliorate the sufferings of Nigerians and mitigate the impact of subsidy removal. Since the current government has broken away with its predecessor in terms of lack of commitment and introduction of its own economic agenda, the realisation and the benefit of Vision 20:2020 is a mirage following the death of Umar Yar A'dua.

We are made to believe that Nigeria currently has 6.5 annual economic growth rate. The question is: is this rate sustainable, and does economic growth translate to socio-economic development? During a media address in November 2014, the Minister for Finance Mrs Ngozi Okonjo-Iweala "played down the correct diagnosis of the economic ills and wished away, or acted in denial of, the serious problem," facing Nigeria's economy without first accepting "the

³²¹ Among these development partners giving both technical and financial support to CSOs in Nigeria are USAID, OSIWA, Friedrich-Herbert-Stiftung, OxfamNovib, EC, and UN systems like UNDP, UNICEF, WHO, among others

³²² <http://sure-p.gov.ng/main/index.php/about-sure-p/sure-p-secretariat/policy>

correct economic problem before successfully pursuing the objective of securing the economic wellbeing of the common man under the unfolding 2014-15 austerity measures" (The Punch. Monday, 08 December 2014 00:00). No sooner the Finance Minister made this statement than the Nigerians began to be confronted with the news of the falling in crude oil prices, and devaluation of the Naira – the nation's currency.

This deceptive economic logic posited by the finance minister made the former president, Olusegun Obasanjo, cry out that what the public knew or saw of the economy was not what the economy truly was, adding that "the Nigeria's economy is in the doldrums, and the government is a liar."³²³ According to Chief Obasanjo³²⁴, the often-quoted GDP growth did not reflect on the living condition of most of Nigerian people, nor on most of the indigenous industries and services where capacity utilisation was almost 50%.

Among the current challenges to the Nigerian economy are falling oil prices reaching as low as \$73 per barrel, declines in foreign exchange earnings, and devaluation of the Naira from 155 NGN to 168 NGN to a dollar. The persistent declines in oil revenue have affected the excess crude account (ECA) from which both the federal and state governments draw their allocations. Financial pressures have caused the ECA to decline from 11.5 billion USD by the end of 2013 to a mere 4.11 billion USD (CBN, 2014). The reality of this economic crunch which she had defended or denied few weeks earlier made the Minister of Finance, for the first time, cry out for Nigeria to adopt austerity measures reminiscent to economic conditions of the '80s. These include a tight fiscal policy, a reduction in the allocation to the states and local governments from the federation accounts, a reduction in the general cost of administration, better administration of tax regimes, and a cut in both recurrent and capital expenditure in 2015.³²⁵

Already, Nigerians are feeling the pangs of the economic crisis. With over 70% of population still living in poverty, many young Nigerians remain jobless while the executive and the parliamentarians live in opulence. The controversial salary package of the political office holders is taking about 25% of the total overhead costs in each fiscal year. Each senate member of the Federal Republic of Nigeria, for example, earns 29,479,749 NGN monthly, and in a year this amounts to 353,756,988 NGN.³²⁶ Meanwhile, the minimum monthly wage for workers in Nigeria is pegged at a paltry sum of between 18,000 NGN and 18,500 NGN, which is 0.062% of the monthly salary of a senator; yet many states cannot afford to pay this. If the yearly salary of a worker is 216,000 NGN (1333 USD) and that of a Nigerian senator is 2,183,685 USD, meaning it will take an average Nigerian worker 1638 years to earn the yearly salary of a Nigerian senator (The Economist, 2014).

The business environment is also poor in Nigeria,³²⁷ in the spate of erratic power supply and unreliable credit sources. Compare to other countries in MINT (Malasia, Indonesia, Nigeria, and Turkey) of which Nigeria is one, it is not easy doing business in Nigeria due to inadequate

³²³ Nigerian govt lying about state of economy — Obasanjo. <http://Internet.premiumtimesng.com/news/top-news/171944-nigerian-govt-lying-state-economy-obasanjo.html>

³²⁴ "We had not adequately prepared for the rainy days in the management of proceeds from oil and gas resources. With crude oil purchase by the U.S. from Nigeria going down by some 30 per cent in the last three years as a result of shale oil revolution, things are not looking up in the oil and gas sector, and hence, in the economy. We will all sink deeper in poverty, except for those who have corruptly stashed money abroad and who will start to bring such illegal and illegitimate funds back home to harvest more Naira. All the economic gains of recent years and the rebuilding of the middle class may be lost. In the end, more businesses will close down, business men and women, entrepreneurs and investors will incur more debts. Foreign investors may temporarily stop investing in a downturn economy. Because of the Naira depreciation, workers, particularly in the public sector, will ask for pay increase, which may be justified, but will

³²⁵ Dapo Fafowora 2014 Nigeria's financial and economic prospects for FY 2015. In: the Nation Thursday, November 20, 2014

³²⁶ \$2,183,685.00; exchange rate: \$1 = N162. These figures are much more than what obtains in other climes: United States - \$174,000.00; Britain - \$105,400.00; South Africa - \$104,000.00; France - \$85,900.00; Kenya - \$74,500.00;

infrastructure and credit facilities. Getting credit facilities from the government is as difficult as getting tax holiday to encourage local industries to survive. On power supply, Nigeria – with a population of about 170 million – is battling to supply its citizens with a mere 4000 megawatts of electricity. Contrast this with South Africa which, with a population of just 54 million, supplies its citizens with 45,000 megawatts³²⁸ and they are planning to increase this to 100,000 megawatts very soon. Partly as a result of this, Nigeria's major industries are relocating to neighbouring countries like Republic of Benin, Ghana, and Sierra Leone, serving as production centres, while Nigeria is serving as the marketing centre.

Conclusion

There is a serious need to pay attention to the development of Nigeria's infrastructures and human capital. Development cooperation, especially with regard to civil society and private sector, should be taken seriously at both international and domestic fronts. Development projects should be implemented thoroughly and honestly while Nigerian politicians, at all levels, must be held to account for their failure to stem corruption and impunity in the country.

Austerity measures should be imposed on government officials, not on workers and the poor who are at large not part of this economic quagmire. The fat salaries of politicians should be checked and reduced to acceptable levels. Governments at all levels should prune the numbers of their political aides, reduce administrative costs, and minimise overseas trips that waste so much of the public coffers.

Nigeria needs to adhere to both AAA and Busan GPEDC principles of democratic ownership, inclusive development partnership, transparency and accountability. Until CSOs and private sectors are provided enabling environment to maximally operate as development actors in their own right, the government's developmental efforts would all be a ruse coloured by lack of transparency and accountability. Inclusive partnership that ensures that no one is left behind in development process is nothing about CSOs if it is not about them.

³²⁷ *In its Ease of Doing Business Report 2014, the World Bank rated Nigeria 147th out of 189 countries which is a further deterioration from its ranking of 137th in 2013 – inadequate infrastructure and unfavourable domestic credit being some of the major factors. Domestic credit to the private sector in Nigeria is abysmally low compared to any of the BRICS countries (Brazil, Russia, India, China and South Africa) while compared to any of the MINT countries (Malaysia, Indonesia, Nigeria and Turkey), Nigeria ranked poorly. In the MINT economies, Malaysia recorded 117.8 per cent four-year average in credit to the private sector and 124.3 per cent in 2013. Indonesia extended a 33.4 per cent four-year credit facility to the private sector and 37.9 per cent in 2013 while "Nigeria had 13.2 per cent for three-year average in credit to the private sector, 11.8 per cent in 2012, with 2013 record not available" (Chijioko Nelson, 2014 p.23).*

³²⁸ <http://Internet.southafrica.info/about/government/sona-170614e.htm#.VlwMSjBvIV#ixzz3LmOS2mi3>

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Palestine

Summary

This report aims to examine the elements that indicate the possibility of an enabling environment for civil society in Palestine.

The report highlights the importance of existing international agreements that affirm the necessity of the partnership between CSOs and other stakeholders in the development process, including the government and the private sector, as stated in the Busan, Paris, and Istanbul agreements.

The report assesses the political, governance, legal environment and the social, cultural and economic contexts in which CSOs work in Palestine.

Overall, the political environment is not conducive to civil society's role in development due to barriers imposed by the Israeli occupation. In addition, the PA also faces significant weaknesses due to the bureaucratisation, clientelism, and high levels of corruption in state institutions. Nevertheless, the history of the civil society in Palestine attests to its ability to move past these constraints, motivating these organisations to work more on reinforcing their key messages on development, human rights, and democracy.

One notable success was the passage of NGO law number 2000/1, which allowed CSOs space for independent monitoring of the government. This has motivated NGOs to improve their own effectiveness, transparency, and accountability and proper democratic governance so as to play a monitoring role for the government's performance in the context of defending the interests of the poor and marginalised.

The report further outlines Palestine's socio-cultural context, reflecting on the historical roots of the civil society based on the idea and mechanisms of voluntary work and democratic participation in the process of change. CSOs have since played a significant role in the fight against corruption and pushing for genuine democratic institutions and human rights.

In the economic and social context, the report touches on issue of funding for CSOs, where they have increasingly become subject to donor agendas, which has impacted on the independence and strength of Palestinian civil society.

The report further assesses the reconstruction operations in the wake of the 2014 Gaza attacks, which lasted for 51 days. This led to the institutionalisation and legalisation of the siege instead of resolving it and ending it. On that note, this report concludes that the Palestinian civil society is in need of a proper environment where CSOs can play a positive role in development and national reconstruction, which continue to be hampered by the occupation, disunity among domestic political actors, and donor agendas.

Introduction

Civil society is recognised as a critical actor in development cooperation and peace, in line with a series of international agreements on development effectiveness, from Paris to Istanbul to Busan.

It is along these lines, that the report aims to assess the state of civil society in conflict-torn Palestine, including the political, cultural, and economic structures that emerged with the founding of the Palestinian Authority (PA) in the context of the Israeli occupation and invasion. The report also aims to disclose the extent to which the legal environment empowers civil society and its relations with other social groups and development actors, as this relates to their impacts on development.

It concludes with recommendations to help empower civil society organisations to work toward an environment that promotes peace, democracy, human rights, and sustainable development. Palestinian CSOs emerged within the fabric of the First Intifada (1987-1993), alongside trade unions, political parties, and professional associations in the uprising. Many found common cause in a vision for development that prioritised marginalised and vulnerable social groups under the framework of national liberation against the Israeli occupation. CSOs worked actively in agriculture, health, and other sectors with the aim of achieving institutionalisation within an independent Palestinian state. Volunteer work committees had already been formed by the 1970s and early '80s in order to assist farmers during the olive harvesting season. Voluntary health programmes were also instituted as a form of political mobilisation to confront the building of illegal Israeli settlements and land confiscation.

The atmosphere of the First Intifada boosted support for CSOs, which was enhanced with the establishment of the PA in 1994 after the Oslo Accords. This increased the number of CSOs working in the fields of agriculture, health, labour, youth, democracy, human rights, women, among other sectors.

The most prominent organisations focused on promoting democracy, human rights and sustainable development, while others remained affiliated with political Islam movements which focused on charity and humanitarian relief. Organisations affiliated with Fatah also joined the PA.¹

Economic and Social context

The Israeli Occupation

Donor countries began hosting regular meetings to finance the PA to secure the continuity of the “peace process” after the signing of Oslo Accords and the establishment of the PA in 1994. The first meeting was held in Washington, where 2.4 billion USD was approved as aid to the PA to cover its budget and expenditures in addition to covering its operational and development projects. Later, the donor’s regular meetings were pursued to support the PA and its bodies, ministries, and institutions.

The impetus for supporting the peace process has since faded due to the Israeli occupation and abandonment of its obligations toward the Palestinians under the Fourth Geneva Convention, the convention which obliges Israel as an occupying power to bear financial, economic, and legal responsibilities over the Palestinian people.

Twenty years have passed since the Oslo Accords, and it is evident that donor funds have achieved none of their desired goals. The Israeli occupation has continued its unjust practices, land confiscation, illegal settlement, in addition to the apartheid wall and turning the West Bank and Gaza Strip into virtual ghettos and cantons.

The Gaza Strip has existed under a tight siege since mid-June 2007, while the West Bank continues to witness an accelerated process of Israeli settlement building. Israel seized control of the Jordan Valley area which covers nearly 23% of the West Bank, and seized the area behind the wall which covers 14% of West Bank. The occupation also seized 85% of water basins located in a number of strategic locations and built settlements near the seized areas.²

As the Israeli occupation and invasion prevents the Palestinians access to its own resources and borders, this has violated Palestine’s right to develop as declared by the United Nations General Assembly on December 4, 1986; the right which requires Palestinian sovereignty over its borders and resources as a precondition for just and equitable development.³

The Israeli occupation has essentially turned the Gaza Strip into a large prison. It implemented the unilateral disengagement plan and imposed a tight siege on the Gaza Strip and cut 300

square meters off the Palestinian lands along the eastern and northern borders of the Gaza Strip and prevented 20,000 farmers from their right to access agricultural land near its borders, which are about 18% of the overall agricultural land in the Gaza Strip. It also set a fishing area not exceeding six nautical miles and thus reduced the number of fishermen. This has also deprived the Palestinians from investing in potentially massive amounts of natural gas off the Gaza coast and also deprives the Palestinians to the right to communicate with people in the West Bank as one nation, while also preventing trade and export.

The Israeli blockade caused the deterioration of economic and social conditions in the Gaza Strip, particularly after the three Israeli offensives in 2008-2009, 2012, and 2014 respectively. These targeted crucial infrastructures, including schools, mosques, production facilities, as well as roads, water systems and high residential buildings. The Israeli offensive in 2014 was perhaps the bloodiest and most destructive in terms of the amount of destruction and the impact left on various aspects of life.

Sixty-five per cent of Palestinians in the Gaza Strip currently live below the poverty line and about 29% of them live in extreme poverty. Also, 55% of Palestinians in the Gaza Strip are unemployed, while 67% of them suffer from food insecurity. Water is polluted and unfit for human use, while a significant number of homes do not have access to basic water or energy utilities.

Each year, Gaza’s labour market receives 16,000 graduates from different universities. A large number of them have been left unemployed. Agriculture has declined from 12% in 1994 to 6% of GDP, while the industry is at 11%, from a previous 18% of GDP.

While statistics indicate that living conditions in the West Bank have improved slightly, they are much less than what is aspired for, and poor living conditions and infrastructure reflect decades of illegal occupation, Israeli settlement building, and exclusion of Palestinians from accessing critical resources and controlling their own borders.

About 24% of West Bank’s population is poor and 30% suffer from food insecurity, while rates of unemployment reach 25%. West Bank’s agriculture reaches only 5% of GNP, while the industry contributes 16% of GNP.

While West Bank does not lie under a tight Israeli siege and despite a moderate flow of donor funds,²¹ especially following the resumption of US-sponsored Israeli-Palestinian peace negotiations in Annapolis,²² decades of occupation have continued to undermine economic development.

Development “Cooperation”: Support or Political Blackmail

During occasions when the Palestinian Authority attempted to change political course during peace talks, donor funding tended to be reduced or withheld. Political blackmail was clearly at work when pressure was exerted on the late Palestinian President Yasser Arafat, after the outbreak of the second Intifada as punishment for his refusal to sign the Camp David Accords under the auspices of former US President Bill Clinton, with participation of Israeli former PM Ehud Barak. Another instance of political blackmail emerged when Abbas headed to the United Nations, where Palestine gained a status of non-member observer state in September 2012.

Financial blackmail occurred through:

- Israel freezing VAT clearance revenue ‘tax money’ that it deducts in favour of the Palestinian authority as agreed in Paris Economic Protocol (PEA);
- Donors stopped funding and refrained from committing financial pledges as a result of US and Israeli pressure
-

This exploited the PA’s bureaucratic structure, which employs 140, 000 people. This large number of employees put the PA at risk of collapse with the withdrawal of funding.

Funding and Non-Governmental Organisations

Since 1994, the PA received a total of \$ 23 billion, of which 9% was dedicated to non-governmental organisations including universities, trade unions, and non-profit institutions, which reveals the limited share of CSOs and added fuel to accusations by the PA of the amount of funding flowing to these organisations. The funding was distributed to non-profit organisations as:²³

- 29% for emergency relief projects
- 23% for human rights and democracy projects
- 24% for technical assistance and capacity building
- 6.5% agricultural, environment, water projects
- 10% private sector projects
- 6.5% projects of financial, economic, and social development, including anti-poverty projects

These ratios reflect a state of imbalance, the prioritisation of donor agenda, and a lack of commitment to implementing local and national agenda. For instance, it is disturbing to note that the share of agricultural reaches only 6.5%, while short-term relief projects continue to constitute 29% of funding, while the share of agriculture is meant to cover land, water, and food security, while also providing employment opportunities. These ratios reflect donor attitudes, which tend to focus on short-term humanitarian relief and technical assistance programs, as opposed to long-term economic and social development projects.

Whereas there is an imbalance in the funding distribution to non-profit organisations, there is an imbalance in the Palestinian authority's general budget. Even in the best conditions, the agricultural budget has reached not more than 1% since the establishment of the Palestinian authority. The share of security reaches 33%, whereas the share that covers health, education, and social affairs combined reaches only 18%.²⁷

United Nations: A Partner or Obstruction to Development?

Following massive destruction caused by the latest Israeli offensive that began in July 2014 and lasted for 51 days, the situation in the Gaza Strip has seriously deteriorated due to the mass destruction that hit critical infrastructure and production facilities as well as a number of residential buildings in addition to many schools, hospitals, mosques and churches, water plants and Gaza's sole power plant, along with 90,000 houses of which 20,000 were completely destroyed in addition to streets, parks, and farms.

There is clearly a need to end the Israeli blockade and allow for the free movement of goods and individuals through Gaza's crossings, in addition to restoring the Palestinian people's right to move between the West Bank and the Gaza Strip by building air and sea ports.

Yet the UN has at times hindered these same objectives. The UN recognises that the Israeli blockade is a form of collective punishment under international law, and that the reconstruction of the Gaza Strip cannot be achieved without ending the siege to allow the unimpeded flow of relief. In this context, it participated in the establishment of the tripartite agreement reached between the Israeli and the Palestinian government to supervise entry of reconstruction materials into Gaza.

Yet the mechanism for entry of reconstruction materials into the Gaza Strip is impractical for it, in effect legitimises and legalises the Israeli blockade. Bags of cements are transferred into the Gaza Strip only after an Israeli confirmation on the list of beneficiary families, and stores of cement bags are monitored by surveillance cameras; hence, such a mechanism impedes the reconstruction process, while Gaza Strip remains dependent on UN humanitarian relief projects and programs as well as ODA in addition to other local and international relief agencies.⁸

Political and Governance Context

Governance, Civil Society and Political Reform in Palestine

It is clear that sound governance foundations are based on sovereignty of law and the separation of authorities are still missing in the PA. Corruption and political patronage prevail in a context where executive authority dominates other branches of government. This has led to weak political accountability and justice frameworks.

With the creation of the PA in 1993, Palestinian CSOs pressed for political reforms grounded in the rule of law, fair elections, and a democratic system based on the separation of powers and judiciary independence in an "independent state of Palestine", where public rights are respected, including the rights to freedom of expression and association, peaceful assembly, and the right to political and trade union participation, regardless of religious, ethnic, gender, or other considerations.

CSOs have their reform campaign against corruption in light of the corruption report issued by the Legislative Council (PLC), which traced questionable business connections with some Arab states as well as political cronyism and clientelism.⁹

The Israeli occupation and the international community exploited these allegations of corruption and the absence of reforms that weakened the chance to achieve good governance, to put pressure on the PA leadership. This happened particularly after the failure of Camp David Accords in 2000 and US accusations against the PA for bearing responsibility for the failure of the peace talks.

Israel sought to turn the tables against the PA, claiming instability is rooted in the inability of the PA to enact domestic administrative and financial reforms, as opposed to the history of the Israeli occupation, which has, for so long, deprived the Palestinian people of their basic rights, including the right to self-determination, the right to control natural resources, as well as freedom of movement of both goods and individuals.

In light of all this, the aim of the reform efforts of the Palestinian civil society is to build a democratic, pluralistic, and transparent political system as a means to enable and strengthen the Palestinian people to achieve their goal of liberation and act as an example of justice and freedom.

In 2003, the Palestinian Basic Law was modified to shift some powers of the president to a prime minister, and pressure was exerted on the late president Arafat to appoint a Minister of Finance, and Minister of Interiors to be granted full powers. The Law of Independence of Judiciary Act was also adopted to ensure the creation of a fair and impartial judiciary independent from the executive authority.

Weaknesses in Governance and Vulnerability to External Political Pressures

Civil society lobbied strongly for these reforms for years – indeed since the first general parliamentary elections were conducted in January 1996.

The PA, however, only responded to these requirements as a result of pressures exercised by the international community who warned of the withdrawal of financial aid from the PIAF. These laws were not adopted, which reveals the fragility and vulnerability of the Palestinian authority to the international community and the decisions of donor governments. This also revealed the political immaturity of the Palestinian society, as a result of subjective and objective factors, to ensure the implementation of internal mechanisms to solve a variety of political problems and strengthen a democratic civil society to influence decision-makers in the PA.

In addition, the PA depends to a large extent on donor funds, on top of a significant expansion in PA employees since 2003.¹⁰

Community Participation in Reform Projects

CSOs participated in the Government Reform Committee 2003, which drafted a '100-day plan.' The plan included amending the election law to be based on parity between districts and proportional representation, to be enforced instead of the previous law, which was based on districts to implement specific reform mechanisms. However, the plan has not been implemented due to difficulties in implementation, resulting from the creation of a bureaucratic clientelistic system pervading the PA.

The repercussions of this were seen in the results of the second Intifada in 2000, which derailed the reform process. Other significant shifts in the Palestinian political system came from the death of late president Yasser Arafat and the 2006 parliamentary elections, which led to the landslide victory of the Hamas movement, followed by internal splits in June 2007. This was due to a situation where the ruling party could essentially monopolise governance, which continues to lack a constitution built around principles of equal citizenship and full democracy.

The period between 2000 and 2006 saw an upswing in the work of CSOs. A number of events and campaigns advocated actively for the rights and interests of workers, farmers, women, young people, and people with special needs. These were organised either through workshops or meetings with competent commissions of the legislative council (PLC), or through official ministries. Other events included petitions and marches of solidarity to secure the implementation of policies designed to protect marginalised social groups and consolidate freedom and democracy in Palestine.

The collective experiences of CSOs played a key role in this area, in addition to the growing demands for major reforms to redress financial and administrative imbalances in the Palestinian political system, in addition to the overturning of repressive policies exercised against CSOs, in accordance with the guarantees of the Palestinian Basic Law, especially with regard to the role of civil society in development in Palestine.

Political Divisions and Civil Society

The split between the Gaza Strip and the West Bank shook the political system in Palestine. After June 2007 clashes between militants of the largest political factions of Fatah and Hamas, this consolidated their control over the West Bank and Gaza Strip respectively.

Both Palestinian governments took decisions authorising control over CSOs, both unions and NGOs, as well as those which belonged to political parties not aligned with the ruling party.

Severe restrictions were imposed on CSOs, and even Fatah-affiliated organisations were prevented from commemorating the death of late Palestinian leader Yasser Arafat, except once or twice under tight control. Hamas, for its part, was also prevented from conducting political actions in the West Bank. A number of CSOs and unions affiliated to Hamas and Islamic Jihad in the West Bank were closed, when Hamas seized control over similar organisations belonging to the Fatah party in Gaza Strip, under false pretexts.

While measures were introduced toward the right to peaceful assembly as guaranteed by the basic law, many peaceful rallies have been suppressed both in Gaza and the West Bank. For instance, Hamas militants in Gaza suppressed a picket organised by the popular front to demand that Hamas institute an independent body to intervene in the energy crisis in Gaza. Meanwhile in the West Bank, Fatah security suppressed protest, organised by PLO factions, calling for a halt to security coordination with Israel and protesting against high living costs.¹¹

Nevertheless, hopes for reunification grew when Palestine found itself swept up by the recent "Arab Spring". Various youth groups organised simultaneous open sit-ins, first in Ramallah and the other in Gaza under the slogan "The people want to end the division". The Palestinian case is exceptional, in that there is an absence of a united political system in addition to the absence of

the elements of national independence, owing to the Israeli occupation. Unity should therefore be a priority alongside major political reforms, yet the governments of both Fatah in the West Bank and Hamas in Gaza managed to thwart efforts to achieve unity through threats and intimidation of these mini-Arab Spring movements with either party pointing to its rival for instigating 'unrest'.¹²

National Consensus Government

The dispute between Fatah and Hamas continues, despite the formation of the national unity government following Al-Shati agreements reached in April 2014 and despite ongoing Israeli offensives against the West Bank, Jerusalem and Gaza. Such a situation necessitates the completion of the reconciliation process, although the Palestinian consensus government remains fragile and has not exercised its powers in Gaza since its formation.

The weak performance of the consensus government means that the government is unable to restore critical institutions like the Palestinian Legislative Council (PLC) and the National Council, which will impede the ability of CSOs to work in an atmosphere of freedom and democracy, preventing its ability to influence development policy frameworks toward democracy and independence.

CSO EE and DE

Legal and Regulatory Framework for CSOs

In 1994, Palestinian CSOs formed the Palestinian NGO Network which included a number of Palestinian democratic NGOs that called for the establishment of a democratic civil society in Palestine where rule of law, separation of powers, an independent judiciary, and respect for basic freedoms and human rights prevail, to achieve a society free from occupation in accordance with the international law to enable Palestinian society to achieve sovereignty over its land, borders and resources.

The Palestinian NGO Network assessed the transitional years after the founding for the PA as the toughest phase for civil society, in a context where the need to consolidate the gains of the project for national liberation at times sacrificed democratic ideals.

Palestinian CSOs and human rights organisations faced political arrests and limits to freedom of expression and assembly, yet civil society continued to put pressure on the PA to enact fair policies favouring social protection for the poor and marginalised.

The Palestinian NGO Network prepared a law to regulate the relationship between the Palestinian Authority and NGOs, particularly after many civil and security agencies increased their control over the work of the NGOs, in addition to the increased media accusations of CSOs receiving funds and working for a foreign agenda. This was despite the PA itself receiving funding from donor states.

