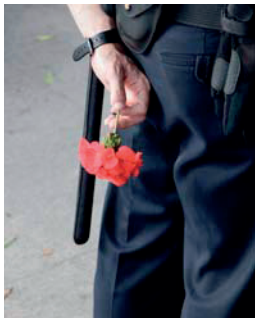
STATE OF CIVIL SOCIETY 2013:
Creating an enabling environment



CIVICUS
World Alliance for Citizen Participation

Our mission:

CIVICUS is an international alliance dedicated to strengthening citizen action and civil society throughout the world.

Our vision:

A worldwide community of informed, inspired, committed citizens engaged in confronting the challenges facing humanity.

About CIVICUS

We're CIVICUS, the only global network dedicated to enhancing the rights, freedoms, health and vitality of civil society as a whole. We've worked for two decades to strengthen citizen action and civil society throughout the world. We have a vision of a global community of active, engaged citizens committed to the creation of a more just and equitable world. We believe a healthy society is one where people have multiple opportunities to participate, come together and express their voices.

We're a membership network, with our alliance encompassing a geographically and thematically diverse, and growing, membership, complemented by a wide range of partnerships with global, regional, national and local civil society organisations (CSOs) and other parts of civil society, and with governments, donors and other institutions.

We work by convening and networking, researching and analysing, generating and sharing knowledge, and communicating, campaigning, influencing and advocating. In everything we do, we partner.

Join our growing alliance

Solutions begin when people rise and join together, and speak up. Solutions advance when active citizens convince those with power to accept responsibility for their social, political and environmental impacts. They endure when government, business and civil society establish permanent institutional arrangements to ensure that we are all empowered when we allocate resources and opportunities.

Today, we have members in more than 100 countries. But we know we have only touched the surface of the inexhaustible reservoir of civic solidarity. We ask you to make us even stronger, so that in turn we can amplify your voice for change.

If you like what you've read in our report, please join us now. If you're concerned about the challenges of the world, if you're involved in a campaign, if you want to make a change, then we invite you to take the next step to help us carry forward the work of building a politics of unity and inclusion.

Become an active global citizen. Add your voice to the global movement for transformational change. Join us: www.civicus.org/join

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Welcome to our – and civil society's – report

Welcome to the second edition of the State of Civil Society report produced by CIVICUS: World Alliance for Citizen Participation.

This report is not ours alone. The 2013 State of Civil Society report draws from nearly 50 contributions made by people active in civil society all over the world – from our members, friends, partners, supporters and others in the CIVICUS alliance. They contributed 31 new pieces of analysis and thinking on the state of civil society. Our analysis also benefits from 16 responses to a questionnaire from national civil society platforms that are members of either our Affinity Group of National Associations (AGNA), or the International Forum of National NGO Platforms (IFP). Together, their contributions, published at http://socs.civicus.org, form the full report. Our summary report is a synthesis of this impressive array of perspectives.

We believe that together their contributions offer a body of critical, cutting edge thinking about the changing state of contemporary civil society. We thank them for their efforts and continuing support.

It is also important to acknowledge in this report the work of coalitions such as the Open Forum for CSO Development Effectiveness and BetterAid, and the subsequent CSO Partnership for Development Effectiveness, in bringing together many CSOs working in the development sphere in recent years to advance the debate on civil society's contributions to development effectiveness, including on the issue of the enabling conditions for civil society that are a necessary part of increasing CSO effectiveness. This report is also intended as a contribution to those wider efforts, in which we at CIVICUS are happy to be active partners.

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Foreword by Cathy Ashton

A vibrant and independent civil society is an essential ingredient of effective and stable democracy. The EU has for many years sought to incorporate the input and views of civil society in its foreign policy.

During my mandate, I have ensured that civil society remains a central pillar of our external relations. Civil society organisations are our partners when advocating for human rights around the globe or designing programmes for women's empowerment. Today, we fund a wide array of NGOs and seek the views of civil society organisations both at headquarters and in the field. On my trips overseas, I meet NGO representatives to hear from them how they see political as well as economic developments on the ground.

In Brussels, I have sought to ensure that the EU engages civil society in a more systematic way; in 2012, European foreign ministers adopted conclusions on Europe's engagement with civil society in external relations, thus renewing EU policy in support of civil society.

It is precisely because of the importance of civil society to European foreign policy that I am growing increasingly concerned about the efforts of some states to bar, constrict, or control the work of NGOs. In too many cases, the voices of civil society are being stifled and the space in which they can express their views is shrinking. This is happening through overt means of oppression such as the implementation of restrictive laws and the persecution of activists, as well by marginalising civil society in national and international decision-making processes.

I commend the environmentalists, lawyers, donors, researchers, academics, activists, political representatives and trade unionists who speak out for the good of their country. For civil society to prosper it needs an enabling environment: institutional structures, laws, policies as well as tolerant societies and resources. In short, a vibrant civil society is a mark of what I call 'deep democracy' – the key to any country's prosperity and peace.

Cathy Ashton
Baroness Ashton of Upholland
High Representative of the Union for Foreign Affairs and Security Policy for the European Union

Foreword by Jay Naidoo

Let's find our inner fire once more

Citizens always know better than the government or the market what works for them. The question is whether our political and economic elites are prepared to listen. And all of us in civil society should understand that as well, too.

My most important lessons after a life of activism were learnt from marginalised communities and migrant workers living in the most brutal of conditions in mines and factory hostels. Many were illiterate but from them I learnt to listen, to listen carefully and digest their wisdom, which helped me co-create a vision and strategy that eventually became a mighty movement and the pillar of our fight for freedom in South Africa.

I learnt that those in power only respected us when we had power. And we only had power when we painstakingly organised our communities, workers, women, students and faith-based organisations around their bread-and-butter issues. None of those truths is different today: our role as activists is only catalytic. Success is only possible and sustainable when local leadership arises and people own and lead their own struggles. And every experience, victory or failure, must be seen as a lesson, too. Our role is to hear the voices and struggles of the grassroots we claim to represent, and make them heard on a global platform.

Today, as we stand at the edge of a precipice, we see a growing ferment in the world. It is this alienation and disconnect between leaders and citizens that has led people to taking to the streets; from the historic Arab Spring to fierce student battles for free education in Chile and Quebec, to the anti-corruption battles in India and the deadly struggle for a decent wage of the Marikana mineworkers in South Africa.

The obscene, rising poverty and inequality is fuelling social tensions, and in the absence of credible grassroots structures, violence has become the only language people feel will get their leaders to listen. Today, a new apartheid divides a global rich and predatory minority from the overwhelming majority's growing poverty, joblessness and social inequality.

The State of Civil Society 2013 affirms that empowered and informed citizens are our strongest battalions in our fight for good governance and social justice. This is a truism that is largely ignored by the bureaucracies, corporations, public sector or even civil society sometimes.

Below are some key trends to consider, as highlighted in the report:

- A shocking 57% of the world's population live in countries where basic civil liberties and political freedoms are curtailed.
- In fragile and conflict-ridden states, civil society groups speaking out against entrenched patriarchy and religious fundamentalism are increasingly becoming targets of armed groups.
- Communities that traditionally relied on rivers, forests and communal grazing grounds for their subsistence are faced with being displaced by big corporations – including extractive industries, construction firms and agri-businesses.
- With the lines between business and politics blurring, we are increasingly seeing civil society voices being relegated to the margins in discussions on the post-2015 agenda and other global matters.

Organised civil society needs deep introspection and to realign itself with people's needs and their voices, and to rebuild our legitimacy and trust with our people.

We have to return to the hard, painstaking work of organising our people and creating the tools that they are able to use to strengthen our fight for social justice and social solidarity

The report reminds us that new approaches to social transformation must harness the reinforcing nature of innovation, social connectedness and positive identities.

In the Millennium Declaration world leaders stated that "men and women have the right to live their lives and raise their children in dignity, free from hunger and from the fear of violence, oppression or injustice." We need to hold them to it. We need to focus on the world we want, build our set of demands for an enabling environment for civil society, campaign in a focused and concerted way by building a broad-based coalition. A key to the "better future" we have promised the generations which follow us rests in our courageous and fearless leadership today.

We dare not fail.

Jay Naidoo
Chair of the Board of Directors and Chair of the Partnership Council of the Global Alliance for Improved Nutrition

Introduction

I write this introduction at the end of my third month at CIVICUS. In this time, my conversations with colleagues, members and partners all around the world reveal a serious inconsistency. Just as we are seeing a consensus about the importance of civil society, we are seeing developments that undermine the ability of citizens to come together and shape the world around them. This inconsistency is explored in this report.

Governments, international agencies and businesses increasingly recognise that a free and vibrant civil society is a fundamental building block of democratic societies and a means to promoting economic development. Recent international agreements, such as those on development effectiveness or on protecting human rights defenders, reaffirm this consensus, while every politician I have encountered in recent months seems deeply committed to unlocking citizen potential.

Yet the reality seems very different. The conditions in which civil society operates – the enabling environment as it is referred to in our report – are shaky at best and deteriorating in many parts of the world. Our report catalogues a litany of threats to civil society, from outright violence against civic leaders to legal restrictions on civil society organisations to dramatic funding cuts.

While I recognise why so many colleagues – and indeed, many of the contributors who helped us prepare this report - are pessimistic about the state of civil society today, I am convinced that there is only one way for this discrepancy to be resolved. People power will prevail.

History teaches us that it is futile for governments to curb people's freedoms. It is a question of when, not if, citizens rise up to challenge and often overthrow political systems in which their rights are curtailed. New technologies are making it easier to access information, connect with other like-minded people, and mobilise large numbers of people. We also know that civil society is more trusted than governments or business, and that civil society groups – big and small – are finding innovative ways of improving societies across the world.

Through publications like this and through all of our other activities, CIVICUS promotes the importance of civil society. We speak out when civic space is threatened, and we try to find new ways of helping civil society around the world do its job better. If you are not already part of the CIVICUS family, I urge you to join us.

The last year may have been grim for civil society around the world, but I am convinced that the 21st century will be the century of citizen participation. Watch this space.

Dr Dhananjayan Sriskandarajah
Secretary General and Chief Executive
CIVICUS: World Alliance for Citizen Participation

Abbreviations and acronyms

AAA	Accra Agenda for Action – agreement of the Third High Level Forum on Aid Effectiveness, held in September 2008
AGNA	Affinity Group of National Associations – an international network of CSO umbrella bodies convened by CIVICUS
ASEAN	Association of South East Asian Nations, a regional intergovernmental organisation
AU	African Union, a regional intergovernmental organisation
AusAID	Australian Agency for International Development – Australia's development donor agency
AWID	Association for Women's Rights in Development – an international civil society organisation
BPD	Busan Partnership for Development – the outcome document of the Fourth High Level Forum on Aid Effectiveness
BRICS	The Brazil, Russia, India, China and South Africa group of countries, which have a formal relationship and are recognised as emerging powers
CARICOM	Caribbean Community, a regional intergovernmental organisation
CBO	Community-based organisation, a type of civil society organisation
CIDA	Canadian International Development Agency – Canada's development donor agency, now part of the Canadian Ministry of Foreign Affairs and Trade
CIVICUS	CIVICUS: World Alliance for Citizen Participation
CPDE	CSO Platform for Development Effectiveness, the CSO coalition formed to follow up on the Busan Partnership for Development
CSI	CIVICUS Civil Society Index, a civil society self-assessment project
CSO	Civil society organisation
CSR	Corporate social responsibility
CSW	CIVICUS Civil Society Watch, a project to monitor the space for civil society
DAC	Development Assistance Committee of the Organisation for Economic Cooperation and Development, which brings together most government development donors
Danida	Denmark's development cooperation activities
DfID	Department for International Development, the UK's development donor agency
DPO	Disabled persons' organisation, a type of civil society organisation
DRC	Democratic Republic of Congo
EC	European Commission – the executive body of the European Union
EE Index	CIVICUS Civil Society Enabling Environment Index, a new quantitative tool to measure conditions for civil society in different countries
EU	European Union, a regional intergovernmental organisation
FAO	Food and Agriculture Organisation of the United Nations
FBO	Faith-based organisation, a type of civil society organisation
g7+	A group of governments of fragile and conflict-affected states
G8	A forum for the governments of Canada, France, Germany, Italy, Japan, Russia, UK and USA
HLF4	Fourth High Level Forum on Aid Effectiveness, Busan, South Korea, November/December 2011
HRC	United Nations Human Rights Council
HRD	Human rights defender
IACHR	Inter-American Commission on Human Rights
ICC	International Criminal Court
ICCPR	International Convention on Civil and Political Rights
ICNL	International Center for Not-for-Profit Law, an international civil society organisation
ICTs	Information communication technologies
IFAD	International Fund for Agricultural Development

IFIs	International financial institutions
IFP	International Forum of National NGO Platforms, a network of national level CSO platforms
ILO	International Labour Organisation
IMF	International Monetary Fund
INGO	International non-governmental organisation, a type of civil society organisation
INTRAC	International NGO Training and Research Centre, an international civil society support CSO
ITU	International Telecommunications Union
ITUC	International Trade Union Confederation, the global body for trade unions
LGBTI	Lesbian, gay, bisexual, transgender and intersex
LTA	Legitimacy, transparency and accountability
MDGs	Millennium Development Goals, eight global development goals that were supposed to be achieved by 2015
MENA	The Middle East and North Africa region
NEPAD	New Partnership for Africa's Development, a development plan for Africa introduced in 2001
NGO	Non-governmental organisation, a type of civil society organisation
Norad	Norwegian Agency for Development Cooperation – Norway's development donor agency
NPO	Not-for-profit organisation, used in some contexts as a synonym for civil society organisation
OAS	Organisation of American States, a regional intergovernmental organisation
ODA	Official development assistance – funding provided by government development donor bodies
OECD	Organisation for Economic Cooperation and Development, an intergovernmental organisation of 34 countries, in which most development donor governments are represented
OIC	Organisation of the Islamic Conference, an intergovernmental organisation of states with high Islamic populations
OSCE	Organisation for Security and Cooperation in Europe, an intergovernmental organisation of North American, European and former Eastern Bloc and Soviet countries
PG	Participatory governance
PRSP	Poverty Reduction Strategy Papers
RBM	Results-based management
Rio+20	United Nations Conference on Sustainable Development, held in Rio de Janeiro, Brazil, June 2012
Sida	Swedish International Development Cooperation Agency, Sweden's development donor agency
SMS	Short message service – mobile phone text message
UAE	United Arab Emirates
UNDP	United Nations Development Programme
UNEP	United Nations Environmental Programme
UNESCO	United Nations Educational, Scientific and Cultural Organisation
UPR	Universal periodic review process of the UN Human Rights Council, in which countries' human rights performance are reviewed
USAID	US Agency for International Development, the USA's development donor agency
UNSC	UN Security Council
UNSCR	UN Security Council Resolution
VfM	Value for money
WFP	World Food Programme
WHRD	Women's human rights defenders
WHO	World Health Organisation
WSF	World Social Forum, a regular gathering of a wide range of civil society

Working definitions used in this report

Defining civil society

CIVICUS has long used a working definition of civil society as being "the arena, outside of the family, the state, and the market, which is created by individual and collective actions, organisations and institutions to advance shared interests." A key principle to add to our working definition is that citizen action should be voluntary, rather than through compulsion.

While many of our contributions, being authored by people who hold key positions in CSOs and networks, focus on the conditions in different contexts for CSOs, we need to bear in mind that civil society means more than its organised forms.

CSOs in all their forms – including non-governmental organisations, community groups, faith-based organisations, trade unions, informal groups (those without constitutions, boards and other organisational trappings), and many other associational forms, are part of civil society. Beyond this, individual activists, including online activists, artists and writers and human rights defenders, when they act in the public sphere to advance or defend a viewpoint that others may share, are part of civil society too. This definition suggests that the arena for civil society is fluid and dynamic: groups and individuals can move in and out of it, and be within civil society and other spheres simultaneously.

Our working definition suggests we need to acknowledge that the concerns of civil society go far beyond those conventionally considered to revolve around human rights, social justice and development. The term 'civil society' also captures a group of people meeting to defend a local transport route from closure or volunteering to clean up a communal area, an online community seeking recognition for itself or a sports or recreational club bringing together people who share an interest. However, we in the CIVICUS alliance take particular interest in those civil society forms that seek to improve people's lives and advance progressive agendas.

Defining the enabling environment

For CIVICUS, enabling civil society is why we are here. We believe societies are healthier and people live more fulfilled lives when there are multiple opportunities for self-expression, dialogue and exchange. There must be diverse spaces and places where people can come together to find points of consensus and work collectively. Our pluralist vision is only possible when there is a wide range of civil society organisations and movements and individuals that are able to act freely.

However, we know that the enabling environment for civil society can be a difficult concept to define, understand and explain.

In this report, we take the environment for civil society to mean the conditions within which civil society works: if civil society is an arena, the environment is made up of the forces that shape and influence the size, extent and functioning of that arena. In the report, we try to set out some key aspects that can be examined to determine the extent to which the environment for civil society is enabling or disenabling, and identify some further areas for investigation.

Restrictive conditions, which examples from our contributors make clear exist in many countries, make it harder for civil society groups to exist, function, grow and offer their best possible contribution to society: they are disenabling. However, enabling conditions must be understood to go beyond the simple absence of restriction, to encompass a set of conditions that actively help civil society to function and thrive. These could include having good connections between different civil society forms, adequate resourcing, widespread acceptance of the role of civil society, sustained spaces for inclusive dialogue with governments, and laws and regulations that make civil society operations easy and straightforward. As we will see in this report, this is not an exhaustive list.

1. Where are we?

a. A global context of uncertainty

The 2013 CIVICUS State of Civil Society report comes within a global context that poses considerable challenges for civil society, as well as offering some opportunities. Economic crisis continues to affect the publics and governments of many countries, not least those of Europe and North America, where it has impacted on their governments' engagements with developing countries, and the BRICS countries (Brazil, Russia, India, China and, to a lesser extent, South Africa); it has also fostered food and fuel price volatility, higher unemployment and slides back into poverty, which have unravelled some of the development gains made in earlier years in developing countries, including those in Sub-Saharan Africa, Asia and the Middle East and North Africa,[1] and helped to provoke mass dissent and demands for change.[2] In several European and North American countries, we are seeing increased awareness of the phenomenon of the 'squeezed middle'. Wage stagnation and the eroding of labour standards mean that people who would once have been considered secure feel that although they are working hard and holding down jobs, they are now struggling to make ends meet – a feeling long familiar to the world's poor. Again, this is fuelling unrest and increasing the likelihood of people turning to political solutions beyond those offered by established parties and platforms, as elections have reflected recently in Greece and Italy. Discourse on inequality has arguably become commonplace, with the 1% vs. the 99% meme entering mainstream public consciousness.

As with poverty and limited access to development, the impacts of these shifts are experienced most profoundly by the poorest and most vulnerable people. Indeed, many people live on the tightest of margins, and are also at risk of exposure to small-scale but devastating disasters. Citing the fact that over 50% of the world's population now live in cities, the contribution to our report from Terry Gibson, Operations Director of the Global Network for Disaster Reduction (GNDR) also warns of the dangers of social tensions, economic pressures and human-created and natural disasters associated with unplanned overdevelopment.

b. So what has changed since our last report?

In our report last year, we hoped that the great people's movements seen in the Arab Spring and the Indignados and Occupy movements could represent a decisive break from the past. CIVICUS and many other civil society organisations and movements believed that democracy and people's participation in the countries that experienced the Arab Spring would take root. This is not to deny that some gains have been made in some countries as a result of changes that the Arab Spring brought. Also, considerable efforts have been made, for example in the US and Greece, to localise the Occupy and Indignados movements to focus on community-level activity. But as documented in various contributions to our report,[3] much of the global civil society euphoria of the Arab Spring has now been lost amid the chaos, corruption and clampdowns on civil society that ensued.

A year on from the renaissance of dissent

What followed included a range of negative events that make the work of civil society harder. These included backlash from security forces, community level and sectarian violence, the imprisonment of activists, a continuing brutal conflict in Syria and political setbacks for the cause of women's empowerment, for example in Egypt. As our contribution from Front Line Defenders tells us:

"2012 confirmed what had started to emerge at the end of the previous year: the Arab Spring gave hope to millions of people in virtually every country of the region, but to date it has only brought limited real change."

It is on this basis we can say that what is happening in Egypt and Tunisia can no longer be called revolutions: a revolution is when the political interests of people who lead the protest that unseats a regime are manifested in new power structures and when old, oppressive structures are overturned. In these countries, we see new elites with interests far removed from those that motivated protests benefiting from entrenched autocratic structures.

Of course repression was not limited to those countries with frustrated revolutions. The background noise for civil society in 2012 and early 2013 came in the form of continuing uses of legislation and policy, combined with attacks in political rhetoric and physical attacks, to push back against a range of CSOs across a wide sweep of countries. This included many outside the Middle East and North Africa, as we discuss further below.

Missed opportunities at the multilateral level?

Meanwhile, many of the vast range of CSOs and others in civil society that invested precious resources in the Rio+20 process emerged disappointed at the lack of ambition of its outcomes. In June 2012, CIVICUS' verdict on Rio+20 was that:

"Many of these are leaving Rio with disappointment, anger and a sense that a pivotal opportunity has not been fully seized... Rio+20 tells us definitively that the multilateral system as it stands is no longer fit for purpose, and needs a major overhaul."[4]

Civil society is now investing considerable energy and resources in trying to influence the post Millennium Development Goals (MDGs) framework. Although some gains have undoubtedly been made in recent years as a result of concerted and collective civil society effort, overall the existing global development framework is still critiqued by many CSOs for being a top-down imposition, characterised by unequal relationships between rich and poor countries and with little recognition of civil society's inclusion, role and contribution in development.[5] At CIVICUS, we advocate that development has to go hand in hand with democracy and human rights. There are valid concerns among civil society that the post-2015 agenda is being seen more in terms of an enabling environment for economic growth than one that enhances good governance, people's participation and democratic oversight.[6] Processes, which are not inclusive, are already well underway to define post-2015 development goals. The fear must be that the disappointment in multilateral processes, which civil society has come to know only too well, is experienced again.

The continuing rise of the BRICS

It is increasingly clear to many in civil society that the functioning of multilateral institutions, and particularly UN agencies and the Bretton Woods institutions, which came into existence at the beginning of the Cold War, has not adjusted to a changing world with shifting centres of power. We continue to see the rise of a cluster of large countries that enjoy growing political and economic clout, and influence over their neighbouring countries. At the heart of this cluster are the BRICS countries.

One potentially positive recent outcome from the BRICS bloc may come in the form of the eThekwini Declaration, issued by the BRICS summit held in Durban, South Africa in March 2013. This announced the launch of a BRICS Development Bank for financing infrastructure needs in developing economies. If the BRICS countries are to advance progressive values by ensuring that civil society plays a key role in shaping this institution, then it will require strong civil society advocacy in BRICS countries to seek the inclusion of human rights and social accountability principles in every aspect of the bank's design. It should also be a key demand that the bank's funds are not used to support oppressive governments.[7]

One emerging challenge demonstrated by the BRICS countries is the significant lag between a country's rise to global political prominence and the evolution of civil society structures and focuses, backed by a supportive legal and policy framework. For example, our contribution from Brazilian CSO network Associação Brasileira de Organizações Não Governamentais (ABONG) points out that the legal framework recognises Brazil as an Official Development Assistance (ODA) recipient but not as a provider of cooperation resources to developing countries. Civil society coalitions that attempt influence over foreign policy in such countries tend to be nascent and untested, and need to be better encouraged and supported.

Lessons from the post-Busan process

Our previous State of Civil Society report highlighted that one of the breakthroughs achieved at the Fourth High Level Forum on Aid Effectiveness, held in Busan, South Korea in November/December 2011,[8] was the acknowledgement of the link between the standards set out in international human rights agreements and the conditions that enable CSOs to maximise their contribution to development. Another was the acknowledgement of the CSO-authored International Framework for CSO Development Effectiveness as the basis for CSOs to be held accountable as effective development actors.[9] This is an important benchmark in establishing the vital role of civil society, and its autonomy, with Busan also having reaffirmed the principle that CSOs are independent development actors in their own right.

The Busan agreement implies that a strong and vibrant civil society is in itself a development end, not only as a tool for helping to advance the development efforts of others. The difference between taking an instrumental and intrinsic value of civil society, in this case specifically looking at donor viewpoints, is established by our contributors Jacqueline Wood and Karin Fällman:

"At the instrumental end of the spectrum are those who believe CSOs are best placed to implement projects and programmes on behalf of donors and governments, filling gaps until such time as developing country governments are in a position to close them. On the other end of the spectrum are those who see civil society, and donor relationships with CSOs, as complementary and just as necessary as donor relationships with governments and the private sector to the social, economic, and democratic development of any country."

In the lead up to the Busan forum, CSOs argued that there was a need to detach the principle that development policies and practices should be nationally owned – country ownership – from the frequent conflation that this means they should be government-owned. As noted in our contribution from the Reality of Aid Africa, the notion of democratic ownership of development opens up new scope for CSOs in the development sphere to demand to be involved in development processes, including when they do not necessarily align with government-led development priorities.

The year in review

An overview of key events since the State of Civil Society was published in April 2012

2012		
Date	Country	Event
1 April	Myanmar	Voters go to the polls in elections in Burma. Aung San Suu Kyi's National League for Democracy wins 43 out of 45 seats.
16 April	International	Jim Yong Kim, co-founder and executive director of CSO Partners in Health, is elected President of the World Bank.
28 April	Malaysia	Hundreds of thousands of people demonstrate in Kuala Lumpur to call for free and fair elections as the 13th General Elections get underway. Police brutally suppress protestors, with over 500 individuals arrested and journalists assaulted.
8 May	Thailand	Ampon Tangnoppakul, a Thai man in his 60s who was sentenced to 20 years in jail for sending a text message deemed offensive to the royal family, dies.
24 May	Egypt	Voters in Egypt go to the polls for the presidential election, 18 months after Hosni Mubarak was ousted. A month later, Mohamed Morsi of the Muslim Brotherhood is declared the winner.
24 May	Hungary	The Hungarian Parliament passes legislative amendments to curb media freedoms.
19 June	United Kingdom	Julian Assange, the founder of Wikileaks, takes refuge in the Ecuadorean Embassy in London to avoid extradition to Sweden to face charges of sexual assault.
20–22 June	Brazil	The United Nations Conference on Sustainable Development in Rio de Janeiro (Rio+20) marks the 20th anniversary of the 1992 UN Conference on Environment and Development (UNCED). CSOs criticise the conference's outcomes as placing private profit before people and the environment.
26 June	Mexico	A new law for the protection of human rights defenders and journalists takes effect in Mexico.
9 July	International	Russia and China veto a UN Security Council resolution that threatens Syria with sanctions over the use of deadly force against civilians in the on-going conflict. Eleven Security Council members vote in favour while Pakistan and South Africa abstain.
13 July	Russia	Russia passes a Bill obliging NGOs that receive funding from abroad to register as foreign agents or risk heavy fines and jail time.
30 July	Syria	The UN estimates that over 200,000 people have fled intense fighting in Aleppo in the previous two days.
30 July	Sudan	Twelve protestors, mostly students, are killed and over a hundred injured as police use live ammunition on protestors.
16 August	South Africa	In the Marikana Massacre, 34 miners are killed and another 78 injured when police officers fire at striking workers at the Lonmin Platinum Mine near Rustenburg, South Africa.
17 August	Russia	Three members of Pussy Riot are convicted of hooliganism motivated by religious hatred and sentenced to two years in prison.
30 August	Tibet	China announces a US$4.7 billion controversial theme park in Tibet.
11 September	Libya	The US Ambassador to Libya is one of four people killed in an attack on the US Embassy in Benghazi.

2012		
Date	Country	Event
13 September	India	10,000 protestors in Tamil Nadu state demand the closure of a nuclear plant. Police use live ammunition against villagers. One person is killed, dozens hospitalised and 50 people arrested.
9 October	Pakistan	Pakistan human rights child activist Malala Yousafzai is shot in the head and neck by the Tehreek-e-Taliban while she sits with classmates on a school bus.
19 October	Ethiopia	The Supreme Court upholds the freezing of assets of Ethiopia's last two remaining human rights groups.
24- 29 October	The Americas	Hurricane Sandy wreaks havoc in nine countries in the Caribbean and North America, killing at least 285 people and resulting in nearly US$75 billion in damage.
7 November	Greece	Greek police fire teargas and water cannons to disperse approximately 100,000 protestors who protest in the main square in opposition to a new austerity package.
16 November	India	The rape of an Indian woman on a bus in New Delhi sparks nationwide protests and global concern about India's treatment of women.
26 November	Belarus	Leading Belarusian human rights group Viasna is evicted from its office as its premises are sealed by government officials.
1 December	Colombia	After receiving multiple threats from paramilitary group Black Eagles, Miller Angula Rivera of the Association of Displaced Afro Colombians (AFRODES) is killed in Colombia.
4–15 December	The Philippines	The most powerful typhoon to ever hit the Philippines kills more than 1,000 people and causes over US$1 billion in damage.
8 December	Qatar	The UN climate conference agrees to extend the Kyoto Protocol until 2020.
25 December	Nigeria	In Christmas church bombings in Nigeria, attacks on two churches kill 12 people.
2013		
10 January	France	The co-founder of the Kurdistan Workers' Party and two other Kurdish activists are found dead in Paris.
24 January	Vietnam	Human rights blogger Le Anh Hung is kidnapped from his workplace by security agents and temporarily interned in a mental health facility.
28 January	Iran	Iran arrests 14 journalists for alleged cooperation with foreign-based language media organisations.
5 February	Bangladesh	Hundreds of thousands of people upset with the verdict of the Bangladesh war crimes tribunal protest. Around 60 people have died in the so-called Shahbag protests, which are ongoing at the time of going to press.
20 February	Bulgaria	Following nationwide protests against electricity prices and austerity measures, the Bulgarian prime minister announces that his cabinet will resign.
21 March	International	The UN Human Rights Council passes landmark resolution to protect human rights defenders.
24 March	Central African Republic	Rebel leader of the Séléka movement, Michel Djotodia, storms the Presidential Palace and declares himself president.
1 April	Sudan	The President of Sudan orders the release of all political prisoners.
14 April	Venezuela	Following Hugo Chavez's death on 1 April, Venezuela elects his successor Nicolás Maduro as President by a narrow margin.

Our contribution from AidWatch Canada makes clear the connection between democratic ownership of development and the enabling environment for civil society:

"Strengthening democratic ownership for development and an improved CSO enabling environment go hand-in-hand. The institutionalisation of democratic policy processes involving a diversity of CSOs with respect to the planning, implementation and assessment of development priorities at the country level will also lead to strengthened enabling conditions for CSOs."

Sustained engagement by civil society is now needed to monitor governments' follow-through on their Busan commitments and to expose government actions that are not consistent with these commitments. This includes actions that might limit or undermine the environment for civil society. Nevertheless, major opportunities for global level dialogue on the enabling environment have flowed from Busan. The ministerial-level Global Partnership for Effective Development Cooperation established following Busan includes the CPDE as a full partner.[11] There is also a multi-stakeholder Task Team on Development Effectiveness and Enabling Environment that brings together representatives of donors, governments and CSOs, one of the roles of which is to give greater political profile to norms and good practices on the enabling environment.

As argued in our contribution from AidWatch Canada, the Busan process should represent a new minimum standard for the inclusion of CSOs. It should remain a civil society demand that future multilateral processes, including those to elaborate and apply development goals, should be as inclusive as Busan. In March 2013, CSOs, as well as the multi-stakeholder Task Team on CSO Development Effectiveness and Enabling Environment, proposed just this to the High Level Panel on Post-2015 Development Goals.

These relatively positive examples of collaborations around the development effectiveness agenda point to what may seem a self-evident truth, but one we feel frequently needs restating: one way to improve the environment for civil society is to begin and work through collaborations and partnerships with state agencies and other actors that affect the conditions for civil society. While partnerships have an instrumental value, in helping to achieve progress towards specific goals, they also have an intrinsic value: they help to build capital and trust, and demonstrate that there is value-added to democracy and good governance from civil society inclusion. By implication, this also suggests that one way to improve the environment for civil society, and promote dialogue about its improvement, is to look for areas where collaboration seems most possible, and to build up from these collaborations.

The Enabling Environment Index as a monitoring tool

Although the 2013 State of Civil Society report presents a wealth of evidence, case studies and fresh insights, we recognise also the pressing need for reliable, comparative, quantitative information to fill the gap of systematic research and reporting on the enabling environment.

CIVICUS is working with the University of Pretoria, South Africa to develop the Civil Society Enabling Environment Index (EE Index). The EE index will be a regular global assessment of key external dimensions affecting civil society, which measures and analyses changing trends in influences on the enabling environment in different countries. In line with our broad view of the conditions that affect civil society, the EE Index will examine not only the legal and regulatory frameworks that govern CSOs in each country, but also other political or societal conditions that may be enabling or disenabling.

This will be accompanied by work to help assess the enabling environment at the national level, in partnership with the International Center for Not-for-Profit Law (ICNL). Between 2012 and 2015, we are conducting national assessments in selected countries, with the intention of building a collective knowledge base on the environment for civil society, in different contexts.

It is important and encouraging that the enabling environment for CSOs is one of the indicators for measuring progress on Busan commitments. The EE Index is one initiative we are undertaking as a member of the CSO Platform for Development Effectiveness (CPDE) that will contribute to the development of an indicator on the enabling environment.

We recognise that members of the civil society Open Forum for CSO Development Effectiveness and BetterAid coalitions, now succeeded by the CPDE, have advocated for the enabling environment to be seen primarily in terms of the legal and policy conditions that enable or disenable CSOs to act effectively as development actors.[10] Our EE Index will be broader in remit as it seeks to measure a set of conditions that impact on the capacity of citizens, whether individually or in an organised fashion, to participate and engage in the civil society arena in a sustained and voluntary manner.

We invite interested stakeholders to join us in a consultative process to debate our conceptual and methodological framework for the index and determine the extent to which we weight the different dimensions of the index. Further information is available on our website.

In this regard, our contribution from AidWatch Canada points out:

"Improvements in CSO enabling conditions at the country level will require changes to how CSOs are perceived as development actors by governments and donors. Sometimes, these changes can happen as a consequence of CSO collaboration on issues more in harmony with the particular interests of developing country governments. For example, in the final preparations for Busan, several African CSO activists worked closely with government officials through the Africa Union (AU), which resulted in a common African agenda for Busan. In this engagement with government officials and ministers, CSOs were able not only to influence the African agenda, but also give a practical demonstration of the value-added of civil society expertise."

One caveat that should be made when considering the value of Busan is that it doesn't necessarily relate to the full spectrum of civil society and civil society's concerns. Civil society isn't just about development, or engagement with multilateral agencies and processes, and civil society is more than CSOs. A focus on government and donor policies and actions should not cause us to overlook that there is considerable civil society that did not necessarily see the need to engage in the Busan processes, and that indeed not only does not rely on donor funding, but exists and thrives outside donor frameworks. Nevertheless, the value of Busan remains, beyond its immediate sphere, as an example of successful civil society inclusion, and of civil society collaboration and sustained action to maximise influence.

A ray of hope from the European Union

A further fresh opportunity arose for civil society in 2012 in the form of a statement of recognition by the European Commission of the value of civil society, as set out in its 2012 Communication on relations with CSOs – The roots of democracy and sustainable development: Europe's engagement with civil society in external relations – which states that:

"The international community, the EU included, has a duty to advocate for a space to operate for both CSOs and individuals. The EU should lead by example, creating peer pressure through diplomacy and political dialogue with governments and by publicly raising human rights concerns... In its cooperation with partner governments, the EU will seek to scale up public authorities' capacity to work constructively with civil society."[12]

For the first time, this codifies opportunities for CSOs to engage at different levels: with the European Union (EU), to make sure that its actions follow its rhetoric and mean the EU becomes an active agent for the development of new, progressive civil society norms; with governments in EU member countries to hold them to these standards; and with the governments of countries in which the EU and its agencies are involved to seek to improve the conditions for civil society as part of EU interventions. It sets standards that can be used to monitor whether improvements to conditions for civil society result from EU activities. It also suggests potential for civil society collaboration between internationally-oriented CSOs in EU member countries and CSOs in developing countries in which the EU is active.

This acknowledgement of the value of civil society notwithstanding, the current actions of several EU member governments towards civil society remain challenging, as expressed through some rather ambivalent attitudes toward civil society in their countries, and towards developing country civil society in their ODA decisions, as we discuss further below. As CONCORD Europe, a network of European civil society platforms puts it:

"Even though EU governments have an enabling regulatory framework for civil society actions, budgetary decisions in several member states in the past few years have been strongly disadvantageous for supporting civil society actions."

The outlook

The contemporary outlook could therefore appear gloomy for civil society, but in the midst of this, openings to seek change continue to arise. Some new strategies are being formed and applied to fight back and help civil society to play its proper roles. Contributions to this report offer a number of experiences and tools for potential replication. Many of these underline the essential value of building civil society connections and coalitions, and of international solidarity.

2. What do we mean when we talk about the enabling environment?

The enabling environment for civil society is not always an easy concept to grasp. There is not necessarily agreement among civil society and the people and institutions with a stake in civil society on what a strong civil society enabling environment should look like. It is, in other words, an evolving concept. CIVICUS, not least through our ongoing work to define and deploy the EE Index, and our work with ICNL to assess the enabling environment at the country level, is seeking to improve understanding of, support for and intelligence on the enabling environment.

Thinking beyond the national level

We need to understand where to look, as well as what to look at. The enabling environment is something we mostly tend to think about at the national level. For example, when we examine laws, regulations and policies that affect whether CSOs are free to realise their potential, we normally look at national level laws, regulations and policies. It is important, however, not to fall into the trap of stopping our scrutiny and analysis at national borders.

In contexts where there is repression, we need to hold on to the fact that the minimal package of civil society rights that we in the CIVICUS alliance seek to defend and promote as the foundation of the enabling environment – the freedom of opinion and expression, freedom to associate and freedom to assemble – are globally defined, and enshrined in the International Bill of Human Rights and international human rights standards. When we are seeking to improve the conditions for civil society in difficult national contexts, it is essential to make reference to globally endorsed rights, and to use multilateral as well as national levers.

For example, our contribution from Russian CSO Citizens' Watch sees clear value in working internationally to exert pressure to improve national level standards, and particularly in a key multilateral arena for civil society, the UN Human Rights Council:

"It cannot be emphasised too much; the outcome of this struggle depends, to a great extent, on solidarity with the international human rights community that Russian NGOs are able to rally."

Regional intergovernmental bodies, such as the Council of Europe in Russia's case, and bodies such as the African Union and European Union in other contributions made to our report, also offer important levers. They can take the focus away from contentious national level debate, and help define supportive norms at a higher level by sharing more positive experiences from neighbouring countries.

The use of international spaces also helps demonstrate the value of international civil society connections, particularly those collaborations that bring exchanges of solidarity and practical support between national CSOs and international CSOs familiar with the workings of multilateral processes.

At the same time, multilateral engagement can provoke domestic risks: our contributor Front Line Defenders reports that in March 2012 Sri Lankan activists faced threats from high level government officials after taking part in a Human Rights Council session. Bahraini civil society activists were similarly targeted for their participation in a Universal Periodic Review (UPR) session of the Human Rights Council on Bahrain in May 2012.[13] Meanwhile as our contributor from Venezuelan organisation Civilis reports, the Venezuelan government's response to criticism from the Inter-American Human Rights Commission, which held a progressive regional level hearing on Legal Restrictions on Freedom of Association in Latin America in March 2012, was to withdraw from this body.

A multilateral enabling environment?

A second concern beyond the national level is the extent to which the environment is enabling for civil society within multilateral processes, both formal and informal. We believe it is still important to push for civil society inclusion in international processes, with a notable first in 2012 being the consultative status granted to some CSOs - humanitarian NGOs - in the Organisation of Islamic Conference meeting held in Djibouti. However there is also a strong civil society critique, particularly following Rio+20, of the ceremonial inclusion of civil society. Nothing has changed since Rio+20 to challenge our verdict that multilateral overhaul is needed.

Our contribution from INTRAC puts forward essential questions on UN reform:

"...the UN system needs to review its roles, focus and priorities. Key questions here include: are the large numbers of development groups or specialised agencies as necessary as they once were? With both bilateral and CSO donors leaving many countries, should the UN be considering its own roles in these countries more acutely? Perhaps re-focussing UN priorities and action around governance at the international level and working in areas of comparative advantages for multilateral organisations (e.g. influence on governments, certain forms of technical expertise, working in the poorest areas) makes more sense for UN development agencies..."

Key principles

The 2011 International Framework for CSO Development Effectiveness, the outcomes of broad civil society consultations by the Open Forum for CSO Development Effectiveness, sets out five essential areas for minimum standards that together form a definition of an enabling environment for CSOs: respect for human rights obligations; CSOs as actors in their own right: democratic political and policy dialogue; accountability and transparency; and enabling financing.

From our consultations for this report a number of potential dimensions emerged, elaborating and expanding on this framework, which can influence the environment for civil society. This is not an exhaustive list, but on the basis of contributions to our report, we suggest that these are key priorities or areas of apparent opportunity. These include two major areas where it seems that CSOs themselves can take some straightforward steps to help facilitate a more enabling environment:

- ***Internal steps that can be taken to improve CSOs' legitimacy, transparency and accountability.*** *An enabling environment is one where civil society groups have taken – and are recognised and expected to have taken - every effort to be transparent and accountable to their stakeholders, and their legitimacy is considered to be derived from their endorsement by their stakeholders, particularly those in whose interests they claim to act.*
- ***Connections between CSOs.*** *An enabling environment is one where there are multiple connections and collaborations between different civil society groups and individuals, including different types of groups, and there are collaborative platforms and coalitions at different levels, including thematic levels and local, national and international levels, such that civil society groups can share intelligence, pool resources and maximise their strengths and opportunities.*

There are a number of areas where CSOs should seek for key principles and standards to be reached and upheld:

- ***The legal and regulatory environment.*** *An enabling environment is one where the state's laws, regulations and policies on civil society (at both national and sub-national level) make it easy for civil society groups to form, operate free from unwarranted interference, express their views, communicate, convene, cooperate and seek resources. An enabling environment is also one that promotes the rights of individuals to freedom of expression, assembly and association and protects citizens from harm that may result from the exercise of those rights.*
- ***The political and governmental environment.*** *An enabling environment is one where the institutions and agencies of government, including government bodies, political parties and politicians, recognise civil society as a legitimate social actor, and provide systematic opportunities for state and civil society institutions to work together. An enabling environment is also one where there are well-established mechanisms for managing conflict and post-conflict transition, and where civil society personnel are able to go about their work and lives without fear of attack, with full recourse to the criminal justice system in the event of attack.*
- ***Public attitudes, trust, tolerance and participation.*** *An enabling environment is one where the public recognise civil society as a legitimate social actor; there is extensive trust in civil society bodies, and in other public actors; there is general tolerance of people and groups who have different viewpoints and identities; and where it is easy for people to participate in civil society and there is widespread voluntary participation across a range of civil society platforms and spaces.*
- ***Corruption.*** *An enabling environment is one where there is zero tolerance of corruption by state officials, political actors, people in business and civil society personnel, and where civil society is free to call attention to corruption issues and this is accepted as a legitimate civil society role.*
- ***Communications and technology.*** *An enabling environment is one where civil society groups and individuals have reliable, cheap and widespread access to communications platforms and technologies; and where civil society personnel have numerous opportunities to put their views across in the public domain alongside those of people from government, politics and the business sphere, and a diversity of voices are represented in different media.*
- ***Resources.*** *An enabling environment is one where civil society groups are able to access resources from a range of sustainable sources, including domestically, and to define their own activities, rather than have these defined by funding opportunities.*

Naturally, as we will see, these areas are not really so neatly distinct; they are highly interdependent, and relate to and influence each other.

The ETC Group's contribution also critiques CSOs' apparent complicity in the weak role they are allowed in processes such as Rio+20, pointing out that:

"As we look for the elements of an enabling environment for civil society, we need to look at both civil society's strengths and its limitations. An enabling environment doesn't just mean changing the rules, it means remembering civil society roles."

In this critique, civil society needs to play to its strengths, such as its knowledge, the growing connections within civil society, its staying power, and its access to public trust. However, civil society also needs to acknowledge key weaknesses, such as a deficiency in adequate engagement with decision-makers, a lack of detailed participation in processes, and excessive caution. To date, the analysis suggests, there have been gaps in strategy, lack of engagement by developed country CSOs with developing country governments, and little willingness to challenge or break rules, as well as an absence of joined-up communications strategy.

A further concern with the multilateral sphere is that the nuanced understanding many of us now have about the scope and diversity of civil society, given our heightened awareness of the social movements that came to prominence in recent years, is for the most part not reflected in the patterns of civil society inclusion in large, global processes. As civil society, our understanding of what civil society is and does has evolved faster than that of multilateral bodies. We need to ask: to what extent are the CSOs accredited to multilateral meetings, such as those of international financial institutions, representative of the breadth and depth of civil society? Are these essentially the same organisations that shuttle from one international meeting to another? And whose interests can they claim to represent? As our contributor from the ETC Group puts it:

"A clear distinction needs to be made between not-for-profit civil society organisations or NGOs and social movements. It is no longer acceptable for NGOs to speak for marginalised peoples."

The response to dissatisfaction with the multilateral world as it currently stands should including calling for improvement in the environment for civil society participation in multilateral processes, but it should also entail critically assessing the way in which we as civil society operate, and being flexible enough to adopt new techniques and bring in a broader range of civil society voices. An example of good practice offered is that of the Committee on Food Security, as in this official UN body there is high status given to civil society, credible civil society voice, and conscious reaching out to leadership from social movements, such as Via Campesina, beyond CSOs.

This positive experience of civil society inclusion, and that of the Global Partnership on Effective Development Cooperation, when compared with largely disappointing experiences in other forums, suggests that civil society must identify and work with supportive governments to push for meaningful inclusion of representative and diverse CSOs in UN structures and processes. In particular we should push for this in the authorship, implementation and monitoring of post-2015 development goals.

The dilemma that arises in considering the multilateral environment for civil society is that of the hierarchy of needs and opportunities: where best should CSOs place their limited resources? Should these be concentrated at the multilateral level in the hope of influencing international frameworks, which can in turn be used to set new norms, around which advocacy can be organised to improve conditions at the national level? Or given that the enabling environment concept is one that is not yet won, does it make sense to seek improvement at the national level and then try to influence governments to translate these to the multilateral arena?

On the balance of the contributions to our report, it seems clear that there is still much to be done at the national level, and this remains the critical arena for winning the argument on the enabling environment and seeking change. But there is still value in being able to make comparisons and share knowledge between civil society in different countries, and a need for international networking and solidarity to support national efforts. CSOs must also seek not to duplicate each other's efforts or compete in the international arena. There is a need for different strata of civil society to operate at the most level most appropriate to them, but also for cooperation that builds equitable connections between colleagues working at different levels.[14]

Thinking below the national level

An underexplored idea that we suggest needs future investigation is that of the sub-national environment for civil society, where local levels of governance can have an impact on the conditions for civil society distinct from the decisions made by national governments. This is particularly the case in large countries, such as India and Pakistan, where state and provincial governments have wide powers, countries where there is a high level of devolved power, such as Switzerland and the UK, and countries where traditional local authority remains important, as in many Pacific islands.

For example, our contribution from Voluntary Action Network India (VANI) tells us that a potentially helpful national

policy on the voluntary sector, addressing issues such as the autonomy of CSOs, their ability to raise funds and partnerships with the government, was introduced in 2007, but has been stymied because it has not passed into legislation at the state level. Our contribution from the NGO Federation of Nepal points to unnecessary conditions being imposed on CSOs by local administrations.

It is clear that in our work on the environment for civil society, we need to continue to take account of the reality that local level governance structures and spaces are important to many, given that many of the decisions that influence people's daily lives are made at the sub-national level. Indeed, we could go so far as to argue that people do not live in countries as much as they live in cities, villages and states within a country.

A need to localise our analysis goes hand in hand with our understanding in civil society of the value of bottom-up processes that flow from the local level. As the contribution from GNDR's Terry Gibson points out:

"Many policies intended to drive progress in disaster risk reduction are primarily created and then implemented in a top down way. They are led from an (often external) institutional and governmental level, depending on plans, leadership, knowledge and expertise far removed from the local scene. The result is a gap between high-level policy and practical implementation... good local governance depends on good local knowledge and the key ingredient for local governance based on local knowledge is an active citizenry."

This dissonance is not only applicable in the context of disaster reduction, but to civil society more broadly: in any sphere of work, strengthening resilience and capacity at the local level requires strong local organisations and partnerships – and a focus on enhancing the local level environment for civil society.

3. Key aspects of the enabling environment and recent trends

We first call attention to two key aspects where we in civil society can ourselves lead on steps to make an enabling environment more likely, and in doing so enhance our abilities to make demands of the government, politicians and others who influence the environment for civil society by speaking from a position of increased strength.

a. Legitimacy, transparency and accountability

Many CSOs have long acknowledged they should demonstrate that they are modelling good practice – in effect to mirror internally the enabling environment they would seek for their work externally.[15] We could go further and say that transparency, honesty, humility, and indeed an ability to admit and report on failure, should be key civil society values, and a point of distinction between civil society and other realms, such as those of government and business. As such civil society should be in the vanguard of demonstrating best practice in legitimacy, transparency and accountability, and be confident enough to admit failure when it occurs.

Actions by CSOs to prove they are transparent and accountable, and that they enjoy legitimacy and credibility among their key constituents, are not just an important end in themselves, but also give CSOs a stronger platform to demonstrate they have made the changes they seek in others, and to rebut criticisms and verbal attacks that make it harder for CSOs to do their work.

Steps to demonstrate the legitimacy, accountability and transparency of CSOs, and prove their effectiveness, continue to be important. Our contribution from the past Executive Director of the Cooperation Committee for Cambodia reports that in Cambodia there is CSO enthusiasm for a self-certification initiative, while in India, VANI highlights that there have been recent improvements in self-reporting from CSOs, in part to head off regulatory threats, accompanied by increased networking among CSOs:

"...internally, voluntary organisations have invested time and meagre resources to improve their management systems. VANI produced a document on draft internal policies that was well received by the voluntary sector... Organisations are coming together to face the challenges and redefining their relationships with government, private sector and other stakeholders."

In Brazil, ABONG acknowledges that the existence and subsequent exposure of fake CSOs, including bogus organisations formed as front organisations for corrupt government officials, harms civil society itself. In the 2013 edition of the Edelman Trust Barometer, trust in Brazil in NGOs, to use its term, declined by a drastic 31 points, which

was attributed to a series of crises and scandals that plagued CSOs.[16] CSOs therefore have a self-interest in developing a regulatory environment that makes clear their legitimacy and credibility.

It is encouraging in this regard that the recommendations of the 2012 CIVICUS World Assembly, held in Montreal, Canada in September 2012, speak about what steps civil society actors themselves feel they should take to improve the arrangements of governance, rather than simply make demands of governments and donors. Recommendations include those of building new connections and partnerships, seeking alternative funding models, integrating issues of sustainability in CSO approaches, and working within a human rights framework.[17]

While self-regulation initiatives and mechanisms have so far primarily been deployed at the national level, the continued growth of global initiatives such as the INGO Accountability Charter, to which international CSO members including CIVICUS submit annual accountability reports, suggests that there is an increasing need to look at accountability issues beyond national borders.[18] There is real value in sharing experiences and promoting good practice across countries on which types of legitimacy, transparency and accountability initiatives work best in different contexts.

b. Connections, coalitions and solidarity

A second area where CSOs can take steps to enhance their strength and increase the potential for improving their environment is in making civil society connections. In examining the environment for civil society we need to consider the extent, level and quality of connections, and state of relations, between CSOs: not only between individual CSOs, but also between CSOs of different types (for example, between development-oriented CSOs and trade unions, or between human rights CSOs and faith groups).

At CIVICUS, we naturally take a deep interest in civil society connections, and are concerned with the relatively weak connections we have seen between different parts of civil society, such as the gap between established CSOs and new social movements.[19] We believe the argument is being won, and it is becoming clearer that civil society is generally more effective, and we can win more recognition for our efforts, when we work together and make stronger connections between like-minded organisations and individuals. This enable-s us collectively to develop stronger capacities to engage governments and other holders of power. For example, our contributions from Platformas das ONGs de Cabo Verde and Guinea's Forum des ONG pour le Développement Durable argue that better networks and connections within civil society are a necessary precondition for enhancing civil society's relationship with the state. Our contribution from INTRAC points to some of the new collaborative movements their Civil Society at a Crossroads international research programme has observed:

"...movements arising from students' protests (Chile), abortion campaigning (Uruguay), campaigns for lesbian and gay partnerships (Argentina), and commuter movements (Indonesia). These movements illustrate the importance of social groups making broad alliances in favour of generic issues significant to society."

Part of the value of a focus on civil society connections is that it helps us to take an assets-based approach - identifying what currently exists of value and working to strengthen and expand these assets - rather than focussing only on deficits. In doing so, it can help us add nuance to what could otherwise be a rather disempowering narrative: that the conditions for civil society are determined solely by external forces (such as governments, donors and multilateral agencies), and that these are far from ideal. While in many contexts the conditions for civil society are of course seriously affected by external forces, it is important for us to remember that there are steps we can take to improve the conditions for our work.

The formation of CSO coalitions can also be significant in contexts of crisis or conflict. The formation of a new civil society coalition in Somalia – the Somali Civil Society Alliance - across three previously warring regions is seen as a step forward in civil society's role in promoting peace-building by our contributor, the SISA Centre for Corporate Partnership, which is also the Head of Secretariat for the Africa CSO Platform on Principled Partnership (ACP). In South Sudan, the NGO Forum has formed to coordinate humanitarian and development efforts in order to address the needs of the citizens of this newly independent state.

The challenge always for civil society is that of how to maintain this kind of coalition approach when a moment of crisis or opportunity is past. Our contribution from US civil society platform InterAction affirms the value of a long-term coalition-building strategy for developing stronger negotiating positions with government over key points of development policy. The post-Busan process, where the CPDE formed in December 2012 as a coalition to sustain civil society engagement on development effectiveness, bringing together the two networks that had led work ahead of Busan – BetterAid and the Open Forum for CSO Development Effectiveness – is one area where much energy and time has clearly gone into sustaining a coalition beyond events.

Collaborative strategies in advocacy success in Cambodia

Our contribution from Cambodia demonstrates the value of collaboration. Several attempts were made by the government to introduce a new law to regulate NGOs and other types of CSOs, which many in civil society fear would be harmful. Moves to introduce the law were put on hold in December 2011 for a period of two years, following a tenacious and voluble civil society campaign.

The Cambodian contribution suggests that international solidarity and internal coalition-building were central to their success in winning the time to work further with government, with the aim of challenging and changing disabling provisions in the draft bill. The proposed law was seen as an existential threat and therefore forced together different types of CSOs that would not normally combine. Meanwhile, national-international CSO connections helped to achieve publicity and awareness.

The Cambodian approach also combined advocacy at different levels - national, regional and global – suggesting we need to look for opportunities and points of leverage beyond the national level. The fact that Cambodia's government is currently chairing the Association of South East Asian Nations, a regional intergovernmental organisation, and would presumably want to use this as an opportunity to burnish its international image, offered one lever. With donors, the advocacy message was that strong development progress and donor investments that had been made in Cambodia's significant recovery from past conflict were at risk. Seeking government engagement with and support for the Istanbul Principles for CSO Development Effectiveness[20] was another way of brokering dialogue, playing to Cambodia's desire to present itself in the right way on the world stage.

c. The policy and legal sphere

While CSOs can work in these first two key areas to improve the potential for a more enabling environment, and to enhance their own strength and negotiating power, it is nevertheless the case that forces outside the civil society arena affect the conditions for civil society. Even if civil society is the best it can be, external actors can interact with and hinder the steps CSOs take in these areas. For example, CSOs can find that their own attempts to advance transparency and accountability are not reciprocated by the state. Indeed, higher levels of corruption and poor governance in broader society make it harder to be transparent and work in accountable ways. Similarly, attempts at civil society collaboration may be stymied by laws and regulations that create barriers against them.

At CIVICUS, we have long had a special interest in the legislation and government policies that affect the ability of CSOs to form, function and flourish. Many of the contributions to our report make clear that the legislative and policy sphere is still an important area of contestation. It is one in which, across a range of countries, various attempts are being made to reduce and restrict the space for civil society.

Barriers to assembly

Many recent restrictions are barriers imposed against the right to peaceful assembly – a move that seems clearly to come as a reaction to the surge of people-power protests in 2012. For example, ICNL's contribution reports that in 2012 Malaysia's law banning street protests came into effect; penalties against protests were steeply increased in Azerbaijan;[21] and restrictions on demonstrations involving more than 50 people were introduced in Quebec, Canada, following widespread student protests. Meanwhile, in Bahrain the Ministry of the Interior criminalised marches and gatherings in 2012, while in Russia, a controversial law was enacted which increased existing penalties for violating rules on public protests by a staggering 150 times for individuals and 300 times for organisations. ICNL argues that the situation here is growing worse.

The full realisation of the right to peaceful assembly is an essential condition for enabling civil society. This is therefore an area where CSOs and networks, including CIVICUS, need to stay informed, active and coordinated to intervene when attempts to reduce the legal and policy space for dissent are made.

Barriers to CSO formation and operation

A number of governments have recently either introduced laws or announced that they intend to do so to regulate the formation and operation of CSOs. Such laws would make the registration requirements for CSOs more strict, through practices such as:

- prohibiting unregistered organisations from conducting activities (Cuba, Uzbekistan, Zambia);
- stipulating the category and number of eligible founders (Malaysia, Qatar, Thailand, Turkmenistan);

- expensive, complex registration processes (Eritrea, Vietnam);
- vague grounds for denial of registration (Bahrain, Malaysia, Russia);
- burdensome re-registration requirements (Uzbekistan, Zambia);
- barriers for international organisations (Azerbaijan, Turkmenistan, Uganda).[22]

As these examples indicate, registration requirements may be lengthy, onerous or expensive, and therefore particularly difficult for smaller CSOs. Further, laws in Kenya, Tanzania and Uganda, for example, give the state the power to declare a CSO unlawful or withdraw its registration. In early 2013, the government of Indonesia introduced a Bill on Mass Organisations, which would prohibit some CSOs and give the government power to suspend or dissolve CSOs.[23] ICNL reports that there seems to be a particular problem with the introduction of regressive laws in Asia, especially South East Asia, at present.

Even in Norway, where relationships between civil society and government are favourably assessed by our contributor, Norwegian CSO network Frivillighet Norge, bureaucracy is still identified as a challenge:

"The most worrying trend is towards more bureaucracy, where organisations are required to provide more and more detailed reports to multiple public offices. The situation is most worrying on the local level, where the organisations are entirely dependent upon voluntary work. Although it is a priority from the government to reduce bureaucracy, this has not resulted in any real improvements."

Some governments use registration requirements as a way of placing limitations on activities that CSOs are lawfully permitted to do. The prohibition of 'political activity' in India, generally left ill-defined, invites closer state intervention into and scrutiny of CSOs' activities. Laws in Afghanistan, Egypt, Equatorial Guinea, Russia and Tanzania each prohibit certain 'spheres of activity'.[24] Our Affinity Group of National Associations (AGNA) partner, the Uganda National NGO Forum (UNNGOF) reports that the Ugandan NGO Act has a very narrow definition of appropriate activity, which does not admit the policy and advocacy roles of CSOs. The UNNGOF further points out that under Regulation 13 of the amended NGO Law, NGOs have to provide seven days written notification to local councils and resident direct commissioners before directly contacting people living in an area within their jurisdiction.

Our contribution from Canadian CSOs (Canadian Council for International Co-operation, Forest Ethics Advocacy and Voices–Voix) identifies a rise in threats to withdraw charitable status from numerous CSOs, and some intrusive audits. In response, environmental CSO Forest Ethics Canada went so far as to give up its charitable status, including the tax advantages associated with this, so that it could continue its advocacy work without government interference. In India, some CSOs report experiencing frequent inspection visits, which can fuel public suspicion of CSOs, or requirements to report on their work to the police frequently. In Belarus and Russia, tax inspections are used as a tactic to disrupt CSO work.

In some countries, including many in sub-Saharan Africa, a challenge is the application of outdated, 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 organisation are a related problem. An extreme example is that of Tanzania, which has seven different laws depending on the organisation type. India has a law, more than 100 years old, that lumps together very different organisational forms, while our contributions from the Democratic Republic of Congo's Conseil National des ONGD de Développement and from Fiji and Guinea tell us that the law has lagged behind the development and growing size of CSOs. In Nepal, a 1977 law is irrelevant given the country's vastly changed political context since. The risk in such cases is that it leaves a lot open to interpretation, inviting political interference, and reducing transparency and predictability.

Further, it is sometimes the case that laws on paper are more enabling than the state's current political interpretation and implementation of them, as our contributions from the Dominican Republic's Alianza ONG and the Third Sector Foundation of Turkey (TUSEV) suggest is the case. Our contribution from Cape Verde states:

"Problems do not arise from the quality of the existent legal framework, but from its practical application."

They go on to draw attention to:

"The weak institutional capacity of most CSOs and the lack of a clear and permanent framework for dialogue between civil society and the state..."

ICNL also suggests some more positive, enabling legislative acts, including laws to simplify CSO registration and improve access to resources in Afghanistan and Ukraine, and the establishment of an independent commission to draft an enabling law on associations, with civil society consultation, in Libya. There is a corresponding need to document and share examples of good practice.

It is important to continue to work on these issues, and they remain a core concern of CIVICUS. At the same time, we need to be clear that the enabling environment is about more than the political and legal space for civil society. The danger with narratives about shrinking political and legal space for civil society is that, while they are compelling and help to attract headlines about the difficulties of civil society operating in restricted spaces, they could also ultimately be disempowering. Sometimes in our efforts to call attention to the many countries where civil society faces restriction, we risk painting an overly simplistic picture of a world where governments are monolithic and all-powerful and civil society must always battle against the repression of minimum standards.

The challenge this implies for organisations and networks that campaign for civil society rights, including CIVICUS, is to go further than seeking the upholding of minimal standards, and decrying breaches in these. There is a need to promote greater recognition of higher standards that go beyond minimum provisions, and to foster dialogue about ways of moving closer towards these: to be more aspirational and offer a counter-vision.

Towards an enabling legal framework

In an enabling environment, CSO formation and operation should be facilitative rather than obstructive. The acquisition of legal status should be voluntary, and based on objective criteria. Registration should not be a prerequisite for access to universal rights of freedom of expression, peaceful assembly and association. CSO laws should be clear and well-defined. The registration process should be quick, easy and inexpensive. There should be a defined and reasonable time limit for registration decisions and written justifications for denials of status, which should be open to appeal. All acts and decisions affecting CSOs should be subject to fair administrative or independent judicial review. Reporting procedures for small, provincial, community-based organisations and alliances should be as simple as possible.[25]

It is against this backdrop that CIVICUS welcomes the March 2013 landmark adoption of the UN Human Rights Council Resolution on Protecting Human Rights Defenders,[26] as a vital step for creating a safer and more enabling environment for CSOs and human rights defenders.[27] The resolution calls on states to ensure that registration requirements for CSOs are non-discriminatory, expeditious and inexpensive and allow for the possibility of appeal. It further calls on governments to ensure that reporting requirements for CSOs "do not inhibit functional autonomy."

d. Government, politics and relations with civil society

While work on an enabling legal and policy framework is important, attempts to improve the conditions in which civil society works also require a nuanced understanding of political events and forces, and particularly of relationships between governments and CSOs. It is hard to envisage an enabling environment existing in contexts where there are high levels of political polarisation, or poor relations between governments and CSOs. While the laws that affect civil society can remain over some time, the interpretation of these laws is heavily influenced by politics, particularly in countries where the workings of democracy are hampered, there is inadequate separation of powers and the executive is the dominant power.

Political polarisation and civil society

Our contribution from Venezuela sets out how the dominance of the ruling party over all spheres, and the propagation of a state ideology, cut across the rule of law and the legal provisions to uphold conditions for civil society. In Cambodia, the strong control of the Cambodian People's Party over all aspects of government is recognised as underlining the need for a strong and coordinated civil society in response.

Several contributions to our report draw attention to attacks in political rhetoric on CSOs and civil society activists, for example in India and Venezuela, and in recent years in Canada, heightened since the 2011 election that moved the right of centre government from minority to majority status. It seems in Canada there is a push to brand CSOs that engage in advocacy and human rights work as pursuing a radical, disruptive agenda with the consequence being defunding, loss of legal status and public denigration. Language itself is being redefined: activism is now used by politicians as a pejorative term. Over the last three years, the Canadian civil society network Voices-Voix identified at least 115 instances of such political attacks, about half of which were directed at CSOs and human rights defenders.

The danger is that political attacks on CSOs can drive self-censorship, weaken public trust and make the environment more permissive for other, more substantial attacks.

Activists under attack

In their extreme form, disenabling conditions take the form of extra-legal attacks, including physical attacks on and assassinations of civil society staff, volunteers and activists. In its contribution, Front Line Defenders reported on 24 human rights defenders (HRDs) who were killed during 2012, while at

least 12 journalists were murdered in Somalia alone in 2012. HRDs were physically attacked in some 28 countries. Front Line Defenders also lists cases of judicial harassment in almost 40 countries in 2012. Particular kinds of civil society actors disproportionately experience threat. For example, lesbian, gay, bisexual, transgender and intersex (LGBTI) defenders are particularly vulnerable in many countries. Aggravating the situation is the reality that killings and physical attacks are often followed by impunity and a failure to investigate and convict perpetrators.

Attacks can come from a number of sources, which are not necessarily confined to agencies of the state. They can come from non-state actors, such as corporations and organised crime, and from forces in government that can enjoy power beyond the scope of elected politicians, such as the military and police forces. Military and police groups often enjoy impunity. There may be links to corruption and to criminal gangs that have covert corporate, state and military connections. In Afghanistan and Pakistan, militant groups largely beyond state control offer a particular threat. A source of pressure on the conditions for civil society in India comes from both the Maoist Naxalite violent militants and government response to them. In areas where tensions between these forces exist, civil society work meets with more restriction, and CSO personnel can be targeted for violence; in the minds of the public and government, there is also a risk of confusion between legitimate civil society activity and insurgency.

Russia and the interplay between informal civic activism and attacks on organised civil society

Political shifts can offer opportunities to push for change, and also dangers. Clearly the assault on Russian civil society has increased in its ferocity since Putin was re-elected to the presidency in March 2012, in part triggered by wide-scale public protest in response to an election widely considered flawed at best, fraudulent at worst.

Many in civil society globally are rightly concerned about whether there is a sufficiently strong connection between apparently spontaneous protest movements and formal CSOs. Nevertheless, some governments clearly see one, and government response to mass protest sometimes includes attacking the space both for individual activists – as was the case with Russia's harsh sentencing of Pussy Riot members - and also for CSOs.

As well as attempts to smear CSOs that receive foreign funding, discussed further below, the Russian government's response to protest has included the introduction of new laws on libel and defamation to make campaigning work harder, and tightening of the law on public meetings and demonstrations.

One source of threat on which there is growing understanding is the shadowy connections that can exist between transnational corporations and politicians, particularly with agricultural, extractive and construction industries. In many developing countries, communities that traditionally relied on rivers, forests and communal lands are being displaced as corporations make deals with governments to acquire environmental resources. Environmental, land rights and indigenous rights activists are therefore seen as a political and economic threat to these interests. Responses can include the introduction of legislative restriction, as seems to be the motivation behind the recent introduction of the bill in Indonesia; the abuse of the judicial system to arrest and detain activists, as happened in 2012 with land rights activists in Cambodia;[28] and physical attacks and assassinations of activists, as was the case, to give just one example from several, with Miller Angulo Rivera, who defended the rights of a forcibly displaced population in Colombia, and who was murdered in December 2012.[29]

Environmental, land rights and indigenous rights activists seem to be at particular risk in Latin America, and PEN International reports that there is also a high level of danger in Latin America for writers, journalists and bloggers, who, they remind us, are an important part of civil society:

"Writers have an audience, a readership, and an influence in their society. Writers and artists play a unique role in civil society as both amplifiers of diverse viewpoints and influencers."

In 2012 PEN International monitored more than 800 cases of attacks against writers in 108 countries.

Trade unionists are another part of civil society who are particularly vulnerable to attack and restriction in some contexts. Here again, there seems to be a particular risk in Latin America, suggesting a special need to focus intervention and awareness-raising efforts on this region. The International Trade Union Confederation's (ITUC) 2012 survey of violations of trade union rights indicated that 50 of the 75 trade unionists who were murdered in 2011 were from Latin America. The survey also pointed out that a disproportionately high percentage of trade unionists experiencing threats of some kind (69.8%), imprisonment (61.8%) and arrests (74.8%) were from Latin America.

The situation for trade unionists in Swaziland is also particularly difficult, as our contribution from ITUC makes clear. The country ruled by Africa's last absolute monarch has been in a perpetual

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state of declared emergency since 1973. In 2012, a number of Swazi trade unionists were prevented from protesting, and detained and arrested. May Day celebrations were also blocked, while other trade unionists received international travel bans. In Turkey, almost 70 members of the trade union federation were in detention by the end of 2012.

Impunity for those who commit attacks can feed self-censorship and exert a chilling effect on civil society, noted by contributors to our report to be the case in Azerbaijan and Sri Lanka, among other countries. One of the enduring challenges is the lack of follow-up actions to investigate killings of or attacks on activists. In this respect, a potentially welcome new development in Mexico, where a state war on drug gangs has seen civil society activists too often caught in the crossfire, is a law to establish independent investigation units for the killing of writers and journalists, although as yet it still lacks adequate regulations and protocols to be applied.

In response, Front Line Defenders suggests that steps to improve the environment for civil society activists should include new civil society protection mechanisms to defend and support activists, new multilateral processes to challenge impunity, and greater pressure from more progressive governments and donors on regimes that frequently commit offences.

The UN Human Rights Council Resolution on Protecting Human Rights Defenders, mentioned above, offers new hope. The Resolution calls on states to guarantee that national regulations and legislation affecting human rights defenders are clearly defined and consistent with international human rights law. It further calls on governments to refrain from acts of reprisals, including subjecting peaceful demonstrators to excessive or indiscriminate use of force, arbitrary arrest or detention, torture or other cruel, inhumane or degrading treatment or punishment, enforced disappearance and abuse of criminal and civil proceedings. We need also to refer back, and hold governments to, the commitments set out in the 1998 Declaration on Human Rights Defenders, which sets out the minimum standards that should be guaranteed to human rights defenders.[30]

The politics of aid

In many countries that provide donor funding, political shifts and the increased volatility of politics in response to economic crisis have led to governments reducing, narrowing or refocussing ODA, a vital source of support for some CSOs in developing countries. After an all time high in 2010, ODA dropped in 2011. One trend here is the apparent strengthening of links between ODA and domestic trade and foreign affairs agendas. At the same time, there seems to be a move towards reintegrating previously autonomous development agencies into foreign ministries, as in New Zealand and, as announced in early 2013, Canada.

More positively in the aid sphere, there are some interesting examples of cross-government approaches to be tracked. Contributors Jacqueline Wood and Karin Fällman draw attention to the Civil Society Network created within Australia's aid agency, AusAid, that shares information and learning between different staff who connect with civil society. AusAid also placed a staff member at the Australian Charities and Not-for-profits Commission to create closer learning links with approaches to domestic civil society, potentially valuable in light of a push to streamline domestic CSOs' regulatory obligations, They also note that Sweden's aid agency, Sida, has established a similar internal network on civil society for headquarters and embassies as part of a wider 'whole of government' approach, while Denmark's Danida designates civil society focal points in some embassies. In Luxembourg, regular dialogue sessions are held between the Ministry of Foreign Affairs and CSOs on issues such as Luxembourg's aid commitments and the operational requirements of its support for CSOs. There are of course still questions about how well such approaches work in practice, and the extent to which they strengthen civil society capacity. In 2012, India introduced greater coordination of its international assistance programmes through the Development Partnership Administration: the hope is that this will make India's international development agenda clearer and, for civil society, easier to engage with and influence.

In looking at the politics of international aid from a civil society perspective, we should also be sensitive to the critique of the 'import model' of civil society where, following a sudden political shift, such as a revolution, history has shown there is a tendency for civil society forms to be introduced, with help from donors, that mimic those in donor countries. Many of these introduced forms of civil society fail, including for the reason that conditions for their work can quickly become hostile, and failure can challenge the trust in and credibility of civil society in such contexts.[31] Rather than simply supporting the setting up of organisations through the provision of funds, a focus on the enabling environment would tell us that there is a need to focus on developing enabling conditions, which take direction from and encourage rooted, indigenous and popular civil society forms to establish and grow.

Conflict and disasters: dynamic contexts

Violent conflict, and large-scale disasters, can shift the context for civil society quickly and dramatically. They are quite common. Our contribution from the SISA Centre for Corporate Partnership and Head of Secretariat of the Africa CSO Platform on Principled Partnership states that 60 countries are currently

experiencing some kind of conflict between the state and a section of society. While political contestation is part of legitimate democratic practice, conflict, particularly violent conflict, adds complexity and can be disenabling. CSOs can find themselves under attack from different sides in a conflict. When the state is perceived by a section of society to be unable to deliver its basic functions adequately, civil society often finds itself in the position of substituting for the state, for example, in the continuance of basic services. This is a valuable role that civil society plays, but in polarised settings it creates that risk that CSOs will be seen to take sides.

As our AGNA partner, the Pakistan National Forum reports, there has been a significant shift in the relations between CSOs and government in Pakistan, particularly in the Khyber-Pakhtunkhwa and the Balochistan areas, in response at least partly to a high level of internal conflict. Permission is required from the military for CSOs to operate in those areas, and aid workers frequently come under attack in several provinces in Pakistan.

Conflict inhibits economic and social development and erodes development gains. Violent conflict also brings distrust, low social cohesion, and the abandonment of norms and values, as can the aftermath of disasters. They thus inhibit participation and can fuel polarisation between different civil society actors, all of which can contribute to a disenabling environment for civil society.

As we set out in our previous State of Civil Society report, sudden events, such as disasters and conflicts, can also create opportunities for civil society to act with responsibility and fill governance deficits, as well as plug service provision gaps. Writing before rebel forces overthrew the president, our contribution from Central Conseil Inter ONG de Centrafrique, of the Central African Republic, pointed to a changed attitude to civil society that was perhaps too little, too late:

"As we are in a country in conflict, the government has begun to understand that only civil society can help the different parties to see clearly and to raise up the voice of the voiceless."

The interaction between conflict and the enabling environment would seem to be two-way: the more opportunities there are for peaceful platforms and spaces for the articulation of different viewpoints and dialogue, and for participation - i.e. for a more enabled civil society - the lesser would seem to be the potential for conflict and violence. Post-conflict and peace-building processes should therefore focus on strengthening aspects of the enabling environment, such as rebuilding trust and connections between people, and addressing polarisation and the lack of platforms for participation. This requires investing in civil society, and in bringing different parts of civil society together. In post-conflict settings, there may also be need to rebuild a culture of constitutionalism, and invest in constitution-building processes that help develop a more enabling environment for civil society. Further, more research and analysis needs to be done on the environment for civil society in contexts of fragility, both on the ways in which enduring fragility impacts on the environment for civil society and on the ways in which a more enabling environment could contribute to greater resilience.

Dynamics between different kinds of CSOs also should be acknowledged in post-conflict, and post-disaster, settings. In such contexts, CSOs tend to occupy a humanitarian and essential services role, but the challenges include those of maintaining neutrality, and of unbalanced relationships between large-scale international humanitarian CSOs, which tend to command profile and have access to significant resources, and smaller, local CSOs.

This is of course an issue more broadly: our contributions from the Central African Republic, Guinea and Nepal tell us that cooperation between international and local CSOs is limited in their contexts, characterised by what is in effect unfair competition. InterAction, in its contribution, suggests some elements of good practice that could be helpful here, recognising those US humanitarian CSOs that:

"...make long-term commitment, acquire a deep understanding of local societies, employ largely local staff and design projects with community participation and cultural sensitivity to ensure sustainability."

In post-conflict settings in particular, the vital work of rebuilding trust, relationships and spaces needs local civil society participation, not least to rebuild trust and confidence within civil society itself. Donor inflows that only go through large international CSOs in post-conflict and post disaster contexts will do little to develop local civil society capacity.

The politics of policy dialogue

Advocacy and policy-oriented CSOs face a particular challenge of how to take sufficient interest in and engage robustly with the political sphere without being seen to be partisan or playing into the hands of political critics. In two-party or multi-party contexts, CSOs need to try to engage positively with parties both in government and opposition, without being seen to be taking sides and actively seeking to change an incumbent government, as our contribution from the Central African Republic reports has been the case:

"When civil society adopts a position on an issue that is similar to that of the opposition, it is considered to be the extension of the opposition. If civil society's position is similar to that of the government, the opposition believes that civil society is an appendix of power."

Some contributions to our report recognise that the culture of political dialogue, especially between civil society and government, still needs to be built and encouraged in countries with little democratic heritage, such as Azerbaijan, Belarus and Russia. The task is not only one of developing space and processes for constructive dialogue in the political sphere, but also of developing respect for pluralism and of moving away from the 'winner takes all' politics that also characterise many sub-Saharan African contexts, where the expression of oppositional viewpoints is branded as disloyal rather than a contribution to healthy debate. In Turkey, TUSEV suggests that outdated perceptions about civil society need to be challenged as well:

"CSOs in Turkey should not only be perceived as charity or service providing organisations, but their legitimacy as rights-based organisations which engage in awareness raising and advocacy activities should also be recognised. This change in perception regarding CSOs is necessary to engage CSOs in all levels of policy and decision-making processes."

Civil society plays multiple roles. We bring people together. We encourage debate, dialogue and consensus building. We research, analyse, document, publish and promote knowledge and learning. We develop, articulate and seek to advance solutions to problems. We engage with people and organisations in other spheres, such as government and business, to try to advance and implement solutions. We directly deliver services to those who need them. Sometimes we do all of these things at once. We need to assert that these are all legitimate civil society roles.

We need, in our own analysis and strategies, to take a similarly disaggregated approach to government. As noted in our contribution from Reality of Aid Africa, different departments may have different attitudes, as may the individual ministers and officials within these:

"The value of CSO participation in policy formulation processes seems to be better understood and appreciated within some specific departments... Some government departments see CSOs as partners in both policy development and service provision. For others, CSOs are seen as a potential agent for outsourcing some government services, but for others still they are mere noisemakers."

In governments, ministers often come and go fairly rapidly. However, officials can be entrenched. These kind of relationships between elected and appointed officials need to be better examined and understood.

We must understand that governments contain a range of levers and opportunities, as well as sources of challenge. In Europe and North America, although the donor agencies of government often show greater identification with civil society than other parts of government, they are usually not particularly powerful voices within government, and as mentioned above, in a number of contexts we are currently seeing their status downgraded or challenged.

We should also bear in mind that in some contexts different forms of governance exist side by side. Our contribution on participatory governance in Pacific island countries highlights the role of traditional authorities in policy-making processes. Traditional authorities enjoy high public trust, but there are gaps between traditional systems and modern governance structures, as well as with civil society, which need to be bridged in order to improve collaborative decision-making.

Towards better CSO-government relations and democratic ownership

We should call attention to examples of government good practice in improving the engagement of civil society and promoting democratic ownership when these arise, as potential examples of contributions towards a more enabling environment. Countries in Eurasia are generally acknowledged to have among the worst environments for civil society, but the Forum of Women's NGOs of Kyrgyzstan, in its contribution, details the creation of Public Watch Councils (PWCs), which were established by Presidential Decree in 2012. The contributor highlights the dual roles of PWCs:

"...the activities of the PWCs were guided by the following two main functions: a consultative role (give recommendations to a state body on improvement of its work, offering an alternative strategy or mechanism, and holding public hearings); and a watchdog role (monitoring the use of the budget and other funds, the conduct of tendering processes, and compliance with legislation by the state)."

The PWCs enable the civil society personnel who are represented on them to hold state bodies more accountable. They represent an innovation that, while naturally still leaving areas for improvement, should be engaged with, tracked and documented. There is of course a need for continual oversight and analysis, particularly to ensure any such positive recognition is not used by governments to legitimise other

less progressive aspects of their practice. This is an area where international networks, such as CIVICUS, need to help.

Contributors to our report recognise that some other governments are making efforts to improve relationships with civil society, and it is important to examine what mechanisms are offered to take engagements with governments beyond the ad hoc level. Our contribution from the Lithuanian national CSO platform, NGO Information and Support Centre, highlighted one apparently progressive mechanism. Since 2010, there has been a compact for CSO development, which has been approved by the government. The multi-stakeholder joint Commission for Coordination of NGO Affairs regularly convenes to discuss legal, financial and other topical issues, with representation of the national NGO coalition, formed in 2010 from 14 national associations covering all major thematic areas. In Guinea, the Platform of NGOs and Associative Movements (POME) exists as a representative and advisory body that is regularly consulted by the government.

We believe that good models of cooperation share characteristics: they are regular, they are transparent in their selection criteria for participants, they reach a diverse range of civil society, they reach across governments, they make information available to their participants and they exist over time, detached from party politics and electoral cycles. While the diversity of civil society should be recognised as a key asset, these examples also tend to show the value of forging common civil society voices to speak to government.

A potentially replicable idea on the part of governments, drawing from the examples from Australia and India mentioned above, would be to improve coordination and share good practice within governments on engagement with civil society, and particularly in donor countries, to make connections between good practice in engagement with domestic civil society, where this exists, and in support for civil society in developing countries. Networks of CSOs concerned with international development in donor countries could also connect better with CSO networks that concentrate on domestic civil society issues. But alongside this we need to seek direct and multiple entry channels for CSOs to engage with different parts of government as relevant, so that any coordinating bodies do not act as gatekeepers.

It is evident that governments and donors need to be held to account more closely for their responsibility to create a more enabling environment at the national level. This responsibility includes offering structured and institutionalised roles for civil society within government and donor policy development processes. Governments should acknowledge CSOs as civic actors in their own right and should interact with CSOs, based on principles of mutual trust, respect and shared responsibility.

e. Public attitudes and participation

There needs to be more research and analysis on economic influences on the environment for civil society, and how these play out in different contexts. The environment for civil society is also shaped by aspects of the physical environment, such as the geography of a country, its size and location, whether it is an island or landlocked and its changing climate. The extent and reach of its diaspora play a role also. These all interact in complex ways with social attitudes that can have deep and intertwined roots, influenced by culture and faith, and make each national context different. Here factors can include the strength and make-up of religious beliefs and competing beliefs, the existence of and relations between groups of different identity, culture, ethnicity, tribe and social class, and prevailing social mores about issues such as the status of women and tolerance of different groups, such as sexual minorities.

Gender, LGBTI, disability and discrimination

Social attitudes as well as political forces can affect the space for and viability of civil society groups and actions that make particular claims, such as those that attempt to empower women, address discrimination or seek equality on the basis of sexual identity or disability. They also provide us a pointer towards the broader environment for civil society: if a country cannot offer an enabling environment for women's rights organisations, it should tell us that something more broadly is wrong.

The evidence from contributions to our report tells us that in many contexts, something indeed is wrong. Women human rights defenders, and CSOs that seek to advance women rights, seem to be among the top targets for attacks on civil society. For example, the AWID reports that between 2010 and 2012, at least 24 women's human rights defenders were recorded as murdered in Guatemala, Honduras and Mexico alone, while one of 2012's most shocking moments came in the attempted assassination in Pakistan of 14-year old education activist Malala Yousafzai.

In Lithuania, Moldova, Russia and Ukraine, new laws, policies or initiatives were proposed or carried out in 2012 that would severely curtail LGBTI activism, while in Uganda attempts were made to reintroduce a notoriously anti-gay bill.[32] The 2012 International Lesbian, Gay, Bisexual, Trans and Intersex Association's State-Sponsored Homophobia report indicates that 78 countries out of 193 still have legislation criminalising same-sex consensual acts between adults.[33]

Further, our contribution from the Advisory Council on Youth of the Council of Europe reports that hate crime in Europe is

on the rise, a trend that points to more difficult conditions for civil society groups associated with particular identities that are targeted in hate crimes. According to data from two reports released by the EU's Agency for Fundamental Rights in November 2012, every one in four people of a minority or immigrant group in Europe has been a victim of a hate crime within the past year.[34]

A related issue on discrimination and marginalisation is the extent to which those organisations and individuals seeking to advance rights for marginalised groups, such as women and LGBTI people, and people with disabilities, are included in the mainstream of civil society itself. Our contribution from the International Disability and Development Consortium (IDDC) suggests that the position is often unsatisfactory:

"...misconceptions, stigmas and stereotypes about disability as well as inaccessible environments create barriers for people with disabilities from attaining their right to full and equal participation in civil society."

As members of civil society, we need to take care not to consciously or unconsciously propagate paradigms of exclusion. There seems to be a real need for more analysis and promotion of the connections between CSOs and activists that are seeking rights for marginalised groups, and other parts of civil society.

One particularly complex area for analysis is the strength and roles of faith groupings. In most contexts, and consistent with our working definition of civil society, we would consider faith-based organisations and groupings as a valuable part of civil society, representing sources of social capital and community organisation and offering platforms for collective participation. Our contribution on participatory governance in the Pacific islands draws attention to the important role of the church, alongside traditional leaders, in people's lives.

The complicating issue is that religious institutions, particularly religious leaders, can also be powerful sources of non-progressive rhetoric that can cut across the efforts of other parts of civil society. For example, some contributions to our report see a connection between an apparent rise in religious fundamentalism in some countries and a heightened targeting of women's and LGBTI activism. Front Line Defenders reports fundamentalism affecting human rights defenders in Indonesia, Malaysia and Pakistan, where clerics made threats against women human rights defenders and CSOs working on women's human rights.[35] In some countries, governments seem unable to protect civil society groups that speak up against conservative social values, patriarchy and religious fundamentalism. As the contribution from AWID makes clear, fighting these attacks drains energy and resources that would otherwise be spent on advancing more progressive agendas.

Trust and participation

Public trust in civil society remains a key asset that should be considered part of the enabling environment. On most available data, such as the annual Edelman Trust Barometer, NGOs (to use the Barometer's terminology) have consistently scored higher levels of trust than governments, companies or the media, for the past five years.

Levels of public participation are another important factor that we need to track continually, including through such tools as the CIVICUS Civil Society Index. An enabling environment can be characterised as one that makes it easy for people to participate in diverse ways in a range of different civil society opportunities. This suggests that levels of public participation can offer one indicator of whether there is a sufficiently enabling environment.

But a note of caution should be struck here: mass participation in public protest events is, of course, also an indicator of dissatisfaction, which can include dissatisfaction with political and social exclusion and the inadequacy of formal channels of political participation. This was the case in many of the Arab Spring protests. Indeed, there are occasions when mass protest can be an indicator of a deficit in CSO response, poor routes into participation through existing civil society, or perceptions that CSOs do not offer a relevant platform for the articulation of a particular demand. These deficits can occur as a result of the kind of restrictions on CSOs discussed above.

Our contribution from SERI, a CSO based in South Africa, suggests that the burgeoning of local protests in South Africa is a sign that people do not see formal participation platforms as adequate. They found many CSOs wanting in their response to 2012's Marikana incident, when the police shot dead 34 striking miners. This gap points to a wider insufficient CSO response to significant socio-economic challenges in South Africa, and a disconnection between formal CSOs and the country's burgeoning local protest movements. They also draw attention to political manipulation of the criminal justice system and the relative weakness of CSOs in relation to the dominant party state and its political structures.

Large-scale protest movements offer a reminder that the environment for civil society is dynamic, and moments of sudden opportunity arise. Outbreaks of protest are volcanic and can create volatile new space, but after they are brought under control, it should not be assumed that the dissatisfaction that drove them has gone away. Perhaps the lost momentum of some of the headline protests of the last couple of years points to a need to invest in existing organised forms of civil society, and particularly actions that improve their conditions and connections, sooner, to maintain the momentum gained from mass protest and address the grievances behind protests.

Looking for local tipping points

There is little civil society can do to change a country's geography. For example, small island states face particular issues of vulnerability, including high exposure to the impacts of natural disasters, unequal relationships with stronger neighbours and a particular reliance on diasporas.

However, we do need to take locally specific factors such as these into account when we seek to understand and improve the environment for civil society. To some extent, they can define the space available and the best intervention methods, and remind us that the knowledge of local civil society is a key asset. They also prompt the recognition that forces other than government, politicians, donors and civil society can influence the conditions for civil society. While it is essential to hold onto global norms such as those enshrined in the International Bill of Human Rights, the existence of locally specific factors suggest that global standards for a civil society enabling environment must be sufficiently adaptable to local realities, cultures and attitudes. An ideal environment for civil society will be one that blends global standards with an understanding of local nuances.

What this suggests, from the point of view of strategy, is that civil society, and civil society stakeholders, in seeking to influence the enabling environment, need to identify not only the most important things they wish to influence, but also the places and moments where there is most opportunity to make change. These must be context-specific, linked to moments of what may be fast-moving opportunity and the levels of work at which action is possible. The more we understand of national and sub-national context, the better. It is also important for progressive civil society activists striving for positive social change in challenging environments to work with respected social and political actors that are likely to influence others, in order to reach a tipping point at which broader society is more likely to embrace change.

It should be understood here that while it is important to understand public attitudes, even seemingly entrenched attitudes can be dynamic and can be challenged: they are not necessarily dead weights against change. It may be a question of reading when the moment is right. For example, in two generations the position of lesbian and gay people in the UK has progressed, recently very quickly, from criminalisation to a parliamentary vote in favour of gay marriage, with opinion poll data showing public attitudes that are largely accepting of same-sex partnerships, in stark contrast to widespread stigmatisation in the past.[36]

f. Corruption

It is much harder for civil society to operate properly in conditions where there is a high level of corruption.

INTRAC's contribution to our report uses the example of the anti-corruption movement in India to highlight the multifaceted impact of corruption, as well as the need for a broad response. It says of the movement:

"It cut across traditional divisive lines of caste, class, ethnicity and religion. People across these lines realised that corruption affects everyone in society, from the poorest peasant who cannot access a government employment scheme, to a middle class family expected to pay a bribe to get their daughter into college, to the large company where corruption adds unacceptable costs to their transactions."

Corruption is so pervasive that in some contexts it makes it difficult for civil society to work in conventional ways. For example, our contributor from the Democratic Republic of Congo simply states:

"It is difficult to give a comprehensive response in a country where corruption has reached the level of no return and where bad governance has become a management system."

Our contribution from a Ugandan social development specialist explores the impact of corruption on the interaction between civil society, government and donors. It is acknowledged at an official level that there is a high level of corruption among state officials and politicians, as documented in Auditor General's reports. This has caused donors to freeze support and the government to recognise corruption as a serious problem.

The question then arises as to why there is not more common ground between CSOs and government in tackling the issue, given an apparently shared problem diagnosis. Why then are Ugandan CSOs staging their 'Black Monday' weekly public anti-corruption campaigns being attacked? Our contributor notes that:

"[T]he stance of donors can be characterised as looking 'noble and appalled' by the extent of the corruption, while the government is evidently seeking to look tough and serious about capturing the culprits. CSOs seem to be the losers here: they stand on a slippery surface in a political and financing environment in which money seems to speak more than the rights of people to receive the development benefits due to them through government programmes."

What we seem to be seeing here is that one dysfunctional aspect of the environment for civil society in Uganda – strained relationships and apparently growing distrust between CSOs and government – is inhibiting effective action on another area of dysfunction – corruption. In such settings, speaking out against corruption can be a risky act for civil society activists, as Faustin Ndikumana, head of a CSO that advocates transparency and accountability in Burundi found out when he was detained for two weeks in February 2012.[37]

Our contribution from Guinea further makes a connection between poor governance and financial support, which has repercussions for CSOs:

"...the Republic of Guinea spent nearly 10 years on the bench of insolvent countries mainly due to bad governance. During these years, technical and financial partners have been very shy in financing CSOs."

Freedom from corruption as part of the enabling environment

For an enabling environment to exist, there must a low level of corruption among officials of the state, business, politicians and other social actors, including civil society personnel themselves. Open and timely access to information and transparent accountability mechanisms and processes are necessary. It should be easy to expose corruption, including through investigative journalism, and instances of corruption should be addressed through the criminal justice system, without political interference.

g. Communications and technology

If one of our concerns in promoting and seeking to enable civil society is to encourage space for public debate and dialogue, and the articulation of solutions, then naturally we need to take an interest in communication. The extent to which civil society can communicate, including through internet and mobile technology, is another important aspect of the environment for civil society.

Threats to online civic space

The role of the information and communications technology (ICTs) in people's mobilisations such as the Arab Spring has been much discussed, not least in our previous State of Civil Society report. We have seen the multiple value of online communication for civil society, including for the exercise of social accountability; the crowdsourcing of activism, including through platforms such as Avaaz, and the formation of new civil society communities online; the enabling of international solidarity; the real-time organisation of offline protest; and citizen journalism, among others. Our contributors from Finland, Kepa and Kehys, also call attention to the role of ICTs in providing new channels of engagement with civil society, politicians and civil servants.

The darker side of the online world also should be acknowledged here. Our contribution from the Advisory Council on Youth of the Council of Europe, as mentioned above, sets out how the internet and social media are being used as mechanisms to propagate hate speech and incite hate crimes. The response of the Advisory Council of Youth, underlining the role of the internet as a key arena for contestation, has been to spearhead a youth-led campaign, 'Young People Combating Hate Speech Online', to promote social and cultural tolerance and inclusion.

As our contribution from the Association for Progressive Communications (APC) points out, online access continues to grow, including through mobile phones. The internet has created new platforms for self-expression, but in turn this has created new vulnerability risks for those who use these platforms. As APC states:

"The revolutions in North Africa have shown how social media can be an ally in the organisation and mobilisation of people, but also how authoritarian regimes use the internet to counter progressive social and political change."

A few of many recent examples include arrests and imprisonment for tweeting and blogging, including of civil society leader Nabeel Rajab in Bahrain, and also of activists in Oman, Saudi Arabia and the United Arab Emirates; infamous and continuing internet censorship in China; interruption of SMS services in India; and tracking of cybercafé users in South Korea. Ethiopian blogger Eskinder Nega received an 18-year prison sentence after becoming unpopular with the repressive government, apparently for writing a series of pieces on the Arab Spring. APC cites that about 32% of all users have experienced some kind of national-level restriction, and over 45 states have imposed restrictions of some kind.

The danger is that new international norms on internet control are being steadily and stealthily established, justified by references to security and crime, and exercised through such means as surveillance, censorship and blocking of access. A related emerging area for alarm is the interaction between governments and businesses in internet control. Governments often find service, content and platform providers compliant

in requests to block and filter content. Internet freedom should therefore represent a growing area of interest for civil society and those who seek to support civil society.

We have also seen welcome citizen activism to protect online civic space. Freedom House's 2012 Freedom on the Net report notes that stringent opposition by concerned citizens in Europe to the Anti-Counterfeiting Trade Agreement (ACTA) prompted governments to back away from ratifying the treaty.[38] Our Estonian AGNA member, the Network of Estonian Nonprofit Organisations, reports that non-formal networks of like-minded people such as the 'Estonian Internet Community' played a crucial role in opposing ACTA. In the US, 2012 protests by civil society, in conjunction with advocacy by technology companies that included the synchronised blacking out of websites such as Wikipedia, helped stop the passage of Stop Online Piracy Act (SOPA) and the Protect IP Act (PIPA).

Internet governance, however, remains an opaque area and beyond the everyday concerns of many CSOs. The scope for civil society participation in decision-making forums on internet governance is very limited, and expanding this should be an area for collective advocacy. Rather than focussing on restriction, legislation should seek to enable access and promote the internet's public role and global commons nature. One new campaigning tool that provides a potential rallying point is PEN International's 2012 Declaration on Digital Freedom.[39]

Making meaningful messages through mainstream media

Engagement with conventional media remains as important a question as ever before, with the line between conventional media and the internet being increasingly blurred as media organisations have moved into digital platforms. In spite of the rise of the internet, a handful of large companies continue to own the bulk of the media landscape, as our report's joint contribution from the Inter Press Service (IPS) and the Citizen Lab makes clear. The diversity of voices continues to be limited, with viewpoints from large and developed countries dominating news and commentary media.

There are also success stories in civil society advocacy for media reform, and there is a need to share successful experiences, and encourage more CSOs to take an interest in issues of media ownership and access to media platforms. This is an area where our contributors suggest closer engagement with academia would bring benefit, as here there is solid expertise and research. For example, the Argentinian media law, which assigns 30% of the airwaves to community media, has its origins in a draft formed by a CSO/academia partnership.

No communications infrastructure can benefit CSOs unless we in civil society are media-savvy. This applies to both new and traditional media. As discussed in our previous State of Civil Society report, there has been a failure by many traditional CSOs to capitalise on the mobilising power of new media, mimicking continuing inadequacies in approaches to offline media. The joint contribution by IPS and the Citizen Lab attributes this partly to the fact that:

"Social media and blogging platforms, by privileging an individualistic approach to communication, are sometimes at odds with the ways in which organised civil society traditionally communicates."

This is not the only area of civil society difficulty here. In civil society we seem resigned to the fact that matters of importance to us will not attract mainstream media coverage. However, we cannot attribute this only to media bias. Our contributors point to the poor quality of many traditional CSO communications tools, such as press releases, the lack of follow up in communications and an absence of collaboration between CSOs to make strategic joint contributions. There is a need for CSOs to develop capacity to adapt messages to the characteristics and needs of different information channels.

An enabling communications environment

An enabling environment for civil society should see fair access for civil society voices to media platforms. Given the value of online civic space, citizen activists and CSOs should continue to lobby governments and internet companies to ensure that restrictions on websites and social media do not violate the parameters of international law. Citizen activists and CSOs need to demand that their national telecommunications infrastructure and service providers guarantee affordable mobile and internet access for all. This needs to be underpinned by guarantees of media freedom and freedom of information, and the protection of investigative journalists, bloggers and others who expose wrongdoing.

h. Resources

Resourcing is another key feature of the environment in which civil society operates. An enabling resourcing environment could be defined as one that supports the creation and sustaining of multiple resourcing streams for the self-determined programmes and priorities of civil society in its diverse forms, including from sources other than donor agencies, such as from citizens and communities in a CSO's own country.

The legal and regulatory environment for civil society financing

The question of resourcing is clearly connected with that of the legal and regulatory environment discussed above. The law is sometimes skewed towards the granting of tax concessions to charitable acts and service delivery, but not for civil society work that may have more of a political edge. Our contributors tell us is the case in India and Turkey, where TUSEV indicates that:

"Tax exemptions and public benefit statuses are granted to a very limited number of CSOs through the Council of Ministers decision. Therefore, this decision which must be unbiased and objective in nature becomes extremely political, and the privileges it provides are very limited."

It seems an enduring fact that some types of CSOs, such as those that mostly have a policy, human rights or advocacy focus, struggle to raise domestic resources and therefore rely significantly on funding from sources in other countries. Attempts to limit the foreign funding supply to such CSOs have therefore become a tactic for governments that seek to silence civil society critics. According to ICNL data, measures have been taken within the past 12 years to restrict access to foreign funding in Afghanistan, Algeria, Bangladesh, Belarus, Bolivia, China, Ecuador, Egypt, Eritrea, Ethiopia, India, Jordan, Nepal, Peru, Russia, Saudi Arabia, Sierra Leone, Turkey, Turkmenistan, Uganda, Uzbekistan, Venezuela and Zimbabwe.[40] In Ethiopia, it remains the case that CSOs that receive more than 10% of funding from foreign sources are not allowed to undertake advocacy or human rights work. In October 2012, Ethiopia's supreme court upheld the freezing of the assets of two of the country's last functioning human rights CSOs.[41]

ICNL suggests that there is a 'contagion effect' with governments following influential examples set by others, including in draft laws that limit receipt of foreign funding in Malaysia and Pakistan, and the expansion of existing restrictions in Bangladesh and Egypt.[42] In Pakistan, the politician behind a draft law to limit foreign funding explicitly referenced Egypt's restrictions as good practice. The concern is that regressive international norms are being established.

Severe measures were recently introduced or threatened in Russia.[43] In what seems a clear move to discredit CSOs and undermine their trust among the public, CSOs receiving foreign funding are now required to register and report themselves as 'foreign agents'. This was accompanied by the expulsion of the US aid agency USAID from Russia in October 2012. In response to these measures, CSOs in Russia are fighting back, including through boycotting registration as foreign agents and bringing their case to national and international courts.

We can draw hope from one recent successful example of a civil society response, in the Dominican Republic. Our AGNA partner, Alianza ONG, reports that the government tabled a law that attempted to impose new taxes on CSOs and reduce their tax benefits. Accepting the rationale of civil society groups of the importance of tax exemptions in financing their work, the national congress rejected the government's proposal.

Political and economic shifts and civil society resources

Attacks in political rhetoric often use funding sources to discredit CSOs, in tactics that seem deliberately to conflate the receipt of donor funding from a country with promotion of that country's viewpoints. Canadian CSOs working on environmental issues have been branded as puppets of the US foundations from which they receive financial support, and Venezuelan CSOs receiving US funding dismissed as servants of empire and profit-seekers.

What seems a current and growing preoccupation by governments with CSOs' funding arrangements has led to the disenabling conditions of unpredictability and volatility. In 2012, over 4,000 Indian CSOs had their permits to receive foreign funding withdrawn. Abrupt withdrawal of federal government funding to CSOs in Brazil for a period in 2011 demonstrated the vulnerability of CSOs to this volatility.

In some donor countries, resourcing shifts include the withdrawal of previously long-standing support to domestic CSOs that champion international development causes, and renewed questioning of the role of such CSOs in development, as we have seen recently in countries such as Canada, the Netherlands and New Zealand. In Canada the government abruptly withdrew funding for organisations engaged in policy development and advocacy, after more than 40 years of support in some cases. CSOs in developed countries that champion development have faced funding cuts in the past years, noted by our AGNA partners the Scottish Council for Voluntary Organisations and the Lithuanian NGO Information and Support Centre.

There is a debate to be had about the extent to which CSOs in developed countries are effective channels to help ODA flow towards poor people in developing countries, and about the continuing role of CSOs in donor countries as development intermediaries in times when technology is offering new ways of making connections and transferring resources between countries.[44] We should also be aware of the potentially negative effects of a significant reduction in ODA channelled through Northern CSOs, which could include a loss of solidarity between developed country CSOs and developing country CSOs, and of development awareness in developed countries. As our contributors Jacqueline Wood and Karin Fällman tell us:

"It is... time for collective thought and experimentation within existing modalities and with alternative, complementary models, realising that the use of one modality does not exclude the other. An honest and comprehensive overview of the relative advantages of direct and indirect funding to developing country CSOs is required, avoiding the risk of undermining CSO-CSO relationships or creating unnecessary competition, but taking account of the current reality of the state and aspirations of developing country civil society."

There also seems to be a growing tendency for government donors to provide direct support to developing country governments, often pooling their approaches to do so, as reported for example in The Central African Republic , Ghana, Kenya, Tanzania and Zambia.

While justifications for such practices make reference to the need for aid efficiency, they impact on the resourcing position and status of CSOs, which can transition from receiving funding directly from and dialoguing with donors to being in the position of asking donor-supported national governments for financial support. As we heard from RESOCIDE in Burkina Faso, this is not a promising scenario for the autonomy of civil society, and a disempowering one in countries where governments and CSOs have poor relationships.

CSOs can often be seen as competitors for resources, and in some countries governments still have a sense that national development frameworks should trump other development approaches, and that donor funds when applied to CSOs should still align with government development frameworks. For example, our contribution from the Democratic Republic of Congo tells us that:

"Despite the existence of the Paris Declaration, the country is trying to organise, coordinate and analyse development assistance at the ministry level..."

Our contributors tell us that we are also seeing changes in the ways in which donors make their funds available to CSOs, which implies an altered relationship. In India, our contributor states that most access to government projects is now through open tendering, an unrealistic prospect for many smaller CSOs. A switch from the giving of grants to the provision of fees for services, which our contribution from InterAction notes to be happening in the US, implies less a relationship of equals and more of an authority-contractor relationship. InterAction's contribution tells us:

"InterAction members report that USAID field missions often view all US NGOs as implementers to be tightly controlled rather than true partners with expertise and experience in their own right. This is reflected in increasingly prescriptive funding solicitations, mandates to insist on preferred NGO staffing structures and overly burdensome reporting requirements."

Further, a case is still pending in the American Supreme Court about whether US CSOs receiving USAID funding should promote US government views, a notion which can only play into the hands of critics of CSOs that receive US funding. Straightforward grant-giving to CSO programmes is reported as having become rare in Canada as well as the US.

Influences here seem to be not merely the global economic crisis, but also the political response to it. Further, we need to ask whether a high focus on the MDGs in recent years has ushered in a drift back towards technical and quantitative target-driven approaches to development, after a period at the end of the last century when development was beginning to be understood as more about enabling of participatory governance to unlock local solutions and actions. A further key weakness of the MDG framework is that it did not mandate a specific role for CSOs in the delivery of its goals and targets, meaning CSOs have had to seek participation where possible, rather than have it as a right. A drive for efficiency, 'value for money' and visible deliverables, while understandable, not least in a context where development funding may need to be justified to sceptical donor country publics living with public service cuts[45] and increased unemployment,[46] suggests a limiting of the innovation and possibility that civil society can bring.

Our contribution from a Ugandan social development specialist calls attention to the continuing problem that high donor dependency limits CSOs' autonomy and, to some extent, sets the parameters of operations of many CSOs and their outputs, demanding a priority on clearing donor hurdles. How can CSOs that are heavily donor dependent then assert their independence when dealing with government? Alongside these concerns there is the danger, when attacks on advocacy come at the same time as difficult funding conditions, that

the response will be pre-emptive self-censorship and a loss of critical voice and innovation on the part of civil society. Our report's contribution from the International Trade Union Confederation also notes a dampening effect of the economic crisis on the potential for trade union activism.

Tightening conditions and significant reductions in funding for CSO-determined programming should be seen as disenabling for civil society. Our contribution from the Reality of Aid Africa makes the point that donor frameworks imposed to manage funds tend to be about the minimisation of perceived risks rather than enabling CSOs to achieve more. One example from AWID of how to counteract heavy donor conditions shows the value of a collective civil society response: women's organisations came together to negotiate with the Dutch MDG3 fund, which agreed to adjust burdensome administrative and reporting requirements.

A further funding trend identified by our contributors from Brazil and the Dominican Republic is donor withdrawal from countries that are now assessed as middle-income countries, including those of the Caribbean and Latin America, even though there is growing awareness of the problems of severe income inequality within apparently wealthy and middle-income countries. As our contribution from INTRAC reflects:

"For some CSOs this change from being aided to unaided is leading to organisational closure, and for others a new focus and reflection on roles. By default, these debates are also now starting to be felt within the larger INGOs [international CSOs], who are simultaneously also withdrawing from some parts of the world, particularly in Latin America, but are still seeking a growth in their international brands."

Other apparent trends noted include the continuing uses by donors of developing country CSOs in instrumental ways without addressing underlying capacity issues; the use of local CSOs as recruiting grounds for international CSO and donor staff, which again creates capacity problems; and apparently creeping connection between the development and military spheres, for example in the US.

Bridging the civil society-private sector divide

Compared to civil society, from some of our contributions emerges a sense that private sector is often privileged by governments and donors. Is more attention being paid to the enabling environment for business than for civil society? We see, for example, many governments relaxing laws to encourage business at the same time as tightening them for civil society. There also remains a corresponding need to examine how the private sector can help to shape the environment for civil society, and to assess to what extent gains are made from partnering with the private sector.

A positive move in this regard may include India's recent stipulation that private companies spend 2% of their profits on corporate social responsibility. InterAction also suggests that there needs to be more civil society inclusion in public-private partnerships:

"If the US is to truly maximise the contributions of CSOs to development, it needs meaningfully to engage US NGOs in its public-private partnerships and major private sector initiatives."

Building resilient, diverse, local funding streams

The vulnerability of CSOs to the critique of being foreign agents suggests a need to find new ways of cracking the difficult challenge of securing sufficient domestic resourcing so that reliance on foreign support can be reduced. In countries with limited practice of domestic, individual philanthropy, and at a time when the effects of the global economic crisis are still being felt, this is hardly an easy task.

There are some examples of success set out in our contributions. CSOs in Estonia report that they are looking to diversify by turning to the private sector, income generating activities and social enterprises. Our contribution from Norway reports that two thirds of Norwegian civil society's income is self-generated, while our contribution from the Dominican Republic suggests that most CSO funding comes from income generation, indicating that they are developing sustainability mechanisms that others could learn from.

However, structural constraints in the legal and regulatory environment are a major impediment to the creation of stronger domestic funding mechanisms, as ABONG highlights is the case in Brazil. Given the funding constraints for CSOs described above, it is especially important to have legal and regulatory frameworks that encourage local philanthropy and offer favourable tax regimes for CSOs.

Possible further parts of the solution may lie in the building of common agendas with domestic CSOs engaged on other issues – for example, with CSOs engaged in offering services to the vulnerable, which are not necessarily seen as political, as suggested earlier in our contribution from Russia - or with the kinds of community philanthropy networks seen as emerging in a number of countries. Broad coalitions of diverse CSOs advocating for legislative reform may also help to address the stigma associated with receiving foreign funding for work in the political sphere.

The impact on civil society of legislation on the financing of terrorism

As Statewatch's contribution to our report points out, within six weeks of the 9/11 terrorist attacks on the US, an opaque counter-terrorism financing framework had, with little debate, been added on top of existing international anti-money laundering measures, through UN Security Council Resolution 1373. Though there is little evidence that CSOs are to any significant extent being used as fronts for the financing of terrorism, these measures affect the ability of CSOs in developing countries to receive funding and make it harder for CSOs in developed countries to connect with their developing country partners. For example, extensive blacklisting of individuals makes financial transfers harder and risks reputational damage.

A compliance culture in financial institutions obstructs work and hampers rapid response, such as to conflict and disasters, through slowing the movement of resources, while CSO compliance itself uses up resources. The multilateral counter-terrorism financing regime has even placed pressure on governments to comply. For countries where the environment is dysfunctional, such as Turkey, compliance makes things worse; for governments that seek to repress civil society, countering terrorism financing offers another justification. Domestic legislation on the financing of terrorism has been used in Nicaragua and Venezuela to question resource flows to CSOs and justify their investigation.

Such measures help the designation of 'terrorist' to be misused, with little pressure on governments to prove accusations against individuals or CSOs. This can have a chilling effect on CSOs, particularly those that work in Islamic countries or undertake peace-building and post-conflict work, which sometimes demands working with groups that hold militant views.

Contradiction arose in 2012 when many donor governments were keen to support civil society follow up to the Arab Spring, but the global counter-terrorism agenda they had implemented made the transfer of resources to CSOs in many Middle East and North African countries much more difficult

There would seem to be a need in response to advocate for the current heavy and blanket approach to countering terrorism financing to be scaled back, for fundamental rights such as freedom of association and expression to be respected, and for more transparency and oversight. There is a clear need for a full assessment of the impacts caused by current domestic and international counter terrorism measures, taking into account the real risks and proportionality of these measures, and undertake reforms in legislation that would enable the legitimate movement of aid and humanitarian financing.

A related question is that of how to tap better into rich cultures of individual giving when these exist. There is a connection here with the participation dimension: our contribution from Japanese CSO platform the Japan Association of Charitable Organisations suggests that most people who volunteer in civil society in Japan also make monetary contributions to civil society. In countries that have a growing middle class, such as India and some Latin American countries, new opportunities to fundraise could be explored. Developing better funding links with diaspora communities, exploring the applicability of social enterprise models and using technology to crowd source funding may also be part of a response.

But despite these possible responses, we may have to accept that there seem few sustainable funding success stories, and there will always be a funding gap, particularly for CSOs that engage in policy, advocacy and human rights work. If we believe that having civil society is important, not least as a counterbalance to other forces such as government or the private sector, we may have to accept that we need to find ways of resourcing it. It is time to re-open a hard-headed conversation about how we finance the civil society we need.

At least from the point of view of stopping existing cuts in CSO funding, in its contribution CONCORD Europe argues that measures to address financial and fiscal crises in donor countries should be undertaken in ways that respect existing donor financial obligations as global actors in international development cooperation, minimising the impact of cuts on policies and programmes that address their relationship with civil society as effective actors in development.

Looking further forward, we need to re-examine donor rationales for supporting civil society and their methods for doing so. We need to promote the idea that the enhancement of the environment for civil society should be built into funding decisions, and included in the monitoring and evaluation of funding programmes. CSOs involved in the Busan processes called for a return to a diversity of funding methods, with increased core support for CSOs, including direct funding for CSOs in developing countries, innovative mechanisms that support CSO-determined priorities, and greater harmonisation of transaction costs in funding relationships. We would add to this that a greater variety of civil society, going beyond formal organisations, should be supported.

4. Civil society as a dynamic arena

The recent story has not all been about the loss of momentum of the Arab Spring, Occupy and the Indignados, and about crackdowns on civil society. Protests have burst out in other places, such as Bangladesh, Bulgaria and Malaysia, and continue to flare in Greece. Arguably, although it has been met with attempts at repression, in 2012 we saw a renaissance of Russian civil society. A generation that had previously been considered rather passive or consumerist and had not before engaged in politics or civil society led the movement to push back on Putin's repression. As noted earlier, in India, the anti-corruption campaign is offered as an example of a broad-based alliance and movement that achieved impact, while at the end of 2012 India also saw spontaneous responses against sexual harassment and for the dignity of women, and a strong anti-nuclear movement in Tamil Nadu. In March 2013, online campaign platform Avaaz announced its 20 millionth member.

Civil society as complex, dynamic arena

The civil society arena is dynamic and different forms of civil society experience the enabling environment in different ways. It would be difficult, and perhaps wrong, to try to encompass them all in one initiative. Our contribution from Brazil hints at the complexity of the civil society universe by pointing out that cooperatives did not fit into new proposals for more progressive regulatory reform in that context because they are not non-profits. The emergence of forms such as social enterprises, and the difficulty some CSOs experience in accepting and relating to these hybrid forms, challenges old notions of civil society that appear hung up on organisational forms and whether organisations make profits.

Our contribution from the Global Fund for Community Foundations notes that community foundations – essentially, groupings that manage local philanthropic funds to help address social improvement needs – are often overlooked as part of civil society, and yet they enjoy crucial assets, such as their standing in the community and the role they play as builders of trust and social capital. What we should be encouraged to see in community foundations is the application of a local assets-based approach that works with what is available from the ground up. With increasing hybridisation of civil society forms, we suggest that we should accept that each civil society form is capable of utilising different assets and makes a contribution in different ways.

An understanding that the civil society arena is fluid and dynamic offers both a hope for and a challenge to our understanding of the enabling environment. New civil society forms evolve to fill emerging social, political and economic spaces as governments and private sector shift ground, leave gaps, or are found to fail communities. Sometimes established CSOs ossify or get left behind by events, including in countries that have undergone sudden, dramatic transitions. Where conventional CSOs are weak or the environment for them is highly disenabling, informal groups, community foundations and other such civil society forms may offer alternate spaces for voluntary action, as our contributor from the Global Fund for Community Foundations suggests:

"CSOs in many countries are witnessing restrictions in their space to undertake their work as independent development actors, resulting from constraining government policies, regulations and political harassment, and the impact of onerous conditions attached to official donor aid. In this context, new community philanthropy institutions may be seen as part of a fresh wave of community level organisations, which are contributing to a more enabling environment for local CSOs and community initiative. They are doing so through helping to develop more inclusive and democratic decision-making processes, and greater harnessing of local assets and resources, rather than a reliance on ideas, money and initiative from outside."

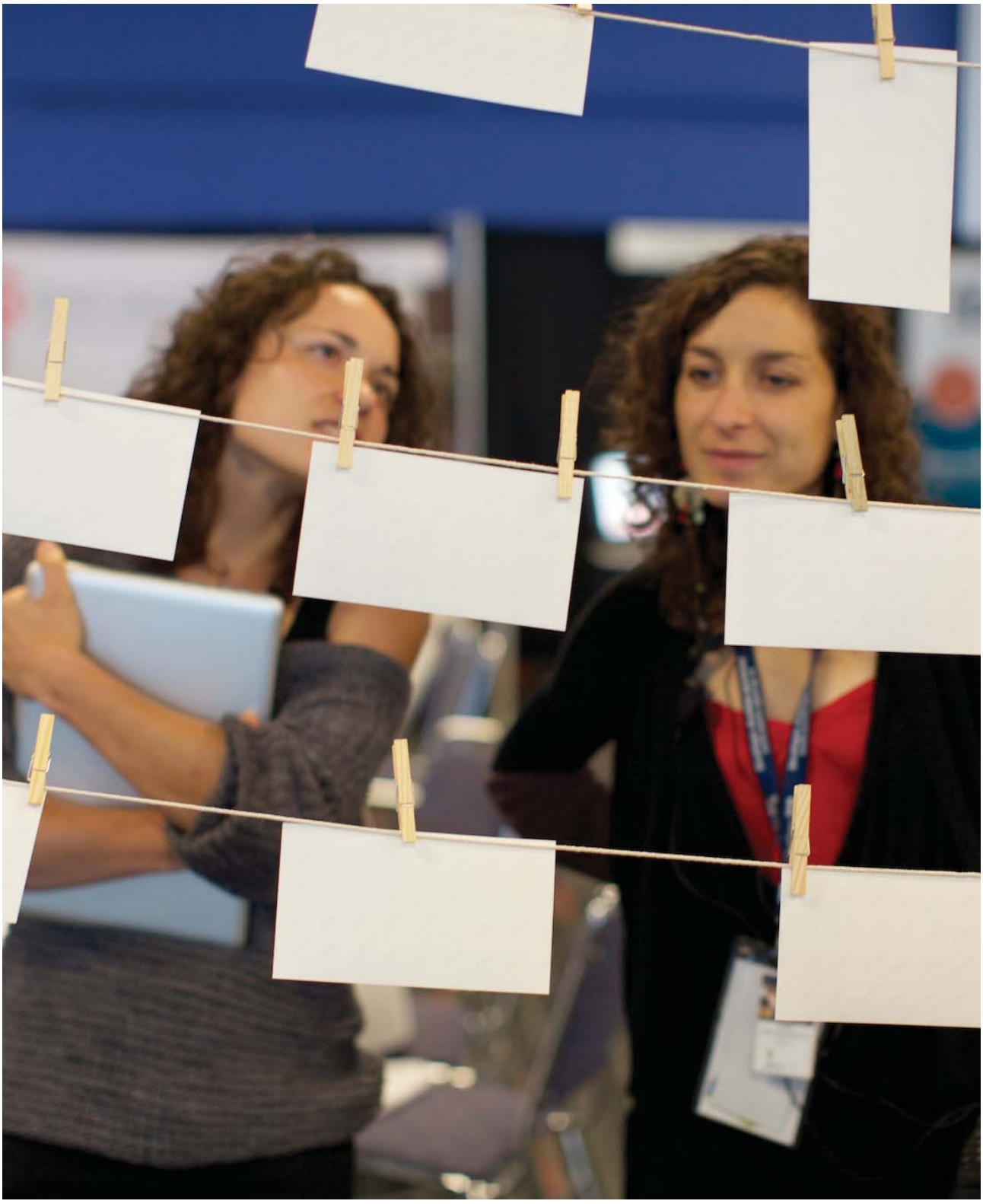
Given this, it is essential that standards for the enabling environment for civil society, as suggested by our recommendations throughout this report, are able adequately to capture or encompass new forms, rapid evolutions and the civil society activity that goes on under the radar in what may otherwise seem disenabling contexts. Standards for the enabling environment need to be capable of responding to changes in the civil society universe. Further, however important the legal, regulatory, policy spheres are for defining the environment for civil society, we also need to seek to improve the other areas outlined in our report, and to look beyond enabling of CSOs to consider wider civil society.

Further, we must resist any definition of civil society or of our enabling conditions set by government regulations and external agencies, however progressive these may be; any such definition is likely to become behind the times, and civil society itself must own and offer its own definitions.

Crisis and crossroads?

It could be argued that there is a crisis in civil society. Many CSOs will feel that they face difficult, existential questions, include those of what they fundamentally stand for, what change they seek, and whether their methods are still the best ones. Other key questions include those of how civil society maintains its autonomy in the face of current global political dynamics, and how we in civil society can ensure we continue to offer added value without becoming used as an instrument.

Perhaps a better question to ask is whether civil society has ever not been in a crisis, a state of flux, or seeing itself stood at a crossroads? Perhaps we should start to recognise this as healthy and begin to understand volatility, flux and self-criticism as key attributes of civil society that enable it to be a trusted, diverse and self-critical source of alternatives and solutions, and a locus for self-expression, dialogue and the pursuit of public good.



5. Looking forward

As civil society, we have an uphill battle to fight. We know we have impact, even though sometimes we struggle to prove it. Our progressive voices build social cohesion, trust, tolerance, civic participation and cooperation. We provide solutions, results, innovations and ideas. We deliver development. We know that we enrich the daily lives of people and help empower the poor, vulnerable and marginalised. We know that in turn we have a right to the optimal legal, political and social environment, the communications infrastructure and financial conditions that enable us to do our work as well as we can.

The unfortunate reality may be that sometimes we are so close to our work that we cannot see that its value is not clear to all. The value that civil society brings always needs to be proved, documented and promoted – and the argument for civil society continually made. As contributors Jacqueline Wood and Karin Fällman state:

"While the assumption of the need for strong government and private sectors is today generally not questioned, the need for a strong civil society is not always so readily assumed."

Similarly, the value resulting to society as a whole of a more enabling environment for civil society still needs to be demonstrated by civil society in many different contexts. CSOs and individuals in civil society, in their full diversity, need to help reveal the essential value of civil society and people's participation. We must encourage governments, donors, the public and civil society ourselves to expand perceptions of civil society, in order to truly understand and acknowledge civil society's social, political and economic impact. We also have to take all possible steps to be effective and strengthen our collective accountability, thereby making a strong case for a more enabling environment.

In working in this area, we in civil society must be honest, be prepared to admit our failures, and be leaders of best practice. At the same time, we must promote the intrinsic value of civil society, beyond its instrumental value, and we must be confident in asserting our autonomy and our right to make our own definitions, including of the enabling environment. We need to redefine the terms of the debate and not let governments and donors define these for us. Nor must we let ourselves be defensively defined by our reactions to our critics. Our autonomy also implies that we need to improve our research capacities and develop our own data, and to liberate ourselves from our current funding models. These are steps towards our empowerment and developing the enabling environment we deserve.

The enabling environment is necessarily complex and dynamic, and we need to accept that it is this way, and not try to build rigid models. We need to acknowledge nuance, complexity and context-specific dynamics, and affirm the value of local knowledge and local action. But we also need to simplify when possible by prioritising our actions, and by looking for areas of gain and opportunity, and the possibilities for collaboration, which may be different in each context. We need to identify and work to build on our existing assets and search for emerging opportunities and tipping points. Above all, we must work collaboratively, and encompass different civil society forms, including new ones as they arise, and act in solidarity. In doing so we will prove the value, and values, of civil society as a whole.

Collaborative strategies

In closing, we suggest the following as collaborative strategies for civil society that will help us take the next steps forward:

1. We should identify and share successful and innovative practices pioneered by civil society, governments, donors and the private sector that improve the conditions for civil society, and in doing so, improve society as a whole.

2. We should recognise that as civil society we have a key role to play in helping to establish our enabling environment. We should work together to nurture the internal conditions that give civil society the best possible grounds to seek a more enabling environment, such as enhancing our legitimacy, transparency and accountability; strengthening the connections and cooperation between different forms of civil society; adopting effective tools of communication; and demonstrating our impact and our intrinsic, autonomous value.

3. We should be strategic. We need to focus on levers and key moments during which we can exercise pressure, and when due to external factors such as reputational risk, governments and donors will be more amenable to our demands.

4. We should mobilise multi-stakeholder networks of like-minded civil society actors and friendly governments and donors in our efforts to lobby for the implementation of legislative reform and optimal funding and political conditions for civil society.

5. We should forge civil society coalitions that work at a range of levels and that utilise the different strengths of different partners. These should combine the strengths some have

within their countries with the strengths others have in the multilateral arena, and should utilise the assets, including the constituencies and reach, of different civil society forms.

6. Finally, we should acknowledge that we still have to win arguments. In making our arguments, we need to be more ambitious, and to aim higher. We need to drive up standards, and set ever-rising minimum standards and norms.

We believe the time is ripe to seek enabling conditions for civil society: partly because we see some momentum around political acceptance of the importance of improving civil society conditions, not least in international development effectiveness processes; and partly because we see there is a need, with too many examples being offered by our contributors of disenabling conditions. The external environment within which we in civil society seek to make change is influenced by many forces, and in multiple ways disenabling conditions are affecting our abilities to achieve our maximum contributions. It is time to demand more, so that we can achieve more.

Endnotes

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Photo credits

Front cover (clockwise) Young Tunisian boy at protest in 2012. Source: Aya Chebbi; Policeman with a flower a protest in Murcia. Source: Sergio Reyes; A musician plays traditional African music during the closing ceremony of RECAMP V in Douala, Cameroon. Source: U.S. Air Force photo by Staff Sgt. Jason T. Bailey; Photo of a girl at a protest in Canada. Source: Salima Punjani; Dominic Champagne of the Mohawk Nation welcomes participants to the 2012 CIVICUS World Assembly in Montreal, Canada on September 5th, 2012. Source: Tristan Brand.

Page 4 – (Right) Headshot of Baroness Cathy Ashton speaking at the World Economic Forum, Source: Wikicommons; (Left) Inside the European Parliament in Brussels, Source: Wikicommons

Page 5 – (Right) Headshot of Jay Naidoo, Source: GAIN; (Left) Agriculturalists in Nigeria. Source: USAID Africa Bureau

Page 7 – (Right) Headshot of Danny Sriskandarajah, Source: CIVICUS; (Left) Protest against the treatment of the Falun Gong in China, Source: Long Trek Home via Wikicommons.

Page 16 – Shahbag Protests at Projonmo Square in Bangladesh, Source: Mehdi Hasan Khan via Wikicommons

Page 21 – Photo of Flags. Source: Salima Punjani

Page 22 – Guy Fawkes mask at 22 May 2012 protest in Canada, Source: Justin Ling

Page 28 – Montreal protests, Source: Chicoutimi.

Page 34 – Civilian confronting police at protest at the Majlis, Source - Dying regime via Wikicommons

Page 43 – Assisted Networking Activity at the CIVICUS World Assembly 2012, Source: Tristan Brand

Page 45 – Adivasi women in Gwalior, Madhya Pradesh, India, at the beginning of January Satyagraha 2012, Source: Yann via Wikicommons

Part II: Case studies: contributions from our global network

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31. CIVICUS Civil Society Enabling Environment Index – an invitation to join the dialogue
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Working with the Ministerial Global Partnership for Effective Development Cooperation:

Promoting an agenda for a CSO enabling environment in 2013

Brian Tomlinson, AidWatch Canada

Launching the CSO Platform for Development Effectiveness

In December 2012, just over a year since the Fourth High Level Forum on Aid Effectiveness (HLF4), more than 50 civil society organisations (CSOs) gathered in Nairobi, Kenya from around the world, and from rural, faith-based, feminist organisations and domestic and international CSOs, to launch a broad global CSO Platform for Development Effectiveness (CPDE). The CPDE is the successor civil society platform for the Open Forum on CSO Development Effectiveness and the BetterAid Platform, which coordinated CSOs' global mobilisation and the 300-person delegation to HLF4, held in Busan, Republic of Korea, in November 2011.

As detailed in the 2011 edition of the State of Civil Society report, at the Busan Forum, donors, developing country governments and CSOs confirmed a set of global standards for development cooperation – the Busan Partnership for Effective Development Cooperation (BPd). [1] Among other important standards, this outcome of HLF4 included government acknowledgement of CSOs' commitment as development actors to a human rights-based approach to their own effectiveness - the Istanbul Principles for CSO Development Effectiveness and the International Framework for CSO Development Effectiveness, a guide to the implementation of the Istanbul Principles.[2] This chapter looks at developments since Busan, particularly in relation to the implementation of standards for an enabling environment for CSOs to put these principles into practice.

After close to a year of deliberation among CSOs in regional and country consultations across the globe, the CSO delegates in Nairobi set forth the Nairobi/Pamaja Declaration for Development Effectiveness,[3] outlining a shared vision, mission and goals for the new CSO Platform. Involving more than 1,000 CSOs, this Platform will promote an agenda for global justice and development effectiveness in all areas of work, guided by a transformative human rights approach, with special emphasis on gender equality, decent work and environmental sustainability. It aims to create light structures to coalesce CSO momentum for this agenda at the country, sub-regional, regional, global and sectoral levels, with a strong emphasis on country implementation of the Busan and CSO commitments.

Holding governments and donors accountable to their HLF4 commitments to development effectiveness is a core goal for the CPDE. But the Platform intends to continue the work of the Open Forum and BetterAid to improve CSOs' own effectiveness, including the realisation of an enabling environment for CSOs. The Nairobi Declaration expresses "deep concern that the commitment on an enabling environment for civil society [in the outcome of HLF4] does not provide an accountability framework to counter the current government backlash against CSOs, democracy and our fundamental freedoms and rights". The December meeting of the CPDE's Global Council in Nairobi established three priority areas for CSO action for 2013, focusing on:

1) **Advancing an enabling environment for CSOs;**

2) **Encouraging CSOs' own development effectiveness; and**

3) **Promoting a human rights-based approach in achieving development effectiveness by all stakeholders.**

This action plan is currently being elaborated at country, regional and global levels.

A framework for advancing 'democratic ownership'

An essential reference point for CPDE's work in 2013 will be several advances made at the Busan HLF4 in iterating a normative framework for development cooperation. For the first time, all stakeholders explicitly affirmed the principle of 'democratic ownership', i.e. the right of all affected people to share and fully direct the priorities for development in their country. Moreover, governments and donors reaffirmed that CSOs "play a vital role in enabling people to claim their rights, in promoting rights-based approaches, in shaping development policies and partnerships, and in overseeing their implementation." (BPd, §22) After much debate in Busan, governments and donors also undertook to "implement fully our respective commitments to enable CSOs to exercise their roles as independent development actors, with a particular focus on an enabling environment, *consistent with agreed international rights*, that maximise the contributions of CSOs to development." (BPd, §22a, emphasis added) One of the challenges for 2013 for the CPDE and its various regional and country-based CSOs will be to strike a path that results in sustainable and transformative change in these areas at the country level. All stakeholders committed to the Busan agenda have agreed to monitor progress, creating accountability for the commitments made, including those affecting CSOs.

Putting Busan CSO norms into practice: opportunities and challenges for progress on an enabling environment

There are several emerging avenues that create opportunities to pursue CPDE goals for improving the enabling conditions for CSOs over the next year.

1. Working through the ministerial Global Partnership for Effective Development Cooperation

HLF4 called for the creation of a Global Partnership for Effective Development Cooperation (GPEDC), a ministerial-level body tasked with assuring progress and accountability on the Busan agenda. A defining feature of the HLF4 process was its realisation of meaningful inclusivity, with broad participation and deep engagement from across civil society (BetterAid), along with participation of the private sector, middle-income countries involved in South-South cooperation, parliaments and other groups. At the end of June 2012, a similarly inclusive GPEDC was launched along with its smaller 18-member Steering Committee, mandated to organise the first ministerial level meeting of the Partnership in the last quarter of 2013. The CPDE is a full member of both the Global Partnership and its Steering Committee.

Inclusion, however, had its limitations in 2012. When CSOs proposed that CSOs be elevated to one of four co-chairs of the GPEDC, building on a strong foundation of constructive engagement at Busan, these efforts were summarily dismissed. Moreover, even strong support from the Organisation for Economic Cooperation and Development's Development Assistance Committee (OECD DAC) Chairperson and other donors for a CSO demand for a second CSO position on the Steering Committee failed. This position was for the trade union sector, acknowledging the International Labour Organisation (ILO) tripartite principle, balancing a position for the private sector on the Steering Committee.[4]

Nevertheless CSOs were ably represented at the first meeting of the Steering Committee in early December 2012 in London, UK, just prior to the CPDE Nairobi meeting. Building on a broad notion of development effectiveness, the Steering Committee established four work streams for the GPEDC and its first ministerial meeting in late 2013. These are:

1) **Linkages with the post-2015 UN agenda for a new framework for sustainable development;**

2) **Domestic resource mobilisation, including tax evasion;**

3) **The role of the private sector and its ability to leverage aid resources; and**

4) **Inclusive development, with an explicit focus on democratic ownership, enabling conditions for CSOs, rights-based approaches, gender equality and decent work.**

The CPDE, as a member of the GPEDC is working closely with several governments, including the US Agency for International Development (USAID), to elaborate the fourth work stream on inclusive development. The aim is to propose a range of ministerial-level deliverables in 2013 to help establish inclusive development as a reality at the country level. These deliverables could include a ministerial agreement to establish multi-stakeholder 'compacts' at the country level, bringing together existing universally adopted supervisory mechanisms for freedom of association and other mutual accountability platforms; re-enforcement of existing frameworks and standards for human rights in all development cooperation efforts; and the appointment of specific coordinators/points of contact for integrating gender, disabilities, youth and LGBTI[5] issues into development policies and programmes.

The GPEDC as a ministerial forum offers an important space in 2013 and beyond for CSOs to promote amongst donors, governments and parliamentarians the CPDE's agenda on inclusive democratic ownership and enabling standards at the country level. An important first step measure of progress will be broad acceptance in the GPEDC of clear benchmarks for monitoring actual experience with inclusive development, within the GPEDC's monitoring framework and accountability mechanisms, not least at the ministerial level.

The GPEDC work stream on creating synergies with the post-2015 UN agenda also presents opportunities for making progress on enabling conditions for CSOs in this UN process, pointing to lessons from the constructive experience of full CSO inclusion at Busan. There is significant overlap between the current co-chairs of UN High Level Panel on the Post-2015 Agenda and the leadership of the GPEDC. The seeming intention of the GPEDC is to carve a niche for the GPEDC as the successor to the current MDG 8 on global partnerships for development, explicitly acknowledging a multi-stakeholder commitment to sustainable development goals.[6] The challenge will be to assure that governments as well as CSOs ensure that the Busan norms for CSO inclusion and standards for CSO enabling conditions are fully reflected in the creation and implementation of the Post-2015 Development Agenda.

Without concerted and proactive initiatives on the part of all development actors and close monitoring and accountability, actual reform and change on the ground will be negligible. The GPEDC Secretariat is working to elaborate the monitoring framework, which will be highlighted at its ministerial meeting in 2013. Many of the indicators for the 10 areas to be monitored were 'works in progress' throughout 2012, with only five of the global indicators finalised at the December Steering Committee meeting. Most of the remaining indicators were not expected to be concluded until April 2013 at the earliest. Among the 10 Busan indicators, importantly, is an indicator for progress for a CSO enabling environment. The DAC Secretariat supporting the GPEDC is working closely with both the CPDE and CIVICUS in developing this indicator.[7] CIVICUS work on developing an Enabling Environment Index will contribute to this global monitoring exercise.

2. Facilitating CPDE engagement for CSO development effectiveness and an enabling environment

Following the final Global Assembly of the Open Forum at Siem Reap, Cambodia, in June 2011, CSOs in 2012 in various country and regional settings have been taking on board the Istanbul Principles

as a framework for assessing their own contributions to development outcomes. But progress in realising more effective CSOs depends also in large measure on enabling government policies, laws, regulations and forums for engagement that are consistent with the Istanbul Principles. Standards for these conditions were elaborated by CSOs in the International Framework for CSO Development Effectiveness, adopted at the meeting in Siem Reap.

The International Framework sets out five essential areas for minimum standards that, taken together, define an enabling environment for CSOs. Standards relating to these five areas – human rights obligations, CSOs as actors in their own right, democratic political and policy dialogue, accountability and transparency, and enabling financing – are summarised in the Annex to this chapter. Since Siem Reap, both the Open Forum and several CSO coalitions have been working to promote the implementation these dimensions of the Framework through a number of initiatives:

The Open Forum Secretariat in 2012 created a number of toolkits to assist regional and country level processes to understand, promote and implement the Istanbul Principles, including an Advocacy Toolkit for CSO enabling conditions. The Open Forum launched an interactive wiki in December 2012 as a web platform to document relevant information and current good practice from across the globe. This wiki is now managed by CIVICUS on behalf of the CPDE.[8]

- Among the working groups to carry forward CPDE priorities are working groups on CSO enabling conditions and on CSO development effectiveness. The Enabling Environment Working Group, co-chaired by CIVICUS and Reality of Aid Africa, brings together CSOs from different parts of the world active on this agenda. This working group will be the prime interlocutor for global level advocacy on the enabling environment for civil society, including on lobbying strategy, bringing together country-based evidence and crafting key messages, and will coordinate major events and other activities to promote this agenda. It will work closely with CIVICUS and other CSOs to contribute to the official monitoring process through the OECD Development Assistance Committee/United Nations Development Programme (UNDP) secretariat for the Global Partnership.
- A number of regional and global coalitions and CSOs have underway their own initiatives on the enabling environment. A few examples of these initiatives are the work of the Association of Women's Rights in Development (AWID) on women human rights defenders (profiled elsewhere this report), a series of country case studies by affected partners for the church-based ACT Alliance, and the on-going programmes of the World Movement for Democracy and the International Center for Not-for-Profit Law in support of the work of the UN Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association (Maina Kiai).[9]
- A number of country CSO platforms (for example, in Cameroon, Republic of Korea and Zambia) have already had some modest success in getting government recognition of the standards implied by the Istanbul Principles in on-going discussions of the legal and regulatory framework for CSOs in their country (the Cameroon example is profiled elsewhere in this report).[10]

3. Working through the multi-stakeholder Task Team on CSO Development Effectiveness and Enabling Environment

In the lead-up to Busan in 2011, a multi-stakeholder Task Team on CSO Development Effectiveness and Enabling Environment, co-chaired by Sweden (Sida), the Office of the President of Mali and CSOs (Open Forum), was instrumental in bringing together a negotiated multi-stakeholder voluntary consensus on enabling standards for CSOs, which were highly consistent with the Open

Forum's International Framework.[11] It complemented these standards with a summary of evidence pointing to worrying trends towards disabling conditions in increasing numbers of countries.

In April 2012, the Task Team brought together donors, CSOs and three partner countries to affirm the importance of a post-Busan multi-stakeholder global initiative to follow-up both the Busan norms and its own work on enabling standards. In particular, this Task Team will facilitate:

1) **Robust indicators of progress, particularly drawing from norms and standards embedded in international human rights;**

2) **Multi-stakeholder support for context-specific implementation of CSOs' efforts to enhance their development effectiveness, including their transparency and accountability; and**

3) **Political profile for the implementation of norms and good practices in relation to enabling environment commitments.**

Since then, the Task Team has set out a *multi-stakeholder* work plan that includes:

1) **Mapping, profiling and communicating processes relevant to advancing enabling conditions for CSOs;**

2) **Facilitating country-level activities related to democratic ownership and the enabling environment; and**

3) **Drawing together relevant evidence to influence both the ministerial meetings of the Global Partnership (expected in October 2013).**

The Task Team will use its government channels to also influence the UN post 2015 development goals process, advancing Busan principles and standards for democratic ownership and CSO enabling environment in these fora. This agenda clearly closely aligns with the expectations of the CPDE and its working groups. The Task Team will be an important political forum, both for discussion and the creation of political momentum in relation to the GPEDC processes going forward.

A holistic approach to promoting an enabling environment

Strengthening democratic ownership for development and an improved CSO enabling environment go hand-in-hand. The institutionalisation of democratic policy processes involving a diversity of CSOs with respect to the planning, implementation and assessment of development priorities at the country level will also lead to strengthened enabling conditions for CSOs. Indeed some CSOs argue that enabling environment issues will not improve in isolation of stronger institutional capacities and broader policy frameworks for development effectiveness. In the words of Vitalice Meja (also an author in this report):

"These things need to be strategically aligned in that we push both policy, institutional and legal framework changes to reflect the kind of enabling environment that we want.... [Governments] must see us as unified in our positioning on development effectiveness or they will isolate us on various parts of this agenda. "[12]

Improvements in CSO enabling conditions at the country level will require changes to how CSOs are perceived as development actors by governments and donors. Sometimes, these changes can happen as a consequence of CSO collaboration on issues more in harmony with the particular interests of developing country governments. For example, in the final preparations for Busan,

several African CSO activists worked closely with government officials through the Africa Union (AU), which resulted in a common African agenda for Busan. In this engagement with government officials and ministers, CSOs were able not only to influence the African agenda, but also give a practical demonstration of the value-added of civil society expertise. Emmanuel Akwetey, one of the CSO participants, points to a Kenyan Minister who came away from this experience with a different understanding of civil society:

> "The Ministers [at the meeting in Addis], especially the Minister of Planning for Kenya, was quite critical of CSOs and saw us as being used by donors. By the time we finished he had changed his views and felt civil society should be taken seriously; the enabling environment issue should be sorted out. He became our friend in Busan.... When he spoke, he had come into contact with civil society from Kenya, understood the dynamics, the force on the ground, and was really searching for ways in which some constructive relationship and collaboration could occur."[13]

Country context, in which governments change over time, is also a strong determinant of progress for enabling conditions. The degree to which this minister from Kenya remains friendly to CSOs will likely be affected by not only his changing attitudes from this experience at the AU, but also subsequent engagement with Kenyan CSOs, which may or may not reinforce these positive perceptions. Undoubtedly some governments and ministers may also respond to examples where positive change in CSO relations is being made in neighbouring countries that do not pose any threats to the stability of these governments. Again Emmanuel Akwetey makes the point:

"We probably want to see which countries had the potential or actually were engaging constructively and had enabling environments [in Africa], and therefore could be strengthened further and serve as models. Because I think sometimes the African challenge is that Africans like to learn from themselves and they want to pick things that worked well from amongst themselves. Because as soon as they see it coming from the North it is foreign."[14]

Continued CSO work through regional institutions such as the AU or the New Partnership for Africa's Development (NEPAD) in the coming year may continue to contribute to a 'neutral forum' to assist in building and demonstrating a more constructive interaction with civil society among governments with different degrees of enabling conditions.

While ownership and leadership by local civil society in each country will be essential, a further key ingredient will continue to be international solidarity. In an example outlined elsewhere in this report, when facing an impending law that would significantly limit civil society space, Cambodian CSOs adeptly amplified their concerns and strength by deliberately bringing global norms into the debate in their country.

In 2013, CSOs are organising themselves through the CPDE to coordinate efforts and closely monitor the changing conditions for civil society in many countries around the world, including donor countries, against the normative framework agreed in Busan and the opportunities presented by the ministerial-level Global Partnership. A continued multi-stakeholder Task Team will be an important global space where donors, partner governments and CSOs can exchange information and views, and develop collective actions towards the Global Partnership and the UN framework for post-2015 development goals.

Annex

Minimum Standards for Enabling Conditions for CSO Development Effectiveness

AREA	STANDARDS
1. Fulfilment of human rights obligations in law and practice	• Freedom of association and assembly; • Legal recognition facilitating the work of CSOs; • The right to freedom of expression; • Freedom of movement, mobility rights and the right to travel; • The right to operate free of unwarranted state interference; and • The legal space to seek and secure necessary resources in support of legitimate roles in development.
2. CSOs as development actors in their own right	Full participation of CSOs as independent development actors in their own right affirmed and ensured by governments and donors through legislation, regulations, policy and programming.
3. Democratic political and policy dialogue	• Systematic inclusion of diverse views, particularly those from grassroots organisations, women's organisations, disability organisations and indigenous peoples' representatives; • Transparent and clarity of purpose and process; • Freedom to access information, including country strategies and implementation plans; • Access to documentation in the languages of those being consulted; • Timeliness of consultations in order to impact decisions; • Recognition of the responsibilities and contributions of other actors, especially parliamentarians and local government; and • Appropriate resources to ensure full participation of stakeholders.
4. Accountability and transparency of development	• Full transparency and accountability for development priorities, strategies, plans and actions by governments; and • Place and role for CSOs clearly defined in donor and government strategic frameworks and plans.
5. Enabling financing	• Long-term results-oriented perspective, which includes core institutional support, based on the notion that CSOs provide public goods; • Responsiveness to CSO initiatives; • Access for a diversity of CSOs, including support for different-sized CSOs, and support for coalitions and networks; • Predictable, transparent, easily understandable and harmonised terms; • The view to promoting the mobilisation of local resources; and • Support for the full range of CSO programming and innovation, including policy development and advocacy.

BRIAN TOMLINSON

Executive Director, Aidwatch Canada

Brian Tomlinson retired in June 2011 as Senior Policy Analyst (Aid Policy) at the Canadian Council for International Co-operation (CCIC). He is widely published on Canadian international cooperation, with particular emphasis on policy issues related to international assistance, including the implementation of the ODA Accountability Act. Brian has represented CCIC at the OECD Development Assistance Committee on an Advisory Group on Civil Society and Aid Effectiveness and has been active in the Global Facilitating Group for the Open Forum on CSO Development Effectiveness and in the Better Aid Coordinating Group. He has also served as co-chair for the Task Team on CSO Development Effectiveness and the Enabling Environment, working with CSOs at the High Level Forum in Busan to assure good language on CSO enabling environment. Brian has been the Vice-chair of the global Reality of Aid Network for 10 years, the only major North/South international non-government initiative bringing together more than 40 civil society networks on analysis and lobbying for poverty eradication policies and practices. He was the editor and writer for the 2011 Special Reality of Aid Report reviewing issues of Democratic Ownership and Development Effectiveness for aid in 32 developing countries, highlighted in the opening plenary of the High Level Forum. Brian is currently Executive Director of AidWatch Canada, which focuses on issues related to Canadian aid priorities, CSO development effectiveness and global aid trends.

1 The Busan Outcome Document text is accessible at http://www.aideffectiveness.org/busanhlf4/images/stories/hlf4/OUTCOME_DOCUMENT_-_FINAL_EN.pdf.

2 See the HLF4 *Busan Partnership for Effective Development Cooperation*, particularly §11 (principles for development cooperation), 12 (implementing democratic ownership), §20 (gender equality) and 22 (civil society organisations as development actors in their own right), accessible at http://www.aideffectiveness.org/busanhlf4/images/stories/hlf4/OUTCOME_DOCUMENT_-_FINAL_EN.pdf.

3 For CSOs development effectiveness "promotes sustainable change, within a democratic framework, that addresses the causes as well as the symptoms of poverty, inequality and marginalisation, through the diversity and complementarity of instruments, policies and actors." [BetterAid, 'CSOs on the Road to Busan', 2011, page 9, accessed at http://www.cso-effectiveness.org/IMG/pdf/cso_asks_final_.pdf.] See the text of the *Nairobi Declaration* at http://betteraid.org/ru/resources/doc_download/984-the-nairobi-declaration-for-development-effectiveness.html.

4 A position on the Steering Committee for local government was also dismissed at the June meeting launching the GPEDC, leaving any expansion of the Steering Committee to the first Ministerial meeting of the GPEDC in late 2013.

5 Lesbian, Gay, Bisexual, Transgender and Intersex issues

6 See "A Post-Busan, Post-2015 nexus: What role for the Global Partnership", A Discussion Document for the Steering Committee meeting of the Global Partnership, November 20, 2012, accessible at http://www.aideffectiveness.org/busanhlf4/images/pdf/DOC1_Discussion_paper_post_Busan_post_2015_nexus.pdf.

7 See "The Global Framework of Indicators and Targets for Monitoring Busan Commitments: An Update", November 2012, accessible at http://www.aideffectiveness.org/busanhlf4/images/pdf/DOC3_Update_on_global_monitoring_framework.pdf.

8 See Costanza de Toma, *Advocacy Toolkit: Guidance on how to advocate for a more enabling environment for civil society in your context*, Open Forum for CSO Development Effectiveness, 2012, accessible at http://www.cso-effectiveness.org/IMG/pdf/120110-of-advocacy_toolkit-en-web-2.pdf; Christina Bermann-Harms and Nora Murad, *Putting the Istanbul Principles into Practice: A Companion Toolkit to the International Framework for CSO Development Effectiveness*, Open Forum for CSO Development Effectiveness, 2012, accessible at http://www.cso-effectiveness.org/IMG/pdf/230111-implementation-toolkit-en-web.pdf.

9 See a growing list of initiatives in the Strategy Paper for the Working Group on Enabling Environment at www.cso-effectiveness.org/IMG/doc/wg_cso_ee_strategy.doc. The CSO Wiki can be found at http://wiki.cso-effectiveness.org/?lang=en.

10 See short descriptions of these initiatives in 2012 on new blog for the Open Forum site at http://www.cso-effectiveness.org/latest-news-open-forum-blog,008.

11 This consensus is expressed in the March 2011 Task Team document, *Key Messages for the Fourth High Level Forum on Aid Effectiveness*, accessible at http://www.cso-effectiveness.org/IMG/pdf/final_key_english_c3.pdf.

12 Vitalice Meja, Reality of Aid Africa, Interview quoted in Brian Tomlinson, *CSOs on the Road from Accra to Busan: CSO Initiatives to Strengthen Development Effectiveness, Documenting the experiences of the CSO BetterAid Platform and the Open Forum on CSO Development Effectiveness,* IBON Books: BetterAid in Cooperation with Open Forum on CSO Development Effectiveness, June 2012, accessible at http://www.cso-effectiveness.org/IMG/pdf/csos_on_the_road_from_accra_to_busan_final.pdf.

13 Emmanuel Akwetey, Institute for Democratic Governance Ghana, Interview quoted in *CSOs on the Road from Accra to Busan*, *op.cit*.

14 Emmanuel Akwetey, *op. cit.*

Neither a Ponzi nor a Patzer be –

Time for a New Role Model

Pat Mooney, ETC Group

Civil society needs to take on UN governance

For many of us in civil society, 2012 will be memorable for Rio+20 and, for the older among us, the less-than-spectacular summit in June 2012 was not as much the 20th anniversary of the Earth Summit of 1992 as the 40th anniversary of the world's first big environmental jamboree – the Stockholm Conference on the Human Environment. Not only was Stockholm in 1972 the launch pad for global environmentalism, it was also one of the first UN conferences where civil society had a high profile supporting role. As we sort through the desiccated remains of Rio +20, we should also sort through our own muddled history of engaging governments and the UN system.

The Stockholm Syndrome revisited

Now, in 2013, we can also mark the 40th anniversary of the Stockholm Syndrome – the aborted 1973 bank robbery during which the hapless thieves took hostages, some of whom became enamoured of their captors. When the excitement was over, psychiatrists concluded that the captives' feelings for their captors was a subconscious dependency strategy to garner the gunmen's empathy. In the lead up to the Johannesburg environmental conference of 2002, ETC Group accused its civil society colleagues of having succumbed to the Stockholm Syndrome, arguing that CSOs had become captive to the UN system and had been reduced to little more than walk-on extras whose banners and parades served up media drama and visual backdrops, but changed little. The UN and governments couldn't hold much of a party without civil society, but they were running a Ponzi scheme and we were the patzers. For those who don't play chess, a Patzer is the sucker who falls for a tricky move.

On reflection, a decade later, ETC's indictment was provocative but not unfair. As we look for the elements of an enabling environment for civil society, we need to look at both civil society's strengths and its limitations. An enabling environment doesn't just mean changing the rules, it means remembering civil society roles. First, the positive experience:

- CSOs know a lot and usually more than government negotiators about the issues on the table;
- CSOs have the 'real life' connections that bring the issues alive;
- CSOs can talk with secretariat officials, delegates (South and North) and the media - and civil society participants sometimes know more of what is happening than anyone else in the room;
- Institutionally and individually, CSOs have history and staying power – delegates and officials cycle in and out, but CSOs stick it out decade after decade;
- CSOs know each other - better and better;
- CSOs may not have much of it, but they use their money far better than industry lobbyists who can't imagine doing what CSOs do on their budgets;
- In general, CSOs are more trusted than any other actor in the room;
- CSOs don't have to be diplomatic;
- CSOs are usually (not always) right.

Then, there is the downside:

- While focussing on the issues, CSOs have largely ignored governance – the nuts and bolts machinations of intergovernmental arrangements;
- CSOs hang-out with the 'good guys', attack the 'bad guys', and forget the guys whose opinions that need to change;

- CSOs mistake a zinger analysis for effective action;
- CSOs squander their capacity for the long haul by focusing on short-term campaigns rather than multi-year strategies;
- There are huge areas around UN governance and long-term goals where CSOs could work much more closely;
- CSOs follow the rules rather than play by their own roles – trying to be diplomats instead of advocates;
- CSOs (almost) never call a bluff and walk away.

This should not be discouraging. CSOs have the collective goodwill and the enabling environment we need to make a major difference in intergovernmental negotiation. In fact, there is opportunity to even do this relatively quickly as the UN struggles to reshape itself after Rio+20. But to be effective, CSOs need to exorcise five demons:

1. CSOs must be multilateral not bilateral: With rare exceptions, CSOs tend to treat the prepcoms and conferences of a major UN event as a binary affair that link a national capital with an international meeting. It is rare for CSOs to work actively with their partners in other third-party or 'undecided' states to build the parliamentary, media and civil society linkages needed to expose what is happening in New York or Geneva. Between Skype and FaceTime, it is possible to put pressure simultaneously on policy-makers in the capital and their delegation in the hall. Often, this means taking the seemingly counterintuitive step of ignoring the delegations that are intransigent to concentrate on those still open to arguments. Part of the problem is that only the well-heeled or local CSOs can get inside the negotiations.

2. CSOs must recognise that all states are not created equal: Many CSOs from strong Organisation for Economic Cooperation and Development (OECD) states spend an awful lot of time talking to irrelevant governments. Much of the UN lobby work in New York, for example, falls to US-based CSOs who spend an inordinate amount of time and money trying to persuade the US government to 'make nice' – almost always a massively pointless undertaking. Throughout the dismal sequence of climate change conferences from Copenhagen to Cancun to Durban to Doha, CSO energies have targeted Canadian and US delegations that are utterly impervious to CSO pressure. Even the European CSOs – with arguably better access to their delegations and something useful to say – spend most of their time at the back of conference halls wringing their hands, correcting each other's hoped-for interventions and rarely talking to delegates.

Be it climate change, biodiversity, development policy or human rights, CSO observers from G-77 countries – who really do have an opportunity to change votes – come to negotiations in miserably low numbers and lower-still profiles and can't afford to stay for the entire meeting. Friendly folk in UN secretariats (of whom there are many) look on the ranks of CSO note-takers at the back of the hall wishing they would get up and talk to somebody. The dominant impression is that most CSOs show up for the sake of their funding with no expectation of anything more than a short radio interview or an op-ed piece in a national newspaper – where they will rail against the UN's (not their own) failure to act.

3. **CSOs must track the P-to-P's:** Meanwhile, at the front of the room, governments and UN bosses have been bending themselves out of shape to attract private sector participation. The argument for the primacy of corporations is that they have the money, the expertise and the innovative flexibility to achieve ends beyond the ability of intergovernmental agencies. These are not so much truisms as they are self-fulfilling prophecies. Since the 1980s, governments have slashed corporate taxes, lobotomised their policy and regulatory departments and knee-capped their mandates.

This was agonisingly evident at the 1996 World Food Summit when the then director-general of the Food and Agriculture Organisation (FAO) penned a letter to the CEOs of the world's largest corporations asking each for US$1 million and offering, in return,

to treat contributing CEOs as though they were Heads of State, allowing corporations to use the FAO logo, and to privilege their role in defining and designing any summit outcomes. Only the CSO threat of publicising the letter thwarted the gambit.

But the enthusiasm for corporate involvement was unabated. The Johannesburg jamboree (World Summit on Sustainable Development) of 2002 raised the game for public-private partnerships to a new high. Three years after the summit, Swedish officials told this author that of the several hundred deals struck in Johannesburg, only two had made any headway and only three others even bothered to respond to inquiries. 'P-to-P' became code for 'Ponzi to Patzer'.

In the lead up to Rio+20, the Ponzi scheme became much more dangerous. When the sub-prime mortgage scandal broke in the United States in 2007, the response of the US and European governments was to invite the same sub-primates who had trashed our houses to go out and play in the garden – to create new investment/credit facilities for ecosystem services such as forests, rivers and biodiversity. In the early spring of 2012, CSOs sat in UN meetings in New York listening to embarrassed European delegates publicly defend both carbon trading and bio-fuel subsidies as innovative financial instruments that would benefit developing countries. The Europeans recognised that their positions were indefensible, but were trapped in the rhetoric dictated by their capitals. The banks and brokers saw nature as their latest Ponzi scheme and governments were lining up to be their Patzers. Although most knew better, CSOs obeyed the rules and stayed silent at the back of the room. And, as with every other jamboree since Stockholm, CSOs all boarded planes for Rio to be on hand to decry its failure.

4. CSOs need to change the rules: Rules remain to be broken. Whether it's human rights or the environment, CSOs recognised for their expertise and experience always manage to get their message across and regularly gain the weight and voice of governments. As much as CSOs might wish to blame the UN's arcane rules of procedure, they rarely represent the problem. In reality, they appear to be only on paper. By all means the rules should be modernised – governments and UN secretariats suffer from a justified sense of humility – and are more open to change than ever before. This openness should be taken advantage.

5. And CSOs need to change the voices: But CSOs' biggest task is clearly internal. The voices that need to be heard in UN fora are the voices of marginalised peoples – usually represented by indigenous nations, peasant organisations trade unionists, and the dispossessed. A clear distinction needs to be made between not-for-profit CSOs or NGOs and social movements. It is no longer acceptable for NGOs to speak for marginalised peoples. The UN rules, of course, need to be changed and the travel money needs to be distributed to make sure the right voices are heard. To be fair, this is a point that is gaining recognition and has become an established understanding in a growing number of UN fora.

If CSOs can do this, some models are emerging, including one in the UN-related food and agricultural institutions.

Food fight

The sudden eruption of the food price crisis in 2008 also created a crisis in governance. All of the leading intergovernmental agencies involved in food and agriculture were in varying stages of chaos. The FAO and the International Fund for Agricultural Development (IFAD) had just limped through blistering external evaluations that declared them largely dysfunctional, while the World Food Programme (WFP) was being raked by internal storms. Aside from the problems facing these Rome-based agencies, the Consultative Group on International Agricultural Research (CGIAR) was going through one of the interminable restructurings that have shown no let up since 1997. Dismayed by the disarray, Secretary-General Ban Ki-moon created his own food crisis task force.

Alarmed by what they saw as a New York takeover of the food agenda, the Rome-based agencies formed a mutual defence pact and grabbed onto a CSO proposal to breathe new life into the moribund UN/FAO Committee on World Food Security (CFS). Established on the heels of the 1974 World Food Conference and another food crisis, the CFS was meant to coordinate the energies of the UN system for food and agriculture (just like the Secretary-General's task force) but had been immediately marginalised by the big institutions it was supposed to lead. The three Rome agencies confronted Ban Ki-moon at a conference in Madrid early in 2009 proposing to resurrect the CFS. The Secretary-General capitulated and the three agencies scrambled to reorganise before the CFS annual meeting in October.

The agency heads hadn't counted upon the energies of the civil society IPC (International Planning Committee) for Food Sovereignty – a coalition of regionally-organised peasant organisations, fishers, indigenous peoples, pastoralists and CSOs committed to food sovereignty. While FAO, IFAD and the WFP manoeuvred awkwardly, the IPC moved swiftly to work with governments to reframe the mandate, membership and modus operandi of the food committee. By the time the CFS met that October, the proposal on the table was for a much empowered CFS within which social movements and CSOs would have the virtual equivalents of non-voting membership. Most importantly, there would be a Civil Society Mechanism (CSM) that would self-organise to ensure our collective coherent participation. Through the CSM, CSOs could engage like governments – participating on all committees and working groups, attending bureau meetings, and even vice-chairing the new High-Level Panel of Experts (HLPE) created to give scientific and policy advice to the CFS. Because civil society held the 'first mover' position and had brought governments and agencies together, CSOs had a credibility that could not be ignored.

Still, when the CFS began its final round of debate, several countries including Canada and the United States were blocking the restructuring proposals. Then, the new American ambassador (under the new Obama administration and in close dialogue with the IPC) reversed the US position and gave her full support to the new structure. The new governance model for food and agriculture was adopted.

Since the agreed restructuring, the CFS has had three years to prove its value. No one would give it an A+, but I doubt that anyone would give anything less than a B+. The Civil Society Mechanism has attracted external funding – mostly from governments – and has managed to put together a small but highly effective and politically astute staff that is keeping an ever-growing number of social movements and CSOs coordinated. There is firm – though tacit – acceptance that social movements should be given priority in negotiations. Effectively, La Via Campesina – the world's coordination point for national and regional peasant-led organisations, is given priority access on issues especially important to smallholder producers. When members of the CSM speak, governments listen. CSM proposals are taken seriously and need to be negotiated. The reaction of governments – literally all governments – has been that they find CFS meetings much more energised and informative than other intergovernmental meetings. Perhaps the ultimate proof of the effectiveness of the reformed CFS is that industry – which never previously bothered to attend – is now showing up in large numbers and intervening aggressively. They can't afford to stay away.

Neither has the CFS avoided the tough issues. The High Level Panel of Experts has taken on land grabs and food price speculation and, in 2012, forced the United States to back down and give it space to look at the trade implications involved in world fisheries.

Can the CFS model be replicated in other parts of intergovernmental negotiation? Less than a month before Rio+20, ETC Group was invited by the President of the General Assembly to speak to governments on the CFS arrangements and how civil society should

be engaged in any new structures coming out of Rio. When the Secretariat of the UN Convention on Biological Diversity proposed a review of its relations with civil society and indigenous peoples organisations early in 2012, the very well-respected civil society Convention on Biological Diversity Alliance suggested that governments study the CFS. While this is a work-in-progress and no one thinks the CFS model is perfect, it is likely that an improved process will be adopted. Likewise, as the IPBES (Intergovernmental Platform on Biodiversity and Ecosystem Services) began to establish its modus operandi in 2011 and 2012, it was also encouraged to examine the CFS model. Most recently, the United Nations Environment Programme (UNEP), following its facelift in Rio, is also considering the CFS.

If social movements and other CSOs can work together, there is no reason why some model roughly similar to the CFS – hopefully better – cannot be introduced into every forum of the UN and other intergovernmental bodies.

We have the will

Progressive CSOs usually have more in common than is realised. Coordinated action on governance issues is the great unexplored terrain CSOs need to pursue together. CSOs do not have to be victims of Stockholm Syndrome. A common approach is possible for the essential components for the model of participation for all UN agencies.

Governments have lost the credibility to govern by themselves. Governments and UN agencies know that industry will not meet their needs. Fifty years ago, at the first World Food Congress in June 1963, then president Kennedy told governments, "we have the means, we have the capacity to wipe hunger and poverty from the face of the earth in our lifetime, we need only the will." He was wrong. Governments have proven over and over again that, by themselves, they don't have the means or the capacity or the will. We do.

PAT MOONEY

Executive Director, ETC Group

Pat Mooney has more than four decades experience working in international civil society, first addressing aid and development issues and then focusing on food, agriculture and commodity trade. In 1977 Mooney co-founded RAFI (Rural Advancement Fund International, renamed ETC Group in 2001). He received The Right Livelihood Award (the "Alternative Nobel Prize") in the Swedish Parliament in 1985 and the Pearson Peace Prize from Canada's Governor General in 1998. He has also received the American "Giraffe Award" given to people "who stick their necks out."

The author or co-author of several books on the politics of biotechnology and biodiversity, Pat Mooney is widely regarded as an authority on issues of global governance, corporate concentration, and intellectual property monopoly. Although much of ETC's work continues to emphasize plant genetic resources and agricultural biodiversity, the work expanded in the early 1980s to include biotechnology. In the late 1990s, the work expanded more to encompass a succession of emerging technologies such as nanotechnology, synthetic biology, geoengineering, and new developments in genomics and neurosciences.

ETC remains a nano-CSO with offices in Canada, the United States, Mexico, the Philippines and Ethiopia and works in close cooperation with many civil society partners around the world.

Source: ETC Group http://www.etcgroup.org/fr/users/pat-mooney.

The struggle for an enabling environment for Civil Society Organisations in Brazil:

One step forward, two steps backwards?

Vera Masagão Ribeiro and Luara Lopes
Abong[1]

The development of an enabling environment for Civil Society Organisations (CSOs) in Brazil has been a key goal for the Brazilian NGO Association – *Abong* – since its creation more than 20 years ago. During the past decades and along with partner organisations, Abong has not only organised several debates and coordinated independent research, but it has also advocated for an enabling regulatory and legal framework for CSOs in Brazil.