The Palestinian NGO Network managed to put an end to tensions between the PA and CSOs by pressing for the passage of a law to regulate CSO-PA relations, before it was adopted by the Palestinian Legislative Council (PLC) in 2000. The adopted law is called the Law of Civil Society Associations and Foundations No. 1/2000.

The law supports independence of civil society work, while the PA retains the right to control and monitor CSOs under the Ministry of Interior, which regulates their registration.

The Palestinian NGO Network (PNGO) considered this an achievement that put an end to government intervention which impeded their work. Despite flaws found in the mandatory registration process, PNGO demanded that the Ministry of Justice take this responsibility instead of the Ministry of Interior. The network expressed reservations on many of the law's

provisions, one of which is the process of registration that takes 60 days before the Ministry responds. The network demanded the adoption of a deposit system to work directly without waiting for a period of two months, i.e. to work after placing the deposit securities. It objected to the decision to dissolve the association that was granted to the Minister of Interior instead of a cross-court decision.

Yet the Palestinian Council of Ministers adopted in 2003 implementing regulations emanating from the Assembly Law No. 1/2000. The regulations include broad powers to the executive authority that reduced the independence of the civil associations. It emphasises increasing the authority of the Ministry of Interior as well as the authorities of the other competent ministries in the areas of oversight and accountability.

CSOs rejected conditions imposed on those wishing to register, which included obtaining a certificate of 'Good Conduct' also known as 'Security Safety.'

Despite this, the Palestinian NGO Network has managed to work through these hurdles.

Fatah-Hamas Split and Non-Governmental Organisations

As a political split hit the Palestinian government in Gaza and West Bank, Dr Salam Fayyad, who was in charge of the Palestinian government, took a series of measures against charitable institutions and NGOs belonging to Hamas and Islamic Jihad and adopted policies that limited their work. The Palestinian President Mahmoud Abbas, for his part, asked all the NGOs registered according to the NGO's Law No. 1/2000 to register once again with an aim to prevent NGOs belonging to Hamas and Islamic Jihad to register. Whereas, 102 other associations belonging to the both mentioned movements were later closed under different pretexts. However, the only reason behind the closure of these associations was to seize control over them. Hamas, the ruling movement in Gaza, for its part, exploited the incident of the bomb attack against Al-Qassam brigades' members on Gaza beach in summer 2008, to close 120 associations belonging to Fatah movement in addition to a number of independent associations after raiding them and confiscating their property.

The Palestinian human rights organisations and the NGO Network enhanced their coordination and unified committees to address these violations. The West Bank-based organisations raised the issue of the forced closure of their organisations in the Supreme Court of the West Bank, and demanded the abolition of the politicised registration and reopening of the closed NGOs. Later, a delegation contacted influential figures in the Hamas government such as its Minister of Interior, demanding that it restore the legal status of the banned NGOs.¹³

Palestinian CSOs managed to stir public opinion through networking and issuing statements. The organisations managed to consolidate political blocs of both Fatah and Hamas to advocate and support the right to form associations and avoid exploiting the loopholes of each law and executive regulations to seize control over CSOs.¹⁴

Attacks and democratic violations against CSOs have proceeded systematically. Hamas, for instance, secured its control over the legislative council through its Change and Reform Bloc, and it enacted a raft of regulations and laws that weakened the independence of these institutions. The Palestinian President Mahmoud Abbas also took a series of decisions by the law and under the pretext of disrupting the work of the Legislative Council (PLC), by working only through the Change and Reform Bloc without the participation of other parliamentary blocs.¹⁵

This issue has significant impact on the freedom and independence of organisations working separately in the West Bank and Gaza Strip. Since the split, the Palestinian president had issued 70 questionable laws in the West Bank, whereas Hamas has issued 45 laws in Gaza.

Notable is the fact that executive decisions by the PLO were made without the legislative council's endorsement; meanwhile Hamas laws were adopted without the participation of other

parliamentary blocs and without the president's approval. Both are clear violations by both parties of the Palestinian Basic Law, which serves as the interim constitution.¹⁶

Gaza's Ministry of Interior took a series of measures aimed at weakening the independence of civil society work by amending the regulations in accordance with Article 47 of the Palestinian Basic Law. The article was modified in a way that allows the Ministry of Interior to regulate CSOs and coordinate their activities. Laws issued by the ministry, including Decision no. 48/2010, prevent government employees from engaging in charitable and civil society activities.

The irony is that the decision targeted the employees of Fatah only, which is considered as discrimination against employees based on political affiliation. The decision also violates the concept of volunteering on whose basis NGOs in Palestine were first established. The decision again violates the Palestinian Basic Law as well as the Labour Law, which does not prohibit public employees from engaging in volunteer work. The decision subsequently deprived 70,000 employees of the Ramallah government in Gaza, who were ordered by the Palestinian president Mahmoud Abbas to stay home following Hamas' seizure of Gaza Strip in mid-2007, of the opportunity to volunteer in NGOs. As a result, Hamas called them 'The Refrained.'¹⁷

Gaza's Ministry of Interior took measures to impose strict control over civil organisations that are not affiliated to Hamas, in search of regulatory gaps as a means to seize control over them. There are many gaps in these laws that can be exploited to regain control over CSOs. For instance, conditions for membership in rules of procedure of the assembly are derived from the internal regulations, which states that any person over the age of 18 has the right of membership in the general assembly.

Hamas benefited from this article and forced Asdeqa Al-Marid Society (Friends of Patients), affiliated with Fatah, to announce preparations for the administrative board elections. When the society announced that, Hamas called on its members to participate in the Society's administrative board elections. Thus, Hamas easily managed to resolve the results of the elections in favour of its members, resulting in the expulsion of Fatah members from it.

Hamas targeted a number of youth organisations. One prominent example for such targets was its storming to Sharek Youth Forum in Gaza; the association which played a great role in developing youth by providing them with skills training programs and involving them in summer camps. The forum's activities bothered the Islamic movement, which were seen to compete with Hamas' own programmes and summer camps.

The Ministry of Interior therefore dissolved the forum under various pretexts, meanwhile, civil society activists tried to influence the members of the Legislative Council of Reform and Change Bloc. The bloc's members, however, did not respond to activists' calls. The court insisted on approving the decision of the Interior Ministry and rejected human rights organisations' demands to cancel the ministry's decision, which reveals lack of judicial independence.¹⁸

Meanwhile, in West Bank, groups sympathetic to Hamas were abused and violated by PA security. The PA began collaborating more strongly with Israel after the Gaza-West Bank split, with Israel warning of Hamas potentially launching a coup in the West Bank.

The PA's coordination with Israel as one of Oslo Accords' pillars, which was deepened during the period of the Palestinian internal political split by PA violations against Hamas-run charities, unions, bodies, student's blocks, continued either through direct targeting or through procedures and decisions that allows the PA Interior Ministry to seize control of these organisations.

There are 102 Hamas-affiliated associations that have been banned by the PA security in the West Bank, despite human rights organisations raising the issue at the Supreme Court which ruled to reopen all 102 associations.

The West Bank government's decision to form a body called 'NGOs Body' indicates the

government's insistence to impose control over Palestinian civil society organisations. The body tried to intervene in the work of the NGOs, and it attempted to impose strict controlling procedures over these organisations. The Palestinian NGOs Network however stressed that NGOs should already technically be managed by the Interior Ministry, and there is no need for an additional NGOs Body.¹⁹

Social and Cultural Context

Authorities have used "influential tools" like the media, the security forces, and intellectuals to launch an aggressive public campaign against civil society, accusing it of following foreign agendas by receiving foreign funding.

CSOs, for their part, were able to address through their own cultural activities, confirming civil society's historical and militant role in the national resistance movement. This role began long before the creation of the West Bank-Gaza governments and continued afterward with the aim of protecting the marginalised. Palestinian civil society continues to rally around a vision, based on building a free society founded on freedom, democracy, and social justice. This does not imply civil society is entirely guilt-free, which is why CSOs must continue to fill in the gaps in their work and push for their ideals.

The debate continues between authorities and civil society. Recently, President Mahmoud Abbas formed an anti-corruption body and has called for CSO representatives to join; but it was obvious that this body has been used to politically intimidate the opposition and the civil society's forces, in order to silence criticism of the government.

CSO Development Effectiveness

In this tough environment, Palestinian CSOs have sought to reassess their priorities. They have networks to coordinate and confront government measures taken against them, including repressive registration rules, raiding and shutting down of organisations alongside other measures. CSOs have managed to maintain their democratic and independent nature, despite the difficult atmosphere in the Gaza Strip and the West Bank.

In Gaza, for instance, PNGO, in partnership with human rights organisations, pursued the violations against CSOs through various means, including petitions, workshops, statements, and meetings with members of each the legislative council, officials from Ministry of Interior, and the Hamas government, including its prime minister, to clearly discuss the risks of measures already taken and adopt decisions aimed at reducing the role of civil society particularly in the areas of democracy and human rights. They also headed to court to repeal a number of these measures.

Meanwhile, in the West Bank, the same lineup was made operational where all human rights organisations operating in the West Bank and Gaza were included, including PNGO, which coordinated with a number of unions and other networks and founded the coordinating council for NGOs.

The alliances mentioned above played a significant role in uniting against abuses against civil society organisations, while seeking to influence decision makers to maintain the independence of civil society work and its role in the areas of democracy, human rights, and development. 20

Funding Institutions and Non-Governmental Organisations' Partnership or Domination

After the Gaza-West Bank split, many international non-governmental organisations as well as United Nations organisations changed their course of action with local civil society organisations. Although coordination and cooperation continued between them, the international non-governmental organisations began to compete with each other over sources of funding for the non-governmental organisations through a policy of 'substitution and replacement.'

About 80 international organisations operating in the Gaza Strip opened branches in the aftermath of Sharm El-Sheikh Conference that was held on March 2, 2009, after the Israeli occupation's offensive Operation Cast Lead. The conference promised an amount of 5.4 billion USD for the reconstruction of the war-torn Gaza Strip. The aim behind opening these branches was opportunistic as these organisations sought to divide shares. The organisations dealt with the issue of Gaza's reconstruction with a beneficiary mentality and according to market and profit mechanisms. It is noteworthy that these organisations deduct a ratio not less than 40% or the resources to cover their administrative expenses, and to pay high salaries both to their employees and the experts that they brought to work in specific missions. However, these organisations implemented direct projects without partnership with local NGOs, and they still operate in the Gaza Strip.

The UN organisations drafted an administrative regulatory assortment called 'clusters.' According to this assortment, each organisation leads a 'sector' cluster such as the protection cluster, food security cluster, water cluster, or health cluster. Most of the international non-governmental organisations operating in the designated field participated in each sector of the mentioned above. Some local non-governmental organisations are also selected for the leadership of the cluster.

The danger in this form of organisation lies in its potential to hinder the initiative of local NGOs through UN leadership over the sectors' clusters as well as by limiting other development objectives, which are currently dominated by humanitarian agenda in the Gaza Strip. The danger also lies in the attempts to usurp the cluster's development work and disable the dynamics of local development work.²⁵

This same scenario was repeated in the Gaza Strip after the Gaza Reconstruction Conference in Cairo, held in October 2014.

Two months after the end of the Israeli summer offensive, donor states pledged 5.4 billion USD for Gaza reconstruction; half of which was allocated for PA's budget while the other half, 2.7 billion USD, were allocated for the reconstruction process. After the conference, a number of international NGOs sought to corner the majority of funding at the expense of local Palestinian CSOs.

A similar situation can be found in the West Bank, where international NGOs adopt the same mechanisms based on competing with local NGOs.

PNGO has since tried to organise a series of meetings with the Association of International Development Agencies (AIDA). It presented a position paper stressing the importance of partnerships on the basis of the Paris and Busan conferences in order to achieve a constructive impact on the development process. However, greater efforts are needed to get the relationship back on track on the basis of partnership, not dependency, through a joint development vision.²⁶

Conclusion

A considerable array of obstacles face Palestinian CSOs, most notable of which are political and administrative instability, rooted in the Gaza-West Bank split. The problems of Palestine stem from the Israeli occupation and the lack of support from the international community as well as internal political weaknesses, including the entrenchment of the PA bureaucracy, clientelism and political patronage, and the lack of rule of law, public freedom, and attention to the needs of the poor and marginalised.

Western government relations with Palestine continue to operate according to their respective political agenda, and they have abjectly failed to put increased pressure on the policies of the Israeli occupation, which is the main obstacle to lasting peace and development in Palestine. Justice for the Palestinian people is possible only with an end to the occupation, an end to illegal Israeli settlement building, and a lifting of the Gaza blockade, in addition to genuine

independence for Palestinians, which should guarantee their right to secure their own borders and access local resources.

Barring this, the Palestinian people will remain under a state of oppression, Palestinian CSOs will continue to work in the least 'enabling' of conditions, and real, lasting peace will forever be out of reach.

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Paraguay

Summary

The government of Paraguay claims to have taken steps toward improving development effectiveness in the context of better cooperation among various actors, especially with the establishment of National Development Programs in 2005. Under the principle of alignment, partners in development cooperation commit themselves to supporting policies, strategies, plans, and budgetary frameworks developed by partner country governments.

However, under successive administrations - President Frutos, 2008; President Lugo, 2008; and President Cartes, 2013 - the active involvement of Civil Society Organisations (CSOs) in the design, implementation, monitoring, and evaluation of these policies has been quite limited.

The paper takes four angles of analysis to explain this situation: first, through a review of the legal frameworks that facilitate the participation of CSOs in the country; the political environment in Paraguay that has limited or enabled the opportunities CSOs actually have to engage in advocacy; the socio-cultural context and the economic context in which CSOs work - all areas that must be addressed by the state and civil society, which have presented these as their key demands.

It concludes that significant economic growth in Paraguay has had only a moderate impact on reducing poverty rates among large segments of the population. Similarly, domestic political uncertainties have shaken the country, not least with the impeachment of President Lugo in 2012, which led to the persecution of leaders of social organisations, especially those working in the field of human rights.

The impact of cuts in financial support flowing to Paraguayan CSOs has had a dampening impact on civil society. Over the last three years, at least 100 non-governmental organisations have had to close their doors; and some 300 have had to downsize, restricting their areas of work and opportunities for political advocacy and engagement. Moreover, resources that the Paraguayan state allocates to social organisations are basically oriented to carrying out 'charity' work for highly vulnerable populations.

Granted, the country has progressed as far as the formal implementation by a number of government agencies and civil society policies related to the promotion and defence of human rights. In recent years, however, with the emergence of an insurgent group in the north, along with the sustained growth of drug trafficking groups, human rights have come under threat. There has been a further militarisation of social life, especially in the northern departments, along with an increase in the activities of control and monitoring of civil society activities.

In the area of gender equity and equality, there are important achievements such as the considerable increase in school coverage, but at the same time there are also signs of higher rates of violence against women and girls.

In the environmental field, the progressive growth of the soybean crop has displaced large groups of people, greatly expanding the number of displaced families now living on the peripheries of large cities, often lacking basic services, employment opportunities, and social protection.

The expansion of the agricultural frontier has led to the destruction of thousands of hectares of forests and the intensification of extreme weather phenomena, including stronger and more frequent bouts of El Niño and La Niña, droughts, and flooding.

The practice of transparency and accountability remains a challenge in the country. While the

state has tried to launch a process of professionalisation of civil servants, corruption remains widespread, even at the highest levels of government.

In light of this, opportunities for greater involvement by CSOs in the design, implementation, monitoring and evaluation of development policies in the country remains to be seen, though the expansion of modern communications technology has facilitated broader exchanges among civil society.

Enabling Environment

The Legal and Regulatory Framework

The Constitution of the Republic of Paraguay (June 20, 1992) is perhaps among the most democratic in the world, with Title II listing fundamental rights concerning the dignity of the individual and establishing a precise system of guarantees for their implementation, while ensuring the principle of separation of powers. With the end of the military dictatorship, progress was made in ensuring human rights, the separation of political powers, and citizen participation in governance.

The constitution defines the state as a rule of law (Art. 1), respectful of the principles on which democratic governments are based and guarantees the observance of civil liberties and the right to express autonomy, provided that public order regulations are not violated. In that sense, constitutional norms grant wide scope for the exercise of the freedom of expression and freedom of association. In addition, there is a wide range of additional rights to ensure the independence and autonomy of civil society organisations.

The right and freedom of association is guaranteed by Article 42 of the constitution, which provides that everyone is free to join or form unions for lawful purposes, and no one is compelled to affiliate with a particular association. The arrangement of professional associations shall be regulated by law. Secret associations or those of a paramilitary character are prohibited.

Previously, Articles 26, 28 and 32 of the Paraguayan supreme law established the principle of freedom of speech and peaceful assembly and the right to information, guaranteeing the uncensored expression and dissemination of ideas and opinions without limitations other than those prescribed by the constitution. These provisions also guarantee every person the right to be informed and to have access to public sources of information.

With regard to freedom of association, Article 96 of the constitution states that all private and public workers (with the exception of members of the Armed Forces and National Police) have the right to organise unions without prior authorisation. Employers also enjoy the same freedom of organisation. No one may be compelled to join a union and all democratic practices established in the law shall be observed during the election of authorities and the operation of unions, which will also guarantee the stability of the union leader. The recognition of a union requires official registration at the Ministry of Labour and Social Security.

The government of the Republic of Paraguay is characterised by the separation of powers exercised by the legislative, executive, and judiciary.

Ministries are nominated and voted for at the council of ministers, while the secretaries report directly to the president of the republic, responsible for regulation and coordination of the ministries.

At the level of sub-national governments, the council of governors is a forum for coordination in which authorities of the 17 state governments are represented.

The Municipal Organic Law grants municipal authorities relative authority at the local level, and

can join the Paraguayan Organisation of Inter-Municipal Cooperation (OPACI) on a voluntary basis.

In the country, there are also a number of government agencies and civil society involved in the promotion, protection, and monitoring of human rights. Within this group may be mentioned the figure of the Ombudsman for Human Rights, Legislative Committees on Human Rights, high level commissions within the legislative responsible of human rights, whose mission is to ensure the full exercise of rights by the citizens. Included here as well are Civil Society Organisations, OSCs, church representatives, among others working in the field of human rights. Efforts have been made in this regard by the Human Rights Coordinator of Paraguay (CODEHUPY); the Committee of Churches for Emergency Aid (CIPAE); and the Coordinator for the Rights of Children and Adolescents (CDIA).

Another important factor in the protection of human rights is the Ministry of Women (MINMUJER) preceded by the Secretariat for Women of the Presidency of the Republic (SMPR), which operated between 1993 and 2012. The SMPR created by law No. 34/1992 was elevated to the rank of Ministry by Law 4675/12 and regulated in 2013 by Decree No. 630.³²⁹

In the Republic of Paraguay, civil society organisations are governed primarily by the rules of law No. 1,183/1985 Act, establishing the Paraguayan civil code.

Apart from the provisions of the civil code, other provisions of the Paraguayan legal system govern certain types of organisations such as neighbourhood associations, trade unions, consumers, indigenous communities, and cooperatives among others.

For instance, Law No. 3,966/2010, Municipal Organic, regulates the creation and operation of neighbourhood community boards and neighbourhood committees; Act No. 213/1993 established the Labour Code, which regulates the creation, registration, operation, and supervision of labour unions and private sector employers, as well as federations and confederations of such unions; while Law No. 1626/2000 on Public Service, regulates the establishment and operation of public employee unions, No. 1.334/1998, Act Defence of Consumers and Users, governs consumer associations; Act No. 904/1981 established the Statute of Indigenous Communities, concerned with the recognition and protection of indigenous communities in Paraguay; and Act No. 438/1994 on Cooperatives, regulates the establishment, organisation, and operation of cooperatives among other organisations that can be considered CSOs.

While no state institutions existing to control or monitor CSOs on a permanent basis, in the case of development partnerships engaged in public welfare activities, the government does monitor fiscal accounts with regard to file accountability.

In 2005, the Frutos Administration began working towards alignment and harmonisation of development policies, leading to more concentration among government agencies and the private sector, leading to a sharp decline in opportunities for participation by CSOs. These trends continued under the Lugo Administration.

In addition, a study by the Mesa de Articulación de Asociaciones Nacionales Internet Redes de ONGs de América Latina Internet el Caribe, published in April 2014, indicated that "The Official Development Assistance (ODA) fell by 2.7% in 2011 in real terms." Latin America became a non-priority area for cooperation disbursements: the flow of Official Development Assistance (ODA) to Latin America and the Caribbean reached only 7% of the global share in 2010 (latest figures), in contrast to Africa and Asia, receiving 37% and 30% respectively.³³⁰

³²⁹ Derogated by Decree No. 9900/12

³³⁰ Instituto de Comunicación Internet Desarrollo (ICD) Mesa de Articulación de Asociaciones Nacionales Internet Redes de ONGs de América Latina Internet el Caribe – Unión Europea. Aporte a la generación de propuestas de mecanismos de financiamiento de las ONG en el Cono Sur Internet Brasil. Abril de 2014. 217 pp.

The significant reduction in terms of development cooperation towards Paraguay has had a major impact on civil society. Over the last three years, an estimated 100 non-governmental organisations have had to close their doors, and at least another 300, have been forced to downsize, restricting their areas of work.

The Political Environment for CSOs in Paraguay

In February 1989, Paraguay began a transition to democracy³³¹ after 35 years of dictatorship. The years of political transition were, for civil society, a learning process in the exercise of civil liberties, in the context of new actors and responsibilities emerging in the socio-political horizon.

In 1992, a new constitution was sanctioned, guaranteeing full respect for human rights. This should have paved the way toward new sets of institutions under a multi-party system, though the traditional dominance of a patrimonial presidential system has continued, even gaining legitimacy under formal elections.³³²

In August 2008, Fernando Lugo assumed the presidency, after 60 years of dominance by the Colorado Party, and two decades into the political transition in the country. With 40.8% of the vote, Fernando Lugo was elected president of Paraguay, as the candidate of a coalition of political parties grouped under the Patriotic Alliance for Change (APC), which brought together various parties and movements of different political persuasions.

Lugo's government began establishing as a priority the strengthening of social policies, especially those related to poverty reduction and the reduction of inequalities.

In September 2008, the government came out with its Social-Economic Strategic Plan (SPE 2008-2013), whose main objective was to improve the lives of all the inhabitants of the country without exception. In 2010, through the social cabinet, the government formulated the proposal for public policy, 'Paraguay for All 2010-2020',³³³ which launched a series of development initiatives and channelled resources to meet the growing demands of the population and the creation of opportunities in the context of a human rights-based approach.

In 2008, the government implemented and expanded its strategy of Primary Health Care (APS), which aimed to reduce social exclusion, increase coverage and access to networks of comprehensive healthcare, based on the needs and health problems of the people. Gratuity of health services is implemented progressively and free medicines are provided, based on a new expanded basic listing.³³⁴

In the area of poverty reduction, under President Lugo, the Tekoporá Program expanded its coverage of families living in extreme poverty, from 14,000 families in 2008 to 112,000 families by June 2010. This has come alongside the growth of producer committees and mothers' committees for families living in poverty, and efforts to build stronger links between local communities and state authorities relating to social policies (health, education, housing, etc.).

The establishment of the National Development Plans heralded moves toward more open discussion on the need for greater civil society engagement in government development projects.

However, public institutions remain weak, with many co-opted by vested interests, including corporations and local political and business elites that have secured their profits through their

³³¹ After the coup led by General Rodriguez in February 1989 against Alfredo Stroessner who ruled for 35 years

³³² Ocampos, Genoveva- Refinela, Stella. *Informe Democracia Internet Desarrollo. 2006-2007. Asociación Latinoamericana de Organizaciones de Promoción-BASE-ECTA. Asunción, Paraguay, Junio 2007. Mimeo. 66 pp.*

³³³ Gobierno de la República del Paraguay. *Gabinete Social. Paraguay Para Todos Internet Todas. Propuesta de Política Pública para el Desarrollo Social 2010-2020. Paraguay, 2010. Pp.129.*

³³⁴ Gobierno de la República del Paraguay. *Presidencia de la República. Secretaría Técnica de Planificación del Desarrollo Económico Internet Social (STP) - Secretaría General de la Presidencia Informe 2009. Gobierno Nacional. Julio 2009. 87 pp.*

relations with a clientelistic and corrupt state. Nevertheless, relations between civil society and government authorities have improved of late. CSOs have submitted to the authorities a number of proposals aimed at improving various public services, and have also been actively involved in developing mechanisms to monitor public policies. The campaign for fair tax is an example of this, alongside campaign work done in relation to pressing for higher budget allocations for health and education.

Various social movements are gradually gaining ground, along with a greater capacity to propose alternative laws and institutions, including various social policies related to poverty alleviation, child protection legislation, institutions such as the Ministry of Women, food security programs, and family farming.

Furthermore, a study by UNICEF shows that social spending has grown in recent years in various social areas.³³⁵ Spending on education has seen a significant increase over this same period, with an equivalent rise in investments in public health. However, other sectors have received relatively low amounts and occasional increases in public spending reflect only small changes in short-term priorities.

Yet Lugo's government, which was to conclude in August 2013, underwent a "political trial" initiated by the Chamber of Deputies on Thursday, June 21, and completed by the senate on Friday, June 22, 2012. These chambers decided, by a large majority, to terminate the mandate of Fernando Lugo as president. In his place was elected Federico Franco, who held the position of vice president and whose presidential term ended in August 2013.

Some view the removal of President Lugo as a breach of the social contract established since the political transition that began in 1989. Several analysts, civil society groups, and human rights activists mobilised actively, trying to defend the social gains that had been achieved under President Lugo, but the legislative machinery made it impossible to reverse the dismissal.

More recently, the administration of President Horacio Cartes (2013-2018), which began in August 2013, established as a cornerstone of his administration, "the reduction of poverty and the promotion of social inclusion and equity."³³⁶

The Cartes Administration has also established a National Development Plan (PND) for the period 2014-2030. The PND has three strategic areas and four cross-cutting themes that articulate policies and specific guidelines of different sectors; with respective goals,³³⁷ these strategic priorities and transverse lines are:

- Reduction of poverty and social development
- Inclusive economic growth
- Greater integration of Paraguay into the world economy

The participation of CSOs in the development of these national strategies has been low. Their impact on shifting government priorities toward more inclusive development and on reducing poverty and inequality has been unclear, even as the presence and visibility of national and international NGOs in the country has increased over the past two decades in the areas of

³³⁵ UNICEF-Paraguay. *Inversión en la Infancia en Paraguay Internet análisis de su impacto en algunos indicadores relacionados con la niñez. Asunción, Paraguay, Septiembre 2007.*

³³⁶ Gobierno de la República del Paraguay. *Presidencia de la República del Paraguay. Ministerio del Interior. Decreto No. 391 "Por el cual se declara como Prioridad Nacional del gobierno la meta "Reducción de la Pobreza" Internet se encarga a la Secretaría Técnica de Planificación del Desarrollo Económico Internet Social (STP) la elaboración e implementación del Programa de Reducción de Pobreza". Asunción, 13 de septiembre del 2013. 4 pp.*

³³⁷ Gobierno de la República del Paraguay. *Secretaría Técnica de Planificación del Desarrollo Económico Internet Social (STP). Paraguay: Plan Nacional de Desarrollo 2030. Versión 9 de Mayo 2014. Asunción, Paraguay. 108 pp.*

poverty reduction, environment and risk management, the defence of the rights of indigenous, and aspects of governance.

For civil society, one of the main challenges for the efficient and effective implementation of public policies remains a stronger institutional framework, the establishment of effective coordination - and allocation of functions without overlapping - rather than competition between public institutions, in order to accommodate the proliferation of plans, projects, and programs, avoid duplication and seek synergies that support the actions of the state. High barriers of mistrust between sectors (public and private) also make it difficult to agree on a national development strategy that is shared broadly.

In recent years, the emergence of an armed movement in the north, as well as the rise in drug trafficking and arms smuggling, have accompanied increased calls for controls on the work of CSOs. Following the coup against President Lugo, threats, and intimidation against human rights activists increased.

Over the past three years in the northern provinces, especially in Concepción and San Pedro, the activities of CSOs have been severely curtailed. In April 2010, due to a series of murders that occurred in the north, the congress declared a state of exception for 30 days in five departments (San Pedro, Concepción, Amambay, Alto Paraguay, and President Hayes). Once again in 2011, a state of exception for 60 days was established, but this time only in the departments of Concepción and San Pedro, and more troops were sent to the area. The state of exception suspended certain constitutional guarantees such as the right of assembly, while empowering the president to order arrests without warrants.

As one of the first measures introduced by the government of President Horacio Cartes (2013-2018), the National Defence Act was amended, which gives the president the power to mobilise the military in fighting the guerrillas without a declaring state of exception. In only a brief period of time, the north has become an area of widespread military tensions.

The Socio-Economic Context for CSOs in Paraguay

Paraguay's social structure is built on decades of economic inequality, including the monopoly of land (large estates), and the chronic poverty of its smallholder peasant population.

Land distribution of arable land has been patchy, leading to sharp development gaps between rural and urban areas, and entrenched inequality among social classes. For instance, large estates have been established at the border with Brazil, displacing local populations, despite being prohibited by law.

Small holder farmers constitute a significant share of the rural population. The Agricultural Census of 2008 showed that small farms of up to 20 hectares constitute 84% of the total, while larger farms of 50ha represent only 9% of total rural production units.³³⁸

Estimates from the Department of Statistics, Surveys and Censuses for 2012 show Paraguay's population amounted to 6,672,631 inhabitants, of which 50.52% were men (3,371,117) and 49.48% (3,301,514) were women. A 59.5% of the population resides in urban areas and 40.5% live in rural areas. The age structure reveals a predominantly young country, where 58.7% of the population is under 30 years and the age group 65 and older representing 6.6%.³³⁹ Most of the population is concentrated in the central department and the city of Asunción, amounting to about 41% of the total population.³⁴⁰

³³⁸ *Gobierno de la República del Paraguay. Censo Agropecuario Nacional 2008. Volumen I. San Lorenzo, Paraguay, año 2009. 105pp.*

³³⁹ *Dirección General de Estadística, Encuestas Internet Censos. Resultados de la Encuesta Permanente de Hogares (EPH) 2012. Asunción, Paraguay, Diciembre 2013.*

³⁴⁰ *Dirección General de Estadística, Encuestas Internet Censos. Anuario 2012. Asunción, diciembre 2013. 329 pp.*

By 2010, in absolute terms, approximately 2,197,000 Paraguayans lived in poverty, representing 34.7% of the population. Extreme poverty is accentuated in rural areas, 32.4% the Gini coefficient (a measure of income inequality) increased from 0487 to 0512 (2009-2010). Official figures show that between the years 2003 and 2011, total poverty fell 12 points from 44% to 32.4%; while extreme poverty declined by only three percentage points; rising from 21.2% to 18%.

Between 2011 and 2013, the total poverty fell eight points, from 32.4% to 23.9%; and extreme poverty fell from 18% to 10.2%. This decline in the poverty rate is largely due to the confluence of four factors: 1) The growth of gross household income, 2) job growth and better labour participation, which has 3) stimulated consumption through better wages and higher human capital, and (4) food price stability.³⁴¹

Since the government of Paraguay enacted its Strategy for Poverty Reduction in 2003, much of the economic resources stemming from aid and international cooperation have been allocated for this purpose. The support of the European Union between 2007 and 2013, amounting to 130 million Euros, was aimed at poverty reduction and the economic integration of Paraguay, as well as improvements in the education system. This was in line with similar levels of support from the United Nations and the governments of Spain, Brazil, and Germany, among other countries.

The macroeconomic framework in Paraguay in recent years has been largely positive: a relatively low foreign debt (13.2% of GDP for the period 2010)³⁴² and significant GDP growth in 2007 (+6.8%) and 2008 (+ 5.8%), successfully enduring the first signs of the international crisis. The advent of the global recession, coupled with a severe internal drought, caused a period of negative growth (-3.8% GDP), out of which the economy rapidly recovered by 2010, resuming a stellar growth trajectory at +18.3% GDP³⁴³ well above the average rate of the last five years (5.7% GDP). Growth rates have so far stabilised, reaching 13.6 in 2013.³⁴⁴

At present, the country is the sixth largest producer and fourth largest exporter of soybeans in the world.³⁴⁵ Over recent years, soy cultivation has been increasing in geometric proportions. From 833.005ha representing 39.6% acreage of major agricultural products in 2003, it reached 1,700,000ha in 2004, with soy production amounting to about 4,500,000 tons.³⁴⁶ Between the years 2006 and 2007, soy production reached 6,000,000 tons, yielding a cumulative growth of 57.9%. It is estimated that from 1974 to 2000 (26 years), land devoted to soybeans increased from 40 thousand to a million acres. Between 2000 and 2009, it reached 1,600,000ha out of 40 million hectares of Paraguayan territory.³⁴⁷

While the country has enjoyed an economic bonanza in terms of the most dynamic sectors of the economy, which was reflected in an increase in the rates of taxation, funds allocated by the government for civil society organisations are still scarce. CSOs are mainly relegated to charity delivery.

In terms of the formulation, monitoring and evaluation of public policies, including economic policies, the involvement of CSOs is limited. Efforts like Paraguay Debate, or Monitoring Social Indicators conducted by the Coordinating Committee for the Rights of Children and Adolescents (CDIA) are new, and still, small contributions and their inputs are not always heard by government agencies. It has been in the field of human rights, through reports of

³⁴¹ *Gobierno de la República del Paraguay. Secretaría Técnica de Planificación del Desarrollo Económico Internet Social (STP). Paraguay: Plan Nacional de Desarrollo 2030. Presentación Ejecutiva. Asunción, Paraguay. 46 pp.*

³⁴² *La deuda pública externa muestra una tendencia a la disminución por sexto año consecutivo pasando del 53,4% del PIB en el 2002, a un 18% para el 2010.*

³⁴³ *Banco Central del Paraguay. Informe Preliminar 2010. Asunción, Paraguay, 2011.*

³⁴⁴ *Banco Central del Paraguay. Informe Económico Preliminar 2013. Asunción, Paraguay, 2014. 76 pp.*

³⁴⁵ *Banco Central del Paraguay. Estimaciones del PIB año 2010. Asunción, Paraguay, marzo 2010. 4 pp. En: [http:// Internet.bcp.gob.py](http://Internet.bcp.gob.py).*

³⁴⁶ *Centro de Estudios Paraguayos Antonio Guasch. Editorial. Ética Internet Soja. Centro de Estudios Paraguayos Antonio Guasch. Acción. Revista paraguaya de reflexión Internet diálogo. No. 242. Abril 2004.*

³⁴⁷ *Grupo Democratización Internet Construcción de la Paz (CDE, CIPAE., CODEHUPY, POJOAJU, RED RURAL, SERPAJ-PY Internet Fundación Vencer). Acciones del Gobierno de Lugo para la Reforma Agraria entre agosto del 2008 Internet junio del 2010. Diciembre del 2010. 134 pp.*

complaints about violations of human rights, where the Human Rights Coordinator of Paraguay has proved strong in confronting the views of government members. The media has also played an important role in giving publicity to such content.

The Socio-Cultural Context for CSOs in Paraguay

Paraguay is a multicultural and bilingual country, where almost 95% of the population is mestizo, and the remaining 5% is composed of indigenous and immigrants of various origins. One of the most significant cultural characteristics of the country is the strong identity of its inhabitants with the Guaraní culture. This is expressed in many areas, but mainly through language. Most of the Paraguayan population are bilingual (Spanish-Guarani). Nationally, the predominant language spoken at home is the Guaraní (59%), followed by the Castilian (36%), although in cities 55% of households communicate predominantly in Spanish.

Another feature of the country is the predominance of the Catholic religion (89%), with minority faiths making up roughly 10% of the population.³⁴⁸

The indigenous population is 108,308, representing 1.7% of the total population. Just over half (52.5%) live in the eastern region, and the rest (47.5%) in the western region. Considering the five main indigenous language families, 71.5% of them are in poverty. Poverty is more pronounced for the Guaraní (75.95%) compared to other families, but to a lesser degree for the Gauikuru 65.3%.

Poverty besets indigenous populations. Estimates show 61.7% of Guaraní and 56.4% of Maskoy live in extreme poverty. Government programs are scarce and poorly resourced. The work of civil society organisations to demand rights for indigenous peoples has, however, paid off with a few favourable rulings in favour of indigenous peoples by bodies such as the Commission and the Inter-American Court of Human Rights. Examples include the judgment of the Inter-American Court relating to the Yakye Axa Indigenous Community, where the Paraguayan state did not guarantee the right to ancestral property of the community (Judgment of 17 June 2005). This was similar to the case of the Indigenous Community Sawohoyamaxa, where again the Paraguayan state did not guarantee the right to ancestral property of the community (Judgment of 29 March 2006). Also in the case of the Indigenous Community Kaákmok Kásek, where again, the Paraguayan state violated the right to ancestral property (Judgment of 24 August 2010). In these three court rulings, the Paraguayan state was found guilty for failing to protect the rights of indigenous people and was ordered to restore the ancestral rights of land ownership, and to provide compensation to indigenous communities for all damages incurred.

Other minorities include those from Mennonite, Japanese, and African descent. The first wave of Japanese immigration began in 1936, followed again in 1953, when the Paraguayan government opened its doors to all types of immigration in the Department of Itapúa, in solidarity with the countries devastated by World War II. Currently, some 7000 Japanese and Nike reside in the country; the Nike, a minority population, representing only 0.14% of the total population of Paraguay.³⁴⁹

The black population, according to Ignacio Telesca, are descendants of slaves brought from Africa. A census made in 1799 found that 50% of Paraguay's population was of African descent, black or mulatto.³⁵⁰ The black population is a minority today (less than 0.5%).

³⁴⁸ Carrera, Carlos: "Investigación sobre Diversidad Cultural Internet Desarrollo Humano: una caracterización de los diversos grupos lingüístico-culturales del Paraguay". *Diversidad cultural Internet desarrollo humano: una caracterización de los diversos grupos lingüísticos-culturales del Paraguay*. Anexo 3. Programa de las Naciones Unidas para el Desarrollo. *Diálogos sobre identidad Internet diversidad cultural en Paraguay*. Diciembre 2004.

³⁴⁹ Kasamatsu, Emi. *La inmigración japonesa en el Paraguay. Trayectoria de los 70 años*. Nov. 2006. Mimeo. 5pp.

³⁵⁰ KCantero, Cristian. *Entrevista a Ignacio Teresa*. Diario Última Hora. Edición impresa, lunes, 19 de Mayo de 2008.

In recent years, populations of Chinese, Arabic, and Brazilian descent have increased, and have been crucial in establishing Ciudad del Este as an important commercial district in the tri-border area. Brazilian investors have gained a foothold in the country, in search of arable land and forestry projects.

In the area of women's rights, domestic labour by women, especially in rural areas, is often not valued and in the workplace, women receive lower wages or a mere 65% of men's income, and also have higher unemployment and underemployment rates than men.³⁵¹ While the work of women's organisations has successfully drawn greater attention to the problem, significant gaps remain.

This is a situation compounded by high rates of illiteracy and lack of knowledge on human rights, especially in rural areas and among indigenous minorities.

Conclusion and Recommendations

CSOs in Paraguay have been an important pillar in the struggle for human rights in the country. After a long period of military dictatorship that ended in 1989, the last 25 years have shown steady progress toward a system of law that at least formally guarantees these rights. The constitution of 1992 was one of those achievements – the product of many years of struggle on the part of civil society.

Nevertheless, poverty, violence, and corruption that still plague the Paraguayan society suggest we are still a long way from a society that promotes the full exercise of human rights. This is all the more reason for civil society to press on.

The Istanbul Principles and their emphasis on the role of CSOs as development actors are principles that encourage us not to fail in that attempt. The promotion of human rights and social justice is a core feature of a number of Paraguayan CSOs. Despite cuts to aid flowing to the country, efforts to promote, protect, and defend the rights of large population groups have been kept up. The work of various human rights organisations, especially those related to farmers' organisations, women and children's groups have been at the forefront of this.

While the country has made progress in the legal recognition and the establishment of laws guaranteeing the work of civil society organisations, large gaps remain. Gender inequality, violence against women and girls, and the exploitation of children and adolescents remain pressing concerns. The wanton destruction of the environment, not least for the expansion of the soybean industry, has in addition caused massive displacement and major migration flows to the city.

The civil society organisations, as development actors in Paraguay, should continue to work to ensure the full exercise of human rights, promote environmental sustainability, and build networks and effective partnerships that help share knowledge and forge a commitment to social change. This is clearly a tall order, but considering the revival of civil society over recent years, CSOs can surely prove their strength as in their best years in the fight against the dictatorship.

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³⁵¹ Programa de Naciones Unidas para el Desarrollo-ONU MUJERES. Empleo, Género Internet Desarrollo Humano. Documento de Trabajo No. 1. Asunción, diciembre 2013. 34 pp.³⁰⁶ Mister Wang Ying owner of the ChinWei company and HKND, <http://hknd-group.com/porta1.php?mod=list&catid=3>

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Peru

Summary

CSOs and NGOs in Peru have had an important role to play because of the country's history of military rule and democratic instability. Today, a great number of NGOs exist in Peru, ranging from grassroots initiatives to nationwide organisations. There is also a wide range in terms of the type of work they undertake. However, human rights organisations, indigenous people's movements and environmental organisations are subjected to harassment and accusations from the government, companies, and the army. Journalists and clergy also face problems in pursuing their work. A law regulating the work of non-governmental organisations creates obstacles to external funding for NGOs and allows increased interference of the government in the activities of civil society organisations.

Introduction

Peru is a poor nation with very modest levels of industrial development and formal employment. Peru experienced several military coups and democratic reversals during the second half of the 20th century. After the Civil War that rocked the country in the '80s to early '90s, Peru has made political strides over the years; however, the country's transformation has been marked by abrupt changes marred by the crumbling of its democracy, a process accompanied by debt crisis, hyperinflation, and terrorism. Under the new elected President Alberto Fujimori and international pressure, Fujimori partially restored constitutional processes, leading to the 1993 constitution and the mostly free and fair 1995 elections, resulting in Fujimori's re-election in 1995. However, a second wave of authoritarianism brought subtle infringements of freedom of the press, selective violations of individual civil liberties, and ultimately electoral manipulation, which secured Fujimori a third presidential term in July 2000.

Over the last few years, Peru has experienced rapid economic growth; however, despite efforts by the present government, Peru still has one of the highest rates on inequalities despite some social protection schemes aimed at providing support for the poorer elements of Peruvian society.

CSOs and NGOs in Peru have played an important role in national development because of the country's history of military rule, democratic instability, and corruption. Although NGOs have long existed in Peru, an NGO boom begun in the '70s, under the government of the then President Juan Velasco Alverado.

There was a second proliferation of NGOs in the 1980s with the re-emergence of a democratic government, which focused on grassroots issues. Because of the political environment in which many of these organisations emerged, they were committed to the idea of development that did not originate from a top-down approach.

CSO Enabling Environment in Peru

Legal and Regulatory Framework

Article 2, paragraph 13 of the Constitution of Peru recognises the right of every person to join and establish foundations and various forms of legally recognised non-profit organisations, without prior authorisation in accordance with the law. In addition, the constitution stipulates that these organisations cannot be dissolved by administrative decision.

Peru's constitution also recognises, among other internationally recognised rights:

- the right to equality before the law (no person should be discriminated against because of origin, race, sex, language, religion, opinion, economic status, or any other factor) (Article 2 2);
- freedom of conscience and religion, individually or collectively (no one may be

- persecuted for their ideas or beliefs, or opinion) (Article 2.3);
- freedom of information, opinion, expression, and dissemination of ideas through spoken or written word or image, by any media, without prior authorisation or censorship or impediment (Article 2.4);
- the right to privacy, and the inviolability of one's communications and documents (Article 2 7 and 10);
- freedom of contract (Article 62);_2013_413
- property rights (Articles 70-73);
- the right to participate, individually or collectively, in the political, economic, social and culture of the nation (Article 2.17); and
- The right to freedom of peaceful assembly is also protected by Article 2 of the constitution, section 12, which states that "Every person has the right to gather peacefully without arms".

In 2009, legislation was proposed that would expand the powers of the Peruvian Agency for International Cooperation (APCI), which regulates funding to NGOs. In this scenario, the reduction of development cooperation funds adds to the attempts by the government to align NGO with the public policies and plans, and its different sector priorities, raising the tensions levels with the APCI that regulates the work of DNGO and that in practice is tantamount to monitoring the sector that promotes democracy and human rights.

In addition, the state has expanded several legal mechanisms to control NGO, trough the design of legal NGO registration and declaration mechanisms, and to regulate and monitor the international cooperation projects that they are implementing.

CSOs have recently faced the excessive control of resources administered by the APCI. Under the legal framework, NGOs or any other group subject to the supervision and control of APCI must, among other responsibilities, provide extensive reporting about planned activities, sources of funding and other financial details. In fiscal matters, they complete the Taxpayers Single Register, the Income Tax Exempted Entities Register, the Donation Recipient Entities Register and they process the Profit of the General Sales Tax Reimbursement paid by the international cooperation projects and the profit of the non-conveyance of the sales tax in the import of donated goods.

In labour matters, they register work contracts and pre-professional internship agreements, and arrange leasing contracts, voluntary contracts, labour mediation contracts, and outsourcing contracts.

There are problems in the adaptation of professional skills to the changes in the environment. There is a need of discontinuation of the work relationship, no renewal of contracts and dismissal of staff. Closings of work centres have also taken place.

The risk is also high for the reduction of tax relief mechanisms for organisations intervening in cooperation, like the exemption of the income tax and the profit of the sales tax reimbursement.

In addition to this, the risks originating in the legal framework of protest criminalisation, that difficult NGO interventions and actions, such as:

The Law 27686 that interpreted the Art. 3, to indicate that the citizens that want to carry out marches or public demonstrations must demand 'compulsorily' guarantees. This distorts the freedom of assembly.

The Law 27686 raises the punishments for the felonies of 'disturbance' and 'obstruction to the functioning of public services', placing punishments in aggravated cases as high as 10 and eight years respectively, to allow preventive prison.

The Law 28820 that raises the framework of this felony of attacks against communication ways and disturbances to allow effective prison in different cases.

The D.S. 060-PCM-2007 that allows the intervention of the Armed Forces in support of the National Police (30 days) to guarantee the running of entities, essential public services and protect vital points.

The Law 29166 that allows Armed Forces the use of fire weapons to control internal order. The legislative orders 982, 983, 988, and 989 to punish 'Organised Crime': immunity of policemen and military, they describe public protest as 'extortion', raise the punishments for disturbances and sanction public workers participating in strikes with even disqualification.

The Supreme Order 12-2008-DE/CFFAA, Regulation of the Law 29166, that authorises the use of lethal force to protect private property, 'in compliance with the assigned mission' and in 'self-defence'. It authorises the intervention of AF on issues of the field of action of the Peru National Policy as 'common felonies' and 'drugs.'

The legislative Orders 1094, 1095, and 1097, regulating intervention by army and police forces during social conflicts and the prescription of crimes against humanity.

The Administrative Decision No. 096-2012-CE-PJ issued by the judicial power, orders that all cases related with the Espinar and Conga conflicts, must be judged in the provinces of Ica and Chiclayo respectively.

Lessons Learned or Proposed

There is a need of promoting a framework anchored on development effectiveness, promoting a joint approach, and overall participatory, allowing addressing in an effective manner the most marginalised sectors. There are also needs for:

- A flexible framework to implement intervention strategies: structural, organisational and operational changes, and fund raising (fusion, groups, and branches).
- A self-regulatory framework promoting the continuous improvement of the NGO's management and internal control systems: Improvement of the disbursement capacity, execution of independent evaluations, setting up of an accountability framework, putting into practice transparent hiring procedures, appointment of the public worker in charge of the ethical issues, and launch of an annual external audit cycle.
- A self-regulatory framework promoting 'transparency' frameworks and exchange of information about the NGO work, proving the real impact of their interventions, of the external evaluations and audits.
- A framework reducing the risks against the audit actions of SUNAT, APCI, and MPTE, promoting the preventive evaluation of the quality of administrative, accounting, tax and labour systems; and the training in the register, declaration, and APCI audit procedures.
- And a framework promoting the participation and protection of the citizen's rights to free expression and their exercise, of transit and assembly, i.e. against any form of criminalisation of protest, indispensable for the strengthening of democracy.

Governance Context

Policy-making is not neutral; it is an inherently political process. From the consultations, it seems that political factors have had greater influence on the policy making process from internal political factors, such as governmental structures and capacity, to international political factors that enforce policy change.

Citizens' participation has long been acknowledged as a useful tool in enhancing efficiency in the implementation of enhanced public policies. It improves the responsiveness of development policies to the needs of citizens and supports their ability to make creative and innovative

proposals to solve development challenges. The last two decades have seen countries such as Brazil, Colombia, Guatemala, Mexico, Paraguay, and Peru develop new mechanisms to foster citizen participation at the local level by creating citizen participation bodies, locally referred to as “local councils.” These are institutional spaces where citizens, represented by civil society or community-based organisations, academics, and the private sector, come together with municipal authorities to discuss and make decisions on local development and governance issues. In particular, by allowing greater participation of groups that were historically left out of decision making processes, such as women, youth, and indigenous populations, these local councils have made local governance more inclusive and representative.

Peru’s constitution (Title IV, Chapter XIV on Decentralisation) goes even further, mandating local councils at the regional level – called Regional Coordination Councils (CCR) - composed of regional public officials and civil society representatives, as part of the basic structure of regional governments.

The region’s laws regulate the different features of the local councils, such as their administration, responsibilities and decision-making power, though to varying degrees. On the one hand, Bolivia’s 1999 Law of Municipalities (Title 1, Chapter 1, and Article 5) and its 2009 constitution (Title VI, Article 241), for example, only mention the need for local governments to promote citizen participation in the design and implementation of public policy and development plans. On the other, Peru’s Organic Law of Municipal Government includes a quite detailed description of the local councils – called Local Coordination Councils (CCLs) - and their powers, and of the Concerted Municipal Development Plan (discussed further below) which is mandatory for all local governments to create, and in which the CCL plays an active role.

Peru’s Political and Economic Context

In 2008, the international economic crisis had negative effects on the country’s economic growth as a consequence of the fall in price and demand of minerals. In 2012, Peru leads the region’s growth, and has gone from being considered a low income country in 2000 to a middle income country, this leads to a huge reduction in ODA being received by the country. This period has been marked as well by the electoral processes at different government levels, mostly 2011 for being a national election process in which a high percentage of the voters had expectations and hoped big changes (the Big Transformation, the roadmap) that could provoke big changes, structural ones in relation to the protection of nature, prior consultation, decent work creation, strengthening of the citizen participation spaces, and the decentralisation process.

There is a huge gap between the expectations of most of the population and the advancement improvements that have taken place. Employment grew, but at a slower pace than economic growth and the employment growth has been a precarious one. We continue to have a heterogeneous employment structure without wage increase and without social security. Different forms of contracts make employment precarious, both in the public and private sector. Statistically, poverty and chronic child malnutrition has reduced, but child anaemia has not diminished considerably as well as huge gaps in inequality remain.

Socio-Economic Context

In recent years, public protests against large-scale mining projects, as well as other government policies and private sector initiatives, have led to numerous confrontations between police and protesters and resulted in the shooting deaths of civilians by state security forces.

The use of lethal force against public protesters is an ongoing problem. The Peruvian police and army appear to have used lethal force unlawfully.

Journalists continue to receive suspended prison sentences and face fines for defamation. In June 2012, a court gave two journalists from the newspaper *Diario 16*, Juan Carlos Tafur and Roberto More, two-year suspended prison sentences and ordered each to pay compensation

of 60,000 PEN or nuevos soles (about 23,000 USD) to a former police general, whom the newspaper had linked to a family whose members faced money-laundering charges. A bill that would replace prison sentences of up to three years for defamation, as stipulated in the current law with community service and fines, is still awaiting a vote in the legislature. Although the congress approved the bill in July 2011, former President García lodged objections that must still be debated and voted on before the bill can become law.