The existing legal and regulatory framework for CSOs in Brazil is confusing and obscure. Its lack of effective transparency and accountability instruments makes it susceptible to corruption and misuse. Thus, the development of a new regulatory framework would not only decisively contribute to predictable and transparent access to government funding, but it would also generate favourable public opinion, which would motivate citizens to support and participate in CSOs projects and programmes.

Looking back can be quite frustrating, since the work over the past several years has so far achieved limited results. In December 2011, for example, the General Secretariat of the Presidency[2] created a multi-stakeholder Working Group to discuss and develop a new regulatory framework for CSOs. Although the creation of this Working Group represented a significant step forward, dialogue with the government has continued at a slow and irregular pace. Also, constant scandals involving NGOs have led to hostile public opinion and the growing demonisation of CSOs .

This chapter describes the current debate on the development of an enabling CSO environment in Brazil, identifying its main challenges, stakeholders and demands. Brazilian CSOs look for inspiration in several strategic initiatives from other national and international networks and partners. These initiatives are aimed at strengthening the development of a truly enabling and transparent international environment for CSOs, so that they can respond to global development issues in a more effective and democratic way. In its conclusion, the chapter sets out the most promising lines of action in Brazil, which Abong intends to pursue in the immediate future, with the valuable support of national, regional and global solidarity networks.

The development of a new legal and regulatory framework in Brazil: Significant advances at a discouragingly slow pace

During the 2010 presidential elections in Brazil, 180 organisations and networks[3] joined forces to promote the inclusion of the need for a new regulatory framework for CSOs in the candidates' political agenda. They created a Platform (called the *Platform for a New CSO Regulatory Framework*) and initiated political dialogue in the election through an open letter to the presidential candidates outlining civil society proposals. The Platform brought together a wide range of CSOs from development, environment and human rights backgrounds, private sector actors, faith-based organisations and grassroots movements and organisations. Dilma Rousseff, who was to become Brazil's first female president, responded to the Platform with an open letter to civil society outlining her own proposals for a new regulatory framework. She also made a commitment to create a multi-stakeholder Working Group that would be responsible for developing a proposal for a new regulatory framework within one year after its creation.

Following the election, the Platform initiated a more structured dialogue with the Rousseff administration through its membership on the multi-stakeholder Working Group convened by the

General Secretariat of the Presidency. CSOs through the Platform contributed concrete proposals for the development of a new government policy. The Platform sought the creation and consolidation of a governmental policy with mechanisms and instruments that would ensure CSO political and financial autonomy and would strengthen social participation. The Platform's agenda called for a sound regulatory framework that includes the following elements: 1) effective processes and instruments to ensure social participation in public policy development, implementation and evaluation; 2) effective instruments and means to encourage social engagement with public causes; 3) new mechanisms and processes that allow for a less bureaucratised and more efficient access to public funding; and 4) an enabling tax regime that includes the provision of tax incentives for donations from individuals and companies[4].

Unfortunately, despite the early positive signals from the new administration, the first year of Rousseff's mandate was affected by numerous corruption scandals, many of them involving the misuse of government resources by "false NGOs". These NGOs had a formal legal existence, but they did not provide any public good, nor did they promote access to rights. Since the regulatory framework is loose and imprecise, it makes it difficult to prevent this kind of abusive activity. As a result, several Ministers had to resign and public opinion became increasingly suspicious of NGOs in general[5].

In the aftermath of the scandals, there were more than 40 legislative proposals intended to *control* CSO activity rather than contribute to a truly CSO enabling environment. But Brazilian CSOs were especially taken aback by presidential decree number 7592 in October 2011[6], which suspended all transfers of federal funds to CSOs, breaking contracts and interrupting social programmes that had been carried out by CSOs with public funding. This decree implied that all civil society organisations were considered guilty *a priori.* Even worse than the sudden suspension of transfers, the decree seemed to confirm a wave of CSO defamation by the media, turning them into scapegoats for administrative misconduct by government actors.

During this period however, the Presidency's General Secretariat Working Group was still able to engage a significant number of governmental actors, lawyers and social activists working to improve CSOs' relationship with the government. The most significant achievement so far has been the development in 2012 of a legislative proposal for a new instrument to regulate CSO-government partnerships. The Terms of Engagement and Collaboration (*Termo de Fomento e Colaboração*) proposes explicit rules for public calls-for-proposals for CSO financing and establishes accountability commitments by both the government and CSOs. The proposal aims to encourage autonomous CSO access to public resources, through which a CSO can not only contribute to established public policy, but also develop its own independent projects and programmes, including the monitoring of governmental activities. Another key aspect of the legislative proposal is the aim to regulate CSO-government relationship across all levels of government, that is, not only regarding federal relationships, but also state and city levels.

The multi-stakeholder Working Group was not able to reach consensus on an important issue, which has resulted in the exclusion of cooperatives from the regulatory proposal, since they cannot be classified as not-for-profit organisations. In fact, the emergence of the so-called *economia solidária* demands a renewed classification of CSOs. Activists from the *economia solidária* movement argue that there are economic activities that are not compatible with existing models and labels, since they are usually based on concepts of collective property and equal distribution of profits amongst members. On the other side of this debate, there are new proposals related to social enterprises, which can be an innovative way for raising funds, but can also be seen an attempt to apply a mercantilist approach to the social and environmental field. This debate illustrates the need not only to create a CSO regulatory framework, but also to rethink concepts and classifications, in order to better respond to recent changes in CSO dynamics and innovations.

A sound and enabling CSO environment must allow for a diverse funding landscape that includes access to public resources, but also stimulates individual contributions and corporate partnerships. Addressing these issues would require, amongst other measures, a comprehensive reform to create tax incentives that really encourage civic participation. Tax exemptions and incentives for donations in Brazil are still very limited and unclear, which is contrary to provisions in the 1988 Constitution that values the principle of civic participation.

Despite recent achievements from the Working Group, there is still resistance from those who profit from the misuse of public funding through false NGOs. In this context, the realisation of an enabling regulatory framework is a key condition for a more transparent CSO-government relationship, which will hopefully contribute to a renewed public trust and support for CSOs in Brazil.

Development cooperation and inequality in emergent economies

During the dictatorships from the 1960s to the 1980s, CSOs in Latin America, with support from international cooperation agencies, undertook popular education and significant popular mobilisation on fundamental social and political processes.

Since the transition to democracy in Brazil in 1988, the support of international cooperation agencies remained important for many CSOs and the fostering of networks capable of monitoring and influencing public policies on social and environmental development in the New Republic. However, since the late 1990s there have been growing indications of a decline in international cooperation support for the region. The emergence of neoliberal policies in the Americas and of conservative governments in donor countries explained, at least partially, this apparent trend:

> "Many international development agencies with which Brazilian NGOs and social movements have built relationships of trust in the 1980s and 1990s are affected recently by political backlashes in their home countries. Some European governments have been trending to the right, constraining a more progressive foreign policy agenda. CSO effectiveness is often questioned, and there is an increased demand for measurable results and a focus on organisations more directed linked to social assistance and poverty alleviation. Such demands make it difficult to maintain long-term strategic partnerships."[7]

The graduation of developing countries to the status of middle-income or emerging economies during the past decade has aggravated this decline of international development cooperation with Brazilian CSOs: aid resources are being reprioritised to least developed or conflict-affected countries.

In Brazil these trends have meant that CSOs had to struggle to diversify their funding strategies and partnerships. An Abong survey with its member organisations demonstrated that in 2003 most member organisations had a significant part of their budgets covered by international cooperation, and by 2007 this percentage had fallen significantly. Brazilian CSOs had become less dependent of foreign aid[8]. However, structural constraints such as the unfavourable legal and regulatory environment in Brazil, as already demonstrated, prevented the creation of concrete alternatives for institutional sustainability. As a result many organisations had to put in place innovative – but not always effective – means to continue their activities. Thus, the development of an enabling legal and regulatory framework is a fundamental issue for Brazilian CSOs, especially to assure their strengthening and their financial sustainability in a context of evolving changes in the international aid architecture.

The so-called *emerging economies* have experienced an acceleration of economic growth and inclusion (usually understood as increased consumption), but with aggravated risks to environmental

sustainability and to recently achieved social progress. However, in some cases, the concept of development has also been deeply questioned. In recent years, several Latin American countries such as Ecuador and Bolivia have incorporated into their constitutions the concept of "living well", or in the languages of indigenous peoples, *Sumak Kawsay* (Quechua), *Suma Qamaña* (Aymara), and *Teko Pora* (Guarani). In the opinion of several sociologists and researchers, this notion of living well represents one of the great conceptual innovations of the twenty-first century.[9] In cooperation with workers' movements and traditional populations, CSOs have also sought to formulate and spread new development paradigms based on equality and diversity, democracy and human rights, including progressive social, environmental and cultural norms. Beyond mere criticism, such organisations are experimenting with alternative and innovative ways to achieve this new development paradigm, a task that requires further development and consolidation.

In Brazil – and in Latin America in general – CSOs are primarily associated with assistance to the very poor in situations of extreme vulnerability: According to this view, a context of economic growth and development would ultimately overcome the need for CSOs in the region. However, what has been happening is just the opposite: Even in a scenario of economic growth, inequality and social injustice are prevalent. Also, economic growth is also associated with greater risks for the environment. More than ever, CSOs in the Americas must broaden their scope and adjust their performance to face these new challenges.

Although the international influence of emerging economies has become more significant in the past decade[10], the political position of their governments in terms of development policies is still unclear – at least in the case of Brazil. An enabling environment for CSOs in Brazil would encourage a more active dialogue on foreign policy related to human rights and international development and increasing public accountability allow for more coherence between discourse and practice, not only in international forums but also in Brazil's role as a South-South Cooperation advocate. Brazilian CSOs can contribute to alternative development models that would influence this international agenda and serve as guidelines for cooperation practices and policies.

Final considerations

Brazilian CSOs today face multiple challenges. Not only do they have to perform in their specific areas and lines of action, but they also have to engage time and efforts in a struggle that is common to all of them all, which is the creation of a sound legal and regulatory framework. The lack of an enabling environment also hinders CSO participation in the international realm: many Brazilian CSOs have consolidated a strong international network of partners, and they are eager to participate in projects and programmes in international development cooperation – known as *South-South Cooperation* – to share their experiences with partners from the region and beyond[11].

Although Brazil is increasingly participating in international development cooperation, it has to do it through international organisations such as the UNDP, because its legal framework only contemplates its role as a recipient of development cooperation, and not as a provider. These crucial legal constraints prevent the inclusion of CSO knowledge and participation in Brazilian South-South Cooperation[12]. The case of Brazilian emerging engagement in South-South cooperation illustrates well how the Brazilian regulatory framework regarding CSO participation is, in many respects, obsolete.

As a candidate, President Rousseff committed herself to an agenda and a deadline - already overdue - regarding the development of a CSO regulatory framework. In spite of the arduous work of the Working Group, its results have not yet been brought to the President´s attention, which means that they are not within government's priorities. President Lula had already made several unfulfilled promises in this area, but Brazilian CSOs must not settle for stagnancy in this process during the current administration.

To encourage action, the CSO Platform for a New Regulatory Framework is going to organise an

international seminar, to bring together lessons from different international practices and policies to strengthen and continue this struggle in Brazil. It is an urgent matter: Brazilian development cannot be measured only by increasing numbers of consumers – it needs an active and strong civil society, committed to the principles of justice and solidarity, and to the pursuit of sustainable and inclusive development.

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Abong

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VERA MASAGÃO RIBEIRO

Abong

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2. The General Secretariat of the Brazilian Presidency's main mandate is to mediate the relationship between the federal government and civil society organisations, directly advising the federal government and the President of the Republic on the relationship and coordination with social movements and organisations. This mandate includes the creation and implementation of channels that ensure consultation and popular participation in the discussion and definition of the top agenda for the country. Further information is available at http://www.secretariageral.gov.br.

3. This platform has created an internet portal to provide updates about the process under way. It is also open for new members and supporters. A full list of members is available at http://plataformaosc.org.br.

4. Further information is available at http://plataformaosc.org.br.

5. In fact, the 2013 Edelman Trust Barometer shows that public trust in NGOs in Brazil has declined by 31 points within the past year. Further information on the Edelman Trust Barometer is available at http://www.scribd.com/doc/121501475/Executive-Summary-2013-Edelman-Trust-Barometer.

6. Presidential Decree number 7.592, October 28th 2011. The full text is available at http://www.planalto.gov.br/ccivil_03/_Ato2011-2014/2011/Decreto/D7592.htm

7. MASAGÃO, Vera. Alô, alô Brasil com W. In Brasil, América Latina e a cooperação internacional. Le Monde Diplomatique Brasil, August 2011.

8. GOUVEIA, Taciana e DANILIAUSKAS, Marcelo. Abong: perfil das associadas. São Paulo, Abong 2010. The full text is available at http://www.abong.org.br/publicacoes.php

9. LESBAUPIN, Ivo. For a new development. The full text is available at: http://www.abong.org.br/publicacoes.php

10. HIRST, Monica. Brazil`s renewed responsibilities in cooperation for development and international security. Center on International Cooperation, New York University, 2011.

11. ABONG has initiated a short survey amongst the members of its Africa-Brazil Working Group regarding South-South cooperation. Despite the few responses – it is a restricted working group, although it may also be a signal that the subject

is not a top priority for consulted organisations – results were interestingly convergent. Most responding organisations associated with SSC characteristics of horizontality, exchange, social participation and mutual learning. For more information on CSO participation in Brazilian South-South cooperation, see also: Emerging Brazilian cooperation: Reflection on its parameters and public-private bounderies. (Vera Masagao, Bianca Suyama, and Luara Lopes Reality of Aid 2012 report, available at http://www.realityofaid.org/roa_report/aid-and-the-private-sector-catalysing-poverty-reduction-and-development).

12. Overseas Development Institute – ODI. Brazilian technical cooperation for development: Drivers, mechanics and future prospects. The full text is available at http://www.odi.org.uk/sites/odi.org.uk/files/odi-assets/publications-opinion-files/6137.pdf.

The Legal and Regulatory Framework for Civil Society:

Global Trends in 2012

David Moore, Vice President of Legal Affairs,
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The International Center for Not-for-Profit Law (ICNL) has worked on the legal framework for civil society in over 100 countries. In this contribution to the CIVICUS State of Civil Society Report, we examine three global trends that ICNL observed in 2012: 1) barriers to foreign funding, 2) constraints on assembly, and 3) impediments to communication.[1]

1. Barriers to foreign funding

In the wake of the arrests of NGO staff in Egypt in December 2011,[2] a number of other countries have targeted the foreign funding of CSOs in 2012. Russia was perhaps the most prominent example, but, Bangladesh, Kazakhstan, Malaysia, Nicaragua and Pakistan were also considering or have already adopted foreign funding restrictions. Egypt, Ethiopia and Russia appear to have spurred a 'contagion effect', which occurs when globally influential countries impose restrictions that embolden other governments to adopt their own restrictive measures. In 2005 and 2006, for example, Russia's restrictive NGO Law galvanised the first wave of civil society legal constraints after the 'Colour Revolutions' in Georgia and Ukraine. Now Egypt, and Russia, again, are paving the way for a second wave of restraints in the wake of the Arab Spring. Among the steps taken by governments to restrict funding for CSOs in 2012 were the following:

- In January 2012, the Government of **Bangladesh** issued the draft Foreign Contributions (Voluntary Activities) Act, which would prohibit individuals and organisations from receiving foreign funding for carrying out any voluntary activity without prior government approval.
- In February, the **Pakistan** Muslim League's Tariq Azeem introduced Pakistan's Draft Foreign Contributions Regulations Act, which would allow the government to deny a CSO permission to receive foreign funding if the CSO is likely to use the funding for 'undesirable purposes'. Senator Azeem said, "Many countries in the world have started legislating to properly regulate functions of NGOs. Egypt recently arrested representative of 27 NGOs…"
- In June, in **Nicaragua**, the Law to Create the Unit of Financial Analysis (UAF) was approved and went into effect in September. It purports to be aimed at countering money laundering and terrorism financing, but is drafted in vague language that allows the UAF to investigate virtually any information about any CSO or individual at any time.
- In July, **Russia** enacted a law requiring CSOs that receive foreign funding and conduct 'political' activities to register as 'foreign agents'. Further, Russia expelled USAID from Russia, effective 1 October 2012.
- In October, MPs in **Malaysia** proposed a law that would compel all CSOs to declare to the Registrar all funds received from local or foreign sources. An MP said, "[T]he influx of foreign funds will cause us to become agents of foreign powers." Notably, in September, the Financial Action Task Force (FATF), which is an intergovernmental body that works with governments to implement its money laundering and anti-terrorist financing recommendations, began its assessment of Malaysia.[3]
- Also in October, **Egypt** released a draft law that would provide a Central Audit Organisation with unbridled discretion to prohibit CSOs from receiving funding from abroad, with any violation resulting in a prison sentence of more than one year and a fine of US$16,000.
- In November, the **British Virgin Islands** enacted a bill that requires non-profit organisations with more than five persons to have an Anti-Money Laundering Reporting Officer on staff. In addition, any person who operates an unregistered organisation will be liable to a fine of up to US$50,000 or imprisonment for a term up to three years, or both.
- In **Tajikistan**, the Ministry of Education established new rules demanding that all forms of cooperation with international organisations must be approved in advance by the Ministry. This rule applies to all educational institutions, including secondary schools. The Ministry also sent instructions to university heads informing them that students are prohibited during classroom

hours from attending any conferences, meetings or other gatherings funded by international organisations.

- In December, in **India**, The Minister of State for Home Affairs said he would have a "re-look" at India's Foreign Contributions Regulation Act, 2010, with the aim to "plug loopholes that are perceived to be vulnerable to abuse by foreign intelligence agencies."

2. Constraints on assembly

In addition to funding constraints, in 2012 a wide range of governments continued to impose measures restricting the ability of individuals to dissent, demonstrate, and exercise their freedoms of assembly and expression. For example:

- **Malaysia's** Peaceful Assembly Act went into effect in April 2012. The law bans street protests and prohibits non-citizens from participating in protests.
- In June, **Russia's** President Putin signed into law amendments to the Code on Administrative Violations to the Law on Assemblies, Meetings, Demonstrations, Marches and Picketing, which increased fines for breaching provisions of the law by 150 times for individuals and 300 times for organisations. The new maximum penalty for participation in a protest that is not in accordance with government regulations is up to 300,000 Rubles (approximately US$9,000) for individuals and up to one million Rubles (approximately US$32,000) for organisations.
- Similarly, in **Azerbaijan**, amendments to the Law on Assembly dramatically increased penalties against participants and organisers of protests that are not sanctioned by government. For example, if the organiser of an unsanctioned protest is a CSO, then the CSO can be fined up to US$38,000.
- In May, the National Assembly of **Quebec, Canada** passed Bill 78, which restricts protest or picketing on or near university grounds and requires organisers of a protest consisting of 50 or more people in a public venue anywhere in Quebec to submit their proposed venue and route to the police for approval.
- In **Bahrain**, the Ministry of Interior announced an order in late October criminalising marches or gatherings. The Ministry said it was "fed up" with protests and that "there was a need to put an end to them." Then, on 6 November, the government revoked the citizenship of 31 individuals engaged in civil society, including opposition activists and lawyers.
- **Iraq** proposed a draft law that would impose undue 'time, place and manner' restrictions on assemblies and ban slogans that are inconsistent with "public order or morals." The draft law remains pending.
- In July, the Attorney General of the **Fiji Islands** suspended a law that required a permit from the Commissioner of Police to hold a public meeting, but the suspension does not apply to meetings at "public roads or parks" or where "three or more people…discuss politics."

3. Impediments to communication

In 2012, a number of countries also introduced laws that prohibit certain types of online content or seek to impede bloggers and other internet users. 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. In addition to countries such as Bahrain, Belarus, China, Iran, Syria and Venezuela, where online controls are well-established, the list now includes Azerbaijan, Libya, Malaysia, Russia, Rwanda, Pakistan, Sri Lanka and Thailand. Restrictions took a number of different forms:

- In April 2012, the parliament in **Malaysia** passed an amendment to the 1950 Evidence Act, which holds the hosts of online forums, news outlets, blogging services, and businesses providing WiFi responsible for any seditious content posted by anonymous users.
- In August, in **Rwanda**, the lower house of parliament approved legislation that, if

passed by the Senate, will enable the intelligence services to conduct widespread surveillance of email and telephone communications.

- In July, in **Sri Lanka**, the government announced new registration fees for prominent human rights and governance websites.
- Also in July, in **Russia**, the parliament enacted legislation that recriminalised defamation and expanded the blacklisting of websites.
- In April, **Mexico** passed the Geolocation Law, which allows law enforcement agencies to gain access to the location data of mobile phone users, without a warrant and in real time.

In addition to legislative constraints, governments in several countries cracked down on communication through arrests and prosecutions. To give but a few examples:

- In May, in **Thailand**, a forum moderator for the popular online news outlet Prachatai received a suspended eight-month jail sentence and a fine for not deleting quickly enough an anonymous reader's criticism of the royal family.
- In November, **Pakistan** imposed a death sentence for the alleged transmission of blasphemous content via text message.
- In March, in **Tunisia**, two people were given seven-year prison sentences for publishing online content that was perceived as offensive to Islam and "liable to cause harm to public order or public morals."

Responses to uphold a more enabling environment for civil society

Despite the increasing challenges to civic space outlined above, efforts were also taken to protect or expand protections for civic space, where possible. Several initiatives on the **global level** to promote more enabling reform are noteworthy:

- In March, over 70 representatives from more than 50 CSOs and 40 countries met in Cebu, Philippines and agreed on a roadmap for a new **CSO partnership for effective development,** which includes a globally agreed framework for CSO development effectiveness and for an enabling environment for CSOs.[4]
- In June, the **United Nations Special Rapporteur** on the Rights to Freedom of Peaceful Assembly and of Association, Maina Kiai, presented his inaugural report covering activities relating to his mandate at the UN Human Rights Council.[5]
- In October, the UN **Human Rights Council** adopted Resolution 21/16, which reminds states to protect the rights of all individuals to assemble peacefully and associate freely online as well as offline, and mandates that the Special Rapporteur report annually to the General Assembly.[6]

At the **regional level** efforts to promote more enabling reform include the following:

- On 28 March 2012, the **Inter-American Commission on Human Rights** (IACHR) held its first-ever regional hearing devoted to 'Legal Restrictions on Freedom of Association in Latin America'. The petitioners, a coalition of CSOs from diverse countries, provided first-hand accounts of their experiences of legal barriers limiting free association rights.[7]

- In early November, a Supplementary Human Dimension Meeting was hosted in Vienna by the **Organization for Security and Cooperation in Europe** (OSCE) in order to provide a forum to exchange views on how the full implementation of the rights to freedom of peaceful assembly and association can be advanced and protected in OSCE member states. The UN Special Rapporteur, Maina Kiai, recommended that the OSCE Office for Democratic Institutions and Human Rights (ODIHR) re-examine the training of police, their monitoring and how they are held accountable for breaches as a further progression of the work that ODIHR has done on the monitoring of assemblies.
- The foreign ministers of the **Organisation of Islamic Cooperation** (OIC) member

states agreed to grant humanitarian non-governmental organisations consultative status in the OIC for the first time at the 39th Session of the Council of Foreign Ministers, held in Djibouti, in November.

- In December 2012, the **European Commission** published a Communication, 'The roots of democracy and sustainable development: Europe's engagement with civil society in external relations', which promotes improving the legal environment for CSOs as one of the major EU commitments in its external actions.[8]

At the **national level**, in some countries laws to improve the operating environment for CSOs were enacted or were under consideration at the time of writing. Enabling legislation is crucial not only because it provides sufficient legal space for CSOs to form and operate, but more importantly because it helps ensure that individuals and organisations are able to take ownership of improving their lives, whether their causes are to advance gender equality, empower the disabled, provide humanitarian assistance, promote human rights, or foster other activities important to local populations. Examples of progressive civil society legal initiatives include:

- In **Ukraine**, the Law on Public Organisations was adopted and went into effect in January 2013. The new law simplifies registration and allows CSOs to pursue any lawful aims, engage in economic activities for not-for-profit purposes and acquire membership in public associations.
- In **Afghanistan**, the revised Law on Social Organisations passed the lower House of Parliament in December 2012. Among other changes, the new law, if enacted in its current form, would remove existing barriers to the receipt of foreign funding for social organisations.
- In **Libya**, the interim Minister of Culture and Civil Society appointed an independent committee to draft an enabling Law on Associations. As part of the process, the committee participated in consultations with civil society and ministry officials.

Despite these more positive moves, in conclusion it can be said that the epidemic of new constraints in many parts of the world demonstrated the 'contagion effect' of restrictive laws infecting one country after another. In the wake of the citizen protests that swept so many countries in 2011, governments sought to circumscribe such activities and constrain CSOs in 2012.

At the same time, inspiration can be drawn from the determined efforts of courageous colleagues seeking to protect civic space. Looking ahead to 2013, the words of American social reformer Frederick Douglass should be kept in mind: "If there is no struggle, there is no progress."

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David Moore is VP of Legal Affairs with the International Center for Not-for-Profit Law (ICNL), where he has worked since 2001. On behalf of ICNL, Mr. Moore has conducted legal assessments of civil society laws and/or provided technical assistance on law reform projects in a diverse range of contexts, including Afghanistan, Bulgaria, Croatia, Hungary, Laos, Mauritius, Moldova, Russia, Sierra Leone, Turkey and Vietnam, among others.

Mr. Moore has published extensively on issues of civil society law, and has served as a trainer on civil society legal issues for government officials, civil society representatives, and U.N. civil society staff. Mr. Moore served for 10 years as a professor at the Central European University in Budapest, teaching Civil Society Law; he has previously taught at the Catholic University in Lublin, Poland and the European Humanities University in Minsk, Belarus.

Mr. Moore previously served as a Rule-of-Law Liaison in both Uzbekistan and Belarus with the American Bar Association's Central and East European Law Initiative. Prior to that, he worked for several years on the U.S. territory of Guam as a prosecuting attorney with the Attorney General's Office, where he specialized in domestic violence and sexual abuse cases, and was responsible for appellate casework in the U.S. federal district court and U.S. Ninth Circuit Court of Appeals. Mr. Moore holds a Juris Doctorate and Bachelor of Arts degree from the University of Virginia.

Source: The International Center for Not-for-Profit Law http://www.icnl.org/about/bios/moore.htm

JACOB ZENN

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Mr. Zenn has experience working with the United Nations High Commissioner for Refugees (UNHCR) in Malaysia, an international law firm in Thailand, and the University of Duhok Training and Development in Center in Iraq. While in law school, he conducted a fellowship sponsored by the American Society of International Law (ASIL) and Chadbourne & Parke LLP's Middle-East North Africa Team in Yemen during which time he observed elections in Somaliland, and spent a semester as a visiting student at Korea University. His writing, panels and co-authored works have included issues such as "Association and Assembly in the Digital Age" (The International Journal of Not-for-Profit Law, Volume 13, Issue 4, December 2011); "Lessons from Turkish Civil Society for the Arab Spring" (SETA Foundation at Washington D.C., November 2011); and the "International Migrants Bill of Rights" (Geo. Immigr. L.J. 395-506, 2009-2010). He speaks several languages and is an alumni of the Department of State Bureau of Education and Cultural Affairs Critical Language Scholarship in Malang, Indonesia.

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1. We recognise that it is impossible to catalogue all developments in one article. Accordingly, for more information, please visit ICNL's on-line research center, which includes the NGO Law Monitor, accessible at: http://www.icnl.org/research/.

2. Those arrested and charged include employees of the National Democratic Institute, the International Republican Institute, Freedom House and local organisations, whose offices in Cairo were raided in December 2011.

3. FATF is an intergovernmental policy-making body that sets anti-terrorist financing and anti-money laundering standards, including recommended regulations for civil society, used by over 180 countries. See Suraj K. Sazawal, "What is the Financial Action Task Force and Why Nonprofits Should Care?," *Charity and Security Network*, May 3, 2012. available at: http://www.charityandsecurity.org/analysis/Financial_Action_Task_Force_FATF_and_Why_Nonprofits_Care%3F.

4. See section 4 of the 2011 Siem Reap Consensus on the International Framework for CSO Development Effectiveness, developed by hundreds of CSOs over three years, accessed at www.cso-effectiveness.org.

5 Statement by Maina Kiai, Special Rapporteur on the rights to freedom of peaceful assembly and of association, 20th session of the Human Rights Council, Agenda item 3, 20 June 2012, Geneva. Available at: http://www.icnl.org/research/library/files/Transnational/HRC%20STATEMENT%20Maina%20Kiai%20SR%20peaceful%20assembly.pdf.

6 Human Rights Council Twenty-first session Agenda item 3, "Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development Resolution adopted by the Human Rights Council, 21/16. The rights to freedom of peaceful assembly and of association." Available at: http://www.icnl.org/news/2012/20-Nov-AHRC2116.pdf?OpenElement.

7 See ICNL News Item, "Inter-American Commission on Human Rights' First Regional Hearing on Legal Restrictions on Freedom of Association in Latin America, "March 28, 2012. Available at: http://www.icnl.org/news/2012/28-Mar.html.

8. European Commission, "The Roots of Democracy and Sustainable Development," October 16, 2012. Available at: http://eudevdays.eu/en/event/hlp/roots-democracy-and-sustainable-development.

Resistance and Solidarity:

Cambodian CSOs confront a repressive draft law on associations and NGOs

Borithy Lun[1]
Former Executive Director, Cooperation Committee for Cambodia

At the end of December 2011, in a surprise move, Cambodia's Prime Minister, Hun Sen, agreed to delay by two years the adoption of a controversial proposed law governing the activities of civil society and non-governmental organisations (NGOs). Cambodian civil society organisations (CSOs) welcomed the commitment by the Prime Minister to give more time for the government and the Cambodian civil society community to come to an agreement on outstanding issues apparent in the fourth version of this draft law, published by the government a few weeks earlier.

The government first made public a proposed a law on Cambodian associations and NGOs in December 2010 to subsequent widespread criticism by Cambodian CSOs, international NGOs and human rights organisations, donors, legal analysts and UN Human Rights Special Rapporteurs. Civil society groups were able to draw attention to draconian provisions in this first draft; a second version was then prepared by the government, but never disclosed. In July 2011, a third draft version was made public, which did not address CSO concerns, and was followed by the fourth draft in mid-December 2011.

Cooperation between the Cambodian government and civil society has long been central to the country's evolution from a war-torn country to a peaceful, vibrant developing one. While government and CSOs have often had different opinions, they have held constructive discussions and cooperated. Indeed in August 2012, the government announced at a multi-stakeholder consultation on governance and development effectiveness in Cambodia's capital Phnom Penh that it was working on a set of guidelines for an annual consultation with NGOs, a move seen as a positive step toward recognising civil society's importance in the country's development.

At the same time, the latest draft of the NGO law puts this relationship at risk by proposing to severely restrict freedom of expression and association, potentially reducing the voice of many organisations that represent and protect groups such as farmers, labour unionists, land activities, students, sex workers, people with disabilities and other marginalised groups of people.

CSOs have played an integral role in the development of Cambodia for the past three decades and have made significant contributions towards improvements and social transformation for the lives of the country's poor and marginalised. CSOs support development from the grassroots level, empower individuals and communities, advocate for inclusive and fair policies, protect the rights of the marginalised and work toward societal solidarity. Their contributions should be acknowledged and celebrated and this report aims to consolidate, quantitatively and qualitatively, those contributions.

While eager to affirm their positive contributions, CSOs also do not hesitate to recognise their own weaknesses and shortcomings. Through wide and inclusive global consultations over the past three years, CSOs globally have developed a common set of principles, the 'Istanbul Principles for CSO Development Effectiveness,' which seek to define and guide effective CSO practice. Subsequently, the 'Siem Reap Consensus on the International Framework for CSO Development Effectiveness', a collective and consolidated statement of global civil society on putting the CSO development effectiveness principles into practice was endorsed at Siem Reap in Cambodia, at a Global CSO Assembly in June 2011. [2]

In Cambodia, since 2004, CSOs have developed a set of minimum standards modelled on international best practice. The Cooperation Committee for Cambodia (CCC) is the steward of the 'NGO Governance and Professional Practice (NGO GPP) Voluntary Certification System (VCS). Many of the CSOs that will be affected by a new law are eager to become certified under this programme in order to demonstrate their good governance. While there is a definite enthusiasm for the programme, clearly ongoing work is required to ensure that CSOs fully engage with and complete

the voluntary process of certification.

Research conducted in 2012 by CCC suggests that between 2.8 million and 4.5 million Cambodians (20% to 30% of the population) directly benefit from activities by NGOs in Cambodia. While it is hard to measure the true size of the entire CSO sector, NGOs contributes greatly to the grassroots development of Cambodian civil society, disbursing an estimate of US$44 million to local community-based organisations.

In striving to maximise CSOs' contributions to development in Cambodia, civil society has also focused on the importance of an enabling environment that allows CSOs to make their fullest possible contribution to social, economic and democratic development. The legal and regulatory framework for CSOs is a crucial condition for CSOs to realising their full potential of CSOs. CSOs are also a crucial force for holding the government and other actors in the country to account. This is particularly true in Cambodia where a dominant political party controls the executive, the legislative as well as the judiciary spaces.

In a system where power is centralised, passing the NGO legislation should have proceeded rapidly, but this did not happen, in large part due to solidarity among Cambodian CSOs and the tenacity and willingness of Cambodian civil society to respond to a real threat to the space for their work.

From the perspective of civil society, the December 2011 fourth iteration of the law, while showing some modest improvements, did not change significantly from earlier drafts. It still fails to respect fundamental rights, including freedom of expression. Several key provisions raise more questions than they answer, both in terms of the law's application and the intent of the government. If implemented in its present form, the draft law would have severe, negative impact on Cambodian NGOs and associations as well as foreign NGOs working in Cambodia, and would dramatically hinder the delivery of development aid to Cambodia, including government programmes.

Major concerns about the current draft include:

- Registration continues in reality to be mandatory and complex, rather than voluntary and simple;
- No safeguards are proposed to ensure that denials of registration or involuntary dissolutions are imposed objectively based on stated criteria, and there is no time limit for receiving a response to an application to register; and
- Key terms in the law are undefined, and many sections are vague.

Mandatory registration has been removed from the fourth draft, but confusing provisions suggest otherwise. An organisation will have deemed to have ceased operations, according to the law, if it does not file notice with the government of its intent to continue operations. Furthermore, the law states that organisations that choose not to register "shall not have legal capacity". Community-based organisations (CBOs) are seemingly exempt from registration provisions, but are required to provide written notice to commune or sangkat (sub-district) authorities of their activities and their leaders.

CSOs understand the government's need for a legal framework to ensure the stability and security of the country, and to facilitate the effective delivery of development and humanitarian aid. However, such a framework needs to give citizens the freedom to engage in law-abiding activities without undue restrictions or burdens. Any new law must be consistent with rights set out in the Cambodian constitution, and international treaties that Cambodia has signed, including the Universal Declaration of Human Rights and the International Convention on Civil and Political Rights.

Forthcoming consultations with civil society on the law should consider, among other issues to be raised by Cambodian CSOs:

- Making registration truly voluntary for domestic NGOs and associations that wish to take advantage of the benefits of registration;

- Creating measures that allow the registration process to be truly accessible, with clear, speedy, apolitical and corruption-free procedures;
- Clearly outlining a transparent process for the evaluation of registration applications. Any government decision to deny registration should be in writing and take effect over a reasonable and manageable timeframe. The appeal process should be explicit and quick. It should coincide clearly with objective legal standards for purposes of review; and
- Excluding or simplifying reporting procedures for small, provincial and community-based development organisations and alliances.

How did the Cambodian CSO community manage to organise themselves so effectively to challenge the various drafts of the law? At the core of this success is solidarity. Cambodian CSOs, like other countries, are diverse, with different ways of working, including as service, advocacy, human rights and watchdog NGOs. But the law was seen very quickly to be an issue of survival that compelled organisations to work together, agree on key points of analysis and messages, and work in their respective areas to build up awareness of the impact of this legislation. The result was simultaneous advocacy at the national, regional and global levels, particularly with the UN human rights system. A key message was that the world had invested considerable resources in Cambodia and this investment will be at risk if the repressive legislation became law. A number of bilateral donors were encouraged to make their views known to the Cambodian government at crucial moments of decision-making within the government. The CCC was able to hold a global civil society assembly in Siem Reap focused on CSO development effectiveness and the enabling environment in which the Cambodian government representative endorsed the 'Istanbul Principles'. This endorsement provided an international framework within which civil society could continue dialogue with the government on the law.

Cambodia is a young democracy and as a young democracy the country is sensitive to claiming legitimacy and international credibility. In this context in 2012 Cambodia hosted the Association of South East Asian Nations (ASEAN) meetings, which it will chair until 2014. The government is also trying to win a seat on the UN Security Council. These all imply that the country needs to respect international democratic principles. Pressure therefore from a world organization like the UN system and the international community does have an impact on the government.

In summary, the law is on hold until 2014 and subject to consultations with civil society. This success can be attributed to five factors:

1) **The strength of CSOs in Cambodia, and the power of networking to educate and mobilise;**

2) **Visible support and solidarity from key actors in global civil society;**

3) **Proactive initiative by international CSOs that are keeping the issue alive with their donors, and their governments that are talking to the Cambodian government;**

4) **Supportive legal analysis of the law on the part of specialised human rights organisations and research by the International Center for Not-for-Profit Law (ICNL); and**

5) **Timely, rapid and pointed responses to various drafts and manoeuvres on the part of the Cambodian government.**

All five factors have culminated in winning this grace period for Cambodian civil society. One form of intervention alone would not likely have brought about a change in the government's position.

The NGO law in Cambodia implies a significant shrinking of space for civil society in a young democracy such as Cambodia. The country's past development success – social and economic – would never have happened if the opportunities to freely organise and express opinions had been curtailed. It is, therefore, not only in the best interests of Cambodia's citizens, but also to the advantage of the national government to make registration optional for domestic NGOs and

associations, and to make regulations simple according to defined terms. Successful development of societies worldwide goes hand in hand with increased openness.

Note: Sections of this chapter reproduces selected paragraphs from an article published by Borithy Lun, "Third draft of Cambodia's associations and NGO law overlooks key concerns", the Guardian, 12 August 2011, http://www.guardian.co.uk/global-development/poverty-matters/2011/aug/12/third-draft-cambodia-ngo-law. It is also based on documents provided by the CCC and on selections from recorded interviews and presentations by Borithy Lun in 2011 and 2012.

BORITHY LUN

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Borithy Lun was the Executive Director of The Cooperation Committee for Cambodia (CCC) since 2008, where he provided strategic leadership and overall management. He has 25 years experience in management, project planning and implementation and specialised technical assistance in both Europe and Asia. This experience includes 13 years of result-based field work with international organisations including USAID, DFID and the United Nations Development Programme. Borithy has international experience and expertise encompassing large scale operations and programme management. Among the positions he has held, Borithy has served as International Operations and Finance Advisor for UNDP's Partnership for Governance Reform in Indonesia Project, where he provided financial and human resources management and technical support. As International Logistics Advisor for USAID's Reproductive and Child Health Alliance in Cambodia, he provided management for essential drugs and contraceptives logistics, systems development and institutional capacity development. Borithy has produced several notable publications, including logistics management manuals for the Ministry of Health in Cambodia. He received his Higher National Diploma in Business Studies and Public Administration at Oxford Brookes University. Borithy currently lives in Cambodia.

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1. This contribution to the CIVICUS State of Civil Society report was prepared by Brian Tomlinson, with the permission and approval of Borithy Lun. It based on material written by Borithy or presentations he has made at the Busan High Level Forum on Aid Effectiveness and other international fora. Borithy reviewed and signed off on this contribution.

   See the Istanbul Principles and the International Framework for CSO Development Effectiveness at www.cso-effectiveness.org.

2. See the Istanbul Principles and the International Framework for CSO Development Effectiveness at www.cso-effectiveness.org.

The changing role of the voluntary development sector in India

Harsh Jaitli, Voluntary Action Network India (VANI)

Overview of the voluntary sector in 2012

2012 was a year full of challenges and also new opportunities for the voluntary sector in India. A country that has a very long tradition of volunteerism faced numerous domestic challenges, which demanded that Indian voluntary organisations adjust. The year saw its share of mass movements when thousands of people gathered in the political capital to demand a corruption free system. A Gandhian leader, P V Rajgopal, mobilised thousands of tribal peoples and forest dwellers to claim their land and forest rights, while the end of the year saw a very effective spontaneous movement against sexual harassment and for the dignity of women. There were also manifestations by a strong anti-nuclear movement in the Southern state of Tamil Nadu.

The Indian government responded by not only promising to change policies and the ways the system works, but also by increasing controls and threats on voluntary organisations. Numerous public debates took place on the harassment of the voluntary sector during this year. In addition, the voluntary sector looked within itself to implement internal reforms. In 2012, the voluntary sector also experienced new challenges due to the changing nature of the financial and partnership opportunities available. On the one hand, India has emerged as strong global player in global fora on economic policies and development, but on the other, domestic challenges of widespread poverty and deprivation have become more obvious.

A long and deep history of volunteerism

It is our belief that the existence of the voluntary sector in India is as old as the history of humanity in any civilisation. In the recorded history of India, the responsibility to provide for a decent human life with dignity had been always shared between the state and informal groupings of people. Religious institutions played an important role through their charities to provide education, health and other basic services alongside the state, the primary role of which was to provide security.

More structured voluntary organisations came into existence with the creation of the Societies Registration Act of 1860, but the contribution of voluntary sector has gone much beyond those formally registered organisatons. After the independence of India, the father of nation, Mahatma Gandhi, became the inspiration for many grass roots organisations, popularly known as 'Gandhian organisations'. After independence, Gandhi reminded people that India had only achieved political freedom, and freedom from hunger, disease, deprivation and marginalisation was still to be achieved. He advised many freedom fighters to join the electoral and political process to achieve these social goals or alternatively to join the voluntary social service sector. In the years following independence, India faced the herculean task of providing basic services to the remotest corners of the country, while at the same time trying to recover from a devastating drought and the pains of partition between India and Pakistan. These challenges were further complicated by the lack of financial and human resources within the state.

Acting to meet the needs of the hour, voluntary organisations not only worked in the deepest and most remote areas of India, but also became engaged in innovative methods and models for the delivery of services to marginalised peoples. The contribution of the voluntary sector ranged from developing new technologies that were cheap and easily accessible to the masses, to carrying out creative models for extensive outreach to remote and marginalised peoples. The sector has also been globally recognised for its analysis of the current development context and for its advocacy with local, national and international development players. As the situation changed on the ground, the nature, scope and functions of voluntary organisations also transformed. From the perspective of today's realities, voluntary organisations not only have new opportunities, but also face very serious existential challenges.

Recent trends and measures affecting the voluntary sector

As advisors and advocates for the cause of the marginalised

There are some voluntary organisations that play an active role as advocacy groups. They conduct research on the key issues affecting the country and engage with the government in policy dialogues. Often they also conduct reviews and consultations on the efficacy of developmental projects carried out by the state and national government. These reviews help influence mid-course corrections and sometimes redefine the targets of such projects. In this work the government reaps the benefit from voluntary organisations' capacities for outreach combined with their technical expertise.

Beyond projects, voluntary organisations are also engaged in the political process for the formulation of five-year plans by the Planning Commission. A review of the 11th five-year plan in 2012was conducted by a consortium of voluntary organisations after a series of consultations at state and thematic levels. Various sub-groups were then created by the Planning Commission to help craft the next five-year plan. The voluntary sector and even the Indian government consider this role as important for enriching policy formation. In the last three years selected voluntary organisations have also been invited by the Finance Ministry for a pre-budget annual consultation, while many consultative committees have been formed by various ministries to seek structured input from the voluntary sector.

The voluntary sector provides critical input for policy-makers within government through regular status reports on topics such as climate change, agriculture, industry and fiscal reforms, which are submitted to the government. These reports gather important information and perspectives for members of parliament and state legislatures. However, since these reports are not requested by the government, they are often not accepted. In such cases, organisations run advocacy campaigns through the media and popular publications to generate awareness and solicit public support.

Promoting rights versus service delivery

Today India is progressing very fast along the path towards self-reliance. A stable democracy and continuous economic growth have contributed much to this goal. Unfortunately, the fruits of economic growth have not properly reached the majority of the population, many of whom still suffer from the conditions of poverty. Those living in poverty include the urban and rural poor, and many tribal people, dalits, children and women. For the benefit of these sections of society, the Indian government has established various flagship schemes.

Many of the government's schemes are based on innovations carried out by voluntary organisations, such as the National Rural Health Mission or the Mahatma Gandhi National Rural Employment Guarantee Scheme. A number of voluntary organisations in India are engaged in implementing these schemes. Since many voluntary organisations have the capacity for outreach to the remotest locations, and most can count on acceptance by the community, they can be very effective partners of government at national, state and district levels. This role is primarily known as facilitating service delivery.

Voluntary organisations are not only delivering services but also empowering people regarding their entitlements under these schemes. Many such schemes are created in national or state capitals in very complicated language. The true spirit and ultimate results can only be achieved when people know about a programme's potential benefits and demand these from officials and from the voluntary organisations administering the programme. These roles, of service delivery and empowerment, have to go hand in hand if freedom from hunger and disease is to become a reality, but also if a programme is to achieve its full value for public money.

Voluntary organisations are playing very important roles along these lines in their contribution to nation building. However, increasingly, work promoting the entitlements

of marginalised people is becoming more difficult. Today Indian is facing violent domestic movements – the naxalites - which are comprised of the marginalised populations. Even if Indian voluntary development organisations speak and act from a perspective of a democratic system and peaceful change, their space is being reduced due to the actions of such movements. Indeed, both the state and naxalites target voluntary organisations. Thousands of these organisations have been working in the deep forests, addressing the issues of health, education and livelihoods, but their operating space is becoming more restrictive. The activists and staff of such organisations face the constant danger of attacks from naxalites or suppression from the police.

Addressing the changing nature of financial resources

Financial resources are very critical to the survival of the voluntary sector, because the users of services provided by voluntary organisations are generally not in a position to pay. For example, for any voluntary organisation that is providing sanitation facilities to economically poor and socially marginalised groups, the full expenditure on these activities has to be supported by a third party. This funder could be government, the private sector or an international funding agency. We believe in the last few years overall international funding for development has been declining for India. This is partly due to stable and consistent economic growth and partly due to policies of the Indian government to refuse some offers of bilateral aid. The focus has now shifted towards technical aid, and away from socio-economic development aid, for many international aid agencies engaged in India. Most bilateral and multilateral agencies also prefer to directly support the Indian government. This has restricted funding available for innovations or projects designed according to localised requirements.

Similarly, the nature and scope of projects funded by the Indian government have grown tremendously in last few years. Today, access to most government projects is on the basis of open tendering, wherein tasks and cost are fixed by the government. Sometimes, these tenders are viewed as a business by the taxation authorities, which leads to income or service tax on voluntary organisations. Most grassroots organisations have no knowledge of the ways of such tendering processes and are at the mercy of line departments.

The private sector has also developed corporate social responsibility (CSR) projects. Recent changes in the Indian Companies Bill make it mandatory for private companies to spend 2% of their profits on the CSR. But most private sector foundations and CSR projects are managed and funded as a direct arm of a company. Much more effort is needed to create conditions for the private sector and voluntary sector to work together.

Unfortunately, in the current scenario for India, the biggest losers in funding are those promoting innovations, freedom of opinion, advocacy and work on peoples' entitlements. The voluntary sector of India is losing its edge in these important areas and roles, for which it has been known worldwide.

A national policy governing relationships with the government

The relationship between the government and the voluntary sector has always been mixed. Sometimes the voluntary sector plays the role of extending the hand of government by delivering services and projects on its behalf, but in other cases voluntary organisations also produce critiques of the government. Within these complex realities in the relationship between government and the voluntary sector, the 2007 National Policy on the Voluntary Sector came like a ray of hope. The policy saw the light of day due to the tremendous efforts and leadership of the Planning Commission. Essentially, the policy was an effort to redefine the relationship between the government and the voluntary sector in the promotion of nation-building. The policy visualised a long-term, sustainable and institutionalised collaboration between the two.

There was a long-standing need to develop a national policy for the voluntary sector, which could not only define the relationship between the government and the sector, but also explore ways to

strengthen the voluntary sector. Those from both voluntary organisations and the government have drawn attention to various strategies such as capacity-building, streamlining government procedures and guidelines, and creating synergy between the efforts of government and the voluntary sector. It should be noted that while formulating the 10th Five Year Plan (2002–2007), the Planning Commission set up a Steering Committee for the active involvement of voluntary organisations. A government paper setting out its approach for the 11th Plan (2007–2012) committed the central government to announce a policy for voluntary sector.

Accordingly, in May 2007 the National Policy on the Voluntary Sector was approved by the government. Broadly speaking, the policy sets out four specific objectives, namely:

1) **To create an enabling environment for voluntary organisations that stimulates their enterprise and effectiveness, and safeguards their autonomy;**

2) **To enable voluntary organisations legitimately to mobilise necessary financial resources from India and abroad;**

3) **To identify operating systems by which the government may work together with voluntary organisations, on the basis of the principles of mutual trust and respect, and with the shared responsibility;**

4) **To encourage voluntary organisations to adopt transparent and accountable systems of governance and management.**

As a follow-up to the National Policy, the Voluntary Action Cell of the Planning Commission took several significant steps. First, it wrote to each state government asking them to formulate state specific policies for the voluntary sector. But unfortunately in spite of numerous reminders and various consultations by local voluntary organisations, including 13 organized by VANI, nothing came out of these efforts. In some states voluntary organisations themselves drafted policies and forwarded these to the government, but these did not result in state governments adopting the policy.

The Planning Commission also formed three Expert Committees to carry forward the recommendations of the Policy, namely, for suggesting a comprehensive national law for registration, for the formation of a National Accreditation Agency, and for streamlining funding procedures of government agencies. However, these all met with problems. Given that the registration of voluntary organisations had been made a state subject, the draft national law for registration proposed by the first committee was rejected by the national government. Meanwhile the composition of the Committee looking at a National Accreditation Agency had a strong bias towards representation by government officials and as a result its proposal was rejected by voluntary organisations, and by the Planning Commission. The report of third Committee was never taken forward.

Unfortunately, therefore, all the regulatory steps taken by the government after 2007 went against the basic spirit of a national policy that had promised an enabling environment for the sector.

The voluntary sector – An easy target

The voluntary sector has always been the target of the ruling elite whenever any social movement for change takes place in India. The first occasion was the independence struggle in 1857, resulting in the formulation of the Societies Registration Act of 1860, which is still operational today in its timeworn form. Since then various attempts had been made to curtail the role of the voluntary sector to mobilise or participate in any social movement and to reduce the sector to one of only a deliverer of services. In the late 1970s, India witnessed a widespread movement against corruption and an internal emergency. This movement, popularly known as the Jay Prakash Movement, based on the name of its leader, led to the fall of the government. As a consequence of this movement, the government enacted the Foreign Contribution Regulation Act (FCRA). While a new FCRA was

enacted in 2010, the current version continues the provision debarring voluntary organisations from taking part in any political activity. This law does not define political activity, in effect giving a free hand to an investigating official to define any social mobilisation as political activity.

Section 2(15) of the Indian Income Tax Act defines the categories of charitable organisations that can receive tax exemption, and this measure is also heavily tilted towards service delivery. Under this section of the Act, there are six categories: the first five focus on the delivery of health and education services, along with taking care of monuments and the environment. Organisations that fall into these categories are not only exempt from taxation, but are also allowed to raise resources from selling their services and creating consultancies. Organisations covered by the last category in the Act, which is "any other purpose", are not allowed to raise resources, even if the activity is in line with their main mission. Here again the focus of the law is to promote the running of schools or hospitals or the distribution of emergency relief at the time of disaster. But any organisation working for educational reform, for example, or advocating for reform of health service delivery or prevention of disaster, can be taxed.

2012 also saw debate on the Direct Taxes Code formulated by the Finance Ministry to streamline India's direct tax regime. The first draft presented for public debate would be quite disastrous for the voluntary sector. Despite numerous consultations and appeals from VANI, some provisions still create significant challenges for the operations of the sector. For example, voluntary organisations would be able carry forward to the following year only 15% of their surplus revenue, and this for only three years. Any carry forward revenue beyond 15% would attract income tax. Even the free flow of ideas and knowledge is restricted through stringent provisions for travel visas. Clearance from at least three ministries - External Affairs, Home Affairs and the nodal ministry – would be needed for any delegate invited to an international conference.

The registration law for Indian voluntary organisations is almost a century and a half old and has not kept pace with changes in the voluntary sector. There has been a mushrooming of the sector, but voluntary organisations register under same law as sports clubs, private hospitals, corporate schools and even government sponsored non-profit ventures. Such a situation mixes very different organisational types, providing the government with a convenient excuse to enact more stringent control.

VANI, as the umbrella body of the Indian voluntary sector, has been demanding reform of the registration law, and for it to be applied with uniformity, which was also one of the recommendations in the 2007 National Policy. In 2012 the Ministry of Corporate Affairs issued a draft bill, the 'Multi-State Societies Registration Bill', but while this bill is a welcome gesture, it still keeps numerous local organisations outside its purview.

Unfortunately, the voluntary sector does not have an exclusive ministry or anchor department that can coordinate and promote it. In the absence of such a nodal ministry, every department of government tries to regulate voluntary organisations with self-defined systems. A voluntary organisation in India has to report according to the systems of each department to which it may relate. Advocacy to demand a nodal ministry for the voluntary sector continues.

Today public attacks on voluntary development organisations have become a fashion. The above regulatory changes and practices weaken the sector, an important pillar of Indian democracy. The implications of this trend to blame voluntary organisations are more disastrous at the grassroots. This results not only in public questioning the credibility of the sector, but also in more stringent implementation of restrictive laws. Voluntary organisations in the Northeast, for example, are forced to report their work on a quarterly basis to the local police. It is still worse in Chhattisgarh where voluntary organisations are supposed to report daily to the local police and have to give a written undertaking that they will not raise their voice against any corruption in the implementation of national or state laws.

Although these regulations affect organisations of all sizes, they pose a serious threat to the existence of smaller, community-based groups. There are instances where such groups are being inspected almost every month by various law enforcement agencies. When officials from the Intelligence Bureau visit voluntary organisations to verify mandatory FCRA requirements, this can generate a feeling among the local community that something must be amiss with an organisation. This is likelier to be the case for those organisations operating in so-called 'disturbed areas'.

There has been an unfortunate tradition of using the police and the Income Tax Act to silence the voice of dissent. The government's systematic approach over the last few years has created a 'climate of fear' among voluntary organisations, resulting in a tendency towards silence. We think that recent developments in public policies would in past times have attracted a response from the voluntary sector, but no one has spoken.

A true spirit of partnership is critical for a robust democratic culture, not threats and attacks

Indians are citizens of one of the most respected democracies in the world, where the right to protest and the space to raise questions are basic fundamental rights given by the Constitution. Indians should expect that these rights will be respected. Rather than attack the voluntary sector, the government should reinforce a relationship of partnership and create a truly enabling environment in which genuine organisations can continue to contribute to nation building without fear. The time has come to demonstrate the maturity of the socio-political system, in which the political, business and civil society spheres should be able to work hand in hand to make India a better place to live.

Positive developments in 2012

A number of positive developments in 2012 should be reported. As mentioned above, the draft Multi-State Societies Registration Bill is quite a welcome step, given the inadequacy of antiquated registration law. However, perhaps due to federal limitations for its jurisdiction, the Bill will only cover organisations working in more than one state of India.

In 2012 the government also launched its Development Partnership Administration (DPA) which brings together India's international assistance programmes. This administration has long been sought by voluntary organisations so that the logic and objectives of Indian development assistance abroad can be better understood. The DPA has opened up an opportunity to have dialogues and potentially partner with an otherwise very secluded ministry. The government also made announcements that it might create an exclusive ministry for the voluntary sector, and if so, this measure would be a huge step towards strengthening the sector.

The future

2012 saw a renewed spirit among voluntary organisations to reinforce and reclaim their space in the system. In the first instance, the focus was to 'clean up house'. Intensive efforts, for example, were initiated by VANI to disseminate the provisions of the contested laws, such as the Income Tax Act and the FCRA, outlined above. The objective was to reduce the possibility of harassment from the state by voluntary organisations taking their own steps to increase transparency and accountability. This year's annual report of FCRA clearly indicates that reporting by voluntary organisations has improved. More and more organisations have now understood the law, but also have worked to improve the quality of their reports.

The same is the case with the Income Tax Act. Although numerous 'show-cause notices' were served by the Taxation Department, organisations for the most part came out clean. One estimate from the Central Statistical Organisation indicated that there are more than 3.3 million not-for-profit organisations in India. As mentioned above, this is due to out-dated application of laws, which results in a very broad definition of not-for-profits to be registered, and misuse of the space of

charity. But internally, voluntary organisations have invested time and meagre resources to improve their management systems. VANI produced a document on draft internal policies that was well received by the voluntary sector, and a feeling of greater togetherness could be seen in the sector. Organisations are coming together to face the challenges and redefining their relationships with government, private sector and other stakeholders.

Although times are challenging for voluntary development organisations, the spirit of volunteerism will never die. Not only in India, but globally, the voluntary sector has always emerged more effective after crises. New strategies for engaging with the government and the private sector now have to be explored. The voluntary sector needs to invest in the capacity of organisations to utilise any new opportunities and space offered by the system. There is need for renewed relationships and comradeship between organisations irrespective of their strategies, location, themes and sizes.

HARSH JAITLI

Chief Executive Office
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Source: Development Research Centre http://www.drc-citizenship.org/pages/harsh-jaitli

Venezuela 2012
The Communal State:

Increasing restrictions to civil society rights and individual liberties

Feliciano Reyna Ganteaume, Civilis

A LEGAL AND REGULATORY FRAMEWORK FOR CIVIL SOCIETY

Background

Since 2002, different steps have been documented that have been taken by the Venezuelan government to impose restrictions on civil society rights. In that year, for the first time, the Inter-American Human Rights Commission included Venezuela in Chapter IV of its Annual Report as a state that deserved close attention, given situations "*that seriously affect the enjoyment of fundamental rights enshrined in the American Convention or the American Declaration.*" Since then, Venezuela has been included in Chapter IV every year, with the exception of 2004. As early as the 2002 Report, the IACHR was expressing its concerns regarding restrictions to rights for civil society:

> *"The Commission wishes to call attention to the importance of the concept of civil society being understood in democratic terms, without unreasonable exclusion or unacceptable discrimination. In this regard, the IACHR has had the opportunity to learn of several decisions of the [Venezuelan] Supreme Court of Justice that have laid down a doctrine according to which non-governmental organisations that receive grants from abroad or whose boards of directors include foreigners or religious men or women, are not part of civil society, and therefore would be excluded from the right to participate in the Nominations Committees provided for in the Constitution for selecting the persons for the organs of the Citizen Power, the Electoral Power, and the Supreme Court of Justice. Acknowledging the power of the State to issue reasonable regulations of the right to association in the context of a democratic society, the Commission calls attention to this jurisprudential thesis, which, applied in discriminatory terms against independent organisations, has an exclusionary effect that is unacceptable for the open participation of civil society in Venezuela."*[1]

Based on this restrictive definition of civil society by the Supreme Court of Justice, organisations working in areas as diverse as HIV/AIDS and the promotion of government transparency have been prevented from participating as Venezuelan CSOs in international fora, such as ones held by the Organisation of American States regarding the Inter-American Protocol Against Corruption, and the UN General Assembly Special Session on HIV/AIDS.

Present context

2012 was a year in which restrictive conditions for the exercise of democratic liberties and the observance and enjoyment of human rights in Venezuela deepened. Restrictions were the result of the Venezuelan Government's attempts to continue to impose the so-called Communal State —also known as the People´s Power State — on the legal order, state institutions and social life in general. It did so through the active cooperation of all national public powers — the Supreme Court, Parliament and the National Electoral Council, together with the Ombudsman's Office. The Communal State aims at controlling all spheres of autonomous and independent expression, organisation and action of citizens.

The general context in Venezuela is one in which the rule of law has been unabashedly disowned by those in power over the past decade, causing a severe deterioration in the guarantees of human rights and democratic liberties enshrined in the Venezuelan constitution, as well as in the international covenants on human rights signed by Venezuela. The continuation of such practices can only lead to further weakening of public institutions and the closing of democratic spaces, as well as to attempts at concealing human rights violations.

In 2012, the repeated threats by the Venezuelan government to withdraw from the Inter-American Convention of Human Rights became a reality: in September, the Foreign Affairs Minister finally formalised this decision in a letter sent to José Miguel Insulza, Secretary General of the Organisation of American States.[2]

In 1999, through the leadership of then President Hugo Chávez, a Constitutional Assembly reformed the Venezuelan constitution. The new text was approved by popular referendum in December 1999. The fundamental principles, that defined Venezuela as a social and democratic state, based on the respect for human rights and guarantees of justice, as well as the chapter on human rights, were considered among the most advanced compared to constitutions around the world. Venezuelan CSOs participated enthusiastically in consultations to write the new constitution and provided important recommendations that were included in Title III: on Human Rights and Guarantees.

Unfortunately, as the years went by, the government deviated more and more from the constitutional path. When President Hugo Chávez was re-elected in 2006 for a new six-year term, he proposed a new reform to the constitution. The 67 articles to be reformed — out of a total of 350 — included a severe weakening of and threats to the guarantees of protection of human rights such as non-discrimination, freedom of association and participation, freedom of expression and access to information, labour rights and the right to property.

The proposed reform was rejected by a popular referendum in December 2007. However, President Hugo Chávez, after acknowledging defeat, expressed a position that nothing prevented him from carrying through these measures via legislation.

In general, three areas of political changes have challenged the constitution and affected the free and autonomous organisation and expression of civil society in the current situation in Venezuela:

1. The government consolidated a body of legal instruments, based on the rejected constitutional reform, in order to exercise power through centralised, vertical and non-representative state structures, among which the most important was the Second Socialist Plan 2013-2019, upon which President Chávez based his electoral programme for the October 2012 presidential election. This plan complemented the approval of more than 60 laws affecting the jurisdictional reorganisation of Venezuela, alongside the redefinition of the social, political, administrative and economic structure of the country as a Communal State. Within this new legal framework there are laws that criminalise freedom of expression, penalising private media in particular, and laws on national security and anti-terrorism, which restrict civil liberties and citizens´ participation in public matters, in the name of the "political unity of the state" and "in defence of national sovereignty."

   The rights to equality and non-discrimination, to freedoms of association, expression and participation, as well as the people´s sovereignty, are among the constitutional principles and guarantees on human rights affected by the Communal State. Popular Power is the only means to access public goods: "sovereignty is exercised through Popular Power", as stated in the Organic Law on Popular Power.[3]

2. The lack of independence of judicial bodies has undermined the constitution and Venezuela's international human rights obligations. The Supreme Tribunal of Justice (Venezuelan Supreme Court), through its Constitutional Court, which is the "highest interpreter of the constitution", has produced a series of judgments convenient to the executive, based on ideological considerations and the "Principle of Cooperation among State Powers". They have altered constitutional principles and purposes, instead of putting limits on and penalising abuses of power. In spite of its unconstitutional nature, the judiciary, the legislature, and even the Ombudsman's Office, redefined their structures and plans in order to comply with the new postulates of the Communal State. They all supported the executive in decisions and actions —including the

definition of a "new, critical vision of human rights", one which weakened Venezuelans' right to universal, timely and impartial justice, both nationally and internationally.

The governing Venezuelan United Socialist Party openly intervenes in the management and decision-making of public institutions, serving the interest of the party and violating the constitutional norm, which demands that "Public Officials are at the service of the State and not of any political partiality" (Article 145). The highest-ranking officers of the National 'Bolivarian' Armed Forces repeatedly, and unconstitutionally, expressed their allegiance to the "Bolivarian Revolution and its leader." In an official act broadcasted nationally, President Chávez expressed that the Venezuelan Armed Forces "are Revolutionary, Socialist and Chavista,"[4] even though the Venezuelan constitution states that "The Armed Forces are at the exclusive service of the Nation and in no circumstance at the service of any person or political partiality" (Article 328).

3. The Venezuelan government's attempts to organise the 'new society' of the Communal State resulted in national public administration institutions in 2012 adapting to and complying with the new systems of the 'People´s Power State'. In this 'new society', in order to be recognised as a valid interlocutor, or as an actor in public matters, and to be able to relate to state institutions and to participate in public policy definition and implementation or benefit from social programmes, it is mandatory to become a member of a People´s Power Organisation (PPO), as required by the People´s Powers Laws. The Communal State includes territorial, political, social and military spheres, and in order to belong to a PPO, members must comply with collective duties and responsibilities, and be committed to the "construction of a socialist society." In order to operate, PPOs must conform to a series of regulations and receive the approval of the executive, through the Ministry of Communes. Since only PPOs are recognised as valid interlocutors to participate in public matters, any other type of organisation would lack such recognition.

From disqualification and criminalisation to exclusion of civil society

Parallel to advances in imposing on citizens´ organisations the 'People´s Power' structures, the Venezuelan government continued in 2012 to restrict civil society rights. It did so through further closing spaces for constructive dialogue and participation, harassment, smear campaigns, administrative and criminal procedures, and laws criminalising international cooperation. Some examples are described in the following sections.

Promoting and defending human rights before international human rights bodies

Even though the Venezuelan constitution guarantees the rights of citizens "under the terms established by treaties, covenants and conventions on human rights ratified by the Republic, to address petitions and complaints to the international bodies created for such purpose, in order to seek protection of their human rights",[5] CSOs were the target of smear campaigns and disqualification precisely for exercising such rights.

During Venezuela's Universal Periodic Review (UPR) process in October 2011 at the UN Human Rights Council, referring to the participation of 150 autonomous organisations, Mr. Nicolás Maduro, then Foreign Affairs Minister, expressed on TV: "…the truth will crush those NGOs paid for by the Empire [the US],"[6] while the Venezuelan News Agency published on its website that "…of the more than 500 reports submitted regarding Venezuela's UPR, 144 were prepared by NGOs, which attack the Government's policies. The majority of them are financed by the United States".[7] As a result, there are no possibilities for holding constructive dialogue with the national government regarding the UPR recommendations and the drafting of a national human rights programme.

In a public hearing on Venezuela's human rights situation before the IACHR, in March

2012, Germán Saltrón, Venezuelan state representative before the Inter-American Human Rights System, warned that Venezuela would withdraw from the Inter-American Convention of Human Rights, if the Commission continued to admit into evidence the "…unjustified denunciations of Venezuelan and foreign NGOs, which persevere in their smearing and destabilising campaigns against the Bolivarian and socialist government of Commander President Hugo Chávez".[8] In a forum titled "The IACHR as a mechanisms of domination in Latin America", held in Caracas in June 2012, speakers Germán Saltrón and María Alejandra Díaz (ex-representative of the Venezuelan government before the Inter-American System), expressed that "…in Venezuela a sort of NGO mafia has been established, which aims at the institutionalisation of human rights as a business, looking at obtaining profits for their organisations and discrediting the image of the Bolivarian Government before world opinion, having as allies bodies such as the IACHR". [9]

Together with a group of Latin American states, the Venezuelan government has been attempting to weaken the mandate of the IACHR. In August 2012, Venezuela supported President Rafael Correa of Ecuador, when he expressed that the IACHR was influenced by "ngoism" and had become a besieger of democratic countries, influenced by the interest of capitalism.[10]

In the formal note to denounce the Inter-American Convention, sent to the Secretary General of the Organisation of American States, the Venezuelan Government referred to human rights defenders and organisations engaged in working with the Inter-American Human Rights System as "defamers" of the state and "allies" of political sectors which have violated Venezuelan laws and the constitution. When the denunciation enters into force in November 2013, the Inter-American Court will no longer be able to analyse the violations of human rights that may occur in Venezuela.

The Law against Organised Crime and Financing of Terrorism

In a political and legal context hostile to CSOs, the government approved the Law against Organised Crime and Financing of Terrorism. It contains provisions that led Navi Pillay, UN High Commissioner on Human Rights to express in a public communiqué: "In Venezuela, in January 2012, a new Organic Law against Terrorism and Organised Delinquency was adopted by Congress, but has not yet been signed into law by the President. The law establishes a broad definition of 'terrorist acts' that may apply to legitimate acts of social protest or dissidence. It also places NGOs under the permanent surveillance of a state organ and imposes restrictions on foreign funding."[11]

Law on the Defence of National Sovereignty and National Self-determination

In its note of denunciation of the Inter-American Convention addressed to the Secretary General of the OAS, the Venezuelan government admitted to having approved an International Cooperation Law in a different form, under the name of the Law on the Defence of National Sovereignty and National Self-determination. The Government also accused the IACHR of "interference" in the legislative sovereign powers of the Venezuela and creating "an affront to the Venezuelan State", for expressing concerns regarding the approval of the International Cooperation Law, based on the risks it posed for the work of CSOs. The government's note expressed: "The Commission issued a communiqué on 3 December 2010, in which it referred to substantive matters against the Draft International Cooperation Law, before it was approved by the National Assembly, which occurred 10 days later, on 13 December 2010, when it adopted the name of Law on the Defence of National Sovereignty and National Self-determination."[12]

The criminalisation of the work of CSOs, in the implementation of this law, was confirmed in June 2012, when the Permanent Comptroller Commission of the National Assembly threatened to start legal procedures against Transparency Venezuela and the CSO network Legislative Monitoring, after they published a report 'Ranking of Parliamentarians´ Performance'. In this report, the organisations evaluated all of the National Assembly representatives on their contributions to sessions, accountability, participation in public consultations and use of social networks. Pedro Carreño,

President of the Commission and Second National Assembly Vice President commented:

> "Transparency Venezuela is an appendix of Transparency International, and receives foreign funding. In order to justify this financing, it produces an annual report that is used as a demonisation mechanism, of interference in the internal affairs of the people whose policies are not in accordance with those of Western powers… [T]he Law on the Defence of National Sovereignty and National Self-determination and the constitution do not allow for this type of financing. We have unanimously decided to start an investigation… [W]e do not need international groups to come and illegally finance these NGOs, since this is against the constitution and the law which regulates this matter".[13]

After Transparency Venezuela and Legislative Monitoring issued a communiqué rejecting these attempts to question the legitimacy of their activities and the legality of their sources of funding,[14] Parliamentarian Carreño insisted that they would carry out their investigation, in order to confirm that both groups were "political organisations", without the legitimacy to carry out their missions. He declared:

> "There is no reason for them to exist in this country, since the Venezuelan Constitutional framework establishes that Parliamentarians have the responsibility to keep their constituents informed regarding their performance. There are strong suspicions that both groups receive funds from foreign governments and are 'political'. We will continue with this investigation, even if they say that they comply with our legal order, we will investigate them." [15]

Smear campaigns and lack of recognition of CSOs as valid interlocutors

An area of human rights in which both the Inter-American and the UN human rights systems have expressed serious concerns relates to Venezuelan correctional institutions and people deprived of their liberty. Every year for the past 10 years, the rate of violent deaths within prisons has been approximately 100 to 120 deaths per 10,000 inmates. One of the most respected organisations dealing with the human rights of people deprived of their liberty is the Venezuelan Prisons Observatory (VPO).

Besides carrying out research work on prison conditions and making recommendations on issues such as infrastructure, health, personnel training and decentralisation as mandated by the constitution, the VPO publishes a thorough Annual Report on the Situation of Human Rights in Prisons. After publishing its report on the previous year in January 2012, highlighting the many incidents in which inmates were violently killed, Tarek El Aissami, Internal Affairs Minister, discredited the VPO´s Report stating that "…anything that the Venezuelan Prison Observatory says can be qualified as lies and manipulation."[16] In turn, Iris Varela, Minister of Correctional Affairs, followed by saying that:

> "Those NGOs cannot handle reliable information, since the moment I took office [July 2011] I forbid their working inside prisons. All of that 'guachafita' (mischief), in which they even video-taped censored scenes in order to show it on the internet, is over. Intelligence reports gathered on Humberto Prado [VPO's Coordinator] show his contacts with international media, trying to fire-up an international campaign [against the Venezuelan government]. Also, he is shown as receiving 50,000 Bolívares [around US$5,000 at the time] to cover operational costs of his organisation, from Empresas Polar [a large Venezuelan business group], for the first semester of 2012." [17]

In April 2012, after the escape of a group of inmates from a correctional facility known as La Planta, the remaining men started rioting in order to prevent the National Guard from taking over the prison grounds. The confrontation lasted more than 15 days, in which houses and residential

buildings were affected. After video tapes of the riots were shown on the opposition TV channel, Globovisión, Minister Varela accused the NGOs of being behind the situation: "This morning, a young inmate tried to escape jumping to a rooftop and was caught in the crossfire, there were shots fired, and after that, some journalists, so-called 'human rights defenders' and members of NGOs got in touch with some of those deprived of liberty in order to exchange information and sabotage our work." [18]

In such a climate of hostility towards the NGOs, Foro por la Vida, a coalition of Venezuelan Human Rights Organisations, called a press conference to present a communiqué. This communiqué recalled that the Coalition, "…on several occasions has expressed its concerns about the increasing weakening of the guarantees for the work of human rights organisations in the country, together with the increase in personal risks for defenders, as well as the continuous disqualifications and harassment they face in doing their work." The Coalition called on the Venezuelan state, among other petitions, to "…guarantee the rights to life and due process to inmates at la Planta, to respect the work of human rights defenders, and to open channels of communication and dialogue with civil society organisations in order to find a common path for solutions which make the full observance of human rights in prisons a reality."[19]

A pattern of CSO exclusion was also evidenced in the reforms to the Organic Code on Criminal Procedures, approved on 15 June 2012.[20] The code eliminates the rights of CSOs to present complaints against public officials or law enforcement agents involved in violations of human rights. The power to assist victims and to defend human rights before the courts was given exclusively to the Ombudsman's Office. This is an institution that has interpreted its "non-coercive nature"[21] as an excuse to refrain from exercising its constitutional powers to "intervene in situations of unconstitutionality, interpretation, protection, *habeas corpus*, *habeas data*, precautionary measures, and other legal actions"[22] in situations of state restrictions, violations or non-compliance with the guarantees of protection to human rights.

Conclusion

The attempts by the Venezuelan Government to impose the Communal State will have a deep effect on people´s lives. It is important for CSOs to recognise its advances in order to be able to respond to its negative impact on the broad spectrum of human rights. This project, given its undemocratic and discriminatory nature, cannot benefit the Venezuelan people: examples abound in history regarding the horrible effects on human dignity produced by the attempts of "visionary leaders" to shape the whole of society according to their particular ideas of right and wrong.

The Communal State implies control and submission of individuals and, therefore, their loss of sovereignty, autonomy, liberty and the development of their own capacities and creativity in fulfilling their aspirations to a better life. The increases in protests during the past five years — from less than 1,800 in 2008 to over 5,400 in 2012; 80% of them demanding social rights — are a clear evidence of problems unsolved. Hunger strikes have become a common way of protesting, with 312 occurring between 2011 and 2012.

In spite of the restrictions imposed on the civic space and the challenges faced by CSOs, their role is now more essential than ever, keeping close to the people, putting their common skills to work to solve problems, recognising their own talents, their leadership and the perspectives from which they develop their own responses. In this sense, the framework of human rights and democratic practices are fundamental: they are the source of such recognition and the possibilities to accompany people´s demands for the enjoyment and exercise of human rights.

Venezuela faces new Presidential elections on 14 April. We believe this is an opportunity, for whomever is elected, to return to the constitutional path, with its broadly developed guarantees for human rights and democratic liberties, the separation of powers and the

rule of law. It will be an opportunity for open dialogue and inclusion. If such is the case, CSOs will also have a vital role in working towards the people´s unfulfilled demands for social justice. If a new government insists on imposing an unconstitutional state, the Communal State, or is exclusive and closed to dialogue with vast sectors of society, many will suffer the consequences. If this is the case, CSOs will also have a crucial role alongside the people, not as a means for power struggles, but as an end in themselves.

FELICIANO REYNA GANTEAUME

Executive Director
Civilis

Feliciano founded and played a key role in various citizen initiatives in the defence of the human rights, health rights and the prevention of HIV/AIDS in Venezuela. He was the founder and executive president of the civil society association Acción Solidaria.

He has a great deal of experience working with networks through serving as the representative of NGOs working on HIV/AIDS on UNAIDS' Technical Working Group in Venezuela.

Feliciano is an Ashoka fellow and is a member of Liderazgo y Visión (Leadership and Vision), a Venezuelan network of social leaders. In 2003, he founded and was the spokesperson for Coalición de Organizaciones por el Derecho a la Salud y la Vida (the Coalition of Right to Life and Right to Health Organisations), CODEVIDA, which represented people with chronic health conditions such as leukaemia, breast cancer, haemophilia and HIV.

At the XVI AIDS Conference in Toronto in 2006, Acción Solidaria was selected as one of the recipients of the first edition of the Red Ribbon Award, as it was considered to be one of the 25 best community responses to the HIV/AIDS epidemic out of 520 programmes of over 100 countries in the world.

He was the President of Sinergia, a national network of civil society organisations, which brings together 54 organisations from diverse areas such as social development and the promotion and protection of human rights. Sinergia successfully became a member of the platform body, Mesa de Articulación, a coalition of human rights organisations that influence Inter-American Human Rights bodies. At present, he is part of the Board of Directors of the International Center for not-for-profit Law (ICNL) and CIVICUS: World Alliance for Citizen Participation, both of which undertake regional and global projects.

In 2010, he created CIVILIS Derechos Humanos, Investigación y Acción en Derechos Humanos para la Sociedad Civil (CIVILIS Human Rights, Investigation and Action on Human Rights for Civil Society), which coordinated the activities of more than 150 Venezuelan organisations in the Universal Periodic Review process.

Since June 2000, he writes a weekly column in Alerta HIV (HIV Alert) and in El Universal, a Venezuelan newspaper.

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Enabling environment for civil society in Kyrgyzstan:

recent developments

Nurgul Dzhanaeva, Forum of Women's NGOs of Kyrgyzstan

This chapter discusses how new and significant recent trends affected the enabling environment for civil society in 2012 in Kyrgyzstan, and the different actors involved in these trends. It draws connections between trends in Kyrgyzstan and key global changes affecting development partnerships. Special attention is given to Public Watch Councils and the article highlights laws and regulations affecting civil society and the impact of the political context. It examines how these new trends in Kyrgyzstan impact on governance and enable policy dialogue, pointing to some good practices in inclusive policy dialogue for democratic ownership.

Introduction

Kyrgyzstan has been transitioning from socialism to a market economy since 1991. Since 1993, civil society organisations (CSOs) have developed and grown in importance. This process of civil society development has gone through several phases, including building CSOs relations with the state, governmental agencies, parliament, local governance, business entities, and with communities and the wider public.

Being quite a new phenomenon for society and the state, there have been many challenges as well as some achievements in this evolution of Kyrgyzstani organised civil society. Beginning in 1995, the legal and regulatory framework for CSOs has gradually been developed. In 1995 a law on non-commercial organisations was adopted by parliament. In 1999 it was amended, and as such CSOs had to register again under the revised law.

The period 2008 to 2009 was characterised by political and parliamentary efforts to limit CSOs. Following this period, in 2010, the government made a significant positive move to strengthen the enabling environment for CSOs, with the enactment of a Presidential Decree for Public Watch Councils (PWCs) to fall under governmental ministries and agencies. The year 2012 has been largely successful for civil society, but the Decree has not been made into law. In the language of the last draft of the law, Public Watch Councils are renamed Public Councils.[1] The fact that PWCs have been established and initiated in government ministries has started to have an impact on the country's governance and has enabled policy dialogue between CSOs and state institutions. While this process is only in its beginning stages, it is significant that these dialogues have started. This contribution will set out the advocacy and lobbying process undertaken by CSOs for the law on PWCs.

Initiating Public Watch Councils

The years between 2010 and 2012 proved to be important years for developing relations between the state and CSOs in Kyrgyzstan. A unique form of partnership has been established by the Presidential Decree on Public Watch Councils,[2] 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.

The PWC is a significant component of an enabling civil society environment, as well as contributing to development and partnerships, development effectiveness and the involvement of the private

sector in development. A PWC has it own website, which is important for transparency and accountability, providing information about its activities (work plan, schedule of sessions, place and time, minutes of meetings, etc.).

Currently there are 36 PWCs in the country, with about 500 members in total. A special committee in the Presidential Office, Members for the PWCs, chose the initial members, following recommendations from the civil society, trade union and business sectors. At present there is a process underway to clarify selection procedures. In 2012, the Coordinating Council for PWCs (CC) was established and this CC will have the responsibility of selecting new members of a PWC in the future. The term for membership is two years. The work of all members of PWCs is based on the principle of volunteerism, with no payments for members. But in cases where there is a need for financial resources to organise events (such as a conference, public debates, public hearing, etc.) the PWC will raise funds for these purposes.

In April 2013, there will be a second round for selection of PWC members and at time of writing the CC is collecting resumes and recommendations for potential members. The PWCs will ensure the transparency of the selection procedure. The current PWCs can make recommendations from among their previous members if they were working effectively. All applications and recommendations for membership will then be forwarded to a Commission on Selection.

In the period 2011 to 2012, the activities of the PWCs were guided by the following two main functions: a consultative role (give recommendations to a state body on improvement of its work, offering an alternative strategy or mechanism, and holding public hearings); and a watchdog role (monitoring the use of the budget and other funds, the conduct of tendering processes, and compliance with legislation by the state).

The process involved for the establishment and initial operations of PWCs has been a challenge for all involved actors. After one of year of successful operations, it was obvious to civil society that there was a need to legitimise these structures through the adoption of a law by parliament.

The work for many of these initial PWCs has proved difficult, despite the existence of political will at the highest level (in the form of the Presidential Decree). Many governmental bodies (ministries and state agencies) resisted involvement of the public. They hindered the work of their PWC by blocking access to required information for PWC members to do their work. Some active PWCs have been able to develop and submit serious recommendations to their respective ministries, but many of these recommendations were either ignored or not taken into consideration. More positively, there are some state agencies that have been champions of partnership and have enabled their PWC to monitor and make recommendations on their work, processes and results. Others however have strongly resisted such engagement.

The PWCs have become not only an enabling factor for CSOs in their relations with government, but they have also served as a catalyst for closer and stronger cooperation between different CSOs, and for the development of new civil society partnerships with business.