The Impact of the Reduction of Development Cooperation Funds

The reduction of cooperation funds for international cooperation DNGO and of non-refundable cooperation has been diminishing ostensibly in the last five years, affecting a form of organisation and operating that, maybe, is coming to its end.

The general and prolonged crisis of development cooperation only aggravated by the financial and economic crisis from 2008, but that comes from long before, and that has been losing importance in the economy of the countries that seek development. In most of the countries of the region, cooperation doesn’t reach 1% of the GNI, except in five exceptions: Haiti, Nicaragua, Honduras, and Bolivia.

The reduction is caused by several reasons: the international crisis, the prioritisation, and the orientation of the resources to other regions like Africa and Asia, as well as the reduction of poverty indexes in Peru, and also the upgrading to the category of middle-high income country, which is also considered a cooperation donor in the new scheme south-south.

The themes of cooperation have shifted as well towards secularisation, which explains the scale of the aid that countries like Colombia and Mexico receive. Also, a special importance is attached to issues like trade, technology, and investment as new priorities. Brazil has become an important south-south cooperation actor, especially with Portuguese-speaking African countries, with an amount exceeding 2 billion USD. The current leaders in international cooperation for Latin America are the United States that has reduced its contribution, but is still the main contributor; followed by the IDB (that has replaced Spain) in the group of main cooperation providers; Germany which has increased its cooperation with 20%; the EU that has reduced its cooperation but is still significant; and France, who has gained a place in the first line of cooperation. Finally, it notes that the funds are distributed 23% for the Caribbean, 30% for Central America, and 37% for South America.

CSO Models in Development Cooperation

The Istanbul Principles describe CSO as development actors (September 28 to 30, 2010); Busan Partnership for an Effective Development Cooperation, 4th High Level Forum on Aid Effectiveness (November 29 to December 1, 2011); Nairobi Declaration for Development Effectiveness (December 8 and 9, 2012).

Our starting point is the need of a new approach for development building on the following ascertainment:

“Uncontrolled globalisation and profit-based growth is a tragedy for the poorest and for the planet; inequalities have aggravated in all levels, causing multiple food, energetic, financial, and climate crises that are still to be solved. One thousand, four hundred million people (70% of which are women and girls) still live in conditions of extreme poverty. The current inequality between the richest and the poorest continues growing: 30% of wealth and global resources are in the hands of the 0.5 of the population. The “geography of poverty” is changing and most of the world’s poor live in middle-income countries.”

CSOs, being independent development actors, have over time initiated and ensured sustainable alternatives and a rights-based approach for development; there are global efforts to advance the rights and development needs of the people; a bigger formal space has been opened for civil society.

Issues of concern persist around Effective Development Cooperation, among them its exclusive reference to the human rights in general and its little attention to women's rights, environmental sustainability, and decent work agenda. It also lacks an assessment of the failures of cooperation in accomplishing its engagements. There isn't a framework of accountability and there is a lack of engagement of southern countries with the partnership as the process advances.

- In these areas, common agenda can be set up in points such as prior consultation to the communities, transparency in contracts, taxing, investments not affecting human rights, etc.
- There is a need to have a fiscal policy, with a sense of justice, connected with the development model.
- A critical interpretation must be done of the model that points that growth is equal to development.
- It is necessary to analyse how to refine more the new constructions or debates around alternative models as the *vivir bien/buen vivir* (live well/well living)
- It is important to revise the role of communication media, which play roles of operators and position many times the agenda that don't match the interests of civil society.
- There is a need to strengthen the debate around gender equity and equality
- There is a need to insist on the issues of interculturalism and multiculturalism
- There is a need to take advantage of the institutionalisation and the coordination and relation spaces for integration.

Conclusion

There has traditionally been a strong local civil society in Peru. In recent years, there has been a reduction in foreign donor support for civil society so formal NGOs have suffered a proportional decline. Meanwhile, the Civil War and neoliberal legislation also reduced the prevalence of mutual support organisations as well as weakening formal labour organisation.

Tensions between government and CSOs are not new neither exclusive of Peruvian context. They respond to a continuous and complex balance between the realm of the politics of the force (domination) and the realm of the politics of the consent (hegemony). Given a regimen type, the relationship between government and CSOs can be improved or deteriorated according to the movement of CSOs activities from welfare provision to advocacy issues. The underlying cause of the cyclical attacks against CSOs along history can be explained by the government's need of taking control over CSOs resources, in order to avoid the use of these resources to opposite interests in the government agenda.

Recommendations

- Bilateral and multilateral organisations to fund civil society support programmes that are planned and implemented with local partners, and that respect and work with the local government, particularly at the sub-national level. More indirect support and needs-based interventions can minimise fears of external agenda, while strengthening local capacities where it is most needed. Donors should consider taking a long-term perspective when aiding NGOs and put in place robust exit and sustainability strategies to ease aid volatility.
- Examining social media, emerging social movements and their impact on opening up space for civil society to hold governments to account, as well as assessing in which contexts social media and emerging social movements are relevant. Likewise, exploring whether the enabling environment depends on more than technological platforms but also social capital and pre-existing movement.

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Spain

Summary

Spain's development cooperation initiative has evolved since the international community pressured the former government to adapt to a shifting international aid landscape, especially those relating to HR and gender equality.

This report aims to analyse the current state of development cooperation and development effectiveness in the context of the current systemic crisis, as well as find out about the current compliance of the government in the promotion of a CSO enabling environment in Spain through the frameworks (regulatory, political and economic) under which civil society participates in the support of the development efforts as indicators of the effectiveness of Spanish development cooperation.

Since 2008, Spanish DevCoop initiatives have gone through severe changes, including drastic cutbacks in funding, loss of institutional support for the Spanish International Cooperation Agency (AECID), the weakening of gender issues as a priority, attacks on decentralised cooperation initiatives, among others. These issues not only endanger the development cooperation system itself, but reflect a significant setback in relation to policy engagements and sustainable human development and equality engagements ratified by the Spanish state.

Introduction

The year 2014 marked the 20th anniversary of the 0.7 campaign³⁵² spearheaded by various CSOs organised through platforms at the national and municipal levels. This campaign, developed in the context of the Great Lakes crisis,³⁵³ came alongside the biggest social mobilisation for international solidarity in Spain, and prompted the government to sign the Solidarity Pact, by which it committed to gradually allocate 0.7% of Spain's GNI to ODA.

The process began with a petition drive that was handed to in June 1994. Aside from the 0.7% of GDP ODA allocation, the petition called for the improvement of ODA management, as well as for greater transparency and orientation of development assistance efforts along an environmentally sustainable and human rights-based approach.

In September 1994, the first 0.7 camp out was organised in front of the Ministry of Economy and Finance. This mobilisation spread rapidly to all communities,³⁵⁴ along with a hunger strike.

This was just one among a number of historic civil society mobilisations on aid and development issues. As early as 1981, the collective *Justicia Internet Paz*³⁵⁵ (Justice and Peace), initiated a campaign that aimed at raising social awareness and pressuring the political class of the need to allocate 0.7% of GDP to development cooperation 'for reasons of justice, solidarity, and survival.' After being presented in the senate through a non-law bill,³⁵⁶ all the political parties with parliamentary representation signed a declaration promising to pursue this objective. The

³⁵² In May 1972, in the occasion of a Trade and Development Conference, the UN adopted resolution 61 with the objective of allocating 0.7 % of the GNP of the most industrialised countries for ODA for the impoverished countries of the South.

³⁵³ This crisis was result of the Tutsis genocide in Rwanda by Hutus and the following exodus in April 1994 of over two million Rwandans to neighboring countries of the Great Lakes region of Africa.

³⁵⁴ The Spanish state is organised territorially in municipalities, provinces and Autonomous Communities. These Communities refer to territories with common historic, cultural or economic characteristics, with a self-govern capacity for managing their interests. See the 1978 Spanish Constitution in its Title VIII "Of the territorial organization of the State."

³⁵⁵ This will be the seed of the CONGDE, formed in 1986, an entity that acts as the spokesperson of the sector with the institutions. Currently it is formed by 108 entities, of which 89 are NGOD and 17 Autonomous Platforms. In all, the total number of NGOD associated to the CONGDE and the Autonomous Platforms is 496 NGODs.

³⁵⁶ Report of the Study Paper of the Spanish Development Cooperation Policy, of November 1994, where there is a recommendation to develop a legislation for covering the existing lack of regulation.

initiative was also the basis for the preparation of a cooperation law³⁵⁷ that crystallised some years later.

Twenty years later, CSOs have mobilised again around the fact that these commitments have not been fulfilled at all, despite promises by the Spanish government in numerous United Nations Summits, as ratified in the Monterrey Summit (2000), and in the Millennium Development Goals. The situation has in fact so deteriorated that there is talk of dismantling the aid system itself, built up over the past several decades.

The next section does not intend to address the whole Spanish cooperation system, but focuses instead on the analysis of national policies and mechanisms.

Development Cooperation in Spain

Spain's cooperation model is characterised by the significance³⁵⁸ of decentralised cooperation, one that is financed and managed by autonomic and local (provincial and/or municipal) public territorial entities. It is a complex cooperation system marked by a diversity of approaches and actors involved. Its local-scale nature facilitates citizen participation and involvement in a number of international development processes. Despite the obvious challenges and difficulties in this model, especially relating to coordination, coherence and complementarity, the DAC itself appreciates its richness, suggesting that it could serve as a source of inspiration for other donors.³⁵⁹

Spain, in a short period of time, went from being an aid recipient country in the 1980s into one of the biggest ODA donors,³⁶⁰ under the impetus of José Luis Rodríguez Zapatero (2004-2011). Zapatero's administration marked a significant increase of funds allocated to ODA, although not without criticism.³⁶¹ This was accompanied by modest reforms in the cooperation system, untying it from the economic, commercial or geopolitical interests of foreign policy.

Development cooperation was consecrated as state policy by the 2005-2008 MP, the second quadrennial strategic plan, defining the country's development policy, and was strengthened with the signing of the State Pact against Poverty (December 19, 2007).³⁶² These initiatives strengthened the engagement of Spain with the MDGs, including on poverty reduction, and the engagement with human rights and gender equality, aid effectiveness and transparency.

Finally, the role of CSOs as relevant actors in cooperation policy was ratified, and the government agreed to support their strengthening and promote their participation and multi-stakeholder dialogue. An institutional reform process was initiated for this purpose, culminating in the creation of a Ministry of Foreign Affairs and Cooperation.³⁶³

³⁵⁷ Law 23/1998, from July 7, of International Cooperation for Development.

³⁵⁸ The autonomic cooperation represented in 2010 8,66 % of the total net ODA of Spanish cooperation and 12,89 % of the total net bilateral ODA.

³⁵⁹ DAC: "Development Co-operation Reviews: Spain 1998". Series n° 27. OCDE. Paris, 1999. (pg 7)

³⁶⁰ The seventh in 2008, according to the DAC.

³⁶¹ The Commitment to Development Index elaborated by the Center for Global Development highlights the role of Spain as the country with the best improvement between 2003 and 2009. The index encompasses 7 dimensions of policies related to development (aid, trade, investments, migrations, environment, security and technology). Among 22 donors, Spain was placed in the 7th position. The dimensions where it showed best scores were in technology, migration and investments. However, it scored worst on security, environment and cooperation in general. Focusing on this last one, Spain obtained a score of 4.3 (out of 7), placing it in 12th place. This owes to a reduction in the quality of aid caused by a number of debt-accumulating conditionalities, tied aid, the allocation of ODA towards middle income countries and the size of development projects. See: ROODMAN, D.; C. PRIETO & E. LAZARUS: "Spain", Commitment to Development Index 2009. Center for Global Development. 2009. En: <http://Internet.cgdev.org>

³⁶² This Pact was signed by all the political parties with parliamentary representation and the CONGDE establishes the political orientation of development cooperation. In: http://antigua.congde.org/uploads/descargas/libro_pacto.pdf

³⁶³ Royal Act 1823/2011, date December 21 2011.

National Legal and Regulatory Framework

Regarding laws, plans, policies and programs concerning international development cooperation, it is worth underscoring that Spain is a signatory to most of the major existing frameworks for aid both at international and European levels, especially the UN conventions and action plans on HR, gender equality (such as the CEDAW and the Beijing Platform for Action), the Rio Conventions on environmental sustainability and norms regarding cultural diversity and respect for indigenous peoples. In addition, the Spanish government has ratified international commitments on the MDGs and the development effectiveness international agenda, as well as its European frameworks, among them the European Development Consensus³⁶⁴ (December 2005) and the Lisbon Treaty (December 13, 2007).

The pledge made by the previous government to transform cooperation into a state policy was translated into the enhancement of strategic planning and management. The main instruments for Spanish development cooperation are:

- The Law 23/1998 of International Development Cooperation (IDC);
- The Master Plans (MP), which are of a quadrennial nature. They constitute the main planning framework within which goals and priorities are established, both sectoral and geographic, for Spanish IDC. The II MP 2005-2008 stands out as a milestone as it introduces HR-BASED approaches, while mainstreaming gender;
- Other relevant strategic planning tools include: annual plans (PACI), country strategy documents (DEP), cooperation sector strategies, sectoral intervention plans, and country partnership frameworks.

The current IV MP 2013-2016 marks a rupture as it introduces an approach that prioritises the commercial and financial dimension through the promotion of the 'Spain Brand'³⁶⁵ and the participation of private entities for the achievement of development and poverty eradication.³⁶⁶ The private sector appears as a strategic ally pushing CSOs into the background. In addition, according to provisions for 2013, almost 70% of the total ODA was allocated through loans, mainly to middle income countries.

This "low-cost" cooperation³⁶⁷ approach prioritises the commercial aspect of foreign policy over solidarity, a rights-based approach and the fight against poverty, as well as promotes the privatisation of aid under so-called public-private partnerships. This entails a great risk for the fulfilment and respect of international engagements and human rights, especially for women and other vulnerable groups.

Under the motto, 'do more with less,' the number of partner countries have been reduced from 56 to 23, with the intended goal of increasing the efficiency and impact of ODA by concentrating more funds in a smaller number of countries. However, these recipient countries

³⁶⁴ This consensus places poverty eradication as fundamental goal of the European Union (EU) development policy, and the Member States commit to implement its policies in way coherent with the Aid Effectiveness principles and the MDG, as well as increasing the volume of ODA needed for the achievement of the goals.

³⁶⁵ Spain Brand is a State policy, whose goal is "improving the image of our country, both inside as beyond our borders, in benefit of the common good. In a global world, a good country-image is an asset that helps to back the international position of a State politically, economically, culturally, socially, scientifically and technologically. In the current crisis context, the approach of the Brand must give priority to the economic terms, contributing to the recovery of the growth and employment". At: <http://marcaespana.es/es/quienes-somos/que-es-marca-espana.php>

³⁶⁶ The deep worry of NGODs for the instrumentalisation of the Spanish cooperation policy is resulting from the abounding information present in the MP in which it is envisaged that "(T)he Spanish Cooperation will work to promote the relations with other countries in which Spain's strategic interests converge with the global responsibilities" (page 39 and 41, IV MP.); or in relation to the identification of financial operations "open up a space of opportunity very interesting for the achievement of synergies with the presence of Spanish companies in these countries" (page 183), among others.

³⁶⁷ GÓMEZ GIL, Carlos: "La voladura de la cooperación española. Indicadores para confirmar el deliberado colapso de la política de AOD". <http://Internet.rebelion.org/docs/170003.pdf>

are not expected to receive additional resources. Worse, the MP has neither a clear budgetary framework with precise goals nor projected results, nor indicators to enable its monitoring.

Given such issues, pressure and scrutiny from civil society is critical and a number of CSOs agree that the IV MP 'is not a strategic planning document with the conceptual and operative clarity needed for orienting the Spanish cooperation in the coming years.'³⁶⁸

Institutional Mechanisms and Instruments

Shifts in development cooperation priorities have been accompanied by changes in institutional structures. The Popular Party, elected in 2011, recently reduced the mandate of the Secretary of State for International Cooperation (SECI), and subsumed it under the SECIPI, which merges the responsibilities of development cooperation with international relations for a particular region—Latin America. The SECIPI is also responsible for the recently created Secretary General for Cooperation, which absorbed the functions of the former DGPOLE. In addition, priorities such as gender have lost centrality and visibility in the organisational chart of AECID.³⁶⁹

Regarding transparency and accountability, engagements for policy monitoring and evaluation have not been fulfilled. Annual plans are under parliamentary control, according to the Cooperation Law, yet the government announced reforms aimed at eliminating such obligations and replacing them by annual reporting by the agencies. This announcement stirred up considerable concern among CSOs as they consider this a measure that weakens the transparency and accountability of government decisions, and runs contrary to the IATI, of which Spain is a signatory.

When it comes to social participation mechanisms, despite the MP reiterating the importance of creating a framework for the participation of CSOs in governance processes, in practice, spaces have not been promoted. In fact, as the CONGDE is denounced, we are witnessing a shrinking of civil society space and inoperative cooperation councils.³⁷⁰ This exclusionary attitude on the part of the government can be seen in the inter-department Aid Effectiveness and Quality Working Group (GTEC) in which neither CSO nor local administrations can participate. CSOs demand more information and participation in the building of a joint Spanish position regarding the effectiveness forums.³⁷¹

Cutbacks in ODA

Development cooperation policies have suffered the most severe cutbacks compared to any other policy or public institution, although budgetary allocations to ODA are insignificant.³⁷² So the struggle to make up for Spain's financial deficit marks a change in state priorities.

There have been strong budgetary cutbacks since 2010, which the president of CONGDE, the highest space for civil society representation, denounced as the effective dismantling of Spanish development cooperation.³⁷³ Spain leads the list of DAC member countries that have cut back

³⁶⁸ See the assessment of the CONGDE of the Draft 2.0 of the IV Master Plan of the Spanish Cooperation 2013-2016. At: Internet.congde.org

³⁶⁹ With the reform of the AECID Statute in 2012, the Sector Cooperation, Gender and NGOD Directorate is renamed as Multilateral, Horizontal and Financial Cooperation Directorate.

³⁷⁰ See the assessment of the CONGDE of the Draft 2.0 of the IV MP 2013-2016: "the dialogue and consultation mechanisms used with NGOD haven't been as transparent as they should have, leaving a scenario of confusion in the sector which we in the Coordinator echo... This shows a serious democratic deficit in the definition of a public policy".

³⁷¹ See Assessment of the 2014 communication: <http://Internet.congde.org/contenidos/descargar/attached-files/1157/original?1397034760>

³⁷² At its higher point it barely reached 0,5 % of the public resources invested annually.

³⁷³ In words of Mercedes Ruiz Jimenez, president of CONGDE, we are witnessing a change of model "(T)he cutbacks are not only provoked by the current economic situation, by the crisis, by the wrongly called crisis, that I considered more an embezzlement. We are observing as well a change in the development cooperation model that had been being articulated and constructed in the last ten years" Interview in "Se está desarticulando la política de cooperación". In *Vía 52 beta*. N° 19: *Cooperación en crisis*. January 29 2013. In: <http://via52.org>

on their aid the most in the period of 2009-2012,³⁷⁴ with an accumulated cutback of more than 70%, leaving only 0.15% of GNI in 2012 ODA. A report affirms that ‘the recent cutbacks leave the Spanish cooperation, and specially AECID, in a financial situation so weak that [it] prevents Spain from developing a cooperation policy that deserves such name.’³⁷⁵

The government has since adopted an economist approach. In this context of cutbacks the FONPRODE³⁷⁶ has been created, receiving a significant amount of resources. In fact, it is estimated that in 2013, nearly 70% of ODA was channelled through loans and credits, which places development cooperation at risk of turning into an instrument for stimulating Spain’s economic recovery.³⁷⁷

In addition, expenditure estimates are constantly broken, increasing the amount of funds not actually spent. In the period of 2008-2012, the amount actually spent was 75% of what was initially budgeted:³⁷⁸ in 2011, nearly 30% of the ODA foreseen by the 2011 PACI was not implemented, and while the budget that the government announced for in 2012 reached 2.335 million EUR, what was finally implemented barely reached 1.700 million EUR.

According to CONCORD, this has undermined Spain’s credibility as an international actor in development cooperation. While the official numbers of ODA speak of 0.16% of the GNI, the real percentage barely reaches 0.14% of Spain’s GNI.³⁷⁹

Beyond the reduced availability of ODA funds, a number of key development cooperation projects and other commitments have not been fulfilled significantly, affecting the quality in development assistance. The refundable portion of Spanish ODA increased slightly over 5% of gross ODA in 2011. Cooperation in matters of health, education, and agriculture went backwards, going against the goals of the III MP, by allocating only 7.46% of gross ODA to rural development and the fight against hunger, and not the 10% previously established.³⁸⁰

The so-called 20/20 Compromise³⁸¹ has also not been fulfilled. While in 2008 and 2009, 24.6% and 28%, respectively, of the bilateral deliverable ODA were allocated, in 2010, it fell to 15%, and even 10.2% in 2011. Neither was fulfilled in the gender commitment of allocating 15% of the sector-deliverable ODA to gender and SRHR programs.³⁸²

It is important to highlight the fact that Spain has been ‘invited’ on repeated occasions to enhance the quality of its aid. According to the 2012 DAC report (Aid Untying Report), Spain still keeps tying 30% of its bilateral ODA. Only 64.8% of its bilateral cooperation was free from conditionalities.

³⁷⁴ Countries with similar economic situations have made much more moderate cutbacks: Portugal (-13%) and Greece (-17%)

³⁷⁵ Prologue to the Report *The Reality of Aid 2013* drafted by Intermon Oxfam.

³⁷⁶ Created by the Law 36/2010, of October 22, and whose functioning is regulated in the Real Decreto 845/2011 of June 17, with which culminates de reform of the Development Aid Fund (FAD).

³⁷⁷ See report CONCORD: Aid Watch 2013. Op.cit.

³⁷⁸ Data extracted from the PCI forecasts and monitoring 2008, 2009, 2010, 2022 and 2012, cited in GÓMEZ GIL, Carlos, op.cit.

³⁷⁹ In 2013, over one-third of all bilateral aid provided by France and Spain was inflated”. CONCORD: Aid Watch 2014, page 15.

³⁸⁰ Page 13 Reality of Aid Report 2012, Intermon Oxfam.

³⁸¹ Approved by the Social Development Summit of Copenhagen in 1995, its aim is orientate a donor’s ODA towards the basic social needs of the recipient countries, equally committing both. This way, donor countries commit to allocate at least 20% of the bilateral ODA for funding basic social services, while recipient countries commit to, in turn, devote, at least, 20 % of their public budget for funding social expenditure. The goal with this is orientating international cooperation towards a more precise aid and of greater quality in the improvement of the live conditions of the most impoverished populations

³⁸² Engagement acquired in the previous III MP of allocating 9% to gender and 6 % to sexual and reproductive health and rights, respectively.

Dismantling of Decentralised Cooperation

The official cooperation model of the Spanish state is characterised by diversity and decentralisation, given that various administrations (communities, provinces and municipalities) have respective cooperation structures and policies that complement the central government. They differ, however in terms of their focus on HR, gender, poverty eradication, as well as the development effectiveness agenda. This model, which emerged from the demands of social movements in the 1990s, is at risk of disintegrating for two main reasons: first, the cutbacks, and second, the questioning of local competencies.

To the reduction of state funds for ODA, we must add strong cutbacks to decentralised cooperation. This has fallen 44% from the 2008 maximum of 613.5 million EUR. Thus, the autonomous communities allocated for ODA in 2011 an average of 0.13% of their budgets—the smallest percentage in the last decade: ‘In absolute numbers, we can observe a setback from the year 2009 of 71% for the autonomous communities and of 69% for the local entities, again way above the average cutbacks in the whole of the public policies [sic].’³⁸³

Regarding territorial competencies, the ruling popular party turned development cooperation into an exclusive competency of the central administration.³⁸⁴ The reform of the local administration limits the mandate of municipalities for the planning and delivery of basic services, excluding for example gender equality³⁸⁵ and international solidarity, which become an exclusive competency of the central state. This goes against Article 10 of the European Charter for Local Autonomy, ratified by Spain in Strasbourg in October 15, 1985.³⁸⁶

This reform has been widely criticised by autonomous communities,³⁸⁷ as well as civil society. For the CONGDE, this reform is a serious threat for development cooperation policy.³⁸⁸ Even the state council itself, a consultative body of the state, has published a report questioning the constitutionality of the reform as it reduces ‘in excess’ municipal autonomy.

Impact of the Political Context on CSOs and Development Cooperation

According to research conducted by CONGDE,³⁸⁹ non-governmental organisations for development (NGOD) are among the most highly valued institutions in Spain, with 99% of respondents showing their support for work developed by CSOs. The results revealed that respondents agreed (3.5 out of 4) on the need for Spain to maintain relations of development cooperation with other countries. Furthermore, half of respondents supported an increase of

³⁸³ *The reality of aid 2012*, op. Cit..

³⁸⁴ Law 27/2013, of December 27, of rationalization and sustainability of the Local Administration.

³⁸⁵ The elimination of article 28 of the Law 7/1985 of Basis for the Local Regime entails depriving local governments and other local entities of the competency in promoting equality, despite the fact that CEDAW is binding for all the public powers including the autonomic and local ones.

³⁸⁶ Adopted by the Committee of Ministers of the Council of Europe in June 1985, it says in it art. 10: “1. The local Entities have the right, in the exercise of their competencies, of cooperating and, in the scope of the Law, associate with other local Entities for the realization of tasks of common interest”. Art. 3: “Local Entities can, under the conditions eventually foreseen by the law, cooperate with Entities from other States.” See http://Internet.femp.es/files/566-353-archivo/carta_europea_autonomia_local.pdf

³⁸⁷ See for example the Report of the vice-presidency of the Junta de Andalucía about the Draft bill of rationalization and sustainability of the Local Administration, <http://Internet.cosital.es/images/andalucia%20alrsal1.pdf>

³⁸⁸ Position of the CONGDE about the proposal of reform of the Local Administration, of September 27 2013. During the year 2011, the Spanish municipalities allocated 95 million euro to Cooperation and Development Education policies, of which more than 10% were allocated to initiatives promoting a critic citizenship, and engaged with social transformation and fight against poverty. Of the amount allocated to Cooperation and Humanitarian Action projects (aprox. 85 millions), 80,78% was orientated towards interventions related with the delivery of basic social services (education and health mainly). This reform entails, as well, the risk of disappearance of a local social fabric participative and active in Development Cooperation, at the same time that opens the door for the privatization of public services.