Several inter-PWC working groups were set up and have been worked successfully. The contribution of PWCs to improving the transparency and accountability of the state has been tremendous. The CCs have organised public debates, with the participation of the respective state body and an invitation to the President and Prime Minister to attend. There have been presentations on the issues and gaps in the work of government agencies, focusing on various chosen themes, and presentations on alternative policies. Debates have explored the following themes: economic policy, judicial reform, the system of local governance, struggles with corruption, systems of education and healthcare, governance of state-owned enterprises and many other themes.

An overview of the Law on Public Councils for State Bodies

The Law on PWCs was developed in 2011 and 2012 through a complex process with the participation of different stakeholders. CSOs prepared their own draft of the law, while the government, in partnership with donors, drafted another version, which was not well received by CSOs. During an eight-month period in 2012 a compromise draft was finally submitted to Parliament for its discussion, hearings and adoption.

The law is aimed at improving cooperation and collaboration of state bodies with citizens and creating mechanisms for public monitoring of the activities of state bodies and their officials. The mechanisms established by the law would enable the taking into account of views of civil society in the decision-making processes of state bodies as well as in the formation and implementation of state policies.

The compromise draft law establishes the objectives, principles, legal and organisational basis for the formation and operation of Public Councils for state bodies. Article 2 states that Public Councils are public bodies created for cooperation and partnership with a ministry; state committee; social fund; state agency; state foundation; state inspection; state service; or other state body under the Government of the Kyrgyz Republic.

The draft law sets out the following objects for Public Councils:

1) **Promotion and discussion of civic initiatives related to the activities of the state body;**

2) **Assistance to the state body in the preparation and determination of decisions having social significance as well as a strategic nature;**

3) **Increasing the transparency and efficient use of financial resources, including budgetary resources and debt (loans, credit), as well as special funds, technical assistance and grants provided by the governments of other countries; and**

4) **Improvement in the quality of public services rendered by state bodies and other organisations with government participatory interest.**

It is important to note that the draft law allows for Public Councils to operate independently from state bodies, transparently and in the interests of society. Decisions by a Public Council are recommendations only to its respective state body. Activities of Public Councils are to be autonomous, and do not negate the obligations of state bodies to cooperate and collaborate with citizens and public legal entities or their associations. Public Councils are one form of cooperation and collaboration between civil society and state bodies and do not exclude other forms of cooperation and public monitoring of government.

The draft law prescribes the following rights to Public Councils:

1) **Participate in the development of and provide public expertise for draft normative legal acts and managerial regulations, as well as in the determination of state policy in a particular area;**

2) **Request and receive information from state bodies, local self-government bodies, organisations established, controlled and financed by state bodies and local state-government bodies;**

3) **Request and receive from the state bodies the drafts of normative legal acts and managerial regulations;**

4) **Attract the participation of domestic and international expertise and academic organisations, as well as individual specialists, to contribute to Public Councils' work;**

5) **Organise and conduct seminars, conferences, roundtables, public hearings and other events;**

6) **Hold consultations with experts and interested civil society organisations on particular issues, related to the competence of the corresponding state body;**

7) **Invite to their sessions the heads and officers of their respective body as well as other state bodies and local self-government bodies for discussion of particular issues;**

8) **Send to superior state bodies and their officials, as well as to law enforcement bodies and other state bodies, materials identifying violations of government policy, seeking necessary remedial measures;**

9) **Inform the public or higher authorities responsible for a state body in the case of unreasonable rejection of suggestions, recommendations and other measures adopted by the Public Council, including leaving these proposals unanswered by the corresponding state body;**

10) **Render assistance to the state body in its interaction with the public;**

11) **Evaluate the state bodies' and their officials' activities;**

12) **Develop and approve its plans for its own activity;**

13) **Create permanent or temporary working bodies when necessary, including committees, commissions, working groups, and others;**

14) **Raise funds not prohibited by the legislation of the Kyrgyz Republic for funding some expenses of the Public Council's activities; and**

15) **Other rights consistent with the objectives of creation of Public Councils.**

In establishing the practical operations of the early Councils, their members realised the importance of participation in various internal processes of the relevant state bodies where important issues are discussed and decisions taken, and which were formerly inaccessible to civil society. Based on this new experience, CSOs involved in drafting proposals for the law made sure that the law included the crucial right for Council members to participate in state meetings, even as observers, to be able to watch and monitor, and also to help prepare the Council's own recommendations. Traditionally closed to the public and civil society, ministerial sessions, internal governmental working groups and tender commissions, amongst others, became open for members of the Public Councils.

This participation in ministry processes represents a significant step forward for the deepening of civil society/state partnerships. It creates a real foundation for transparency and accountability of state bodies as well as for the internal strengthening of CSOs. The compromise law, before Parliament at the time of writing, clarifies the rights of members of Public Councils to participate as observers in sessions of a wide variety of state bodies and their departments.

Another significant and related feature of the law is that members delegated by a Public Council are entitled to participate as observers in an audit of the state body by the Accounting Chamber of Kyrgyz Republic, and to become familiar with materials and the findings related to this audit. The Accounting Chamber of Kyrgyz Republic is obliged to notify in writing the Public Council before undertaking a planned audit of

the budget, special funds and other funds used by the relevant state body, at least 14 calendar days prior to commencing audit.

In 2012 there were major debates among PWCs, state agencies and heads of governmental bodies at various levels, regarding access to state documents that are not classified as 'security secrets', but have been still completely closed to CSOs. These debates finally led to recognition in the draft law of the importance of transparency, and thus permitting CSOs to work with these materials. While CSOs insist that these materials should be fully open to the public, the current law only allows an "admission of members of Public Councils to confidential materials of a state body… according to the legislation of the Kyrgyz Republic."

Value to civil society

A very significant achievement for civil society through the law is the inclusion of various important processes within the activities of Public Councils giving CSOs legal rights to contribute public expertise and participate in the development of draft legal acts and regulatory decisions, as well as in determining state policy in a particular area. CSOs are able to conduct analyses of the effectiveness of mechanisms and forms of cooperation with civil society that are currently being implemented by state bodies and introduce proposals on their improvement.

Public Councils help facilitate public awareness of the activities of state bodies as well as increase transparency of the uses of budgetary resources and other funds by state bodies. CSOs are able to conduct monitoring and assessments of the provision of services by state bodies, and conduct public monitoring over state bodies' activities. They can study and summarise public opinion on the most important issues related to the activities of a state body and use this information to try to improve the operations of a state body.

Results of the past two years (2011-2012)

Public Watch Councils have increased accountability and transparency of central governmental agencies. One of the ways in which they have done so is through several TV discussions and public hearings involving the participation of state officials, CSOs and private sector representatives.

The PWC under the Ministry of Economic Relations and Anti-corruption, for example, has developed several recommendations in partnership with CSOs, including on the creation of an enabling environment for development, development effectiveness, and the entry of Kyrgyzstan to a Customs Union. A separate set of recommendations was given to the Ministry of Economy on communications; addressing areas of communications that were not very satisfactory, and very slowly the Ministry can be seen to be improving in this area.

For civil society the PWC has become a unique and important opportunity to hold government and other power-holders to account for their obligations to uphold human rights and enable democratic civic space in Kyrgyzstan. Of course, in 2011-2012 there were also various efforts to take overall control of the directions and outcomes from PWC by the state and international bodies.

The PWCs have had a definitive and positive impact on activism. Much more information is shared between CSOs, the private sector and state. Much more attention by the state and civil society was paid to issues that were raised by individual CSOs, such as proposals for reforms in the Ministry of Internal Affairs (MIA), changes in the energy sector and issues of corruption at state level. The work of the PWCs is leading to a major new phase in the structuring of state/civil society relations.

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1. In the draft law the PWC now are called public councils. But CSOs prefer the name Public Watch Councils and continue to refer to them as such.
2. Decree of the President of the Kyrgyz republic of 29 September 2010 and an edited Decree of 5 March 2011.

Russian civil society is holding out

Boris Pustyntsev, Chair of Citizens Watch, St Petersburg

Background: changing regimes and foundations for civil liberties

Civil society: these words still sound strange in Russia. Notions of personal freedom and the rule of law that have shaped the notion of civil society are not found in the strong Byzantine tradition prevailing throughout the history of the Russian Empire. For centuries, this tradition had successfully prevented the introduction of many progressive practices in Russia.

The first serious attempts to introduce the concept of a state ruled by law and to lay the foundations for civil rights were made in the 1860s, when Tsar Alexander II initiated reforms. Since then, but with repeated setbacks, Russia has been increasingly moving closer to European norms. Democratic institutions were gradually introduced, starting with certain elements of local self-government, and extending through the rudimentary electoral and parliamentary culture and constitutionalism of the early 20th century. Most importantly, the principles of legality took root, including the establishment of an independent judicial system, laws governing civil and criminal procedure, and trial by jury.

The advances in the legal profession during that period were remarkable. For example, issues in juvenile justice, still a new phenomenon for many post-Soviet Russian jurists, were discussed heatedly in Russia before 1917, and the level of discussions was rather advanced even by European standards of the time. Rapid industrial progress brought the further liberalisation of society during this early period. The press levelled increasing criticism about examples of abuses of power, and against arbitrary rule in general. Russia remained an autocracy, but these developments stimulated the cultivation of civic virtues, at least among the educated, independent citizens' groups that began to spring up, from students' unions at the universities to trade unions in industry.

The process was interrupted, and then eradicated, by the Bolsheviks' usurpation of power. The consequent chaos of the ensuing four-year civil war erased all the progress of the previous half-century and culminated in a dictatorship of the Communist victors. The government exercised total control, and the few citizens' groups that were allowed to function mostly served official propaganda purposes. As a result, Russia again moved far away from European norms.

Since the collapse of Soviet regime, however, Russia has restarted along its difficult road towards respect for human rights and democracy. For the first time in the country's history, the Russian Constitution of 1993 declared the supremacy of citizens' rights over those of the state, and of international legal standards over national legislation. But even before that, since 1989, tens of thousands of active CSOs, the foundation blocks of civil society, had taken root all over the country. They consistently pressed administrators to follow the law and the legislators to improve it. Each year their presence was becoming more noticeable.

True, many of them were short-lived, but others learnt by experience, gained authority and effectively took care of various socially unprotected groups left unattended by the state. By 2006, about a million and a half people were working in hundreds of thousands of CSOs across Russia. Yet today they cannot be sure about their future.

In the 1990s, Russia signed the main corpus of international treaties in the human rights sphere. Independent courts, independent mass media, open frontiers and the recognition of private property – all these attributes of a civilised state, as well as citizens' fundamental rights and political liberties, have been guaranteed by law. But despite these advancements, political conditions in today's Russia raise cynical attitudes about these rights and liberties.

Respect for civil rights and the rule of law are, so to speak, genetically coded in a society: the gradual realisation of rights builds on the experiences and achievements of past generations, experiences that are duly recorded and preserved, which grows into a tradition that few in these societies would question. But cultivation of such a tradition takes a long time. In Europe, principles and standards for a free society were being transformed into laws, often through political struggles, but in a natural way for society, not dictated from above. These laws became more possible after these principles and standards had already become widely accepted and supported by a substantial part of the population.

People who came to power in Russia after the collapse of the Soviet Empire in the early 1990s declared themselves democrats, even though before, with a few exceptions, they were professed Communists embedded in the Soviet regime. Whether they were sincere or cynical in their espousal of Communism was irrelevant. Though they quickly learned to articulate such phrases as 'common values' and 'human rights', freedom and its implications remained an alien concept for too many of them. The same was true for the majority of people, who for generations had become accustomed to, and wholly dependent on, a paternalistic state.

Soon the new rulers realised that society was again getting ripe for patronising, authoritarian attitudes, and for 'strong arm' government. Their hour came when President Boris Yeltsin, ill and unpopular, resigned in 2000 and Vladimir Putin, a regular KGB officer until 1989, was elected as his successor. In the early 1990s, Putin managed to gain the confidence of the new St Petersburg Governor Anatoly Sobchak, and soon became one of the key figures in this local government, bringing a reputation of being a staunch supporter of the free market and economic reforms. By 1999, he had move quickly to the top of President Yeltsin's administration. But nobody in this administration suspected that Putin's political attitudes, informed by his KGB past, remained unchanged.

Unlike Boris Yeltsin, President Putin immediately started looking for political and electoral support from among the numerous adherents of the fallen totalitarian regime: he started with a re-animation of populist Empire fixations, which was followed logically by a growth in isolationist and xenophobic sentiments, and ultimately led to resurgence of a 'besieged fortress' psychology among the populace, which naturally excluded adherence to any 'common values'.

President Putin and attacks on Russian CSOs

In 2003, President Putin launched his first propaganda attack on human rights CSOs, which he said, "are begging around the foreign embassies for support."[1] But at that time the move proved to be unpopular even with many government officials, who had already been actively involved in international cooperation. International cooperation was inherited from the liberal Yeltsin's era and initiated, to a great extent, by Russian CSOs. Since then, the government spared no pains in trying to whip the shape country into shape: soon they managed to introduce amendments to election rules that squeezed opposition parties out of the electoral campaign, so that by 2005 they had a tamed and supportive Federal Parliament.

In 2006, this Parliament passed a law introducing total control over independent citizens' groups: the Federal Registration Service (FRS), the agency created for that purpose, had unlimited powers to decide if a CSO's activities were in accordance with Russian laws. In a case of supposed violations, it had the authority to terminate a CSO's activities with some possibility of a reference to a court, but with a court decision coming many months later, too late to receive redress for a CSO that would already be ruined.

But again, the time was not yet ripe for such an attack on basic constitutional rights. CSOs launched a wide counter campaign inside and outside Russia and several successful lawsuits followed. For example, Citizens' Watch sued the FRS, claiming an illegal demand

for information. The FRS had requested access to all outgoing correspondence for the last three years, even though this correspondence contained citizens' complaints revealing confidential information protected by law, such as family, medical and other private matters. The St Petersburg City Court ruled that the information requested was, in fact, confidential and the FRS demand had violated the constitutional rights of Russian citizens. In late 2009, the FRS was dissolved and the related law quietly buried, and it has not been applied since. It became evident through these campaigns that civil society had grown into a force that the administration could not ignore.

In 2010, a new attempt was undertaken. The Moscow Prosecutor's Office suddenly announced that it would screen the financial operations of all local human rights CSOs. The human rights community responded with an avalanche of complaints about outright political discrimination and ensuing violations of constitutional norms. Yet again the initiative quietly withered away.

But the main, all-out assault on civil society happened after the controversial parliamentary and presidential elections of 2011-2012. These elections were marked by unprecedented and widespread procedural violations as well as substantial falsifications of the results. Indignant voters resorted to massive protest rallies all over Russia; a hundred thousand demonstrated in Moscow alone. According to the Russian-based Agora Human Rights Association's 2012 report, over 500 public protests took place in 60 regions of Russia, resulting in the arrest of more than 5,000 participants.

The authorities were truly frightened by the depth of this political reaction and went on the defensive, responding with a series of new repressive laws. These laws actually suspended a number of constitutional rights and invalidated international obligations of Russia in the human rights sphere. The repressive laws enacted in 2012-2013 make provision for the following:

- Introduction of criminal responsibility, even for journalists, for public criticism of officials if the latter choose to find such criticism 'libellous' or 'defamatory';
- An obligation for website owners to remove within 24 hours any materials that the authorities find 'unlawful'; if they fail to do so, the website can be shut down without a court decision;
- A multi-fold increase in the amount of fines and penalties imposed on participants of protest rallies, demonstrations, marches or pickets for alleged violations of laws (up to US$30,000 or up to four years' imprisonment);
- An obligation for Russian CSOs receiving financial support from foreign foundations and involved in political activities to register with the Ministry of Justice as 'foreign agents' acting under the influence and for the benefit of their donors. If a CSO refuses to register as a 'foreign agent', the sanctions in the law provide for its liquidation and a criminal prosecution of its managers, who may be imprisoned for up to two years.
- Interdiction of any CSO receiving financial support from any source in the United States, and engaging in political activities or in any actions that pose a threat to the interests of the Russian federation; and
- Introduction of high treason for rendering assistance in any form, even consultations, to foreign governments or national and international organisations, if the Russian authorities find that this assistance is to the detriment of security of the Russian state.

Several other repressive laws are now being discussed in the Russian Parliament, and some of them may be adopted soon. These pending laws include provisions for:

• An obligation for any Russian mass media receiving financial support from foreign sources (if it exceeds 50% of its income) to register as a 'foreign agent' and inform the public that all its publications, TV and radio programmes are being produced by a 'foreign agent';

• Actual suspension of the constitutional right of citizens to choose their location and place of residence and to change it without notifying the authorities;

- A ban on lesbian, gay, transsexual and intersex (LGBTI) activism in any form, legally equating it to paedophilia; and
- The introduction of criminal responsibility for insulting religious beliefs and feelings, desecration of temples and places of religious rites and ceremonies.

These laws are intended to make it clear to the person in the street that Russia is again, as in Soviet times, surrounded by enemies and that public criticism of the authorities is instigated by the perfidious West. First in line is the United States, which together with the Russian CSOs that it supports, is presented as aiming to undermine and discredit the present Russian government and to bend the political system to foreign interests. This aggressive campaign was expected to create a rapid marginalisation of independent citizens' groups that represent civil society. But again, the CSO community has together been able to stand up to this repressive campaign.

The vast majority of CSOs have come to the conclusion that the 'foreign agents' law leaves them no choice: if they refuse to register as foreign agents, they will be banned; if they do register and label themselves 'foreign agents', they will be totally discredited in the eyes of their target groups and clients, and thereby have to cease operating in any case.

In September 2012 Memorial, a CSO, initiated a gathering of activists representing about 50 well-known human rights groups in Moscow. The participants announced that in these circumstances, CSOs would rather boycott the law than submit to it. If the anticipated repression followed, Russian CSOs would challenge the government in national and international courts. They would prefer to go down with 'colours flying' than to collaborate with a state that is in gross violation of the constitution and Russia's international obligations. A counterpart international campaign will be launched to rally support among human rights and legal communities outside Russia.

It seems that Russian CSOs have a solid chance to win and push back this draconian law, as it seems that the law contradicts fundamental principles of legislation and, most likely, will not be applied, at least in its present form. The law came into force last November, but the Government has not implemented it since then. CSO legal advisors left no stone unturned trying to make these contradictions evident to the legislators, the government and the public. In doing so, they were joined by some prominent figures in the Russian establishment, such as the Chair of the Presidential Human Rights Council, Michail Fedotov.

In January 2013, the Russian Minister of Justice Alexandr Konovalov revealed to state Duma (parliament) deputies that the new law "was against the spirit of the legislation on NGOs" passed in 2006, and that the Duma would have to re-write many of the act's legal norms to make the notorious law applicable. Konovalov stated that his ministry would not be participating in compiling the register of foreign agents. He suggested that the financial control agencies should be the body investigating the sources of foreign financing, and that the issue of involvement in political activities should be decided in court. This suggests that the ruling elite is now in a state of confusion and evidently considering its next moves.

Conclusion: Russian CSOs consolidate to fight back

All in all, Russian human rights defenders are convinced that they can bury the foreign agents law, just as they have managed to invalidate some draconian laws affecting civil society in the recent past. But this current attack is more massive and systematic, and the stakes are greater. The regime's initiators of this repressive wave realise that any retreat will greatly discredit them, because these recent developments have drawn attention among the public at large. In February 2013, President Putin publicly announced at the meeting of the Federal Security Service Collegium: "The new laws on NGOs must be strictly enforced, no intervention in our internal affairs, no form of pressure on Russia or on our allies and partners is to be permitted." In other words, he confirmed,

from his point of view, that CSOs side with Russia's enemies.

This situation requires CSO and civil society resistance to be truly consolidated. For the past decade, the authorities have tried hard to drive a wedge between human rights organisations and 'socially oriented' CSOs, such as environmentalists, and those that take care of children, people with disabilities and other vulnerable groups. These CSOs are supposedly concentrating on narrow regional or sectoral problems and are assumed to be not inclined to get involved with 'politicised' issues such as free elections, combating racism and related intolerance, the anti-corruption movement, access to governmental information, or the right to protest.

Some years ago, the regime seemed to have the upper hand: In many Russian regions, government-inspired NGOs (or GONGOs) were seen, and these organisations shied away from any criticism of governmental abuse of citizens' rights. But over this period, the majority of 'socially oriented' CSOs refused to join the government's anti-human rights crusade and acted in solidarity with the threatened human rights organisations. For example, in St Petersburg the City Human Rights Council was formed in 2007 comprising 13 CSOs, including nine organisations that actively protect the rights of various vulnerable groups.

As outlined above, the laws affecting the rights of civil society have amounted to flagrant violations of many international human rights conventions and treaties that the Russian government has signed and the Russian parliament duly ratified. So Russian human rights activists have also been active recently on the 'Western front'. In the autumn of 2012, several CSO leaders travelled to Geneva, Brussels and Strasbourg to bring attention to their plight in various UN and European international organisations, as well as with colleagues in these countries. The UN High Commissioner for Human Rights summed up the situation in mid 2012 as follows:

> "In just two months we have seen a worrying shift in the legislative environment governing the enjoyment of the freedom of assembly, association, speech and information in the Russian federation. At least four new legal provisions have been made which will have a detrimental effect on human rights in the country."[2]

Since then, several more laws have been added to the list of repressive laws on the books. In February 2013, CIVICUS helped organise a side event at the UN Human Rights Council's 22nd Session to discuss ongoing criminalisation of human rights defenders in Russia. Russia's Universal Periodic Review (UPR) is scheduled for discussion at the UN Human Rights Council in April 2013. The Russian government, having been recently and universally denounced for enacting an absurd law banning adoption abroad, could be faced with another major international scandal, which it would hardly welcome. This context increases the importance of international backing of Russian CSOs' current efforts, and international solidarity may play a decisive role for the future of Russian civil society.

In February 2013, eleven highly reputable Russian CSOs submitted an official application to the European Court of Human Rights in Strasbourg against the law on foreign agents, in which they confirmed that they would not renounce foreign sources of funding. The authors of the appeal are hoping that the Strasbourg court will conclude that there is a systemic problem with the law and will compel Russia to resolve it in accordance with Article 46 of the European Convention on Human Rights. A favourable judgment would mean that the Russian authorities would be forced either to significantly alter or completely abolish the law.

Russian CSOs have filed the complaint at the Strasbourg Court as a preventive measure from a "potentially aggrieved party," which is permitted to prevent damage that may be potentially irreversible. As Oleg Orlov of Memorial said, "If for whatever reason the Court refuses to consider our appeal, we will go down the Russian chain of command, but I have no doubt this road will lead us back to Strasbourg."[3]

The war unleashed last year by the Russian authorities against active civil society actors is still on-going. Strategically, civil society is positive about the final outcomes. Russia has changed too

much since the late 1980s to allow the return to old totalitarian ways, but several very difficult years ahead can be foreseen. It cannot be emphasised too much that the outcome of this struggle depends, to a great extent, on solidarity with the international human rights community that Russian CSOs are able to rally.

BORIS PUSTYNTSEV

Chair of Citizen's Watch

Boris Pustyntsev, born 1935, is a prominent human rights activist.

In 1956, he was a student of English philology in St. Petersburg, then Leningrad, when Soviet tanks crushed the freedom uprising in Hungary. Pustyntsev and a small group of fellow students responded by issuing leaflets demanding an immediate withdrawal of Soviet troops. In 1957, the KGB arrested the group and Pustyntsev subsequently spent five years in jails and labour camps.

Before perestroika, Mr. Pustyntsev worked at various film studios of the former USSR dubbing and subtitling foreign films. He had to leave the movie industry after being viciously attacked in early 1992 by KGB thugs who badly damaged his eyes.

In 1993, Boris Pustyntsev received the Officer's Cross of the Republic of Hungary as a token of the nation's deepest gratitude.

Boris Pustyntsev was one of the founders of St. Petersburg NGO Memorial that unites former victims of political repression.

He lectures on human rights issues and regularly contributes to mass media

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1. Putin speaking to his supporters in the height of the presidential electoral campaign. 18 January, 2008, Moscow.
2. Navi Pillay, UN High Commissioner for Human Rights, Press Release, quoted in "Russia's New Laws could have Serious Negative Impacts on Human Rights – UN Official," New York, 18 July 2012, http://www.linkedin.com/groups/Russias-New-Laws-Could-Impact-734647.S.138480300.
3. Press conference organised by eleven Russian NGOs that had appealed to the European Court on human rights about recent repressive laws aimed at suppressing civil society in Russia Moscow, 7 February, 2013.

How international rules on countering the financing of terrorism impact civil society

Ben Hayes, Statewatch, Project Director, and a fellow of the Transnational Institute

CFT vs. CSO?

The Arab uprisings galvanised 'pro-democracy' governments in the West into a reaffirmation of their commitment to supporting civil society organisations (CSOs) working under repressive and authoritarian regimes. A Strategic Dialogue with Civil Society was launched by the US State Department in 2011 and in 2012 the European Union (EU) set up the European Endowment for Democracy. Leaving aside debates about their methods and motives, these commitments expose a schism in Western foreign policy landscape still dominated by the 'war on terror', which has adversely impacted on the legitimate activities of many charities and CSOs worldwide since 2001.

In the years since 9/11, international agencies and states have established an intricate and largely opaque framework for countering the financing of terrorism (CFT). The principle architects of this increasingly global system are the United Nations (UN) and the Financial Action Task Force (FATF), guided in no small part by the US Treasury. The FATF is an international consortium of governments mandated to combat money laundering. Despite its global standard-setting role, there is no intergovernmental convention underpinning or regulating its activities. In 2001, the FATF was, logically tasked with applying the framework it had developed to combat money laundering and other financial crimes to the pursuit of terrorist funds.

This chapter describes some of the ways in which the work of CSOs continues to be constrained by the global CFT framework. Although many of these effects may be described as unintended consequences, they are also the outcome of a culture of suspicion in which links between charities and terrorist organisations have been exaggerated while measures to protect freedom of association and expression have been disregarded.

9/11 and the globalisation of CFT

In the immediate aftermath of 9/11, upon request of the US government, the UN and Financial Action Task Force adopted a series of measures that would tie the international community to the global 'war on terror'. On 24 September 2001, George W Bush signed Executive Order 13224, empowering the US Departments of State and Treasury to freeze the assets of individuals and organisations deemed to be engaged in terrorist activities and criminalising the provision of any financial or material support to those so designated. The US PATRIOT Act, adopted two days later, increased criminal penalties for knowingly providing support or resources to terrorists; neither it nor the Executive Order require intent on the part of those accused of material support.

The substance of the two US acts was replicated and effectively outsourced to all UN states via Security Council Resolution (UNSCR) 1373 (adopted 28 September 2011), which requires countries to freeze the assets of suspected terrorists and criminalise their supporters. Whereas previous UN sanctions regimes had targeted individuals and groups proscribed by the UN, UNSCR 1373 left states free to decide unilaterally who were the terrorists based on their national interest and in the absence of a commonly agreed definition of terrorism.

The Financial Action Task Force Special Recommendations' on terrorist financing were adopted at the end of October 2001 (another was added in 2004). These codified and expanded UNSCR 1373, requiring states to:

- Ratify and implement all UN measures relevant to terrorist financing;
- Criminalise the financing of terrorism; enact measures to freeze and confiscate terrorist assets;
- Establish reporting mechanisms for suspicious financial transactions related to terrorism;

- Enhance international cooperation on CFT;
- Establish disclosure regimes around alternative remittance and 'wire transfer' systems;
- Review the adequacy of laws and regulations that relate to entities that can be abused for the financing of terrorism, particularly non-profit organisations.

So within just six weeks of 9/11, the UN and FATF had extended the global framework devised to combat money laundering to terrorist financing, mandated an elaborate global terrorist blacklisting system and put the surveillance of the not-for-profit sector firmly onto the counter-terrorism agenda. There was neither time nor appetite for democratic oversight, an omission that would have significant implications for the work of CSOs and their ability to fulfil their mandates. All but a handful of the 193 UN member states are now committed at the ministerial level to implementing the FATF standards.

In 2012, the FATF concluded a three-year review of its 40 Recommendations on money laundering and nine Special Recommendations on CFT by merging the two regimes into a single set of anti-money laundering and countering the financing of terrorism (AML-CFT) requirements (countering the 'financing of proliferation' was also amalgamated into the AML-CFT framework, reflecting the sanctions adopted against Iran by some but not all FATF members). In doing so, the FATF made permanent a regime developed in exceptional circumstances.

'Material support' continues to promote climate of fear

UNSCR 1373 has resulted in the proliferation of 'terrorist' designations, both by nation states and intergovernmental bodies such as the UN and EU. By 2010 there were more than 200 different 'terrorist' lists across the world. The US alone has at least four. Complex historical struggles and protracted regional conflicts have been lumped together under the banner of 'terrorism', undermining the rights to self-determination set out in the UN Charter and paralysing peace-making and conflict resolution initiatives.

Statutes criminalising the provision of financial services to designated entities are supplemented in many jurisdictions by provisions on 'material support' provisions that criminalise other forms of alleged support for terrorism. Draconian application of these laws have had a chilling effect on charities, grant-making foundations, aid and development organisations – particularly in the peace-building and conflict resolution communities. For example, in 2012, the US Supreme Court refused to hear an appeal by the Directors of the Holy Land Foundation – for many years the largest Muslim charity in the US – who had received sentences in 2008 ranging from 15 to 65 years for providing material support to Hamas via local Zakat (charity) Committees in the Occupied Palestine Territories. These committees were not on any terrorist list and there was no evidence that the Holy Land Foundation provided funds directly to Hamas or that its funds were used, or intended to be used, to support violence. The charity itself was shut down without any recourse to legal representation.

In 2010, the US Supreme Court had upheld a ruling that the Humanitarian Law Project and others would be guilty of material support if they assisted the blacklisted Kurdistan Workers Party with conflict resolution and human rights monitoring activities in Turkey. This ruling confirmed that CSOs wishing to engage with proscribed organisations – even to advocate peaceful conflict resolution – face prosecution. Professor David Cole, who was part of the HLP's legal team, suggested last year that the material support provisions are being applied selectively after prominent ex-US government officials led a successful campaign for the de-proscription of the People's *Mujahedin* of Iran (PEK/PMOI).

In 2012 British citizens Babar Ahmad and Talha Ahsan were extradited to the US to face material support charges relating to a so-called 'Jihadi' website. All of the allegedly criminal conduct took place in the UK where prosecutors had decided that there was insufficient evidence to charge the men under UK law. But, with the website's servers located in the USA, the two were transferred

to US custody, having already spent six to eight years in British jails pending the conclusion of the extradition proceedings. The trial date has been set for October 2013.

Whereas the US has expanded the concept of material support to activities many people had assumed were protected under the constitution's First Amendment (which guarantees free speech), the EU has opened the door to the criminalisation of speech that implies support for terrorism. Under a binding 2008 EU Framework Decision, member states were given two years to criminalise "public provocation to commit a terrorist offence." Crucially, such conduct does not have to directly advocate terrorist offences; rather, it is sufficient that the message "causes a danger that [terrorist] offences may be committed." The UK Charities Commission has issued guidance covering the UK's version of the law (on 'encouragement of terrorism'), advising charity trustees that their organisations must not "promote or support extremist views or activities that promote terrorism or terrorist ideology through the charities work." They are advised to vet proposed speakers for extremist views and links to banned organisations and assess the risks associated with events, meetings and publications in respect to the possible dissemination of extremist messages.

Exporting restrictive laws

Laws designed to criminalise support for terrorist organisations are increasingly linked to regulations governing charities and non-profits. The hypothesis promoted by the FATF is that terrorists hide behind CSOs or use them to funnel money, requiring states to enact a range of counter measures. The FATF's standards now represent an essential element of the global good governance agenda promoted by the UN, EU, International Monetary Fund (IMF), World Bank and regional development banks. They even made it into the 2011 Busan Declaration on aid effectiveness.

According to FATF Recommendation 8 (R8):

Countries should review the adequacy of laws and regulations that relate to entities that can be abused for the financing of terrorism. Non-profit organisations are particularly vulnerable, and countries should ensure that they cannot be misused:

(i) by terrorist organisations posing as legitimate entities;

(ii) to exploit legitimate entities as conduits for terrorist financing, including for the purpose of escaping asset freezing measures; and

(iii) to conceal or obscure the clandestine diversion of funds intended for legitimate purposes to terrorist organisations.

Although there have certainly been the occasional cases of front or sham charities and CSOs that have been found guilty of terrorist financing, instances remain extremely rare relative to the overall size of civil society. In 2009, a UN Counter Terrorism Implementation Task Force working party called on states to "avoid rhetoric that ties [non-profits] to terrorism financing in general terms, because it overstates the threat and unduly damages the [non-profit] sector as a whole."

Whereas FATF R8 simply calls on states to review the adequacy of their laws and regulations as far as they relate to non-profits, the FATF's interpretative note, 'best practice' and assessment methodology significantly expand the requirements stemming from the recommendations, calling *inter alia* for the licensing or registration of non-profits, encouraging increased police scrutiny of the non-profit sector, and introducing onerous reporting and vetting requirements including a 'know your beneficiaries and associates' principle.

The obvious danger in exporting this approach to less democratic and repressive states is that it encourages such regimes to restrict the legitimate activities of CSOs when transposing the requirements. FATF country assessments play a crucial role. Every seven years, all states committed to the FATF's standards are peer-reviewed, and those that refuse to adopt the FATF standards or submit to a review face blacklisting. Teams of inspectors comprised of officials from neighbouring states, FATF regional bodies, the World Bank or IMF visit and analyse the laws and practices of each country, awarding a grade – ranging from compliant, largely compliant, partially compliant to non-

compliant – for each of the 40 Recommendations. Good ratings are seen as crucial for developing countries as they are a green light for aid, trade and investment. In 2012, the FATF completed its third round of evaluations.

In April 2012 Statewatch and the Transnational Institute published research examining the mutual evaluation reports on 159 countries with respect to R8. It found that 85% were rated as non-compliant or partially compliant, fuelling concerns that these countries will come under pressure to introduce new regulations that threaten civil society space. The report highlighted that the FATF and its regional formations have already endorsed or encouraged restrictive non-profit regulations in countries such as Burma/Myanmar, Cambodia, Colombia, Egypt, India, Indonesia, Paraguay, Russia, Saudi Arabia, Sierra Leone, Tunisia and Uzbekistan. At the FATF plenary in October 2012, the US, Canada, France, Italy, Japan and the UK circulated a statement endorsed by the World Bank expressing concern that R8 "is being used as justification to suppress the activities of legitimate NPOs [not-for-profit organisations] and charitable and civil society organisations" and clarifying that this is not the intention of the Recommendation.

Diplomatic cables released by Wikileaks show that the US government had hitherto encouraged strict R8 compliance in (among others) Azerbaijan, Bahrain, India, Kuwait, Morocco, Nigeria, Russia, Saudi Arabia, the United Arab Emirates and Yemen, none of which are known for maintaining a favourable climate for non-profits favouring freedom of association. In India, for example, CSOs can only receive foreign funding with prior permission from the Home Ministry, in accordance with the Foreign Contributions Regulation Act (FCRA). In 2010, the Act was amended to allow the government to withdraw the permits of CSOs designated as "organisations of a political nature." US Treasury officials welcomed the Act in that it reflected "considerable thinking" on CFT that "would provide an excellent example to other countries in South Asia region." In August 2012 more than 4,000 Indian CSOs had their FCRA permits suspended at a stroke, including almost 800 in Tamil Nadu, location of massive protests against the Kudankulam nuclear site.

A controversial Terrorism Financing Bill approved by the Turkish Parliament in February 2013 demonstrates the power of the FATF. Critics had long argued that the draft law would be used to further stifle political opposition in a state that has been strongly criticised by the UN Human Rights Committee, among others, for using counter-terrorism laws against politicians, activists, lawyers, journalists and human rights defenders. Yet at its October 2012 plenary, the FATF issued a formal threat to suspend Turkey's membership by February 2013 unless the Bill was adopted. Prior to the Parliamentary vote, the Turkish Justice Minister warned legislators that if they failed to back the bill "…the Turkish economy may face serious problems… money transfers from and to Turkey would be possible only after checks by the FATF… caus[ing] serious problems for Turkey's exports, imports and hot money flow." To underscore the extent of the pressure attached to FATF compliance, the global credit rating agency Fitch issued a written statement welcoming the subsequent adoption of the law.

While the R8 regime has been accused of giving a blank cheque to repressive regimes, excessive regulation may have had little or no impact in terms of disrupting terrorist acts. Many experts believe that the majority of terrorist funding comes not from global networks of 'Jihadist' funders but from local organised crime. They suggest that what is needed to combat the rare instances of charities being used for such purposes is information from the people who work in those organisations and members of the public who come into contact with them.

Financial services and the global compliance industry

CSOs have also been directly affected by the imposition of extensive CFT requirements on banks and other financial service providers. National and international terrorist blacklists, and other sanctions lists, criminalise the provision of any financial support, including financial services to those listed.

Such measures result in huge problems with due process. Because states can and do hold financial institutions and their employees liable for failure to conduct proper due diligence checks on their customers or disclose suspicions about terrorist financing, the financial sector fears litigation and has become extremely risk averse.

This situation compromises the ability of international funders and local charities to fulfil their obligations to their donors and partners. FATF Recommendations set out extensive due diligence requirements, including specific procedures for "politically exposed persons," wire transfers, "higher-risk countries" and the reporting of "suspicious transactions." These obligations have become so onerous that the FATF rules permit financial institutions to rely on third parties. In turn the entire process of vetting users of financial services has been outsourced to the private sector, creating a global industry already worth hundreds of millions of US dollars a year.

World-Check is one of the AML/CFT compliance market leaders. Founded in 2000 and bought in 2011 year by Thompson-Reuters for US$530 million, World-Check provides services to more than 4,500 institutions, including 49 of the world's top 50 banks and 200 law enforcement and regulatory agencies. Depending on the size of the client, the intensity of use and the number of access points, annual fees may be as high as €1 million.

World-Check started out consolidating the names from the multitude of national and international sanctions lists so that their clients wouldn't break the law by inadvertently providing financial services to blacklisted entities, which are now said to number more than 10,000 worldwide. World-Check then started adding people identified as "Politically Exposed Persons," people found guilty of money laundering or terrorist offences, and people named in the media in connection with such offences. In 2008, World-Check's database was reported to number about 750,000 names; by 2010 it was 1.2 million – far, far higher than the number of people who can be expected to have been convicted of actual offences within the FATF mandate. The supplementing of official blacklists with sprawling private sector ones has massively widened the circle of suspicion. More and more organisations and individuals have been denied financial services. Bank accounts have been closed without notice or explanation. Financial transactions have been blocked or held-up for months. As the likes of Wikileaks and their associates have discovered, these experiences are by no means limited to CSOs working with Muslim communities.

International non-profits often have to comply with strict regulatory regimes in both the country in which they collect funds and the countries to which they send them. Many have been forced to spend an inordinate amount of resources complying with cumbersome procedures requiring them to prove their good character and intention (and disprove spurious accusations that may have come from unreliable sources), to obtain references from governmental partners, and to accept strict limitations on their activities as a result. Even when 'due diligence' has been completed in both the sending and receiving states, the intermediary organisation transferring the funds from one to the other can stall transactions for months while they fulfil their own compliance procedures. The threat of criminalisation and prosecution for material support or CFT offences has also reportedly had a chilling effect on charitable giving, not least among the Muslim diaspora for whom zakat is a religious duty.

In 2012 Islamic Relief, a UK-based charity with an annual turnover of £80 million, told international regulators that it has incoming and outgoing transactions "stopped on a daily basis either temporarily or permanently," affecting both donations to the organisation and its projects on the ground. Needless to say, the blocking of transactions or denial of financial services to humanitarian organisations working across borders can have devastating consequences: it can mean that aid doesn't arrive to those who need it and local projects collapse because of funding shortfalls. The 2010 floods in Pakistan and the 2011 famine in Somalia were particularly challenging in the context of restrictive counter-terrorism regimes.

Suspicion, regulation and risk aversion – breaking the cycle

When officials put pen to paper on Security Council Resolutions and FATF Recommendations in 2001, they could not have envisaged that the framework they had created would develop a momentum all of its own. As more and more entities have been designated as 'terrorist', more and more of their associates have been tarred with the 'terrorist' brush, and put on file by companies such as World Check. The wider the suspect community has grown, the more risk averse financial institutions and CSOs have become. Because foundations and CSOs fear irreparable damage to their reputations from even the slightest association with 'terrorist financing', few are willing to speak out about the problems they encounter with CFT regulations. This is as surprising as it is problematic: no other sector has been singled out as being vulnerable to terrorist financing in the same way, despite the myriad obvious ways in which terrorists might raise and move monies.

Making banks and non-profits liable for the acts and social networks of their customers and beneficiaries while holding charities and CSOs responsible for the 'extremist' views and actions of their associates stifles freedom of association and expression and promotes self-censorship. The fear of guilt by association that underpins 'material support' and CFT provisions now hangs over all grant-making foundations and charities, discouraging them from engaging with what might be seen as suspect communities or from working in what are considered high-risk countries.

The export of these regulations to countries where CSOs already operate in a restrictive political climate can provide repressive governments with new tools for surveillance and control and encourage people and money underground. This effectively undermines the entire counter-terrorism rationale and raises fresh risks. Unaccountable means of donating or transferring funds to charities are sought and found. Armed groups fill the void left by aid agencies unable to operate in conflict zones. Local communities are sandwiched between the violence of the state and the violence of insurgents. CSOs are viewed with suspicion and hostility by all sides. Mediation and humanitarian access is hamstrung because no one is allowed to talk to the 'terrorists'. The space for supporting the conditions conducive to addressing root causes of conflict – such as political, economic and social inclusion, human rights protection, and conflict prevention – is closed off. All of this contributes to a climate of insecurity in which radicalisation and political violence flourishes.

The Arab uprisings reminded the US and EU why protecting and defending civil society in repressive regimes is a good idea. They have exposed a fundamental contradiction that has opened the space for critical discussion and debate about the unintended consequences of counter-terrorism measures. Banks have expressed concerns about the fundamental rights of their customers. Foundations and CSOs have come together internationally to initiate a dialogue with the UN and FATF on how best to protect the legitimate activities of civil society.

Among the demands for change are:

1) **the R8 regime be relaxed and only applied to states in which there is a demonstrable problem with CSOs and terrorist financing;**

2) **the protection of freedom of association and expression and other fundamental rights enshrined in the UN's Universal Declaration are incorporated into the FATF mandate;**

3) **the international community take urgent steps to guarantee the free movement of aid and humanitarian relief;**

4) **states regulate the activities of the FATF through an intergovernmental convention that enhances openness, accountability and democratic control;**

5) **the AML-CFT compliance sector is properly regulated so that innocent people and organisations are removed from the databases of private sector intelligence agencies such as World-Check.**

It must be hoped that 2012 marked the beginning of a change in mind-set among the international community and that these nascent dialogues develop into a full appraisal of the harms caused by domestic and international CFT rules. Such appraisals will require CSOs, financial institutions, regulators, governments and law enforcement agencies to come together to properly assess the effectiveness and proportionality of CFT measures in the context of their impact upon freedom of association and expression. CSOs will also need to demonstrate that their own best practices are sufficient to mitigate risk and more large foundations must speak out to defend the political space of CSOs and other non-profits.

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In 2007 Ben completed a PhD at the University of Ulster. The thesis examined the development and implementation of EU justice and Home Affairs Policy. A book based on this extensive research will be published in 2009. His other recent work concerns the 'surveillance society', counter-terrorism policy and the security-industrial complex.

Source: London Metropolitan University http://www.londonmet.ac.uk/research-units/hrsj/staff-and-associates/$ben-hayes.cfm

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57 See de Goede, M. (2012: 179-182), op.cit note 9.

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Criminals and Disqualified Directors in UK Companies House Register, 21 February 2008, available at: http://www.prnewswire.co.uk/news-releases/world-check-exposes-terrorists-financial-criminals-and-disqualified-directors-in-uk-companies-house-register-152571225.html (accessed 19 February 2013)]; the figure of 1.2 million is derived from a 2010 interview with *World-Check* by Marieke de Goede [See de Goede, M. (2012: 179), op.cit note 9]. As many as 20,000 names are reportedly added every month, see de Goede, M. (2012: 180).

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Silencing Voices and Dissent in Canada

Pearl Eliadis, Voices-Voix,1 Nikki Skuce, Forest Ethics Advocacy,
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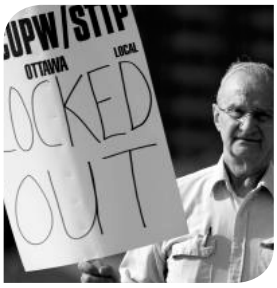

Summary

In the past six years, civil society in Canada has witnessed a broad and deep decline in the space afforded to organisations working on the progressive side of the policy agenda. Since 2010, Voices-Voix, a Canadian civil society organisation (CSO) coalition has been documenting this phenomenon, and has published one hundred case studies, about half of which are about civil society organisations, activists and human rights defenders.[2]

The targets have been individuals and organisations working in development, environment, faith-based, human rights, labour, immigrant and refugee organisations, as well as in scientific research and policy communities. Nor have independent government agencies been immune from this crackdown. In this context, Canadian civil society finds itself in a situation in which difference and dissent are being systematically silenced. This contribution presents some of those stories. It begins with a general overview of the situation facing civil society in Canada, and follows with two case studies that go into more depth on the challenges and impact of these changes on environmental and international development CSOs in Canada.

The state of civil society in Canada – democracy in decline

Voices - Voix

In the spring of 2010, a number of Canadian CSOs concerned about the shrinking democratic space for dialogue on public policy and for dissent in Canada came together. The result was a new broad-based civil society coalition called Voices-Voix. Voices-Voix was responding to what appeared to be drastic, politically-motivated funding cuts and diminished commitments by the federal government to human rights and international development.

The vast majority of organisations affected have a politically progressive orientation to Canadian policies. They promote human rights, rights-based development, refugee rights, access to the legal system, equality and environmental rights or environmental science.

The different case studies highlight how the Canadian federal government has systematically employed a number of common tactics to silence dissenting voices, all the while marginalising human rights and the Canadian Charter of Rights and Freedoms:

1. **Demonising advocacy and dissent;**
2. **Constricting access to funding sources and the legal and public space in which CSOs operate;**
3. **Defunding and suppressing research and data.**

1. Demonising Dissent

The pattern of demonising activist and advocacy organisations working from a progressive position on the policy and legal agenda has taken several forms.

First, organisations and human rights defenders who advocate on issues that are contrary to the government agenda have been accused of being 'terrorists' operating under the influence of foreign agents and working against Canada's interests, or have been placed under surveillance. Progressive CSOs and their leaders have found themselves being called liars and dissemblers in the public sphere by government officials. Activists and human rights organisations are losing their funding or having their charitable status removed specifically because they engage in activism and human rights. It is unprecedented in Canada for non-partisan advocacy and activism to be treated in this manner.

Aboriginal leader Cindy Blackstock was placed under government surveillance when the organisation she headed filed a human rights complaint about the rights of First Nations children with the Canadian Human Rights Commission.[3] Blackstock has filed another human rights claim, alleging reprisal, because of this. The Canadian Human Rights Tribunal is considering the claim.

Another case is that of Canadian Doctors for Refugee Care (CDRC), an association of medical doctors that spoke out against significant and discriminatory cuts to health services for many potential refugees that have arrived in Canada. The government accused the doctors of being liars and activists when they reported on the impact of the cuts on ill people following the partial elimination of the Interim Federal Health Program. Among the alleged activist dissemblers, it bears noting, is the head of family and community medicine at one of Canada's most reputed medical facilities, St Michael's Hospital in Toronto.[4] In February 2013, the CDRC and the Canadian Association of Refugee Lawyers (CARL), along with three individual patients, petitioned the Federal Court to declare that the federal health cuts to refugee claimants are unconstitutional and illegal.

Rights and Democracy, an internationally prominent human rights organisation created by an Act of Parliament in 1988, was subjected to a forensic audit and plunged into turmoil when its former President, the late Rémy Beauregard, was falsely accused of, among other things, mismanagement and meeting with 'terrorists'. In reality, Mr Beauregard had attended an official meeting in the Middle East where Lebanese government officials (part of a government coalition whose members include a group suspected of terrorist activities) were present in the audience.[5] In 2012, Rights and Democracy was shut down.

On 9 January 2012, Joe Oliver, Minister of Natural Resources, responsible for promoting the expansion of oil production from the Alberta oil sands, issued an open letter claiming that 'environmental and other radical groups' were operating in Canada based on a 'radical ideological agenda'.[6]

CASE STUDY

Reflections on a 'Radical' Year: life as an environmental NGO in Canada

Forest Ethics Advocacy

Within 24 hours of the Conservatives winning a majority government in May 2011, Prime Minister Stephen Harper stated that he was relieved he no longer had to deal with 'regressive energy transportation policies' for the west coast. He was referring to the momentum achieved in the previous parliament for private members' bills by opposition parties toward securing a legislated oil tanker ban for Canada's North Pacific coast. Environmental groups, First Nations and many British Columbians had been advocating for such a ban to stop the introduction of oil tankers through the Great Bear Rainforest, threatened by the Enbridge Northern Gateway pipeline proposal to transport Alberta tar sands bitumen through British Colombia on the Pacific coast for shipment to Asian markets.

Over the following months, the Harper government laid the legal and political groundwork for the massive changes they would make to environmental laws and civil society participation in environmental reviews. The framework for this work was one previously espoused by Ezra Levant, a conservative political activist and author, and maintained by current and former political staff members of the government, through their direct role in the organisation EthicalOil.org.[7] The thrust of this organisation is that Canada is a democracy with strong environmental and labour laws, and therefore oil derived from Canada's tar sands is more ethical than oil coming from places such as Saudi Arabia or Iraq.

Building on this idea, in early 2012, EthicalOil launched an online campaign, OurDecision.ca, which alleged a foreign conspiracy among Canadian environmental organisations working to oppose tar sands expansion on the grounds that they received funds from US foundations. They argued that US 'socialist billionaires' were trying to keep Canada from being able to sell oil to other markets and that these funders were operating through 'local puppets'.[8]

Government ministers and parliamentarians quickly echoed and frequently repeated these talking points. The day before the launch of the federal review hearings on the Enbridge Northern Gateway pipeline project, Natural Resources Minister Joe Oliver wrote an open letter claiming that environmental groups "…threaten to hijack our regulatory system to achieve their radical ideological agenda," using funding from "foreign special interest groups."[9]

Parallel to these political attacks, the Canadian Revenue Agency (CRA), which regulates charitable organisations in Canada, was conducting its second audit of Tides Canada, one of the country's largest funders of environmental and social justice work and the charitable home of nearly 40 leading social change projects, including ForestEthics. The Senate, in the federal Parliament, also held an inquiry on the issue of civil society advocacy and foreign funding of such advocacy, proposed by Conservative Senator Nicole Eaton. While this did not lead to anything, some viewed it as a further smear campaign against environmental CSOs.[10] When the 2012 Federal Budget was released at the end of March, enviro nmental-related government departments faced severe budget cuts, while an additional CA$8 million was granted to the CRA to further audit and monitor charities' advocacy and political activities.[11]

These moves led ForestEthics Canada to give up its charitable status, which had allowed the organisation to issue receipts for tax credits for donors, so that it could engage in more advocacy, not less.[12] Fortunately, the public response to this move was very supportive, with

CASE STUDY

thousands of Canadians continuing to donate in support of the newly formed ForestEthics Advocacy Association.

Furthermore, the Conservative government situated their budget implementation bill within a so-called omnibus bill (Bill C38), which included, beyond budget measures, over 400 pages of legislative changes to limit a substantial number of Canadian environmental laws and regulations.[13] Environmental groups, First Nations and many in British Columbia believe that the lobbying records and the changes to the Fisheries Act, Canadian Environmental Assessment Act, National Energy Board Act and Marine Liability Act were made to ease the way for further resource exploitation and pipeline construction.[14] Lobbying records show that Enbridge, the Northern Gateway pipeline company, was able to meet with high-level government officials 47 times in 2011 and 2012, including with the chief of staff to Prime Minister Harper and several cabinet ministers.[15] Simultaneously, the government's tactics helped to silence critics and push these measures quickly through parliament using its majority, largely avoiding public debate through legislative hearings on the implications of these measures.

Immediate consequences of the legislative changes have been the cancellation of almost 3,000 environmental reviews of development projects, including hundreds involving pipelines and energy projects.[16] The legislation now allows the Minister of Natural Resources, through a cabinet decision, to overturn any decision made by the National Energy Board – an arms-length agency set up to review proposed projects and to base its decision on science and participatory public processes.

In October 2012, the Conservative government tabled a second omnibus bill (Bill C-45), stripping down environmental protection, under the Navigable Waters Act, from 32,000 major Canadian lakes and rivers to only 97 (many located in Conservative seats).[17] It also made major pipelines exempt from environmental impact reviews in relation to waterways.[18] Bill C-45 also has significant impacts on the rights of indigenous peoples, in particular in terms of rights over their land, and has fuelled major public and political protests on the part of grassroots First Nations people under the banner of 'Idle No More'.

The federal government attacks on environmental groups in 2012 and the dismantling of environmental legislation will have a profound impact for years to come. That said, it has provided a focus point for Canadians from all political stripes to mobilise around issues such as healthy watersheds and an oil-free coast.

2. Defunding Democracy

Since the 1970s, Canadian CSOs have relied on three principal sources of financial support: earned income (such as goods and services, and membership fees), government grants and charitable public donations.[19] Government funding of civil society has for many years reinvested taxpayer dollars in the Canadian economy, creating and sustaining jobs, helping to deliver cost-effective and critical public services, and supporting overseas development assistance. Since the 1970s, federal governments have fostered public policy debate and dialogue with the government through providing funding support for a vibrant community of policy and research networks as well as for stimulating policy dialogue on crucial public policy issues. While direct government funding has been essential for many CSOs, the legal status afforded to charitable organisations under the Income Tax Act has also encouraged substantial donations to CSOs through tax benefits for donations from the public.

These two forms of government support for CSOs reflected the longstanding belief that civil society, acting in partnership with government, can and should play a critical role in public policy and public services.[20] In the words of a report by the National Advisory Council on Voluntary Action to the Government of Canada, adopted by the government in 1978, it is "…in the public interest that as broad a range of views as possible should be presented within debates about public policy, and that the federal government should act to ensure that views not usually heard are registered in public debates, using its administrative/legal powers, and funding if necessary, to ensure that that happens."[21]

No longer. The current government does not appear to share this long-standing position of previous governments of different political orientations. Rather, this government is seen by many in civil society to be using a pincer strategy to create a 'chill effect' that combines the loss or threatened loss of charitable status on one side (for engaging in critical policy and advocacy work) and the actual loss of all funding from government for selected CSOs on the other, to silence and weaken CSOs, sometimes to the point that they shut down.

The government has taken steps towards revoking the charitable status of progressive, established and well-respected organisations. Recent cases include Tides Canada, Canadian Mennonite magazine, Physicians for Global Survival and Environmental Defence.[22] They are accused of activism and excessive political activities, in a clear strategy to erode their legitimacy and suggest wrongdoing under Canadian tax law.[23] Conversely, conservative organisations devoted to public policy and research have not been touched.

Examples are found in many areas of public policy interest. The government changed the funding rules for Status of Women Canada[24], which is responsible for providing public interest funding to promote women's rights in Canada. The move significantly reduced the funds available for groups advocating for women's rights through research and policy.[25] Cuts have affected such groups as the National Association of Women and the Law, the Canadian Feminist Alliance for International Action,[26] the Canadian Research Institute for the Advancement of Women and the New Brunswick Coalition for Pay Equity.[27] Others have resulted in the elimination of the Court Challenges Program, reducing the capacity of leading litigation organisations such as the Women's Legal Education and Action Fund to challenge discriminatory laws and policies.[28]

Cuts to CSOs by the former Canadian International Development Agency (CIDA) and other government departments have had significant impacts on many international development organisations, including the ecumenical church coalition, Kairos,[29] Alternatives (a Quebec-based international CSO),[30] the Canadian Council for International Co-operation (the platform for more than 80 Canadian international CSOs)[31] and Development and Peace (the Catholic development agency).[32]

CASE STUDY

From Investing in Development to Fee-for-Service: the case of Canada's international development CSOs

Canadian Council for International Co-operation

In July 2010, following a year-long internal review, the then Canadian International Development Agency (CIDA) restructured its Partnerships with Canadians Branch (PWCB) offering "a new approach to engage Canadians and organisations in international development."[33] PWCB is the primary agent through which Canadian CSOs obtain funding for international development initiatives.

The new approach promised to "streamline the application process and reduce the administrative burden for project applications" to ensure effective and measurable results on the ground.[34] In doing so, the funding process shifted away from "responsive programming", in which CIDA received proposals from CSOs based on the CSOs' priorities (an innovation of the 1970s that put CIDA ahead of other donors). Instead, CSOs must now to respond to periodic CIDA initiated calls-for-proposals aligned with CIDA's own immediate thematic priorities and countries of focus.

The sea change took place almost overnight, with no dialogue with CSOs, no transition period for many organisations, most of which had partnered with CIDA for two to three decades. It came on the heels of a number of widely publicised, politically motivated decisions to cut long-standing funding to a number of development CSOs that had been critical of the Conservative government's policies. This was perhaps best exemplified by the case of KAIROS, recommended by CIDA's President for continued funding until political interference by the Minister and Prime Minister's office resulted in the last minute insertion of the word 'not' in the decision document.[35] KAIROS is the paramount church coalition promoting policy dialogue on domestic and international social justice issues. Its funding was completely cut with no rationale given, and subsequently other like-minded organisations followed a similar fate.

Against this backdrop, the announcements from the first set of calls-for-proposals for Canadian CSOs were plagued with delays, many by several months. There have been no major calls by PWCB since April 2011.

In the sudden absence, or very episodic availability, of funding,[36] and of any clear timelines around future funding, the uncertainty has meant that organisations have had to cut staff and programmes, leave partners in limbo, and establish contingency plans. CSOs report loss of morale and credibility for a number of organisations that were unsuccessful in the recent competitive rounds, and draw attention to the very high cost associated with the preparation of proposals (estimated at CA$2 million among 95 organisations; roughly 64 percent of these were unsuccessful in their bids). Some groups have also had to change their organisation's priorities in order to meet CIDA's criteria, including restructuring overseas partnerships. One organisation, for example, talked about shifting its focus to Honduras (a country of focus) and away from education (not a key CIDA priority). Furthermore, losing CIDA support has had a knock-on effect in terms of the amount of funding organisations can leverage from other donors: from other government departments, and international and private donors. For example, organisations were able to match CIDA funding on a 3:1 ratio with private donations raised. This is no longer possible for many organisations. Within this new context,

public engagement activities, which build support for and understanding of global poverty issues among Canadians, have seen their funding shrink and directed to new programmes that are not accessible to CSOs.[37] Our anonymous survey showed that many long-term partnerships, the centrepiece of CSO approaches and their unique contribution to development, have had to be terminated.[38]

In addition, the uncertainty of future government funding, alongside the above-mentioned political attacks on some organisations, has led to a chill on advocacy activities. There is a widely shared perception among Canadian CSOs that the current government looks unfavourably on organisations that do policy and advocacy work, (entirely within the rights of all charities), especially if such work is critical of the government. According to anonymous sources, even among groups that no longer receive CIDA funding, there is a tendency to self-censor, which may be in part because they work with other organisations that still receive funding).

CIDA's approach to consultation – which in the past canvassed a deep and rich base of knowledge and learning – is criticised for having become ad hoc, selective and instrumental.

Essentially, the critique from many in civil society is that the current government has reduced Canadian development organisations to the status of being its service delivery agents. This contradicts commitments Canada made internationally to recognise and work with CSOs as development actors in their own right. It undermines long-term relationships and partnerships; it encourages organisations to play it safe instead of innovating; it discourages groups from learning from their mistakes and improving outcomes, when mistakes could rationalise a funding cut; it biases interventions towards short-term results and projects, away from longer-term systemic change; and it undermines the 40-year investment governments have made in nurturing a strong, knowledgeable, resourceful development community.

It is not so much that Canadian development organisations expect to get government funding as an entitlement – a charge that has been levelled by the Minister of International Cooperation at the development community.[39] It is more that sustainable partnerships for development are best built around aid predictability, long-term commitments, transparency and accountability – core tenets of both aid and development effectiveness. And in the current context of uncertainty, it is very difficult to foster such partnerships.

3. Attacks on knowledge, research and data

Knowledge organisations provide research and evidence-based policy in a range of critical areas that have suffered in recent years as a result of government policies to cut funding. In the social sciences and educational sectors, the Canadian Policy Research Network, one of Canada's leading non-partisan think tanks, had to close its doors in 2009.[40] The National Council on Welfare and the Canadian Council on Learning have also closed.[41] Aboriginal organisations have been victims of cuts: support to the First Nations Statistical Institute was cut in the 2012 federal budget. Likewise, the Sisters in Spirit's documentation project on missing and murdered indigenous women, a critical issue in several cities, has closed.[42]

Environmental data and policy analysis are under pressure. Cuts at Environment Canada have led to hundreds of job losses and the closing down of many leading Canadian centres of excellence. Among the list of organisations affected are the Environmental Lakes Area,[43] the Canadian Foundation for Climate and Atmospheric Sciences[44] and the Polar Environment Atmospheric Research Laboratory.[45] The National Round Table on the Environment and the Economy has been closed down.

Government imposed policies have also resulted in a reduction in reliable and robust government statistical data as a result of the elimination of key statistical products, including the Mandatory Long Form Census and the Survey on Income and Labour Dynamics, to name just two. This has direct implications for equality rights, and for the rights of vulnerable groups and communities in general, and Indigenous peoples in particular, since it limits the quality of information and hence civil society's collective capacity to develop policy-relevant, evidence-based research about national progress in achieving rights.

Conclusion

The examples outlined above represent a small cross section of the research and documentation that Voices-Voix has compiled to date. While each is its own distinct story, there is a common thread: the ability to protect human rights and to promote social justice and a sustainable society both within Canada and internationally is being compromised by the deliberate creation of a disabling environment for CSOs, characterised by funding cuts, political interference, verbal attacks or manipulation.

In response, Voices-Voix provided a submission to the UN Human Rights Council's Universal Periodic Review Process to protest against these developments and to bring them to the attention of the wider international community in February 2013.[46]

Voices-Voix is today a non-partisan coalition of almost 220 CSOs, lawyers and human rights activists.[47] As Amnesty International's Alex Neve has highlighted, Voices' work "…has become a valuable, though obviously very disturbing, online compendium of the rapidly growing number of instances of individuals and groups who have been punished or singled out because of their advocacy and dissent."[48]

Despite the federal government budget cuts, attempts to silence and attack dissenting voices, the marginalisation of the human rights agenda, and two far-reaching omnibus pieces of legislation, First Nations peoples, scientists, environmentalists, community organisations, international development organisations and social justice groups are standing together to protest these punitive tactics. The research shows that the fiscal, legal and public space for CSOs to operate is steadily contracting. Stripping away financial resources and fund development capacity has further damaged the ability of more than fifty leading CSOs to function, deliver services and speak out. Several more victims of these strategies have been identified and are currently being investigated.

The current environment in Canada shows, at the very least, reckless disregard for the public space available for advocacy and dissent – again – preconditions for the meaningful exercise of

fundamental rights. It is shutting down civil society and subjecting it to terms and conditions that it would never dream of imposing on the private, for profit sector.

This is an alarming development in a country like Canada. And while Canadians may think of themselves as champions of human rights, leading the way in the international community, there are serious doubts today about whether this is still accurate.

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Source: Open Canada.org

NIKKI SKUCE

Senior Energy Campaigner

ForestEthics Advocacy

Nikki joined ForestEthics in 2009 as the sole employee in their Smithers, British Columbia, Canada office. Her current focus is on stopping the Enbridge Tar Sands pipelines and promoting green energy solutions provincially. For several years, Nikki worked with One Sky on policy and practical programs in Canada, Sierra Leone, Nigeria and Peru. She began to focus on energy issues after coordinating Canadian NGOs around the World Summit on Sustainable Development in 2002. Nikki has advocated for renewable solutions at the United Nations, Canadian, provincial and local levels, and has practical experience installing solar panels. Nikki sits on several Boards including the Canadian Renewable Energy Alliance, the Wetzinkwa Community Forest and the Smithers Sustainable Advisory Committee. She holds a degree in Canadian Studies and International Relations from University of British Columbia.

Nikki's passion is creating social and environmental change at multiple levels. She lives with her Argentine partner and daughter Lucia.

PEARL ELIADIS

Lawyer, Lecturer and Author

Pearl Eliadis' Montreal-based law practice focuses on human rights, national institutions and democratic governance. With more than 20 years of experience, Pearl Eliadis has been retained by governments, the UN, the European Commission, the OSCE and international consortia and NGOs.

She presses for social justice at the community, national and international levels, advising public interest groups. She also writes and lectures on human rights issues in Canada and internationally. An Oxford graduate and three-time alumna of McGill, she teaches Civil Liberties at McGill's Faculty of Law and is a full member of its Centre for Human Rights and Legal Pluralism and is designated on the UNDP DG Human Rights Expert Roster.

ABOUT VOICES-VOIX:

Voices-Voix' work at the Voices-Voix is in a voluntary capacity, as is the case for almost all of the Strategy Group. We have all been disturbed by the increasingly punitive approach to progressive NGOs and democratic institutions in Canada and the demonization of dissent - indeed, of anyone attempting to participate in the public sphere and raise their voices. The year 2012 has marked a deepening of these trends which Voices-Voix has been carefully and methodically documenting for case studies. In 2013, the targeted groups, from scientists to human rights workers, from librarians to environmentalists and from medical doctors to film makers need to realize that we all must stand together. That is what will make the difference.

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1. This "Voices-Voix" contribution was prepared with the assistance of Aurore Fauret and Charis Kamphuis
2. A list is available at www.voices-voix.ca
3. Voices-Voix, 2012, "Cindy Blackstock",http://voices-voix.ca/en/facts/profile/cindy-blackstock. The report includes links to the retaliation complaint Blackstock amended the original complaint to include retaliation allegations when it became evident that government agencies were excluding her from meetings, she believes in response to the initial complaint.
4. Voices-Voix, 2013, "Canadian Doctors for Refugee Care", http://voices-voix.ca/en/facts/profile/canadian-doctors-refugee-care.
5. Voices-Voix, 2012, "Rights and Democracy", http://voices-voix.ca/en/facts/profile/rights-democracy.
6. Natural Resources Canada, January 9, 2012, "An open letter from the Hon. Joe Oliver, Minister of Natural Resources, on Canada's commitment to diversify our energy markets and the need to further streamline the regulatory process in order to advance Canada's national economic interest", http://www.nrcan.gc.ca/media-room/news-release/2012/1/3520.
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8. From the web site and ads placed at http://www.ourdecision.ca. Also referred to in Ethical Oil, "EthicalOil.org launches ad campaign that reveals foreign interests sabotaging Canada's economy", January 2, 2012, http://www.ethicaloil.org/

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Official Donors' Engagement with Civil Society:

Key Issues in 2012

Jacqueline Wood and Karin Fällman[1]

Introduction

For over a decade, a number of donors who are members of the Organisation for Economic Development and Cooperation (OECD) Development Assistance Committee (DAC) have been gathering informally to discuss the subject of civil society. Originally dubbed the 'like-minded' group and generally represented by donors' civil society support units, they launched an era of intra-donor (and later multi-stakeholder) dialogue explicitly focused on addressing their relationships with civil society, relationships based on considerable flows of Official Development Assistance (ODA) as well as on dialogue and knowledge-sharing. 2 This donor dialogue coupled with donors' internal reflections has amounted to a concerted and escalating effort to understand and improve on the relationship.

There have been a number of parallel donor or CSO-initiated studies on the donor-CSO relationship as well as OECD DAC publications over the past year. While these studies have not necessarily uncovered strikingly new findings, what is striking is the common ground in findings and recommendations across the studies. This chapter draws on a selection of these studies to point to trends and challenges, and suggests key ways forward on a number of high priority areas for improvement, 3 specifically:

- Strengthening civil society in developing countries;
- Promotion of an enabling environment;
- Funding modalities and their conditions;
- Results.

With the global push for 'aid effectiveness' dominating the international development dialogue in recent years, issues in donors' relationships with CSOs have tended to be lumped under the rubric of 'strengthening aid effectiveness'. This is not a bad thing, as this framework has helped raise the profile of donor-CSO relationships, which had been neglected in the earlier days of the international aid effectiveness dialogue. In 2008, guided by the multi-stakeholder Advisory Group on Civil Society and Aid Effectiveness (AG-CS),[4] civil society was accorded distinct attention at the Accra High Level Forum on Aid Effectiveness, as was the enabling environment for civil society, including donor modalities of support.

In 2009, building on the AG-CS and the donor 'like-minded', over a dozen DAC-member donors established an informal Donor Group to learn from each other and to initiate common actions to improve their civil society support. A multi-stakeholder Task Team on CSO Development Effectiveness and Enabling Environment (TT)[5] was also established to promote Accra Agenda for Action (AAA) commitments on civil society.[6] Simultaneously, the OECD DAC Secretariat undertook the first comprehensive, comparative study on the donor-CSO relationship entitled *How DAC members work with civil society organisations* (2011), followed by a policy guidance document *Partnering with Civil Society: 12 Lessons from DAC Peer Reviews* (2012).

The *12 Lessons* publication is noteworthy in its very existence. In many respects, it can be seen as the culmination of a process of raising the profile of donors' civil society support channels. Raising the profile of this channel has been accompanied by a more explicit acknowledgement that the 'effectiveness' of donors' support modalities cannot be assessed from a donor perspective alone. The interpretation and implementation of principles such as ownership, harmonisation or alignment must be looked at with respect to how they impact CSOs' effectiveness, not least of which includes a CSO's ability to pursue principles such as ownership or alignment with their partners and constituencies.

The distinct characteristics of partnering with civil society, and norm setting on what effective civil society support can look like, continue to gain legitimacy in the wider development community

beyond donors' CSO units and their CSO partners. An aid and development effectiveness agenda with regard to the donor-civil society relationship is emerging.[7] In some respects the *12 Lessons* represent a set of 'effectiveness' principles for donor consideration, differentiated from principles that might apply to donors' relationships with other actors.[8] This agenda, however, is not complete, and donors would do well to delve deeper into the meaning, challenges and opportunities of some of the key principles, an exercise that this chapter attempts to begin.

ASSUMPTIONS REGARDING CIVIL SOCIETY

Any discussion of civil society in development today still takes place along a spectrum of beliefs about the role of CSOs in relation to the intentions of donors and governments. At the instrumental end of the spectrum are those who believe CSOs are best placed to implement projects and programmes on behalf of donors and governments, filling gaps until such time as developing country governments are in a position to close them. On the other end of the spectrum are those who see civil society, and donor relationships with CSOs, as complementary and just as necessary as donor relationships with governments and the private sector to the social, economic, and democratic development of any country.

This chapter is written from the latter viewpoint, a viewpoint that is reflected in the 2008 Accra Agenda for Action (AAA) and the 2011 Busan Partnership for Effective Development Cooperation (BPD), both of which recognise CSOs as independent development actors in their own right. A fundamental implication is that while partnerships with CSOs can be a means to a donor's particular development end, a strong and vibrant civil society is an end in and of itself worthy of donor pursuit.

Unfortunately, despite this normative recognition by all stakeholders in international accords as well as in some donor policies, understanding and acting on the implications of this recognition is part of the 'unfinished business' from the AAA. While the assumption of the need for strong governments and private sectors is today generally not questioned, the need for a strong civil society is not always so readily assumed.

Many in donor agencies would benefit from a fuller grasp of the significance of this sector in their own countries as background for reflection on the merits, and pitfalls of supporting it in developing countries. Overall, civil society in DAC member countries is often seen as "critical to the quality of life… [and to] "collective action and engagement in civic life"(Statistics Canada 2005: 6, 13). Clearly in DAC member countries civil society is seen to have a role well beyond an instrumental 'gap filling' one.

RECENT FINDINGS AND RECOMMENDATIONS ON DONORS' CSO ENGAGEMENT

I. STRENGTHENING CIVIL SOCIETY IN DEVELOPING COUNTRIES

At Busan, the outcome document, the BPD, reaffirmed the AAA's commitment to enable CSOs at country, regional and international levels to exercise their roles as independent development actors (Fourth High Level Forum 2011, §22). In 2012, the DAC's *12 Lessons* made a parallel recommendation in its second Lesson, calling on donors to "strengthen civil society in developing countries" (OECD 2012: 13).

Advances toward this objective revolve around two pivot points of donor practice, specifically the pursuit of: i) strategic, 'big picture', whole-of-agency approaches to civil society, and ii) strategic approaches to balancing direct support to developing country civil society and support to these actors via donors' domestic CSOs.

Strategic, whole-of-agency approaches

Many donor policies commit to the objective of strengthening developing country civil society. For example, the objective of the Swedish 2009 *Policy for Support to Civil Society in Developing Countries* is "a vibrant and pluralistic civil society in developing countries that, using a rights-based approach, contributes effectively to reducing poverty in all its dimensions." (Sida, 2009:7) Finland's 2010 guidelines on civil society offer that the "the development cooperation objective of civil society actors and organisations is a vibrant and pluralistic civil society based on rule of law, whose activities support and promote the achievement of development goals and enhanced human well-being." (Ministry of Foreign Affairs, Finland, 2010: 11)

Yet, the degree to which this objective, whether or not formally articulated in civil society policies, is being purposefully pursued varies among donors. What it requires is for a donor to take a strategic, 'big picture' and whole-of-agency approach to civil society where decisions about civil society engagement take into consideration the implications for individual CSOs and for the sector as a whole, and for their respective abilities to act effectively as agents of change.

Such an approach can be impeded by the fact that responsibility for civil society policies, where these exist, often reside in civil society units, which struggle to dedicate the resources to advance integration across the agency. For example, a 2012 review of Sweden's Civil Society Support Modalities noted that its country strategies and CSO support generally do not reflect the wider aim of the civil society policy. Instead civil society support is mainly a means to achieve global or country level strategic objectives. (Nilsson et al 2012:58). This report recommends greater collaboration among all those responsible for the civil society policy and for other agency guidelines to help ensure a more strategic approach. This is an area in which AusAID is breaking ground, through the establishment of an intra-agency Civil Society Network to share information and learning, while also providing guidelines and training for staff (AusAID 2012:9). Sida has also recently established a similar network covering embassies and headquarter units. DANIDA maintains civil society focal point staff at some of their embassies (Sadie Watson, Olsen and Gayfer 2012), and CIDA is moving in the same direction, with greatest progress made in its 'countries of focus'.

Pursuit of the objective of strengthening developing country civil society requires action beyond funding or capacity development of individual CSOs towards supporting systemically the civil society sector. Findings from an overview of Norad's civil society support found the link between CSO support and civil society strengthening nebulous,[9] noting that "civil society comprises far more than the sum of formally constituted civil society organisations." (Norad 2012:3) A donor evaluation of developing country CSO policy engagement recommended the provision of 'Resources for All' or 'public access resources' that can be accessed by the civil society community, including movements and groups not formally registered as CSOs or that may otherwise not meet some of donors' basic funding criteria (ITAD/COWI, 2012:110-111). Such resources could create a hub for "information and advice about organising action, lobbying and running campaigns, comprehensive funding directories, etc. … [as well as] benefit [for small organisations] from bulk-bought services such as printing, accounting or insurance." (ITAD/COWI, 2012:111)

These kinds of investments enabling citizen participation increasingly make sense as a complement to support to CSOs, in an era when time constraints and advanced communications technology mean that more and more citizens are engaging in justice issues outside the realm of organised CSOs, as noted in the CIVICUS 2011 study *Bridging the gaps: Citizens, organisations and dissociation*.

Balancing direct support to developing country civil society and support through donor country-based civil society

Data from 2009 shows that DAC members allocated approximately five times more ODA with their domestic CSOs than with international non-governmental organisations

(INGOs) and developing country CSOs combined (OECD, 2011:19).[10] The bulk of these resources were channelled 'through' domestic CSOs (OECD, 2011:20), which generally supports CSO work with developing country partners. Capacity development of developing country civil society partners is usually an explicit element of donors' partnership agreements with their domestic CSOs. In Belgium for example, the Ministry for Development Cooperation and Belgian CSOs entered into an agreement in 2009 stipulating that the focus of CSOs' work be on capacity development, with emphasis on the watchdog and democratising roles of civil society (Ministry for Development Cooperation and the Belgian Non-Governmental Development Organisations 2009).

In its *12 Lessons* the DAC recommends the application of good practice in capacity development (OECD, 2012:15), for which there is a well-established resource base[11] and a wealth of experience from which to learn; capacity development is a long-standing feature of many DAC-member-CSO/developing-country-CSO relationships (Tomlinson, 2012).

Investment in capacity development notwithstanding, the issue of the share of flows to donors' domestic CSOs is increasingly 'the elephant in the room'. While relationships of solidarity are still important, the capacity and voice of developing country CSOs continue to grow, and advances in information technology facilitate, for some of these CSOs, access to information and networks traditionally provided by DAC-member country CSOs.

For donors, the rationale for maintaining the bulk of their CSO flows through domestic partners have tended to relate to their track record in programme delivery and experience with donor priorities (e.g. results-based management, rights-based approaches, gender equality) (Nilsson et. al., 2012). Donors' growing imperative to minimise the administrative costs of ODA management is another consideration: fewer larger agreements with domestic CSOs with absorptive capacity reduce the administration burden (OECD, 2011). DAC member CSOs' intermediary and capacity development role can also allow for a perceived neutral and arms-length relationship to developing country CSOs that is sometimes preferable in conflict/post-conflict contexts, or when CSOs undertake activities that might be deemed 'political' (such as human rights and accountability) (Watson et. al., 2012:25, Lavergne and Wood, 2006:19). Politics also comes into play as domestic CSOs represent a significant constituency behind ODA, not to mention their role in public awareness-raising that can contribute to building a sense of global citizenship in donor countries and facilitate public debate (Tomlinson, 2012:9).

Many developing country CSOs have expressed appreciation for the relationships of solidarity, moral and political support, access to information, networks and the international arena, as well as for DAC country-based CSO and INGO expertise (Norad, 2012:61). On the whole, however, there is considerable room for better understanding and critical assessment of the implications of donors' domestic CSO support for strengthening developing country civil society. It is also time for collective thought and experimentation within existing modalities and with alternative, complementary models, realising that the use of one modality does not exclude the other. An honest and comprehensive overview of the relative advantages of direct and indirect funding to developing country CSOs is required, avoiding the risk of undermining CSO-CSO relationships or creating unnecessary competition, but taking account of the current reality of the state and aspirations of developing country civil society.

II. Promotion of an enabling environment

The commitment to pursue an enabling environment for civil society, first stated in the AAA, was reinforced in the BPD's call to "focus on an enabling environment, consistent with agreed international rights" (Fourth High Level Forum 2011: §22). An enabling environment indicator has been included in the BPD's global monitoring framework for the Global Partnership for Effective Development Cooperation and is expected to be piloted in 2013 (OECD, 2012b). The notion of enabling environment comprises a

complex set of conditions that are difficult to capture in one indicator. But its inclusion in global monitoring framework will help draw attention to the issue and provide impetus for dialogue and action to address it, both in DAC member and developing countries.

In donor countries

The domestic enabling environment stretches beyond the conditions and requirements of donor financing to the political and regulatory environment in the donor country. This policy area is generally not the remit of donor agencies, though their CSO partners and donors procedures are directly affected by it. There is merit in donor agencies and international development CSOs engaging further with their domestic counterparts (other government departments and CSOs working in the domestic terrain) in this policy area. Again AusAID is a leading example. AusAID has placed a staff member at the Australian Charities and Not-for-profits Commission as the latter implements a not-for-profit reform programme intended, among other things, to streamline not-for-profits' regulatory obligations. In Canada, international development CSOs, facing an increasingly challenging environment (see the Canadian chapter in this report), are becoming more involved with Imagine Canada, an umbrella organisation for the non-profit sector that, among other things, undertakes to influence civil society's environment through research and policy dialogue.

Space for systematic and meaningful dialogue is another element of the enabling environment for civil society in DAC member countries. The DAC's 12 *Lessons* suggests that, "DAC members need to improve how the conduct dialogue and consultation with CSOs to make it more strategic, useful and meaningful." (OECD, 2012:23). AidWatch Canada notes further the importance of providing systematic space for policy dialogue that does more than meet donor-identified policy agendas (Tomlinson, 2012:10). Among DAC member experiences featured in *12 Lessons* is that of Luxembourg, which hosts regular dialogue between the Ministry of Foreign Affairs and CSOs ever two months covering topics from Luxembourg's global commitments on aid and development effectiveness to the operational requirements of its CSO support (OECD, 2012:25).

Internationally

There has emerged, in recent years, a growing concern regarding the deteriorating environment for CSOs and for citizen action more generally.[12] Some donors have been calling for greater attention to these issues. For instance a 2010 Sida evaluation of support to civil society in the Western Balkans suggested that Sida engage more "with likeminded donors and partner governments for the creation of an enabling environment for CSOs (e.g. legislation, taxation, protocols for consultative processes, transparent government funding systems, etc.)." (Nilson et. al., 2012:75) The joint donor evaluation of CSO policy engagement specifically recommends that donors enhance their efforts to support a CSO enabling environment in developing countries, noting that policy dialogue between donors and developing country governments on specific sectors (e.g. education, health) tends to take priority. Other studies call for reinvigorated donor-CSO dialogue mechanisms at country level as the growing use of joint donor funding mechanisms, often managed through intermediaries, has reduced direct dialogue opportunities (Fällman, 2010; ITAD/COWI, 2012; Scanteam, 2007).

The call for greater engagement on this issue on the part of donors is resounding. The European Commission's 2012 Communication on its relations with CSOs[13] raises the notion of greater donor involvement:

"The international community, the EU included, has a duty to advocate for a space to operate for both CSOs and individuals. The EU should lead by example, creating peer pressure through diplomacy and political dialogue with governments and by publicly raising human rights concerns…. In its cooperation with partner governments, the EU will seek to scale up public authorities' capacity to work constructively with civil society…." (European Commission, 2012:5).

Success will require a diplomatic approach. That developing country governments want to know what CSOs, especially foreign-funded CSOs, are doing in their countries is legitimate, as is their

request for CSOs' to coordinate their efforts and to demonstrate accountability. This is especially true for CSOs involved in social service delivery. Yet as noted by the multi-stakeholder Task Team on CSO Development Effectiveness and Enabling Environment, "while these issues merit attention, it is essential that efforts to address them do not hamper CSO effectiveness with overly-restrictive policies and regulatory frameworks" (Task Team, 2011a: 10), effectiveness that includes their ability to operate as independent development actors.