³⁸⁹ 2010 CONGDE Report on the NGOs assessment and prestige “Así nos ven” (“This is how we are seen”), July 2010. At: <http://es.slideshare.net/HumaniaTv/informe-congde-julio-de-2010-as-nos-ven>

foreign aid despite the domestic economic crisis, since the south was more severely suffering the effects of the crisis, and 15.8% argued for maintaining current levels of ODA.

NGODs and CSOs are seen to participate in policy development cooperation in diverse ways. On one hand, as implementers of development programs through partnerships with government and other development actors and, on the other, by participating in political and consultation spaces where policies are designed and monitored.

Yet, despite strong public support for civil society,³⁹⁰ and the existing legislative framework—one broadly aligned with international commitments on human rights, gender mainstreaming and development effectiveness—reality on the ground for CSOs has been more challenging.

Years of austerity measures on public funding, described by some media as an ‘economic tsunami’,³⁹¹ have exacted a heavy toll on CSOs. A study made by the Instituto Social ESADE published in 2012³⁹² estimated that 20-30% of NGOs have disappeared. According to a survey made by CONGDE,³⁹³ 96% of CSOs of CONGDE have seen their public funding diminish, and almost half of them have been forced to close projects and abandon countries or areas of intervention they experience non-payments.³⁹⁴ There are considerable territorial differences, with Madrid, Catalonia, and Valencia being the most affected communities, as well as sectoral differences, which have negatively impacted CSO projects on human rights and gender equality. Adding to this is a significant loss of influence on the part of CSOs and the gradual loss of space for participation and political dialogue, due to limited action by the Social and Cooperation Councils,³⁹⁵ and many political voices and mass media questioning the need for international aid efforts and civil society. Along such lines, the Basque employer’s association, CONFEBASK,³⁹⁶ has argued for an end to the legal status of some critical trade unions as representatives of civil society deserving of official recognition because, CONFEBASK argues, they act beyond what they consider to be their competencies.³⁹⁷

Nevertheless, CSOs have attempted to work within an increasingly difficult environment by widening alliances and networks of mutual support. For example, CONGDE has joined the recently created Platform for the Third Sector³⁹⁸ whose goal is to defend welfare against austerity measures adopted in response to the financial crisis. We have even witnessed the merging of CSO platforms for cooperation, HR and peace.³⁹⁹

³⁹⁰ *The 83.7% of the people interviewed agreed that the NGOs should continue developing its work.* ³⁹⁰

³⁹¹ *See El Mundo: “La financiación de las ONG en España caerá más de un 30% en los próximos cinco años”, ELMUNDO.es; 24-04-2013. En: <http://Internet.elmundo.es/accesible/elmundo/2013/04/24/solidaridad/1366807019.html>*

³⁹² *Cited in: “ONG: Crisis sin fronteras”, Periódico El País, 14/10/2012. En: http://sociedad.elpais.com/sociedad/2012/10/05/actualidad/1349466112_373825.html*

³⁹³ *They are data gathered in a survey sent to 86 NGODs and 17 Autonomic Coordinators whose data correspond to 2012 and July 2013. This survey shows the critical survival state of the NGODs members of the CONGDE: a 6% considered that its NGOD would disappear or should merge with other in order to not disappear, while 57% of NGODs considered that their activities would continue to diminish even more during 2014, maintaining the application of the adjustment plans and the reduction of staff and offices.*

³⁹⁴ *From the Junta de Andalucía, the Generalitat de Catalunya, the Generalitat Valenciana, and strong cutbacks from the local governments of Madrid, Vitoria-Gasteiz, for pointing out some cases.*

³⁹⁵ *The Development Cooperation Council is a consulting body in which participate representatives of civil society and social agents of cooperation together with representatives from the General State Administration.*

³⁹⁶ *It is the organization representing and defending the interests of the Basque managers. See: <http://Internet.confebask.es/>*

³⁹⁷ *See relevant news in: <http://Internet.deia.com/2014/12/17/opinion/tribuna-abierta/ilegalizar-ela-lab-Internet-confebask>; and <http://Internet.noticiasdegipuzkoa.com/2014/11/27/economia/ela-atribuye-a-confebask-un-golpe-de-estado-Internet-pide-apoyo-sindical-Internet-politico>*

³⁹⁸ *Created in 2012 by Plataforma de ONG de Acción Social (POAS), Plataforma del Voluntariado de España (PVE), Red Europea de Lucha contra la Pobreza Internet la Exclusión Social en el Estado Español (EAPN-ES), Comité Español de Representantes de Personas con Discapacidad (CERMI), Cáritas Española, Cruz Roja Española and la Organización Nacional de Ciegos Españoles. It represents around 29.000 entities in the whole country, of private, voluntary and non-for-profit nature. More info: <http://Internet.plataformatercersector.es/>*

³⁹⁹ *It is the case of Catalonia, where the Federación Catalana de ONG por la Paz, and the Federación Catalana de ONG por los DDHH have merged in a single structure the FCONGD (Federación Catalana de ONGD). See <http://confederacio.org/>*

Other Political Measures Affecting CSOs

It is worth highlighting the tense atmosphere created by policy changes, in the form of legislative measures, which have tended to reduce a number of civil, political and socio-economic rights. This is true in the case of gender equality policies and the attempt to reform the current Reproductive and Sexual Health Law that attacks women’s right to choose, threatening the return of clandestine abortions, as well as the loss of the universal right for health, impacting especially on immigrant populations and the unemployed.

At the European level, the ruling party has notoriously managed to use the ‘One of Us’ campaign, which aims at replacing the European prohibition of using aid for buying arms with the ban on funding CSOs supporting sexual and reproductive health.⁴⁰⁰

There are, in addition, initiatives aimed at reducing the areas of social participation and protest, aimed at criminalising social movements. This includes the Citizen Security Law, commonly known as a gag law, passed thanks to the government’s majority in parliament.⁴⁰¹

This law has been widely contested by other political parties and civil society,⁴⁰² including police trade unions and judiciary associations.⁴⁰³ This law sanctions ‘conducts that constitute an excessive use of the right to reunion and protest’,⁴⁰⁴ which, according to most CSOs, seeks to dissuade social protest and the exercise of democratic participation with heavy fines for participating in demonstrations and even prison sentences.

Conclusions

In summary, (i) Spanish ODA has dropped 70% in barely three years, making it a leader among the big DAC donors in the amount of cutbacks to ODA; (ii) AECID has ended up with an extremely scarce budget of 260 million EUR; (iii) gender and key sectors for women have suffered deep cutbacks; (iv) the amount of refundable or unused aid has increased; (v) the tradition of decentralised, citizen-based development cooperation has been diluted; (vi) Spain has used development cooperation as an instrument of commercialisation and internationalisation of Spanish enterprises through the so-called ‘Spain brand’, and (vii) CSOs have been forced, due to funding constraints, to shut down projects, severely impacting on their constituencies.

We are witnessing, then, the effective dismantlement of a relatively progressive development cooperation policy, as aligned with international commitments, under the excuse of responding to the economic crisis. Changes in Spain’s development cooperation model in favour of one based on the privatisation and internationalisation of Spanish enterprises and its commercial interests has impacted on the quality of aid itself, violating international solidarity engagements and the application of the principles of HR, equity, justice, peace and environment.

⁴⁰⁰ *See article: http://Internet.eldiario.es/sociedad/iniciativa-Oreja-eliminar-desarrollo-promuevan_0_139286820.html*

⁴⁰¹ *The Citizen Security Law was approved in Council of Ministers in November 2013, although with some changes after provoking a general refusal and being, finally, questioned by the very Judicial Power General Council, highest judicial body. During its drafting, the government pretended, among other questions, that the organization of a demonstration or public protest through the Internet should be considered as a “crime of belonging to a criminal organization”, and the active and non violent resistance as an attack on authority. Both cases would be punished with imprisonment sentences from 2 to 4 years and fines up to 600,000 Euro.*

⁴⁰² *Society has organised itself around various “Tides” and collectives: Education (Green Tide), Health (White Tide), Equality (Purple Tide), social policies (Orange Tide). CONGDE participates in the Social Summit integrated by more than a hundred social, professional and cultural organizations, trade unions, and various Tides.*

⁴⁰³ *Association Judges for Democracy. In: <http://Internet.juecesdemocracia.es/>. See article in: http://Internet.cuatro.com/las-mananas-de-cuatro/2014/diciembre/15-12-2014/Bosch-Parece-Gobierno-ciudadano-protesta_2_1908405099.html*

⁴⁰⁴ *Bill of Organic Law of Protection of the Citizen Security. Page 8: http://Internet.icam.es/docs/observatorio/obs_30584.pdf*

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Tunisia

Introduction

Tunisia is in a critical moment in its history, emerging as it has from the ashes of the 2010 revolution known as the revolution of freedom and honour or the Revolution of December 17, 2010. The movement was sparked by solidarity for Muhammad Al-BouAzizi, whose self-immolation was an expression of growing public anger at the country's socio-political situation.

This sparked waves of public protest that began on December 18, 2010, with thousands of Tunisians marching against marginalisation, unemployment and the loss of social protection and the aggravation of corruption in the government.

On the back of significant civilian casualties, protests spread to several Tunisian cities leading eventually to the departure of then president Ben-Ali by January 2011. The protest movement has since led to significant political changes within Tunisia, with repercussions in other countries in the region, in what collectively came to be known as the Arab Spring.

Tunisian civil society has played a major and leading role in the five years following the revolution and today faces major challenges resulting from the nature of the democratic transition. Civil society has contributed to the construction of the rule of law and formal political institutions in a democratic system that can guarantee the rights and freedoms of all citizens. It is facing major challenges in a crisis-ridden democratic transition period that can be seen through distinct phases.

The first phase is that immediately following the departure of Ben-Ali, a period characterised by tensions between the government and civil society, a government formed by two leading opposition parties which soon collapsed in the face of protests at Al-Kasba.

In the second phase, a joint agreement was made on a non-partisan government led by Albaji Kayed Al-Sabsi, a well-known political figure, and was negotiated by the temporary president and another parliamentary head from the time of Ben-Ali. This resulted in the election of a national council aimed at writing a new constitution.

In the third phase, a temporary coalition government was formed that included the three most voted parties (with the most seats in the council), which are the Nahda Movement, the Coalition Party for Work and Freedom, and the Conference Party. This is the first official post-revolution Tunisian government, with the Nahda party as the driving force with the highest number of seats in the council. This period was characterised by significant tensions, not least with regard to political differences between political parties. Nevertheless, the government managed to agree on a joint draft on the Tunisian constitution, which the Second Republic was based upon.

The shifting political environment in Tunis reveals the importance of an effective and successful civil society committed to consolidating a democratic political system.

This leads us to the following questions:

- What role did CSOs play in supporting the shift to democracy? Throughout the democratic transition period, were there efforts to involve civil society more actively in national development?
- To what extent can we say that the Tunisian experience formed a positive relationship between CSOs and the government?

Legal and Organisational Context

Development Cooperation

Achievements

- Current Association Law
- Decree issued on September 24, 2011 (Official Gazette on September 30, 2011)

Changes stemming from the transition period saw more political space granted to organisations involved in the Tunisian revolution, including the Tunisian General Union of Labour, the Democratic Women Association and the Tunisian League for the Defense of Human Rights. In cooperation with active political parties, these contributed to managing the first transitional government that followed the January 2014 revolution, as part of the Higher Authority for the Realisation of the Objectives of the Revolution, Political Reform and Democratic Transition.

This higher authority was in charge of preparing and issuing legal texts relevant to the National Constituent Assembly elections, as well as for managing CSOs, political parties, and the press.

On September 24, 2011, the Higher Authority issued a legal decree for the work of CSOs or associations. Its preparation underwent several rounds of discussion, including a workshop organised in Tunis in June 2011, in cooperation with UNDP and Al Kawakibi Democracy Transition Center, and the International Center for Not-for-Profit Law (ICNL), with the participation of more than 50 representatives of CSOs giving their opinions about the project. The decree was explained and debated upon, ensuring a consensus-based law governing civil society.

The decree simplified the registration process for CSOs in accordance with international standards and principles. Article 21 of the decree stipulates the following: 'Any individual is entitled to the freedom of forming associations with others, including the right to form associations and join them to protect their interest...' It annuls the prerequisite permit system and replaces it with the authorisation or notice system, and also annuls the prerogative of the Minister of Interior.

Associations or CSOs are no longer subject to a period monitoring before official registration. Instead the monitoring is initiated after CSOs are legally formed and this monitoring applies to the actual activities of CSOs. In the event that a CSO violates certain laws, notices are given to the association through the Secretary General of the Government, after which the courts can suspend its activities, issue penalties, or even dissolve the association, but crucially, no penalties would target founders of the association, which remain subject to provisions of the civil and penal codes in the event that they commit violations.⁴⁰⁶

On the other hand, subsequent monitoring cannot lead to obstruction or termination of CSOs' activities, whether directly or indirectly. Rights including the right to access information from government organisations, the right to advocate for political positions and assess the role of government institutions are still protected; the exercise of which cannot be used as grounds for administrative control or for imposing penalties against CSOs. Moreover, members of these associations have legal protection against all kinds of arbitrary measures that public authorities used against activists and members of CSOs⁴⁰⁷ in the past, when they exercised their rights.

⁴⁰⁵ The most significant of which is Article 21 of ICCPR issued under a UN General Assembly decision on December 16, 1966, which was ratified by Tunisia on March 18, 1969.

⁴⁰⁶ Decree 88, Chapter 8, Section 45.

⁴⁰⁷ Decree 88, Chapter 1, Section 5 to 8.

Challenges

Challenges Faced while Writing and Implementing the Decree

Decree no. 88 is considered an emancipatory text, which, despite its limitations, is the most significant with regard to international standards in the field of establishing, operating and financing civil society organisations. Since the law's passage, the Secretary General of the Government has received around 80 applications for the establishment of new associations.⁴⁰⁸ This shows that the decree has had a positive impact as it encouraged the liberation of the CSO sector in Tunisia, and that was the main and first objective of the decree.

However, the implementation of the decree, especially its finance and monitoring-related provisions, require deeper political and social changes. While the decree lifted restrictions on the establishment and operation of CSOs, it also reduced the state's power to monitor the internal operations of associations. It relies on self-monitoring initiatives on the part of CSOs and voluntary provisions on transparency and governance. The law has faced problems in implementation in the context of the political transition period, which is still carving a path toward building a democratic state and in which judicial and administrative monitoring institutions are still unstable.

The references the decree makes to other texts to organise certain issues, such as state funding and state assistance to CSOs, reduced the decree's efficiency and the ability to implement it in reality. These references are considered gaps and obstacles that limit the ability to implement the decree as quickly as required. Moreover, these references do not allow equality among CSOs, especially that the majority of associations in Tunisia are small associations that rely on state funding to be able to organise their activities and do not have enough internal funding.

The implementation of sanctions is gradual, requiring first that the Secretary General of the Government send a notice to the association, then a court must be requested to suspend the CSOs, after which a separate court request is required to dissolve the association. This constitutes a serious obstacle to match sanctions to violations committed by the associations and to ensure that they respect the law. On several occasions, due to multiple violations committed by certain associations that resort to violence in their activities, public authorities considered that the penal system was no longer a competence of the executive power but a prerogative of the judicial power, and that it was no longer able to dissolve associations directly on its own.⁴⁰⁹

CSO Enabling Environment

Achievements

The constitution of 2014 protects rights and liberties and ensures that their core values are respected, as indicated in Section 49. Moreover, it stipulated the necessity to create a constitutional court for the first time in the history of Tunisia, and establish five independent commissions in charge of developing the necessary plans of action to protect democracy. These commissions are relevant to elections, media, human rights, good governance, and sustainable development.

Civil society participated in the activities of the National Constituent Assembly. Several CSOs were given the chance to speak before the assembly's committees to present their political demands in general, and their proposals related to their legal and constitutional situation in particular. The National Constituent Assembly also organised an open day for dialogue with the associations in March 2012, to discuss the positions of the associations regarding the draft of the constitution.

⁴⁰⁸ Imane Abdul Latif, "Research about Associations and Decree 88: Legal Gaps and Financial Violations due to Lack of Auditing and Monitoring," *Al Sabbah* 9/6/2013.

⁴⁰⁹ Hammad Al Jebali, Temporary Prime Minister, "The time when associations could be dissolved through political will has ended," *Al Joumhouriya*, 20/3/2013 *de mecanismos de financiamiento de las ONG en el Cono Sur Internet Brasil. Abril de 2014. 217 pp.*

However, the new Tunisian constitution requires suitable laws to match its provisions and that ensure a state in which rights, liberties, and democratic civil organisations are respected.

By adopting a binding and compulsory regulation, the real revolution is now reflected in the extent to which this constitution is respected, in the issuance of court sanctions in the event of violations and in the significance of having a constitutional court to supervise the work of legislators when issuing laws. It is now also important to adapt laws so that they fulfil the new constitutional requirements, and review current laws to ensure consistency with the constitution.

The Associations Law under the New Constitution of 2014

The relevant departments at the Mehdi Jomaa-led government, in cooperation with other ministries, have started to prepare a draft of a basic law relevant to organising associations to fill the gaps of Decree no. 88 issued in 2011. These gaps were objective and formal in terms of implementing the provisions of the constitution that stipulates that a basic law organising the work of associations should be enacted.

In practice, many problems were encountered in implementing Decree no. 88, especially at the level of forming the CSOs' dossiers, the establishment of a monitoring mechanism and funding issues, in addition to suspicions that certain associations are involved in supporting terrorism.

The law is being drafted through sessions involving the participation of representatives of several ministries, including the Ministries of Interior, Finance, and Sports. It is the first phase in which the provisions of the new law are determined, and participation in its drafting has been expanded to include CSOs and legal experts. There is also coordination between state departments, particularly between the Ministry of Interior, the Ministry of Finance, and the Central Bank, to be able to identify violations that fall under foreign funding of associations.

CSO Development Effectiveness

Achievements

The independence of the judicial power is considered one of the main pillars of democratic transformation and the main condition for the proper implementation of the law and the protection of basic rights and liberties. The Tunisian judicial system witnessed, after the Revolution, major changes with the establishment of an independent judicial power, and the participation of many groups, chiefly, the Tunisian Judges' Association, Tunisian Judges' Syndicate and the Tunisian Monitor for an Independent Justice System. Political discussions have also resulted in a new law organising the work of the higher independent authority monitoring the justice system.

To ensure the respect of liberties, the Court of Appeals in Tunis issued an important decision which states that rights and liberties stated in the previous constitution of 1959 are still in effect despite its annulment by the National Constituent Assembly in December 1, 2012 because the majority of these liberties are stipulated by international conventions ratified by Tunisia and by other relevant international agreements, and because these vested rights and liberties cannot be relinquished in transitional periods preceding the development of permanent institutions.⁴¹⁰

On another note, it is worth mentioning that the administrative justice system in Tunisia examined an appeal submitted by ATIDE regarding the methodology used by NCA to sort out and select candidates for the new electoral commission. The appeal involved procedural violations committed by the Counting Votes Committee. The administrative court decided to accept this appeal and ruled that all procedures adopted by NCA to form the new electoral commission shall be void, based on the lawsuit filed by this CSO.⁴¹¹

⁴¹⁰ *The Appeal Court in Tunis, Decision issued on February 5, 2012 regarding freedom of movement and right to have a passport.*

⁴¹¹ *This decision was issued by the administrative court in Tunis on September 19, 2013.*

As to ensuring the right to peaceful demonstration, it appears that the courts are generally characterised by inconsistent jurisprudence when dealing with committed violations in terms of speed of public prosecution, and in terms of the nature of sanctions which are inconsistent and in many cases inadequate to the committed crimes. This has caused many to doubt the independence of the judicial system and the role of public prosecution and its relation to the Ministry of Justice and the executive power.

The most prominent sign of this contradiction is slow pace in resolving verdicts against activists from civil society, journalists and intellectuals, while at the same time delaying prosecution against people directly involved in violence.⁴¹²

Also, the media and the press have played a significant role in the protection of the right to peaceful demonstration by covering different protests and providing information to citizens about different activities, with respect to freedom of expression and opinion and by following the professional rules of the media. Since the revolution, Tunisia has gradually lifted restrictions on the media despite the retention of certain intimidating measures such as appointments by parties in key positions in the press, the trial of some journalists, and politically motivated imprisonment. Notable too is the passage of decrees 115 and 116, which established an official higher body for the media after some hesitation, due to the pressure of civil society and especially the Journalists' Union the Association of Editors, the 'Tunis branch for the Chapter 19 association' and the Tunis Center for Press Freedom. Investigative media outlets have also appeared and were able to unveil several infractions related to how government forces violated the rights of demonstrators during the revolution and after.

Political Context

Development Cooperation

Critical to effective development cooperation is the existence of open channels for dialogue between civil society and governmental institutions in a manner that retains the political independence of CSOs in the transition process.

Success Stories

The Role of Civil Society in Transitional Justice

The Transitional Justice project was, from the beginning, the result of a joint effort of a committee comprising lawyers, activists and representatives of the Ministry of Human Rights. This committee facilitated a number of consultations in different parts of the country. In the end, this resulted in the creation of the Truth Commission, the Compensation Fund, and the Employees' Qualifications Examination Committee, in addition to legal departments specialising in investigations of alleged violations of human rights and issuing relevant rulings.

In addition to dealing with violations of civil and political rights, this law can address violations related to economic and social rights. These are aspects that make this law of special significance.

Many CSOs had joined the project of the Ministry of Human Rights, as part of their contribution to developing laws relevant to the path of transitional justice; however, after initial efforts were made in research and discussions, they were kept away during the actual drafting of law, which angered many of these parties. At that time, the NCA sought to exclude civil society members, especially those specialised or active in the field of transitional justice, from the work of the committee in charge of examining candidates applying for this commission. The process was conducted in secret. The seats were divided among political parties according to agreements included before the process began. This process clearly lacked transparency, pushing civil

⁴¹² *Pursuant to Article 9-3 of ICCPR: "Anyone arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorised by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release."*

society activists to protest, after which many threatened to boycott the process of establishing the Truth and Dignity Commission. Yet the transitional justice path is a participatory process, requiring all parties to meet and set aside political and partisan disagreements.

CSO Enabling Environment

Civil society contributed effectively to the success of all phases of the electoral process, either through advocacy and monitoring efforts, in order to establish transparency and integrity during elections.

In this regard, the number of partners of the higher independent commission is estimated at 233 associations and organisations from all regions of the Tunisian Republic. These organisations and associations work according to a code of conduct signed with the Elections Independent Higher Authority (EIHA) for transparent and impartial monitoring and for the neutrality and integrity of civil society.

Through outreach, follow up and monitoring, these partner organisations helped organise campaigns to raise awareness throughout the country on the importance of the voting process, and to show them how to participate in the elections.

Their field of work also includes training and hiring observers to monitor elections, to follow up on the vote-counting process and detect violations. They are also in charge of monitoring the performance of EIHA, revealing breaches in its work and observing the extent to which it respects electoral law. Some of these organisations and associations have submitted reports about the flow of the legislative elections, starting from registration to the day of elections. A report by the Ofiya Coalition for Elections Integrity Monitoring mentions that the 'electoral process was overall satisfactory despite a few violations that were recorded but were not enough to doubt the elections results.'

As for ATIDE, it detected in its assessment of the elections of October 26, 2014 a few weaknesses in the legal framework around which the elections were organised. According to ATIDE, these weaknesses require review and reform to improve the electoral legal system to ensure free, democratic, transparent and fair elections.

ATIDE mentions that it managed to mobilise 3,100 volunteers, which undertook the task of observing the elections in Tunisia and abroad.

The Role of CSOs in Monitoring the National Constituent Assembly (NCA)

A number of CSOs, including Al Bawsala Association, have succeeded in observing the daily activities of the NCA from within. They calculate the percentage of attendance and absence of representatives and the percentage of voting within NCA of each representative/deputy, and of each parliamentary group.⁴¹³ Moreover, some specialised committees meetings were open to certain associations when considering bills relevant to transitional justice, EIHA, and examining the new electoral commission membership applications. Other associations such as ATIDE undertook the responsibility of monitoring discrepancy between texts ratified by the NCA plenary session and final texts published in the official gazette. This association was able to prove that there are discrepancies between ratified texts and those published.

CSO Development Effectiveness

As a result of the assassination of NCA deputy Mohammed Al Brahmi on July 25, 2013, many opposition deputies boycotted NCA activities. They demanded its dissolution since they considered it had failed to fulfil its mission and had become a tool of the ruling party. This led to political fallout, with some demanding the termination of the transitional democracy

⁴¹³ Al Bawsala Association issues periodic statistics regarding work inside NCA, and its representatives always attend NCA sessions. [Internet.albawsala.org](http://internet.albawsala.org).

institutions and to look for alternatives, while others defended electoral legitimacy and held to the institutions of power. All evidence seemed to indicate that the Tunisian model was about to fail and fall into the trap of internal fighting like in Egypt. However, civil society institutions including the Tunisian General Union of Labour (the largest Tunisian labour union), the Tunisian Union for Commerce, Industry and Handicrafts, the National Lawyers Union, and the Tunisian League for the Defense of Human Rights launched a national dialogue initiative that put an end to the crisis and re-launched the transitional path.

The initiative committed to maintaining NCA and helping it to achieve its task by providing support through national dialogues. National dialogue sessions succeeded in gathering all political parties and granting them the opportunity to agree on constitutional provisions they had disagreed on within the NCA. The agreements presented to deputies were the result of this dialogue. A number of constitutional provisions were written outside NCA to be accepted by its members. In addition to the national dialogue and agreements, judges, human rights defenders, and members of the press played a significant role in amending constitutional provisions through union protests against provisions that could have led to transforming the constitution into a tool for declaration of principles without any guarantees to protect their implementation.