Some donors maintain programmes such as USAID's *Enabling Legal and Policy Environment for Civil Society* global programme, which monitors developments in regulatory frameworks for civil society, provides technical assistance on legal reform, and strengthens capacities of indigenous CSOs (OECD, 2012:16). Donors would also do well to liaise with other government departments and bodies on this topic as appropriate. DAC members of the Community of Democracies' Working Group on Enabling and Protecting Civil Society are represented by their Ministries of Foreign Affairs (MFAs). Though when it comes to implementation of joint action in response to regulatory developments at the country level, MFA and donor agency collaboration has proved important in order to take advantage of the civil society connections that donors' agencies, not Foreign Affairs Ministries, tend to have.

III. Funding modalities and their conditions

Funding modalities are an area of considerable preoccupation for donors and CSOs as it is the funding relationship that constitutes the bulk of donor engagement with civil society. Consensus on what constitutes good practice appears to be broadening. Donors still face constraints, however, especially when the ideals of good practice may be in tension with their wider agency or government imperatives. Responsive and core funding may be in tension with a donor's drive for 'focus' and a narrow view of what makes for 'results'. The desire to reduce transaction costs may be hard to reconcile with the pursuit of accountability through financial and reporting requirements. These are real tensions, but they are not incompatible and more could be done to address them.

Responsiveness and flexibility

With recognition of CSOs as development actors in their own right, came acknowledgement that principles of aid effectiveness such as ownership and alignment should not, when it comes to CSO support, be conflated with alignment to developing country government nor donor priorities. For CSOs, alignment with and ownership by their constituents – the people they seek to serve or represent – is critical. Institutional (core) and responsive (programme or project) financial support allows a CSO to pursue these goals through its own "priorities, plans, strategies and approaches" (OECD, 2011: 11); in other words, they respect CSOs' 'right of initiative'.

Multi-year core support, financing an organisation rather than a particular project, is the modality most conducive to facilitating CSOs to operate as actors in their own right. It also reduces transaction costs for both the donor and recipient, and due to its longer timeframe (often up to five years), is predictable. Sweden's civil society policy gives priority "to programme-based funding and core budget support rather than project support" so that CSOs "will contribute to local ownership and be based on the partner organisation's planning and monitoring system." (Sida, 2009:22) Core support should not necessarily be considered only for CSOs' deemed to have the "strategic, organisational and professional capacity to manage resources effectively," as called for by the OECD (OECD, 2012:32). Sida is moving toward provision of core support to more nascent and smaller CSOs. Through such support Sida (and the CSO concerned) can gain a better understanding of a CSO and its capacity needs, while obtaining comprehensive information about the overall financial situation of the CSO.

Despite its clear advantages, core support is still rare. On the whole, donors "continue to work with NGOs as partners or contractors for implementing donor projects and

programmes" for the bulk of their support (OECD, 2011:20). The OECD's *12 Lessons* calls on members to "strike a balance between the conditions they attach to funding for CSOs and respecting the role of CSOs as independent development actors." (OECD, 2012:27). Donors on the whole need to rethink and consider funding mechanisms that allow CSOs "to operate in a demand-driven way… [and would help] an indigenous, diverse and pluralistic civil society to evolve." (ITAD/COWI, 2012: 101).

Donors wishing to support civil society's role in policy dialogue and advancing democracy need to pay particular attention to this balance. The Joint Evaluation on policy dialogue in developing countries recommends that donors find ways to support civil society engagement processes, to establish small and quickly disbursed funding that allows civil society to address "tipping point moments" in policy processes. They should consider support for networking processes rather than only formal networks per se, the former sometimes being more conducive to organic dialogue and dissent that is characteristic of democratic environments (ITAD/COWI, 2012:102).[14] Even within specific funding agreements, donors can consider including "free funding" to enable CSOs to pursue emerging opportunities and challenges (Nilsson et al, 2012:74).

Managing transaction costs

In its *12 Lessons*, the OECD DAC recommends that donors streamline and harmonise partnership contracts and agreements, and monitoring and reporting requirements, to reduce transaction costs and the administrative burdens on both donors and CSOs that have partnerships with multiple donors.

Sida has been leading a multi-donor effort to harmonise conditions and requirements of CSO support. Through an extensive study and prioritisation exercise, which included consultation with CSOs, a number of donor conditions that seem relatively feasible to harmonise have been identified (Karlstedt 2010, Fich 2011). A Code of Practice for these areas is now being developed for consideration.

CIDA has been working on harmonisation within the Agency, for example, through a whole-of-agency approach to cost-sharing. Irish Aid is aiming for common approaches to assessing CSO applications for funding and joint monitoring between their civil society and humanitarian units (Sadie Watson et. al., 2012:54).

It is obvious that donors face constraints to full harmonisation as they have their own intra-governmental rules and procedures to follow. The Sida-led initiative, however did draw out some conditions where donors have sufficient flexibility to pursue harmonisation if they so choose, or at least to simplify, if harmonisation is not possible. There is, on the other hand, a counter-trend where a rising bar of financial management and accountability and of results-based reporting requirements is actually increasing transaction costs for donors and their CSO partners, rather than reducing them (ITAD/COWI, 2012:102; OECD, 2011:33, 37-38).

IV. Results: what to 'measure' and how?

Beyond tangible results to value-added

As the demand from donor country parliaments and publics for a demonstration of results achieved from ODA grows, this demand is being transferred to CSO partners. Results-based Management (RBM) is not a new phenomenon (CIDA for example begun implementing RBM in the mid-1990s), but there is growing rigour and more comprehensive application across funding channels. This should be a welcome evolution as all development actors share an interest in demonstrating that ODA does indeed 'make a difference'.

It is worth considering, however, whether the mechanical application of RBM needs to be better

adapted for purpose. If the intent of a particular donor-CSO partnership is to deliver a specific programme on behalf of the donor, it makes sense for results frameworks to be clearly and well defined in advance. If the partnership is geared to support a CSO in its role as an agent of social and institutional change, and/or to strengthen civil society writ large, then a more iterative approach to RBM is required within which indicators that are qualitative or that assess processes are welcome.

It is widely observed that overly-rigid application of RBM can hinder risk-taking, including innovation, and tends to emphasise the type of concrete, quantitative results more readily achieved from service delivery initiatives (OECD, 2009:36; OECD, 2011:33; ITAD/COWI, 2012:102-103). And yet the tendency to favour programming that is likely to show tangible results in the short to medium-term prevails.

The push for concrete, measurable results has in recent years been reinforced by a related push to demonstrate 'value-for-money' (VfM), which also tends to favour gap-filling programming for concrete results. It is much easier and quicker to demonstrate results and VfM from, for example, the distribution of Vitamin A capsules, than from programming that addresses the underlying causes of Vitamin A deficiency, whether related to gender inequality or food security. It is hardly surprising that a majority of DAC members rank "reaching 'a specific development objective linked to service delivery'" higher than any other objective for their CSO support (OECD, 2011:14).

Thus, while donors' civil society policies may seek to promote an active and vibrant civil society pursuing accountability, advancing equality and human rights as their objectives, the level of support for these roles is diminishing relative to programming that delivers more concretely measureable results. In CSO programming, "sometimes direction is more important than destination" (Christie et al 2012:74), and sometimes a measure of "value-added" may be more relevant than that of VfM (ITAD/COWI 2012:103).

That said, evidence also points to a shortfall in CSO capacity for effective monitoring of outcomes and impact-level results of their programming (Irish Aid, 2011, Norad, 2011 referenced in Sadie Watson et. al., 2012:55). Irish Aid has included a "programme quality" budget line in their CSO agreements to cover costs related to strengthening partners' monitoring and evaluation systems (OECD, 2012:41). There is a growing body of methodologies and tools for the monitoring and evaluation of change brought on by civil society programming.[15]

AusAID has identified a number of key messages in its guidance on monitoring and evaluation for civil society programmes, such as: the need for participatory, inclusive, long-term approaches with consideration to process; an iterative approach allowing for lesson learning and innovation; acknowledgement of the importance of varied sources, and that information gathered will not necessarily be readily aggregate-able to "simple indicators or bland generalisations". (AusAID, 2008:1)

Wider impacts?

Some donors are moving beyond traditional evaluations of specific CSO agreements to higher-level assessments of the gamut of their civil society investments. For example, DANIDA has implemented two rounds of cross-cutting monitoring of their CSO partners' contributions to implementation of DANIDA's civil society strategy (Ministry of Foreign Affairs of Denmark, 2011a, b). In 2012, Norad established a Civil Society Panel to understand better the wider effects of Norwegian CSO support in the South. Despite a noted shortage of "robust and systematic evidence", the Panel was able to draw out ample examples of wider effects, specifically "(a) replicated, scaled-up and innovative initiatives; (b) the monitoring of government programmes in order to hold the government accountable; and (c) influencing legislation and changing policy processes." (Norad, 2012:7-8).[16]

CONCLUSION: SOME KEY WAYS FORWARD FOR DONORS

Clearly there are some critical areas for improvement in donors' civil society engagement. This chapter has attempted to prioritise some of these areas as follows:

I. More concerted effort to strengthen civil society in developing countries, through:

- Strategic whole-of-agency approaches conducive to the integration of civil society considerations across agency programme and policy decision-making;
- Effort to unpack the rationales and implications of support through donors' domestic CSOs and direct support to developing country civil society.

II. Pursuit of an enabling environment for civil society in donor and developing countries through:

- Collaboration with other government departments and CSOs working domestically on improving political and regulatory frameworks for civil society within DAC member countries;
- Promotion of systematic space for meaningful multi-stakeholder policy dialogue in DAC member and developing countries as standard practice; and
- Inclusion of the enabling environment in programming and in policy dialogue with developing country governments and other influential bodies.

III. Tailoring funding modalities and the conditions that accompany them so that:

- Funding is available for CSOs to pursue development objectives in a demand-driven way, including core funding and funding for processes such as policy dialogue;
- Neither donors nor CSOs are over-burdened with transaction costs disproportionate to the investment or risks associated with it.

IV. Applying results and value assessments that:

- Embrace process and qualitative results over the medium to-long term, and consider the value-added;
- Take a big picture approach rather than emphasising aggregation of distinct CSO supported activities.

This chapter has sought to draw attention to some emerging principles and good practice recommendations for key areas of donor engagement with civil society in the hope of providing fodder and inspiration for further dialogue and action to strengthen the relationship.

JACQUELINE WOOD

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Jacqueline Wood has been working on civil society and international development for over a decade as an independent consultant with CSOs and donors (particularly the Swedish International Development Cooperation Agency), and as a civil servant with the Canadian International Development Agency (CIDA). She is currently on education leave from CIDA to pursue a PhD at Carleton University in Ottawa while continuing to consult internationally on civil society policy issues. Jacqueline is dedicated to working towards a more favorable enabling environment for civil society and how to enhance regulatory frameworks, space for multi-stakeholder policy dialogue, and donor support models.

What issue do you feel affected civil society the most in 2012?

Civil society tends to face many of the same issues from one year to the next, including the perennial challenges of scarce resources, of balancing multiple accountabilities, and of how to make the most of monitoring and

evaluation for learning and adjustment purposes. Securing space for dialogue with governments is another challenge, as is the growing use of regulatory frameworks to restrict civil society actions. An emerging issue in 2012 is that civil society also found itself increasingly sharing the limelight with the private sector in international development discussions.

What do you feel can create a better environment for CSOs in 2013?

More systematic opportunities for genuine conversations across stakeholder groups – civil society, the private sector, governments, multilateral agencies - would go a long way to creating a better environment for civil society. Such multi-stakeholder dialogue can contribute to a better understanding of each sector's comparative strengths and limitations, build trust, and help identify solutions to global and local challenges.

KARIN FÄLLMAN

Lead Policy Specialist at Sida

Karin Fällman is Lead Policy Specialist at the Swedish International Development Cooperation Agency (Sida). She is a political scientist by training and has worked with civil society development for CSOs, the OSCE, Sida, and the Swedish Embassies as well as on a consultancy basis. She has been posted in Southern Africa, Latin America and the Western Balkans. Currently, Karin is at the Sida Civil Society Unit in Stockholm where she among other things works with aid and development effectiveness with a focus on an enabling environment for CSOs. This includes promoting effective donor support, the focus of her co-authored chapter in the State of Civil Society Report.

What issue do you feel affected civil society the most in 2012?

Last year was a backlash for civil society with an increase in attacks on democracy and human rights defenders and journalists, growing restrictions on press freedom and a mounting use of legal and administrative barriers. The latter, including high minimum thresholds for members or assets, onerous registration procedures, arbitrary termination criteria, prohibitions on areas of activity, invasive supervision and barriers to cross-border funding and communication, may not be violent or threatening but nonetheless very effective to curb civil society operations. CSOs also continue to confront many internal difficulties, such as long-term sustainability, capacity weaknesses and lack of financial sustainability, internal democracy and coordination. This is partly due to flawed or diminished donor support. In the last couple of years, many donors have placed more emphasis on financial management and results reporting, and then particularly reporting of aggregated results. This development, sometimes coupled with staff reductions, has made a sizeable number of donors work with fewer and more professional CSOs leaving weaker and/or smaller CSOs without funding.

What do you feel can create a better environment for CSOs in 2013?

A reversal of the negative trends described above would do much to create a more favourable environment for CSOs. First and foremost, efforts must be made to put in place political and regulatory frameworks protecting the rights of civil society and ideally also encouraging civil society activity. This is pivotal to enable civil society to make use of its full potential. Any such political or regulatory framework should be preceded by and include genuine possibilities for multi-stakeholder dialogue. Donors should also take into account the need to enable civil society by providing tailored and demand-driven support.

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1. Jacqueline Wood is a PhD student and consultant who has worked for donor and CSO clients, and was until beginning her studies employed as a policy analyst with the Canadian International Development Agency (CIDA). Karin Fällman is Lead Policy Specialist at the Swedish International Development Cooperation Agency's (Sida's) Civil Society Unit. The interpretations, opinions and conclusions expressed in this chapter are those of the authors and do not necessarily represent the official views, policies or positions of their respective employers or clients.
2. In 2010, an average of 16.2% of DAC member ODA flowed to and through CSOs (OECD 2012:5).
3. The focus of this chapter is on donors' CSO support modalities in the realm of development rather than humanitarian assistance.
4. The AG-CS was established by the OECD-DAC-affiliated Working Party on Aid Effectiveness to provide guidance on civil society issues for the Third High Level Forum on Aid Effectiveness in Accra.
5. The Task Team has been co-chaired by Sweden (Sida), Mali (Office of the President), and the Open Forum for CSO Development Effectiveness. Its work continues with a post-Busan work plan under development.
6. A number of studies by these groups or their members are listed in this chapter's bibliography.
7. One can see this progression from the AG-CS findings and good practice recommendations (OECD 2009), to the 2011 Key Messages and Review of Evidence of the TT that influenced the Busan Partnership for Effective Development Cooperation (BPD), to the 12 Lessons publication.
8. Varied sets of principles exist for readers interested in further exploration, for example in donors' civil society policies, in CSO-led policy papers such as the 10 Principles of Good Practice for the Intelligent Funder (CIVICUS: World Alliance for Citizen Participation and Scottish Council for Voluntary Organisations 2009), or in analytical work such as Aid Effectiveness and Non-State Partnerships (Lavergne and Wood 2006). Thousands of CSO, working through the global processes of the Open Forum for CSO Development Effectiveness, in 2011 defined the Istanbul Principles to guide CSOs in strengthening their development effectiveness (2011).
9. Assessing the impact of CSO support on wider civil society strengthening was only one line of enquiry of this report however, and it does not appear that this particular question was pursued in great depth. It would be worth undertaking more rigorous studies specifically on the degree to which donors' civil society investments strengthen civil society writ large.
10. ODA to CSOs is provided for use at the latter's discretion. Aid through CSOs is "made available to NGOs for use on behalf of the official sector, in connection with purpose designated by the official sector, or known to and approved by the official sector." (OECD 2011:54). While there remains some inconsistency in the way DAC members report on their flows to and through CSOs, we have chosen to refer here to these official statistics, recognising that these totals may represent only broad trends.
11. Amongst others see for example resources from INTRAC or the Learning Network on Capacity Development (LenCD). In 2012 the OECD published Supporting Partners to Develop their Capacity: 12 Lessons from DAC Peer Reviews.
12. This has been well documented in a number of studies, see for example ACT Allliance (2011), International Center for Not-for-Profit Law (2010), CIVICUS: World Alliance for Citizen Participation (2010), Task Team (2011a), Open Forum (2010), and World Movement for Democracy and International Center for Not-for-Profit Law (2012).
13. Entitled The roots of democracy and sustainable development: Europe's engagement with Civil Society in external relations.
14. The 2012 evaluation of the Open Forum and BetterAid programmes notes that global, multi-stakeholder policy dialogue processes are not linear, and "outcomes relate as much to dependencies on the actions and priorities of other stakeholders as on the implementers' performance plan", such that a combination of strategic programme funding and core funding with "consolidation points" to periodically review progress is proposed (Christie et al 2012:74)
15. See OECD 2009 for an overview of a selection of results monitoring approaches. A recent publication from DfID's Governance and Social Development Resource Centre, Methodologies for measuring the value of civil society (GSRDC 2009), provides a brief overview of various methods and their limitations. Another source is KPMG which, inspired by its growing involvement in international development initiatives, is developing a VfM framework that will seek to reflect VfM as more than simply 'getting the most for the least money'.
16. Sida is undertaking a similar exercise in the current ongoing multi-annual evaluation of results from support via Swedish framework CSOs, using a bottom-up approach with 'reality checks' with communities, thereby trying to measure the collective outcome of Sweden's strategy for support to civil society.

The US Government's Enabling Environment for US-based International NGOs

By Lindsay Coates, Executive Vice President, InterAction[1]

Introduction

The critical breakthrough contained in the Busan Partnership for Effective Development Cooperation is the expressed and detailed recognition of the role of civil society in development, as actors championing, and more importantly living out, democracy and civic participation.[2] The Busan Partnership was the November 2011 consensus outcome of the 4th High Level Forum on Aid Effectiveness held in Busan, Republic of Korea, following three years of multi-stakeholder participation and negotiation, including civil society, to improve the effectiveness of aid by all development actors. Signatories to the document, including the US government, pledge that they will "Implement fully our respective commitments to enable CSOs to exercise their roles as independent development actors, with a particular focus on an enabling environment, consistent with agreed international rights, that maximises the contributions of CSOs to development."[3] The US government has supported this principle, and has also supported the development of enabling environments for CSOs in other countries through diplomatic efforts.

This contribution to the CIVICUS State of Civil Society Report addresses the current state of the US government's engagement with US-based CSOs working abroad – here referred to as US NGOs – examining whether changes in funding modalities and other shifts in the nature of the government-NGO relationship actually improve the enabling environment for US NGOs to maximise their contributions to development. It focuses on three specific aspects of the relationship: shifts in funding modalities; the inclusion of US NGOs in private sector partnerships; and the impact of the US military's expanding foreign assistance role on US NGOs.

Background

Since the Busan High Level Forum, the international aid community has been adapting to a new era of development cooperation: an era guided by the 2005 Paris Principles, but taken to a new level of inclusive, democratised development involving many new partners. Most US NGOs actively champion these reforms. The US government, including the US Agency for International Development (USAID), has committed to a reform agenda and new forms of partnership with development actors, promising more effective and sustainable strategies for overcoming poverty. However, this agenda risks being compromised or derailed by a climate of severe budget constraints and competing demands for scarce public resources. US NGOs, their partners and allies must be a key part of USAID's strategy for promoting effective global development.

US NGOs bring to the table a range of unique assets to development practice, which are relevant for today's rapidly evolving results-based, multi-stakeholder development ecosystem. US NGOs have accumulated knowledge, experience and social capital that can contribute significantly to reaching development goals that all stakeholders share. Among these assets are established partnerships with local communities (in most countries, more than 90 percent of US NGO staff are local nationals[4]); global reach – US NGOs work in every developing country, including areas where USAID has no presence; innovation and best practices based on research and experience in the field; and proven expertise in building the capacity of local CSOs.

As the Obama administration began, InterAction and its member US NGOs were increasingly concerned that the quality of the relationship between NGOs and USAID had eroded in recent years. This erosion flowed from disengagement and a fundamental misunderstanding by USAID of the assets that the NGO community brings to achieve better development results. One area of concern has been the inconsistency in the recent history of USAID's policy engagement with NGOs, although there is now movement toward a model of more sustained and collaborative partnership.

One negative example is the Advisory Committee on Voluntary Foreign Aid (ACVFA), a body that has existed since the end of the Second World War and currently is the principal interface and advisory body linking USAID to the NGO community: the Committee is rarely convened and when it does meet many of its recommendations have been disregarded. On the other hand, USAID and other relevant agencies engaged in thoughtful and detailed dialogue for more than a year with InterAction members and other NGO allies to prepare the US Government's position for the 4th High Level Forum on Aid Effectiveness in Busan. In late 2012, USAID leadership expressed a commitment to renewing the USAID-US NGO partnership, and US NGOs look forward to engaging in substantive discussions during 2013.

A second concern is closely related to this renewal. It focuses attention on how to shift away from USAID control of NGOs as 'implementers' of USAID programmes to a framework of partnership in the field. InterAction members report that USAID field missions often view all US NGOs as implementers to be tightly controlled rather than true partners with expertise and experience in their own right. This is reflected in increasingly prescriptive funding solicitations, mandates to insist on preferred NGO staffing structures and overly burdensome reporting requirements.[5] However, the leadership at USAID has been receptive to the concerns raised by US NGOs, and has engaged with InterAction members in a series of meetings to address these issues. To achieve durable change, the policy changes must be lived out in the field.

US government funding of US NGOs

Nearly 70% of InterAction members' combined revenue comes from private, non-governmental sources, with the percentage varying greatly by organisation. While USAID is the largest government funder of US NGOs, a total of 22 US government agencies now provide funding for development or humanitarian assistance. Among these other US government agencies providing significant funding are the Department of State, the Department of Health and Human Services and the Department of Labor. US NGOs must abide by Internal Revenue Service regulations governing the conduct of non-profit organisations (designated as 501 C 3 under the tax code) as well as a variety of US government regulations issued by the Office of Management and Budget.[6]

An important aspect of being a key partner for USAID in development is being certain that US NGOs retain their autonomy in this relationship. In early 2005, a group of US NGOs that included InterAction sued the US government to prevent the implementation of regulations that would have compelled NGOs receiving US government funding to adopt and espouse a government-sanctioned viewpoint as the NGO's views. This policy requirement extends beyond the scope of programmes funded by the government to even cover statements concerning privately funded programmes, speech and activities. Having prevailed against the regulation in the lower courts, InterAction and others will be arguing against the policy in the United States Supreme Court during 2013.

The principal US government funding modalities described below are placed along a continuum of those most readily accessible to CSOs to those least accessible. Virtually all awards of funding, irrespective of the modality, are made through competitive bidding processes in which the eligible countries and sectors are determined by USAID.

- A **grant** has the fewest requirements for an NGO, can only be awarded to a non-profit organisation and affords the greatest flexibility in carrying out projects. Such grants have become extremely rare. Currently, a small number of grants are awarded to both US and local NGOs through a Request for Application (RFA) process.[7]
- **Cooperative Agreements (CAs)** are given to NGOs to carry out programmes and projects designed by USAID, and NGOs have some limited latitude to adjust projects based on actual circumstances of implementation. Compared to grant funded projects, CAs give USAID more control, with USAID personnel overseeing the CAs in the field. Missions often play a much bigger role in tracking the implementation of the CA, requesting information, and overseeing activities.

- A **contract** buys services to carry out work of the government. Whereas grants and Cooperative Agreements have flexibility as to how the project can be implemented, a Request for Proposals (RFP) – USAID's method for requesting proposals that lead to contracts – asks organisations to carry out projects that are already designed with the expectation that they will be implemented as designed. Contracts are available to both profit and non-profit organisations. However, due to the sometimes-high cost of preparing a proposal, as well as the cost-reimbursement arrangement for paying recipients ex post for their expenditures in the project, many NGOs cannot afford to bid on contracts.

As noted above, in recent years, US NGOs have observed a shift to contract-based solicitations, which move US NGOs into the limited role of implementer (the original intent of a contract) and away from being a partner (original intent of a Cooperative Agreement). Appropriately rebalancing the USAID solicitation stream to increase grants and cooperative agreements would allow USAID to take better advantage of US NGOs' expertise and experience and would facilitate collaboration and partnership with CSOs envisioned in the Busan Partnership, including the implementation of ownership of programming priorities by developing country partners of US NGOs.

US NGOs and US engagement of the private sector

By contrast, the US government has created new modalities to take advantage of the private sector's contributions to development. In 2001, USAID rolled out the Global Development Alliance, a model where government and private sector actors identify development outcomes of common interest and each contribute resources and skill sets to achieve those outcomes.[8] Since then, USAID has engaged in over 1,000 private sector partnerships with over 3,000 partners and established major private sector initiatives such as the New Alliance for Food Security and Nutrition, announced by the US government at the May 2012 G8 summit. But if the US is to truly maximise the contributions of CSOs to development, it needs to engage US NGOs meaningfully in its public-private partnerships and major private sector initiatives. In previous public-private partnerships, NGOs have helped to ensure a focus on poverty reduction and positive development outcomes through employment, capacity strengthening and positive ripple effects for local small businesses.

An example of the failure to fully leverage the NGO community for this purpose is the New Alliance for Food Security and Nutrition. The White House describes the New Alliance as "a commitment by G8 nations, African countries and private sector partners to lift 50 million people out of poverty over the next 10 years through inclusive and sustained agricultural growth," but few details have been released. There will be US$3 billion worth of investments over ten years with work to begin in Ethiopia, Ghana and Tanzania, and eventually expand to other African countries.[9]

US NGOs were not meaningfully consulted in the design process, and since its release many US NGOs and other CSOs have raised serious questions about the New Alliance. For example, effective investment should focus on smallholder farmers, who account for over 70 percent of agricultural production and 75 percent of labour in Africa, and yet it is not clear to what extent smallholder farmers will actually benefit from the New Alliance.[10] In addition, the priority outcomes of the initiative fail to include gender equity, nutrition, environmental sustainability, and climate resilience, and it is unclear how private sector actors are held accountable to standards beyond financial commitments. Most importantly, the initiative has not held meaningful consultations with African civil society groups to ensure that investments align with the interests of smallholder agriculture and do not compromise host country-led food security initiatives. To increase the long-term effectiveness of this type of initiative, US NGOs need to be meaningfully involved in this and other public-private partnerships.

US NGOs and the military

As US corporate engagement in development has increased over the last decade, so has the role of the US Department of Defense (DoD). The DoD has greatly expanded

its share of US development assistance, growing its role in relief, development and reconstruction assistance. This trend has large implications for US NGOs, as it alters the enabling environment for US NGOs that are working in the same conflict- or disaster-affected areas. Greater dialogue and awareness of these implications is needed if US NGOs and the US military are to each effectively contribute to better long-term development.

The primary focus of military efforts is on security objectives that its humanitarian and development efforts presumably advance. The military in some circumstances can play an important humanitarian role, particularly where its logistical resources, air and marine transport capabilities and engineering services fill important gaps. Quick-impact projects and other force protection activities motivated by security objectives, however, often undermine humanitarian efforts, sustainable development projects and relationships built by NGOs. Well-intended projects may have negative consequences and are often unsustainable due to the military's short-term goals and quick turnover rate. Furthermore, relief activities by the military can also compromise the security of US NGO staff in or near conflict areas by blurring the lines between humanitarian and military personnel.

US NGOs take a different approach to relief and development than the military. US NGOs generally make a long-term commitment, acquire a deep understanding of local societies, employ largely local staff and design projects with community participation and cultural sensitivity to ensure sustainability. Instead of using weapons or armed guards for security, US NGOs rely on an 'acceptance' model that rests upon perceived impartiality and the trust of the communities in which they work. The presence of military personnel can significantly affect US NGOs' reputation, in turn affecting their ability to deliver services effectively.

Since 2004 InterAction members have been in a regular dialogue with senior officials of the DoD through a civil-military working group under the auspices of the United States Institute of Peace. The landmark achievement of this working group is the agreement on *Guidelines for Relations between US Armed Forces and Non-Governmental Humanitarian Organizations in Hostile or Potentially Hostile Environments*.[11] While the *Guidelines* represent a significant advance in mutual understanding at the leadership level, substantial efforts are still required to insert them in the US military's doctrine and training. Given that the US military's humanitarian operations significantly affect the enabling environment in which US NGOs operate, continued dialogue is critical going forward.

Conclusion

The US government plays a supportive and enabling role with regard to US-based international NGOs, and USAID and US NGOs have historically enjoyed a close strategic partnership. However, the US government must re-evaluate certain recent developments if it wants to truly maximise US NGOs' contributions to the development process and be true to its commitments at HLF4 in Busan. Three aspects of the relationship requiring attention are the changes in funding modalities used to engage US NGOs, the shifts in how US NGOs are engaged in public-private partnerships, and the growing role of the US military in humanitarian response. In each of these cases, US government policy-makers must consider the nature of US government engagements with US NGOs, and promote policies, regulations and dialogue that will enable true partnership, creating conditions for the government and civil society of the United States to most effectively contribute to development.

LINDSAY COATES

Executive Vice President
InterAction

Lindsay Coates serves as executive vice president for InterAction and also heads the Public Policy and Communications Team, where she works to realise the goals of InterAction and the community of 200 nongovernmental organisations that it represents. From 2004-2008, Lindsay was the COO at Population Action International, a research and advocacy institute. Prior to her work in the NGO world, Lindsay practiced civil rights law in various capacities, among them Chief of Staff for the U.S. Department of Education, Office for Civil Rights and Equal Employment Opportunity Attorney and Officer at the National Gallery of Art.\

What issue do you feel affected civil society the most in 2012?

In the years leading up to Busan in late 2011, CSOs developed the Istanbul Principles and organised a process to successfully influence the Busan outcomes document. Now CSOs, in their local contexts and globally, can hold our respective governments accountable for those commitments but must we must also hold ourselves accountable. CSOs are now "at the table" and must keep up the important work.

What do you feel can create a better environment for CSOs in 2013?

Governments and multilateral organisations that embrace the idea of CSOs as full and effective actors and partners need to hold governments that are oppressing and marginalising CSOs to account.

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1. InterAction is the national platform of US NGOs working in international development and humanitarian assistance, with 196 members working in every country in the world. In 2009, InterAction members' revenue totaled US$12 billion, US$8.3 billion of which came from private sources. InterAction members partner with hundreds of corporations and are supported by over 60,000 congregations of every major faith group. All InterAction members adhere to InterAction's Private Voluntary Organisation Standards.
2. http://www.oecd.org/dac aideffectiveness/49650173.pdf
3. Ibid
4. Based on estimates from InterAction member NGOs.
5. For more information, see InterAction's paper "A New Vision for the USAID-US NGO Relationship: Partnering for Effective Development," available at http://www.interaction.org/sites/default/files/InterAction%20-%20A%20New%20Vision%20for%20the%20USAID-NGO%20Relationship.pdf.
6. "ADS Chapter 303: Grants and Cooperative Agreements to Non-Governmental Organizations," available at http://transition.usaid.gov/policy/ads/300/303.pdf.
7. *Ibid*. This means that USAID publishes an RFA to which NGOs are invited to respond with their proposals. According to the ADS Chapter 303, grants or cooperative agreements are awarded "when the principal purpose of the transaction is to accomplish a public purpose of support or stimulation as authorized by the Foreign Assistance Act of 1961, as amended (FAA)" (p. 10).
8. USAID. "Partnering for Impact: PPPs and USAID's Global Development Alliance Approach." http://idea.usaid.gov/sites/default/files/attachments/PPPs_vs_GDAs.pdf.
9. White House Blog. "New Alliance for Food Security and Nutrition." 2012.
10. African Development Bank. "Smallholder agriculture in Africa's changing economy." 2009
11. The *Guidelines* are available online at http://www.usip.org/publications/guidelines-relations-between-us-armed-forces-and-nghos-hostile-or-potentially-hostile-envi..

To be or not to be:

the government, donor and CSO triangle in the Ugandan environment

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This article looks at the thorny trends in the political – donor–CSO relationship within the CSO operating environment. This chapter highlights some current difficult issues in these relationships. It gives a synopsis of several corruption incidents and challenging factors for CSOs in their relationship with government, and CSO perspectives on donor funding modalities.

Launching a civil society *Black Monday* campaign

Black Monday may remind many people of the 1987 collapse of the stock market, but for Ugandans today, every Monday is a Black Monday, a citizen's "social movement against escalating theft of public money without shame."[1] The Black Monday Movement, launched by civil society leaders in 2012, is an anti-corruption campaign encompassing several citizens' actions, including wearing black on Mondays to mourn large-scale corruption, distributing information and education materials on corruption to the public, and communicating with the state, alongside several other activities aimed at encouraging the public to shun corruption and corrupt officials.

CSOs in Uganda maintain that the abuse of public funds has reached insurmountable proportions over the years, criticising government for taking ineffective action and being lacking in political will, despite the existence of anti-corruption institutions and laws. In a Black Monday publication, civil society documents 24 incidents and scandals between 2000 and 2012 in which in excess of US$1 billion in public funds have been lost in government ministries, agencies and bodies.[2] The scandals include allegations of widespread theft of money, from primary education funds, school facility grants, health services, Global Fund money, funds to train soldiers, police payments, pensions, social security funds, the money for national identity cards, the private sector, Kampala City Council and several others. In a related document, the government's Auditor General's 2012 Value For Money (VFM) audit report[3] revealed a massive diversion of public funds by civil servants in the Office of the Prime Minister, meant for the Peace, Recovery and Development Programme for Northern Uganda. The Auditor General discovered embezzlement of funds, use of personal accounts for the implementation of activities, diversion of funds and lack of accountability for funds. The report reveals that over 50 billion Uganda Shillings (about US$20 million) was diverted and paid to civil servants, some through personal bank accounts, with no accountability, used by some for personal gain. The Office of the Prime Minister in Uganda is responsible for all government business, charged with ensuring that all government programmes and projects in all Ministries are implemented as planned. This report also revealed that the funds stolen were donor funds mostly from Denmark, Ireland, Norway and Sweden. The amount of funds pocketed in this case is almost negligible compared to the amount of public funds lost each year. For example, the World Bank estimates indicated that over US$500 million is lost each year in Uganda through corruption.[4]

Donors reacted together to the Auditor General's Report by withdrawing or suspending about US$300 million in aid to Uganda, among them Austria, Belgium, Germany, Ireland, Switzerland, Sweden, the United Kingdom and the European Union (EU). The Government of Uganda, facing a serious but non-life threatening scandal that dented an already ailing image, arrested and prosecuted the implicated officials, subsequently paying back some of the stolen money to some donors and vowing to recover and pay all of it back.

Civil society, at the risk of suffering the wrath of government, renewed their advocacy and took to the streets with the Black Monday Movement. On Monday 7 January 2013, civil society leaders distributed *Black Monday* newsletters during the busy Kampala morning traffic. This resulted in the arrest of the Country Manager of Action Aid International Uganda and an independent activist. Citizens, who need to be understood as the people most impacted on by corruption, are disillusioned

by the impunity of public officials. Some are apathetic, some are angry and others are watching how this will eventually play out.

Development partner/donor reactions

There is no doubt that the donors, now labelled as development partners (DPs), have been, at least financially, very strong allies and supporters of Uganda in different areas such as education, health and good governance. In the 2008/2009 financial year, loans and grants accounted for 30% of the government's budget through different funding modalities, among them budget support, project support and technical assistance.[5] Grants are mainly from bilateral partners. Uganda's external debt in 2012, however, stood at US$5.7 billion, mainly owed to multilateral donors, financial institutions, the Paris Club[6] and a few other individual countries.[7]

Over the past 10 years, despite stories of corruption and abuse of public funds, development partners have repeatedly signed agreements with generous support for the government. For example, in the 2011/2012 financial year, Uganda signed agreements on 27 new grant projects worth US$537.2 million. Four of the largest grants accounted for 48.1% of this total and include budget support from the UK government, worth US$121.9 million, Danish support for good governance at US$60.7 million, and two Norwegian grants worth US$110.5 million. Others include grants from Belgium, China, Ireland, Japan, Sweden and the EU, and from the Global Fund to Fight HIV/AIDS, Tuberculosis and Malaria, the International Development Association and UNOPS.

Other donors have given more in technical assistance (TA), for example Norway, which is the largest single contributor of TA, accounting for about 25% of all TA to Uganda. According to the Uganda government records, the OECD Development Assistance Committee (DAC) estimates that US$46 million has been allocated for TA to Uganda. A challenge is that this TA support is seldom demand-driven and seems to be imposed largely by the donor countries. According to the government's report, "Government continues to face challenges to capture all TA, as contracting of and management of majority of TA continues to be supply driven by Development Partners and does not sufficiently engage beneficiary MDAs [Ministries, Departments and Agencies]."[8]

Donors have over the years invested heavily in the Financial Management and Accountability Programme (FINMAP) and the justice, law and order sector, in order to strengthen the good governance and accountability of various Ugandan institutions. The United States, according to a Uganda country profile on anti-corruption,[9] signed in 2009 a Millennium Challenge Corporation (MCC) agreement worth US10.4 million aimed at reducing the levels of corruption in Uganda. The focus of this agreement, among other things, was also aimed at strengthening the role of civil society.[10] DANIDA since 2004 has also invested millions of US dollars in government anti-corruption programmes to help the relevant anti-corruption institutions to implement relevant legislation. Of particular interest has been the implementation of the leadership code, "imparting good governance in corruption prone government agencies handling public procurement, tax collection, the media and civil society organisations" and support of "ethics and integrity and respect of rule of law in the public sector."[11] Amidst recent media coverage and national attention on the findings of the Auditor General's report, donors cited excessive "corruption which has gone on for too long" as the reason for withdrawal of their funding. Facing economic challenges and austerity measures in donor countries, some countries such as Ireland, The Netherlands and the UK, among others, had in any case already cut back on development assistance to Uganda. With such challenges in donor countries, the increasing demand for 'value for money' in development

assistance by their parliaments and their public have provided justifiable grounds for reducing aid, and any corruption scandals of their tax payers' money exerts more pressure on them to announce suspension of assistance.

The corruption campaign and a changing domestic operating environment for civil society

So what is unique for civil society in the current context arising from this new spotlight on corruption and how is it affecting the triangle of donors, government and civil society, particularly the operating environment for civil society? The Ugandan government's policies and legislation historically have been pro-participation, inclusive of all stakeholders including CSOs and donors. In the past this attitude allowed some level of cooperation and strong input of CSOs into government processes, and cooperation with DPs through donor coordination mechanisms. This relationship, however, has changed over the last five years, with the government putting in place more stringent legislation (the NGO Act 2006) aimed at curbing and controlling CSO operations. While during these times the relationship between the government and DPs seemed to be stronger, and less so with CSOs, the present circumstances seem to be drawing DPs and CSOs closer together, while the government stance seems increasingly suspicious of both.

The almost knee-jerk reaction by donors and civil society to the media spotlight on the Auditor General's findings constituted an interesting development in the operating environment for civil society and donors, one that has not been seen over the years of repeated reporting on corruption in Uganda. The donors, the government, parliament and the civil society all offered reactions on behalf of the citizens, appalled at the continued impunity and abuse of public office. The action of the various actors seems to indicate agreement - that corruption has reached alarming proportions and its time to take action. One would think that this apparent unity of mind would improve the operating environment for CSOs, that donors would increase support to CSOs in this context, and that the government, which declared 'zero tolerance on corruption' would be appreciative of the help of CSOs to stamp out the vice of corruption.[12] But the evidence of recent events does not seem to confirm a more positive operating environment for CSOs having resulted.

The opportunity to stand up for what is right and protect citizens from the cancer of corruption could easily slip away from government, CSOs and the donors. This current public awareness would seem to be an opportunity for the government and donors to claim that the long years of investment in good governance and financial accountability in Uganda has begun to pay off, and to intensify collaboration with each other. Instead the stance of donors can be characterised as looking 'noble and appalled' by the extent of the corruption, while the government is evidently seeking to look tough and serious about capturing the culprits. CSOs seem to be the losers here: they stand on a slippery surface in a political and financing environment in which money seems to speak more than the rights of people to receive the development benefits due to them through government programmes.

As a demonstration of the difficult position that those in civil society have found themselves in, the police have intensified their hounding of Black Monday Movement activists. They blocked a ceremony that would have launched activities by the movement. Every Monday there are reports of arrest of activists for distribution of anti-corruption materials, dubbed by the police as subversive materials. This certainly cannot reflect a genuine desire to end corruption by all parties concerned. Key dilemmas here include when and how can CSOs become critically important to the government and to the interests of the donor community? Why would a state arrest a group of people who express support of the government's cause to fight corruption? Why would donors not take more serious action when civil society activists are being arrested for helping to further their cause of good governance and accountability and save the loss of their taxpayers' money?

The trends in the operating environment for CSOs in Uganda over the last five years shed light on some of the thorny issues of why CSOs and donors, CSOs and government, continue to be

strange bedfellows. One conclusion could be that CSOs are easily dispensable, especially because of their lack of autonomy from both the government and donors, characterised by CSOs' deep dependence on external donor financing, and the will of government to enforce or not enforce harsh NGO legislation. Many CSOs confess to a level of self-censorship with respect to the limits of their advocacy for fear of de-registration or refusal of registration by the licensing authorities, while donor funding entails limited autonomy and self-determination.

A rift in the relationship between the government and CSOs in the recent past in part arises at least in part from abuses of CSO platform by some political leaders to attack the government and settle personal and party scores. CSOs events and platforms are patronised by opposition politicians, creating suspicion about the motives of CSOs. CSOs have had discussions about the pros and cons of allowing partisan politics into the CSO agenda by politicising corruption issues. Some CSO leaders have argued that while fighting corruption is by nature a political process, their advocacy is premised on the need for good governance, irrespective of the government in power, while some leaders argue that good governance has to go hand in hand with regime change. This further creates a rift among CSOs and accentuates the rift between CSOs and the government.

The corruption campaign and challenges in a donor-enabling environment for Ugandan CSOs

A recent case study on engagement in policy processes by Ugandan CSOs, commissioned jointly by three donors (Austria, Denmark and Sweden)[13] documents some interesting findings on the influence of donor modalities of support to CSOs in policy engagement and offers some insights into CSO–donor relationships in Uganda, with comparisons to case studies for Bangladesh and Mozambique also commissioned as part of this evaluation). Predictably the study highlights high donor dependency, with about 95% of all funding for CSOs in Uganda coming from external sources. The report notes that this dependency provides for a "delicate relationship", where CSOs are reliant on donors' strategic priorities[14] and have less autonomy to pursue other goals. A review of some of these issues also sheds light on the nature of current donor engagement with CSOs in the anti-corruption campaign.

In a scenario of high dependency of CSOs on donors, a seemingly high priority for development partners is to use CSOs as their eyes and ears to monitor the implementation of the donor supported programmes of government. And many CSOs seem to have taken up this role as a justifiable and legitimate reason to change their orientation and make proposals in order to access these donor funds. The Joint Evaluation Report of the three donors notes that development partners "utilise CSOs in monitoring the implementation of their sector programmes," due to the growing concern of development partners about "lack of accountability and the Government of Uganda's seemingly reduced commitment to anti-corruption measures."

During the study, Ugandan CSOs, however, raised concerns about their lack of capacity and information to meet these donor expectations of monitoring government programmes. These programmes may be funded through complex modalities the results of which are difficult to track, such as through general budget support, joint donor support to sectors and other forms of budget support to government. Significant in the current context of corruption scandals, another challenge cited by CSOs was the almost total failure of state institutions to provide accountability mechanisms and solutions to end corruption. This has been true of the Inspectorate General of Government (IGG), the Office of the Auditor General and the Anti-corruption Commission, despite the large amounts of resources provided towards these by development partners.

Yet, despite acknowledging these weaknesses, development partners' funding modalities for CSOs have no corresponding history of supporting the institutional growth of CSOs. With very limited resources, CSOs are seemingly expected to struggle to catch up with and raise their voices on all the details of highly funded government

project implementation processes. And if CSOs are unable to catch up, the common stereotype of CSOs by both donors and government officials is that they are weak, inconsistent, divided and don't follow up on issues.

CSOs have been crippled by long years of little institutional support, short-term project support, constant changes in donor priorities, and a brain drain of professionals from CSOs. According to CSOs in the donors' study:

> "… DP strategies have constrained the majority of CSOs because of lack of core funding support and investment in institutional growth. [CSOs] argue that while DPs provide considerable resources to Government of Uganda (which already generates revenue and income from taxes, tariffs etc.), in comparison, they provide meagre resources to CSOs. According to one CSO, DPs would "rather pay a lot of money to hire consultants, rather than provide resources for recruitment of technically competent staff for the CSOs."
>
> "Furthermore, one CSO interviewed pointed out that DPs and INGOs [international non-governmental organisations] have made local CSOs a shopping ground for recruiting competent CSO Staff, give them lucrative jobs at the INGO/DP offices and pay them better. CSOs also said that DPs often criticise CSOs that they lacked capacity to analyse and engage in policy dialogue, and yet they did not want to support CSOs to hire competent staff and pay them well."[15]

The CSOs in the study were also concerned about the tendency of DPs to "bask in the reflected glory of successful CSOs." According to the CSOs, DPs tended to associate and fund successful CSOs even if the success of the CSOs is not attributable to them, in order for them to report good results to their countries. This tendency, according to some CSOs, has led to collapse of some of the highly funded CSOs after the funds are stopped or donor interests have changed.[16]

The capacity for many CSOs to follow exactly what they were set up to be, rather than pursue activities developed for the sake of funding, has become very slim, especially in an environment such as the one in Uganda where DPs and development assistance has become highly harmonised and more prescriptive.

With increased harmonisation, CSOs in the study raised concern about the "increased power of the DPs over the CSOs… because of the perceived influence" of joint funding modalities. The study pointed out that "it is unclear whether the harmonisation [through these modalities] will necessarily strengthen CSO power and autonomy or make them less empowered and dependant on DPs." The CSOs recommended that DPs make available funds that would support "innovative ideas of CSOs that may not fit in the set parameters for harmonised funds."[17]

Harmonisation is often based on pre-selected donor themes. Examples cited include emphasis on areas of "governance, rights and accountability, an area important in the current anti-corruption context."[18] A group of DPs in Uganda established the Democratic Governance Facility (DGF),[19] which is a major joint donor initiative to support CSOs with funding windows for 'deepening democracy', 'rights justice' and 'peace and voice and accountability'. The DGF's objectives include strengthening democratisation, protection of human rights, access to justice, peaceful co-existence and improved accountability.

It has taken a long time to gain official government recognition for this facility. Government and some politicians question the motives of DPs motives, and whether donors are genuine or aiming to further create a rift between citizens and the government, through CSOs. Although a dedicated funding facility for CSOs is a welcomed opportunity promising donor commitment to support CSOs, the proverb 'when two elephants fight the grass gets hurt' offers a warning. Facilities such as the DGF may raise suspicion among some government quarters and create tension

between the government and DPs, and in such circumstances, CSOs' 'disaster preparedness' to avoid getting squashed in an argument between the two does not seem to exist. CSOs also have reservations that too much streamlining by DPs will leave out many CSOs whose interests may not match DP interests and fear that thematic earmarking of funds can influence CSOs to be driven by the DPs' agenda.[20]

Nevertheless, the case study also notes that "well-functioning CSOs are becoming increasingly important to DPs in order to provide independent, qualified responses to the Government of Uganda by demanding good governance; receiving and monitoring government service delivery. " In this regard, the most vocal CSOs, often national-based or district networks and coalitions, have benefited from support by donors to monitor pro-poor government policies and programmes that promote voice and accountability. DPs have also supported some initiatives of networks and coalitions engaged in policy dialogue on various issues such as human rights, women's rights, HIV/AIDS, natural resources governance in oil, gas, forestry, land rights, children's rights and anti-corruption. Through policy engagement and advocacy, these CSOs, including through the media, have contributed to public outcry and debate on corruption and have been instrumental in demanding donors to rethink their funding modalities of government, particularly in the light of the wastage of public resources that corruption scandals have revealed.

At the same time, donor interest may be biased towards particular CSOs. For many CSOs, financial sustainability, or the lack of it, has been an area of concern, as well as for DPs. CSOs successes are often derailed by lack of continuous funding to consolidate their strategies. CSOs in the case study raised the challenges arising from DPs' tendencies in "shifting interests based on changes in their own countries and less on developments in Uganda", and the introduction of "new terms and conditions, and demands in already existing contracts" such as additional reporting requirements and "new value for money parameters."[21] Unlike international CSOs based in developed countries, many of which received financial support from their governments, CSOs in Uganda are not government funded. [22]

Conclusion

Funding is not the only premise on which the relationship between DPs and CSOs is built. CSOs and DPs have held meetings to discuss CSO perspectives on issues of concern. DPs also provide an important avenue for CSOs to put forward some advocacy points that could be raised during DPs' meetings with the government.

While the relationship between Ugandan CSOs, DPs and the government has not always been rosy, there are some positive signs of a growing and maturing CSO sector in the country. Even though the general perception may be that the CSOs in Uganda have been weakened and are controlled by current government legislation, the last 25 years have seen a growth of CSOs and civil society networks, mainly due to the relative open operating environment and invitation of CSOs into government spaces such as sectoral committees, governance committees of public institutions and government processes.[23] However, CSO engagement in more direct political spaces is still contested, especially spaces which challenge corruption issues from a governance and leadership perspective: hence the attacks on the Black Monday Movement.

Indeed, government and CSOs are probably better off to have not too close a relationship in order to ensure healthy checks and balances and accountability to citizens. In a context of weak political opposition, which has left a leadership vacuum for public accountability, a strong CSO community may prove a valuable temporary measure to ask the difficult questions. The four national CSOs leading the Black Monday Movement provide a good example of growing citizen demands for accountability and good governance and their wide networks and membership offer strategic outreach to the wider community.[24] Collectively, CSOs have been able to intensify public pressure and dialogue with the government and donors – to encourage the government to find lasting

solutions to the corruption issue and donors to rethink their funding modalities for government programmes.

The status of CSOs in Uganda today paints a picture of a future which is bright: more than ever, they are highly networked, as seen recently from civil society organisation around corruption and other social issues, and their growth into national and district based coalitions, umbrellas and networks. Current trends among CSOs in Uganda show what could be the beginning of a strong social movement in the country. Rather than shun long-term partnerships with CSOs, both DPs and the government would have more to gain if they worked jointly with CSOs to address national development challenges, and the profound impact of current levels of corruption on development opportunities.

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6. The Paris Club is an informal group of official creditors whose role is to find coordinated and sustainable solutions to the payment difficulties experienced by debtor countries. For further information please consult http://www.clubdeparis.org/en/.
7. Source: Government of Uganda, June 2012, Report on Loans, Grants and Guarantees for Financial Year 2011/2012, Ministry of Finance, Planning and Economic Development.
8. Ibid.
9. Uganda Country Profile: By Austrian Development Agency, Federal Ministry for Economic Cooperation and Development, Norwegian Ministry of Foreign Affairs, Danish Ministry of Foreign Affairs, Swedish Ministry of Foreign Cooperation etc. http://www.business-anti-corruption.com/.

10. Ibid.
11. Ibid.
12. Further information on the zero tolerance on corruption initiative is available at http://www.igg.go.ug/
13. Ministry of Foreign Affairs Denmark, November 2012. "Joint Evaluation Support to Civil Society Engagement in Policy Dialogue". Uganda Country Report. ITAD/COWI. www.evaluation.dk or www.danida-publikationer.dk. The author was part of the Ugandan research team for the case study..
14. ibid.
15. "Joint Evaluation Support to Civil Society Engagement in Policy Dialogue". Uganda Country Report, page 71
16. Ministry of Foreign Affairs Denmark, November 2012. "Joint Evaluation Support to Civil Society Engagement in Policy Dialogue". Uganda Country Report. ITAD/COWI. Page 72
17. Ibid.
18. Ibid.
19. DGF Partners include Denmark, Sweden, Austria, Netherlands, UK, Ireland, Norway, and the EU.
20. Ministry of Foreign Affairs Denmark, November 2012. "Joint Evaluation Support to Civil Society Engagement in Policy Dialogue." Uganda Country Report. ITAD/COWI.
21. Ibid.
22. Stakeholder Workshop for the Joint Evaluation On Support to Civil Society Engagement in Policy Dialogue, held on 28 February 2012 at the Protea Hotel, Kampala.
23. CSOs have for several years operated in government-invited spaces, which include working committees of several sectors, access to parliament committees and parliamentarians, government processes such as budget processes, membership to the Ethics and Integrity Fora, National Planning Authority, NEPAD initiative etc.
24. One of the four, the Anti-Corruption Coalition Uganda (ACCU) has a membership of over 60 CSOs, and religious leaders, academicians, and media practitioners at national, regional and district levels. The second CSO, the National NGO Forum brings together over 400 members spread throughout the country and including national and international CSOs, district based NGOs, networks and umbrellas, while the third, DENIVA, is an umbrella CSO that brings together over 150 indigenous organisations. The fourth leader of the Black Monday Movement, Action Aid International Uganda, has credibility among CSOs because of their history of support to local CSOs in Uganda and their bold participation in anti-corruption and good governance initiatives in Uganda. Anti Corruption Coalition Uganda Strategic Plan March 2008-December 2012, page 4. http://www.accu.or.ug

Civil Society at a Crossroads:

The impacts of political changes over the past two years

Brian Pratt, Executive Director, INTRAC [1]

Finally, after several years of denial by many in our sector there is a burgeoning recognition that indeed this is a time of major changes where the parameters of the past are being questioned, where global challenges have emerged that are key to our survival - whether originating in climate change or in global economic disruptions - and where the significance of these changes must be addressed to realise a sustainable future.

Major global and national issues have also emerged that challenge civil society both as organisations and as individual citizens. Urgent issues are often being ignored, or not given the priority they deserve by national and global decision-makers. Issues such as climate change and the consequent shocks in the forms of climate related emergencies, falling agricultural production in some areas, flooding, storms and other weather related crises are often subject to official denial by policy-makers. Meanwhile, greater inequality (in both rich and poor countries) is also discounted in the agendas of discussions on our future.[2] This is despite clear consequences of inequality, which at one level can lead to increased political instability and violence, and at the other end to entrenching poverty.

Despite the urgency to advance a new more sustainable agenda, civil society organisations (CSOs) face many attempts to inhibit citizens' voices and the roles for civil society in confronting the issues of the day, from the global to the local. The challenge therefore for civil society is to re-orientate its own priorities and rediscover its own key roles as a distinct actor for change, rather than get side-tracked or co-opted into being used as a bolster of various government policies. Civil society must re-adapt to address the global challenges facing all peoples on the planet.

It is important to realise that rapid growth in many countries has had positive effects for many social and economic groups. Where the state has been able to invest in social development, the result has been reduced mortality and morbidity, an improving education system and better jobs for people. And not all economic growth is destined to lead to greater inequalities. As the example of Brazil has shown, it is possible to move from being one of the most unequal societies towards making consistent improvements in the distribution of new wealth to marginalised groups.

Meanwhile new forms of civil society are emerging, alongside new movements, and in some countries, there are increasing interest in 'second generation' issues. The Civil society at a Crossroads international research programme highlighted movements arising from students' protests (Chile), abortion campaigning (Uruguay), campaigns for lesbian and gay partnerships (Argentina), and commuter movements (Indonesia).[3] These movements illustrate the importance of social groups making broad alliances in favour of generic issues significant to society. For example, the anti-corruption movement in India can be seen to have been successful precisely because it cut across traditional divisive lines of caste, class, ethnicity and religion. People across these lines realised that corruption affects everyone in society, from the poorest peasant who cannot access a government employment scheme, to a middle class family expected to pay a bribe to get their daughter into college, to the large company where corruption adds unacceptable costs to their transactions. These examples demonstrate the growth of significant civil society actions moving from the global to the micro, and from transnational campaigns to local action around local issues.

The polarisation of societies as a consequence of poor governance, increasing inequality, recession, and the abuse of power, both by both companies and politicians is leading to a greater awareness that CSOs and citizen action are required to counteract these trends. Such movements are not just characteristic of developing countries: the democratic deficit in developed democracies is also leading to new forms of action from civil society groups, including active protests, such as Occupy, and mass protests through electronic media, such as those led by Avaaz, among others.[4]

In some societies there is a reaction against the constraints on national protests and action, in which people have focused more on local level action, as is the case with Greece, where protest has moved from high profile public actions to the formation of popular-based local councils.[5] But in other contexts, including Bahrain, Egypt and Syria, despite very active movements, citizens are finding their voices overruled by powerful elites. This suppression of legitimate civil society voices leads to further conflict and insecurity. Governments in such countries are failing to understand that negotiation and compromise, rather than continued repression, might produce better longer-term solutions.

While civil society may be healthy in many parts of the world, the tendency of governments to suppress it continues. A challenge for increasing numbers of CSOs, which cuts across countries and thematic issues, is the practice by some governments to block foreign funding for human rights groups and other CSOs, notably recently in Ethiopia and Russia. The issue here is not only how to support such organisations, but how to call the bluff of these governments by showing that there is sufficient domestic support for human rights by mobilising local resources to replace foreign funding, however difficult this may be in poor countries. Doing so would send a real signal of support for human rights work.

One of the main crossroads being faced by many CSOs, and especially NGOs, is the shrinking, sometimes to the point of withdrawal, of aid by donors, both government and CSOs, from many countries. The attainment by developing countries that traditionally receive aid of official middle income status obliges some donors to cut their assistance, as by law they are meant to only support development programmes in low income countries.[6] Organisations that were dependent on external funding are now faced with the tensions and challenges of identifying new forms of resourcing for their work.[7] Although growth can produce some positive results for people, a change of a country's status may mean that it is a good time to reconsider whether the types of work CSOs have been undertaking for many years in these countries are as necessary and appropriate as they once were. The issue is therefore not just a question of resources, but also one that may challenge the very roles of organisations that were set up and driven by a specific externally-funded aid agenda.

That probably more poor people live in middle-income countries[8] is in itself a challenge as it raises the issue of how we deal with severe or growing inequalities within these countries. It may mean that that CSOs focusing on service delivery, often as sub-contractors to the state or external donors, have to re-orientate themselves to address local political constraints. It also suggests that the traditional response of direct measures for poverty reduction may not be adequate.

More critically, the prospect of unaided CSOs raises the question of resources, particularly in more controversial areas dealing with minorities, social inequality, unfair or unjust government policies, human rights violations and corruption. It seems clear that certain types of programmes such as microcredit and some forms of welfare will always attract government funding or support from philanthropists. But the real challenge in many countries is to build a middle class constituency for transformative change, particularly in countries that have little philanthropic experience among the general populace. For some CSOs this change from being aided to unaided is leading to organisational closure, and for others a new focus and reflection on roles. By default, these debates are also now starting to be felt within the larger INGOs, who are simultaneously also withdrawing from some parts of the world, particularly in Latin America, but are still seeking a growth in their international brands.

Outstanding challenges in the political environment for CSOs

There seems to be several major challenges in the political sphere which will be important for civil society. Some of these include:

Weakness of international governance: The slowness in achieving any binding agreements regarding climate change epitomises the weakness of the systems and institutions of international governance. At one level, global institutions are overstretched (for example, in deploying peace-keeping forces around the globe), and at another level, the UN system needs to review its roles, focus and priorities. Key questions here include: are the large numbers of development groups or specialised agencies as necessary as they once were? With both bilateral and CSO donors leaving many countries, should the UN be considering its own roles in these countries more acutely? Perhaps re-focussing UN priorities and action around governance at the international level and working in areas of comparative advantages for multilateral organisations (e.g. influence on governments, certain forms of technical expertise, working in the poorest areas) makes more sense for UN development agencies, rather than trying to be all things to all people and countries in terms of the services and institutions on offer?

There is clearly an urgent need for a debate on the continued weakening of the UN system, which is also overly dependent on aid-related agendas, rather than its core business of global governance.

Post-revolutionary societies: Two steps forwards, and one backwards?

The crossroads reached by civil society at which decisions on which road to take for the future is never as strongly felt as in those societies that have gone through what they hoped would be a major positive political transformation. For example, in South Africa, many people have been disheartened by the deeply entrenched issues besetting the country (corruption, inequality and poverty, police brutality) and despite many advances, there is a continuing frustration that years after the end of apartheid there are still so many social issues to overcome in a country that otherwise has enjoyed significant economic growth. Meanwhile, over the past two years, the revolution in Egypt has stumbled from crisis to crisis. There are other examples whereby governments have turned against the very people who put them in power. It is an essential role for civil society to counteract this tendency by maintaining and strengthening its capacities for holding the state to account to its citizens. Unfortunately there is a sad phenomenon that we in civil society have to recognise: what the English call moving from being a poacher to being a gamekeeper; In other words, people who led the revolutions from a civil society base, move into government, and then turn and repress civil society.

Professionalism and volunteerism: closing the gap

For CSOs and activists the gap between professionalism and volunteerism is a new challenge. Recent reports from CIVICUS[9] and from the Crossroads Initiative point to the need to improve relationships between organised CSOs, such as, but not only, NGOs, and the newly emerging civil society movements (Occupy, Indian anti-corruption, protests in Greece). There is also the gap has also grown between the unaided and aided parts of civil society in some countries, as discussed above. Elsewhere a gap can be observed between bureaucratic, risk averse, sometimes co-opted organisations, and newer activist-based groups, the latter taking as they see it a more profound view of the structural causes of social exclusion and poverty. There is also an urgency to understand a new generation of issues, and ways of coping with them by older organisations that are perhaps in denial about the changes confronting them. INTRAC has interviewed organisations that are clearly failing to see that unless they change and adapt to new circumstances their future may be of limited duration. Meanwhile, it is important to assist newer CSOs in their attempts to access power and the means of dissemination, rather than obstruct them through the use of the trappings of professionalism as a way of limiting access for new entrants.

The unchallenged issue

While political changes buffet civil society in different directions, a common challenge for civil society everywhere is how to engage with the debate over the nature of the global economy. Since

the dissolution of the Warsaw Pact, it has been argued that there is no coherent alternative to neo-capitalist orthodoxy. One does not have to be fully anti-capitalist (although many are) to see that there is a need for more debate about the future of our economies. There are of course alternative discourses from environmentalists concerning the unsustainability of the current economic model, which seems predicated on perpetual growth. The absence of a coherent voice or discourse on alternatives in the current economic situation raises major questions on the part of civil society groups, including: What has happened to the anti-capitalists? Why have the banking and investment industries not received more exposure for their role in the global economic crisis? Why are the victims cowed and the perpetrators strengthened? Where is the accountability? Why is it that many of the economic controls developed over the past decades seemed to have given way to a new form of capitalist thuggery, such as the oligopoly asset stripping old socialist states, the concentration of media ownership, or the many instances of financial firms cheating not only the average citizen but even their own shareholders?

It remains unclear as to why first growth and then major recession have both resulted in increased inequality. Is it, as some would claim, that inequality has more to do with the nature of the global economy and the ability to move capital and production around the globe to reduce labour costs and taxation? In so doing, labour unions and governments alike have been undermined and held ransom to transnational corporate power. Meanwhile, so much civil society activity, especially from NGOs, has focused on conditions affecting the rural poor. But how can civil society rise to the challenge as to how to engage with the increasing numbers of the world's people, and soon to be the majority, which live in cities?[10] The problems faced by urban poor and excluded groups are not always responsive to measures that were developed to address the rural experience.

A further issue is the increasing focus of civil society on a rights-based approach aimed at holding governments accountable for an appropriate action or policy change. While this makes sense to a certain point, in many countries this approach may fail to appreciate that the provision of services such as health and education is privately supplied, and indeed the proportion is growing in countries such as India and others, but remains unregulated. CSOs need to consider how they can engage with the privatisation of service provision and private providers.

The legacy of the Arab Spring?

In many ways the longer-term legacy of the Arab Spring is hard to discern. Whereas recent events have shown that despite decades of authoritarian rule, governments cannot suppress spontaneous civic action, it remains unclear whether all of the movements' actions will result in positive outcomes, as some regimes and their associated elites can continue in power despite significant opposition to them. Some of the euphoria has been dampened by unrealistic expectations and the failure to make real progress. Progress is also affected when new governments quickly replace the old regime, but are unprepared for power. The years of repression and the lack of experience among members of opposition groups create limitations as they take power. Local civil society itself is often affected as it tries to re-group and relate to a new regime, although for some CSOs they are at least able to function, where previously little space existed for them.

Limitations on Chinese civil society

While the Chinese economy still grows[11], along with its global power, domestically there is still little space for civil society. Economic liberalism has not been followed by political freedoms and the Communist Party still closely controls civil society. There is improved space for civil society to question local government but not to question larger political policies, including China's international policies, such as Chinese corporations investing in Africa. The model of economic growth with continued political control looks attractive to many governments in parts of Asia and Africa. The

lack of conditionality on Chinese investments is also welcomed by recipient countries tired of what they perceive as Western meddling in their national affairs.[12]

A CONCLUSION

It will become increasingly difficult for civil society to cope with rapidly changing political and economic environments. It is essential, however, that civil society step up to address these new challenges. In doing so, CSOs must be fully aware of the challenges arising from very dynamic global changes in balances of power, and not ignore many of the positives, alongside the negative challenges, at both the international level and within countries. These are issues for all states, and not least in the developed world where business has successfully hollowed out both the state and civil society in order to pursue profit, even sometimes at the cost of destroying society. Free marketeers have become adept at using the language of rights to protect privilege and elites against the interests of the social excluded. They have done so by defining the free market and small government in terms of protecting citizens against what they regard as overly powerful states, and its infringement on individual rights protecting accumulation.

Many in civil society have been wrong-footed and have lost the vision of their own role in this debate. It has not always been clear what civil society should be safeguarding: the provision of services, or economic, political and civil rights? There is a need for a renewed debate over the roles and priorities of civil society in many parts of the world, which should reassess relationships with both the State and civil society membership and constituencies. Civil society has recently witnessed the danger of an overreliance on state funding, both domestically and internationally in the form of international aid. Conversely, there is a vibrancy of spontaneous citizen actions in all corners of the globe regardless of poor governance, even repression and sometimes a lack of leadership within civil society.

To improve the space for civil society requires some of the obvious reforms, such as a legal and regulatory basis for civil society and less repressive official policies. Underlying these enabling conditions however is a need to re-state the intrinsic value of civil society in generating a healthy society and political structure by creating the basis for social democracy, defending citizens, and ensuring the state is accountable.[13] Civil society can itself encourage this through its own actions, including making alliances across classes and sectors, providing alternative policies, developing strong constituencies for change and building on many of the challenges described above as they arise, and also, where appropriate, getting donors to recognise the value of civil society in all its functions, rather than just as convenient service delivery organisations.

BRIAN PRATT

INTRAC

Brian has worked in development since 1973, initially at the University of Cambridge and in Peru on the Political Economy of Peru. Brian was also a Field Director for Oxfam in the Andean Countries (1977-82), before returning to the UK to develop Oxfam programmes and Departments of Research, Evaluation, Development Policy and Information systems (1982-90). During this period he wrote the Oxfam Field Director's Handbook, was the founding editor of the Development in Practice journal and the Development Guidelines series of seven books. Brian has been Editor-in-Chief of Development in Practice since July 2010.

Brian has worked in many countries as a consultant and researcher for NGOs, and multi- and bilateral agencies. The primary focus of Brian's publications and consultancies is on strategic policy issues for NGOs and Monitoring and Evaluation (M&E).

Brian completed his PhD at Cambridge University in 1980, after he graduated from University of Birmingham (B.Sc, Sc.) in 1972.

1. For further information on the Civil Society at a Crossroads go to www.pria.org or www.intrac.org for details of a collective international effort of reflection and analysis based on 20 plus cases from 16 countries. Also thanks to my INTRAC colleagues John Beauclerk and Rod MacLeod for extra insights.
2. For example then UN High level forum on post 2015 discussions in the UK and India made it clear that such issues are not to be included in their work.
3. While a generation ago, civil society movements in Argentina, Chile, Indonesia and Uruguay were fighting dictatorships and in other countries in the global South, civil society movements were fighting extreme poverty, these case studies illustrate that civil society movements have expanded their areas of focus
4. See www.Avaaz.org, or www.38degrees.org.uk as examples.
5. "Treading New Ground: A Changing Moment for Citizen Action in Greece" by Maro Pantazidou, Independent Researcher, in www.pria.org/crossraods.
6. The definition of which country is "graduating" is contested. Furthermore as noted below many, if not more, poor people live in countries classified as middle income. Some donors continue to fund in such countries anyway because it fits their own national interests or past colonial ties.
7. See examples of aid withdrawal by official and NGO donors in: http://www.intrac.org/data/files/Aid_withdrawal_workshop_conclusions_18_Dec_2012_FINAL.pdf
8. Andy Sumner, Global poverty and the bottom billion. What if three quarters of the world's poor live in middle-income countries? IDS working paper, September 2010.
9. Bridging the Gaps, CIVICUS Civil Society Index project summary report, CIVICUS 2011. The text is available at https://civicus.org/news-and-resources/reports-and-publications/588.
10. World Bank data shows that already 52% of the global population live in cities. See: http://data.worldbank.org/topic/urban-development
11. The Chinese GDP growth rate in 2012 was 7.7%. Further information is available at http://www.tradingeconomics.com/china/gdp-growth-annual.
12. Max Rebol, Public perceptions and reactions: Gauging African views of China in Africa, (2010) 5 *African Journal of Agricultural Research* 25
13. See "Enabling Space for Civil Society" ONTRAC 52, September 2012 accessible at http://www.intrac.org/resources.php?action=resource&id=751.

Enabling Human Rights Defenders

Andrea Rocca, Front Line Defenders

The landmark adoption of the UN Declaration on Human Rights Defenders in 1998[1] gave formal international recognition to the essential role played by human rights defenders (HRDs). The clear assertion that there is a right to defend human rights was a recognition of the challenges, risks and repression that HRDs face globally, and their need for protection.

HRDs are key agents of change. As civil society actors, they contribute to the defence of vulnerable groups, to justice, and to the accountability of those in power. They are integral part of the checks and balances that are an essential element of democratic societies. By documenting and denouncing abuses, exposing corruption, pushing for reforms, and ultimately by defending the rights of others, they contribute to building a society where all voices are heard.

The situation of HRDs in 2012 was, in many ways, not different from that in previous years: globally violations against HRDs continued unabated. The situation did not improve in Africa, the Americas and Asia, and deteriorated in countries in Europe and Central Asia. In the Middle East and North Africa, HRDs were affected by the instability and uncertainty linked to political transitions and by government reactions to continuing protests.

Regional trends

In Africa, Front Line Defenders received reports of death threats, physical attacks, arbitrary detention, abductions, and judicial or other forms of harassment. Many governments increased repression against HRDs, in particular through arbitrary actions of the police and by introducing or maintaining legislation that substantially restricted their work. In countries affected by armed conflict, armed groups were also partly responsible for the targeting of HRDs. No significant progress was recorded in the search for truth and justice in relation to the killings of prominent African HRDs that occurred in recent years. Although the cases of those suspected of involvement in the killing of Floribert Chebeya (Democratic Republic of the Congo) in 2010 and of Ernest Manirumva (Burundi) in 2009 were both heard on appeal, there was no hope that the proceedings would in the end deliver justice: calls to investigate senior figures within both countries' security services, who may have been involved in the killings, continued to be ignored.

In Latin America, the use of violence against HRDs continued to be the most dramatic trend: Front Line Defenders reported on the killing of ten HRDs and the attempted killing of a number of others. For journalists, trade unionists, environmental and land rights defenders the year has shown little respite. Indigenous peoples' rights defenders, women's rights defenders and LGBTI (lesbian, gay, bisexual, transgender and intersex people and communities) rights defenders were amongst those most vulnerable. Despite reporting on multiple cases of disappearances, threats and intimidation in Argentina, Brazil, Colombia, Costa Rica, Cuba, Ecuador, El Salvador, Guatemala, Honduras, Mexico, Peru, and Venezuela, impunity remained strikingly high. Governments of these countries continued to fail to provide adequate protection to those who work to defend human rights.

A positive development in the region was the adoption by the Mexican parliament in April 2012 of a law establishing a protection mechanism for HRDs and journalists, which, if implemented in an effective way, may help significantly in ensuring the safety of HRDs at risk. The law provides the necessary legal framework for cooperation between different relevant government bodies, and provides for the participation of CSOs in its implementation, including input on risk assessment and decision-making. It also sanctions officials who do not implement the measures decided by the mechanism, and obliges federal authorities to intervene should state authorities fail to ensure effective protection. However, at the time of writing, eights months after the adoption of the law, the government has yet to adopt the regulations and protocols required to make the mechanism operational.

Front Line Defenders documented an increasing number of HRDs working on economic, social and cultural (ESC) rights being specifically targeted for their work in Asia – especially in Cambodia, India, Indonesia, Laos, Pakistan, and the Philippines. Frontline Defenders believes the number of HRDs killed in the region for their work on ESC rights increased in 2012. In a number of countries, HRDs continued to be branded as enemies of the state or as working for foreign interests. Sri Lankan HRDs suffered reprisals for engaging with UN human rights bodies: in March, four prominent HRDs faced verbal threats by high level officials after their participation in the UN Human Rights Council, where they had been lobbying to expose human rights violations. HRDs sending information abroad about the human rights situation in their country were also targeted in China. Fundamentalism has affected HRDs in Malaysia, Indonesia, and Pakistan, where clerics made repeated verbal threats against women HRDs and CSOs working on women's rights. A number of civil society events organised ahead of Association of Southeast Asian Nations (ASEAN) meetings were disrupted in February and November.

The situation in countries of Eastern Europe and Central Asia also deteriorated in 2012. Governments seemed increasingly to fall back on the rhetoric that human rights are a vehicle for Western interests to depict HRDs as serving foreign powers, accompanied by the adoption of legislation seeking to narrow the space for civil society. HRDs working on environmental rights and opposing strong economic interests, and those working on the rights of LGBTI people and of minority groups faced intimidation and attacks in a majority of countries in the region. The use of tax regulations to target HRDs remains a common practice, particularly in Belarus, where HRDs are summoned for questioning by tax inspectors or are requested to submit tax documents in the context of investigations reportedly opened at the initiative of security officials.

In the Middle East and North Africa, 2012 confirmed what had started to emerge at the end of the previous year: the Arab Spring gave hope to millions of people in virtually every country of the region, but to date it has only brought limited real change. HRDs in Egypt continued to struggle against harassment and legislative restrictions. In countries such as Algeria and Bahrain, where mass protests failed to bring regime changes or reforms, HRDs have been arrested and sentenced. The targeting of those using the internet was particularly strong in Gulf countries, where HRDs rely extensively on online platforms since they have extremely limited access to broadcast and print media. Websites deemed sensitive or controversial, including news and human rights websites used by HRDs, have been blocked. Several HRDs also have had their personal pages on social networking sites hacked or blocked. In Oman, Saudi Arabia and the United Arab Emirates (UAE), HRDs and bloggers were convicted and sentenced as a result of comments and information posted online.

Killings

Alarmingly, HRDs continued to be killed across all regions. Front Line Defenders reported 24 killings of HRDs in 2012 in a mix of countries including Brazil, Burundi, Cambodia, Colombia, Guatemala, Honduras, India, Mexico, the Philippines, Somalia, South Africa, Tanzania, Thailand and Ukraine.

In South Africa, a LGBTI rights defender was killed in June 2012. He was a member and volunteer of LEGBO, an advocacy group based in Northern Cape, which provides support and training to rural LGBTI peoples and groups who face stigma and harassment. No arrests have been made in connection with the killing. At least 18 journalists were killed in Somalia. Most of these attacks were carried out by Al-Shabaab militants in disapproval of stories produced by the journalists, which in many cases highlighted human rights violations or gave voice to suppressed communities.

In Latin America, 10 HRDs lost their lives for denouncing corruption, exposing abuses by police, working on land rights, providing legal assistance and reporting on drug cartels and links between organised crime and corrupt government officials.

In Asia, the number of killings of HRDs increased in 2012, with 10 HRDs working on indigenous rights and land, the environment and corruption murdered. All these killings remained unpunished,

and in some cases the authorities failed to even open an investigation.

Physical attacks

HRDs were targets of assassination attempts in Guatemala, Honduras and Venezuela. Other physical attacks were reported in 2012 in Azerbaijan, Burundi, Chad, Chile, Colombia, Cuba, Democratic Republic of Congo (DRC), El Salvador, Honduras, India, Kazakhstan, Kenya, Laos, Maldives, Mexico, Nigeria, Pakistan, Palestine, the Russian Federation, Somalia, South Sudan, Sri Lanka, Ukraine, UAE, Uzbekistan, Venezuela and Vietnam. Those who survive assassination attempts often face physical and psychological trauma not just from the attack itself, but also from the impunity enjoyed by the aggressors.

In the Democratic Republic of the Congo (DRC), HRDs based in the Eastern region have been the most vulnerable. An increasing number of women HRDs were physically assaulted, some of them raped, while working in remote villages. The situation worsened even further with the advancement of the rebel movement M23, which captured the city of Goma in late 2012.

HRDs in North Caucasus continue to be particularity vulnerable to attacks because of the almost total impunity enjoyed by perpetrators of abuses. Those responsible for the killing of HRDs Natalya Estemirova and Zarema Sadulayeva in 2009 have not been brought to justice. Numerous threats and attacks on HRDs go unreported due to fears that doing otherwise would further expose them and their families.

In Venezuela, Victor Martínez survived an assassination attempt outside his home, in the same place that his son was gunned down two years previously.

Protests

Across the globe, governments deploy security forces to disrupt peaceful demonstrations and arrest HRDs involved in protest movements. In 2012 Front Line Defenders worked on cases from Algeria, Azerbaijan, Bahrain, Belarus, Cameroon, Cambodia, India, Kazakhstan, Kuwait, Oman, the Russian Federation, Saudi Arabia, Sudan, Swaziland, Tanzania, Ukraine, UAE, Uzbekistan, Vietnam and Zimbabwe.

In Swaziland, in April 2012, police forcibly disrupted events organised by the Trade Union Congress of Swaziland and other civil society groups to commemorate the 1973 ban on political parties as they called for democratic reforms. Fifteen trade union members were arrested. In a wave of peaceful demonstrations that swept Sudan from June to August 2012, security forces arrested and detained several hundred protesters, including many HRDs and other members of civil society. Some of those detained were ill treated and some tortured, and a number of women HRDs were reportedly subjected to sexual harassment.

In Kazakhstan, police violence, deployed against workers on strike in late 2011, which resulted in 14 protesters being killed and thousands injured, continued to affect trade unionists and leaders of the labour movement in 2012. A number of HRDs were arrested in the aftermath of those events. They were sentenced after trials that were marred by serious irregularities and reports of torture in detention and during investigations. Repeated requests to open an investigation into allegations of torture against HRDs have been rejected. Journalists who reported on the protests and HRDs who campaigned for an independent inquiry and fair trials were submitted to defamation campaigns, intimidation and physical attacks.

Popular mobilisations in Algeria, Bahrain, Kuwait, Oman, Saudi Arabia, Syria, UAE and post-Mubarak Egypt were also met with violent repression and arbitrary arrest. In Saudi Arabia, public gatherings remained banned and police used excessive force to disperse protests. In Bahrain, as protests continued throughout the year, the authorities eventually issued a ban in October. Following suit,

the same month, the Ministry of Interior banned protests in Kuwait. In Morocco, the authorities continued to deploy violence against peaceful protesters and HRDs in the Western Sahara cities of Dakhla, Laayoune and Smara.

Legislation

During 2012, as in recent years, governments adopted legislation that has increasingly sought to restrict space for civil society. Legislation affecting HRDs was under consideration or was passed in 2012 in countries such as Algeria, Azerbaijan, Burundi, China, Egypt, Iraq, Israel, Lithuania, Moldova, the Russian Federation and Ukraine.

Legislative initiatives in the Russian Federation have been very significant, with repercussions experienced throughout the region. Restrictive amendments were made in 2012 to the Law on Public Rallies and the Administrative Code, introducing harsher penalties and imposing new restrictions on public demonstrations. Criminal libel, previously withdrawn, was re-introduced. A law limiting freedom of information on the internet was adopted in July 2012. The definition of treason was broadened to include "financial, technical, advisory or other assistance to a foreign state or international organisation (...) directed at harming Russia's security". These legal restrictions were accompanied by NGO legislation that obliged all groups that receive foreign funding and engage in very broadly defined 'political activities' to register as 'foreign agents'.

Initiatives banning 'propaganda of homosexuality' were considered or passed in Lithuania, Moldova, the Russian Federation and Ukraine. While taking different forms, from national and regional laws to local regulations or administrative acts, they affected the space for the legitimate work of LGBTI rights defenders. In Uganda, the infamous Anti-Homosexuality Bill was revived again in December 2012.

In Egypt, there were proposals to make more prohibitive the already restrictive 2011 law no. 34, which includes prison sentences and high fines for peaceful protests and strikes. The latest draft of a new NGO bill was presented in October 2012 and remained pending at the year's end; it eliminates some of the existing restrictions on local NGOs, but maintains prior government approval for foreign funding as well as heavy criminal sanctions for violations of the law, and requires foreign NGOs to obtain a permit.

In Iraq, draft legislation limiting freedom of expression and peaceful assembly remained pending in 2012. Also pending at the time of writing is an 'Information Crimes' bill, which may be used to target bloggers and critical voices. If put into law, it would allow the authorities to prosecute internet users on ill-defined grounds of inter alia undermining economic or political interests of the country – a crime which carries a life sentence.

Judicial harassment

The use of the legal system against HRDs also remains widespread across all regions. Cases of judicial harassment in 2012 were reported in nearly 40 countries – Algeria, Azerbaijan, Bahrain, Belarus, Burundi, Cambodia, Cameroon, Chad, China, Colombia, Cyprus, Djibouti, Ethiopia, Guatemala, Hungary, India, Iran, Kazakhstan, Kenya, Kyrgyzstan, Mauritania, Mexico, Moldova, Morocco, Oman, Peru, the Philippines, the Russian Federation, Saudi Arabia, Sri Lanka, Sudan, Syria, Thailand, The Gambia, Turkey, UAE, Uzbekistan, Vietnam, and Zimbabwe.

In Mexico, Peru and Colombia, false charges of murder or deploying violence were used to discredit the roles and work of selected HRDs or their organisations, and were accompanied by public smear campaigns. An extremely lengthy 18-year prison sentence on fabricated charges of conspiracy to commit a crime and aggravated murder was imposed in December in Colombia on David Rabelo Crespo, who had remained in detention since his arrest in 2010.

In China, 'inciting subversion of state power' remained a common charge wielded against HRDs, writers and poets. Charges of fraud were also brought against HRDs to damage their reputation within their communities. House arrest, travel bans and extrajudicial detentions continue to be used, especially during times of heightened sensitivities, including the November 2012 changeover of leadership. In Thailand, 10 prominent HRDs stood trial for leading a peaceful demonstration against the military appointed National Legislative Assembly and face up to 20 years imprisonment if found guilty. The trial started in February 2012 and remained pending at the year's end.

In Ethiopia, a court sentenced Eskinder Nega, a prominent HRD, journalist and blogger to 18 years of imprisonment in July. He was found guilty of "conspiring with rebels" apparently for having written a series of articles on the Arab Spring prior to his arrest in 2011. In Kenya, Phylis Omido, a community organiser and HRD was put on trial as a result of her advocacy work on lead poisoning. She was accused of incitement to violence and unlawful assembly after staging a peaceful demonstration against a local lead processing plant accused of emitting fumes that contain lead.

Charges of hooliganism, fraud, or terrorism were used in 2012 against HRDs in Azerbaijan, Turkey and Uzbekistan. In Azerbaijan, several HRDs were sentenced to long prison terms following trials marred by irregularities, and several others remained in pre-trial detention. HRDs and journalists working on forced evictions also faced judicial harassment, attacks and intimidation. In Turkey, hundreds of HRDs, trade unionists, lawyers, intellectuals, academics and journalists faced spurious terrorism-related charges. The trials were based on legitimate expression of views or peaceful activities in relation to Kurdish matters, including public statements, participation in a protest, or the provision of legal assistance. At the end of 2012, the trade union confederation, KESK, had nearly 70 members in detention and the Human Rights Association (IHD) 15 of its executives.

In Oman, an Information Technology Law has been used to restrict the work of HRDs, together with provisions in the penal code and the press and publications law. In UAE, following criticism of the government expressed online, several political reformists and HRDs were deprived of their nationality in January, and Ahmed Abd Al-Khaliq, a prominent blogger and online media activist, was deported in July 2012, after two months in detention. Several HRDs are amongst dozens of individuals held in detention without charges in Oman for their peaceful calls for political reforms.

An enabling environment for human rights defenders

While 2012 witnessed continued attacks and repression of the efforts of HRDs, a number of measures on the part of governments and CSOs could be employed to strengthen their essential work.

Most urgent is the need to ensure protection against attacks. In too many countries around the world HRDs are threatened, assaulted and killed, yet only a handful of governments have acknowledged the problem and have adopted specific protection mechanisms. As the experience in Mexico shows, civil society has an essential role to play in pushing for such schemes. Those governments that have recognised the need for protection by acting upon it have an equally important role to play in putting this issue on the international agenda and thus backing the efforts of civil society in other countries.

Impunity for perpetrators of abuses against HRDs should be addressed as a matter of priority. In addition to existing technical assistance programmes on the rule of law, multilateral organisations, including the UN and regional human rights organisations, should ensure sustained follow up on cases of killing of HRDs and devise new ways to tackle impunity, for example by establishing a specific mandate and ensuring regular discussion on outstanding cases.

Non-governmental protection mechanisms, such as those established by national-level CSOs in

Kenya and Zimbabwe, should be encouraged. In countries where HRDs are physically targeted, these mechanisms can provide legal assistance, security measures, or urgent evacuations of HRDs at risk. Different models exist, and civil society in countries where such initiatives would be useful can learn and benefit from the experiences of other countries. In this regard, international CSOs should facilitate information sharing, exchanges and analysis.

Donors should also support such protection initiatives. Donors can further strengthen protection by systematically including provision for security in the projects they fund and raising awareness amongst their partners of the need to look carefully into strengthening their own protection.

Governments engaged on the issue of HRDs and civil society (including but not limited to European Union member states in the context of the EU Guidelines on Human Rights Defenders) should give more visibility, recognition and legitimacy to HRDs in other countries through their embassies, e.g. through invitations to events, advocacy with the host government, visits to offices and public statements. Current efforts in this regard, including the implementation of HRD policies where they exist, should be periodically assessed.

ANDREA ROCCA

Head of Protection, Front Line Defenders

What issue do you feel affected civil society the most in 2012?

While is difficult to single out one issue, a trend which continued globally throughout 2012 is the adoption of legislation restricting the space for civil society and opening the way to the criminalisation of human rights work. Whether it is legislation governing the establishment of civil society organisations and their funding, or public order and counter-terrorism, many governments used it to silence human rights defenders documenting and denouncing abuses, exposing corruption or pushing for reforms.

What do you feel can create a better environment for CSOs in 2013?

The resolution adopted by the UN Human Rights Council in March 2013 condemning the criminalisation of human rights defenders as well as legislation limiting their work, is a positive step. However, it won't help unless it is followed by concrete action where legislation does not comply with international human rights law. Most urgent, however, is the need to ensure protection of human rights defenders and civil society activists against attacks, by ensuring that effective protection mechanisms –whether governmental or non-governmental– exists at the national level.

1. Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognised Human Rights and Fundamental Freedoms, General Assembly resolution 53/144 (A/RES/53/144), 8 March 1999, Available at http://www. *olddoc.ishr.ch/hrdo/documents/DeclarationHRD.pdf.*

Entrenching Democratic Ownership in Africa:

Opportunities and challenges

Vitalice Meja, Reality of Aid Africa Network

In the lead up to the Fourth Busan High Level Forum on Aid Effectiveness in 2011, one of the key achievements noted by African countries from the review of the implementation of the 2005 *Paris Declaration on Aid Effectiveness* was the presence of a nationally owned development plan. This signified to many that Africa had indeed come of age in consulting citizens on key issues of development policy and programmes.

Closer examination, however, of this achievement reveals many contradictory outcomes. For one, civil society organisations (CSOs) involved in the Busan process criticised the independent monitoring and evaluation report of the Paris Declaration on the basis that the so-called country-owned national development plans were government-owned development plans and not citizen-owned plans. Citizens had not been part and parcel of the process in the development of the plans, and were for the most part not involved in their implementation.

CSOs noted that many African countries had not moved beyond the imposed processes related to World Bank Poverty Reduction Strategy Papers (PRSP) to institute a country framework for national development. Most of the national development plans reflected a process that was prescribed under the PRSP, with adjustments for a few local consultations, and less tighter time schedule. But when consulted, CSOs were merely called to rubber stamp what the government consultants had produced. Furthermore the role of CSOs in the development of national plans was that of mere passive participants. Governments developed impossible schedules that could not allow for meaningful input from citizens and there were no feedback mechanisms.

African CSOs engaged in the Busan process also noted the fact that the environment in which they operate had become too hostile to allow for the mobilisation of citizens to participate in development processes. New restrictive laws were either in the offing or existing laws were being made more restrictive.

It is because of these trends on the ground that many still remained sceptical as to whether the notion of country ownership on its own is a sufficient principle to deliver development effectiveness to hundreds of millions of poor citizens across Africa.

The Busan HLF4 agreement (Busan Partnership for Effective Development Co-operation, BPd), however, has brought a new impetus to strengthen the concept of country ownership by qualifying the notion to include the essential importance of democratic ownership. CSOs see this as an opportunity to put citizens at the heart of development planning and indeed enable them to claim their political, social, economic and cultural rights. Paragraph 12(a) of the Busan Partnership for Effective Development Co-operation notes, *'These shared principles will guide our actions to: Deepen, extend and operationalise the democratic ownership of development policies and processes' (BPd, 2012)*

What conditions are required to enable 'democratic ownership' in African countries? This chapter seeks to understand the level of preparedness of African governments, development partners and civil society alike in the implementation and achievement of the democratic principles in a multi-stakeholder manner. It uses country experiences from Ethiopia, Ghana, Kenya, Tanzania and Zambia to discuss some of the challenges countries face in seeking to implement elements of democratic ownership. It concludes by proposing some of the key areas for facilitating the entrenchment of democratic ownership at the national level.

Towards entrenching democratic ownership at

THE NATIONAL LEVEL: THE CHALLENGES

Entrenching democratic ownership at the national level requires changes in attitudes, policies and practices for both governments and external donors. These conditions vary across the continent. The value of CSO participation in policy formulation processes seems to be better understood and appreciated within some specific departments. Some government departments see CSOs as partners in both policy development and service provision. For others, CSOs are seen as a potential agent for outsourcing some government services, but for others still they are mere noisemakers. In Zambia, for example, at the local level CSOs are seen as being better placed to distribute antiretroviral drugs, while in Kenya they are well equipped to distribute humanitarian assistance to drought stricken areas. In Ethiopia, on the other hand, there is very limited space for CSO participation in policy debate. This compared unfavourably with Ghana and Zimbabwe, where CSO expertise in policy formulation and dialogue is acknowledged and utilised to facilitate the development of policy documents on issues of governance and poverty reduction respectively.[1]

Nevertheless, even in the same ministry, there can also be departments that are not friendly to CSOs. This can also be the case where ministries have ministers and/or officials who are antagonistic towards CSOs. They find it difficult to engage CSOs in policy debates and planning. Space for participation of CSOs can be influenced by the personality of the minister, or senior officials in charge of key processes. In one recent case in Kenya, a minister rejected an invitation by a civil society organisation to officiate its event because this CSO did not have a good relationship with the minister. In Zambia, there has been a standoff between the government and CSOs over the secondment of CSOs to the NGO Co-ordinating Board, because the relevant ministry does not agree with some of the proposed CSO names. In the same vein, many Zimbabwe-based human rights organisations have gone underground because of a government crackdown on their activities for being 'anti government'.

The individual peculiarities of attitudes and responses by different governments and different parts of government towards CSOs' efforts to engage in policy dialogue and co-operation in development programmes has the potential to enhance or reduce the gains made towards those government's commitment made in Busan to 'democratic ownership'.

LEGAL AND STRUCTURAL LIMITATIONS FOR DEMOCRATIC OWNERSHIP

Changes in political orientations towards participation also seem to have different impacts on the development process and its context. While previously governments tended to apply top-down approaches for policy planning with little potential for policy ownership by the citizen, changes towards a more bottom-up approach closely linked to poverty reduction strategy (PRSP) processes, have provided impetus for officials to rethink the policy-making process. Some avenues for consulting citizens have been opened, albeit in a limited way. Citizens in these circumstances are at times able to participate in the development process, hold their government to account, as well demand transparency and accountability of development results from a hitherto, corrupt executive. Such participation also helps to create a buffer for government officials against politicians who seek to influence their work.

Attitudinal and process changes, however, remain tied to and limited by the legal framework and the structures for engagement that exist between government and CSOs. For example, the President, a minister and the Registrar of Societies, can have enormous powers under an NGO Act over CSOs, ranging from declaring a CSO unlawful, to refusing to register, or to de-registering or cancelling the registration of any CSO without the intermediation of court of law, as is now the case in Kenya, Tanzania and Uganda. These legal and regulatory conditions make the relationship between the state, politicians and government officials and CSOs patriarchal, as well as creating

unpredictable conditions for CSO operations and therefore for their engagement in policy-making processes.

Furthermore, the lack of a comprehensive law dealing with the different strands of CSOs and their roles and activities in any given country can leave government confused about these different roles for CSOs, and can also mean that disagreements with some types of CSOs can escalate to government condemnation of civil society as a whole. For example, in Kenya, CSOs are registered either as NGOs, Societies or Trusts, and are regulated by different Acts derived from the constitution. Engaging with CSOs structurally depends on the government's interpretation of the laws and the powers of the relevant minister over them. The Kenyan government has attempted to address this inadequacy in law but without success. Part of the reason for this failure is the lack of wide consultation of CSOs, and resistance from the NGO community to the applicability of such a common law to their operations.

CSOs and democratic ownership: CSOs are seen as driving a donor agenda

Supporting civil society is one of several measures designed by donors to deepen democratic ownership and increase domestic accountability. African governments are however often sceptical over the role of CSOs in policy and advocacy work and in some cases, also their work to deliver development on the ground. Part of the reason for this scepticism arises from the donor notion that CSOs can be an alternative structure for channelling funds that might otherwise have gone through the government. Another key reason is that CSOs have in some countries succeeded over time in bringing about social and political transformation, which has made governments lose popularity and power. Further, the fact that many CSO advocacy initiatives appear to target only the government and the local communities, while few target donors' policies, adds fuel to this scepticism. Governments argue that local CSOs see donors as providers of funding and supporters for CSO capacity-building rather than supporting a government priority for infrastructure development.

These notions appear to have entrenched themselves in government and, particularly in countries where there is limited democratic space, the legitimacy of CSOs is highly questioned. These commonly held notions have also contributed to limited or no public government financing for CSOs in most African countries. These perceptions then create a vicious circle where CSOs have a high dependence on donor funding.

For most African CSOs funding and financial sustainability remain major challenges in delivering on their commitment to development effectiveness, and particularly in enhancing and entrenching their role in democratic ownership. Apart from the level of financial support, other issues for concern include the sources of financing and the conditions attached to such funds.

The funding mechanisms used by official donors do not give CSOs voice to decide their priorities, but rather give donors the power to prescribe. Donors giving official development assistance have the tendency to direct CSO areas of work through calls-for-proposals and insistence on priority areas aligned to their own areas of interest. As these are the main sources of financing at the national level, most CSOs tend to have little or no choice but to comply. However closer analysis of the nature of this funding reveals several other challenges beyond those of control over programmatic themes.

There are also key challenges in frameworks imposed for the management of funds that are not friendly to operations of CSOs. The frameworks and support instruments appear to focus more on mitigating real or perceived risks in CSO support, rather than on facilitating CSO achievement of development impact. As a result most CSOs appear to act like 'robots' – they merely seek to comply with donor requirements to keep

donor funds flowing at the expense of results and impact.

Donors appear not to have a comprehensive framework for engaging with local CSOs as development partners, whether as service providers or as policy advocates. Donors seem caught up in ad hoc mechanisms for short-term policy gains or limited project piloting. A newly emerging trend in countries including Ghana, Kenya, Tanzania and Zambia has been the creation of thematic donor basket funds managed by private entities. But their rationale is still driven by instrumental donor needs to streamline CSO applications and support, as opposed to adjusting strategically their support to better address CSO dynamism and innovative ways of operations in each country context.

Donors have yet to view African CSOs as genuine partners for long-term development cooperation for development effectiveness. Their approach, for example, on lobbying and advocacy work is particularly erratic, changing as policy changes at headquarters and as policy changes, political shifts and the current economic crisis affect donor governments. This funding and donor policy context makes is difficult for CSOs to plan and engage with them on longer-term strategies. Donors routinely exclude civil society from their sub-committee or donor group meetings, which are effectively country-level decision-making bodies. This exclusion makes donor processes non-transparent and contributes to the weakening of local ownership. Indeed donor policy priorities are top down and heavily dependent on what their headquarters or ministers decide as priority areas. Without significant reform in donor funding modalities and practices for African CSOs, the perception of an independent civil society role in policy dialogue with governments will continue to be problematic.[2]

Towards entrenching democratic ownership

Entrenching democratic ownership at the national level will require empowering other stakeholders to join in practical initiatives to strengthen development effectiveness. Empowering CSOs as stakeholders means taking deliberate steps to create not only a more enabling national legal and policy environment for CSO engagement. It also means empowering CSOs to act independently in ways that encourage improvements in their own effectiveness as development actors.

Establishing a working framework for democratic ownership will require the consideration of new structures for engagement, capacity building among all the major players, not only CSOs, and strong political will on the part of all players for transparency and sharing of information. CSOs in particular will need financial support in many of these areas. Resources are needed especially for capacity building, strengthening CSO engagement beyond their immediate community targets to relate effectively with governments and donors.

In this regard, governments and donors should consider, collectively and individually, the agenda below if democratic ownership is to take shape at the national level.

Improve the legal framework for a better CSO enabling environment: there is an urgent need for improvements in the legal framework for CSO activities, especially the enactment of a legal framework and broad-based legislation that promote freedom of association and assembly, as enshrined in the constitutions of most African countries, and in international treaties, conventions and protocols. The process of legal and regulatory reform should not however be a government-dominated affair, but should be achieved through a multi-stakeholder and consultative process. All the views of stakeholders must inform the final legal and regulatory framework that guides the various roles and work of CSOs.

Strengthen collaboration with civil society: both governments and donors have the responsibility of creating an enabling environment for CSOs to facilitate democratic ownership at the national level. In this regard there is a need to structure and

institutionalise roles for civil society within governments' and donors' policy development processes. This will also require reviewing and changing laws governing local CSO-donor relations and government-donor relations. At the same time, governments will need to build the capacity of their officers for more effective CSO engagement, while donors will need to develop a framework for enhancing their capacity to engage with a diversity of CSOs beyond the disbursement and management of funding.

Stabilise and create responsive modalities for financial support to CSOs: the provision of social services to marginalised groups remains one of the key roles for civil society in Africa. However, with many development partners moving from project support to direct budget support or sector-wide programming through ministries, CSOs report that they have experienced a decrease in donor support. The main reason is that increasing levels of donor funding are being channelled through national budgets to increase spending on public services. At the same time governments have not created mechanisms to support directly CSO initiatives where they have comparative advantages in public service delivery. CSOs need financial stability to carry out their mandate. Governments should provide a trust fund to support CSO initiatives through the national budget. This is particularly needed for countries such as Kenya where political party activities are currently funded from the national budget. A national legal framework governing financing CSOs should be in place alongside any such initiatives to prevent governments from patronising and intimidating CSOs that they may see as a threat.

Donors on the other hand will need to reform their funding instruments that support CSO initiatives. Certain elements of the Paris Declaration, including programme ownership, alignment with partner priorities and harmonisation of donor terms and conditions could guide donors in designing financial instruments. These reforms should proceed through engagement with a diversity of local CSOs. Donors should also support capacity building for CSOs, not only on fiduciary matters, but also of their policy engagement tools and capacities.

Better access to information and communications: access to information is necessary for the realisation of basic rights to freedom of opinion and expression as well as essential for citizens to realise their basic right to participate in the governing of their country built on informed consent of the citizenry. Open access to information laws and regulations are therefore crucial for entrenching democratic ownership at the national level. Governments that have not enacted full access to information laws should be encouraged to do so, and those that have laws need to operationalise them and where necessary extend them. Governments must improve transparency and openness in sharing information as well as establish proper channels of communication with CSOs to ensure timely flow of information.

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1. For Zimbabwe this observation applies to the Ministry of Finance, not necessarily to all government departments and ministries, Some ministries and their respective departments, particularly those linked more closely with the Ministry of State under the control of the President's side of government have been ruthless in silencing the voices of CSOs..

2. See for example the case studies (Mozambique and Uganda) and results of a recent joint donor evaluation of donor support to southern CSOs and their effectiveness in policy dialogue at http://um.dk/en/danida-en/results/eval/eval_reports/publicationdisplaypage/?publicationID=E4573392-00E9-4DE0-A56E-784EF229CE95.

Space for CSOs:
a European perspective

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Comparatively speaking, civil society in European Union (EU) countries has had an advantaged position compared to civil society organisations (CSOs) in other areas of the world. The legal framework for CSOs is well established and new member states that want to join the EU must comply with the Copenhagen criteria, which among other stipulations, guarantees the freedom of speech and freedom of association. In addition, civil society in many EU member states has had access to government funds for many years, while being able to advocate towards governments and hold them to account for their policies.

This contribution, however, shows that the European picture might not be as positive as it may seem. Current political and economic developments are influencing the space for European civil society. The focus here is on two such developments: the impact of the financial and economic crisis in Europe and the absence of a tradition of civil society dialogue in many countries. Both offer threats to the space for CSOs in general and for CSOs that in particular are attempting to hold their government to account.

The contribution also focuses on the recent Structured Dialogue (SD) between CSOs, local authorities and EU institutions, a process that has been put in place in order to facilitate the communication between the involved stakeholders. This was an intensive and inclusive multi-stakeholder process launched by the European Commission (EC) in March 2010 and concluded May 2011 in Budapest, Hungary, with the overall purpose of reviewing the relationship between the EU and European CSOs for EU development policy.[1] As the follow-up to the SD process and the 2012 Commission Communication on Civil Society that resulted are just beginning at the time of writing, there remains ample space to improve the dialogue process.

European CSOs must find ways, even in the current challenging conditions, to continue in their roles of holding European governments to account and challenging their policies where needed. European development CSOs also have an additional responsibility. CONCORD, the European NGO Confederation, as a European CSO platform, and its members, should also be encouraging European governments to hold their partners around the world accountable. Development can only occur when human rights are being respected and guaranteed, and among these rights are the right to associate freely and peaceably and freedom of speech. These rights are crucial for CSOs to be able to function properly in their country contexts. The EU should be a leading example by providing sufficient space at home, while also pushing for enabling conditions in its relationships with partner countries around the world.

Since 2009, many European CSOs have been contributing to a framework for minimum standards for enabling conditions through global processes such as BetterAid and the Open Forum for CSO Development Effectiveness.[2] Both of these were very active participants in the 2011 Fourth High Level Forum on Aid Effectiveness in Busan, coordinating the work of CSOs globally. European CSOs remain committed to counterpart CSOs around the world, contributing and working with them not only on developing an enabling environment in Europe, but outside of Europe as well.

The impact of the financial and economic crisis in Europe on the space for civil society

The roles that European civil society fulfils are various and often inter-related, including holding governmental authorities to account, challenging existing unequal power relations, contributing to the necessary checks and balances that are key to fostering democratic processes and good

governance, creating learning spaces, acting as incubators for new ideas, complementing the state as service providers, and creating channels for expression of culture and identity.[3]

European governments guarantee civil and other dimensions of human rights, including embedding freedom of assembly in basic national laws and constitutions. A 2012 study by CONCORD on the legal framework for CSOs in European countries gives a relatively positive overview of the legal space for CSOs.[4] Unfortunately there are still countries where it is challenging for civil society to organise itself, such as Azerbaijan and Belarus.

CONCORD's study does, however, not give a complete picture. There are several problems with European governments living up to their legal commitments, which vary from country to country, and from East to West. Two aspects are key:

1. A tradition (or lack) of government engagement in dialogue with civil society

There are observable differences in openness for political dialogue with their country's civil society between EU governments, some of whom have a long tradition in political dialogue, and others which do not. For instance, relatively young EU democratic governments have legislated the proper internationally acknowledged regulatory frameworks for guarding space for civil society action, such as those originating from the former Eastern bloc. Yet these governments for the most part have less experience and tradition with freedom of expression and freedom of association. They are often inclined to respond with attacks or limitations on CSOs when they the feel that topics raised by civil society are too political or critiques too visible, irrespective of their legal frameworks.

2. The impact of the financial and economic crisis in Europe on the space for civil society

The space for civil society in Europe has been heavily affected by the financial and economic crisis that has deepened in Europe over the past four to five years. Even though EU governments have an enabling regulatory framework for civil society actions, budgetary decisions in several member states in the past few years have been strongly disadvantageous for supporting civil society actions. This has gradually led to a trend where some CSOs have had to re-invent themselves and explore a legislative and regulatory enabling environment in, for example, the for-profit sector.

The European Commission Structured Dialogue with civil society

One of the processes through which CONCORD has contributed to a more enabling environment for CSOs has been the SD process mentioned earlier between the EC and CSOs.

The SD has been a multi-stakeholder process made up of three of the EU institutional actors (the Commission, Member States and the European Parliament) and representatives of CSO platforms and local authorities[5] to discuss the involvement of CSOs in EU development policy. The process was prompted by international political commitments (notably the 2008 Third High Level Forum on Aid Effectiveness' Accra Agenda of Action) and the findings of two external evaluations.[6] These evaluations pointed out that the Commission was lacking a clear strategy for engagement with CSOs, despite many years of work with CSOs.

CONCORD sought to engage constructively in SD processes, by actively mobilising its constituency, coordinating with other CSOs, and submitting in-depth and evidence-based contributions. In CONCORD's view, even if not perfect, the SD process has been a turning point. It has raised in dialogue some of the fundamental considerations as to why engaging with CSOs in a more strategic manner is required, going beyond funding issues. It has also helped to connect the EU agenda on CSOs very directly with the outcomes of parallel international processes, namely government commitments to CSOs in the Busan Partnership for Effective Development Cooperation for enabling conditions, and CSOs commitments in the Open Forum on CSO Development Effectiveness.

The SD embedded in EU policy some important global principles such as the rights-based approach and democratic ownership. The CSO-led Open Forum process and the Istanbul Principles on CSO Development Effectiveness[7] have also been fully acknowledged and incorporated in the Outcome Document of the SD. The enabling environment for CSOs was core to the discussions and conclusions, including the issue of political dialogue with the EU and the identification of more creative ways to support the strengthening and actions of Southern civil society.

As a follow up to the SD, the Commission published in October 2012 its new Communication on civil society, The roots of democracy and sustainable development: Europe's engagement with civil society in external relations.[8] The document's language is constructive and progressive and is based on a rights-based approach, viewing civil society as an asset for any democratic system. This Communication is a step forward compared to the previous one published in 2002.

This Communication does not of course provide every answer on an enabling environment for CSOs. But it does acknowledge that "the international community, the EU included, has a duty to advocate for a space to operate for both CSOs and individuals" and that "the EU should lead by example, creating peer pressure through diplomacy and political dialogue with governments and by publicly raising human rights concerns." It provides a constructive agenda for elaborating a fully enabling environment for European CSOs, following on from the spirit of the SD process.

The Communication was drafted to create a framework for cooperation between the EC and CSOs in development cooperation. The framework revolves around three goals:

- To enhance efforts to promote a conducive environment for CSOs in partner countries;
- To promote the meaningful and structured participation of CSOs in domestic policies of partner countries, in the EU programming cycle and in international processes;
- To increase the capacity of local CSOs to perform their roles as independent development actors more effectively.

The Communication goes on to elaborate guidance for a number of areas of cooperation, including for: the inclusive engagement of CSOs in policy-making; increasing domestic transparency and accountability at local and national levels; partnerships for effective delivery of social services, complementing local and national government provision and piloting innovative projects; supporting CSO initiatives that combine social and economic purposes; and developing EU and Member State roadmaps for robust engagement with CSOs. The document commits the EU to "use an appropriate mix of funding modalities so as to best respond to the widest possible range of actors, needs and country contexts in a flexible, transparent, cost-effective and result focused manner."[9]

The EU Communication should be seen as an important departure point that can provide impetus for a more effective partnership between the EU and civil society in all parts of the world as well as Europe. However, the question must be whether it provides sufficient impetus? Some measures of its impact will be the degree to which the EU will promote and defend space for CSOs, particularly in more politically sensitive countries, such as Russia; whether EU delegations will carry out political economy analyses and understand power relations in countries where the EU has programmes, including integrating an understanding of the 'enabling environment'; whether spaces and mechanisms of dialogue and participation will be established at all levels (country, regional, European, and global); and whether the current negotiations on the future EU financial framework will deliver on the SD commitments to provide sufficient responsive funding for CSO initiated and led actions.

Interestingly, for the first time since she was appointed, Catherine Ashton, the EU High Representative for Foreign Affairs, issued a statement on closures of CSOs in Sudan in early January 2013[10], and her services (European External Action Services, responsible for managing EU delegations) seem keen on addressing work with CSOs in a more political way. Perhaps these are signs that a positive 'wind of change' is blowing for CSOs in the EU.

ESTER ASIN MARTINEZ

Ester Asin Martinez is currently the EU Representative at the CARE International EU Liaison office in Brussels. She has nearly 15 years of professional experience in development policy, including with the European Commission (EU Delegation in Guinea Bissau) and with civil society networks and families, namely CONCORD and now CARE International. She's currently managing the CARE International EU Liaison office. Her role includes liaising with EU institutions and with the main European CSOs networks, particularly CONCORD, where she is the co-chair of the CONCORD Policy Forum.

What issue do you feel affected civil society the most in 2012?

The shrinking political space, including the pressure on right of association and free speech, repressive national legislations and criminalisation of civil society organisations, which have not allowed CSOs in many parts of the world to fulfil their political roles.

What do you feel can create a better environment for CSOs in 2013?

If the issue of an 'enabling environment for CSOs' is seriously addressed in the political dialogue between for instance the EU and some of their partners, including not only developing countries but also Russia and China.

OLIVIER CONSOLO

Olivier Consolo is the Director of CONCORD, the European Confederation of Development & Relief NGOs since the creation of CONCORD in 2003. He has worked with a number of French NGOs both in the field and at headquarter level, during which he mainly worked on issues relating to development and development education. Mr Consolo also worked for a European Commission Delegation for 3 years and with the United Nations in Latin America for one year. Issues regarding development policies and the participation of civil society both at European and local level have been at the heart of his work for 8 years.

IZABELLA TOTH

Izabella Toth is a Senior Corporate Strategist at Cordaid and a CONCORD Board Member.

Izabella has 15 years of experience and expertise in public fundraising research, strategy formulation, policy advice regarding international development cooperation policies of public institutions such as the European Commission, UN, Work Banl, with a special focus on the space for civil society organisations.

Enhancing and facilitating an enabling environment for civil society has been at the core of her activities for the past 8 years.

DANIEL NUIJTEN

Daniel is the Capacity Building Officer at CONCORD Europe in Brussels. CONCORD is the confederation of development and relief NGOs. He works on the organizational development and leadership programme in the confederation. Before moving to CONCORD he worked as a Youth Worker, first in a pan-European youth NGO on the establishment of growth of new youth organisations later at the European Youth Forum on the EU level in Brussels.

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State-Society Relations:

The prospects for the New Deal Engagement in addressing an enabling environment in conflict-affected and fragile states

Paul Okumu,Director for Partnership, SISA Centre for Corporate Partnership and Head of Secretariat-Africa CSO Platform on Principled Partnership (ACP)

Summary

This chapter looks at the relationship between the state and groupings in society that oppose it in conflict-affected and fragile countries and how state-building and infrastructures for peace can play a role in strengthening or weakening the enabling environment of CSOs. It takes a human rights approach to fragility, with a case study on the implementation of the New Deal, which was agreed in 2012.A key question is how this has impacted on relationships between donors, governments and civil society in the 18 member countries of the g7+ group of fragile states under the International Dialogue on Peacebuilding and Statebuilding (IDPS). While there have been great successes that are directly attributed to the New Deal commitment, there is still significant challenges as well as opportunities that are open to CSOs. Six recommendations are made for improving the civil society enabling environment in conflict-affected and fragile countries.

The context for a civil society enabling environment in conflict-affected and fragile states

Currently, an estimated 60states face some form of active conflict related to a breakdown in relations between the state and a section of its society; and while a conflict in itself does not immediately affect the stability and ability of a state to effectively deliver services to its citizens, prolonged conflicts may lead to a gradual weakening of the state and compromise its ability and legitimacy. Of the countries facing conflicts, the Organisation for Economic Cooperation and Development (OECD) classifies 47 as fragile.[1]

Fragility, conflict and violence are not identical, but they can exist concurrently, with each shaping and being shaped by the others.[2]Not all states experiencing conflict are fragile, but most of them are; and not all fragile states have experienced conflict, but almost all of them are or recently have.[3]

From a human rights and civil society perspective, fragile states can be defined by three inter-related failures – a failure of authority, service delivery failure and a legitimacy failure.[4]The World Bank reports that while conflicts between states have dropped significantly over the past 30 years, intra-country conflicts-conflicts between different groups in the same state have increased dramatically, signalling an improved relationship between countries, but a breakdown in state-society relations.[5] It is therefore not surprising that by 2013, there were more than 382 state-society related conflicts underway in nearly 60 countries around the world.[6]

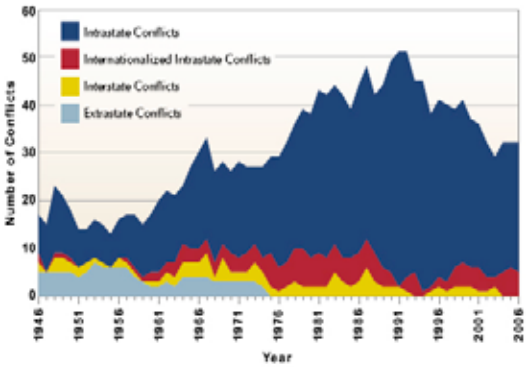

Figure 3.1 State-Based Armed Conflicts by Type, 1946-2006

After more than a decade of uneven decline, the number of state-based conflicts being fought around the world has levelled off.

Data Sources: UCDP/PRIO; UCDP/ Human Security Report Project Dataset

Human Security Brief 2007

Conflict-state fragility and state-society relations

Fragile and conflict-affected states face a breakdown in the relationship between the state and society, and in many cases between different communities in the same state. The UK Department for International Development (DFID) has identified three aspects that constitute state-society relations.[7] These are political formations and settlements (also known as inclusiveness or legitimacy politics), state responsiveness to meeting societal expectations and state capacity to deliver services. These three factors, while within the control of the state, are often influenced by global policy environments as well as other drivers of good and bad governance. When they are absent civil society finds it difficult to function effectively, and in some cases CSOs are unable to function at all.

But it is not just the state and external responses that weaken civil society capacity and ability to function freely. Conflict-affected and fragile states are characterised by a lack of confidence and distrust in the ruling or winning government, weak social cohesion and the destruction of norms and values.[8]

All these challenges put together mean that the state and policy-makers in these countries do not derive their legitimacy solely from winning the popular vote in democratic elections or by coming out as victors in a peace negotiation. Citizens must also have the right to voice their political views between elections and in the construction of peace agreements.[9] Where these conditions exist, there is increased state legitimacy and citizen confidence in the organs of the state. In order to build stable states, it is therefore essential to strengthen civil society in fragile and conflict-affected countries, to enable CSOs to better fulfil their role as critical but constructive watchdogs and development actors in their own right. This is even more important in such states where a breakdown in service delivery and peace-building work means both state and civil society sometimes play the same roles.

Defining an enabling environment in conflict-affected and fragile states

The 2011 CSO consensus for an International Framework on CSO Development effectiveness defines the enabling environment as the political and policy context created by governments, official donors and other development actors that affect the ways CSOs may carry out their work.[10] The Framework goes on to lay out a set of enabling standards, defined as a set of interrelated good practices by donors and governments – in the legal, regulatory, fiscal, informational, political and cultural areas – that support the capacity of CSO development actors to engage in development processes in a sustained and effective manner. In conflict-affected and fragile states, the enabling environment can be complex and in many cases related to how citizens in the society relate with one another.

State-building and creating a CSO enabling environment in these environments cannot therefore be viewed as purely technical issues or issues of legality and policy environment. In other words, we cannot rely on the presence or absence of laws and traditional state policies to measure an enabling environment for CSOs in these countries. Rather state-building issues, institutions, structures and systems that strengthen the capacity of the state to deliver services and win the trust of society are inherently political processes, the fundamental purpose of which is the reconstruction of legitimate relationships between government, state institutions and citizens. State-building should aim to recognise and strengthen society's role in a well-functioning state.[11]

Laws and codes in support of citizens' rights are important – but not sufficient – building blocks of a civil society enabling environment in conflict-affected and fragile countries. Societies coming out of conflict are often polarised along ethnic, religious, ideological or class lines. In some cases they are polarised along the "winners" and "losers" in a conflict. These societies can become dislocated from – and ambivalent towards –

the state. So, addressing a lack of citizen engagement and participation is increasingly being viewed as a key strategy for rebuilding fragile and conflict-affected societies.[12]

Conflict and fragility produce fear and intimidation in the population, destroying social fabric and curtailing the possibilities for autonomous and voluntary organising. When the public sphere is not safe enough for people to express critique and challenge, it can result in a paralysis of collective social initiatives. In addition the emergence of uncivil, violent forms of association that attempt to instrumentalise and co-opt CSOs ultimately leads to the 'de-civilisation of society', making it difficult to use laws and codes to support an enabling environment for legitimate civil society.[13] But this is not all. One of the greatest challenges for all stakeholders in a fragile and conflict context is the breakdown of trust, whether it is trust between members of the same family who are separated as a result of conflict or who have taken opposite sides, or trust in establishing a government amongst opposition, including former rebel groups and militias. An enabling environment for CSOs in these countries is therefore linked to re-establishing trust and state legitimacy - the building blocks for long-term state-society relations, which are then anchored in the core areas of consolidating the rule of law, state-building and democratic space. These buildings blocks also address the key challenge to creating an enabling environment for civil society.

Studies by UK-based CSO INTRAC reveal that in many instances the role of local CSOs in fragile states has been largely relegated to humanitarian assistance, where despite evidence of these needs, concerns related to the building blocks outlined above are hardly addressed. As seen in South Sudan and East Timor, the situation is not helped by the tendency by larger humanitarian agencies to use local CSOs as sub-contractees for their service delivery. However, these agencies have taken deliberate steps to build the capacity of local organisations both to deliver services and exercise their watchdog role in Liberia, Nepal and Afghanistan.

The lack of support and trust in civil society by government in many conflict-affected and fragile states has led many governments to take advantage of the situation and label CSOs as a threat to their 'national security'. This attitude has frequently provided the rationale for harassment of social activists and CSOs, particularly those advocating for the advancement of citizens' rights.[14]

A survey of issues for a CSO enabling environment

In early 2012 the Africa CSO Platform on Principled Partnership conducted interviews with CSOs in 15 fragile and conflict-affected states. These CSOs are among more than 40 that have been working collectively over the past three years to address state fragility and its effects on peace-building, state-building and state-society relations under the umbrella of g7+ group of states[15] and the International Dialogue on Peacebuilding and Statebuilding (IDPS).[16]

The survey identified the following areas as key elements for the enabling environment for CSOs in these countries:

1. **Many of these countries have suffered a breakdown in law and order and civil society must work to create spaces for overcoming trust and future development, when there is little legal and institutional capacity to support them.**

2. **There is a breakdown of trust not just with governments, but also among civil society actors, especially where there have been conflicts or politics associated with ethnic divisions. In this context, collective action and joint work among national and local civil society is difficult. A low level of trust between citizens and CSOs often further aggravates reconstructing trust, especially where CSOs are supported by those returning to the country from the diaspora.**

3. **The large presence of international humanitarian actors often makes**

it difficult for local civil society to build its own space away from humanitarian actions, and when they do so, local CSO advocacy work can be perceived by the state as acts of opposition. This perception is reinforced by the fact that in some countries particular local CSOs began as a means of social protection for vulnerable people in the face of an illegitimate or hostile state.

4. Because of the sustained focus on humanitarian and peace-making actions by the donor community, there is little funding available for national CSO advocacy and other activities. This gap in funding for local action is compounded by the absence of strong local CSO institutional structures and human resource capacity.

The New Deal and the civil society enabling environment in fragile and conflict-affected states

History of the New Deal

In 2008 a group of fragile and conflict-affected states joined donors in laying the foundation for an agreement that today is known as the New Deal for Engagement in Fragile and Conflict Affected States. This took place under a platform that became known as the International Dialogue on Peacebuilding and Statebuilding (IDPS). The dialogue emerged from the 2005 Paris Declaration, which recognised the need for special measures to improve aid effectiveness in situations of conflict and fragility. The IDPS and its membership have helped not only in drawing attention to the challenges affecting the state and donors in these countries, but also to the effects these challenges have had on society and the ability of civil society to carry out its functions.[17]

In June 2011,the IDPS, including civil society, agreed on a framework for further engagement known as The Monrovia Roadmap, building on the previous agreements under the Dili Declaration.[18]The Monrovia Roadmap defined a set of five Peace-building and State-building Goals (PSGs) as well as containing annexes that called for states to expand their engagement with citizens and seek legitimacy through effective governance and service delivery.

The Monrovia Roadmap has been recognised as the engine for rebuilding trust between society and the state, while providing a pathway to equity, development, justice and rule of law. It identifies critical factors that are essential for these goals to be achieved. These are:

1) strengthening state-society relations;
2) addressing stress factors that drive conflict;
3) building confidence and trust between people and the state and between communities;
4) promoting institutional transformation and building legitimate institutionsin the eyes of the people.

The Monrovia Roadmap later gave rise to the New Deal for Engagement in Fragile States,[19] a commitment made by more than 40 governments during the November 2011 Fourth High Level Forum on Aid Effectiveness, held in Busan, Republic of Korea. The New Deal identifies five state-driven actions necessary for states to rebuild an enabling environment for itself and society, and five commitments by external actors to ensure that collective donor support strengthens the work of the state while committing to the do-no-harm principles.[20]

Among these actions, the New Deal commits both donors and the state to work towards a full recognition of society in its entirety (individual and organised) as the foundation and basis of any governance system and

development of that society. It calls on both governments and donors to ensure citizen voices are not only respected and heard, but also inform the development and governance agenda of the state. The New Deal goes further to call on the state to be responsible for the protection of people who are not part of its citizenry, but who reside within its borders, including refugees.

The New Deal: success and challenges for civil society enabling environment

The New Deal identifies three pillars to effective state-building and peace-building:

1) **strengthening state structures and institutions to ensure service delivery;**

2) **ensuring contextual donor support and increased recognition of the special risk and financing mechanisms;**

3) **rebuilding state legitimacy with its citizens.**

One of the major outcomes of the New Deal agreement has been the full inclusion of civil society as equal actors in its implementation. In January 2012, the Steering Group of the IDPS, consistent with the commitments under the New Deal, invited CSOs to have a substantive seat with stronger decision-making powers in both country implementation and the global oversight of the agreement.

In June 2012, CSO engagement as a core actor was formalised and CSOs were appointed into the Working Groups of the IDPS. A decision was also reached to allow CSOs at national level to be full actors and leaders in the national implementation of the New Deal. This involves fragility assessment, development of indicators and an implementation process that includes agreements on priority areas and compacts between the states and donors.[21]

The decision to fully include civil society in the New Deal Implementation was ground-breaking, considering that most of these countries have the highest level of mistrust between the state and organised citizenry. And there are some remarkable successes in the implementation of the New Deal that offer lessons for the realisation of an enabling environment for civil society.

In the Democratic Republic of Congo (DRC), Sierra Leone, South Sudan and East Timor civil society has been working with the government to develop a joint agreement on a set of indicators that the country will use in defining a pathway to resilience as well as guidance for state relationships with its citizens and civil society.[22] In East Timor, the national umbrella body has worked with the government in hosting joint sessions on New Deal implementation. In October 2012, South Sudan established the first joint working team on the New Deal between the government and civil society, led by the National NGO Forum and the South Sudan Civil Society Alliance. This engagement includes joint discussion on a possible compact.

In Afghanistan and Liberia, CSOs have succeeded in organising to challenge the government around the limitations in these government's commitments to the New Deal. CSOs in these countries are beginning to address some of the funding and human resource challenges facing them, including raising previously sensitive issues of land and state accountability. Civil society in Burundi and Liberia are currently using the New Deal to ensure government commitment to inclusivity and the rule of law during an on going development strategy review. In Haiti, the government has begun to consider the active engagement of civil society in other development areas beyond humanitarian support. In Togo, civil society was for the first time able to bring together three ministers from the newly formed government to engage and set joint priorities for New Deal implementation.

Across the g7+ countries one notable success for the New Deal has been the strengthening of national civil society collective engagement. Several CSOs are today working together and this has given them more legitimacy

and credibility in the eyes of the state and society. The formation of the Somali Civil Society Alliance, bringing together CSOs from three previously warring states, is a remarkable success and has largely contributed to a strengthened New Deal engagement.

But there are also several challenges for CSOs that are directly related to the implementation of the New Deal, and which can serve to weaken the environment for civil society in these countries.

These challenges are based on the fact that both the New Deal and the Monrovia Roadmap are agreements that were negotiated as part of the larger global aid effectiveness dialogue. The aid effectiveness dialogue, even after Busan, is primarily about aid flows. Negotiations therefore remain between governments, sometimes outside the New Deal Commitments. It is also worth recognising that only a handful of donors are signatories to the New Deal, making its implementation difficult in a country with multiple donors and interests.

CSOs are still not seen as co-actors in development, despite their role in Busan and the full recognition of their independence in Paragraph 22 of the Busan Partnership for Effective Development Cooperation.[23]This circumstance has in many cases limited engagement with a wider set of government actors in the implementation of the New Deal, often leading to civil society relations with only a small section of the government directly concerned with aid.

There is also as yet no strong evidence of a full commitment to CSO space in the New Deal process. Many governments are keen to engage with CSOs on the initial stages of fragility assessment, but are resistant in other areas that require the state to make greater commitments to protect the space for civil society and partner with civil society in agreements leading to compacts. A strong focus on a private sector enabling environment has often come at a heavy cost to advocacy CSOs.

The New Deal has failed to address the often underlying tensions between warring communities. In some cases this has led to a weakened legitimacy of some sections of civil society that are perceived to be partisan on the basis of their religion, ethnicity or geographical location. In some countries, an emphasis on compacts between donors and the state has led to a further alienation and sometimes attacks on civil society, notably in Ethiopia and Nepal.[24]

But it is not just g7+ governments that are in need of change. Many donors continue to make large aid inflows, which mainly benefit humanitarian and international NGOs (INGOs) at the expense of local CSOs. This has further weakened local organisations, making them unable to engage effectively. It is not helped by the insistence by the donors that any funding to support civil society engagement in the New Deal is channelled through INGOs. While the rationales given for this modality are capacity and operational ones, it is these gaps in capacity that the New Deal seeks to address by calling upon donors to take on more risks in fragile and conflict-affected states.

While the donors in the International Dialogue have expressed support for civil society engagement in the New Deal implementation, they have also been slow to commit resources to these engagements, leading to a reduced capability for civil society in the g7+ countries.

A 2012 survey[25] carried out by the OECD on behalf of its members revealed that many donors are not honouring their commitment to increase country ownership of the New Deal through their own field offices. This has made it difficult for CSOs in the g7+ countries to access donor support at national level, further weakening their engagement capacity.

Despite the New Deal agreement calling for prioritisation of local needs and the national context for peace-building and state-building, there is still a strong focus on external agendas. CSOs have also found it difficult to translate the

International Dialogue framework to national level multi-stakeholder platforms, mainly due to weak ownership by the whole of government[26] of the process and a lack of sufficient support for national implementation efforts that has the potential to go beyond the whole of government to the whole of society. At the same time, the dilemma of 'political impartiality' for donors-where donors need to remain neutral in a post conflict situation, but still committed to ensuring a strong emerging citizen voice - is an on going challenge. The most recent case where in 2011 the United States Government took an openly partisan position in the Constitution Review Process in Kenya - going as far as holding public rallies - is one case that brought into sharp focus how far the donors can go when supporting a society state-building process.[27]

Collaboration and networking among CSOs remain weak and will need greater effort at both national and global levels.

Looking ahead: putting the New Deal in place on the ground

While the New Deal offers important norms and lessons on state-society relations and civil society space in conflict-affected and fragile countries, it is important to look further than these agreements and commitments. The New Deal was signed slightly over a year ago at the time of writing and it is still early to judge its impact on the civil society enabling environment in many affected countries. But it offers some significant lessons for civil society. It is a case where a global engagement, which began as a dialogue between states and donors, not entirely related to civil society interests, can become a key foundation for strengthening the relationship between state and society at the national level. It created important spaces and opportunities to engage.

Country ownership of the New Deal is still low and restricted to selected government offices. It will be important therefore to track its impact over a longer period for its potential areas of success to be considered permanent and positive.

It is also important to note that agreements such as the New Deal do not in themselves trigger structural changes leading to positive state-society relations and enhanced civil society space. While the New Deal created the foundation, it is the collective action of donors and governments, along with national and global CSOs, which has led to successes to date, as witnessed in the g7+ countries. Such success may be modest at the beginning. If state and civil society actors have been deeply confrontational towards each other, the simple act of creating contact and building trust and confidence, and not necessarily a full compact agreement under the New Deal, can be an initial measure of success.

As noted earlier, the greatest challenge for all stakeholders is the breakdown of trust. Again CSOs will need to recognise that rebuilding trust is not a function of documents, and nor can it be achieved through work on some aspects of the New Deal commitment alone. Trust has to be built, and the rebuilding of lost trust requires multiple actions by CSOs both with the government and with citizens. And this takes time, as well as consistent actions and the use of multiple opportunities for CSOs in a post-conflict country to build trust and gain legitimacy with the citizens for whom they seek to work.

The state can also play a role in helping to create an environment where horizontal (citizen community) links are strengthened – what is sometimes referred to as building social capital. In post-conflict situations, state actors and donors' support to constructing an effective state may be less effective if they overlook the familial and community arrangements that can either help peace-building, or if such arrangements are exclusionary, undermine it.[28]

The principles of transparent, accountable and development-oriented government can only be realised if an active civil society is informed about policy decisions, is involved and actively participates in decision-making processes and, moreover, is able to exercise a critical role of accountability with regard to the state and other powerful actors in the governance process.[29] These conditions are even more important in conflict-affected countries.

Strengthening civil society promotes a space for instilling democratic consciousness among citizens; it can promote the integration of groups; and it may help to bring greater transparency in policy-making. In conflict-affected and fragile states the oversight role of civil society is central to both continued state legitimacy and citizen confidence in the organs of the state.[30]

Recommendations

While agreements such as the New Deal can catalyse state-society relations and create favourable enabling conditions for CSOs, there are other important foundations that are necessary for sustaining a positive environment for CSOs.

1. **A culture of constitutionalism must override dialogue**. While dialogue processes are good for peace-building, there must also be full and deliberate support to ensure that governance institutions and constitutional mechanisms are not only in place, but are seen to be functional and impartial. These are the conditions within which CSOs can play a strong oversight role in fragile and conflict-affected countries.

   There must also be a strong push by all actors to create a culture of respect for the constitution, even as development partners work to strengthen the institutions of the state. Nor is any constitution sufficient. In Angola, the 2010 constitution consolidated presidential powers, abolished the prime minister, established a vice-president, and dissolved direct presidential elections. These actions significantly closed spaces for civil society engagement (as well as parliament). The next elections will not be held until 2022.
2. **The necessity to recognise and address all actors and drivers of conflict.** Addressing the drivers of conflict is crucial for sustainably strengthening an enabling environment for civil society. In Angola, the DRC and Somalia, for example, attacks on civil society come mainly from rebel forces and the opposition. In Afghanistan, Pakistan and Somalia, militant oppositional groups have been among some of the greatest violators of an enabling civil society environment, killing journalists and in some cases humanitarian actors. Dialogue among all actors is an essential part of the process. But it may not be sufficient to use single platforms, such as those established under the New Deal, as these platforms are voluntary and have no monitoring mechanisms. High-level political will is essential to broaden dialogue on CSO space and move towards fluent and inclusive state-society relations based on democratic governance.
3. **Relations within civil society and between CSOs.** CSOs, along with other actors, need to address issues affecting the inter-relationships within civil society, especially where civil society is organised around divisions that have themselves been a cause of the conflict and/or state fragility. The fore-mentioned CSO-agreed International Framework for CSO Development Effectiveness, based on the eight Istanbul Principles for CSO Development Effectiveness, provides some guidance on possible areas for attention. But in conflict-affected and fragile situations, attention, capacities and resources are required to permit CSOs to take their own leadership in addressing these relationships, which will also strengthen CSOs to engage with a diversity of actors.

   Multi-stakeholder platforms for dialogue remain central to establishing a foundation for trust building and collective action between the state and civil society. In post-conflict countries where the state has already attained some form of legitimacy in the eyes of society, creating a formal space for dialogue and collective action on national issues allows civil society to have a foothold in government and donor dialogue processes that would otherwise go on without them. It also allows civil society to identify resistant points that can then become advocacy areas for more sustained pressure beyond dialogue.
4. **Funding for specific civil society support beyond humanitarian support.** Many of the conflict-affected and fragile countries are also 'aid orphans', due in part to the risk adverse nature of many donors. Because aid is so small and rather insignificant for many governments in fragile/

conflict countries, such as Angola, donors are not present to motivate government to be open and support a critical CSO environment, and these CSOs therefore need alternative and sustained external financing options.

5. **Connectedness with grassroots voices is key.** Strong CSOs are those that remain rooted and connected to the voices at the grassroots. Whether in advocacy or in service delivery, CSOs in conflict-affected and fragile states need to build legitimacy through sustained consultation and engagement with all grassroots voices to counter governments' control and build a power that is informed by societal needs. This is especially so where society is polarised and CSO collective action with communities serves to strengthen a sense of national solidarity among warring parties.
6. **Donors can act as buffers to CSOs.** There is an important role for donors in conflict-affected and fragile countries to act where they can as buffers for local civil society faced with a context of few or no laws and policies for an enabling environment, or with strong divisions that render laws and policies ineffective. Development partners in such cases should commit to expand their support for national civil society actors to complement and fulfil non-humanitarian roles necessary for state-building and peace-building. These roles include drawing together society's interests in various areas of importance and presenting them to state authorities, and organising social actors to contribute to realising, demanding and monitoring the respect, protection and fulfilment of civil, political, social, economic and cultural rights.

PAUL OKUMU

Paul Okumu seeks to see a continent whose governments are at peace with its society and is driving its own development. He has been engaged in state-society relations since 1996 when he was part of the International Campaign to Ban Landmines (ICBL) where he worked with Kenya Coalition that helped plan and later attended the UN High Level Conference on Small Arms. ICBL coalition went on to win the Nobel Peace Prize in 1997. He has been engaged in policy dialogue with the government on many issues including taxation policy for non profits and social investment. As Head of Secretariat of Africa Civil Society Platform on Principled Partnership (ACP), he has supported state-society relations and helped initiate dialogue between CSOs and governments at regional and global levels, with a focus on conflict-affected and fragile states. Paul is an exceptional bridge builder between civil society and governments and has participated in global and regional dialogue forums while working with civil society across Africa to strengthen engagement capacity with policy makers, academic institutions and think tanks. His work and writing on the civil society enabling environment in Africa is well respected and is informed by the need to ensure principled partnership with governments and development partners. He has also engaged extensively in civil society self-regulation and accountability. As Director for Partnership with SISA Centre he has worked to promote partnership between CSOs and business and worked to build options for civil society financial sustainability. He is also the founding member of the Kenya Social Investment Forum, formed to tap capital for social development. Paul's work on partnership, social business and development effectiveness has earned him speaking and facilitating engagements in various fora. He is an excellent facilitator, strategist and change manager and has written several articles and sat on several panels on development effectiveness, CSR and sustainability.

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Building Community-led Resilience:

Enabling conditions to improve CSO capacities

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Summary

Despite concerted effort at both the international and national level over more than 20 years, activities in support of disaster risk reduction, which emerged with the aim of reducing the human and economic cost of disasters, have failed to flatten the continuing upward curve of disaster losses. The impact of disasters is felt most keenly at community level where small-scale recurrent 'everyday disasters' carry a greater human cost than more widely publicised 'mega disasters'. The Global Network for Disaster Reduction has been carrying out local level social surveying since 2009 through its 'Views from the Frontline' programme and evidence from these surveys has identified factors accounting for the limited success of top-down approaches. By identifying characteristics of community led resilience, this contribution to the CIVICUS State of Civil Society report sets out enabling factors that would strengthen local resilience, highlighting the critical role of local civil society actors in creating a complementary bottom-up approach to disaster risk reduction.

Introduction

Wide recognition of the increasing human and economic costs of disasters led to the emergence of a new thematic area within humanitarian response, disaster risk reduction, heralded by the launch of the UN International Decade for Natural Disaster Reduction in 1990. It reflected the belief that preparedness would drive down the impacts and costs of disasters. While there have been notable successes over the last two decades, and statistics show a reduction in lives lost, they also show that the human and economic cost of disasters continue to escalate (EM-DAT, 2011). What is of particular concern is that losses from 'everyday disasters' – the smaller-scale recurrent disasters that are referred to technically as 'extensive disasters' – continue to increase.[2] These are the regular events, whether natural, social, or economic, which repeatedly knock back communities. Seasonal floods, droughts, local famines, diseases, fires, landslides, price hikes, fuel shortages, social instability, violence and conflict all take a continuing toll (UNISDR, 2011).

The recognised data for disasters and disaster losses is known to under-report the impact of everyday disasters.[3] These often slip under the radar because the individual events are small-scale, often uninsured and under-reported. For example, a study of the impact of landslides (Petley, 2012) drew on several sources of data to demonstrate that the recognised data from the Emergency Events Database (EM-DAT)[4] under-reported true losses by over 400%, partly because they ignore any event in which the loss of life is small. Even the United Nations International Secretariat for Disaster Reduction (UNISDR), is turning to sources other than EM-DAT to find out what is really happening at this level (UNISDR, 2011). By looking at local level data from sources such as DESINVENTAR,[5] UNISDR is also finding that the real picture at local level is far bleaker than the EM-DAT statistics suggest. Losses from everyday disasters have a far greater impact than was previously recognised, most often on people living in poverty.

Evidence from the frontline

Since 2009 The Global Network for Disaster Reduction (GNDR) has been gathering evidence from the 'frontline' – local communities, CSOs and local government in urban and rural locations exposed to disasters – asking what local level perceptions reveal about trends and possibilities for action. GNDR is a network of over 500 CSOs in over 70 countries in the global South, who contribute to the Views from the Frontline (VFL) programme. VFL is a participatory multi-stakeholder local level survey designed to monitor, review and report on critical aspects of disaster risk reduction and progress in building resilient communities. The survey has been conducted in 2009, 2011 and 2013, gathering responses from over 20,000 people in 70 countries for the 2011 survey.

Why is it the reality at local level that extensive and recurrent disasters – though largely unnoticed and underreported by authorities, statisticians and the media – are taking a bigger and bigger toll on peoples' ability to build better lives? Evidence from VFL (2009) indicated a policy-implementation gap. Many policies intended to drive progress in disaster risk reduction are primarily created and then implemented in a top down way. They are led from an (often external) institutional and governmental level, depending on plans, leadership, knowledge and expertise far removed from the local scene. The result is a gap between high-level policy and practical implementation.

The 2009 survey also suggested that whilst there was significant local capacity and expertise, this capacity was disconnected from local and particularly national levels of government, who tend to regard local people as passive beneficiaries. Although many programmes and projects include participation as an element, in practice this often turns into co-option, failing to achieve local engagement or empowerment.

Views from the Frontline's analysis suggests that the missing ingredient that would drive real progress in disaster risk reduction, building resilience at local and ultimately national level, is an active citizenry, which have responsibilities as well as rights. To investigate this notion GNDR members turned their focus to what they saw as a key factor in strengthening resilience at local level: local organisation and partnerships – essentially, a focus on governance. The analysis (VFL, 2011) found that bridging the gap between top-down and bottom-up approaches demanded stronger local level governance through participation of all those concerned at local level. The study went on to show that good local governance depends on good local knowledge and the key ingredient for local governance based on local knowledge is an active citizenry. Data and case studies demonstrated that where citizens exercised their responsibilities in knowledge creation, decision-making and action, local level resilience was strengthened (AFL, 2011).

What is resilience?

While it may seem intuitively obvious that greater resilience is a good thing, and indeed many institutions and international CSOs have embraced the term recently, it can mean many things to many people. The word 'resilience' therefore requires unpacking. For some, it refers to 'bouncing back' and 'coping'. As such, it serves to maintain a stable status quo. For others coping is not enough and resilience is seen as building capacity for change and transformation. For others, it may mean addressing systems as a whole – an approach that has the benefit of linking together the many factors that may jointly affect resilience. Against this later interpretation, some feel that a systems approach is mechanistic, dehumanises society and ignores the critical issues of power and powerlessness (Weijer, 2013; Béné et al, 2012; Levine et al, 2012).

Whilst this discussion is about words, it is also about reality, as the meaning of the term defines how institutions and organisations will act, and critically, in practice what they will fund. GNDR takes a local and bottom-up view in defining resilience, based on the realities that shape local communities, their ability to deal with external shocks, and their capacity to improve their situations. This conception of resilience identifies a number of characteristics of such communities:

a) They face complex multiple risks and uncertainty. People are confronted with a mix of economic pressures, increasing prices, human-created as well as natural hazards, social tensions, and violence and conflict, often combined with weak organisation and governance. With over 50% of the world's population now living in cities, the pressures resulting from unplanned overdevelopment make the situation worse. A new layer of poor people, the ultra-poor (people living on less than 50 US cents a day) are emerging, and having to rely on crime to survive, being unable to exist legally (Ahmed et al, 2007).
b) Peoples' lives are repeatedly knocked back by small-scale frequent disasters. Climate change is increasing the frequency of climate related disasters.
c) Small scale losses are under-reported, uninsured and do not attract national government attention or external resources.
d) Affected people find that external policy and legislation is not tuned to local needs.

Given these characteristics how do such communities define and build resilience?

a) They take a holistic (multi-risk) approach, tackling all the pressures that affect them rather than just one risk factor.
b) They have to be flexible as risks and disasters are unpredictable.
c) They have to learn from experience to improve how they deal with the situations they face.
d) They have to work together in partnerships, as external support is weak or non-existent.
e) As well as issues of protection, they try to improve their lives and livelihoods - strengthening resilience to shocks and stresses of all kinds (including natural and human created, and internal and external).
f) They often resist external interventions, which tend to have limited engagement with local knowledge and local capacities and as a result have limited sustainability.

What factors can strengthen community led resilience?

From this bottom-up perspective there are several enabling factors that would enhance community efforts to build resilience:

a) The starting point is a widely recognised view of how practical knowledge is created. The starting point is the principle of experiential learning, where people take the time and effort to take a step back from their actions and experience to reflect and learn from them they can change and improve their actions. Experiential learning is cyclical, involving a repeated cycle of taking action, reflecting and learning, and improving action based on that learning.
b) Where people start to act and learn together they can build valuable local knowledge on how to tackle the local conditions that weaken them and knock them back, and in doing so implement activities to build their resilience.
c) When people move from passivity to action and start to work together they start to attract and engage others. For example VFL (2009) has shown that partnerships start to form with community groups, local government and local business. People start to have a say in local governance, based on their local knowledge.
d) The collaborations and partnerships that form at the local level can secure new political space, enabling people to be heard by authorities beyond this local level.[6]
e) Many of the conditions that impede and knock back local people are beyond local control, strongly influenced by decisions about policy and economics. Greater political space for local people increases their influence, giving them a voice beyond the local level in tackling these underlying conditions.
f) As local partnerships founded on local knowledge creation and participation grow in influence they can move beyond coping responses to changing the conditions that impact on them, building their ability to transform their situation and build their resilience.

This vision of community led resilience depends on creating new spaces for communities – spaces for learning and local action, collaboration and shared decision-making and engagement with political processes. These spaces combine to create an enabling environment in which community insights and capacities engage with expanding levels of partnerships and governance to build locally-owned resilience, progressively reducing the grinding impact of recurrent extensive disasters. The focus is therefore on these enabling factors rather than on rigid programmes, projects or methodologies, which evidence suggests are often inappropriate and are not strongly taken up by communities (IFRC, 2012).

As a CSO, GNDR is concerned with the specific roles of CSOs in pursuing the goal of community resilience. Key questions here are what factors can create spaces where active citizens can build resilience, and what role can

CSOs play in facilitating, supporting and mobilising this? The table below sets out disenabling factors based on VFL studies and the vision presented above. Reflecting on these disenabling factors, the table then sets out contrasting enabling factors – those that would create an environment in which CSOs can support community led resilience.

FACTORS INFLUENCING COMMUNITY LED RESILIENCE		
Disenabling factor	**Enabling factor**	**Why this factor is important**
Rigid 'one size fits all' methodology frameworks.	Resource local civil society to facilitate locally appropriate actions.	Top down, technocratic and one-size fits all methodologies do not connect with local realities, do not engage with them, and are not sustainable. Local CSOs can facilitate the creation of spaces for learning and action.
Short termism.	Recognise that sustainable change takes time.	The demands of short project cycles do not support the building of social capital and sustainable resilience. Local CSOs have history and multiple links to community, unlike external visitors, and can sustain long-term work.
Working in silos.	Holistic, multi-risk perspective – collaborations between all stakeholders.	At the frontline people don't differentiate between risks but address them holistically. Local CSOs are often 'generalists' who can understand this holistic context.
Placing a low value on local knowledge.	Recognise the value of both existing and newly created local knowledge.	In terms of everyday disasters the most accurate knowledge of appropriate actions often exists locally. Local CSOs can facilitate activities to create new knowledge.
Placing a low value on local participation in governance.	Move from passive participation to enabling local people to have an equal voice.	Participation in theory often becomes co-option in practice. Local CSOs are in a position to understand how to engage local people as active participants in decision-making.
Placing a low value on partnership building.	Recognise and support the energy and insights resulting from strengthening local partnerships.	Formation of partnerships between different local level actors strengthens capacity and builds their political space to engage in governance. Local CSOs are important bridge-builders in these efforts.
Placing a low value on local civil society as 'boundary operators'.	Recognise and support the unique roles of local civil society as 'boundary operators' in facilitating learning and action and partnership building.	Local CSOs are key bridge-builders who can facilitate learning, action, partnership building and knowledge flows.
Placing a low value on local government.	Recognise that local government is often as under-resourced, lacking in capacities, and under-supported as local communities and CSOs and has a valuable role to play in strengthening local government.	Local government has a valuable role in channelling both resources and information between institutional levels. CSOs can build bridges between communities and local government.
Placing a low value on political and economic conditions and policies beyond the community and the importance of community links and collaboration to affect these conditions.	Recognise that underlying factors beyond local control can be better understood and tackled when actors at all levels work together.	Where local level actors build partnerships and collaborations, recognise that they can use them to secure political space, they are in a position to exert influence on underlying factors.

Supporting CSOs in strengthening community led resilience

The table above highlights nine enabling factors that taken together can strengthen community resilience. Whilst this list is not exhaustive, it does encompass the key activities of learning, action and participation in governance. The spotlight is particularly on local CSOs and their capacities. GNDR has increasingly recognised the key roles of these often small organisations and the table

demonstrates the rationale for this priority. Precisely because they are small, locally embedded, often general in their purpose (engaging with the whole range of risks and issues in their locality), have strong local links and local legitimacy, they are in a position to facilitate and build bridges – the key activities required for local communities to secure spaces for learning, action, partnership building and engagement with governance.

For example, in the Battambang region of Cambodia a GNDR member, a small local CSO working in the region, facilitated the development of a community micro-insurance project (Cara, 2011). Through community consultations a revolving fund was developed, which supported villagers to make agricultural innovations and to start small businesses. These local improvements in turn reduced their vulnerability to the frequent droughts the area experiences. After this initial work, the CSO passed the leadership of the programme to the community. Three years after this point the fund and the programme had grown in scale. Local commune leaders had become interested and similar projects were being initiated in other communes. The CSO's role in envisioning and facilitating created the conditions for sustainability, triggered expanding partnerships and possibilities, and produced spin-offs such as increased social stability and reduced domestic violence without the need for provision of funding or continuing input.

But is this localised approach limited to small-scale community projects? This question was raised in a discussion about community action at UNISDR's Global Platform in 2011. Someone suggested that a local community could not, for example, build a dam. However GNDR was able to point to a case study of exactly this happening in Costa Rica (AFL, 2011). Just because community-led resilience may start small, does not mean these activities cannot have an expanding impact.

This chapter has identified major and seemingly intractable challenges in building resilience. They include the inexorable upward trends in disaster losses, the failure of top-down approaches to achieve real progress, and a continuing failure to value the huge potential contribution of civil society and communities to contributing knowledge and expertise in partnerships for change. The enabling factors listed in the table above highlight a range of straightforward shifts in attitude and resourcing. Taken together, they support and strengthen a complementary bottom-up approach for community led resilience, which can address and have impact on the prevalent everyday disasters that in total have a greater net human cost than mega disasters.

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After working in the field of participative communication and documentary production, Dr Gibson pursued doctoral research focusing on methods of strengthening collaboration and learning in global action networks. This led to his involvement with the Global Network of Civil Society Organisations for Disaster Reduction, where he has been Operations Director for over four years and has led the mobilisation of the network's unique 'Views from the Frontline' action research and advocacy programme, engaging over 500 CSOs in over 70 countries in the Global South.

What issue do you feel affected civil society the most in 2012?

New post-2015 developmental agreements are being negotiated at present, including the HFA, MDGs, SDGS and the Climate treaty. Civil society is engaged in these processes. However, there are signs that space for civil society engagement only opens at the behest of powerful government and institutional actors, who are equally able to close it again when they wish. What's more, civil society actors engaged in these negotiations are often isolated.

What do you feel can create a better environment for CSOs in 2013?

A coherent vision of the requirements for effective developmental frameworks, shared across a coalition of civil society actors, would support more holistic frameworks, balancing top down and bottom up perspectives and creating sustainable political space to maintain calls for effective implementation for the sake of the billions who most need it.

1. This paper represents the views of the individual author and does not reflect any official position or recommendations of the Global Network for Disaster Reduction. Author can be contacted at terry.gibson@globalnetwork-dr.org.

2. The term 'extensive risk' is defined as 'The widespread risk associated with the exposure of dispersed populations to repeated or persistent hazard conditions of low or moderate intensity, often of a highly localised nature'. (UNISDR, 2009) However it does not have a precise quantitative definition (UNISDR, 2011).

3. The UNISDR biennial study found in 2011 that extensive risk - recurrent small scale disasters - had a greater impact on losses than intensive risk: *"The analysis shows that extensive risk accounts for only 9.6% of deaths and 20% of houses destroyed (a proxy for direct economic loss). Damage is much more extensively spread, with extensive risk accounting for 53.9% of houses damaged, 80% of people affected, 83.1% of people injured, 45.2% of damage to schools and 55.2% of damage to health facilities."*

4. EM-DAT is the widely recognised Emergency Events Database maintained by the Centre for Research on the Epidemiology of Disasters (CRED).

5. DESINVENTAR is a programme of work to gather local level data on disasters: http://www.desinventar.org/

6. John Gaventa (2005) uses the 'power cube' to visualise opportunities for securing political power at local level, which may exercise influence on external conditions. He suggests there are closed political spaces, enabling authorities to ignore other voices. They may create invited political spaces, enabling a degree of participation but under the management of the authorities. He shows from a range of case studies how the formation of partnerships can bring pressure to bear to create new political spaces, securing a degree of power to influence external conditions – where none existed previously. A GNDR workshop (GNDR 2010) at which Gaventa collaborated with GNDR members recognised this process occurring in VFL case studies.

Freedom of Expression vs. Hate Speech:

A European Youth Campaign

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> 'Hate speech' is an irreducibly complex and contested idea, weighted against competing rights in different ways in different legal traditions and jurisdictions; dependent on different understandings of speech and its potential consequences; framed by varying and conflicting assessments as to what constitutes 'hate'; linked to particular identities that are the subjects of speech, as well as to particular speakers and 'viewpoints'; and politically deployed as a strategy in a variety of ways, many of them deeply contradictory. (Gavan Titley, 2012)

In Europe's culturally diverse societies there is a need to reconcile the right to freedom of expression with other rights, such as freedom of thought, conscience or religion, which might sometimes compete with each other. It is a difficult challenge because these rights are at the core of democracy and the rights of all citizens to participate and make their views known in the public space.

Article 10 of the European Convention on Human Rights states that "everyone has the right to freedom of expression", including the "freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers". However, the Convention also provides that the exercise of these freedoms carries with it duties and responsibilities, and establishes that some restrictions to this right, including "the protection of the reputation or rights of others", may in certain circumstances be possible.

The European Court of Human Rights often points out that freedom of expression is also applicable to information or ideas "that offend, shock or disturb the state or any sector of the population because such are the demands of pluralism, tolerance and broadmindedness without which there is no democratic society."

Freedom of expression goes hand in hand with the demand of a democratic society. It is a necessary condition for the enjoyment of our democratic ideals, providing space for public discussion and debate. It is therefore fundamental to an enabling environment for organised civil society's role in a democracy – promoting the public good and holding government and other powerful stakeholders to account. There are now more ways to spread more ideas to more people than at any moment in history.

However, this freedom of expression cannot be unlimited. The dark side of the internet cannot be ignored and public expression of views has consequences.

Hate crimes are on the increase in Europe. Threats, intimidations and violence against persons singled out for persecution on the grounds of ethnicity, religious belief, gender, disability or sexual orientation continue in Europe, in spite of the avowed commitments to democracy and tolerance of European institutions. Two reports released by the EU's Agency for Fundamental Rights (FRA) in November 2012 highlight that every fourth person in Europe has been a victim of some kind of hate crime, with persons of Sub-Saharan African descent and Roma people suffering the highest levels of abuse.[1] The economic crisis has seemingly compounded these attacks on the weak, the marginalised and visible minorities.[2]

While acknowledging the increase of hate crime, there is still some debate about how to proceed in tackling the phenomenon, including hate speech. With the increased use of the internet and social media sites by radical groups, hate speech is being perpetuated online, leading to the sinister proposition of hate "moving from cyberspace to the physical world", as Jeno Kaltenbach, Chair of the Council of Europe's Commission Against Racism and Intolerance (ECRI), put it.

The Council of Europe's Committee of Ministers' Recommendation 97(20) on "hate speech" defines it as follows: "the term 'hate speech' shall be understood as covering all forms of expression which spread, incite, promote or justify racial hatred, xenophobia, anti-Semitism or other forms of hatred based on intolerance, including: intolerance expressed by aggressive nationalism and ethnocentrism, discrimination and hostility against minorities, migrants and people of immigrant origin," placing the discussion on hate speech and its regulation in the framework of anti-racist and anti-discrimination work conducted by the institution (CoE).

Hate speech as such is not a new issue in the human rights debate; but the potential impacts of its online dimension give new reasons for concern among young people and youth organisations. Hate speech is easier to monitor and counter in mainstream, professional media; the challenge posed by its online manifestation is the difficulty of monitoring and measuring its extent and impact. The activity of static websites can be easily traced. But most of the action is happening in encounter spaces on social networking sites, which are far harder to monitor and analyse.

The Council of Europe has developed significant experience working on issues related to both hate speech and the governing of the internet. The foundation for the Council of Europe's approach is that the internet is a public space that should be governed by human rights principles and values and should contribute to the development of a human rights culture.

The internet offers the possibility for every participant to create, publish, distribute and consume media content, fostering therefore a potential space for participation, engagement and self-expression. The development of social networks, in particular, has increased the level of youth participation in a variety of ways. These range from keeping in touch with peers and developing new contacts to sharing content and exploring self-expression. Online public and private space, just as with offline space, presents new opportunities, challenges and threats to young people. Just as in offline space, young people may equally be victims and agents of abuse and violations of human rights. Communication in online space among different participants, even though open and uncensored, cannot and is not value-neutral.

Having in mind the above issues and context, the Advisory Council on Youth of the Council of Europe initiated, with the support of the governmental partners in the Council of Europe, a European campaign, Young People Combating Hate Speech Online. This campaign, a project of the Council of Europe's youth sector, runs from 2012 to 2014. Central to the campaign's philosophy is the idea that online public space is public space – and so human rights apply there as much as in other spaces for European society.

The movement aims to combat racism and discrimination in online expression by equipping young people and youth organisations with the competences necessary to recognise and act against such human rights violations. Over a three-year period, the movement expects to:

- Mobilise young people, youth organisations and other stakeholders with tools to promote human rights and take action against racism and discrimination in online space;
- Contribute to the democratic governance of the internet, by developing guidelines for policy and practice that will enable young people and youth organisations' roles in making online space a human rights space and ensure young people's participation and contribution to the development of internet governance initiatives undertaken by the Council of Europe;
- Map different forms of hate speech online, and research their impact on young people and ways to address them;
- Create and train a network of 60 young European online activists in human rights and online campaigning against racism and discrimination, and to support them in running a mini-campaign online;
- Develop and run a European youth media campaign against racism and

discrimination having both international and national dimensions and provide online human rights activists with campaign tools and materials;

- Support the development of regional campaigns in the Balkans, Caucasus and Mediterranean area regions on anti-Semitism, anti-gypsyism, aggressive nationalism and religious extremism.

The movement will be implemented by young people for young people. It should give hope to and empower people affected by hate speech to remain in the public sphere online while respecting privacy. The No Hate Speech Movement will consider all dimensions of hate speech when assessing and acting, including motivation, content, tone, context, targets and potential implications. Youth organisations will be playing a central role in the campaign in all its elements, principally through focussing on new forms of participation and inclusion for young people online and offline. The campaign is full of challenges and is not free of risks. Legally hate speech is a crime, so campaign activities may bring about necessary legal measures.

The campaign will have three major elements. The most global element will be a landing page - a web portal for user-generated content and social networking features. In order to build an online community and raise awareness, a campaign blog with edited content will accompany the website. For seeking the attention of the wider public, traditional direct email will be distributed and a continuous social media presence, including on Facebook and YouTube will be maintained.

Four key target groups have been identified and there are five contextual areas where the campaign is seeking change. The accompanying table indicates what outcomes the campaign should or could produce for the different target groups in these different areas.

TARGET GROUPS	PERSONAL AND INTERPERSONAL SPHERE	CIVIL SOCIETY	BROADER SOCIAL CONTEXT	LEGISLATIVE ASPECT	POLITICAL AND POLICY DOMAINS
Victims	Empowerment	Methods for inclusion of victims	Social and cultural inclusion	Stronger legal protection	Better minority policy
'Haters'	Alternatives for opinion expression	Other ways of involvement	Stronger social pressure	Consequent legal ramifications	Less political justification
Activists	Counter arguments and practical tools	Stronger networking	More support and recognition	Legal support for prevention and measures	More political activists and more financial support
Public	Awareness	More CSO involvement	Stronger public opinion against hate speech	Clearer agreement among governments	Less political extremism, more democracy

Each target group will be addressed specifically; however, significant attention will be given to activists and the wider public. It is also evident that the first three contextual areas are where the campaign expects the most outcomes in the short run, while results in the latter two, while essential for sustaining legal, regulatory and political attention to issues of online hate speech, may only be realistic to realise in the longer term.

New instruments and proposals for actions towards governments and other stakeholders may come as the outcome of the campaign. A clear description of hate crime and hate speech might be adopted by Council of Europe member states along with focused education of policy-makers about the context of hate speech and hate crime. In addition, further support of governments to CSOs' monitoring activities can pave the wave towards a more democratic and open society.

Above all, we must never be indifferent to hate and discrimination. As Elie Wiesel, the winner of the 1986 Nobel Peace Prize, once said:

> "The opposite of love in not hate, it's indifference.
>
> The opposite of faith is not heresy, it's indifference.
>
> The opposite of life in not death, it's indifference."

We may be different, but we must never become indifferent.

"No Hate Speech Movement" was officially launched on 22 March 2013. You can join us and get information and details of the campaign at http://act4hre.coe.int/no_hate

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Campaign Logo:

NO HATE

NO HATE SPEECH MOVEMENT

MARIA PASCHOU

Chairperson of the Advisory Council on Youth in the council of Europe

Maria Paschou is the Chairperson of the Advisory Council on Youth in the Council of Europe. She has been working in the field of youth for more than 10 years.

She works as a Lawyer in Thessaloniki.

Through her involvement in the Greek National Youth Council before being elected on to the Advisory Council on Youth, she had the chance to participate and being actively involved in several conferences and meetings discussing youth issues and policies that affect the life of young people.

She was the Greek coordinator of the 2007 European Campaign "all different – all equal" and was an active member of the Alliance EYV2011 Working Group on the "Legal Framework of Volunteering".

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Challenging Participatory Governance in the Pacific Region:

Experiences from the CIVICUS PG Project

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Introduction

The Pacific Islands are made up of 22 countries and territories with relatively small population sizes and unique governance systems. Traditional authorities, civil society and the church have historically played instrumental roles in the development of communities and nation-building efforts in the region. For example, in cases where governments have been unable or unwilling to provide public services, traditional authorities, civil society and the church have often facilitated the provision of some of these services. In periods of natural disasters, political and constitutional crises, communities often benefit from the role of traditional authorities, civil society and the church. They serve as intermediaries between villages, communities and the government and in most cases this is done informally, through non-official channels, as their roles are sometimes not formalised or captured in legislation. A key question that has often been asked is how can the government and traditional authorities in particular generate the necessary political will to collaborate in governance processes and in the effective delivery of services to enhance development outcomes? And also what role can civil society play in making this a reality?

The Pacific context

The Pacific region is unique in the political and governance structures of most of its countries. There are two forms of leadership formations which in most cases run parallel to each other. The first is composed of modern governance structures, which include government departments, administrative structures, the judiciary, executive and legislative arms and district representatives, often showing the influence of the colonial era. The second is the traditional or customary forms of governance, which include traditional authorities, chiefs and village councils with substantial influence over villages and communities. There is a glaring gap in participatory governance (PG)[1] processes in Pacific Island Countries (PICs) in harmonising these two systems. There are some countries in the region, for example Vanuatu, that have made attempts to institutionalise traditional systems of governance, but in most PICs traditional structures either operate in isolation or are overlooked.[2]. The participatory governance challenge in the region is to create structures which harmonise these two formations without compromising the values and systems of traditional governance.

While the role of traditional authorities in the development of communities has been acknowledged, several challenges persist. Some countries in the region continue to experience political instability, for example in Fiji, Papua New Guinea, Solomon Islands and Vanuatu and constitutional crises and regular calls for democracy in Tonga and Tuvalu. PICs are vulnerable to natural disasters including tsunamis, cyclones, volcanic eruptions and flooding, which affect development processes and impact negatively on their economies. The geographic location of some communities and villages in PICs isolates them from governance processes because they are far from main administrative areas. The environment for civil society in others is constrained by restrictions imposed by governments on fundamental freedoms.

Aside from external challenges for traditional authorities, there are marked internal challenges as well. In some cases, the status and position of traditional authorities enable them to have access to economic resources, and some use these for personal gain and consolidation of wealth for their immediate families and in so doing distance themselves from their constituencies. There is also the tendency for some to try and fit into the modern ways of governance (some traditional authorities or chiefs have actually relocated to capital cities) but do not have the capacity and expertise to operate effectively in modern political dispensations. This affects the legitimacy of such rulers and most lose respect from their constituencies. In countries such as Kiribati and Tuvalu, the watchdog

role of civil society is severely constrained by their links with government as in some cases government ministries house CSOs, especially NGOs.[3] There are also visible gaps in the leadership capacities of some traditional authorities to provide services to communities. In most cases they are not conscious of gender dynamics and the participation of young people in decision-making processes.

At the heart of governance challenges in the region is the fact that traditional authorities and government representatives are reluctant to fully collaborate and engage citizens in participatory processes as they are quite concerned about losing their influence and authority and are conscious of what they perceive as the intrusion of "external players" in governance affairs. Some governments in the region exert tight control over governance processes and exclude citizens, especially marginalised groups, due to lack of accountability and responsiveness. This challenge is exacerbated by the difficulties faced by citizens in accessing relevant information.