Challenges

The post-revolution environment in Tunisia is characterised by extreme levels of political polarisation, especially with regard to those with links to the old regime, as well as the resurrection of old divisions along ethnic and religious lines.

These divisions have impacted on CSOs that have generally relied for support either on modernists or secularists on the one hand, and conservatives or Islamists on the other. This has also resulted in convergence between the objectives of CSOs and certain political parties.

This equation took some CSOs away from staking out an independent political path, and government institutions have at times been selective in their treatment of CSOs, banning the activities of some, while supporting others affiliated with members of the ruling party.

These confusions have also had a negative impact on the level of efficiency and usefulness of the majority of organisations especially those working on the political process. Legal texts submitted by several associations and organisations, such as the Tunisian Judges Association, were not taken into consideration during the drafting of the constitution, and all calls and protests made to put pressure on the authorities were ignored.

On the other hand, the participation of civil society in the democratic transition faces significant challenges, namely:

- Some CSOs are not fully prepared to take on the challenges posed by recent political shifts, necessitating more capacity building to enhance civil society's effectiveness in lobbying and advocating for concrete changes in the national development agenda
- Difficulties in securing sustainable sources of financing for CSOs, especially from foreign donors due to competing policy agendas or overly restrictive requirements
- Tunisian CSOs need a clearer sense of their long-term objectives, and achieve full transparency, internal democracy and accountability in all of their engagements

Socio-Economic Context

Since 2010, economic growth has been slow, deteriorating significantly in the period after the revolution. The fiscal deficit grew, investments declined and the youth unemployment rate increased. In 2014, growth stagnated at 2.3% and the major problems in the Financial Directorate and the current account increased compared to the year 2010 to reach -6.4 and -70% of GDP respectively. Better figures are expected in 2015, with the relative stabilisation of the political scene.

Unemployment however remains a major concern; a 15% rate in 2014 is remarkably high, with 22.2% for females and 11.7% for males.

The informal sector has grown in the absence of a strong private sector, and the employment situation has proved especially hard for women. The percentage of women's participation in the work force in Tunisia is less than 25%. The country has witnessed an increase in the poverty rate and rising inequalities between regions, with poverty rates varying between 8-9% in the Middle Eastern Area and Grand Tunisia to 26% and 32% in the northern, western and central western.

The unemployment rate is high among university students, which has led to a growing skills gap. The number of jobs added each year does not exceed 35,000 jobs, whereas the number of graduates entering the labour market annually is 60,000. The number of youth between ages 15 and 29 years stuck between work and studies is also concerning. In addition, the rate of unemployed, uneducated, and untrained youth is high in all areas, but is especially bad in rural areas where rates of insecure labour and unemployment reach 63% among women.

Development Cooperation

Achieving the Millennium Development Goals (MDGs), that is, promoting development and improving the socio-economic conditions of Tunisian citizens depends on the ability to support all individuals and develop their abilities, restructure societies and organisations and support these efforts through progressive policies and enabling institutional environment.

The role of Tunisian civil society in achieving the MDGs had been limited on all levels prior to the revolution, due both to the weakness of Tunisian CSOs and the lack of a developmental vision on a national level. Post-revolution Tunisia seeks to have a wider participation of CSOs at all stages of work on the MDGs and the future Sustainable Development Goals (SDGs).

The results obtained from fighting poverty and achieving socio-economic development over the last few decades in Tunisia proved to be disappointing plans and programs created by the successive Tunisian governments and did not succeed in ending poverty. Moreover, many governmental development experiments failed and development was not sustainable. It is now necessary to develop strategies based on partnership between sectors (the government, the private sector and the civil society), and mobilise all activists in society to work and coordinate to achieve sustainable development and reduce poverty.

The Tax System Reform Program entered its second phase after the diagnosis was made and the weaknesses and flaws of the current system were identified as part of the first phase launched in 2012, with the support of the IMF.

In this regard, a review of the fiscal base was held. It is the culmination of efforts made during two phases of the fiscal reform program. Four hundred participants were gathered, including representatives of the civil society, especially groups involved in the fiscal field, active groups in economic affairs namely the Tunisian Union for Commerce, Industry and Handicrafts, the Tunisian General Union of Labour, the Confederation of Tunisian Citizen Enterprises, in addition to a number of fiscal experts.

Governance

Development Cooperation

For a time after the revolution, CSOs did find themselves in a positive situation where levels of freedom had increased, and the requirements of democratic transition made it necessary for the new ruling authorities to make use of the support and competencies of civil society.

One of the major demands of many CSOs was certainly the importance and implementation of governance in order to rectify the situation and relation of the government and public sector institutions with public money. Moreover, the pressure exerted by these organisations led to the establishment of a new ministry for governance, which was required to deal with a large network of CSOs. Furthermore, this cooperation led to the development of a strategy against corruption and to the establishment of formal institutions of governance. Also, a partnership plan was developed between this ministry and civil society.

The TNOGP⁴¹⁴ coalition is composed of the Tunisian Association of Public Controllers, the Tunisian Association of French Colleges Graduates, the Free Digital Culture Association, the Democracy Laboratory, the I Watch Association, the Organisation for Governance, Integrity, and Citizenship (OGIC), the Open Governance Group, the Open Tunisia Initiative, the Tunisian Institutional Reform, SAWTY Association, the Touensa Organisation and the Tunisian Active Network for Social Accountability (TANSA).

The TNOGP coalition is concerned with all issues that are important to civil society. It has called on all stakeholders to organise in order to identify key issues concerning them, and to shed light on the importance of including active associations and citizens from different regions of the country in these discussions. These processes are intended to yield concrete suggestions that the government can take into consideration. To make things easier, the coalition put forward the idea of an online platform that can provide a common documentation database together with some collaborative tools to assist in the drafting of a pilot action plan.

The outcome of this consultation was the receipt of almost 600 suggestions through different adopted channels such as the public consultations portal, email correspondence, forums and others. This consultation helped in supporting participation of citizens and civil society in determining the elements to be used in the drafting of a pilot action plan.⁴¹⁵

These activities also resulted in creating a national joint committee of the government and the civil society to work on an open governance partnership. In this regard, a national committee was created. It is in charge of proposing an action plan for an open governance partnership and following up on its implementation. The national plan for an open governance partnership is expected to be announced by the end of September 2014.

CSO Enabling Environment

There have been real advances in citizen participation in Tunisia, facilitated by CSOs. A month before the elections, all of the Moursa, ManzelBourqia, Tourz, and Qabes approved citizen-chosen projects. These municipalities allowed their citizens to make the decision independently when it comes to investment projects that go along with the designated budget. Because of the collaborative budgetary mechanism, the citizens decided freely to spend 500,000 dinar in Moursa, 100,000 dinar in ManzelBourqia, 200,000 dinar in Qabes, and 550,000 dinar in Tourz.

The collaborative budgetary mechanism is considered a unique experience that CSOs worked on in collaboration with the German and the European Institute for Democracy, and has been a success in more than one area. Mr QoreshJawhdo, the president of the associative movement

⁴¹⁴ *The Coalition – Tunisian Open Government Partnership*

⁴¹⁵ <http://Internet.article19.org/>

and an international expert in communication and development, announced that the “reform of this mechanism and the continuous work it will contribute to the building of trust between citizens and municipality institutions will also allow the accomplishment of more project chosen by the people. To add to that, it will lead in fixing it in the regular municipality work and encouraging other municipalities into adopting it.” It added that “despite the administrative and geographical difference between the four municipalities, the decision of re-working with this mechanism is a sign that the collaborative budget is not limited to one municipality but it applicable anywhere.”

The Socio-Cultural Context

In general, cultural institutions in Tunisia need to become more open to civil society, while CSOs in turn need to reach out to cultural institutions to have more influence on public opinion.

Relations Between Civil Society and the Media

Relations between the mainstream media and civil society are in need of improvement, perhaps through a cooperation strategy established by both parties.

Despite these hurdles, improvements in media freedom in Tunisia has enabled civil society to build a channel for communication with the broader public through television and radio programs, and also through the participation of important figures of civil society in national dialogues.

The freedom of the press also provided the opportunity for a diverse group of public and private media outlets to become visible to the public. As a result of this diversity, the public sector media outlets were pushed to develop their discourse and open their broadcast time to different political parties and CSOs. Moreover, these liberties made it possible for certain associations to create their own radio stations at the local level, while the electronic media has also expanded in scope and significance. Many CSOs have begun using social media, especially Facebook, to inform people about their activities and goals. One of the most prominent experiences is when the Association of Journalists opened their headquarters to other associations and participated in joint projects with other organisations.

It is worth mentioning that provincial radio stations contributed to creating a communication dynamic within each province among the different components of the local environment.

One of the major challenges remains the ability of media to preserve its political independence. It also remains important to train journalists on civil society issues and problems in the context of major changes in Tunisian society.

Yet it should be pointed out that in the last report of Journalists without Borders for 2013, Tunisia has declined by four places, ranking 138 in the press freedom indicator, annually published by Journalists without Borders.

Relations Between Secular Civil Society and Religious Groups

The relation between CSOs and religious groups remains problematic as some religious groups still doubt the legitimacy of civil society's role in governance. Some of these groups have tried to arouse suspicion against some human and women rights organisations.

On the other hand, many religious groups have been able to create a parallel network to civil society under the pretext that some CSOs are in contradiction to or are even actively against religion. Many of these associations are not independent. They serve ideological radical groups that can even support and protect terrorism.

These difficulties and challenges must not undermine the importance of cooperation and dialogue between religious associations and secular CSOs. This agreement has evolved on certain occasions into active partnerships promoting dialogue and tolerance.

Relations Between the Civil Society and Donors

There is a need for CSOs to redouble their efforts to better take into account national and local realities to better target their constituencies. By contrast, donors tend not to take these issues into consideration and impose on certain organisations their own agenda bound to international priorities that do not match local concerns.

This explains why a great number of CSOs operate in specific fields like women's rights and electoral reform while many other associations suffer from a disproportionate lack of funding as the goals they strive to achieve do not match donor priorities.

This poses a real threat to the efficiency and sustainability of these CSOs, as well as to the independence of national government policy-making.

Conclusions

Civil society is considered one of the major factors for a successful democratic transition. Amid heightened political and partisan tensions in the wake of the Tunisian revolution, CSOs can play the role of mediator to ensure a smooth transition period despite these difficulties.

A summary of the contributions of civil society over the past four years is listed below:

- Abolishing the former law on CSOs and replacing it with a new law was an important first step toward creating an enabling environment for CSOs
- Changes in the new constitution was a major legislative achievement that guarantees basic rights and liberties and promotes the role of civil society in public life
- The presence of civil society organisations in different fields and sectors has grown
- Many important figures of civil society have gained positions in state institutions and policy making processes either as independent figures or by joining political parties
- Successive governments have opened up, in differing degrees, to civil society, and built partnerships with CSOs in various sectors, including in governance and electoral reforms
- A ministry of state for CSOs is presided by an active figure of civil society, Mr Kamel Jendoubi

On the other hand, the participation of civil society in development and democracy face a number of challenges including:

- Many CSOs are not yet prepared to take on strategic developmental policies and plans, and are in need of capacity building through training, leadership building, and research. There is a need for civil society to move from a purely oppositional stance to a position where it can actively shape alternatives for Tunisia's future.
- It is necessary to complete the democratic transition phase to foil all attempts to return to the old regime and threaten liberties under various pretexts.
- Threats to civil society stem not from the lack of enabling legislation, but from weak political will and efforts made to consolidate practices that contradict these same laws.

- Dependence on foreign funding could limit CSO agenda to the priorities of their donors. This requires that CSOs preserve their independence and set their own priorities, programs and objectives based on the needs of their local constituencies.
- CSOs should adopt goals they can fulfil by establishing democracy within their own structures, in addition to achieving full transparency in dealing with budgets, staying away from suspicions and violations of law, and respecting work ethics within their organisations.
- Tunisian CSOs should build stronger networks among themselves, especially in political advocacy initiatives.

Vietnam

Summary

Before major reforms in its political system in 1986, Vietnam had groups or associations that would have stood for today's civil society organisations. Post-reform Vietnam saw the introduction of innovative policies that have created opportunities for more of these organisations to thrive. Charity organisations and local and international community organisations have blossomed in response to emerging social issues. Over the past few years, Vietnam has been grappling with a global environment that, from the economic perspective, has come with its own challenges. This was especially true in 2014, where the country faced a number of socio-economic problems due to a slow global economic recovery and rising inequality among countries after the global recession. These difficulties have limited the development of all kinds of organisations. Despite these difficulties, civil society in Vietnam has pressed for a stronger role in political life, and has managed to influence the formation of state policies in recent years.

It is in this context that Vietnamese CSOs have made their presence more strongly felt to the government. CSOs focus on the rural poor; a number of socio-cultural and economic factors impact significantly on the success of their implementation. The impacts of these projects are discussed at the end of the report, followed by the successes, challenges, and lessons learned. In general, CSOs in Vietnam have grown in number and made significant strides in capacity development. With supportive policies on the part of the Vietnamese Government, assistance from domestic and international donors, and the growth of CSO networks, Vietnamese CSOs will have more opportunities to operate efficiently and effectively. This has brought about considerable impacts on Vietnam's development, especially for rural communities or ethnic minorities. CSO projects have helped address a number of social problems in Vietnamese society, bringing hope and visible benefits to the most vulnerable sectors of society. However, enhancing coordination and strengthening networking among CSOs would establish an even stronger environment for debate among civil society – the exchange of ideas, experiences and development initiatives – to support CSOs in their various fields of work. Besides, with reduction trend of ODA for MICs, CSOs in Vietnam is also facing new challenges and bringing other large opportunities, thus they need to improve their capacity and visibility to catch with these in the near future.

This report provides the overall context in which CSOs have worked in Vietnam over time, and their role vis-a-vis other development actors. It provides an analysis of a specific case study involving SRD, using the following factors: the legal and regulatory framework in Vietnam, its political environment, its governance context, socio-economic context; and socio-cultural context affecting the development of CSOs in Vietnam in general. An analysis of SRD's recent project, Implementing Forest Law Enforcement Governance and Trade (FLEGT): Promoting Good Governance for Forest Sector, outlines the factors shaping its successes as well as challenges faced throughout project implementation. A law detailing the implementation of the Science and Technology Law was applied and its effectiveness will be discussed in the political context together with some information about a network that supports the development of CSOs.

Introduction

Vietnam has made remarkable socio-economic progress at all levels. With rapid market-based development, the country is generating new governance practices, a growing private sector, a more vibrant civil society, with advances in communications and information technology. Poverty rates have fallen dramatically alongside rapid economic growth with Vietnam graduating to lower middle-income country (MIC) status in 2010. Vietnam is implementing the process of industrialisation and modernisation, with the goal of increasing income up to 1,500 USD per capita by 2020, an increase of more than seven times in comparison with that

in 1995. Government has announced hundreds of projects in several sectors including energy, agriculture, health care, society and transportation with the aim of achieving that target. To implement these activities, Vietnam not only needs the assistance from government but also depends much on Official Development Assistance because the development of Vietnam requires a large amount of investment, which is not sufficient if Vietnam just mobilises inbound. ODA becomes an important outsource to meet the requirement about finance for development investment of infrastructure, development of education, health, agriculture, etc.

Political reforms in the 1980s in Vietnam involved establishing non-government organisations as a channel for civil society activity in authoritarian political systems by forming partnerships with domestic NGOs and pursuing 'bottom up' approaches (Thayer, 2008). Vietnamese CSOs have emerged and grown, responding to the country's socio-economic development through a variety of operational approaches and different themes, including charity work, independent research and policy advocacy (Taylor et al., 2012; Taylor, 2012). CSOs play a key role both in representing public concerns to the state and helping government address social and economic problems. Vietnamese CSOs have proven to be highly effective in community development projects and on issues related to women and children, gender equality and HIV/AIDS. Vietnam is continuing industrialisation and urbanisation, which means that issues such as the growing rural-urban gap, market-based employment skills, environmental degradation, labour exploitation and human trafficking will need more attention from both government and civil society (The Asia Foundation, 2010). The majority of NGOs in Vietnam, however, still have a traditional focus on rural development and poverty reduction.

Over the past decades, the number of CSOs has grown rapidly, with around 2,000 registered CSOs across Vietnam in 2010 (Taylor et al., 2012). The small but growing number of Vietnamese CSOs is operating in a challenging environment. They lack a supportive legal framework, stable financial resources and institutional capacity (The Asia Foundation, 2010). There exist five categories of CSOs in Vietnam, including: (1) mass organisations: women's unions, farmer's associations, youth organisations, war veterans' associations and labour organisations; (2) professional associations and umbrella organisations, e.g. Red Cross, VUSTA; (3) voluntary NGOs: charities, research NGOs, consultancy NGOs, health NGOs and educational NGOs; (4) community-based organisations: service and development or livelihood-oriented, faith-based organisations, neighbourhood associations, and recreational groups; and (5) international non-governmental organisations (Norlund, 2007; CSO Roadmap, 2014). They are established according to different and rather complex regulations from Vietnamese government. Particularly, the concept of civil society is still not much used in the Vietnamese political context. Official legal and policy documents generally refer to CSO-type organisations as 'people's organisations.'

However, the term 'CSO' is increasingly being employed by scholars and practitioners, and the state is beginning to open up to its use. These changes are due to increased recognition of the role played by non-profit organisations and broader shifts in party policy, which has gradually accepted the necessity of the sector and its contributions to national development (MSD, 2010). In Vietnam, relations between the state and CSOs have generally been favourable, with the government claiming it is more determined than ever to support the development of CSOs (World Bank, 2007). Progress Report on Aid Effectiveness in Vietnam (2010) mentions that the Aid Effectiveness Agenda in Vietnam in 2010 entered into a new period with the formulation and operation of the Aid Effectiveness Forum (AEF), focusing on the policy dialogue between Vietnamese Government and all stakeholders, including donors, INGOs and CSOs. Formulation of the AEF which focuses on dialogue on aid policy, aid effectiveness linking with development effectiveness, and implementation of the Socio-Economic Development Plan 2011-2015 among all parties, creating new aid partnership mechanism through improving the quality of dialogues and maximisation of contribution in process of developing the ODA Strategic Framework 2011-2015 and providing mechanism and possible support for inclusive participation of all stakeholders in AEF agenda. It is very important to engage the development actors together

to broaden the agenda from aid effectiveness to development effectiveness. Thus, AEF has to work out mechanisms and provide possible assistance to all the AEF stakeholders, especially CSOs, INGOs, and the private sector to contribute to aid effectiveness agenda for sustainable development.

The legal and regulatory framework, political environment, governance context, social-cultural context, and social-economic context under which CSOs work in Vietnam will be illustrated in more details in following parts with a case study of SRD's recent project, Implementing Forest Law Enforcement Governance and Trade (FLEGT): Promoting Good Governance in the Forest Sector. FLEGT has been funded by DFID through Stitching FERN (FERN is an NGO and a Dutch Stitching created in 1995 to keep track of the European Union's involvement in forests and coordinate NGO activities at the European level) and implemented by SRD and VNGO-FLEGT network from 2012-2014. FERN has participated in the development and implementation process of the EU FLEGT Action Plan to control illegal logging. In Vietnam, FERN is involved in networking, researching, and knowledge-sharing with a variety of Vietnamese stakeholders. Specific activities implemented in Vietnam include working with NGOs to complete a report on forest governance to help civil society identify their weaknesses and guide solutions to deal with key issues through a voluntary partnership agreement (VPA). This has supported the development of civil society networks to provide updated information and promote information exchange with our existing partners to keep abreast of recent developments, and support coordination between civil society stakeholders.

Implementing FLEGT: Promoting Good Governance in the Forest Sector

Forests in Vietnam play a critical role in the country's ecological and economic development. Worryingly, forest areas are shrinking at an enormous rate. Many factors have caused the decline in forest area: population growth, changing economic growth bringing changes in consumption and production patterns, inappropriate governance policies, indiscriminate exploitation and relatively low public awareness of environmental problems. In response to this, SRD and VNGO-FLEGT network implemented the project, Implementing FLEGT: Promoting Good Governance in the Forest Sector, under the program of Forests Governance Markets and Climate Programme. The overall goal of the programme is to use legal, institutional, and policy reforms to strengthen forestry management by enhancing community tenure rights and strengthening forest governance in Vietnam. Because forest-dependent communities often do not benefit fully from forest resources or receive a little or no benefit, tight governance of forest is necessary to support them and narrow the rural-urban wealth gap. Benefits from improvements in forest governance can guarantee sustainable livelihoods for local people. The project was conducted to deal with the problem of illegal logging, while the fact that illegal logging is a long-running and pervasive problem, causing enormous damage to forests, local communities, and the economies of producer countries such as Vietnam, by advocacy of CSO networks through dialogues, meeting, etc. This programme is expected to have more potential to succeed as it seeks to address both the direct and more indirect causes of illegal logging, which might include low awareness of environmental issues among local populations and weak governance resulting in corruption and related issues around the lack of transparency and accountability.

The Legal and Regulatory Framework

The legal framework guiding civil society activities in Vietnam consists of individual decrees and laws covering established CSOs, their work, and relations with the state (Kepa, 2011). Sabharwal (2011) indicates that there are five important decrees/laws currently in existence that govern different elements of CSOs in Vietnam, which show clarity of purpose for cooperatives, CBOs, and charities. Norlund et al. (2006) identify that the VNGOs, which have expanded since the mid-1990s, have also called for better legislation. Decree 35, on the establishment of non-profit

science and technology organisations, was the most important step for VNGOs because many groups are registered as science and technology organisations. In 1998, the Party Politburo passed a series of new regulations on the operation of professional organisations. Then in 1999, the prime minister promulgated a new legislation regarding social and charitable funds. The Law on Science and Technology was passed by the National Assembly in 2000, and was particularly important for many development and training VNGOs that register with VUSTA as social and training organisations. Decree No. 81/2002 outlines the legal framework for CSOs working in the social sciences, and promotes work on social science through VUSTA (Kepa, 2011).

However, the most important decision was the prime minister's Decree 88 of 2003 concerning the organisation, operation and management of associations, including the first attempt to define the legal status of local organisations and also aimed to clarify state management (and control) vis-à-vis associations and NGOs. This document is intended to be used as a trial run for the Law on Associations. The draft Law on Association was under renewed debate since 2005 to replace the law from 1957 due to be presented to the National Assembly in 2006 after more than a decade's discussion. The Grassroots Democracy Decree 79 (2003), for instance, institutionalises the participation of local communities/CBOs/organisations of the poor in development activities at the level of the commune, which is seen as an important step in the development of civil society in Vietnam. The Law on Cooperatives recognises cooperatives as voluntary organisations functioning as independent economic entities. The Law on Science and Technology recognises professional associations as independent service organisations, which are often the only option available to most development NGOs.

The government has provided a relatively more hospitable environment for civic engagement. That is the issuance of several legal documents in the process of being drafted, offering new opportunities for CSOs. However, recent changes to the regulatory framework for CSOs have made registering, operating, and implementing projects more difficult (Taylor, 2012). Time-consuming procedures and the realities of patronage politics in Vietnam tend to make it more difficult to set up CSOs in Vietnam. Political advocacy in this context is also found to be limited and fairly difficult to practice. Non-profit organisations do not have to pay tax because philanthropy does not enjoy any kind of tax exemption, however, taxation was also found to be an area that could easily be improved and have a much greater impact on development (Norlund, 2007).

New CSOs in Vietnam are required to register with a relevant government body, a professional or umbrella organisation, a ministry or local government entity (Taylor et al., 2012). In order to establish a new CSO, people might register under various legal categories and with a wide range of professional, scientific and associations, while the scope of permitted activities and the reporting requirements are not particularly clear (Vietnam Report, 2014). Thus, a CSO registers depending both on the CSO approaches and willingness of particular umbrella body/agency to accept the CSO. A unified law on associations has been discussed at various points and levels over the past decades, but has not proceeded. This legal uncertainty is a constraint on the development of Vietnamese CSO.

The geographical distance also plays its role in registration of CSOs. The type of organisation also plays an important determining role: more CSOs in HCMC have been established as clubs or charitable entities, and it is more natural for such organisations to register with provincial-level agencies such as the people's committee, universities, and HCMC-based social and professional associations. Taylor et al. (2012) state many CSOs complained of unclear guidance from officials and longer procedures for unconventional projects or initiatives.

In addition, there is no legislation regulating the operation of social enterprises, and no specific legal status for social enterprises in Vietnam. The choice to follow a certain framework, especially for a social enterprise that is a hybrid between a non-profit and income-generating private

enterprise, creates numerous obstacles in the process of registering and developing a social enterprise. This illustrates the imperfect legal framework for CSOs in Vietnam, with overlapping rules resulting in many problems for individuals or groups who want to establish CSOs in Vietnam. The process of establishing a social organisation requires complex and cumbersome procedures and regulations, surrounding details about the board of founders, a management board, the number of members, capacity of founders, among other requirements. Such requirements are normally difficult for startup social enterprises to meet. More flexible criteria and standards for establishing social enterprises are clearly required.

According to CSO (Roadmap, 2014), the relationship between civil society, the state and the party has also undergone significant changes in the last three decades. DoiMoi and the government's policy of 'socialisation' have enabled a more hospitable environment for citizen's groups. In addition, an urban middle class and the growth in Internet use has facilitated increased access to information and general levels of awareness, which again has impacted the state's previous monopoly on organising civil society as part of the state system. The state has responded to the emergence of CSOs through elaborating a regulatory framework that is complex and based on a system of approval and ongoing state supervision and management.

Actually, most Vietnamese NGOs have registered under the VUSTA, one of the government-organised professional unions that guides and monitors its members' activities. VUSTA is also a key player in development policy discussions with the government, and it aims to become more independent from the government. Through such channels, organisations with good relationships with VUSTA can establish common ground for policy advocacy. However, recent changes to the regulatory framework have made registering, operating, and implementing programs/projects more difficult, especially in the context of an increasing number of CSOs over the past decade. Other organisations not under VUSTA must still follow similar procedures in accordance with the laws and regulations of the Vietnamese Government.