It is as a result of these challenges that CIVICUS and the Foundation of the People's of the South Pacific International (FSPI), with financial support from the Pacific Leadership Programme (PLP), engaged in a leadership development project in the region to build on and expand the capacities of civil society, community leaders and representatives of traditional authorities. The aim is to promote and enhance collaboration with government and to provide spaces for the participation of citizens, women, isolated communities and marginalised groups in decision-making processes.

Bridging the gaps in participatory governance

Limits to PG at local, community and national levels have necessitated the development of tools by PG practitioners to promote and enhance it. CIVICUS' PG Project has overseen the development of a wide variety of tools on: public information, education and deliberation, public forums, advocacy and expression, public dialogue, participatory planning, elections, public budgets and expenditures.[4] But there is a gap when it comes to resources focussing on leadership development which can be very beneficial to stakeholders in the Pacific region, where the state, traditional authorities and the church have a strong influence over citizens, but sometimes do not have the capacity to deliver services effectively. There is an urgent need for all three actors to collaborate in decision-making processes.

Lessons from the Pacific and indeed other regions around the world demonstrate that the four cardinal rules for effective participatory governance include;

1. The necessary political will – willingness and interest from decision-makers to proactively create conditions which enable goals to be attained.
2. Political want - when decision-makers deliberately and legitimately enable citizen participation in governance processes, not because they are coerced but because they are conscious of the advantages.
3. Political can – when the necessary enabling conditions are created, capacities of government representatives are developed and citizens have the necessary resources to drive their participation in governance processes.
4. Political must - when lack of action has adverse political repercussions and when there is pressure coming from citizens or political leaders.[5]

In addition to the requirements spelled out above, governments need to ensure that enabling conditions are in place though appropriate legislation and policies to promote rather than inhibit citizen participation. It is also useful to take into account the fact that PICs are prone to natural disasters and political insurrections, which affect economic, social and political dynamics in the region.

The role of traditional authorities and civil society in development efforts in PICs

In most PICs, communities engage in regular discussions with traditional authorities about the

provision of social services, relations with government, development of communities and ways to create income generating initiatives for families and communities. There is a need to build on the capacities of traditional authorities and chiefs to enable them supplement the work of government authorities to enhance development. It has been suggested that in some PICs traditional authorities should be represented in the legislative bodies of the countries as this will on the one hand enable them to contribute in legislative affairs and at the same time ensure that there is transparency in policy making.

During the coup d'état of 2000 in Fiji, civil society, including the Fiji Women's Rights Movement and the NGO Coalition on Human Rights and Democracy, played a significant role in the stabilisation of the political terrain and the return of respect for the rule of law.[6] Political and governance crises are triggered by failures in governance, economic differences between citizens and conflicts over land and natural resources. Political instability in the region compels civil society to engage in advocacy efforts for more collaboration between government representatives, communities and traditional authorities for transparency in governance processes and accountability of public authorities and institutions.

In the constitution making process in Fiji following the 2006 coup and in the lead-up to democratic elections in 2014, the military regime demonstrated draconian tendencies by restricting fundamental freedoms. Civil society groups including FemLINKPACIFIC and the Fiji Women's Rights Movement (FWRM) created spaces and opportunities for the inclusion of the voices of isolated and marginalised communities in the new constitution. FemLINKPACIFIC, whose objective is to promote spaces for the participation of women in governance processes, specifically made submissions and proposals on gender and human rights issues to be included in the new constitution to the Commission charged with developing the constitution. These submissions included the voices of women from marginalised and isolated communities which were captured using different methods, including letters, video footage and interviews prepared by segments of women in Fijian communities from a range of associations and networks representing the voices of thousands of Fijian women.[7]

Furthermore, during periods of political uncertainty, such as the political turmoil in the Solomon Islands in 2000, and indeed even in the current dispensation[8] in the Solomons, citizens depend on locally administered courts for justice and to resolve challenges in communities because of weaknesses in the justice system, lack of access to justice departments, the limited availability of judges and challenges in having access to courts.[9] The challenge though is that traditional authorities dispensing justice have limited knowledge about constitutional and global human rights principles, norms and standards, are not necessarily sensitive to gender issues and hence can administer justice based on skewed traditional knowledge.[10]

Civil society plays a major role in helping communities to recover from natural disasters and mitigate the effects of these, but also provides support and training to citizens to help them to pre-empt disasters. For example, the Community Action and Participation (CAP) initiative established by leaders of communities and civil society in the Malas community of Madang province in Papua New Guinea adopted pre-emptive solutions to social and developmental issues affecting citizens, such as building homes away from river beds, hills and mountains and encouraging the planting of trees to prevent natural disasters.[11]

To promote citizen participation in governance processes in PICs, civil society embarked on a regional project, the People and Policy initiative in Fiji, Samoa, Solomon Islands, Tonga, Tuvalu and Vanuatu. The aim is to promote good governance at the community level to empower citizens to participate in governance processes and also to create viable systems to enhance effective engagement with government.

In Solomon Islands, for example, the People and Policy initiative led to the formation of the Kolave Advocacy Committee, which covers the

communities of Kombiloko, Lambi and Verahue in three villages in West Guadalcanal with the aim of engaging with government on issues affecting citizens. The Committee has clear lines of information sharing from sub-committee to Committee levels and then to the level of the Association and also has a constitution to guide its operations. Through the Accountable Leadership in Advancing PG initiative supported by CIVICUS and FSPI, the Solomon Islands Development Trust (SIDT) also engaged in a series of capacity-building efforts, targeting community leaders under the Kolave Advocacy Committee.

SIDT works with leaders of communities through the Kolave Advocacy Committee to increase their capacity on advocacy and gender related issues, and encourage participatory approaches to enable effective engagement with government and traditional authorities. Community leaders have also resolved to document traditional systems and values in order to facilitate synergy with modern governance structures. Engagements between SIDT and the Kolave Advocacy Committee include community leaders, representatives of village committees, the church, youth representatives and traditional authorities. In Solomon Islands it was noted that there were few interactions between civil society, community leaders and traditional authorities, including the house of chiefs. The absence of synergy between modern governance structures and traditional structures was also observed, and it was further pointed out that the church is seen as the most respected institution in communities and villages. The reach of its vast network, which extends to isolated communities could be utilised to enforce collaboration between government and the main actors in the country.

In Tonga, the Ama Takiloa 'a e Fefine Tonga project run by Tonga Community Development Trust (TCDT) targets communities in Vava'u, Ha'apai and 'Eua communities which are geographically isolated and disadvantaged as they are far from central government. The project empowers women in particular on ways to be self-sufficient, and conducts training on leadership and governance. In the Tongan context, globalisation and the influence of modern practices and values have affected traditional norms and brought to light issues of accountability and transparency.

In Fiji, the Partners in Community Development (PCDF), with the support of CIVICUS and FSPI, engaged representatives of communities, government, civil society and traditional authorities in the Ra Province on leadership issues. What came out of these discussions was the lack of female voices in decision-making processes under traditional authorities. It also became apparent that although consultations on issues affecting citizens are carried out regularly between villages committees (representing citizens), traditional authorities and government representatives in the focus districts of Navitilevu and Mataso, the voices of citizens are absent from decision-making processes. As part of the CIVICUS-FSPI project, PCDF organised an inception workshop in October 2012 on leadership development to sensitise leaders of communities, civil society and traditional authorities about ways to engage with the different sectors.

Conclusion

In terms of governance processes in most PICs, the focus of government representatives has been on institutions and politics in the main centres of power and administrative hubs. For the most part, the voices of women, young people, marginalised and isolated communities are absent from decision-making processes. Even in cases where there are clear links between villages and communities (such as through village head men, leaders of communities) and modern government structures (through district heads), parliamentarians and government administrators, decisions taken do not reflect the wishes and aspirations of ordinary citizens. A few lessons can be gleaned from CIVICUS' engagement in the region:

- There are existing gaps between traditional systems and modern governance structures which have to be closed.
- There is need for traditional authorities and government representatives to have the necessary political will for inclusive decision-making processes.

- Civil society, traditional authorities and leaders of communities need to build systems and develop their capacity to facilitate collaboration with government.
- Civil society should facilitate the process of documenting traditional governance systems so it becomes easy to formalise and institutionalise them for easy harmonisation with government processes.
- Governments need to adopt inclusive approaches of governance at local, sub-national and national levels, taking into account international norms and standards.

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Albert Cerelala is the Governance Programme Manager for the Foundation of the peoples of the South Pacific (FSPI) and has nine years of experience in the coordination of regional and national programs focusing on governance issues in the Pacific region; and just under 2 years working experience in government, Fiji.

His key interests lie in enhancing governance systems from community to policy levels and challenging practices and norms which limit or curtail citizen voices and participation; encouraging new traditions and practices which promote greater accountability and the rights and freedom of the under-served are respected.

His practical hands-on role includes participatory and gender budgeting, monitoring public resource allocation spending, local government and local government associations (LGAs), empowerment and civic engagement programs, accountable and transparent mechanisms .e.g. Open Budget Survey 2010 & 2012 for Fiji; interaction of traditional and modern governance systems; and sustainable resource management. He also has a growing role in addressing gender-based violence (GBV) by engaging men and boys in the effort to curb GBV in the Pacific.

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The rights of persons with disabilities:

PROMOTING FULL AND EQUAL PARTICIPATION

Julia R Wolhandler, International Disability and Development Consortium

It is estimated that over one billion people, 15 percent of the world's population, have some form of disability.[1] Further, "the World Health Survey estimates give a female prevalence of disability nearly 60 percent higher than that for males."[2] The increasing rate of disability is due in part to an overall global ageing population and partly due to an increase in chronic health conditions.[3] Disability is not necessarily a medical condition but rather a social condition; as defined by the United Nations, "Persons with disabilities include those who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others."[4] The high prevalence of disability must no longer be ignored but included in the work of civil society, states and international organisations. With the support and collaboration of civil society organisations (CSOs), non-governmental organisations (NGOs), and disabled persons' organisations (DPOs), mainstreaming disability can be achieved.

Misconceptions, stigmas and stereotypes about disability as well as inaccessible environments create barriers for people with disabilities from attaining their right to full and equal participation in civil society. The severity of discrimination faced by persons with disabilities varies based on individual environmental factors, gender, age and type of impairment.[5] Barriers and discrimination against persons with disabilities prevent access to education, health care, employment and political and civil engagement.[6] Recent research shows that the most significant issue facing persons with disabilities is not their disability, but rather poverty; this reality stems from both the direct and indirect result of exclusion and marginalisation of persons with disabilities.[7] In the words of the World Health Organisation, "disability is a development issue, because of its bidirectional link to poverty: disability may increase the risk of poverty, and poverty may increase the risk of disability."[8]

Removing barriers for persons with disabilities, who are considered the world's poorest persons, will facilitate the achieving of the Millennium Development Goals (MDGs).[9] According to a 2011 report on disability and the MDGs by the United Nations, "the fact that persons with disabilities are not included in any of the MDGs' goals, targets or indicators represents a lost opportunity to address the pressing social, educational, health and economic concerns of millions of the world's most marginalized citizens."[10] Further, the exclusion of persons with disabilities from civil society hinders the process of development as increasingly demonstrated by data in the field of development.[11]

Good practice in breaking barriers to persons with disabilities

Handicap International, 2011

The pilot project, The Microfinance and Disability Project, was launched in 2005 by the Association of Microfinance Institutions of Uganda (AMFIU) and the National Union of Disabled Persons in Uganda (NUDIPU), with support from the Norwegian Association of Disabled (NAD). Both organisations employed a project officer to manage the project and continue to raise awareness on issues related to disabilities among microfinance institutions. The project officer met directly with persons with disabilities to advise, train, and develop their capacity in business skills. Goals of the project included eliminating misconceptions, stigmas and fears regarding persons with disabilities and raising awareness amongst microfinance institutions about the largely unexploited market for financial services among persons with disabilities. These goals were achieved through a two-day workshop bringing together organisations for persons with disabilities and microfinance institutions in the district of Tororo, Uganda. Examples of successful entrepreneurs with disabilities, through the support of microfinance institutions, were showcased during the workshop. Awareness was raised regarding disability in microfinance institutions by implementing a survey of AMFIU members, finding the percentage of persons with disabilities amongst clients and evaluating members' knowledge and experience regarding equal opportunities for persons with disabilities.

Source: Handicap International. (October 2011). Good Practices for the Economic Inclusion of People with Disabilities in Developing Countries: Funding mechanisms for self-employment. Information exchange between microfinance institutions and organisations of people with disabilities. AMFIU/ NUDIPU, Uganda. Retrieved from http://www.iddcconsortium.net/joomla/images/IDDCdocuments/2011_good_practices_guide_en_final.pdf

Including persons with disabilities in development projects and policies implemented by CSOs and NGOs helps to reduce levels of poverty and increase the impact of development programmes.[12] The following is an example of good practice on the inclusion of persons with disabilities in microfinance institutions and its facilitation in reducing poverty.

Marginalising persons with disabilities and DPOs in studies on reforming policies, laws, and delivery systems

The Word Health Organisation's 2005 global survey on the implementation of the nonbinding United Nation's Standard Rules on the Equalization of Opportunities for Persons with Disabilities was carried out without the consultation of DPOs in 51 of the 114 countries included in the survey. Nor did the study consult with DPOs and families of persons with disabilities about the design, implementation, and evaluation of the programmes in 57 of these114 countries (World Health Organisation, 2011, p. 105).

As the majority of policy discussions exclude persons with disabilities and DPOs, organisations considered to be representative of the disability community[13], the capacity to improve the status of persons with disabilities in the community becomes limited. DPOs, however, play a critical role by supporting "the development of persons with disabilities' capacities by providing them with a common platform to exchange and share their experiences and build a common voice."[14] DPOs provide information on disability with regards to rights, existing services, and training in areas such as sign language classes.[15] As previously mentioned, persons with disabilities make up 15 percent of the world's population; fully enabling DPOs is an essential foundation for the realisation of the rights of persons with disabilities. CSOs can play an enabling role for DPOs by providing support and inclusion through capacity building and access to services.

Countries that have ratified the United Nation's Convention on the Rights of Persons with Disabilities (CRPD)[17] are obliged to implement the Convention. Adopting new legislation, modifying or repealing discriminatory laws, practices, policies and programmes to include disability must not be done without the consultation of DPOs and persons with disabilities.[18] This is made clear in Article 4, paragraph 3 of the CRPD, "In the development and implementation of legislation and policies to implement the present Convention, and in other decision-making processes concerning issues relating to persons with disabilities, States Parties shall closely consult with and actively involve persons with disabilities, including children with disabilities, through their representative organisations."[19] Persons with disabilities are considered experts on their own rights, needs and the barriers they face. As stated in Article 33 [20], DPOs must also be included in the monitoring process to ensure that laws, policies, and programmes are in compliance with the Convention. This provision implies that disability must be mainstreamed into all sectors of civil society[21].

Discrimination against persons with disabilities, lack of services and funding continues to lead to the exclusion of DPOs from policy-making decisions and prevents DPOs from fully exercising their capacity on disability rights. Addressing the importance of capacity building amongst DPOs is crucial in improving the quality of representation of persons with disabilities in civil society[22]. The graph in Appendix A provides a more detailed overview of the importance of collaboration between different stakeholders in civil society.

DPOs can provide guidance on creating an accessible environment and on changing oppressive attitudes and beliefs about persons with disabilities. DPOs also support persons with disabilities to become aware of their rights and to advocate for themselves.[23] With the help of Community Based Rehabilitation (CBR) projects in Burkina Faso,[24] implemented by the Catholic Organisation for Development and Solidarity (OCADES), DPOs are participating in training on how to further advocate for inclusion of persons with disabilities. Training focuses on the use of the CRPD, building knowledge on legal instruments and how to best put them into practice. Through the CBR projects carried out by OCADES, awareness-raising on the importance of the rights and inclusion of persons with disabilities and information about the CRPD and the national disability law are made possible through broadcasting on local radio stations. Informal meetings and discussions are held in local communities on the importance of participation of persons with disabilities in civil society.[25]

Further examples of good practice

Handicap International: the Disabled Rights Movement in Sierra Leone

The following is a case study in ensuring that disability issues are included in decision-making processes and in development projects as proposed in Article 29 of the CRPD, produced by Handicap International, 2010, focusing on a DPO in Moyamba Town, Sierra Leone.[26]

The government of Sierra Leone sets forth a mandate for district councils that makes provisions for ensuring that services reach socially marginalised groups, such as persons with disabilities. To ensure that this mandate is carried out, the Moyamba District Council has established sub-committees such as the Social Welfare and the Education Sub-committees.

As a result of awareness-raising and advocacy activities carried out by the main DPO in Moyamba Town, the Disabled Rights Movement, Sierra Leone (DRIM-SL), the Coordinator of the DRIM-SL for the Moyamba district branch was given a seat on the Social Welfare Sub-committee to represent persons with disabilities. Since his selection to this sub-committee, the inclusion of disability has become a mainstream theme in the Moyamba District Council development plan. Further, this representative of DRIM-SL has helped in lobbying for accessibility in the local hospital, resulting in an accessible entryway into the hospital by means of a ramp and wider doorways.

While this case study is an example of good practice in the inclusion of DPOs in civil society, Handicap International also notes that it can be improved. One recommendation that has been made is for a DPO representative to sit directly in District Council meetings and that those on the Sub-committees with transportation vehicles be encouraged to ensure that DPO representatives are able to attend meetings.

Peru: Community-Based Rehabilitation Consortium

The Community Based Rehabilitation Consortium of Peru consists of four organisations working in Cuzco, Lima and San Martin. The Consortium partnered with local DPOs and other civil society groups to gather 130,000 signatures[27] in an effort to lobby the Peruvian Congress to introduce an inclusive national disability law.[28] Through funding from the CBR Consortium, signatures were validated by the National Office for Elections. Extensive lobbying to revise the national disability law through consultations with relevant associations led to an initial vote by the Peruvian Congress approving a progressive disability law in June 2012. Provisions in this national disability law were based on the CRPD.[29] As of November 2012 a final vote on the bill was still pending.[30] The initiative has been successful to date due to the active participation of persons with disabilities, and the active collaboration of DPOs and other civil society groups to promote the law. The CBR Consortium is committed

to monitoring the full implementation of the new law once it completes the final legislative procedures.[31]

Philippines: Inclusion of DPOs and NGOs in emergency relief work, Cagayan de Oro, the Philippines[32]

After tropical storm Washi hit east of Mindanao Island in the Philippines in December 2011, water from the river in the City of Cagayan de Oro rose by six to 10 meters and overflowed its banks. "More than 80% of the Cagayan de Oro City was left with no water supply" and an estimated "50,000 people sought refuge in evacuation centres," according to the Christian Blind Mission (CBM). During the first rapid assessment by the Philippines Service of Mercy Foundation (PSMF), only 225 persons with disabilities were identified within the evacuation centres. Member organisations from the Cagayan de Oro Federation of Persons with Disabilities Associations (CAFEDPA), a federation of local DPOs, estimated that 2,000 to 4,000 persons with disabilities were affected by the flooding disaster and that many were missing.

Further assessments performed by PSMF demonstrated that persons with disabilities were not fully integrated into evacuation centres and that nothing had been adapted to support their needs. The assessments also revealed that community members held negative attitudes towards persons with disabilities: as a result, many were not provided assistance nor given a place to stay and many were sent back to storm-destroyed homes. Due to these findings, CBM, PSMF and CAFEDPA implemented a project using a twin-track approach to include persons with disabilities in mainstream emergency relief operations. Volunteers, including persons with disabilities from CAFEDPA and PSMF, estimated that 2,421 persons with disabilities were affected by the storm. This information was shared with mainstream organisations using a newly created referral system.

The project involved establishing disability information desks, a disability cluster coordination forum and training for evacuation centre managers. The role of the information desk was to identify the needs of persons with disabilities and to provide appropriate support and resources. Volunteers from PSMF and CAFEDPA followed up with persons with disabilities, identified through the information desks, and implemented assessments to measure the impact of the storm on these persons. Information was also given to mainstream organisations explaining how projects could be made inclusive to persons with disabilities. The coordination forum ensured that disability was included at all levels of strategic planning and that members of CAFEDPA participated in meetings to ensure awareness on disability issues was raised. CBM concluded that, "…persons with disabilities' involvement during emergency responses contribute to sustainable change of community and humanitarian stakeholders' perceptions and attitudes towards persons with disabilities."

Conclusion: enabling DPOs

Fully enabling DPOs is an essential foundation for the realisation of the rights of 15 percent of the world's population and in helping to achieve the MDGs and post-2015 goals. Through community-based rehabilitation, with support from CSOs and NGOs, DPOs are able to build their capacity to advocate for the rights of persons with disabilities. Further, CSOs and NGOs must collaborate with persons with disabilities and their organisations throughout all levels of decision-making processes in development projects and programmes in order to be fully inclusive and to comply with the CRPD.

Barriers to civil society and social stigmas on disability must be removed to allow for the full participation of persons with disabilities. Targeting stigmas and discrimination about and against persons with disabilities facilitates the eradication of barriers for persons with disabilities and furthers their inclusion in civil society.

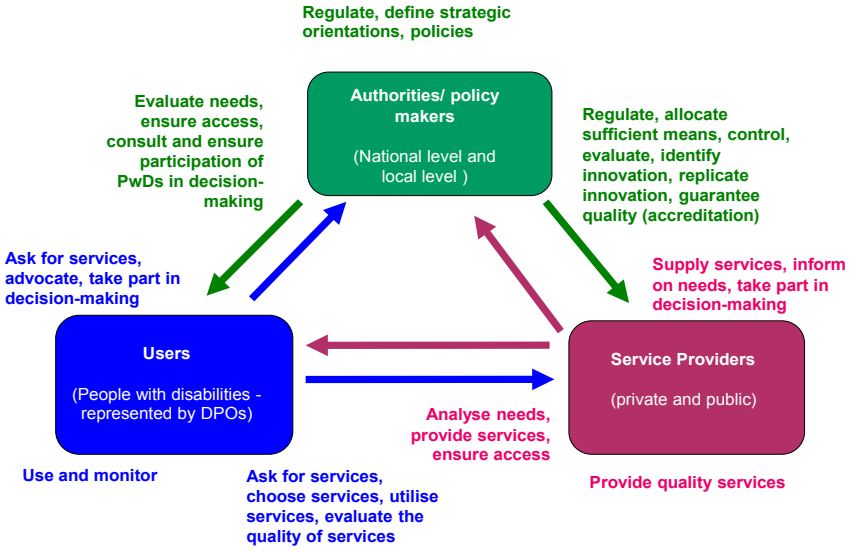
Examples on how to target discrimination against persons with disabilities can include:

- Providing training in all institutions of society explaining disability as a human rights issue and how to be inclusive of persons with disabilities.
- Distributing information about inclusive disability laws and the CRPD through media (including closed-captions and voice-overs on television programmes, Braille for printed formats, and easy-to-read formats for screen readers).
- Providing workshops and training on sign language and the use of skilled interpreters.
- Providing universal guidelines on accessibility to public and private institutions and to information and communication technologies.

Organisations should also be aware and inclusive of women and children with disabilities during the construction and implementation of such trainings, projects programmes, and decision making processes to ensure equality amongst disability and gender.[33]

Appendix A.

The graph below, taken from Handicap International, presents the collaboration between different stakeholders in ensuring equal access of persons with disabilities to services.



Source: Handicap International. Retrieved on 8 March 2013 from http://www.hiproweb.org/fileadmin/cdroms/Handicap_Developpement/www/en_page71.html.

Description of picture:

Three circles are placed in a triangular format. The first circle situated on top reads, Authorities/ policy makers. National level and local level. From this circle there are arrows pointing to and from the second circle in the bottom right corner. The arrow pointing away from the first circle reads, Regulate, allocate sufficient means, control, evaluate, identify innovation, replicate innovation, guarantee quality (accreditation). The arrow pointing towards the first circle reads, Supply services, inform on needs, take part in decision-making. The second circle in the bottom right corner reads, Service Providers (private and public). There are two arrows pointing to and from the second circle to the third circle. The arrow pointing toward the third circle reads Analyse needs, provide services, ensure access, provide quality services. The arrow pointing toward the second circle reads, Use and monitor, Ask for services, choose services, utilise services, evaluate the quality of services. The third circle in the bottom left corner reads, Users (Persons with disabilities-represented by DPOs). There are two arrows pointing to and from the third circle to the first circle. The arrow pointing to the first circle reads, Ask for services, advocate, take part in decision-making. The arrow pointing toward the third circle reads Evaluate needs, ensure access, consult and ensure participation of PwDs in decision making.

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1 See United Nations, (2013).The Convention on the Rights of Persons with Disabilities (CRPD) has provided the first international framework in recognizing disability as a human rights issue. As of February, 2013, 129 countries have ratified and 155 have signed the CRPD while 76 countries have ratified with optional protocol and 91 have signed with optional protocol

2 See United Nations, (2011).

3 See United Nations, (2006). p. 6.

4 For the full description of Article 33 please find it on the UN Enable website, Article 33.

5 See United Nations, (2006).

6 See United Nations, (2011).

7 See WHO, (2011).

8 Community Based Rehabilitation (CBR), is defined by the International Labour Organisation (ILO), United Nations Educational, Scientific and Cultural Organisation (UNESCO) and World Health Organisation (WHO) as "a strategy within general community development for the rehabilitation, equalization of opportunities, poverty reduction and social inclusion of all people with disabilities. CBR is implemented through the combined efforts of people with disabilities themselves, their families, organisations and communities, and relevant governmental and non-governmental health, education, vocational, social and other services." See IDDC, (2012), p. 4.

9 See IDDC, (2012). Civil society in this case includes cultural life, sports, marriage, education, and vocational training.

10 Handicap International [HI] (2010). Pp. 87-88. Article 29 of the CRPD states that, "States Parties shall guarantee to persons with disabilities political rights and the opportunity to enjoy them on an equal basis with others". For the full description of Article 29 please see the following link: Article 29.

11 Only 57,000 signatures were required.

12 See IDDC, (2012).

13 See United Nations, (2013). Peru ratified the CRPD with its optional protocol on 30 January 2008.

14 Human Rights Watch, (2013).

15 See United Nations, (2006).

16 Christian Blind Mission [CBM]. (2012).

17 See WHO, (2011). Women and girls and children with disabilities have higher rates of double discrimination than that of men and boys with disabilities.

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World Health Organisation. (2011). World Report on Disability. Geneva. Retrieved from http://whqlibdoc.who.int/publications/2011/9789240685215_eng.pdf, accessed 28 February 2013.

Tracking the Growth of Organised Community Philanthropy:

Is it the missing piece in community development?

Jenny Hodgson, The Global Fund for Community Foundations[1]

Summary

It's time the mainstream development sector listened more closely to the voices - quiet, passionate, credible and deeply-rooted – of local community philanthropy. These small institutions are routinely overlooked by large donors, but they are an essential part of what development, globally, is trying to achieve. In recent years local indigenous institutions of community philanthropy around the world have finally begun to merge their voices and demand attention, but it's a slow process. This article provides an overview of the current state of global community philanthropy, with particular reference to the global South. It describes the factors that are driving a growth in community philanthropy, and the key features of this distinct section of civil society and its role in driving community development agendas that are locally formulated. This small but growing field, which emphasises local asset development and multi-stakeholder good governance, may have particular relevance in the context of increased limitations experienced by and reduced resources for CSOs in many parts of the world.

New institutional forms, old traditions of solidarity

The concept of community philanthropy has always been with us. Every country and culture has its traditions of giving and mutual support between family, friends and neighbours. This includes the tradition of burial societies across different parts of Africa and hometown associations in Mexico. Community philanthropy has consistently saved and improved people's lives, for example by covering medical bills, school fees and funeral costs. In contexts where the state lacks resources or simply the will to provide for its citizens, community philanthropy can be the only social safety net available. However, while the value of these forms of giving is understood only too well by those who benefit from them, these deeply embedded, trust-based, support systems have tended to be overlooked or considered to be marginal and un-strategic by the formal development sector.[2]

In recent years, however, a new generation of community philanthropy institutions – including community foundations, women's funds, environmental funds and other types of multi-stakeholder foundations - has begun to emerge in a range of low- and middle-income countries across the global South. From Ecuador to Thailand and from Egypt to South Africa, these institutions – which often bear a family resemblance to community foundations in the global North, but are by no means mirror images - are seeking to model new types of philanthropic behaviour and practice by harnessing local resources and cultures of giving and blending them with new organisational systems and forms.

The emergence of these new types of institutions is happening at a time when issues around ownership, flows and governance of resources are being seen as more critical than ever. As the established architecture for international aid is changing, so is the landscape in which it has traditionally operated. These transformations are shaped by the retreat of the state, the renegotiation of social contracts within states, the impact of the global scramble for mineral wealth and other natural resources, and the emergence of a new class of mega-wealthy and a growing middle class in many parts of the world traditionally seen as poor.

Promoting local ownership and leadership

These new philanthropic institutions are quite diverse in nature and are quite responsive to their specific context and circumstance. Nevertheless, they are alike when it comes to their particular approach to development, which combines assets and community development with the promotion of local ownership and leadership. So the Waqfeyat Al Maadi Community Foundation in Egypt, for example, is working to promote community development in Cairo's suburbs through the revival and

modernisation of the Islamic philanthropic practice of *waqf* (or endowments). In another example, the LIN Center, in Vietnam, works to foster giving for small grants to social causes among young middle- class professionals as a strategy for strengthening social cohesion in Ho Chi Minh City.

A report published in 2012, *A Different Kind of Wealth*, provided an initial baseline study of the emerging community philanthropy field in Africa.[3] The report identified a number of characteristics that distinguish this set of institutions from other parts of civil society. While the analysis was specific to Africa, these characteristics also tend to apply in other low- and middle-income countries where community philanthropy institutions are emerging.

First, these organisations are seeking to draw on local resources and assets, not just as a strategy for funding, but also in the belief that development outcomes are more lasting when people have invested in their own development. In this context, small grants to community groups and local organisations are also a distinguishing feature of these organisations, often combined with a long-term approach (which may include the creation of long-term assets such as endowment funds).

Second, they are seeking to build bridges at many levels, whether between external forms of development support and more local mobilisation of communities and their assets, or across different stakeholders within a community.

Third, although many of them are small in terms of money, they are rich in terms of social capital and trust-based relationships.

As discussed further below, what is so distinctive about this particular type of institution is this blending of grant-making with active civic engagement and asset mobilisation in the spirit of mutual responsibility across a range of different issues. But this approach, which is often about process and intangible outcomes, such as building trust or building confidence, also means these organisations can tend to be overlooked within the broader context of civil society, where a focus on specific issues, tight project timelines and programme delivery orientation are often the established conventions.

Understanding the context: global trends and local action

The experience of the Global Fund for Community Foundations (GFCF) of supporting the development of the global community philanthropy field through small grants, technical support and convening has highlighted the importance of individual leadership in the establishment of these organisations, which are almost all one-off hybrids in their communities, countries or even geographical regions. But there are larger factors at play, which can also explain the recent growth of the field.

Global forces such as economic recession, migration and climate change are making themselves felt at community and neighbourhood level. As social and economic inequalities increase and states continue to retreat from the provision of basic services in many parts of the world, local people are becoming increasingly active in addressing their concerns.[4]

The growth of community foundations and their peers can be seen in this larger context as forms of social solidarity movements and institutions that seek to promote citizen-led development. [5] Hybrid organisations are emerging in a new social economy, which includes social enterprise and member-based organising in cooperative and co-op-like organisations, all of which are framed around ideas of mutual responsibility.[6]

In a similar vein, community foundations can also be seen to be filling new societal spaces opened by the overhaul of state, private sector and civil society relationships, which many low- and middle-income countries have undergone in recent years. In Russia, for example, there are now over 40 community foundations nationwide, all of which were established in the last 15 years – evidence, it would appear, of the need for new types of bridging or facilitating institutions in the post-communist

context. In many parts of Russia where independent civil society is still very weak, community foundations offer key spaces for voluntary action.

Similarly, in Turkey, efforts are currently underway to generate new interest in the community foundation concept among a range of different stakeholders. Many of the right ingredients are in place: there is local money, a rich tradition of mutual support, a growing philanthropic sector and an active civil society. And yet, much philanthropic giving is one-off, in-kind and un-strategic. When people give, most prefer to bypass organisations altogether and give directly, while local CSOs struggle to raise local money, with few tax incentives for giving. Underpinning all these developments, however, are larger concerns about current strains on the notion of community in Turkey. In both urban and rural areas, the country finds itself pulled increasingly in different directions along religious, ethnic, class and political lines.

The notion of an organisation that seeks to build trust among people in a community and, by doing so, to strengthen that community, is an important one, not least in those emerging economies and developing countries where public trust is often low because of weak institutions or a history of conflict or division.

Reductions in international aid flows to many countries are another important factor that is affecting the landscape for civil society funding more broadly. This suggests that local donors will increasingly be called upon to fill funding gaps and they will need effective and transparent mechanisms through which to give. These mechanisms may also be different from those traditionally required by large international donors. And as the global scramble for natural resources intensifies, extractive industries are increasingly required to make socially responsible investments, which can generate long-term benefits for communities. New models of community-owned and community-controlled endowment funds – such as the Newmont Ahafo Development Foundation in Ghana, a "corporate community foundation" established by the mining company for the long-term benefit of the community - are likely to become increasingly common and will require new systems of transparent and accountable governance.

These institutions are emerging not only in response to changing funding patterns. Either implicitly or explicitly, they are also often challenging many of the conventions of mainstream development with its issue-based silos, time-limited project horizons and upward accountability to external donors. Instead they are choosing to take more holistic, locally responsive, long-term and flexible approaches, which in turn enhances community resilience and social cohesion. It is perhaps worth noting how many of these institutions have been founded by individuals who have previously worked in large international development organisations and have deliberately stepped outside them in order to pursue alternative, more locally-rooted models and approaches.

When Tewa, the Nepal Women's Fund, was established in 1996, for example, it was framed explicitly as an alternative to externally-formulated, top-down approaches. In this regard, local philanthropic contributions from the community have been an essential cornerstone of Tewa's institutional make-up, increasing ownership and flattening traditional donor-beneficiary hierarchies. In a similar vein, the Fund has consistently adhered to the principle that only local money is used in its grant-making. Similarly, the founders of the Kenya Community Development Foundation, one of Africa's largest community foundations, were also keen to ensure that it would mark a shift away from short-term projects, which were in effect delivered to communities, and towards a more participatory, locally-driven approach.

Community philanthropy and mainstream development: Parallel universes?

The last two decades have seen considerable investment in the development of community foundations and their community philanthropy peers[7]

in different parts of the world by a handful of institutional funders (mostly private foundations, with the C.S. Mott Foundation playing a particularly important role). Although this investment has certainly helped to strengthen the sense of a shared identity within the field, there has been limited crossover into the world of mainstream development initiatives. The terms 'community philanthropy', 'local foundation' and 'community foundation' have limited mileage beyond specific platforms and funders, while the word 'endowment' is most commonly applied to private foundations and mortgages. 'Grant-making' too often carries undertones of a functional financial transaction rather than an empowering and often transformative development tool. A problem of language may need to be overcome, in the first instance, if there is to be a successful linking of development discourses.

Notions of measurement and size can also be problematic. In the context of growing preoccupation with observable results, metrics and measurement in development, where success is often defined by a project's scalability, much of the global community philanthropy field stands in danger of becoming invisible and its impact immeasurable when conventional frameworks are applied.

Most of the institutions that make up the global community philanthropy field as a whole are small, both in terms of money and people. In a survey of 50 organisations based in Latin America, Africa, Asia, the Middle East and Eastern Europe that was conducted in 2010, with exception of a handful of organisations that had annual budgets that exceeded US$1million, most operated on less than US$65,000 per year. When it came to grants made by these organisations, most were in the range of US$350 to US$2,500.[8] By the standards of many conventional development budgets and programmes, these amounts may appear to be so small as to render these institutions statistically meaningless or insignificant.

And yet what if a different set of measures were applied to this picture? How can the potential multiplier effect be measured in terms of social capital and trust when a community foundation's entire budget has been raised locally? Further, how can the investment in time spent building relationships be measured, ensuring high standards of management and grant-making to retain that trust with the community, which may include multiple local donors? And while a US$500 grant to a local organisation might seem high in transaction costs, how can the changes be measured that might be brought about by that grant? These changes may be in terms of strengthening the capacities and building the confidence of a group that is so small it is off the radar of other donors and programmes. In the context of the familiar refrain about Southern CSOs and their limited capacities to absorb aid money, is there not a role for local intermediary institutions, targeting appropriate levels of resources, which can foster local development rather than engulf it?

Looking deeper, looking ahead

The early development of community foundations outside the global North 20 years ago focused strongly on developing practice, and sharing tools and skills on such areas as grant-making, local fundraising and governance. Early work built networks of peers in emerging and developing country contexts, such as Mexico, Russia, Slovakia, and South Africa, with more mature organisations in the Canada, United Kingdom and United States.

Recently, more attention has begun to been paid to why it is that these institutions have taken root in so many diverse contexts and how they relate to existing cultures and traditions. A report 2005, *The Poor Philanthropist*, shone a new light on the complex systems of giving and social solidarity that exist in Southern Africa. The report argued that such practices (described as 'horizontal' or 'philanthropy of community') had much to offer more formal community development efforts ('philanthropy for community') in terms of local values and practices and, in particular, of trust and social capital. TrustAfrica, an independent African foundation working across in

the continent, has also begun to play an important role in fostering 'thought leadership' around new ways for the cultivation of African resources for the continent's developing, launching its *State of Philanthropy in Africa* series in 2008.

In 2011, the C.S. Mott Foundation and Aga Khan Foundation conducted a series of consultations in Africa and Asia aimed at exploring ways to stimulate and develop community philanthropy as a means of contributing to the sustainability of civil society and supporting the effectiveness of development aid. The final report, *The Value of Community Philanthropy,* argued that community philanthropy has much to offer in strengthening development outcomes through civil society, but that it is undeveloped and not well understood by the development world.[9]

The Global Fund for Community Foundations is building up the evidence base for this emerging field, publishing a series reports drawing on data collected through grant-making. These reports seek to understand the different ways in which community philanthropy institutions are building financial and social capital in their communities. The field is small and the data is still provisional, but the evidence demonstrates that community philanthropy is an important and yet often missing piece in the jigsaw of international development.

CSOs in many countries are witnessing restrictions in their space to undertake their work as independent development actors, resulting from constraining government policies, regulations and political harassment, and the impact of onerous conditions attached to official donor aid. In this context, new community philanthropy institutions may be seen as part of a fresh wave of community level organisations, which are contributing to a more enabling environment for local CSOs and community initiative. They are doing so through more helping to develop more inclusive and democratic decision-making processes, and greater harnessing of local assets and resources, rather than a reliance on ideas, money and initiative from outside.

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Jenny Hodgson has been the executive director of the Global Fund for Community Foundations (GFCF) since 2006. She has overseen the development of the organisation from its inception as a pilot project to a fully-fledged global grantmaking fund, registered in the United Kingdom and South Africa, which has disbursed U.S. $2.69 million in grants to 147 community foundations and other community philanthropy organisations in 48 countries. Jenny has been working in the field of philanthropy and development since 1992 in Uganda, Russia, Kenya, Singapore and Thailand. She was Co-Director of the Charities Aid Foundation's Moscow office and has worked as a consultant to the Mott Foundation, Ford Foundation and Allavida. Jenny has a BA (Hons) in English literature from Emmanuel College, Cambridge and an MA in International Relations from Johns Hopkins School Advanced International Studies (SAIS). She is based in Johannesburg, South Africa.

What do you feel can create a better environment for CSOs in 2013?

In 2013, I am looking forward to the first international forum "Emerging Societies – Emerging Philanthropies" which will bring together leading philanthropy practitioners from Brazil, China, India, Mexico, Russia, Turkey, Ukraine, and the South East Asian, African and Arab regions. I hope it will mark the beginning of an important conversation around the role of local philanthropic resources in supporting and sustaining healthy civil society and progressive social change in these countries.

1. Jenny Hodgson is the executive director of The Global Fund for Community Foundations. The GFCF is a grassroots grantmaking fund based in Johannesburg, South Africa, which provides grant, technical and peer learning support to community philanthropy institutions in Africa, Asia, Latin America and Eastern Europe. See the GFCF web site at http://www.globalfundcommunityfoundations.org/.

2. Fowler A., Mulenga C.F.N., and Wilkinson-Maposa S., 2005. *The Poor Philanthropist: How and Why the Poor Help Each Other.* The Southern Africa – United States Centre for Leadership and Public Values at the Graduate School of Business, University of Cape Town, South Africa, accessible at http://www.impactalliance.org/ev_en.php?ID=14913_201&ID2=DO_TOPIC.

3. Hodgson J. and Knight B. 2012. *A different kind of wealth: Mapping a baseline of African community foundations*, Global Fund for Community Foundations, Johannesburg, South Africa, accessible at http://www.globalfundcommunityfoundations.org/information/a-different-kind-of-wealth-mapping-a-baseline-of-african-com.html

4. Further information on these trends is available at http://www.oecd.org/els/soc/dividedwestandwhyinequalitykeepsrising.htm and http://www.guardian.co.uk/global-development/2011/nov/21/oecd-report-emerging-economies-inequality

5. Growth of the community foundation field has been consistent and stable across the last decade, with an average of 70 community foundations being added each year. See www.wings-community-foundation-report.com/gsr_2010/gsr_theme_facts/global-growth.cfm

6. See Hodgson J., Knight B. and Mathie A. 2012. *The New Generation of Community Foundations.* Global Fund for Community Foundations, Johannesburg, South Africa, accessible at http://www.coady.stfx.ca/tinroom/assets/file/HodgsonKnightMathieNGCF.pdf

7. The term "community foundation" describes one form – the most common and the most visible of these institutions. "Community philanthropy institutions" is a more inclusive term, which includes women's funds, environmental funds and other community grant-makers without "claiming" them necessarily as community foundations.

8. Hodgson J., and Knight B., 2010. *More than the Poor Cousin? The emergence of community foundations as a new development paradigm*. Global Fund for Community Foundations, Johannesburg, South Africa, accessible at http://www.alliancemagazine.org/members/pdfs/morethanthepoorcousin.pdf

9. See Barry Knight, 2012. *The Value of Community Philanthropy: The results of a consultation*, Aga Khan Foundation USA and the Charles Stewart Mott Foundation, February 2012, accessible at http://www.mott.org/files/pubs/thevalueofcommunityphilanthropy.pdf

Key Factors Shaping an Enabling Environment for Women's Rights Organisations

Edited by: Cindy Clark and Julia Miller, Association for Women's Rights in Development (AWID)[1]

1. Introduction

Women's rights organisations and groups are a critical component of the global civil society landscape. They reflect a rich diversity of organising structures in civil society: whether formally registered or not, operating at multiple levels – community, national, regional and global – with mandates ranging from service delivery, to research, advocacy and mobilising around a wide array of women's rights concerns across all spheres of life.

Recent research2 has highlighted the vital role of autonomous women's organising in achieving change, citing three factors: i) self-organisation facilitates oppositional consciousness' with opportunities for women to exchange with each other, develop a critique of their subordinated position and articulate "priorities that reflect their distinctive experiences and concerns as a group"; ii) women's organisations offer more secure spaces for strategising and advancing work that challenges existing power relations and gender norms, which often generates backlash or resistance in mixed-sex institutions; and iii) change can move faster than when women organise from within broader political institutions, in which women's rights concerns are often seen as secondary, 'of importance 'only' to women', and thus subordinated to other goals.

Women's rights organisations thus play both a catalytic role in promoting women's rights and gender equality as well as advancing other critical development goals, contributing to structural and legislative changes, sustaining communities, engendering institutions and normative structures, and changing behaviour and attitudes. Enabling conditions that do not address the challenges faced by women's rights organisations, whose status in many respects serves as a bellwether for broader civil society, will undermine the progressive realisation of human rights for all people.

The 2012 Global Report3 by the Women Human Rights Defenders (WHRD) International Coalition presented an analysis of contexts that exacerbate WHRDs' vulnerability to violence and rights violations, considerations that are highly relevant for the work of women's rights organizations. In addition to fundamentalisms, discussed below, the Global Report highlighted four additional contexts.

Militarisation, reflected by the strong prevalence and justification of the use of force or violence in everyday life, and situations of conflict are a major obstacle for women's rights organisations. They are generally accompanied by a diminished state ability or willingness to address violations of rights and increased vulnerability of civilians. The lack of recognition of the role of women human rights defenders makes them more vulnerable to attacks, especially where the risk of violence against women, particularly sexual violence in the midst of the conflict, is on the rise.

The dominance of globalisation and a neoliberal economic paradigm, manifested in shrinking of the state and public spending, privatising of public services, de-regulation, trade liberalisation and the push for open markets, has generated increasing income inequality and concentration of economic power.4 The resulting growth in power and influence of the private sector poses a number of challenges to WHRDs, constraining their enjoyment of economic rights and stimulating the rise of a range of non-state actors who often act with impunity.

Contexts of undemocratic and authoritarian regimes reinforce gender and other social hierarchies that have specific consequences for women's rights organisations. Their work may challenge existing social inequalities or expose the deficiencies of political regimes and governments who are unable or unwilling to guarantee protection of human rights.

Threats to defenders of sexual and reproductive rights as well as lesbian, gay, bisexual, transgender and intersex (LGBTI) activists in contexts of dominant heteronormativity[5] demonstrate that despite

many achievements at the international level in recognising gender orientation, identity and sexuality-related rights, WHRDs continue to be persecuted.

These are just a few of the important conditions impacting women's rights organising. Building on AWID's experience, for this chapter we selected three key barriers to an enabling environment for women's rights organisations: a) violence against women human rights defenders; b) religious fundamentalisms; and c) financing for women's rights organisations. For each of these barriers, we offer some analysis of how they operate as an impediment to women's organising and explore strategies and recommendations to strengthen enabling conditions for women's rights organisations.

2. The external context: select barriers facing women's rights advocates and organisations

a) Increased violence against women human rights defenders (WHRDs)

Many women's rights activists and their organisations are working within a context of increasing risks, conflict and security concerns. Attacks on WHRDs aim to stop them from defending rights, and to generate fear and intimidation among WHRDs and their organisations, reducing the space for action by civil society as a whole. The 2010 Annual Report of the UN Special Rapporteur on the situation of Human Rights Defenders profiled in the 2011 State of Civil Society report acknowledged the increased risks of women as HRDs,6 the need to make visible the seriousness of violations against WHRDs, and the need for a gender-specific approach to protection mechanisms.

The global picture of violence against WHRDs is difficult to quantify, but the cases below are alarming nonetheless. The 2010 Annual Report of the UN Special Rapporteur on Human Rights Defenders cited that of the 350 communications sent to governments per year between 2004 and 2009, almost one-third (105 annually) concerned women defenders and those working on women's rights or gender issues.[7] To highlight a few recent examples, WHRDs providing services, health advice and support to sex workers in Uganda were persecuted, harassed and arrested.[8] In Honduras, Guatemala and Mexico, at least 24 WHRDs have been murdered between 2010 and 2012. Many more have received threats (including death threats and threats to the wellbeing of their families), or have suffered attempted assassinations and physical attacks.[9] In Colombia, as in Mexico, WHRDs have reported how linkages to drug trafficking and guerrilla groups have been used against them as a strategy of persecution.[10] In Pakistan in 2012, the distressing spike in violence against WHRDs included the assassination of 25-year-old Farida Afridi, co-founder of SAWERA (Society for Appraisal and Women Empowerment in Rural Areas),[11] the assassination attempt on 14 year-old school girl and education activist Malala Yousafzai,[12] and an assassination plot against Asma Jahangir,[13] former UN Special Rapporteur for Religious Freedom and the President of the Supreme Court Bar Association of Pakistan.

Violence and rights-violations against WHRDs – perpetrated by state and non-state actors **– continue to present severe threats to the future and effectiveness of** women's rights organisations and other CSOs and require a diversity of urgent responses addressing the specific situations and contexts.

b) A rise of religious fundamentalisms across regions

Of a sample of close to 1,600 women's rights activists from over 160 countries who responded to an AWID research survey, 76% said they have been facing a global rise of regressive religious political forces, also known as religious fundamentalisms, over the past ten years.[14] In the experience of eight out of 10 women's rights activists surveyed, religious fundamentalisms, spanning a wide range of religions or localised religious

traditions, have a negative impact on women's rights and their work. They negatively affect rights that are necessary to civil society including women's rights and freedoms, LGBTI rights, minority rights, freedom of association and expression, and human rights generally.

Fundamentalist movements have the power to shape social norms, influence international institutions and national decision makers, and define laws and policies, especially in the areas of "morality" and bodily autonomy. Often using religion to mask political interests and agendas and assert social control, fundamentalist actors reinforce patriarchal structures and gain access to power and resources. Control of women's bodies, sexuality and reproductive choices is a central strategy of religious fundamentalisms, and the rise of fundamentalist ideas is accompanied by increased violations of women's rights, a general reduction in women's bodily autonomy, sexual freedoms and reproductive rights.

The prevalence of religious fundamentalisms also profoundly impacts minority rights, including the rights of sexual, ethnic and religious minorities, who are made invisible, 'otherised[15]' and viciously attacked as a result of the monolithic perspectives, divisions and intolerance promoted by fundamentalists. Mobilising anxieties around sexuality, morality and identity has served to legitimise and enforce new regulatory measures.[16]

Religious fundamentalist actors also effectively narrow the space for civil society engagement. This is done by harassment, threats, intimidation, decrees, legislation and violence, targeting in particular those seen to be challenging norms set by fundamentalists. Given the social, cultural and economic power that religion carries in many contexts, confronting religious fundamentalisms can be complicated and challenging, and at times a dangerous exercise.[17]

There are also indirect impacts of the rise of religious fundamentalisms on civil society engagement. Many women's rights activists, for example, report that the energy and resources spent on fighting the backlash on sexual and reproductive rights fuelled by rising religious fundamentalisms left other areas, such as economic and environmental justice issues, less attended to. In other instances, the rise to power of religious fundamentalisms has led to systematic strategies to attack, defund and delegitimise women's rights groups and other rights-based organisations.[18]

While in some instances religious fundamentalist actors may come to power by democratic means or be recognised as part of civil society, religious fundamentalists do not recognise the premise of human rights. That is, human rights are indivisible and interdependent: all rights are equally important and none can be fully enjoyed without the others. While religious fundamentalist movements may appear to favour some rights or pose as moderates on certain issues, they are fundamentally against women's rights, sexuality rights and gender equality[19]. In Latin America, for example, the Catholic hierarchy continues to lobby against decriminalisation and safe access to abortion even as at least 47,000 women die every year due to complications from unsafe abortion.[20]

Within the past year, there has been an intense backlash against advocacy for comprehensive sexuality education (e.g., at the Commission on the Status of Women, Commission on Population and Development, and Rio+20).[21] Strategic alliances in the international sphere, including between the Vatican, the Organisation for the Islamic Conference (OIC), and fundamentalist and conservative States such as Russia, as well as regional organisations such as CARICOM in the Caribbean, have stalled advances or opposed already agreed upon language and commitments. Multilateral spaces, such as the United Nations, have been weakened to the extent that the ability to undertake meaningful negotiations or reach agreements has been compromised. These regressions have ripple effects on the efforts of civil society actors, and particularly women's rights organisations, in their demands for accountability and the universality of human rights at all levels.[22]

c) Financing for women's rights organisations

Access to financial resources is a critical enabling condition for effective action by women's rights organisations. In recent years, a broad and diverse set of development actors have recognised

the need to strengthen commitments and resources for gender equality and women's rights as cornerstones of development. Yet in spite of official commitments, research by AWID and others[23] have found that women's organisations in all regions remain significantly under-resourced.[24] A 2011 AWID global survey of 1,119 women's organisations revealed that the majority of these organisations continue to have quite small incomes, with the median annual revenue at US$20,000 in 2010, and with 75% of organisations having a revenue of US$62,000 or less.[25] Only around 7% of survey respondents reported revenue in excess of US$500,000.[26]

Thirty-five percent (35%) of women's organisations responding to AWID's 2011 survey reported shortfalls in meeting their 2010 budgets and of these 15% experienced catastrophic shortfalls (of 80% to 100%), signalling what seem to be the deepening impacts of the on-going financial and economic crisis that began in 2012.[27] Evidence of the crisis' impact on donors is becoming increasingly apparent. After reaching an all-time high in 2010, the total level of Official Development Assistance decreased in 2011, as projected in the 2011 State of Civil Society report. Longstanding donor allies for women's rights organising, such as those in the Netherlands, Spain and Canada, have been affected both by financial and conservative political pressures for shrinking international development financing[28]. While a few donors that champion women's rights have retained strong levels of commitment (including, but not limited to the Dutch Ministry of Foreign Affairs, who, in spite of overall cuts, continue relatively strong support for women's rights[29], Swedish International Development Agency, the growing international community of women's funds[30], and some private foundations such as the Oak Foundation), funding levels are still far from what would be required to meet commitments to women's rights. Data provided by the Organisation for Economic Co-operation and Development (OECD) Development Assistance Committee (DAC) reflect that while funding to civil society women's organisations and institutions has more than tripled (from close to US$72 million in 2007 to over US$285 million in 2011), the 2011 figure represents only 0.27% of total aid from DAC country donors.[31]

In addition to shrinking funding from many of the traditional sources of financial support for women's rights, another important trend in this area has been an upsurge in new development actors from the private sector and a growing proliferation of public-private partnerships, with investment becoming the preferred strategy rather than aid. While promising, in that these new actors potentially bring new resources to the table (some of which is directed to issues affecting women and girls), their diversity makes this a highly complex field. Channels for influencing their agendas are often unclear or unlinked to human rights commitments. Women's organisations and movements are often not represented directly in many of the major agenda setting spaces where private sector actors determine their priorities. This lack of inclusion and understanding about women's rights, has led in many cases to the instrumentalising of women's contributions to economic growth, and often making invisible the knowledge and experience of feminist and women's rights movements around the world. As Lydia Alpizar Duran, Executive Director of AWID, commented at the UN, there is concern that "in some cases corporations are using this heightening interest in women and girls as part of their broader marketing efforts, without meaningfully transforming harmful corporate practices for women in their communities (violation of labour rights, land grabbing, etc.)."[32]

3. Strategies and recommendations looking forward

Women's rights organisations, in all their diversity, are working to counter these barriers to their work, utilising a range of strategies and proposals described below.

a) Addressing violence against women human rights defenders

Effectively responding to WHRDs at risk requires approaches tailored to their

realities, which not only differ by country context, but also from those of their male counterparts. The WHRD International Coalition published a reflection based on a mapping of urgent responses for WHRDs at risk. The Coalition produced the following Ten Insights[33] to advance strategic, effective responses for WHRDs at risk:

1. Recognise women who work to uphold the rights of people, communities and the environment as Women Human Rights Defenders: There is still work to be done to legitimise their work and to acknowledge the risks they face.
2. Protect WHRDs at risk of violence by using the Human Rights Defenders framework:[34] Naming HRDs, including WHRDs, as rights-holders and identifying states' obligations in protecting them and preventing violations of their rights is essential for their protection.
3. Urgent responses must acknowledge that WHRDs face violence from a variety of actors: a diversity of State and non-State actors that may target WHRDs — who are already faced with gender inequalities and discrimination — increases their risks and makes accessing appropriate responses and support more difficult
4. Improve documentation to reflect the different dimensions of violence against WHRDs: more systematic and sophisticated documentation would mean better analysis of trends and patterns of violations, taking into account the multiple types of violence that WHRDs face in both the public and private sphere, and perpetrated by multiple actors.
5. A multi-layered approach to providing responses is most effective for protecting WHRDs at risk: The strength of any given response to a WHRD at risk lies in its ability to be tailored to a specific situation, rather than an one-size-fits-all measure.
6. Holistic support for WHRDs must include self-care in order to sustain individuals, organisations and movements: self-care is a political strategy of resilience and resistance in the face of aggressions aimed at weakening organisations and movements dedicated to seeking justice and defending human rights.
7. Integrated security engages WHRDs on their own terms: the concept of integrated security incorporates concern for the wellbeing of the WHRD and her family, and recognises the gender-specific nature of violence. Funding must be flexible, timely and strategic to ensure that WHRDs can tailor financial assistance to meet their needs.
8. Strong coordination among organisations and networks increases the effectiveness of responses: organisations must be able to work collaboratively, drawing upon their individual strengths in order to mobilise the most effective response.
9. Local support systems are key for helping WHRDs and their organisations deal with violence: local networking among WHRDs is crucial for accompanying WHRDs at risk where they live and work, for building their capacity to respond at the local level, and for responding quickly to urgent situations.
10. Effective responses require long-term, flexible support: by making general multi-year support available, donors can help foster sustainable, well-resourced, and healthy organisations and movements with leaders who are able to work free from threats of violence.

Beyond specific responses to WHRDs at risk, it is crucial to also build stronger understanding, awareness and action with respect to the contexts that foster violence against WHRDs and their organisations. Cross-sectoral alliance-building and international solidarity and advocacy efforts are also key to combating violence against WHRDs.

b) Insights and strategies to resist and challenge religious fundamentalisms

Women's rights activists and other progressive rights-based actors are responding and resisting religious fundamentalisms to hold on to hard-won rights, as well as building proactive strategies to advance rights.

The use of legal strategies, including in their more innovative forms, has been important to bring

accountability, raise awareness of violations committed and advance rights. In October 2012 for example, Uruguay legalised first-trimester abortions, despite lobbying by the Catholic Church, which delayed and watered down the bill.[35] Activists in Honduras stopped the passing of a bill that would imprison women for using emergency contraception[36] and in Turkey, due to widespread mobilisation by activists, the government backed down on introducing a bill to limit abortion to only the first four to six weeks of conception.[37] In November 2012, the European Court of Human Rights in the case of P and S v. Poland affirmed the reproductive rights of adolescents.[38]

In other areas, the new constitution of Somalia outlawed the practise of female genital mutilation/cutting (FGM/C).[39] The government of Swaziland declared the practice of child marriages as illegal.[40] In the USA, as of November 2012, in a landmark decision, nine states accepted same-sex marriage. Chile has a new health protocol, which includes the rights of the transgender and intersex community.[41]

One example of an innovative legal strategy is the case that was filed against the Pope and other senior Vatican officials for their alleged role in the cover-up of rape, sexual violence and torture as crimes against humanity at the International Criminal Court (ICC).[42] And the organisation Jews Offering New Alternatives to Homosexuality was charged with engaging in fraudulent business practices.[43]

Activists are also continuing to resist and defy fundamentalisms through the use of alternative media and technology. In Egypt's complex transitional context, mobilisation by young women's rights activists developed the HARASSmap[44] project in order to document and publicise incidents of violence against women and demonstrate their use as a political tool in the transition to suppress dissent and the entry of women in the public space. Católicas por el derecho a decidir in Mexico produced a cartoon series, Catolicadas, broadcast to an audience of over 100,000 people via YouTube and mainstream media, that instigated a national debate by showing the incongruence between the edicts of the Catholic hierarchy and the beliefs and lives of everyday Catholics.[45]

As these examples illustrate, innovative, sophisticated and well-resourced activism can successfully counter fundamentalist challenges. It is essential to document and raise awareness about religious fundamentalist actors and in particular expose their links with front organisations, as well as with states and political organisations that purportedly take more moderate positions. It is critical that women's rights activists continue to build rights-based movements and work collectively across a range of progressive civil society and state actors to find the intersections that strengthen our response and activism to challenge fundamentalisms. [46]

c) Advocating for more and better quality financing for women's rights organisations

Resource mobilisation is a critical dimension of the agenda of women's rights organisations —both a practical concern of every organisation and a political concern that links to broader development debates. To advance resourcing for women's rights work, women's rights organisations must push for and take up opportunities in relevant decision-making processes or channels for engagement with funding agencies.

Recognising the tensions and competition that resource mobilisation has often generated, a collective approach is particularly important, whether in negotiating terms with donors, or informing funding agendas and frameworks. For example, women's organisations that are grantees of the Dutch MDG3 Fund[47] successfully and collectively negotiated adjustments to what they perceived as excessively burdensome administrative and reporting requirements. The result was a collaborative reflection, not just on the technicalities of reporting, but on tools and processes that could most effectively speak to the combined aggregate impact of the work supported by the Fund. Diverse women's organisations have also strategised and mobilised around the aid effectiveness agenda. Since 2005, the outcomes of aid effectiveness debates, and agreements made during the High Level Forums in Paris, Accra and Busan, have had clear impacts on the funding processes

and priorities of bilateral and multi-lateral donors, as well as on aid distribution at country levels, with repercussions for women's rights organisations. The most recent collaborative mobilisation by women's rights organisations around the 4th High Level Forum on Aid Effectiveness in late 2011 succeeded in influencing key language in the paragraph on gender equality and women's empowerment in the final outcome document, along with ensuring inclusion of an indicator in the global monitoring framework. This will be an important normative reference to ensure that gender equality is fully integrated into development cooperation practice and resourcing decisions. Women's organisations and their allies will need to continue influencing and close monitoring of national development plans, priorities and resource allocations to see that the most recent commitments on gender equality and women's rights in development are materialised in practice.

A bolder vision is needed of resourcing women's rights organisations. Some of the bright spots in recent years in terms of funding for women's rights have been large bi-lateral or multi-lateral funds such as the Dutch Sexual and Reproductive Health and Rights Fund (€125 million available for 2013-2015), the Dutch Funding Leadership Opportunities for Women Fund (€70 million for 2012-2015), the UN Fund for Gender Equality and the UN Trust Fund to End Violence Against Women. These funds have helped to break the perception that women's organisations were unable to absorb large-scale funding. The significant demand that each Fund has received has made it clear that there is still much more that could be done. Women's organisations themselves are increasingly engaging in collaborative resource mobilisation strategies and working together to make the case for large, multi-year resources for women's rights organising.

A bold vision for resource allocation must also encompass the diversity of women's rights organisations, including those that may be smaller or harder to reach. In that regard, the community of women's funds has played a tremendously important role, as have larger women's organisations that play a re-granting function. One example of directing resources to address an unmet need is FRIDA, the Young Feminist Fund. Recognising that supporting young women is necessary to the expansion, rejuvenation and sustainability of women's movements and organisations, and that funding opportunities for young feminist initiatives were quite limited, FRIDA took shape in 2010 and launched its first round of grant-making in 2012, supporting 16 diverse initiatives to support young feminist organising.

How funding is provided also matters greatly. Governments and donors should ensure increased, responsive, substantial, flexible, predictable and multi-year core funding for women's rights organisations.[48] As AWID's preliminary assessment of the global impact of the Dutch MDG3 Fund shows, core funding was critical because it allowed for organisational strengthening to take place, and supported the creation and systematisation of knowledge, rare in today's funding environment. Flexible, multi-year commitments facilitate greater predictability of resources and financial sustainability allowing women's organisations to adjust to contextual changes or respond to urgent needs.

Tracking funding also remains highly relevant to ensure that governments and other donors honour and grow their commitments. Yet tools for monitoring and accountability of financing for women's rights and gender equality are limited and need significant further development. Currently the most important tool for monitoring donor commitments to gender equality is the OECD-DAC Gender Equality Policy Marker, used by OECD member governments to classify aid activities based on whether they have gender equality as a principle or significant objective. While an important tool, the marker is focused on the intention of the activity and amount of aid allocated, and says nothing about the quality of the resources or the outcomes delivered. But as the aid environment becomes increasingly complex and diversified, the disconnect between rhetoric on the role of women and girls in addressing social and economic problems and actual resource allocations will only grow wider, as tools to track not only aid flows but also the quantity, quality and impact of financing for women's rights and gender equality remain absent.

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What issue do you feel affected civil society the most in 2012?

As we discuss in the article, I think growing repression of civil society action has had a major negative impact, related to the on-going entrenchment of militarism as a dominant ideology—this notion that military might is the best means to address problems and resolve conflict.

What do you feel can create a better environment for CSOs in 2013?

We have to stand together. AWID has long been trying to emphasize the "feminist movement-building" dimension of our work, how we can contribute to building linkages among women's rights activists, and women and men from various social movements to come together in respect and solidarity to address the challenges we face.

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What issue do you feel affected civil society the most in 2012?

The increasing rise of religious fundamentalists is a serious concern for civil society engagement and human rights. In particular, the role that religious fundamentalists have played in international and multilateral venues in 2012, such as at the CSW, Commission on Population and Development, and Rio+ 20, has caused a regression in sexual and reproductive health and rights, hindering advances on already agreed upon language

and commitments.

What do you feel can create a better environment for CSOs in 2013?

Development cooperation processes and policies need to be aligned with international and regional agreements on human rights and gender equality. There also needs to be clearer accountability mechanisms put in place to ensure public and private actors are held to Internationally Agreed

1 Given that this chapter draws from the work of staff from four different AWID teams, several individuals contributed to its authorship: Analía Penchaszadeh, Shareen Gokal, Angelika Arutyunova, Anne Schoenstein and Katherine Ronderos.

2 Mala Htun and S. Laurel Weldon (2012). "The Civic Origins of Progressive Policy Change: Combating Violence against Women in Global Perspective", 1975–2005. American Political Science Review, 106, pp 548-569 doi: 10.1017/S0003055412000226

3 Global Report on the Situation of Women Human Rights Defenders, WHRDs International Coalition, January 2012. Available at http://www.defendingwomen-defendingrights.org/pdf/WHRD_IC_Global%20Report_2012.pdf.

4 See generally: UN World Economic Situation and Prospects 2012 Global economic outlook; See: Development Dialogue: No Future without Justice, Civil Society Reflection Group on Development Perspectives, June 2012; http://inequality.org/oecd-on-inequality-rise/ and http://www.imf.org/external/pubs/ft/survey/so/2012/INT061412A.htm

5 The Global Report on the Situation of Women Human Rights Defenders defines heteronormativity as the normalisation of "reproductive sex and heterosexual relationships, and marginalis[ation] or otherwise mark[ing] as 'abnormal' non-normative sexualities, identities and gender roles."

6 Report of the Special Rapporteur on the situation of human rights defenders, Margaret Sekaggya, UN HRC, 16th Sess., UN Doc. A/HRC/16/44 (2010) p. 6 para. 23

7 Ibid, para 35.

8 Uganda: Defending The Defender – Women Human Rights Defenders In Uganda Face Unlawful Criminalization, AWID, 17 August 2012, http://www.awid.org/News-Analysis/Friday-Files/Defending-the-Defender-Women-Human-Rights-Defenders-in-Uganda-Face-Unlawful-Criminalization.

9 http://www.justassociates.org/en/resources/violence-against-women-human-rights-defenders-mesoamerica-2011-update

10 Colombia: Women human rights defenders: activism's frontline, Open Democracy, 25 November 2012, http://www.opendemocracy.net/5050/jennifer-allsopp/women-human-rights-defenders-activisms-front-line.

11 http://awid.org/Library/AWID-condemns-attack-on-young-WHRD-in-Pakistan/Other-information-about-WHRD-in-Pakistan/WAF-Statement-and-Petition-on-Farida-Afridi-Killing

12 http://awid.org/Library/AWID-condemns-attack-on-young-WHRD-in-Pakistan

13 http://awid.org/Library/Assassination-plot-against-Pakistani-women-human-rights-defender-threatens-the-country-s-human-rights-commitments

14 Please see AWID's report: "Towards A Future Without Fundamentalisms". Balchin. C. AWID, 2011. At http://www.awid.org/Library/Towards-a-Future-without-Fundamentalisms2

15 Sexual, ethnic or religious minorities, and also WHRDs who challenge fundamentalist norms, may be otherised in a variety of ways. For example, in India, a campaign by Hindu fundamentalists used the slogan "who panch aur hum do (they are five and we are two)" to stereotype all Muslims as polygamous, claiming this results in a higher fertility rate among Muslim minorities. Similarly, ethno-religious fundamentalist rhetoric in Serbia warns of a "white plague" of falling fertility rates, with white contrasting Serbs against non-white Roma, Albanian and Bosniak minorities. (Cassandra Balchin, Towards a Future without Fundamentalisms, AWID: Toronto, 2011, p. 27).

16 Ibid.

17 Ibid.

18 "Religious Fundamentalisms on the Rise: A case for action". Balchin. C. AWID, 2008 p. 21 at http://www.awid.org/Library/Religious-Fundamentalisms-on-the-Rise-A-case-for-action

19 For example, by pushing a report in the Human Rights Council to highlight traditional values of humankind as a source of human rights and undermine their universality and pose conditions for their fulfilment, please see Opposing Human Rights Council Resolution On "Protection Of The Family; or in venues such as Rio+20 where they took out any reference to reproductive and sexual rights or gender equality, please see "Rio+20: Backsliding on Women's Rights" or at the CSW 56 where agreed conclusions were not possible and fundamentalist forces see the impasse as a great "pro-family" victory please see the Family Watch International report on the 56th CSW, or the CSW57 where they successfully took out any reference to LGTBQI rights and afterwards tried to propose a resolution to protect "the family", please see Reflecting on the CSW for more information.

20 Worldwide Abortion: Legality, Incidence and Safety, Media Kit at http://www.guttmacher.org/media/presskits/abortion-WW/index.html

21 IRIN (2012): "RIO+20: "Backsliding" on women's rights." See: http://www.irinnews.org/report/95687/RIO-20-Backsliding-on-women-s-rights

22 "Spotlight", Facing Fundamentalisms Newsletter, Apr. 2012, AWID at http://www.awid.org/Library/Facing-Fundamentalisms-Newsletters. For more information on the impacts of religious fundamentalisms on women's rights in 2012, see the Nov/Dec 2012 edition of Facing Fundamentalisms at http://www.awid.org/Library/Facing-Fundamentalisms-Newsletters.

23 For example, United Nations Division for the Advancement of Women (UNDAW), Commission on the Status of Women (CSW) Expert Group Meeting, "Financing for Gender Equality and the Empowerment of Women: Report of the Expert Group Meeting,"EGM/FFGE/2007/REPORT, 4-7 September 2007, Oslo, Norway, p. 16. Available at: http://www.un.org/womenwatch/daw/egm/financing_gender_equality/EGM%20Report%20Final.pdf

24 From 2005 to date, AWID has launched four global surveys around on financing gender equality and women's rights. More about this research here: http://awid.org/AWID-s-Publications/Funding-for-Women-s-Rights

25 This figure is preliminary, based on 732 organisations where income has been verified.

26 3% of organisations reported no income in 2010. While there were some small increases reflected from AWID's previous research (2005 and 2008), they were primarily among the smallest organisations with incomes of less than $5,000 USD.

27 Based on AWID analysis of its 2011 global survey, report forthcoming.

28 See http://www.rnw.nl/english/article/dutch-voters-want-development-aid-cut and http://www.irishtimes.com/news/coalition-crisis-deepens-as-netherlands-cuts-aid-budget-1.493394 for information on cuts in the Netherlands. See Recorte del 23,4% en Cooperación para el Desarrollo for information on Spain's cuts. For more information on CIDA's cuts please see, http://www.acdi-cida.gc.ca/acdi-cida/acdi-cida.nsf/eng/ANN-321154018-R3R and https://www.devex.com/en/news/blogs/cida-no-more?mkt_tok=3RkMMJWWfF9wsRonu6TPcu%2FhmjTEU5z17%2B4oWqS1hYkz2EFye%2BLIHETpodcMSctiN6%2BNFAAgAZVnyRQFHuWDeZg%3D

29 The Dutch Ministry of Foreign affairs with their creation of the MDG3 Fund and consequently the creation of the FLOW Fund has been a trailblazer and leading advocate for women's rights and gender equality within the bilateral agency community.

30 The women's funds community has grown exponentially over the past two decades, with two important networks playing different roles. The Women's Funding Network (WFN) has 160 members, please see http://www.womensfundingnetwork.org/ The International Network of Women's Funds (INWF) is a network of 45 national, regional, and global women's funds members, that give grants in around 170 countries in the global South and Eastern Europe. Please see http://www.inwf.org/

31 Based on AWID analysis of data provided in the OECD DAC Creditor Reporting System using sector code 15170: Women's equality organisations and institutions and Channel 20000: NGOs & Civil Society.

32 Lydia Alpizar Duran, op. cit., page 9.

33 Ten Insights To Strengthen Responses For Women Human Rights Defenders At Risk, Women Human Rights Defenders International Coalition, February 2012, http://www.awid.org/Library/Ten-Insights-to-Strengthen-Responses-for-Women-Human-Rights-Defenders-at-Risk.

34 It is a framework comprised of the Declaration on Human Rights Defenders, UN Special Procedures, and regional mechanisms that together create protection mechanisms for HRDs.

35 "Uruguay becomes the Third Nation in Latin America to Decriminalise Abortion" Center for Reproductive Rights Oct. 2012 at http://reproductiverights.org/en/press-room/uruguay-becomes-the-third-nation-in-latin-america-to-decriminalize-abortion

36 "Victory For Women In Honduras" Center for Reproductive Rights, May 2012 at http://awid.org/Library/Victory-for-women-in-Honduras

37 Conflicting reports regarding the proposed legislation cited a proposed limit for abortion at 4 weeks or 6 weeks, from

the current 10 weeks allowed under Turkish law. See: Ali Garib, "Thousands Rally against Anti-Abortion Law in Turkey," Bianet.org, 5 June 2012 at http://bianet.org/english/english/138850-my-body-my-decision; "Turkey drops controversial plan to reduce abortion limits," Al Arabiya/AFP, 21 June 2012 at http://www.alarabiya.net/articles/2012/06/21/221873.html

38 "P And S V. Poland: Adolescence, Vulnerability, And Reproductive Autonomy", Strasbourg Observers, Nov. 2012 at http://www.awid.org/Library/P-and-S-v.-Poland-adolescence-vulnerability-and-reproductive-autonomy

39 "Somalia: Activists Laud Ban On FGM/C, Say Implementation Will Require More", IRIN, Aug. 2012 at http://awid.org/eng/Library/Somalia-Activists-laud-ban-on-FGM-C-say-implementation-will-require-more

40 "Swaziland: Child Marriages Banned" , Plus News, Oct. 2012 at http://awid.org/Library/Swaziland-Child-marriages-banned?utm_source=Facing+Fundamentalisms+CF+Newsletter+-+SeptOct2012&utm_campaign=FacingFundamentalisms&utm_medium=email

41 http://transexualesdechile.org/?p=7493

42 Shareen Gokal, "Bringing The Pope To Account For Widespread And Systematic Crimes Against Humanity", Friday File, AWID, Sept. 2011 http://www.awid.org/Library/Bringing-the-Pope-to-account-for-widespread-and-systematic-crimes-against-humanity

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47 The Dutch Ministry of Development Cooperation in 2007 dedicated €70 million to an "MDG3 Fund" to improve the position of women worldwide. A late extension of the Fund took the total amount awarded to €82 million for 45 projects worldwide. This is the single largest fund ever created for gender equality, and targeting women's rights and civil society organizations, in the history of development cooperation. Please see Srilatha Batliwala, Women Moving Mountains: How Real Resources Can Advance Women's Rights and Gender Equality, forthcoming, for more information.

48 See also section five on 'Financing for Development: Gender Equality and Women's Rights Beyond Mainstreaming' in the Women's Organisations Key Demands for Busan and the 2012 DCF. Available at: http://www.awid.org/Library/Key-Demands-from-Women-s-Rights-Organizations-and-Gender-Equality-Advocates-To-the-Fourth-High-Level-Forum-on-Aid-Effectiveness-Busan-Korea-2011-and-the-Development-Cooperation-Forum-2012

Empowering workers by realising trade union rights

Sharan Burrow, General Secretary, International Trade Union Confederation

Introduction

Trade unions are membership-based civil society organisations (CSOs) that aim to defend the occupational interests of workers and to address economic and social policy questions of direct concern to workers. The International Trade Union Confederation (ITUC) is a confederation of national trade union centres with 315 affiliated organisations from 156 countries and a membership of 174 million.

Strong trade unions are essential to compensate for the asymmetric power relationship between workers and employers and to ensure sustainable and inclusive economic development. A conducive and enabling environment for trade unions to carry out their mandate requires a legal and institutional framework that provides sufficient protection of freedom of association and the right to collective bargaining as well as the effective implementation of these rights.

The rights to freedom of association and collective bargaining

Clearly defined and coherent international legal instruments protect and promote freedom of association and the right to collective bargaining.

The Universal Declaration of Human Rights proclaimed that "everyone has the right to form and to join trade unions."[1] This right was reinforced in 1966 by the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights. The latter ensures the right of everyone to form and join the trade union of his/her choice, subject only to the rules of the trade union concerned; the right to join federations and confederations; the right to function freely; and the right to strike.[2] Restrictions other than those prescribed by law and which are necessary in a democratic society have been prohibited by the International Covenant on Civil and Political Rights.[3]

The Treaty of Versailles (1919) and the preamble to the Constitution of the International Labour Organisation (ILO) refer to trade union rights as means to improve working conditions and to assure peace. The Declaration of Philadelphia (1944) further stated that freedom of association is essential to sustained progress.[4] Subsequently, the ILO adopted the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) and the Right to Organise and Collective Bargaining Convention, 1949 (No. 98). These conventions have established that freedom of association and collective bargaining rights include the right of workers to establish and join unions of their own choosing without previous authorisation and only subject to their own rules; the right to organise activities freely and not to be liable to dissolution or suspension by public authorities; the right to establish and join federations and confederations as well as international organisations; the right to adequate protection against acts of anti-union discrimination. Workers have the right to adequate protection against interference by employers, in particular the establishment of unions under the domination or control of employers. The convention also enshrines the right to collective bargaining.

At the regional level, the European Convention on Human Rights as well as the European Social Charter provide for the right to organise,[5] to bargain collectively[6] and the right to strike.[7] The American Convention on Human Rights guarantees freedom of association in its Article 16 and the African Charter on Human and Peoples' Rights in Articles 10 and 11.

Major challenges to the realisation of an enabling environment for trade union rights

Trade unionists constantly face various types of violations in many parts of the world. An outline of a few emerging issues and country cases may usefully highlight these various types of violations, which are experienced in many more countries beyond the examples given.

Fundamental civil liberties of trade unionists

Genuinely free and independent trade unions can only exist in a climate free of violence, pressure, fear and threats of any kind,[8] where fundamental human rights are respected.[9] The right of trade unionists to hold meetings on trade union premises, freedom of speech and the press and the right of detained trade unionists to enjoy the guarantees of normal judicial procedure at the earliest possible moment must be ensured.[10]

COUNTRY CASE: DENIAL OF FUNDAMENTAL CIVIL RIGHTS IN SWAZILAND

Swaziland is governed by an absolute monarch that rules the country through a state of emergency decree that has been in force since 1973. Opposition parties and meetings are banned and the Suppression of Terrorism Act (renewed in 2010) is used to target trade unions. Fundamental civil liberties of trade unionists are under constant attack from the government and security forces. Trade unions were prohibited from protesting against the state of emergency in April 2012 when security forces blocked their marches and arrested and detained union leaders, such as Sipho Kunene, Deputy President of Trade Union Congress of Swaziland (TUCOSWA), and Muzi Mhlanga, Second Deputy General Secretary of TUCOSWA. Travel bans were imposed on trade union leaders such as Wonder Mkhonza, Deputy General Secretary of the Swaziland Processing, Refining and Allied Workers' Union, Emmanuel Dlamini, Recording Secretary of the Swaziland National Association of Teachers (SNAT) and Sidumo Dlamini, Chairperson of the SNAT's Elections' Committee. May Day celebrations in 2012 were stopped by police roadblocks, resulting in intimidation of trade union members, the confiscation of TUCOSWA banners, and the arrest of union leaders.[11]

Exclusion of workers from the right to freedom of association and collective bargaining

Even though Article 2 of ILO Convention 87 protects the right of all workers without distinction whatsoever to organise, a large number of workers are excluded from freedom of association and collective bargaining rights in a significant number of countries. For example, agricultural workers in Bolivia, Honduras and Jordan are often denied the right to organise or face major restrictions.[12] A number of countries[13] including Jordan and Kuwait exclude domestic workers from the coverage of legislation. Workers who are employed in export processing zones are often also excluded from freedom of association and the right to collective bargaining in an attempt to decrease 'labour costs' and to attract foreign investments. Similarly, workers in the informal economy are not effectively protected by labour legislation. Thus these workers are often exposed to precarious employment conditions and lack any form of representation of their collective interests.

COUNTRY CASE: DENIAL OF RIGHT TO FREEDOM OF ASSOCIATION TO MIGRANT WORKERS IN QATAR

There are about 1.2 million migrant workers in Qatar comprising about 94 per cent of Qatar's workforce. Migrant workers often enter Qatar on false promises by recruitment agencies and employers on the nature of their work, wages, and working conditions. Upon arrival their passports are seized by their employers.[14] The migrant workers cannot easily leave because of highly restrictive sponsorship laws that require the consent of their employer to change employment. They are also excluded from freedom of association and collective bargaining rights[15] and trade unions are prohibited in enterprises with less than 100 Qatari workers employed.[16] This leaves them without any sort of collective representation, making it impossible for migrant workers to demand their fundamental rights.

Collective bargaining rights

The right to bargain freely with employers with respect to conditions of work constitutes an essential element in freedom of association, and trade unions should have the right through collective bargaining to seek to improve the living and working conditions of workers they represent.[17] Collective bargaining is crucial to making collective representation effective. It plays an important role in generating fair distributional results for workers and employers and in redressing the inherent unequal employment relationship, realising a degree of democracy in the workplace.

Yet, collective bargaining mechanisms are absent or insufficient in a number of countries. Increasing fragmentation of labour markets has meant that more workers are now employed in smaller units where trade union density is lower and consequently collective bargaining is more difficult.[18] The internationalisation of production has altered power relations between trade unions and employers. Workers are less likely to bargain with their employers when they feel that their employment is threatened by enterprise restructuring, mergers, takeovers, dismissals and outsourcing of activities to countries with lower labour costs.