'Centre' is the most common form of social enterprise in the country. Established as a centre, SRD has many advantages in terms of legal procedures to establish, support and access public funding. A centre is often referred to as an active form of NGO, based on the implementation of concrete development projects. SRD is under the supervision of VUSTA, so project implementation is shaped by VUSTA regulations. Even after securing donor support for the FLEGT project, SRD must still complete needed procedures for project permission with headquarter and local parties. All of these steps must obey regulations of current laws, including the provision for the 'management and use [of] non-government aid,' which is detailed in the Presidential Decree 93/2009/ND-CP.

The Political Environment

Shanks et al. (2004) showed that defining characteristic of the political system in Vietnam is the way at which policies and decisions are arrived through a complex process of vertical and horizontal consensus building. Taylor et al. (2012) explained that administrative procedures and the legal environment are key challenges for the development of CSOs in Vietnam. Recent administrative decisions have made the activities of CSOs, particularly science and technology organisations, more complex. Decree 93/2009/N-CP regulates the management and use of foreign non-governmental aid. Prime Ministerial Decision No 97/2009/-TTg defines a list of categories of science and technology organisations that can be established to only to 317 specifically approved topic. Ministry of Science and Technology Circular No 02/2010/TT-BKHCHN provides more detailed guidance on the establishment, registration, and operation of science and technology organisations. These new administrative guidelines emphasise state control on the one hand and the technical role of civil society on the other, leaving little room for CSOs to engage in policy review and advocacy.

While organisations are finding ways to adapt to these recent changes, they have also noted that many state officials have become more reserved and sceptical about civil society, viewing them as competing with or diminishing state power rather than as a collaborative partner in

the country's development process. Vietnamese CSOs cannot publicly discuss subjects that are not explicitly sanctioned (Kepa, 2011). The Vietnamese government appears keen on defining in advance the roles and responsibilities of new forms of civil society. Vietnamese CSOs have participated quite actively in the governance of areas such as land use and management, forest and forest resources, among others, for many years, and their roles have gradually been recognised by both local communities and local authorities at all levels. Many CSO networks are being built to strengthen CSOs' capacity, voice and involvement in national advocacy process.

Taylor et al. (2012) mentioned that the growth in the number of CSOs existing in Vietnam reflects a relatively more hospitable environment provided by the state for civic engagement. The development of a more vibrant civil society sector is a natural outcome of a more open economic system and society, increasingly connected to regional and global trends and information networks. In addition, the government increasingly recognises that the complex nature of the development process requires contributions from many stakeholders, and civil society organisations can play a constructive role in providing feedback to improve the effectiveness of government policies. This relationship between the state and civil society in Vietnam is still very much evolving. The ongoing lack of a clear legal framework for civil society organisations creates an uncertain operating environment and reinforces the importance of personal networks in getting things done rather than a set of transparent procedures applicable to all NGOs. A Law on Associations has been debated in the National Assembly in the past, but was shelved following a number of disagreements over its provisions in the mid-2000s. Thus, enacting such a law would improve the position of CSOs in Vietnam.

Berliner et al. (2013) indicated the lack of civil participation in government; since DoiMoi, internal politics and society in Vietnam have gradually progressed towards greater openness and space for civil participation. For example, the National Assembly is now more able to perform checks and balances on the executive. Yet, greater openness and opportunities for citizens to actively participate in governance is needed. If Vietnam is to achieve its long-term vision of becoming a modern industrialised society, it needs to involve people further in the decision-making processes. Respondents noted that many government officials do not understand the role of civil society, or even the terminology of civil society and NGOs. In particular, local authorities often view NGOs suspiciously, perceiving the term for 'non-governmental' to mean lacking or beyond government control. This reflects a serious information gap that needs to be addressed, and underscores the prevalent view within the government that civil society organisations need to be controlled rather than encouraged.

Given this environment, it is not surprising that establishing close relationships with the authorities at different levels is vital to most organisations' strategies and is a determining factor in the success of their program activities. The majority of CSOs either in Hanoi (78%) or HCMC (76%) emphasise on working with the government as part of their objectives. Respondents were clear on the importance of creating mutual understanding and setting up good relationships with authorities. Many CSOs encounter difficulties when they first reach out to authorities, especially at the local level. However, this tends to improve after a good working relationship is established and mutual understanding is achieved: 72% of organisations in Hanoi and 76% in HCMC stated that they received good support from local authorities (Taylor et al., 2012).

CSO Roadmap (2014) indicates that the government increasingly recognises the positive contribution of civil society to the national development of Vietnam. Service delivery is regarded as the most robust form of CSOs engagement in Vietnam. Support to public service delivery with focus on socio-economic development, poverty reduction, and community development is still regarded as core mandate for many CSOs. While CSOs' engagement in policy and lawmaking process is limited, a number of civil society organisations have established relations with government partners and are gradually engaging more in the policy process.

According to CSOs Roadmap (2014), the Vietnam Partnership Document calls for better CSO participation in the development partnership and includes a commitment to establish a local CSO Resource Centre, to help in building CSO capacity and networks. The Ministry of Planning and

Investment (MPI) is currently working with CSOs to plan the development of the CSO Resource Centre. Besides, in order to avoid a trap of MICs, one of the suggestions in evolving principles and structures that the government of Vietnam's development partnership in coming years should do is applying partnership-based cooperation; bilateral partners have started to move away from traditional and sector-based support towards a new focus on mutually beneficial trading relationships, which involves new assistance modalities based on partnerships among public bodies, academic institutions, NGOs, and private companies in Vietnam and the donor countries, which bring better information flows that Vietnamese institutions might choose the support that best matches their need.

Since the Vietnam-EU VPA/FLEGT negotiation process started in 2010, in part to tackle the problem of imports, a handful of Vietnamese NGOs have joined the process. VNGO-FLEGT was established in 2012; SRD is the leader of the network to support the negotiation process by providing comments to the draft annexes on timber legal definition (LD) and the timber legality assurance system (TLAS). The main objective of the network is to participate and contribute actively and valuably in the process of negotiating and implementing VPA/FLEGT between the Vietnamese government and the European Union (EU). It contributes to the management plan, protection and development of Vietnam's forests, and the promotion of policies allowing local forest-dependent communities to access, use, manage, protect and develop forests equitably and sustainably. VNGO-FLEGT is responsible for: (1) sharing information and experiences on issues related to VPA/FLEGT; (2) supporting member organisations to build capacity related to VPA/FLEGT; (3) coordinating activities related to VPA/FLEGT among member organisations in order to promote efficient operation of the network; (4) reflecting the relevant information from local communities to the department of forestry and the other stakeholders. VPA/FLEGT operates based on the principles of: volunteerism, commitment, equality and democracy, autonomy, transparency and updated information.

Over time, the project has brought many meaningful outputs. The network has provided evidence of a number of shortcomings with regard to the implementation of the law to the Vietnam Administration of Forest (VNFOREST), while assisting the forest governance reform process which is carried out by the government. Simultaneously, issues surrounding implementation of forest protection and development law related to households and communities have been included in a policy brief. This also enhances governance and regulations on the forest sector and increases the potential for better economic and market opportunities for timber producers, wood processors, and exporters. Effective participation in such consultations helps CSOs engage actively in national dialogues on FLEGT/VPA, providing comments on timber LD and TLAS for the negotiation between EU and Vietnam on FLEGT/VPA and convey them to policy makers (e.g. the Vietnamese Negotiation Taskforce, VNFOREST) and the EU Commission in Vietnam. A number of awareness-raising communication activities have been organised.

The Governance Context

CSOs have played a strong role in both policy advocacy and service delivery for the poor, especially in areas where the state has not been as actively involved. Recently, civil society has increased its capacity to channel the views and concerns of their local constituencies to public officials, conduct policy research and advocacy and monitor the government's work. It is not yet clear whether the government will wind back opportunities for CSO participation. The low level of civil society development in Vietnam limits their work on human rights issues, including labour and environmental rights, because the state does not fully recognise the role of CSOs as servants of the public interest. Sidel and Nam (2010) indicated that a review of VUSTA internal governance was carried out, showing clearly governance shortcomings and recommendations in three areas: (1) strategy development; (2) management systems, including various procedures, job descriptions and decision-making processes; and (3) human resources management. It is indicated that CSOs continue to face a challenging environment. CSOs voiced real apprehension surrounding fundraising, staffing and organisational governance (Taylor, 2012).

CSOs have increased their negotiating power vis-a-vis the Vietnamese government, which has

proved itself more open to CSO participation in policy-making. With regard to the forestry issue, the opinions and needs of communities on the legality of timber were successfully conveyed to the VPA negotiation delegation through the efforts of civil society. All of the feedbacks and comments received are partially valuable and appreciated by VNFOREST. It is clear that the inputs from VNGO-FLEGT have been considered at least in part by the government, but with strong recommendations from the EU as a prerequisite for the VPA/FLEGT process. Therefore, WWF Vietnam (2014) indicates that in order to make effective contributions to the VPA/FLEGT process, Vietnamese CSOs need to strengthen their own capacity, e.g. improve their knowledge, skills, tools and organisational arrangements to fulfil their mandates and meet the expectations of key actors so as to be more actively engaged in the VPA/FLEGT implementation process.

The Socio-Cultural Context

Vietnamese CSOs have been successful in intervening on sustainable agriculture and providing livelihoods for ethnic minority communities across Vietnam. CSOs are committed to help poor and vulnerable people adapt to and mitigate the devastating impacts of climate change. On the ground, many CSOs' projects range from livelihood adaptation, disaster preparedness to emergency response capacity. Vietnam is a multicultural country with over 54 different ethnicities with socio-cultural diversity, which has been a challenge for CSOs working with local communities. Community-based CSOs are defined by their commitment to work directly with the local people to bring them full advantages from development projects, and sensitivity to local opinions and perspectives is essential for their effective implementation.

A variety of factors contribute to the successful implementation of any project. CSOs often focus on social issues such as poverty reduction, illiteracy reduction, improvement of livelihoods for rural people, and building capacity for disadvantaged women or children, considering the socio-cultural context as an important factor impacting on the success or failure of a project. Although Vietnamese CSOs work with a variety of cultures and ethnicities, local people are usually open to share, co-operate and provide information to project officers.

Currently, the social enterprise model in Vietnam is a new concept. There is no official recognition from the state. CSOs' approaches to socio-economic issues in Vietnam tend not to be understood clearly by local people, the mainstream media and traditional businesses. This results in cynicism of stakeholders about the nature of civil society organisations. The lack of trust and acceptance of the community create certain barriers for social enterprises when working at the local level, and this has increased time, resource and opportunity costs, limiting the ability to create positive impacts and project sustainability on the ground. CSOs often suffer from lack of cooperation and enthusiasm on the part of local authorities.

Local conditions pose unique challenges to CSOs engaging with local communities. Various geographic constituencies and communes have their own traditional socio-economic and cultural practices. These traditions have made it difficult for CSOs to introduce, for example, new agricultural techniques, with locals often hesitant to risk trying new ways of doing things. An additional difficulty impacting on local acceptance of CSOs is that implemented projects often take a long time for concrete benefits to accrue to communities. Moreover, human resources among CSOs are very limited. This affects the result and progress of projects. Furthermore, there is a need to better link local agricultural producers to broader markets in a manner that benefits locals. There is a tendency for private enterprises to take advantage of their position to gain the highest possible revenues, at times at the expense of local communities. On the other hand, local residents, in some cases, do not want to follow the project until the end. It is critical in this regard for CSOs to be more sensitive to local traditions and socio-economic conditions to ensure smooth project implementation.

The Socio-Economic Context

With the trend of reducing ODA for poverty reduction and phasing out of traditional donors, Vietnam has also entered into a new challenging phase in its national development and its development cooperation. ODA flows decrease and become less concessional in nature

because of reduction in aids for its poverty-focused programme in the country. ODA will decline gradually in the coming years and fall away more rapidly.

Glennie (2011) finds that for some years, there has been pressure on donors, particularly the EC institutions, to increase the proportion of aid going to low developing countries (LDCs) and low income countries (LICs). To do that, EC must reduce aid to MICs because some argue that aid should be focused on poverty reduction in the poorest countries. Therefore, many donors have reduced its aid to MICs, including Japan, Canada, the Netherlands, the UK, Norway and the US, and DFID. A number of bilateral donors have already stopped their bilateral programmes for Vietnam, such as the Netherlands that stopped bilateral support in 2012, Sweden in 2013, Denmark in 2015 and DFID in 2016, which will have a substantial impact in some sectors/ areas. It will be partly offset by an increase in non-concessional lending from the multilateral development banks, which may cause a loss in support for the social sectors (Vietnam Report, 2014). Besides, high speed growth and an unstable environment for development in Vietnam are also creating new challenges, straining state capacity and existing policy-making frameworks. Absolute poverty still exists in Vietnam in both urban and rural areas, especially concentrating strongly among ethnic minorities. Additionally, inequality is on the rise and that represents a potential threat to Vietnam's socio-economic stability and sustainable growth.

CSOs in Vietnam, thus, are gradually facing with shortage of fund for their activities, especially for communal-based activities. CSO Roadmap (2014) indicates that ODA has been an important financial provider of funding to CSOs development. The current concern among CSOs is the shrinking funding opportunities and the expected decrease in grant ODA to Vietnam. According to Berliner et al. (2013), international donors are changing the nature and traditional strategies of their aid/cooperation programmes for Vietnam and MIC due to its economic success. Instead of focusing on social provision or basic agricultural development, donors are switching their attention to issues of greater relevance to lower MICs about good governance, skills development, and labour market strengthening. Thus, CSOs also need to improve their capacity to catch this trend and have to seek ways to diversify their financial sources and explore other sources such as private and corporate social responsibility. This requires CSOs to improve not only capacity, but also visibility and/or credibility towards enterprises and corporations, the government and the public in general.

Besides, many of Vietnam's development partners fund local CSOs, either directly or via INGOs, but much of it is uncoordinated and short-term in project funding. There is a risk that some CSOs may struggle to continue their work when many bilateral donors prepare to withdraw their fund resources. According to Taylor (2012), CSOs in Vietnam remain highly dependent on foreign donor and most struggle to access sufficient public or private funding to support their activities. Thus, funding cuts would lead to serious problems for most of Vietnamese CSOs. Taylor et al. (2012) find that many CSOs have suffered a series of funding crises in recent and in coming years. Limited and unstable budgets have undermined CSOs' abilities to carry out their activities, develop coherent long-term plans and retain staff, causing downsizing and office relocation.

According to Taylor (2012), international donors have been crucial in supporting Vietnamese NGOs through technical and financial assistance. CSOs supported by international funds have recognised many positive impacts from these funding sources, especially through technical support and organisational capacity building. However, there are no clear mechanisms for engagement between CSOs in Vietnam and donors. Support between INGOs and domestic VNGOs, on the other hand, revolves around financing, knowledge building and technology exchange, especially with regard to improve service provision by CSOs in health care and education. International aid has also strengthened partnerships between VNGOs and INGOs, contributing to the strengthening of friendship and cooperation between Vietnamese citizens and citizens from all over the world.

Berliner et al. (2013) indicated that Vietnam has invested substantial resources into growth and poverty reduction, while there is no attention in the capacity to generate obvious evidence on

the impact of its interventions and using this evidence to advocate policy making for the past decades. Thus, Vietnam has a great demanding requirement to improve the targeting of its policy interventions and its public investments and to draw on wider sources of information and feedback from the community in addressing social and economic challenges and advocating changes. Kerkvliet et al. (2008) also indicated that CSO-state engagement is modest at the national level, especially regarding policy-making, channelling citizens' views and holding authorities' accountability. CSO-state engagement is more substantial at sub-national levels, especially regarding conveying local residents concerns, providing services, and monitoring authorities' behaviour than on policy. The CSOs involved are usually mass organisations in the extent of national level engagements influencing policy outcomes. The weakness of civil society in Vietnam is its modest impact on public policy issues such as human rights, social policy, and national budgeting, and on holding the state and private sector accountability. Civil society has had the most significant impact on increasing citizen awareness through informing and educating communal people, empowering women and supporting development of sustainable livelihoods.

According to Norlund et al. (2006), one of the genuinely important factors of the developments and changes that have taken place in Vietnam over the last decades is high growth rate, which accompanied reforms made towards a market economy and which has lifted a large part of the population out of severe poverty. This is also an important factor behind the considerable level of popular support for the present government. Vietnam's socio-economic situation is characterised by stability with high growth beginning from a low level of development. The main problems that the country is facing are the still widespread poverty, increasing inequality, and some internal conflicts. The social and economic conditions somewhat limit the effective functioning of civil society. Many poor farmers tend to be more interested in the daily livelihood than in political and civic rights.

Over the past few decades, steps have been taken by the government to accommodate the voices of small organisations and groups, expressing constructive criticism to government policies at the local and national levels. CSOs as service providers have helped improve the quality of public services, especially in terms of reaching people at the grassroots level more effectively, compared to their government counterparts (Nhien, 2012). CSOs have been actively involved in development programmes by both cooperating and assisting in the implementation of the state's policies or programmes. A number of organisations have tried to bring people together around common social concerns to interact with the state in constructive ways, conveying their concerns toward authorities and suggesting state agencies to improve existing policies and point out weaknesses in their implementation.

Although Vietnam has made significant progress economically, it is still a new and developing country with low average income. Indeed, economic growth has come alongside a number of emerging social and environmental problems. About 24 million people (28% of the population) need assistance and support for a better life, including the poor and near-poor, people with disabilities, ex-convicts, HIV/AIDS patients, and the elderly. At the same time, there is a need to address social issues like crime and social violence, improving lifestyles, addressing the challenges of rapid urbanisation, food hygiene, waste disposal, pollution, and preserving cultural integrity. Clearly, it is time for the government to consider social enterprises as partners to share the development burden, and assist the government in meeting its development objectives. It is necessary to enact legislation to create a legal and institutional framework to support the growth of social enterprises.

The key for successful civil society participation in Vietnam will be for the appropriate parties to communicate externally on how civil society has functioned in in the country. Since then, they know how to communicate with the Vietnamese government to maximise existing legal environment and social structures, and to clarify the functions and responsibilities of non-state actors in a positive way to improve and inform the process. Visible impacts from this project include improving the livelihood of forest dependent communities and gaining the respect for the rights of these communities on the part of local authorities. Improved forest governance has contributed to the protection of forest areas, a notable reduction in the number of illegal

foresters, reduction of deforestation and degradation, better transparency and accountability in government procedures and policies, and support for local livelihoods. CSOs and local communities alike have come to engage more actively and constructively with the government.

General Successes and Achievements

CSOs have strong economic and social impacts to Vietnam, which bring not only an active workforce, but also increasingly engage in health, culture, education, recreation, research, consultancy and comment on policies, social services, community development, and other activities relating to evaluation and monitoring, etc. CSOs in Vietnam also help fill the gaps and assure that missing public goods are provided where there is lack of government resource or failure of market and delivering public goods and services more efficiently. Besides, CSOs also help to ensure the transparency and accountability. Vietnamese CSOs have developed a mode of advocacy, including soft advocacy, for example, through non-confrontational policy advocacy vis-a-vis the authorities on social issues and climate change either through a series of CSO networks or together with VUSTA. CSOs build diversified network and involve in different forums and dialogues in different levels, which bring voice and input from CSOs from communal to national and international dialogues. Besides, climate change is a prominent advocacy issue in Vietnam. There are two CSO networks working actively on climate change: the NGO Climate Change Working Group (CCWG), which is a forum for both Vietnamese and international CSOs, and the Vietnamese NGOs' Climate Change Network (VNGO&CC), which is for local CSOs and their partners. VNGO-FLEGT is another network advocating efficiency for improved forest governance in Vietnam.

An example of achievements of the VNGO-FLEGT network: (1) In 2013, the network introduced a full report on the Review of the Forest Development and Protection Law in three provinces, which contributed inputs and presented evidence of pitfalls in the implementation of the law to the Vietnam Administration of Forest (VNFOREST) and therefore assisted the forest governance reform process by the Vietnamese Government; and (2) The Vietnamese Government has proven more open to CSOs, and the opinion and needs of communities concerning the legality of timber was conveyed to the VPA negotiation delegation. Specifically, the network gave comments on the draft versions of the LD and the TLAS to VNFOREST.

Opportunities

Strengthening citizens' voices: more space will be needed to ensure that citizens' views and experiences are heard and can be reflected in public plans, policies and Vietnam's regulatory framework so as to improve their efficiency and relevance, and address local needs more effectively. Citizens' involvement in policy-making and monitoring would also directly contribute to addressing inequalities and corruption issues. Free media and free Internet, for example, would provide huge benefits to succeed in a new knowledge-based economy and to meet the challenges that come with a modernised and young society such as Vietnam.

According to CSOs Roadmap (2014), the Vietnam Partnership Document calls for better CSO participation in the development partnership and includes a commitment to establish a local CSO Resource Centre, to help in building CSO capacity and networks. Ministry of Planning and Investment (MPI) is currently working with CSOs to plan the development of the CSO Resource Centre.

Besides, in order to avoid a trap of MICs, one of the suggestions in evolving principles and structures that the government of Vietnam's development partnership in coming years should do is applying partnership-based cooperation: bilateral partners have started to move away from traditional and sector-based support towards a new focus on mutually beneficial trading relationships that involves new assistance modalities based on partnerships among public bodies, academic institutions, NGOs and private companies in Vietnam and the donor countries, which bring better information flows that Vietnamese institutions might choose the support that best matches their need.

CSO opportunities from EU's priorities (CSOs Roadmap, 2014):

- Promote an improved enabling environment for civil society organisations in Vietnam: the EU will support dialogue between the government, civil society actors, the private sector, and the general public to build trust and understanding of the positive contribution of civil society in Vietnam's development.
- Promote a meaningful and structured participation of CSOs in domestic policies: the EU will ensure that in new bilateral and thematic programmes and sector interventions, CSOs are mainstreamed so as to ensure their participation as partners in delivering services and in policy-making. The EU will continue to support CSOs to meaningfully engage with the government at national and provincial level in providing policy recommendations, in monitoring policy implementation as well as to establish networks/coalitions for enhanced policy impact.
- Strengthening CSOs' capacity to perform their roles more effectively: capacity building for civil society is critical, given the current enabling environment and actual operations of CSOs. The EU will support CSOs across a broad range of areas related to internal governance, sustainability and registration, capacities for improved service delivery to the most vulnerable and marginalised groups of society, capacities for advocacy and policy engagement, as well as capacities for increased integration in regional and international CSO networks.
- Ensuring EU political support to CSOs: the EU will support all types of civil society organisations to enhance their engagement in policy-making process and to increase their representation and contribution in high-level forums and dialogues.
- An example of opportunities deriving from building the VNGO-FLEGT network: (1) VNFOREST's plan to revise the law on forest protection and development; (2) VNFOREST's national stakeholder consultation workshop in 2014; (3) new donors supporting FLEGT through new funding; (4) VNFOREST calling on the network to comment on Annex 8 – Public Disclosure of Information; (5) The existence of other funding resources for FGMC. Some network member organisations also received funding for FLEGT programmes such as FSMI, CRD, CED, among others.

Challenges

- CSOs in Vietnam have also faced a number of challenges in their development:
- Making a good legal framework for CSOs is a long-lasting, continuing and repeating process that needs lots of effort, contribution and participation of relevant stakeholders and cross-sector.
- Lack of capacity of most CSOs to meet the requirement of changing trend, especially with new priority focus areas because members of the networks have varying degrees of expertise. CSOs need to improve their capacity and staff;
- Lack of sustainable fund resources for CSOs, especially for poverty reduction and healthcare sectors, key areas of many CSOs, because they are reduced from ODA, when Vietnam is MIC;
- Lack of strong consensus in all CSOs networks. While there are many networks, members in networks might disagree on key issues;
- Governmental organisations in general have tried to control the voice of CSOs and this has created divisions within CSOs networks;
- Difficulty in accessing information and secondary data, especially in new topics and subjects

Lessons Learned

The network of CSOs must have a clearer strategy and plan of action to meet its specific objectives, along with a monitoring system to improve the operational effectiveness of the network. Moreover, it is necessary for all Vietnamese CSOs to build their capacity to participate in meetings, forums, workshops and programmes at various levels, especially in national and international levels. There is a need to build up information channels, engage CSOs in CSO networks and international forums. At the same time, improving management, leadership skills

and information sharing is necessary to enable effective participation of board members, staff, and volunteers in CSO activities.

CSOs need to enhance their skills to design and develop appropriate capacity building, assessment and development plans and improve their knowledge in planning and managing organisational processes. Transparency and accountability are key focus areas that are extremely important to CSOs. Training or workshops on these topics will help CSOs recognise and improve transparency and accountability within their own organisations.

Evidence shows that progress is more sustainable when all stakeholders are involved in dialogue and debates around development. It is crucial to establish and support networks of well-informed and effective civil society actors, capable of meaningfully interacting with the government and the forestry industry in defining policies and subsequently implementing forest governance reforms. Lessons learned from VNGO-FLEGT network should be communicated to those involved in national REDD and other forest-related policies to ensure these processes strengthen rather than undermine each other.

Conclusions

New and emerging social problems require the careful consideration of development actors at all levels. The emergence of social enterprises, beyond the private sector and state-owned enterprises, has contributed greatly to resolving such issues. Despite many difficulties, Vietnamese CSOs have been proven successful and will be crucial. The legal, political, governance, socio-economic and socio-cultural contexts in Vietnam either enable or constrain the development of CSOs. In this light, the government of Vietnam is going to pay particular attention to engaging people in CSO activities and should consider building a more complete policy package for instructing and assisting the operation of CSOs. Mechanisms and policies need to be developed to create a stable legal framework for the operation of CSOs in Vietnam, creating favourable conditions for social initiatives to be easily implemented in practice, while enabling and promoting the development of strong social entrepreneurship in Vietnam. CSOs, for their part, must ensure that they meet the standards and mandates they set for themselves.

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Zimbabwe

Summary

The country report for Zimbabwe traces the development effectiveness discourse from 1980, when Zimbabwe gained its independence, leading to present-day Zimbabwe, as the country's experiences are embedded in its socio-economic and political context. While not a signatory to either the Paris Declaration or Busan Partnership, the country has closely followed these developments, participating in crucial meetings and engaging local non-state actors in the process, including CSOs and members of parliament. In the past two decades, Zimbabwe has been characterised by a number of difficult economic problems, including infrastructure and regulatory deficiencies, international economic sanctions, policy uncertainty, a large external debt burden, political tension, and high unemployment levels. For this reason, both donors and investors played a 'wait-and-see' approach, especially in the run up to 2008 and 2013 elections.

Despite the onerous political, legislative and socio-economic context, it has been embedded in the past few years that civil society in Zimbabwe is robust and diverse, particularly when compared to other countries in the Southern African region. Around 993 CSOs are presently registered as private voluntary organisations (PVOs) in Zimbabwe. They comprise a diverse community ranging from humanitarian charities and community-based organisations, to developmental NGOs complementing government in service delivery, and governance-oriented civic associations. Their mandate encompasses critical watchdog functions in the democratic governance arena such as election monitoring, political violence monitoring, corruption monitoring, debt monitoring and tracking public opinion. The CSO sector in Zimbabwe, however, is not operating in a fully conducive political and socio-economic environment. Zimbabwean CSOs are subjected to a whole spectrum of repressive legislation, executive action, administration, police procedure, extra-legal dispute resolution and case law, limiting their full engagement and participation on development effectiveness.

The report provides insights into progress made within the country from 1980 to the lapse of the Government of National Unity (GNU) in 2013 and the emergence of the ruling ZANU PF-led government, and explores various CSO interventions that have strengthened the discourse on development effectiveness.

Background and Introduction

Vietnam The Busan Partnership for Effective Development Cooperation (BPEDC) – 2011 shifted the discussion from 'aid' to 'development' effectiveness, opening new opportunities for CSO engagement and alternative development paradigms. It was a culmination of the processes steered from the Monterrey Consensus, Accra Agenda for Action and the Paris Declaration. The BPEDC set principles that were accepted by all those involved in development cooperation, from donor and recipient country governments to providers of south-south cooperation, international organisations, civil society, parliamentarians and the local government. These were:

- Ownership of development priorities by developing countries
- A focus on results
- Partnerships for development
- Transparency and shared responsibility

Amidst a challenging domestic and international environment, the Zimbabwean government has faced numerous challenges in implementing the country's development agenda. The official discourse on aid is embedded in the socio-economic and political history of the country that has triggered key events over the years. This began in the 1990s, following the Land Reform Program, the rise of the opposition party Movement for Democratic Change (MDC), the gradual collapse of the economy due to reduced agricultural activity and compensation payouts to war veterans and increasing isolation by the international community.

The economic crisis was instrumental in fomenting political agitation that led to the emergence of a contested national political space with civil society organisations leading the national clamour to expand the constitutional space to protect and defend the social, economic and political liberties and rights of the citizenry. These increased demands for democratic space and reforms in Zimbabwe and led the state to target CSOs through legislative and administrative interference, through a number of regulatory initiatives which are still in force today. The relations between government and CSOs have remained problematic over the years.

The Zimbabwean government was accused of violating human rights, perpetuating political violence and being corrupt in the years since the turn of the millennium. Simultaneously, relations with the West soured. Western countries partnered in efforts to mount pressure on Zimbabwe to improve the political, human rights and governance state within the country. The United States promulgated the punitive Zimbabwe Democracy and Economic Recovery Act (ZIDERA) in 2001 to curtail development aid and impose sanctions against the country. Western donor nations and organisations similarly halted economic aid and investment in Zimbabwe. In October 2000, for example, the World Bank announced that it would extend no more loans to Zimbabwe. Similarly, in 2002 the EU imposed restrictive measures on Zimbabwe through targeted sanctions, travel bans and arms embargo under Article 96 of the Cotonou Agreement. The country was not able to access capital in the form of direct overseas development assistance, foreign direct investment or cheap international credit, which deepened crisis. Confronted with these numerous challenges, Zimbabwe adopted the Look East Policy (LEP) by focusing on China, indigenisation and black empowerment policies. China, guided by pragmatic realism, embraced the LEP, stepping in to fill the gap left by the West.

The Government of National Unity (GNU) era improved the stalled international relations with the West within the country, in pursuit of fulfilling the Global Political Agreement (GPA) commitments, by improving government CSO relations and promoting dialogue on development. The impact of these processes is succinctly highlighted in the re-engagement by the European Union of the Zimbabwe government, which noted progress made in the country. This has seen other European countries re-engaging the government, opening new lines of development aid. It is important to note that aid in Zimbabwe is being channelled through UN agencies and local NGOs. This has worsened the strained relations between CSOs and the government, with the government increasingly targeting CSOs, citing that the CSOs are receiving funding from Western countries to facilitate an agenda of regime change.

Zimbabwe is in a period of transition politically and economically, and this has impacted on its international engagements since the ruling party (ZANU-PF) assumed office following the 2013 Harmonised Elections. Zimbabwe's transition is uncertain both in terms of process and outcome. There are institutional factors that could promote positive change, while others militate against it. The central challenge for civil society working on development effectiveness is to influence the process of democratisation and keep the process on track, while blocking anti-transition efforts that seek to drive the process towards political and economic instability. Civil society's key challenge therefore is threefold: to fight government authoritarianism, to maintain autonomous existence, free from running programs designed for them by the international donor community, and to avoid being appendages of opposition politics.

Zimbabwe remains a fragile country, with the economy's external debt hovering at 146% of its GDP, up from 93% in 2007. With the elections having been sorted out, the country is expected to begin stabilising. However, issues of equity and illicit flows of Zimbabwe's resources remain serious. In terms of debt servicing, Zimbabwe is only able to service 9.15% of its GDP, down from 11.6% in 2007. Zimbabwe's per capita GDP has gone down from 695 USD in 2011 to 659 USD in 2012, representing a negative growth of -3%. Zimbabwe has a GDP of 8527 million USD, down from 8865 million USD in 2011. The country's external debt burden grew to an estimated 10.7 billion USD, a figure which needs to be confirmed by the government as different offices of the same government provide different figures.

The advent of the new constitution sets a window of hope in strengthening the development effectiveness agenda within the country as the constitution promotes civic participation, guarantees the freedom of assembly and association, promotes human rights and fosters good governance. These are critical for CSOs' engagement, participation, and development work. Since the tenure of its office in 2013, the government has made efforts to engage with CSOs, as well as the international community. For instance, Zimbabwean CSOs were consulted in the process of the preparation of the Zimbabwe Agenda for Sustainable Socio-Economic Transformation (ZimAsset) in the last quarter of 2013. The European Union has led a national and sector-wide process, dubbed the EU Country Roadmap for Engagement with Civil Society, following its decision to re-engage with Zimbabwe. It brought together government, CSOs, representatives of the international donor community, the private sector and marginalised groups. African Forum and Network on Debt and Development (AFRODAD) notes that, 'Zimbabwe represents a unique opportunity for aid to demonstrate development impact since the country is faced with a major liquidity/credit constraint. This is the point in time when aid, if directed to national priorities in the productive sectors of the economy (energy, infrastructure, agriculture), will demonstrate its strength in filling Zimbabwe's financing gap and, as such, finance investments rather than consumption.'

The Legal and Regulatory Framework

Civil society organisations, including foreign ones in Zimbabwe, are governed by the Private Voluntary Organisations Act [Chapter 17:05] (PVOs Act). The Minister of Public Service, Labour and Social Services administers the PVO Act for the registration and de-registration of PVOs. CSOs can also be registered as trusts in terms of the Deeds Registries Act [Chapter 20:05], which allows the Registrar of Deeds to register notarial deeds in donation or in trust. Trusts are dealt with by the Department of Deeds, Companies and Intellectual Property, which is administered by the Ministry of Justice and Legal Affairs. Trusts typically have unlimited objectives, which are often intended to benefit an identifiable constituency. Organisations can also operate as unregistered voluntary associations or organisations, known as Universitas, in terms of the common law. These entities have members, a constitution and activities that are entirely for the benefit of their members. Such an entity is excluded from registering under the PVO Act. Currently, CSOs are advocating for a self-regulating mechanism that will allow NGOs to execute their duties effectively without overregulation. The self-regulating mechanism is being coordinated by the National Association of Non-Governmental Organisations (NANGO).

In addition to the legal restrictions set up by the PVO Act through the Unlawful Organisations Act (Chapter 11: 13), the president can declare an organisation to be unlawful 'in the interests of defence, public safety, or public order.' This allows for interference with the running of an organisation. The crackdown on Casals Associates Zimbabwe (CAZ), a USAID-linked organisation, followed accusations of CAZ planning a political campaign to destabilise Zimbabwe through funding of local CSOs.

The Public Order and Security Act (POSA) and Access to Information and Protection of Privacy Act (AIPPA), both enacted in 2002, further limit the operating environment for CSOs. In particular, the Public Order and Security Act (POSA) confer on the police several powers that might be used to undermine civil liberty and the collective right of citizens to assemble and organise. Moreover, in 2004, there were attempts at legal reforms by the government through the elaboration of an NGO bill whose official purpose was to provide for 'an enabling environment for the operations, monitoring and regulation of all non-governmental organisations.' The bill, which was enacted by parliament but never approved by the president, was strongly opposed by civil society organisations in the country for potentially violating the right to freedom of association. If in force, it would significantly extend government control over organisations provided for in the PVO Act.

Within the framework of the Accra Agenda for Action, CSOs and other non-state actors (NSAs) have an active role to play to support country development; they should therefore be part of country capacity development (CD) processes, both as recipients as well as providers of CD

support. While acknowledging that other non-state actors (e.g. political parties, local authorities, research institutes, media and the private sector) also have crucial roles to play, partner country CSOs have a full range of roles as development actors and change agents, which include, but are not limited to, the delivery of basic services, support to local development, policy influencing in support of participatory and democratic governance, and the promotion of demand-driven accountability mechanisms. In each of these roles, CSOs also play a key function in providing CD support—explicitly, through formally established CD support programmes or components in ongoing interventions, and more informally, through development-related CSO interventions at the local level that implicitly contribute to develop the capacities of targeted communities as well as of CSOs themselves.

The new constitution of Zimbabwe, which was adopted in May 2013, contains a number of new provisions that could potentially enlarge the operational space for civil society in the country given the necessary political will. These include respect for the rule of law and fundamental rights and freedom. Moreover, there is a duty by the state to respect the rights set out by the constitution. It includes the duty to respect, promote, protect and fulfil the rights and freedom as they are set out in the declaration. According to Amnesty International, there is a lack of political will in the process to amend and repeal unconstitutional laws, with the government continuing to use old laws that are repressive. The judiciary fared better than the parliament and other state actors in the promotion of the Istanbul and Busan Principles, offering a new dispensation on the promotion of economic, socio-cultural rights and CSO interventions between 2013 and 2014. A number of landmark judgments were delivered by the courts, covering a number of rights that include the right to water, the right to education, and freedom of expression and of the press with particular reference to criminal defamation. Zimbabwe is a signatory to several international human rights instruments, conventions and treaties, such as the Universal Declaration for Human Rights, and CEDAW among others, though there is less effort by government to ratify some critical instruments such as Convention against Torture, among others.

NAYO has been holding several dialogues through its clusters in partnership with institutions such as Zimbabwe Economic Society, Transparency International Zimbabwe, the World Bank Country Office and NANGO. These dialogues focused on various thematic areas of development, with young people playing a critical role in feeding into the processes. The Know Your Rights Campaign, which began in 2011, has proved instrumental in raising awareness on the rights of youth and members of marginalised communities. It has strengthened civic and political rights, economic and socio-cultural rights and the reporting mechanisms within NAYO to partner organisations within civil society such as Zimbabwe lawyers for Human Rights (ZLHR) and NANGO.

Political Environment

In Zimbabwe, CSO interventions and foreign aid are often seen through highly politicised and partisan lenses. The relationship between most aid agencies and the government has been very volatile, with aid agencies criticised for meddling in local politics and being drivers of the regime change agenda. In this vein, aid agencies have been viewed by the state as largely representing the interests of their donor countries rather than being genuinely philanthropic and are treated with suspicion. It is against such a background that in 2002, the government suspended operations of several aid agencies. Since then, relations between the international aid community and the government of Zimbabwe have been characterised by mistrust. It has been observed that there is a general misconception about aid in Zimbabwe, where most politicians see aid as an end in itself rather than a means to an end, with the end being poverty alleviation and socio-economic development. To this end, Official Development Assistance (ODA) in Zimbabwe is fraught with lack of transparency, making it highly vulnerable to corruption by politicians who use it for their own vested interests, like gaining political mileage at the expense of national development interests.

With the advent of the GNU brought to an end, the ruling party has assumed government and in the past year, has been faced with internal factionalism that has seen a series of events which threaten development effectiveness and international relations. For instance, parliamentarians who received support in their communities for development projects from the American Embassy under the Ambassador's Special Grants Program are being fingered as sell-outs and part of a complex conspiracy for regime change. Political violence has since resurfaced. With corruption scandals besetting the ruling party, allegations abound of the involvement of Western countries in a supposed plot to assassinate the president while removing individuals that were seen as conservative and moderate. While the government had developed a soft approach in its first year, the same cannot be said for the coming years. The political in-fighting has further divided an already polarised country and CSO engagements with the government at national and local levels are increasingly seen and labelled as tantamount to implementing Western interests. In addition, this could create an impasse on CSO engagements with the parliament, which is mostly dominated by the ruling party, a crucial actor in aid processes as noted in in-country consultations. Political temperatures are high across the country, which could lead to various possible scenarios.

Interventions under NAYO over the past few years include:

- Engagement with Parliamentary Portfolio Committees - To foster effective development, NAYO has been engaged with parliament to feedback on its youth development work, and at the same time lobby for effective approaches that sprung development in Zimbabwe.

The Governance Context

There is no formal platform that brings CSOs, government and other aid players together to discuss development effectiveness in Zimbabwe despite the existence of an Aid Coordination Policy (ACP). During the GNU era, government made important strides in creating and fostering dialogue between the government, donor community and key development actors within civil society. The Zimbabwean Government launched the ACP in 2009 to provide a donor coordination framework for effective planning and engagement, based on the Paris Declaration on Aid Effectiveness of 2005. It contains guidelines, structures and objectives to support coherent interactions between government and partners. The shift from the humanitarian to recovery phase coupled with the launch of Medium Term Plan (MTP) lays a strong basis for reviewing current aid coordination mechanisms and structures in Zimbabwe. The coordinating mechanism includes monthly donor coordination meetings, thematic group meetings, and Policy Oversight Committee for the Zim-Fund. These fora also provide platforms for policy dialogue. CSOs have been involved in the fora to contribute on monitoring, evaluation, and policy recommendations.

This process avoids duplication in the utilisation of donor funds, aligns external financial assistance with national priorities and avoids overlap by ensuring the prioritisation of the most pressing development issues. The principles of the policy are centred on the Paris Declaration on Aid Effectiveness and the Accra Agenda for Action as it promotes government's ownership and leadership of development cooperation management processes aimed at ending aid dependency. The ACP rhetorically speaks of national ownership to mean consultation and participation of civil society and the private sector, as well as mutual accountability that is reinforced through participatory approaches on formulation and evaluation of development programs. The principle of managing for results is taken to imply working to achieve economic recovery, poverty reduction and improved standards of living. At least on paper—though nothing much is tangible in practice—the government emphasises its commitment to enhance aid effectiveness by taking full ownership and providing leadership in planning, management and utilisation of aid resources that become available to maximise benefits for the people of Zimbabwe.

In terms of the core principle of development effectiveness, country ownership, the commitment by the government to a broad country-level policy dialogue including parliament,

local authorities and CSOs has largely been haphazard and mostly designed to suit the interests of the government as seen during the Busan consultations. For delegates to attend, one pre-condition was for consultations to be done in-country. This was also at the backdrop of dwindling aid within the health sector on HIV and AIDS program, which was 90% financed by aid from the Global Fund and with government covering 10%. The best effort in this regard was the 'Towards the Busan High Level Forum' consultative workshop on Development Effectiveness held in 2011. This was supported by the UNDP and the European Union and attended by various actors within government and civil society. However, the workshop did not concretise anything on development effectiveness. Rather, it agreed on the need for capacity building, accountability and predictability, national ownership of development processes, the integration of cross-sectional views in policy formulation and implementation and the role of parliament in aid processes. Since that meeting, there has been no follow up mechanism to implement the agreements.

Aid flows averaging 500 million USD per annum is not channelled through government coffers but disbursed through UN agencies and local CSOs who apply for funding and go through a procurement process with the private sector. CSOs complement the government and do not necessarily align their initiatives with a fixed national programme or national priorities for development. This has raised pertinent issues surrounding ownership, effectiveness and accountability, with the government calling for south-south cooperation and a review of the current aid architecture as the government grows impatient with Western donors. An expert has described this scenario as 'divergence' between the donor country's accountability and the mutual accountability spirit. 'Donor organisations are primarily accountable to their own taxpayers and parliaments, and this often times makes it difficult for donors to practice the Paris Declaration principles, like use of country systems when their citizens have concerns about corruption in developing countries,' notes Dr F Bokosi, a policy advisor with the African Forum and Network on Debt and Development .

The government has undertaken various initiatives to strengthen development effectiveness and international relations with the donors, albeit with limited participation of CSOs and other non-state actors. These include:

- The Zimbabwe Accelerated Reengagement Economic Programme (ZAREP) for the next 18-24 months. This should facilitate faster reengagement with development partners on policy issues. ZAREP will be a stepping-stone towards arrears clearance, debt relief and new financing from the international community, including IFIs.
- The Zimbabwe Accelerated Arrears Clearance, Debt and Development Strategy (ZAADD) which resulted in the agreement between Zimbabwe and the IMF in May 2013 for a Staff Monitored Programme (SMP), which provides a window of hope for the country to engage with the international community.
- The establishment of the Zimbabwe Aid and Debt Management Office (ZADMO) within the Ministry of Finance in December 2010 to assume responsibility over debt management and strengthen government and civil society relations in ensuring transparency and accountability to enable development effectiveness. ZADMO is a recruiting staff and has developed with the technical assistance from the Macroeconomic and Financial Management Institute (MEFMI), a comprehensive Capacity Development and Training Plan based on a debt management capacity needs assessment template.

It is thus clear that to some extent the Zimbabwean Government has the ability to create an enabling environment, as per Busan requirements, taking into account that it has already created platforms for engagement with non-state actors, including CSOs, especially under the umbrella body NANGO to augment the above processes. The DMO held various meetings aimed at resolving Zimbabwe's debt and aid problems as well as raising creditors' confidence in extending new credit line or scheduling debts. In such efforts, it has demonstrated the possibility of restoring relations between the country and the donor community. In Zimbabwe, the Zimbabwe Coalition of Debt and Development (ZIMCODD), Poverty Reduction Forum (PRF) and Women's Action Group participated in the pre-Busan CSOs lead in aid effectiveness engagements, but failed in coming up with a nationwide CPDE program due to limited capacity

and resources. CSO mobilisation has been relatively weak in reaching out to ordinary citizens on development effectiveness.

NAYO has been running social accountability workshops in various provinces to engage state actors, youth CSO groups and local authorities to foster development that is centred on accountability and community-led Youth and Governance Program (YUG). NAYO led the youth sector consultations with the European Union Delegation, which is normalising relations with the government and CSOs for a Country Roadmap 2014-2017. It mobilised youth organisations that attended the consultative workshop, and is attending follow-up meetings between the EU and CSOs following the process. The process is seen as strengthening the government, CSO and donor community relations, as the consultative process has brought these together on several occasions, cementing relations and collaboration which will be instrumental in development effectiveness. NAYO has also participated in debt and development initiatives through NANGO and AFRODAD, the recent being coordinated by IMF.

The Socio-Cultural Context

The work of civil society in Zimbabwe has been shaped by the country's socio-cultural milieu. The present government of Zimbabwe has its roots in an independence movement, which largely finds itself set against perceived values imposed by the West. The ruling party ZANU PF believes in the Pan-African approach that values its independence from international norms, and this has affected relations between the government and CSOs over the past decades. CSOs mainly receive funding from Western donors and are perceived as agents for regime change, despite their contribution to and complementary role in government's development efforts.

CSOs in Zimbabwe have also largely failed to mobilise on key political issues due to internal divisions. In some cases, CSOs align themselves to this or that political party and have at times been difficult to distinguish from those in the ruling establishment. This was seen during the constitutional, drafting process in which many apparently 'independent' CSOs were recruited under the banner of three major political parties; this has compromised the independence of those CSOs involved.

Nevertheless, CSOs in Zimbabwe, given their diverse nature and span of focus, have collaborated with the media and churches, among other civil society entities, in pressuring the government to promote development ideals, which have had a positive bearing on development effectiveness. The Church and Civil Society Forum (CCSF) is one such forum in Zimbabwe which brings together the church and civil society in the promotion of peace and reconciliation, following episodes of political violence within the country. It has engaged cross-sectional actors in its interventions with the support of the Organ on National Healing Peace and Reconciliation (ONHRI). NAYO sits within the forum representing youths. In addition, civil society has forged partnerships with various media houses to foster policy dialogue, social movements and provide information to active citizens in most cities across the country. These have had the participation of state actors in some instances.

The Socio-Economic Context

The advent of the new constitution has strengthened the operational space for CSOs to promote socio-economic rights within the country through the bill of rights and various provisions that strengthen civic participation at both national and local levels. It is important to note that Zimbabwe is still recovering from a decade of economic decline that led to rising levels of poverty, unemployment, and underemployment. The country is still confronted with major developmental challenges, manifested by high unemployment, rising poverty levels and inequality, low savings and investment rates, and a decaying infrastructure. There is also a high infrastructural deficit in energy, transport and water, which requires huge resources to rehabilitate and expand.

CSOs have utilised political space to champion various development initiatives, given that the

country has yet to meet the Millennium Development Goals, such as ensuring environmental sustainability, improving maternal health and eradicating extreme poverty and hunger. Line Ministries have seen the growing role that CSOs can play in this regard, with most holding stakeholder meetings to create roadmaps to work on targets which are set under the Zim-Asset economic blueprint. However, at a policy level, the contributions of CSOs have not been taken up by the government. A good example is the stakeholders meeting on the Metropolitan and Provincial Councils Bills, which did not uphold constitutional provisions as they both did not recognise the role of non-state actors like CSOs, curtailing development effectiveness at the local level.

For its part, NAYO is implementing the AAAQ Water Project. This is a phased project that uses the availability, accessibility, acceptability and quality (AAAQ) framework (human rights-based approach) to advance the right to water. The framework translates the general provisions of the international human rights' instruments and national legislation and policy into specific standards, indicators and benchmarks for realising economic, social, and cultural rights. NAYO partners together with the public participation platform members (seven local community-based organisations) under NANGO and to date have: developed contextualised AAAQ indicators to achieve the realisation of the right to water for Zimbabwe, and carried out a national research in all the five rainfall regions to establish the current state with regard the right to water. This year, the project launched its report, Citizen Participation in Water Supply in Zimbabwe, which will be an advocacy tool for engaging an array of stakeholders, including donors and the government. Working as a consortium has meant greater reach for NAYO, improved resource mobilisation and better cooperation from state actors and donors in the face of dwindling aid.

NAYO presented a paper at the United Nations Forum on Minority Rights in Geneva 2011, which was at the invitation of and organised by the European Union and Minority Rights Group International. The paper was titled Minorities at the UN – Improve Education for Minorities in Zimbabwe. It lamented the lack of government support on civic education and promoting rights of minority groups and recommended that civic education on human rights be promoted. As a follow-up to the development, NAYO held a National Minority Rights Conference in 2012, which led to the formation of the Minority Rights Coalition of Zimbabwe where NAYO is the secretariat.

Cross-Cutting Challenges

- Inefficient parliamentary oversight role have forced donors to continue using parallel systems. This has resulted in donors using parallel structures, bypassing country systems in the delivery of aid.
- Creating an enabling environment for CSOs, local authorities and parliaments has proved elusive as the government lacks the political will.
- CSO interventions have been adversely affected by donor fatigue, lack of capacity and resources, limiting their efforts on development effectiveness engagements.
- Supporting CSOs as independent development actors in their own right, and commitment to an enabling environment for their work in all countries has been problematic.
- Engagements among the private sector, CSOs and local authorities on development effectiveness platforms have been limited.

Lessons Learned

- The ability of CSOs to form thematic coalitions and forge partnerships with other non-state actors such as the church and media has mounted pressure on the government, leading to interactions among the various groups on national development.
- Increased citizen participation is critical in fostering cross-sectional dialogue and participation in development policy formulation and implementation.

Recommendations

- Parliament's legislative, oversight and representative functions should be strengthened

to ensure the promotion and protection of human rights.

- The capacity of key state ministries and institutions in Zimbabwe needs to be enhanced to ensure the effective coordination of donor funds. Donors should therefore support the effective implementation of Zimbabwean Government initiatives, such as the Aid Coordination Policy and SDGs.
- Development financing, and the promotion of an economic environment should be premised on the respect for human rights and good governance.
- Strengthening social accountability from the local to national levels--transparency and accountability in resource utilisation and mobilisation are crucial for development effectiveness and in curbing corruption.
- Institutionalise and strengthen aid and development policy dialogue between governments, donors, civil society, parliaments, the private sector and emerging lenders to make it more participatory.
- A code of conduct for all partners to ensure more inclusive aid architecture is desirable for development effectiveness. Memorandum of understandings (MOU) is a tool for setting out a shared agenda that defines the performances and reporting commitments of both the governments and the donors in implementing of the aid.

Conclusion

Zimbabwe presents a unique case in development effectiveness as its socio-economic and political processes have had a huge impact on the engagement of CSOs and other non-state actors in development cooperation. The country's history has shaped their contributions and their level of participation. The strength of Zimbabwean civil society, despite a political environment curtailing their work, offers important lessons to other CSOs within the SADC region in pursuit of development effectiveness. With the international community slowly re-engaging Zimbabwe toward opening new lines of credit, channelling aid to government led-programs and the engagement of CSOs by the government, especially through policy alignment, could point to a new dispensation in which the country can realise aid effectiveness. In this vein, the country needs to sort out its policies, refocus on a rights-based approach to development, promote the role of civil society and adhere to international standards that attract international partners and end corruption.

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