COUNTRY CASE: DISMANTLING OF COLLECTIVE BARGAINING RIGHTS BY INTERNATIONAL FINANCIAL INSTITUTIONS IN GREECE

Prior to the financial crisis, there was strong social and political support for collective bargaining rights in Greece. Workers had the right to bargain at various levels: national, sectoral, occupational and enterprise levels. Minimum standards were set at the national level and negotiations at the lower levels could provide for better conditions of work.[19] However, the loan agreement concluded between the Greek Government and the International Monetary Fund, European Central Bank, and the European Commission as a result of the financial crisis forced Greece to introduce labour market reforms that has led to the deterioration of collective bargaining rights.[20] In particular, several large unilaterally imposed cuts in public sector wages in contravention of existing collective agreements were introduced and collective agreements were banned for several years. 'Territorial pacts' were introduced that set wage growth below sectoral agreements, which contravened the existing 'favourability principle' under which workers were covered by agreements with the most favourable provisions. A 22% cut in minimum wages and a freeze in minimum wages for three years were unilaterally imposed. Finally, the automatic extension of sectoral agreements was prohibited. The ILO Committee on Freedom of Association (CFA) found that the Greek reforms "violate the principle of free and voluntary collective bargaining." The CFA warned that "the elaboration of procedures systematically favouring decentralised bargaining of exclusionary provisions that are less favourable then the provisions at a higher level can lead to a global destabilisation of the collective bargaining machinery."[21]

Anti-union discrimination

Workers who have to be concerned about being subjected to discriminatory measures because of their trade union membership or activities cannot exercise their right to freedom of association. To have a real choice workers have to be sufficiently protected by effective anti-discriminatory measures and employer interference. Anti-union discriminatory measures include prejudice in employment because of trade union membership or activities,[21] such as dismissal or other aspects of employment.[23] However, acts of anti-union discrimination remain widespread in a number of countries such as in Argentina[24] and the United States.[25] In Nepal, the union secretary at the microcredit agency of the Gramin Bikas Mahila Utthan was dismissed and the wages of five trade union members were suspended. Two hundred workers from the Swabalamban Micro Finance Development Bank were confronted with acts of harassment when attempting to bargain collectively. [26]

Precarious employment

Employment protection legislation has been perceived as a factor that increases 'labour costs' and as an impediment to flexibility, competitiveness and economic growth. Consequently work organisation has been modified to adopt more flexible employment types such as non-permanent and informal employment, temporary agency work or otherwise insecure employment types. These types of precarious employment contracts not only have an impact on union membership, but also on the fragmentation of collective bargaining.

Given their unstable employment situation and high unemployment rates globally[27], precarious workers are often not in the position to organise and bargain collectively at the risk of losing their jobs. This means that workers are exposed to insecure employment and deprived of the means collectively to represent their interests in order to improve their situation. Insufficient employment protection legislation therefore leads to more precarious work for individual workers and strategically weakens the union movement and its bargaining power. Unions in many countries cited the high level of contract and casual labour as one of the biggest challenges to organising and protecting workers' rights,[28] notably in Bangladesh,[29] Cambodia,[30] Pakistan[31] and South Africa.[32] In South Korea, unions report that employers systematically hire workers on precarious contracts to prevent them from forming unions.[33]

Conclusions

The world of work is changing continuously, but violations of legitimate trade union rights remain widespread. Despite international consensus on the importance of trade union rights and international ratified conventions that support the promotion of freedom of association and collective bargaining rights, there are major issues and challenges when it comes to compliance in practice.

Autocratic regimes denying fundamental civil rights are preventing trade unions from representing the interests of workers and mobilising for democratic change. To demand compliance with international labour standards and to build capacities to organise and mobilise workers the ITUC has launched campaigns in risk countries such as Fiji, Georgia, Guatemala, Myanmar, Swaziland and Zimbabwe. Global framework agreements are concluded with multi-national construction companies that will build the infrastructure and stadia for the FIFA World Cup promised by Qatar in order to ensure that migrant workers will have the right to freedom of association and will not be exposed to forced labour. The ITUC also organises and informs workers who are planning to migrate from countries such as India, Nepal, the Philippines and Sri Lanka to Qatar. In countries such as Greece,

where International Financial Institutions systematically abolish collective bargaining and workplace democracy, trade unionists are appealing to national and international judicial bodies to refute these changes.

Thus, the international trade union movement is not deterred by the increasingly challenging environment and has been adopting new strategies and global solidarity actions to realise the rights of workers.

Annex 1: Annual survey of violations of trade union rights: documenting rights violations

Since 1998, the ITUC has been developing the Annual Survey of Violations of Trade Union Rights (Survey).[34] This survey is a global platform for trade unionists to share and communicate violations of their rights as defined by ILO Conventions Nos. 87 and 98 and to raise awareness on difficulties and violations of trade union rights. Advocacy activities of the ITUC are often based on the findings of the survey. For example, these findings are communicated to the supervisory mechanisms of the ILO that are responsible for monitoring the application of Conventions Nos. 87 and 98, which then confront relevant governments with the information. Affiliates also use the survey in their advocacy activities at the national level as a reference document when asking governments and employers to respect and promote trade union rights.

In 2013, the survey will provide specific information on country contexts (such as names of trade unions, reforms in law, policies and institutions, and scope of law) as well as violations in law and practice. The latter will be divided into standardised subcategories elaborating on the right to establish and join trade unions, the right to collective bargaining and the right to strike. While the 'violations in law' section assesses compliance of national legislation with trade union rights as defined by ILO Conventions Nos. 87 and 98, the 'violations in practice' section provides specific case examples of violations that have occurred in a particular country.

The survey methodology is largely based on an assessment of national legislation by legal experts and case reports are communicated by national affiliates. Legal experts identify laws relevant to freedom of association and collective bargaining for each country such as labour laws, trade union laws, industrial relations laws, sectoral laws, constitutions and penal codes. The laws are then analysed for compliance with the rights to freedom of association and collective bargaining. Violations are identified and categorised under consistent, predetermined and clearly defined categories that are based on Conventions Nos. 87 and 98 as well as the principles of application as defined by the ILO supervisory mechanisms. In addition to affiliate reports, a media review is conducted by the ITUC identifying violations in practice. Information collected from both sources is consolidated, summarised and categorised under predetermined and standardised sub-categories.

SHARON BURROW

General Secretary

International Trade Union Confederation (ITUC)

Sharan Burrow was first elected President (2006) and then General Secretary of the ITUC (2010). She is the first woman to have held any of these positions. Prior to this she has held prominent roles both in her native Australia and in the international trade union movement: President of the Australian Council of Trade Unions in 2010; Vice-President of Education International from 1995 to 2000; and President of the International Confederation of Free Trade Unions Asia Pacific Region Organisation in 2010. Sharan earned a degree in teaching at the University of New South Wales in 1976.

What issue do you feel affected civil society the most in 2012?

Civil society does not believe that public opinion is influencing governments. The Global Poll carried out by the ITUC in 2012 revealed that global citizens are convinced that governments put the interests of international banks and large corporations before people. This demonstrates a diminishing trust for elected governments.

What do you feel can create a better environment for CSOs in 2013?

The challenge for 2013 is to rebuild trust through a new democratic contract between governments and civil society that puts the interests of people before markets by giving a central role to rights and equality.

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CIVIL SOCIETY AND PROTEST IN SOUTH AFRICA:

A VIEW FROM 2012[1]

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INTRODUCTION

On 16 August 2012, the South African Police Services (SAPS) shot and killed 34 striking mineworkers at Marikana, near Rustenburg. The world watched in horror as images of the police shooting semi-automatic live rounds at the strikers were broadcast across international television stations – an unprecedented attack on civilians among democratic states.

The violence did not end in the hail of bullets. Strikers who were rounded up after the police killings were arrested and allegedly tortured. Two hundred and seventy strikers were charged with murder under the highly criticised criminal law doctrine of "common purpose", charges that have subsequently been provisionally withdrawn.[2] Responding to the severity of the situation, President Jacob Zuma announced the appointment of a Judicial Commission of Inquiry, commonly referred to as the Marikana Commission, into the events surrounding the 16 August killings, as well as the deaths of 10 people (two police officers, two security guards and six workers) in the preceding days. The terms of reference for the Marikana Commission were gazetted on 13 September, marking the beginning of the Commission's work. The Marikana Commission is arguably the most important judicial commission since the Truth and Reconciliation Commission. Public hearings began in October 2012, and the Commission is aiming to present its final report in July 2013.[3]

Marikana, as it has come to be known, is a defining moment in South Africa's post-apartheid history. However, it is far from an isolated incident of protest that ends in violence. Indeed, as analysed below, protest, whether involving striking workers or local communities, is becoming an endemic feature of South Africa's socio-political landscape.[4] A January 2013 briefing document from Municipal IQ, a web-based data and intelligence service that monitors all of South Africa's 283 municipalities, shows that service delivery protests in 2012 accounted for 30 percent of protests recorded since 2004. The second and third quarters of 2012 recorded more protests than any other quarter since 2004.[5] According to Municipal IQ, "…protests remain a consistent and worrying social phenomenon in many South African communities. Vigorous work to address inequality, unemployment and poverty, as well as lagging service delivery remains crucial as the ultimate solution to address the trend."[6]

Civil society organisations (CSOs) must actively take up this challenge if they are to remain relevant. However, to date, it is questionable whether CSOs have adequately responded to the current socio-economic and political landscape. Indeed, civil society was arguably found wanting at the time of the Marikana massacre, uncomfortable or unable to deal with the kind of traditional human rights violations that many hoped they had left behind in 1994. This deficit was particularly apparent in the failure of CSOs working on legal issues to provide direct assistance to those arrested by the police following the protest, and victims of other forms of repression that followed in the aftermath of the killings and arrests.

DEFINING LOCAL PROTEST

As described above, local protests have gained momentum over the past couple of years, becoming increasingly visible during 2012. Increasingly, South Africa is experiencing a movement of local protest amounting to a rebellion of the poor, which has been widespread and intense, reaching insurrectionary proportions in some cases judging by the levels of aggression and spread of the protests. As witnessed in Marikana - and also in Ficksburg in April 2011, when protester Andries Tatane was shot dead by the police - civilian protest is increasingly being met with lethal police force. Yet, despite South Africa reportedly experiencing the highest number of protests in the

world[7], there has not been much systemic analysis of local protests, nor has there yet been a coordinated response from civil society to deal with the repercussions.

During 2009, in the wake of a fresh round of locally-organised protests in urban areas, a debate waged in the South African mainstream media about the nature of the protests. Commentators such as Steven Friedman cautioned against the crude reduction that the protesters are demanding 'service delivery' – for Friedman, protesters are demanding a more complex inclusion into all aspects of the socio-political and economic order.[8] Similarly, as members of the national shack dwellers' social movement, Abahlali baseMjondolo, have stated:

> "Waiting for 'delivery' will not liberate us from our life sentence. Sometimes 'delivery' does not come. When 'delivery' does come it often makes things worse by forcing us into government shacks that are worse than the shacks that we have built ourselves and which are in human dumping grounds far outside of the cities. 'Delivery' can be a way of formalising our exclusion from society."[9]

However, while there is clearly a need to utilise a wider lens with which to view the protests, it is inescapable that protesters have framed their actions in terms of material demands, whether for better basic services, houses or jobs. In short, it is likely that the protests are about both socio-political and economic exclusion. As argued by Richard Pithouse, the protests are best understood as being about "the material benefits of full social inclusion … as well as the right to be taken seriously when thinking and speaking through community organisations".[10] In the words of Abahlali base Mjondolo:

> "But we have not only been sentenced to permanent physical exclusion from society and its cities, schools, electricity, refuse removal and sewerage systems. Our life sentence has also removed us from the discussions that take place in society;"[11]

> "In as much as you [the government] need to deliver services, you cannot do that without engagement, or direct engagement… [I]f people were engaged and consulted about development, then people become a vital tool in their own development and such developments will also be owned at a community level, you know?"[12]

So what, if anything, is known about the local protests? A useful starting point is one of the few examples of a thorough research project, undertaken by researchers at the Centre for Sociological Research at the University of Johannesburg (UJ). This research into protests in Piet Retief, Balfour, Thokoza and Diepsloot between June and August 2009 confirms that there are three interwoven features in all the protests studied:

- High levels of poverty and unemployment (in the context of a middle-income country with stark inequality);
- Inadequate basic services including water, sanitation, electricity, street lighting, paved roads and insufficient or inadequate housing;
- In all instances, protests only occurred following repeated unsuccessful attempts by community members to engage with authorities over problematic issues – this in part might also explain why the protests have been escalating since 2004.[13]

In addition, in the cases of Balfour and Thokoza, the authors found that a brutal police response to the protests contributed to the violence.

The findings of the UJ research have been largely confirmed by another more recent study of violent protest by the Centre for the Study of Violence and Reconciliation (CSVR) and the Society, Work and Development Institute (SWOP) entitled 'The smoke that calls: Insurgent citizenship, collective violence and the struggle for a place in the new South Africa'.[14] This study, too, found that a combination of socio-economic exclusion and problems with formal political processes to be at the root of especially violent protests. Indeed, the title of the study (which is a direct quote

from one of the research respondents), refers to a widely held perception among residents of informal settlements that the only way to successfully raise problems over their lived realities and to capture the attention of politicians is to burn things – thereby 'calling' out to political leaders.

Interestingly, a recent analysis of the protests at Marikana that led to the deaths of 34 protesters on 16 August 2012, found that "the workers engaged violence to overcome fragmentation and challenge an order of inequality which characterises the new South Africa."[15] Thus, unregulated and unlawful 'wildcat' strikes such as those which occurred in Marikana in August 2012, can be viewed as having largely the same underlying determinants as other local protests.

UNPACKING THE UNDERLYING DETERMINANTS

The rise of protests, including so-called service delivery protests and wildcat strikes, is a consequence of two primary aspects of South Africa's far from complete transition from apartheid: the limits of the economic model and the "truncated form of local democracy."[16] Regarding the first determinant, while poverty per se has slightly decreased between 1993 and 2012 (mainly through social grants and the extension of basic services to poor households),[17] there are two worrying socio-economic indicators for the same period: inequality has increased and the racialised nature of poverty has hardly shifted since 1994.

In terms of levels of inequality between the rich and the poor, according to a 2012 World Bank report on inequality in South Africa, "with an income Gini of around 0.70 in 2008 and consumption Gini of 0.63 in 2009, South Africa stands as one of the most unequal countries in the world. The top decile of the population accounts for 58 percent of the country's income, while the bottom decile accounts for 0.5 percent and the bottom half less than 8 percent."[18] In terms of the continuing stark discrepancies in the racialised spread, according to the South African Institute of Race Relations (SAIRR), in 1996 the annual per capita income of 'black African' South Africans was R5,710 and this increased to R21,075 in 2010, but for white South Africans, the annual per capita income increased from R42,181 in 1996 to R149,002 in 2010. The average annual per capita income for South Africans in 2010 was R36,170.[19] Using the expanded definition of unemployment in South Africa, in 2011 42.4 percent of 'black Africans' were unemployed, while only 8.2 percent of white South Africans were unemployed. The unemployment rate for South Africa (using the expanded definition) in 2011 was 36.5 percent.[20] These factors contribute towards a profound socio-economic exclusion of the majority of South Africans from the benefits of South Africa's economy.

The second aspect of South Africa's post-apartheid landscape that shapes current struggles by poor communities and workers is the lack of genuine democracy in terms of formal politics, leading to a perverse form of political marginalisation. This democratic deficit is particularly evident at the local government level, which "constitutes a significant political constraint for social movements and other marginalised groups."[21]

There are several reasons for this local deficit, including the following: the party list system - the only system at national and provincial level - renders leaders more accountable to political parties than to the citizenry;[22] local ward committees are often dominated by political parties and seldom represent the interests of communities;[23] municipalities are overly technocratic and non-participatory, preferring a top-down approach to 'consultation' with local communities, often taking the form more of a public relations exercise than participatory democracy. Further, while elite interests are certainly accommodated within municipal development planning, poor communities and especially residents of informal settlements are typically shut out from meaningful participation in such processes.[24] For the latter, direct action and social movement mobilisation are increasingly more relevant forms of democratic expression than formal political involvement.[25]

A consequence of the above two underlying determinants, and playing an increasing role in the character and outcome of protests, is the issue of the state's authoritarian reaction to protests, and particularly the use of force, sometimes lethal force as in Marikana, by the police to quell marches and gatherings. As the shortcomings of current socio-economic and political models become ever more apparent, the pressure on the state builds. To date, the state's response has largely been one of empty promises combined with heightened securitisation, which has, especially over the past couple of years, witnessed increasing levels of the use of force by the police. A worrying trend involves the use of the criminal justice system to harass and silence critics of government, most often in the wake of protests. According to Jane Duncan:

> "[T]here are signs that in situations where outspoken critics challenge the power of politicians - the system can be turned against political critics. The politicisation of the system is highly uneven: many police officers and prosecutors conduct their work impartially, and with integrity. But it is also apparent that political manipulation is a growing problem.
>
> "Once the veneer of impartiality is stripped from the criminal justice system, and it becomes exposed for what it truly is when the chips are down - namely the repressive apparatus of the ruling political class – then the state will lose its legitimacy. Struggles could move beyond localised fights with non-performing councillors and escalate in a struggle against this political class and even the state itself. Then they will have a protracted fight on their hands that, in the long term, they cannot possibly win."[26]

CONCLUSION: TOWARDS A NEW (OLD?) ROLE FOR CIVIL SOCIETY

The role of civil society in this fraught context is as yet unfolding. However it is clear that for many grassroots CSOs – CBOs, crisis committees and social movements - the ability to mobilise in opposition to the state is increasingly threatened. For such groupings, the state's autocratic and oppressive response to dissent poses real challenges about how to organise and manoeuvre without being arrested, detained and charged, often on very spurious grounds.

At the same time, the capacity or willingness of formal CSOs, NGOs, faith-based organisations and so on to respond to the growing securitisation of the state and especially the clampdown on protestors needs to be critically assessed. For example, today very few litigating NGOs have the experience, capacity or willingness to deal with classic civil liberties violations and to provide criminal defence to those unlawfully arrested, detained, charged or injured.

There is perhaps a need to revisit some of the strategies and tactics employed by civil society under apartheid in order to counter formal repression in South Africa. However in doing so, civil society must infuse these approaches with a 'new' agenda and attempt to forge a conversation about inclusion and meaning within a constitutional democracy. Without a vision of the future to articulate and debate, civil society will fail to remain relevant. In the ultimate response by CSOs to Marikana, there is some hope of how civil society might respond to the new challenges, witnessed in how NGOs and CBOs collectively came together to support the victims, to represent the families and the Association of Mineworkers and Construction Union, and to expose the underlying socio-economic determinants.

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http://www.seri-sa.org/index.php/2013-03-07-10-15-22/board-of-directors?id=26

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1. This contribution draws from: Jackie Dugard (forthcoming 2013) "Urban Basic Services: Rights, Reality and Resistance" in Malcolm Langford, Ben Cousins, Jackie Dugard and Tshepo Madlingozi (eds.) Socio-Economic Rights in South Africa: Symbols or Substance? (Cambridge: Cambridge University Press).
2. The criminal law doctrine of "common purpose" was used by the apartheid government against activists in the anti-apartheid struggle.
3. SERI represents the Association of Mineworkers and Construction Union (AMCU), and 33 families of striking miners who were killed by the police on 16 August 2012, at the Marikana Commission. See http://www.seri-sa.org/index.php?option=com_content&view=article&id=121&Itemid=49.
4. This chapter deals neither with the broader issue of legally-sanctioned workplace strikes nor the increasingly apparent problems with the formal labour bargaining processes. In this respect, it treats the unlawful 'strike' in Marikana as a form of protest. In point of fact there is little from a legal and criminal justice perspective to distinguish an unlawful strike from an unlawful protest. Moreover, it has subsequently come to light that many of the approximately 6,000 people who gathered on the mountain outside Wonderkop informal settlement in Marikana were not actually employed on the mine and had joined the gathering both in an attempt to get jobs and also to try to address the living conditions in Wonderkop.

5. Municipal IQ (16 January 2013) "Municipal IQ's Municipal Hotspots results": www.municipaliq.co.za/publications/press/201301170823583255.doc
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11. Zikode and Zodwa Nsibande, op. cit.
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24. Salah Elzein Mohamed (2006) "From Ideas to Practice: The Involvement of Informal Settlement Communities in Policy-Making at City Level in South Africa" South African Review of Sociology, Vol. 37(1) pp. 35-47.
25. However, it should be noted that the rising discontent at the local level has not yet translated into a measurable withdrawal from electoral participation, nor in a significant decline in votes for the ANC (email to Jackie Dugard from Ebrahim Fakir, Manager: Governance Institutions and Processes, Electoral Institute for the Sustainability of Democracy in Africa, 15 February 2011).
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Writers, civil society, freedom of expression and the enabling environment

Frank Geary, PEN International[1]

This chapter outlines the role PEN International plays as a global writers' organisation in promoting freedom of expression and international exchange between writers, readers and civil society actors. It explores the important role played by cultural actors in civil society internationally, PEN International's campaigning for writers at risk, and the effects of the enabling environment on PEN Centres as civil society organisations (CSOs).

PEN International and civil society

PEN International is a worldwide association of writers focussing on the promotion of freedom of expression and literature. Founded in 1921, PEN International now has a global membership of more than 20,000 writers and activists in 144 PEN Centres in 102 countries. PEN Centres are membership-led organisations operated by writers, publishers and freedom of expression advocates in their country, region or linguistic territory. All PEN Centres are members of PEN International and uphold the PEN Charter,[2] which calls for the defence of freedom of expression and the "unhampered transmission of thought within each nation and between all nations." PEN is active in all world regions and has Special Consultative Status with the Economic and Social Council of the United Nations and formal consultative relations with UNESCO.

PEN's principal areas of focus include:

- **Freedom of expression.** PEN International campaigns on behalf of writers who have been harassed, attacked, imprisoned or killed because of their writing. All of PEN's work strives toward the goal of "unhampered transmission of thought" as expressed within the PEN Charter, whether that be ensuring writers have the freedom to write and publish, enabling readers to access writing and writers from across the globe, defending linguistic rights and promoting translation, or creating spaces for dialogue and highlighting writing and multiple voices from all parts of the world.
- **Civil society programmes.** PEN Centres worldwide deliver civil society programmes focusing on education, citizenship and engagement, human rights and culture. Engagement and participation are central to the exercise and promotion of freedom of expression and PEN Centres globally play an active role as CSOs and civil society enablers in their countries.
- **Public policy and awareness raising.** PEN International connects the individual to the international. As a global network involving thousands of writers and activists, PEN International is able to connect public policy concerns of civil society locally and nationally with international and inter-governmental organisations.

Freedom of expression underlies all of PEN International's activity, from campaigning on behalf of writers in prison to delivering education programmes. PEN International addresses the full spectrum of freedom of expression, from promotion of the right to challenging infringements of freedom of expression. Its activities includes cases where an individual's right to freedom of expression has been curtailed through harassment or imprisonment, as well as strengthening individual's and communities' awareness of freedom of expression and ability to realise their right to freedom of expression.

PEN International is also a key connecting point between writers and civil society. Like many artists, writers tend to work in solitude; however, communication and reaching out are inherent to writing and writers. Writers have an audience, a readership, and an influence in their society. Writers and artists play a unique role in civil society as both amplifiers of diverse viewpoints and influencers,

a role that is often discounted in traditional views of civil society, which focus on activism. PEN creates a connection between activism and the role writers play as amplifiers and influencers.

Freedom of expression is fundamental for effective civil society action in promoting debate, public engagement and consideration by governments of diverse public policy alternatives. Freedom of expression is also a necessary element of literature and the exchange between readers and writers. It is inherent in a writer's craft. Freedom of expression is essential for the communication between writers and readers. For writers it is not an add-on, but a necessity. Therefore, PEN believes that it is essential for writers to defend freedom of expression, to campaign for fellow writers whose freedom of expression is at risk, and actively to reach out and connect with civil society, both nationally and internationally, thus amplifying the work of civil society actors more broadly.

As writers, as well as members of an international organisation, PEN members are affected by freedom of expression and civil society issues both as individuals and as members of CSOs. This chapter therefore focuses on two principal areas of concern – writers at risk and the enabling environment for PEN Centres as CSOs.

Writers at risk

In 2012, PEN International monitored more than 800 cases of attacks on writers in all world regions. These include physical attacks and killings, imprisonment and harassment of writers. Campaigning and the collection and analysis of information on attacks against writers and journalists, are core to the work of PEN International.

- In 2012, PEN monitored over 270 cases in 19 countries in Europe. The countries covered included Armenia, Azerbaijan, Belarus, Bosnia and Herzegovina, Bulgaria, Greece, Hungary, Kazakhstan, Kyrgyzstan, Kosovo, Latvia, Montenegro, Russia, Serbia, Spain, Tajikistan, Turkey, Ukraine and Uzbekistan.
- The PEN team monitored 120 cases of writers at risk in the Asia Pacific region in 14 countries including Bangladesh, China/Tibet, India, Indonesia, Maldives, Mongolia, Myanmar/Burma, Nepal, Pakistan, Singapore, Sri Lanka, Thailand and Vietnam.
- In 2012, PEN monitored more than 190 cases of writers at risk in the Middle East and North Africa region. The countries covered were Algeria, Bahrain, Egypt, Iran, Iraq, Israel, Jordan, Kuwait, Lebanon, Libya, Morocco, Oman, Palestine, Saudi Arabia, Syria, Tunisia, UAE and Yemen.
- In Africa some 120 cases of writers at risk in 37 countries were monitored, including cases in Angola, Burkina Faso, Cameroon, Central African Republic, Chad, Côte d'Ivoire, the Democratic Republic of the Congo, Djibouti, Ethiopia, Gabon, Gambia, Ghana, Guinea, Guinea-Bissau, Kenya, Liberia, Malawi, Mali, Mauritania, Mauritius, Mozambique, Niger, Nigeria, Rwanda, Senegal, Sierra Leone, Somalia/Somaliland, South Africa, Sudan, South Sudan, Tanzania, Togo, Uganda, Zambia, and Zimbabwe.
- In the Americas PEN recorded over 150 cases of writers at risk in 19 countries including Argentina, Bolivia, Brazil, Canada, Chile, Colombia, Cuba, Dominican Republic, Ecuador, El Salvador, Grenada, Guatemala, Honduras, Mexico, Nicaragua, Peru, Trinidad and Tobago, the United States of America and Venezuela.

As the above suggests, harassment and attacks on writers that aim to silence them, to intimidate others, and marginalise their views, remain a global phenomenon. Highlighting this issue and campaigning on behalf of individual writers will always be a key over-arching concern for PEN International.

Each 15 November for the last 32 years, PEN International has marked the Day of the Imprisoned Writer. On this day, PEN Centres around the globe raise public awareness of the unjust imprisonment and persecution of writers wherever they may live. In 2012, PEN highlighted the cases of five imprisoned and at-risk writers, from Ethiopia, Iran, Mexico, the Philippines and Turkey, which are

emblematic of the kinds of persecution faced by many writers worldwide in exercising their right to freedom of expression.

Many of these writers are also journalists and activists. For example, Shiva Nazar Ahari, an award-winning Iranian human rights activist and a founding member of the Committee of Human Rights reporters, is serving a four-year prison sentence for her alleged participation in political gatherings following the disputed presidential election in 2009. Ethiopian journalist and blogger Eskinder Nega was sentenced to 18 years in prison on dubious terrorism-related charges, clearly levied as punishment for his reporting on government human rights abuses. Muharrem Erbey, a Turkish human rights lawyer, writer and Vice-President of the Human Rights Association (IHD), has been imprisoned under the Anti-Terror Law since December 2009 for "membership of an illegal organisation", charges that appear to be linked to his work as a human rights defender. Such writers highlight, at a high personal cost, the type of state repression that can cripple civil society.

In addition, PEN identified impunity and freedom of expression in the digital sphere as global freedom of expression issues in 2012.

a. Impunity

Impunity in the killings of writers and journalists has become a major issue in recent years, particularly in Latin America. In 2012, more reporters were murdered in Latin America than in any other region worldwide. According to PEN International's 2012 case list[3], Mexico was one of the most dangerous countries in the world in which to be a writer or journalist, with Honduras and Brazil coming close behind. The rate at which writers, bloggers and journalists are being murdered in the region is similar to that of a war zone. The killers are seeking to silence those who investigate or condemn organised crime and political corruption, and they are succeeding: PEN International's sources indicate that self-censorship is a growing trend in all three countries.

PEN International has highlighted this issue internationally, and has campaigned on behalf of writers who have been threatened and killed in Latin America. Since 2006, 46 murders of writers and journalists in Mexico have been documented and monitored by PEN. PEN International's global network commemorated these colleagues through actions such as the Day of the Dead campaign and the Write Against Impunity campaign.[4]

PEN has additionally identified impunity for murders and attacks on writers as a global issue, and has campaigned on this issue internationally, highlighting impunity in countries including Azerbaijan, Russia, Sri Lanka and Turkey. A notable example is PEN's appeals to the Sri Lankan authorities, which ensured that individuals such as Prageeth Ekanaliyagoda, who disappeared in Sri Lanka in January 2010, were not forgotten. PEN was among 16 CSOs that made a joint submission on Azerbaijan at the United Nations Human Rights Council Universal Periodic Review that focused on impunity for those who kill and threaten journalists, politically motivated arrests, torture and ill-treatment, laws that breach free expression guarantees, including those that specifically target online media, and state control of the media.

Along with other human rights organisations, PEN is responding to this issue of impunity with a yearlong international campaign. These combined actions have had some successes in raising awareness of the problem, but to achieve any progress in reducing killings and impunity, significant pressure needs to be brought by global civil society on states and international organisations.

Measures that can be taken by states to combat impunity include increasing the independence of investigation procedures for these cases. For example, recent Mexican legislation established independent investigation units and federalised investigations into killings of writers and journalists. However,

it is essential that investigation units are empowered to carry out this mandate effectively and rigorously and adequate resources and infrastructure complement any changes in legislation. States and international bodies can also initiate and support increased protection mechanisms for writers and journalists. These measures include emergency response provision for writers under threat or shelter programmes for writers and journalists at risk, such as the International Cities of Refuge Network (ICORN), with which PEN International works, or Frontline Defenders programme.

Often the principal underlying causes for impunity in the killings of writers and journalists are links between state actors and criminal networks or state-sanctioned criminal activity. Therefore it is essential to ensure robust anti-corruption campaigns, wide-reaching investigation and prosecution in state links to criminality.

While states may initiate measure in these areas, because state actors are so often complicit in killings and impunity, civil society has an essential role to play in highlighting cases of impunity and corruption, and to ensure national and international pressure is brought to bear on offending governments.

b. Freedom of expression in the digital sphere

Freedom of expression in the digital sphere is also a significant and growing issue. Digital media can offer tools for advancing and fulfilling the fundamental right of freedom of expression, and has vastly expanded the capability of individuals, groups and whole societies to express themselves both privately and publicly, to associate freely, and to exchange literature, ideas and information.

While digital media has expanded the ability of individuals to share in such a way, it has also increased the number of individuals who are vulnerable to persecution for their writing. Poets, playwrights, essayists, novelists, writers, bloggers and journalists are suffering violations of their right to freedom of expression for using digital media. Citizens in many countries have faced severe restrictions in their access to and use of digital media. Governments have exploited digital technologies to suppress freedom of expression and to subject individuals to surveillance,.

PEN monitors restrictions on freedom of expression in the digital sphere, and in 2012 documented arrests of writers for Twitter publication and online writing in Saudi Arabia, censorship of internet services in China, and the use of monitoring technology in Syria. In 2012, 27% of all new cases monitored by PEN International involved the use of digital media.

In September 2012, PEN International adopted a Declaration on Digital Freedom[5] as a response to these concerns and is using the Declaration as a campaign tool to raise awareness internationally. The Declaration has been distributed to writers and activists worldwide.

The Declaration calls on states to actively promote freedom of expression on digital media through enacting and enforcing enabling legislation and practices. It calls on states not “to censor, restrict or control the content of digital media” and not to restrict access to digital or social media, even in times of unrest or crisis. The Declaration and PEN International also call on states to promote access to digital media for all. States can therefore promote and defend freedom of expression in digital media by rejecting restrictive legislation and actively promoting access to digital media for all. PEN International calls on states to ensure that all legislation regarding the use of digital media complies with international due process laws and standards.

The enabling environment for civil society

A growing trend in recent years, as documented elsewhere in the contributions to this report, has been the enacting of legislation and regulations that prevent civil society from functioning effectively in a number of countries. Legislation and other forms of attack on civil society have restricted PEN’s ability to operate as a global network, and some PEN Centres’ ability to play

an active role in civil society in their country. Notable examples of highly restrictive legislation and practice can be found in Bahrain, Ethiopia, Nepal, Russia and more recently in Azerbaijan; however, there are common trends emerging in a wider range of countries globally. What unifies these approaches is the use of administrative practices and registration legislation as a means to restrict civil society activity. A highly publicised example is Ethiopia, where the government's Proclamation to Provide for the Registration and Regulation of Charities and Societies restricts CSOs that receive more than 10% of their financing from foreign sources from engaging in human rights and advocacy activities.

In March 2012, a PEN International delegation visited Russia and met human rights defenders, CSOs, civil society activists, media, academics, writers and journalists. The previous December, anti-government demonstrations had initiated the rise of a protest movement, which was repeatedly described to the delegation as a 're-birth of Russian civil society.' People, including long-time civil society activists, spoke of a generational shift, of a generation who had not previously engaged in politics or civil society leading this movement, and of a renewed civil society.

Since this delegation's visit, and in particular since the inauguration of President Putin for a third term in May 2012, the government has enacted legislation that specifically targets this nascent and vulnerable civil society movement. Severe fines and sentences have been introduced for those participating in unauthorised public protests and legislation has been enacted requiring NGOs and CSOs receiving foreign funding to register as 'foreign agents'. This was a key civil society issue in 2012 and will be so in the coming years. In this case, the growth of civil society has been specifically targeted in an attempt to suppress its activity.

These measures also form part of a pattern that can be seen globally. In all cases the effect is a restricting of civil society and the ability of civil society actors to communicate, form alliances and campaign. Restrictions based on funding sources as well as the uses of registration procedures to restrict civil society have been a pattern across many of these cases. Rather than solely using draconian sentences to suppress civil society, although it should be noted that these are also being used, recent regulations and practice have restricted the ability of civil society to function within a legal framework, to organise, to assemble and communicate. These reactions are perhaps a response to the increasing international organisation of civil society, whether through networks such as CIVICUS or through international funding mechanisms. Despite the fact that such legislation targets formal CSOs, one of the principal factors that has led to this response among repressive states appears to be the rise of informal movements, often utilising social media as an organising tool, as has been seen in the Middle East, and in Russia's protest movement.

Addressing restrictive practice and legislation should be a priority for global civil society during the coming years. It is difficult for civil society in any one country to effectively address specific measures, as international comparison can always be used to justify particular legislation and practice on the part of states. It is therefore imperative that civil society responds collectively and internationally, drawing attention to the parallels between these practices and the 'shared learning' on forms for repression, which appears to be occurring between states. Equally, global civil society needs to draw attention to emerging administrative and legislative practices across all regions, which enable this approach and often legitimise it. International and intergovernmental mechanisms should be used to highlight such measures that close space for civil society in all regions. It is imperative that civil society responds globally to remove the justification of international acceptance of such practices, to address acute cases, and to highlight and combat these trends in a growing number of countries.

PEN International is tackling this issue of enabling conditions for civil society through both national advocacy by affected PEN Centres and by compiling information at the international level. Pooling information to clearly and robustly identify trends will enable international coalitions of CSOs, such as PEN International and CIVICUS and its members, to utilise intergovernmental mechanisms to prevent a further internationalisation of restrictive practices.

FRANK GEARY

Pen International

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2. See the PEN Charter at http://www.pen-international.org/pen-charter/.
3. For PEN International caselists see http://pen-international.org/campaigns/how-to-campaign/caselist/
4. For more information on these two campaigns see http://www.pen-international.org/campaigns/current-campaigns/mexico-day-of-the-dead-campaign-2011/ and http://www.pen-international.org/write-against-impunity-the-campaign/.
5. The Declaration can be accessed at http://www.pen-international.org/pen-declaration-on-digital-freedom/.

Messages that make an impact:

Rethinking civil society communication strategies

Mario Lubetkin, Inter Press Service. Stefania Milan, The Citizen Lab

Think of the recent Arab Spring and the Occupy Wall Street mobilisations: the vast and diverse sphere of what we call civil society bubbles, with action, ideas, and emotions. In the face of an unprecedented global crisis, affecting job markets and the cost of living, and food availability and the environment, civil society groups and organisations around the world have needs, preferences and proposals. But is civil society able to communicate on its own terms?

The ever-growing diffusion of social media and mobile technology, and the mushrooming of digital platforms for self-expression, might suggest that never before has civil society had so many venues to voice its claims and visions. The picture, however, is not as bright as it might seem at a first sight. Although these are certainly welcome developments, and means and channels of communication have indeed multiplied, the mediascape is still characterised by growing media concentration, the predominance of 'infotainment' and 'sensationalism', over information and analysis, and the prevalence of Western voices at the expense of a silenced global South. Further, social media and blogging platforms, by privileging an individualistic approach to communication, are sometimes at odds with the ways in which organised civil society traditionally communicates. How can civil society organisations (CSOs) improve their communication? What does an enabling environment for civil society communication look like?

There are seven factors that, if positively dealt with, may help civil society's voices to be better heard and understood. Six of them deal with the limitations and frequent shortcomings of CSOs, and are seen through the perspective of Inter Press Service (IPS), a global news agency devoted to empower civil society and the global South. But the first and, in our opinion, most intrusive obstacle to efficient communication for and by civil society has to do with the features of the current global media and communications system, which have an impact on civil society's ability to get its messages across.

If we are to look at the disabling conditions that contemporary CSOs face in communicating their messages, we will soon realise that not much has changed since the last century, in particular in the areas of media ownership, diversity of voices and access. Media across the world are in the hands of only a few global conglomerates. The largest corporations active in the media, entertainment and digital content sector include Microsoft, Time Warner, Comcast, News Corporation, Walt Disney, Sony, Vivendi Universal and Viacom; Murdoch's News Corporation is the only one active exclusively in the media field. Some fifteen years ago, critical media theorists Herman and McChesney argued that these global firms are "the new missionaries of capitalism."[1] At best, they contribute to homogenising news and entertainment content across the world, while leaving little room and market share for the initiatives of independent or local media outlets.

And what about the diversity of voices in mainstream media? Little has changed since the 1970s, when UNESCO, prompted by the newly independent states of Africa and Asia, promoted debate on a New World Information and Communication Order (NWICO). Official documents at the time claimed that the communication sector had to be seen "not only as a support to development but as an integral part of the development plan itself"; all countries should have "equal access to all the sources of information and take part on an equal footing in the control over and use of international channels of dissemination."[2]

In its book-length report, the MacBride Commission, tasked in 1977 with analysing communication problems in modern societies, and with proposing solutions to further human development through communication, had accused mainstream media of reinforcing Western cultural domination in developing countries, and had called attention to the increasing concentration of media and technology in the hands of Western companies. With the exclusion of a few companies oriented to

give voice to the global South such as Al Jazeera, newscasts are to a large extent still monopolised by Western voices, at the expense of a rapidly developing South. A recent study found that, although the internet has exponentially multiplied the available channels and made the issue of space on a page irrelevant, the news agenda is today largely dominated by stories from the global North.[3]

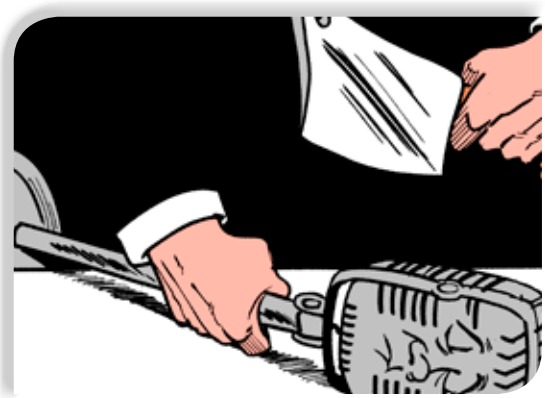
An enabling environment for civil society communication needs a reformed media system that is concerned with diversity of voices, equality of views and social actors and public service. Certainly, more and better public service media are needed, that are managed with transparency, and are able to cover issues of real concern to citizens, and to foster an active public sphere. More locally owned media are also needed to give voice to local needs and stories, and to issues relevant to communities. Finally, more and better funded civil society media are needed, owned and operated by people in communities, such as community radios and television stations, concerned with social justice rather than profit.

Infrastructure matters. To this end, CSOs across the world should become more active in advocating for media policies and governance of the internet that take into consideration civil society needs. CSOs should learn from groups in various countries across the world, including those in Argentina, India, Thailand, Tunisia and the United States, that have advocated, often with astounding success, for media reform. In this respect, collaboration and the sharing of expertise and resources, as well as the compilation of databases of best practices, are a must.

The World Association of Community Broadcasters (AMARC), for example, has long run a policy programme supporting groups engaging in policy advocacy and willing to learn from each other's experience. As recent success stories teach us, CSOs would also benefit from more integration with academia, where much of the policy-related expertise is housed. In Argentina, one of the most progressive media laws in the world, which assigns 30 percent of airwaves to community media,[4] was drafted also thanks to a partnership between CSOs and sympathetic individuals and groups in academia. Projects such as the Mapping Global Media Policy project (http://www.globalmediapolicy.net) aim precisely at making action-ready research available and understandable beyond the walls of universities.

However, infrastructure alone cannot do much unless CSOs also change their attitudes towards communication. If organised civil society is to play the role of a "superpower" in the international context, as former UN Secretary General Kofi Annan once suggested, then the communication strategies of civil society groups have to take a range of limitations into account, and work to change them. In what follows, this contribution reflects on six limitations endemic to CSOs, which should also be addressed to win the challenge of an effective communication.

1: Civil society groups and coalitions must take communication seriously. They should always include communication tactics in their strategies, and incorporate them in their activity planning from the start. Fortunately, the current global scenario seems to favour civil society: many of civil society's flagship issues, such as climate change, water, alternative energy sources, the crisis of food prices, the gender perspective, and the role of the South and of emerging countries, are now part of the global media agenda. Further, audiences across the globe are avidly looking for clearer perspectives on the future of the planet, and are hungry for possible solutions to current pressing problems. To make the best out of the increasing popularity of the issues they address, CSOs should rethink their communication strategies in order to allow for both greater public awareness and greater public engagement and participation. The challenge is to find the best narratives, as well as the best channels, to reach the general public, while at the same time fostering a deeper understanding of the issues at stake.



2: Within CSOs, communication cannot be the sole responsibility of spokespersons, communications officers and press offices. A good

communication strategy that focuses on action and advocacy should foresee the participation of all members of CSOs, and of its leaders in particular. Recent experiences in the field show that although there is a general concern about communication strategies, when CIVICUS and IPS, for example, have promoted joint initiatives to facilitate dialogue among major news media and CSOs, there has not been strong participation by civil society leadership. Although the motivations behind this lack of involvement might be valid (most notably, the lack of time and resources), these experiences show that for some opinion-makers in the sector, communication is neither urgent nor part of the agenda. Until the realm of organised civil society becomes fully aware that communication is one of the key factors in the battle of ideas and proposals, CSOs will continue to play a secondary role and make it unnecessarily difficult for their messages to get across.

3: More coordination is needed in order to speak with a unified voice to policy-makers. Although civil society's themes and fields of action are growing increasingly wide, there are several potential connections and overlaps. Policy-makers, however, tend to privilege clear and coherent messages that do not contain contradiction. This requires an intense coordination amongst CSOs active in the same field, if we are to avoid confusion and increase the impact of our advocacy. Civil society networks should put in place mechanisms to jointly reflect and raise awareness about their messages. For example, on the occasion of large events such as the June 2012 Rio+20 summit, civil society actors specialising in different but related areas, such as the environment, gender, poverty and economic justice, to name a few, should have coordinated their messages in order to speak more loudly, jointly and clearly. By making their messages more coherent, CSO impact will likely be higher. To this end, related networks of CSOs should call for regular (perhaps annual) meetings to define the central axes around which to develop joint discourses, messages and advocacy campaigns. In this way, and safeguarding each participant's style, organisational profile and the diversity of viewpoints, CSOs would be able to promote the aggregation and coherence of messages and discourses.

4: The traditional tool of press releases, still widely used by CSOs, have little impact when these are more focused on promoting the brand, i.e. the specific CSO, rather than the themes and the actions of the organisation. At two meetings of media editors and civil society leaders organised by CIVICUS and IPS at the CIVICUS World Assembly in 2007 and 2008, senior journalists encouraged advocates to "stop filling our mailboxes with press releases that don't inform about the issues that interest us and just praise your organisations. You must be aware that these kind of messages are immediately trashed." At those same meetings, editors expressed their interest in having good information about the main issues and facts with which civil society constantly engages. The potential exists, but taking full advantage of it depends on CSO capacity to adapt the messages to be conveyed to the characteristics and needs of different information channels.

5: In order to make progress on these challenges, training is becoming more important each day. CSOs must acquire expertise in the field of communications in order to get their messages across. This implies training for specialised communication officers so that they can exchange views and experiences with their colleagues and increase the quality and impact of their work; training for small and medium-sized CSOs that are excluded from the powerful media game and need to improve their skills for more active and qualified participation; and training for journalists, so that they understand better the actions and messages of civil society.

6: There is a tendency amongst organised civil society to distinguish between traditional media (broadcast and print, with the inclusion of the internet, insofar as it is another platform that hosts text and footage) and the so-called new social media. The challenge, however, does not lie in the tools but in the content CSOs wish to transmit. The tools can potentially increase civil society's possibilities for action and mobilisation, but for the most part they have not yet translated into greater impact of CSO messages on people, even if CSO issues are now part of the global news agenda. What might be the potential from new social media for the World Social

Forum through the internet, or the complex levels of coordination required among different social movements, learning from the role of social media in the extraordinary events in North Africa and in the Occupy mobilisations?

The World Social Forum (WSF) offers a good example of the difficulties that civil society faces in engaging with the media. The impact and visibility of civil society at the WSF is much weaker than its actual strength, and one of the challenges behind this is that journalists are not prepared to follow multiple, very different and complex issues. Paradoxically, just as history is proving the WSF right in many of its predictions and analyses, the major media, which are key actors in shaping public opinion, are not increasing but in fact sharply decreasing their coverage of it. This silencing treatment is a clear obstacle to the expansion of the WSF, and a cause of real concern for many of its innumerable organisers and participants. This situation was recognised in the Declaration of the Social Movements Assembly of the WSF, launched in Dakar in February 2011. The Declaration concluded that the WSF must undertake "a battle of ideas, in which we cannot move forward unless there is a democratisation of communication."

Familiarisation with the journalism world, its needs and practices is essential for CSOs, and even more so for those people whose task is to reach out to journalists. As expressed by major media editors themselves at the CIVICUS World Assembly meetings, they are willing to take part in the training process and explain to CSOs the kind of material they need and that later turns into publications. A joint analysis of the best formats and tools would be a precious asset to social movement organisations.

It is also important to identify journalists from different media across the world that have been sensitive to, and are prepared to cover, civil society activities. Organisations should share with each other information about the journalists and media that have showed those characteristics in earlier occasions. Although thousands of journalists from all over the world covered the first editions of the WSF, the movement was unable to make the most out of this, for example, by putting together and sharing a database with their contact details. At the same time, CSOs must also target those journalists and news media that lack information and awareness about civil society actions.

Nobody questions the above tools, but if CSOs used them in a better and combined way to deliver a more focused message, yet while safeguarding individual preferences, the impact would be much higher. There are more and more blogs, Twitter accounts, and Facebook pages promoting civil society's ideas and initiatives; one result is that mainstream media outlets produce many different representations of organised civil society, not all of them fair and balanced. While there is increased use of new media on the part of individual, larger, Northern CSOs, what would happen if that enormous potential could at least party be focused on common messages? Diversity is an asset that enriches civil society; however, CSOs should pay attention to the potential 'noise' that can result from many, complex and at times contradictory messages.

The above list could and should be much longer. The mediascape we live in changes and evolves by the day; newer platforms will emerge that will further challenge CSO strategies. A related challenge is thus not to erratically follow the ever newer platforms of communication. CSOs should not limit themselves to a theoretical debate about which channels to use, or mere acknowledgment of the difficulties and limits. CSOs should first and foremost change their attitudes towards communication as one of the key tools for the success of their visions for a better world.

Needless to say, CSOs cannot deal with all the above challenges at once, but can instigate a process that leads to gradual changes in direction. The implementation of any of the abovementioned proposals, notwithstanding the constraints and the specifics of individual organisations, would certainly imply a turning point in CSO communication strategy. Eventually, the execution of all of them will position CSOs in another and qualitatively much higher level in the global communication scenario. Nobody can achieve this alone. It is only by sharing skills, visions, and actions in the communications field that CSOs will reach this new phase. It is in CSOs' hands, and CSOs' hands alone.

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Mario Lubetkin has been IPS Director General since 2002. Attracted by the News Agency's original coverage of human rights, environment and development issues, he joined IPS as a journalist in 1979 at the Headquarters in Rome. He later returned to his native Uruguay as a correspondent and served as Regional Director for Latin America for seven years, before being appointed Director General.

Lubetkin served as correspondent for several Italian and Latin American print media, and as communications adviser for several UN agencies and regional integration organizations. He has coordinated communications projects with the Governments of Brazil, Finland, Italy, Spain and Uruguay, among others.

Between 2000 and 2007, he coordinated "Tierramérica", a Communication Project of the United Nations Environmental Programme (UNEP), the United Nations Development Programme (UNDP) and the World Bank, which is the most important communication platform on environment and sustainable development in Latin America.

In the last years, he actively supported communication efforts at the United Nations and Civil Society major summits, both personally and with his team, also through the publication of the TerraViva conference papers. Also in the recent period, he has focused in the new scenario of emerging countries, particularly IBSA (India, Brazil and South Africa).

Since 2006, he teaches at the Master in Communication for international relations of the Libera Università di Lingue e Comunicazione IULM of Milan. He has coordinated several seminars about communication and development at the Universidad Internacional Menéndez Pelayo (UIMP) of Santander and is the co-editor of a series of books on Communication and development, together with the Spanish cooperation.

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At The Citizen Lab, Stefania investigates the development and evolution of grassroots digital infrastructure, and its interplay with power in and governance of cyberspace.

http://www.stefaniamilan.net/

Source: ICANN Wiki http://icannwiki.com/index.php/Stefania_Milan

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The state of the internet in 2012/13 from a civil society perspective

Alex Groome, Anriette Esterhuysen, Shawna Finnegan
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Summary

As more people gain access to the internet, its diversity, reach and value increases. Therefore it follows that a central concern of civil society everywhere must be how affordable, inclusive and free the internet is.[1] Individuals, institutions and organisations all over the world have embraced the internet as a platform for discourse, commerce, citizen engagement and, of course, political and social activism. Mobile phones reach even more people and their everyday use is often linked to the internet in some way or other.

Interaction between citizen and state has also been changed by this growth, in some ways positively, but in others, with new forms of exclusion resulting. E-government services can be inaccessible and alienating to those without the necessary access or literacy. Even the notion of citizenship has been transformed, with many people identifying themselves as citizens of the network (or netizens).

Recognition of the internet's critical role as "a key means by which individuals can exercise their right to freedom of opinion and expression, as guaranteed by article 19 of the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights" was clearly stated in the June 2011 report of Frank la Rue, Special Rapporteur on Freedom of Expression and Opinion to the UN Human Rights Council. He went on to say:

"The right to freedom of opinion and expression is as much a fundamental right on its own accord as it is an 'enabler' of other rights, including economic, social and cultural rights, such as the right to education and the right to take part in cultural life and to enjoy the benefits of scientific progress and its applications, as well as civil and political rights, such as the rights to freedom of association and assembly. Thus, by acting as a catalyst for individuals to exercise their right to freedom of opinion and expression, the internet also facilitates the realisation of a range of other human rights."[2]

Civil society groups and activists are constantly expanding their use of the internet and other information and communication technologies (ICTs) such as SMS and mobile apps to organise and advocate for social justice. But this explosion of creativity takes place in the face of growing threats to the free and open nature of the internet both by states and business interests. In the last few years issues have emerged that touch on freedom of expression, freedom of association, privacy, censorship, security, access to knowledge and the right to information. These new forms of violations of fundamental human rights result from expedient decisions by states and non-state actors that impact on ICT users in this way, and are similar in intent to violations experienced in traditional media.[3]

Civil society must be involved in how the internet and other ICTs are regulated and governed, at global, regional and national levels to ensure it remains a tool for empowerment. The next few years will be critical as both states and large corporations try to consolidate control.

Trends in access to infrastructure

The most significant trend is increased access to the internet through mobile handsets and the evolution of mobile technology. Recent research demonstrates that the mobile phone is transforming access to the internet, content creation and communication in diverse ways in many parts of the world.[4]

Additional functionality of rich feature phones (with some having limited means to access the internet) and smartphones (essentially a small, hand held computer) has resulted in high levels of user-generated content. Citizens can author their own media, take pictures of what is happening around them and post almost real-time text accounts of events that they are witnessing.[5] This has

had the effect of giving space to a diversity of voices and issues that historically may have been ignored.[6]

A critical issue at hand that civil society should be more aware of is the digital switchover (DSO). Essentially, the DSO is the transition from analogue to digital technology for the delivery of television and radio broadcast services. This transition will produce a gain in efficiency, which means that a fraction of the amount of electromagnetic spectrum is required to deliver the same amount of content. The costs associated with the DSO are significant, and are particularly burdensome for poor and unemployed people. Every householder who owns a television will need to either upgrade their television or purchase a set top box in order to receive digital television broadcasts.

But there are huge potential public interest benefits such as an opportunity to lower barriers to local content production through, for example, enabling new dedicated local language channels, while simultaneously increasing broadcast quality. Another huge benefit would be an increase in internet connectivity through frequency being made available for wireless broadband. In short, the DSO represents a massive one-time opportunity to enable more pervasive and affordable access through technological efficiencies, which will permit more diverse ownership, competition and innovation in both the broadcast and telecommunications sectors. If mismanaged, the consequences could exacerbate the current digital divide and further consolidate the ownership and control of current commercial and political interest groups in the broadcast sector.

Trends in the use of ICTs for democratic processes

The use of ICTs for democratic processes has grown and is increasingly powerful. From the Philippines in 2001, where text messages helped topple the government by enabling 700,000 demonstrators to demand the resignation of President Estrada, to the use of mobiles by civil society to monitor national elections in Ukraine (2004), Belarus (2006) and Kenya (2007 and again in 2013)[7], and to their use by Egyptian activists to document and report on the violent dispersal by police in Cairo – resulting in at least 20 deaths - of Sudanese refugees from the Darfur region who were protesting against being deported (2005-2006)[8]. Then, in early 2011 an unprecedented series of events took place leading to revolutions in Egypt and Tunisia and mass civil movements for democracy in the Middle East and North African region. Many concluded that the advent of new ICTs had contributed to opportunities for advancing democracy, not only in obviously repressive states, but in all states, including developed countries, where diverse forms of democracy continue to evolve.

Online networks have also shown that they offer an opportunity to affect the dominant discourse, especially among younger people. In Bangladesh for example, the International Crime Strategy Forum (ICSF), an online coalition advocating for the fair trial of perpetrators of war crimes, seeks to achieve its goals by instilling a sense of justice, independence and freedom among future generations.[9]

Interference with rights

The use of ICTs for human rights monitoring, documentation and democratic advocacy is growing, although is not without challenges.[10] Citizen journalism and crowdsourcing applications offer new ways to empower citizens and facilitate freedom of association and democratisation.[11] In response, new norms have emerged in internet and information control techniques. Democratic governments no longer shy away from stating they are actively promoting regulation, invoking their obligations as states to protect human rights – increasingly on the grounds of security, eliminating child pornography, or prevention of criminal activity.[12] Other governments are embracing new technology and using it in new ways to infiltrate, carry out surveillance and disrupt the activities of human rights defenders (HRDs). Interference with human rights on the internet is most common in the form of censorship, interception of SMS and surveillance of email and user activity on the web and on social media platforms.

Government interference with ICTs

Censorship

Of those who are able to connect, the OpenNet Initiative estimates[13] that nearly half of them access a 'filtered' or censored internet of some kind, ranging from the filtering of illegal content (such as child pornography) to restrictions on political speech, which is protected by the principles of the Universal Declaration of Human Rights. By 2010, the OpenNet Initiative calculated that a staggering half a billion internet users (or about 32%) experienced some form of national-level restriction. As of 2011, more than forty-five states had placed restrictions on online content.[14]

There is also evidence that governments are restricting access, or censoring content, from users outside their countries using what is known as geolocational IP blocking. This tactic "has a variety of uses, from media content hosts like Netflix and Hulu blocking users from outside the US in compliance with copyright schemes, to American companies blocking access to users in sanctioned countries like Syria and Iran."[15]

Disruption or shutdown of services

In the wake of the UK riots in 2011, the British Prime Minster was quick to assert that control of access to the internet and social networking sites was a legitimate option for the British authorities to consider. Authorities were able to use social media platforms, such as Twitter and Facebook, as a means of quickly identifying alleged offenders following the riots. While social media platforms can act as instruments of protests, they can also render users vulnerable to state surveillance, particularly when combined with facial recognition technology.

Government interference with SMS messaging for 'security reasons' is also frequent, whether in Cameroon, Ethiopia or Mozambique, or the Kashmir region in India, and amidst post-election violence in Kenya. In some cases interference is on a massive scale, such as in India where bulk messages services were banned for 10 days in Allahabad, effectively shutting down services to 36 million users.[16]

Surveillance

Further pressure has been placed on freedom of association by government policies on user registration to enable surveillance of internet use, including in public places such as internet cafes. A number of countries, including South Korea, have attempted:

> "…to track users by requiring government identification to use certain websites or to enter cybercafés. Government-enabled or sponsored attacks on infrastructure or individual websites have become increasingly common. And more recently, governments aware of the internet's organising potential have taken to implementing 'just-in-time' blocking – limiting access to sites during specific periods of election or protest, or worse, arresting bloggers and social media users or shutting down the internet entirely as has occurred in Egypt, Libya and Syria." [17]

Perhaps even more concerning are covert forms of surveillance and monitoring of HRDs practised by some regimes, such as 'sockpuppets' (fake identities) and 'astro-turfing' (fake grassroots organisations) to create pseudo movements, infiltrate legitimate organisations and conduct surveillance of what activists say in these 'trusted' spaces.

Intermediary liabilities and the private sector

Governments are also increasingly requiring the private sector, including internet intermediaries such as internet service providers or mobile network operators, to exercise gatekeeper functions.

For example, demands by governments for social networking platform providers to regulate the political activities of members appear to be increasing. In many countries the primary threat to speech appears to come from private actors in collusion with government, and under the umbrella of intellectual property concerns.[18] For instance, Apple initially banned the app of Pulitzer Prize-winning cartoonist Mark Fiore on the grounds that Apple's terms and conditions limited material that "ridicules public figures and in Apple's reasonable judgment may be found objectionable, for example, material that may be considered obscene, pornographic or defamatory."[19] Such private contractual terms seek to limit freedom of expression.

International private sector companies can also impose or be complicit in limiting free expression when obliged to follow domestic law in the countries where they do business. In countries where restrictions to online content are the norm, this results in businesses aiding government censorship. Historically, states have been known to place restrictions on content for the purpose of national security, but "never before has the determination of what constitutes a national security threat been left to minor agencies or private regulators, creating greater room for error and corruption."[20]

New forms of resistance

While interference with internet rights is growing, so is the movement to resist it – using ICTs. The 2007-2008 post-election violence in Kenya gave birth to the Ushahidi movement where cell phones and PCs were used to map incidences of violence in the country. Sex workers in India and throughout Southeast Asia have used technology to aid their efforts in organising and demanding that their voices be part of women's human rights movements and democratic processes. The use of ICTs for increasing the reach of marginalised voices is growing.

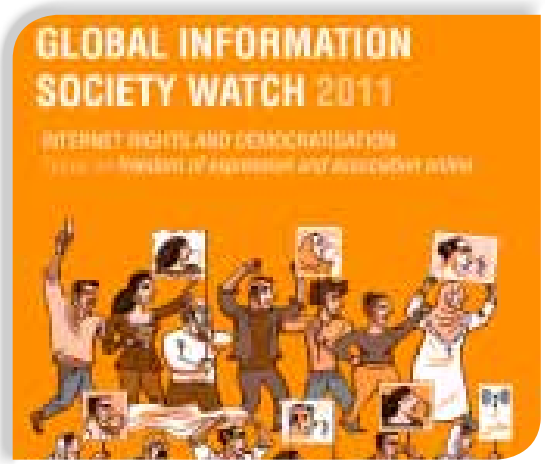
Women's rights online

ICT's have the potential to provide tremendous support for women, who are key actors for development and social change. ICTs have been effectively used to document abuses, build knowledge and networking in the women's movement, and redefine histories by adding women's voices and experiences. They have helped disseminate information, mobilise support and amplify the pressure for change. Unfortunately these benefits are threatened by the human rights abuses discussed earlier in this paper. Research indicates that women also make up the majority of victims of the disturbing phenomenon of online violence. They experience violence in the form of cyber-stalking, online harassment, blackmailing and cyber-bullying.

Fortunately, women around the world are building their capacity to put ICTs to the use to defend their rights. Take Back the Tech[21] is a collaborative campaign that began in 2009. It connects issues of violence against women and ICTs and has global reach and impact.

Future trends

ICTs and internet technology have caused profound political, social and cultural changes around the world, and continue to do so. A new 'mobile divide' is likely to emerge in the next three to five years since, in the countries of Sub-Saharan Africa and most developing countries, the majority of mobile handsets are basic phones, with limited functionality.[22] SMS remains a primary form of communication, but in general its use is also limited by low literacy levels. In comparison, over half of mobile phone users in developed countries are likely to have a smart-phone in the next three to five years.



Nonetheless, ICTs have the extraordinary capacity to make the voices of marginalised people heard, to make visible that which many would prefer to keep secret, and to raise and expose human rights violations, which in

itself holds the potential for enhanced democratic participation. Making these issues visible is not only a way of documenting and speaking out, and of mobilising widespread support for a cause; it is also used to hold authorities accountable for their actions.[23] Despite these capacities, the role of the internet activist is becoming increasingly complex. The revolutions in North Africa have shown how social media can be an ally in the organisation and mobilisation of people, but also how authoritarian regimes can use the internet to attempt to counter progressive social and political change. Similarly, in Thailand, the internet has been used effectively to support the conservative politics of the monarchy, as Arthit Suriyawongkul (Thai Netizen Network) observes: "What can then be called a 'digital witch hunt' emerged, as users began hunting down those who were against the monarchy."[24] There is growing discomfort with the internet as a place of refuge, with its negative implications for active engagement in civil protest.

Another trend that is occurring is that the study groups of the International Telecommunications Union (ITU) - the UN body that provides guidelines to states on how to regulate their communications sector - are producing new standards and definitions for surveillance and control, such as deep packet inspection (DPI), that allows the content of all internet data to be inspected. They are also adopting expansive definitions of spam (junk mail) that would make any bulk political email susceptible to prosecution as spam. These new standards and definitions are being approved in venues such as the World Telecommunications Standards Assembly (WTSA)[25] and incorporated into the International Telecommunication Regulations (ITRs)[26] by the ITU's World Congress on International Telecommunications (WCIT)[27]. Civil society has had very limited access to these venues,[28] though with the ITU reportedly becoming more open, this may change in the future.

How civil society can address negative trends

Civil society must advocate for preserving cyberspace as an open commons for free expression, and for the free flow of information. This involves monitoring, understanding and responding to threats to internet freedoms and the public nature and value of the internet from states and corporations. Responses range from improving practice 'at home' (by making sure you take care of your data and that you communicate as securely and safely as possible) to active involvement in policy discussion, to solidarity with those whose human rights on the internet are being threatened.

Secure online communications

The increasing use of national security and counter-terrorism arguments by states as the reason for controlling access to the internet, and the implications of these for freedom of expression, association and democratisation, demand responses from a variety of stakeholders, including human rights defenders, policy makers, and others in civil society. Being able to trust that your internet activity will not be monitored without your knowledge, and that your right to privacy is protected, is vital to the online work of civil society, as is the right to be anonymous, to use pseudonyms, and to use encryption tools to protect information.

Online security is important to everyone, not just to states. CSOs need to assert their rights to a safe, secure internet without undue limits to free expression, association or the free flow of information. HRDs need to be aware of, and respond to increased surveillance and monitoring of their online activity by governments. They should build their individual and institutional capacity by adopting organisational policies on secure online communications, and building their skills, and those of others they work with in the media and the CSO community. They should monitor and document violations so that new trends in restrictions can be exposed and resistance strategies developed and shared.

Internet policy and regulation is being made 'as we speak' – participate!

Civil society participation in forums for cyberspace governance varies widely. People and issue networks play a key role by overseeing these spaces and opening doors to participation.

Civil society should participate in the Internet Governance Forum (IGF). There are IGFs at global, regional and national levels.[29] Civil society should participate in national policy processes, including on digital migration and media regulation and freedom.

Issues that should be kept on the policy agenda include free public access to the internet for those who cannot afford access at home and who do not have it at work – for example, access in libraries or community centres. Also critical is cost, and how at national levels the communications regulatory authority is regulating mobile phone operators to ensure that what they charge for the internet is fair and cost-based.[30]

Online networks have the opportunity to affect the dominant discourse, especially among younger generations. In Bangladesh for example, the International Crime Strategy Forum (ICSF), an online coalition advocating for the fair trial of perpetrators of war crimes, seeks to achieve its goals by instilling a sense of justice, independence and freedom among future generations.[31]

'"Internet rights are human rights"[32]

There is a need to adopt a rights-based approach to the internet. It is a tool for exercising human rights, and therefore making sure it is available, affordable and uncensored is vital.

A strong human rights perspective is needed if infrastructure regulation is to enable access, particularly in developing countries, where freedom of expression, freedom of association and access are linked.[33] It is essential to include awareness of the state of human rights on the internet into all work to build more open and fair societies.

In order for ICTs to continue to be used as a tool to strengthen processes of communication, information sharing and organising, all civil society actors must be aware of new challenges and the ever shifting contexts, both online and offline, in which these processes are taking place.

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http://www.internetsociety.org/global-inet-panelist-avri-doria

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28. Primarily civil society must participate as part of a national delegation to the conference.
29. The Internet Governance Forum was established as an outcome of the United Nations World Summit on the Information Society in 2005. It is a process of linked events open to all. Read more at http://www.intgovforum.org/cms/.
30. A useful resource in Africa is Research ICT Africa's Fair Mobile Index: http://www.researchictafrica.net/fair_mobile.php.
31 http://www.icsforum.org
32. See APC Infographic on human rights most affected by the internet at http://www.apc.org/en/irhr/internet-human-rights.
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CIVICUS Civil Society Enabling Environment Index

– an invitation to join the dialogue

CIVICUS believes that there is an urgent need to identify and track systematically enabling and disenabling trends in the contested environment for civil society. It has therefore proposed that a Civil Society Enabling Environment Index (EE Index) be designed.

For CIVICUS, designing the EE Index is a natural step forward from two strands of its work over recent years. One is the Civil Society Index (CSI), a participatory action-research project implemented with national partner organisations across the globe. The other is Civil Society Watch (CSW), a fact-finding, awareness-raising and advocacy project which has the goal of protecting the space for civil society to operate freely and optimally.

The findings from these projects made us see a necessity for a new tool in the form of the EE Index. For CIVICUS, the process of developing such an index, as well as the tool itself, is important for reasons described below. Therefore, this introductory paper makes an invitation for more stakeholders to join the dialogue.

CIVICUS would like to produce the EE Index as a regular global assessment of the key external dimensions affecting civil society with a view to identifying enabling and constraining factors, highlighting global trends and their implications, and foreseeing likely scenarios that potentially impact on the effectiveness of civil society.

Below are set out a few key premises for the EE Index. The draft Index will be made available on the CIVICUS website, as part of this consultation process.

In 2011, CIVICUS published Bridging the Gaps: Citizens, Organisations and Disassociation,[1] which was based on the Civil Society Index findings from 2008 to 2011. This publication called attention to a growing disconnect between organised forms of civil society and active citizenry who are not directly associated with civil society organisations (CSOs), and served as a key source for the subsequent State of Civil Society report.

CIVICUS highlighted in its inaugural State of Civil Society report, published 2012, that civil society organisations and citizen activists worldwide operate in "extremely dynamic and volatile circumstances."[2] The report described various "complex, rapidly changing factors" affecting civil society. It captured multi-faceted crises civil society is facing, and characterised them as a disenabling environment for civil society. For CIVICUS, the report was an important milestone that consolidated its day-to-day work in generating data and knowledge on the conditions for civil society.

CIVICUS and a few other organisations that take seriously increasing threats to civil society space have, including through Civil Society Watch, vigorously been alerting the international community about the issue of volatile conditions for civil society in recent years. In a synopsis report published in late 2010, CIVICUS offered evidence of threats to civil society space in more than 75 countries. These included legal restrictions on civil society's ability to exist and operate freely, policy and other measures to restrict civil society participation in governance processes, and other manifestations of threats such as physical attacks, harassments, imprisonment and assassinations of civil society activists, as well as crackdowns on protests and demonstrations.[3] In our view, the situation has not improved, and if anything it has deteriorated in the last few years, as documented in last year's State of Civil Society report and this current edition.

In producing these action-oriented research products, CIVICUS has identified a significant gap in the current research and systematic reporting on civil society, which became an impetus for producing the State of Civil Society report regularly. It also prompted CIVICUS to develop the EE Index as a source of reliable, international and comparative quantitative information.

Civil society in general, and CSOs that attempt to link action to research, face challenges around the rigour and neutrality of their research and analysis. CIVICUS is no exception. Civil society analysis of the kind CIVICUS undertakes faces queries and critiques as to the extent to which it offers true,

incontestable evidence that describes the state of civil society. What these queries suggest is that there is heightened awareness yet a dearth of reliable information on the state of civil society. The knowledge base for civil society is growing globally, but it seems that civil society analyses are not always presented in such a way that best meet demands. But then we also need to ask, what is the demand?

We believe that the demand is that key civil society stakeholders want to know if we have an enabling environment for civil society – globally as a composite picture as well as in each and every country – as evidence for policy. Policy formation needs to be evidence-based, and information needs to be sound enough to withstand analytical scrutiny.

CIVICUS believes that the enabling environment for civil society will be a central concept in discourse on civil society in the coming years. In the last few years, a number of civil society stakeholders are paying attention to this term, including multilateral institutions, bilateral donors and people and groups in civil society.

From the CIVICUS point of view, this development demonstrates that the world has, in a way, caught up with our work. CIVICUS' mission is strengthening civil society and citizen action. We believe that it is an end in itself rather than a means to an end. This latter instrumental approach of civil society has been prevalent, especially in international development; a strong civil society was viewed as a necessary ingredient for poverty reduction, gender equality, universal education, and other development goals. In the last few years, however, we believe that we are witnessing a shift in some quarters to appreciating the intrinsic value of civil society.

Growing recognition of the enabling environment, as evidenced by the increasing use of the phrase, is a key part of this shift. If the strength and vibrancy of civil society is an end in itself, an essential ingredient is an enabling environment for it to flourish. But we have not yet progressed much from this important understanding. For example, while last year's State of Civil Society report had a focus on the complex, contested and volatile environment for civil society, many did not see this as an over-arching trend.

This may be because we are not looking at the same trees, and we may not have a good enough view of the entire forest. Particularly in its Civil Society Watch programme, CIVICUS has been tracking contested civil society space by identifying threats to civil society. At the same time, many publications, including those of CIVICUS, characterise the current state of civil society as standing at a crossroads; while there may be many challenges, new opportunities are also opening up in various corners of the world that could make civil society stronger and more influential.

It is therefore apt to say that we are in need of sound tools that will enable those concerned with the enabling environment for civil society to draw from a common knowledge base. It is also important to point out that the discussion needs a wider pool of participants, as the impacts of enabling or disenabling developments in the environment for civil society go much further than just those who are actively engaged in the current discussion.

Possible areas of contestation about the EE Index may be the definition of civil society and the points of focus on civil society's environment. As described in the methodological note for the EE Index, authored by Professor Lorenzo Fioramonti who represents CIVICUS' research partner at the University of Pretoria for the EE Index and has been working with CIVICUS on its development, the EE Index starts with the working definition of civil society as developed in the Civil Society Index as "the arena, outside of the family, the state, and the market, which is created by individual and collective actions, organisations and institutions to advance shared interests." His paper elaborates on how this definition impacts on the framework of the EE Index; suffice it to say here that it does not limit the scope of the enabling environment to one that directly affects organised forms of civil society.

Accordingly, in the preparatory work for the EE Index, the enabling environment is defined as "a

set of conditions that impact on the capacity of citizens (whether individually or in an organised fashion) to participate and engage in the civil society arena in a sustained and voluntary manner."

For CIVICUS, this understanding of civil society was reinforced by large scale protest events across a range of countries that began in late 2010, which were captured both in Bridging the Gaps and the previous State of Civil Society report. There, CIVICUS affirmed that protesters, occupiers and online activists are part of civil society and stated that the common disconnect that CIVICUS' research had identified between the institutions of civil society and citizens needs to be addressed. CIVICUS called for an expansive understanding of civil society and a recognition that all actions from outside the government and business spheres that promote democracy, good governance, human rights, social justice, equality and sustainable development are part of civil society, whether they are generated by organisations, movements, ad-hoc groups or citizens. In the formation of CIVICUS' five-year strategic priorities in 2012, this issue was highlighted by many stakeholders, with the result that the theme of connecting civil society has become one of the three pillars of CIVICUS' strategy.[4]

The implication of this perspective is that the EE Index is intended to consider not only legal and regulatory frameworks that govern CSOs in each country as enabling or disabling, but also other political or societal conditions that go beyond the absence or presence of a restrictive legal and regulatory environment. This surely calls for debate on what needs to be included or excluded in the dimensions and indicators of the EE Index: a debate that CIVICUS would welcome. For one thing, we are mindful, as Lorenzo mentions in his paper, that the discourse on civil society in international development might have taken a narrow approach to civil society, with a focus on the professionalised (or professionalising) world of civil society, leaving out other manifestations of citizen participation and civic activism.

We are aware that this view of the enabling environment for civil society may be different from understandings developed in other streams of work that focused on this concept. For example, in the lead up to the Fourth High Level Forum on Aid Effectiveness held in Busan, South Korea in late 2011, CSOs formed a coalition, the Open Forum for CSO Development Effectiveness,[5] in which CIVICUS played an active role. In this coalition, the enabling environment was viewed as "the political and policy context created by governments, official donors and other development actors that affect the ways CSOs may carry out their work."[6]

The fact that we are seeing multiple viewpoints on the parameters of the enabling environment is a healthy sign. Indeed, as Lorenzo describes in his methodological note, one could arguably juxtapose two opposing approaches to the enabling environment of civil society. At one end, one could equate civil society with society at large and argue that overall socio-economic development is the best indicator of an enabling environment for civil society. An opposite approach, informed by legalistic considerations, would consider civil society's environment as consisting primarily of legal or regulatory frameworks. The question for the EE Index is first to decide where on this spectrum it should position itself, and second to take all the practical, technical and methodological considerations into account. We hope that the consultative process leading up to the finalisation of the pilot index for 2013, as well as further refinements in the years ahead, will guide CIVICUS in determining where the ideal balance can be struck.

As is clear from the above, CIVICUS believes that the enabling environment for civil society is not a concept that people find it easy to agree on. It should be treated as an evolving concept. With this introductory paper, CIVICUS begins a process of open consultation and dialogue in order to improve understanding of and support for the concept of the enabling environment and to be able to take the temperature of opinion better.

One of the most salient features of the Civil Society Index is its ownership by civil society at the country level. This is made possible through in-country consultation and dialogues among key stakeholders. CIVICUS would like to see a similar process take place with the development of the EE

Index. You are invited to participate in the consultation process that will lead up to the finalisation of the pilot EE Index, and in further processes to refine it after that. You will find supporting documents on the CIVICUS website that will help you give us your views.

In walking this path together, we would also like to invite you to document and share any qualitative data that may shed light on the environment for civil society. Just as the UN Human Development Index is presented in the Human Development Report, at CIVICUS we feel that data is most powerful when presented in multiple forms, both quantitative and qualitative. As there are advantages and disadvantages with these two kinds of data, they are both needed. With this understanding, CIVICUS will strive to produce regular reports on the enabling environment for civil society along with updates on the EE Index.

You are invited to embark on a journey with CIVICUS to explore the issue of the enabling environment. Some of the suggested practical parameters of the EE Index are the following:

- It will be published regularly, preferably each year, taking advantage of political opportunities for governments, policy-makers, practitioners, donors and CSOs to have a better understanding of issues in the environment for civil society and to offer informed analysis of emerging trends, challenges and opportunities for civil society;
- It provides a comparative ranking of the external conditions affecting civil society in different countries, and illustrates how they vary from one year to another;
- It uses a matrix of dimensions and indicators that address the different aspects of enabling conditions for civil society;
- It makes use of partnership with academic institutions which map and analyse existing data sources; identify existing relevant information and gaps; design the appropriate data collection methodology; and refine the composite index based on this analysis. For the 2012-13 cycle, CIVICUS has a partnership agreement with the University of Pretoria, South Africa;
- CIVICUS organises a consultation process involving CSOs and other stakeholders, to test the validity of the broad conceptual design and technical methodology of the EE Index. In the initial round, this will lead to the finalisation of the pilot Index;
- The work will identify missing data and most likely come up with a proposal to embark on primary data collection for the second round of compiling the EE Index.

With this in mind, please read the supporting documents on the CIVICUS website, join in the consultation and help us develop the EE Index.

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4. See CIVICUS' Strategic Priorities 2013-17, http://www.civicus.org/6-about/accountability/1300-civicus-announces-new-strategic-priorities.
5. See Open Form for CSO Development Effectiveness, http://www.cso-effectiveness.org/home,091.
6. The Siem Reap CSO Consensus on the International Framework for CSO Development Effectiveness, http://www.cso-effectiveness.org/InternationalFramework.

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54. Busan Global Civil Society Forum. *Source: CSO Development Effectiveness Wiki*
57. Discussion at Open Forum 1st Global Assembly. *Source: CSO Development Effectiveness Web Portal*
58. Istanbul Principles for CSO Development Effectiveness. CSO Development Effectiveness Web Portal
63. President Dilma Rousseff speaking at the opening ceremony of the Rio+20. *Source: Roberto Stuckert Filho/PR*
64. Distribution of food aid in Kenya. *Source: USAID Africa Bureau*
66. Picture of procession at Rio+20. *Source: Alien Cow*
69. Trade union demonstration in Brasilia. *Source: Agencia Brasil*
70. Close up photo of Brazilian President Dilma Roussef. *Source: Fabio Rodrigues Pozzebom/ABr*
76. A girl with her face painted the colours of the Egyptian flag, protests at Dundas Square in Toronto to support the protests currently taking place in Egypt against President Hosni Mubarak on Saturday, January 29, 2011. *Source: AP Photo/The Canadian Press, Aaron Vincent Elkaim*
77. Government repression in Tunisia. *Source: Aya Chebbi*
78. UN Special Rapporteur on Freedom of Association and Assembly Maina Kiai. *Source: CSO Development Effectiveness Web Portal*
83. Cover image of report of Cooperation Committee for Cambodia. Source: Cooperation Committee for Cambodia
88. Candlelight Rally Against Rape in Kolkata on 29 December 2012. *Source Biswarup Ganguly via Wikicommons*
89. Indian Congress rally in Delhi. *Source: Soman*
96. Central nave of the National Pantheon of Venezuela, exhibiting the flags of the Bolivarian Countries. *Source: Alex Coiro*
97. Venezuelan President Hugo Chavez died of cancer on 5 March 2013. *Source: Victor Soares/ ABr*
98. Inside of the Venezuelan national assembly. *Source: Civilis*
99. Protests in Venezuela. *Source: Civilis*
101. Statue of Simon Bolivar, the inspiration for Chavez's Bolivarian revolution. *Source: Leonora Enking*
105. Photo of 54th session of the Commission on the Status of Women. *Source: Forum of Women's NGOs of Kyrgyzstan*
106. Madrassa street law in classes Kyrgyzstan. *Source: American Bar Association*
108. Civil society training session in Kyrgyzstan. *Source: Forum of Women's NGOs of Kyrgyzstan*
112. Caricature of censorship in Russia, drawing first published in the Spark magazine in 1863. *Source: Wikicommons*
113. President of Russia, Vladimir Putin. *Source: US Department of Defense*
114. Photo of Russian feminist punk group, Pussy Riot. *Source: Denis Bochkarev*
119. Former US President George W. Bush pledges to defend America's freedom against the fear of terrorism on 20 September in address to the nation. *Source: Eric Draper via White house photos*
123. The logo of the Holy Land Foundation, whose directors were given lengthy sentences ranging from 15 to 65 years for providing material support to Hamas via providing charity to people living in occupied territories. *Source: Wikipedia*.
131. Picture of alternative energy sources. *Source: Voices-Voix.*
132. Pollution in Tar Sands. *Source: Voices-Voix*.
134. First peoples protest. *Source: Voices-Voix.*

137. Protest. Voices-Voix.
144. Logo of the OECD's Better Your Life Initiative. *Source: OECD*
145. Panelist at the OECD conference: *Source Michael Dean.*
146. Ibid.
147. Presentation on Mexico at OECD conference. *Source: Michael Dean*
149. Panelist at the OECD conference: *Source Michael Dean*
151. Speaker at the OECD conference: *Source Michael Dean*
159. US Congress. *Source: Bjoertvedt via Wikicommons*
160. The Red Cross providing assistance. *Source: Nicky Lewin*
161. Two boys in a post-disaster area. *Source: Peter Biro*
162. Students in a classroom. *Source: Brian Tropiano.*
165. March to begin the World Social Forum in Dakar 2011. *Source: Pewil.*
166. Girl accessing water from a pump in Uganda. *Source: Hope Uganda*
168. Hope Uganda team. *Source: Hope Uganda*
169. Fishing boats. *Source: Hope Uganda.*
174. Protester in Chile being restrained. *Source: Cryptome*
177. Portraits of human rights defenders. *Source: Frontline Defenders*
188. Arrest of Mademba Sock in Senegal. *Source: Rignese via Wikicommons*
190. Afriforum protest in South Africa. *Source: Wikicommons*
191. Orange Democratic Movement in Kenya holding up portrait of Raila Odina. *Source: Demosh via Wikicommons*
195. Students protest for Education reform. *Source: Nicolas15 via United Nations News Centre*
196. Protest in London. *Source: Wikicommons*
201. Central African Rebel. *Source: Inventati*
202. Palestinian woman next to a pile of rubble. *Source: Inventati*
203. Two Palestinian children. *Source: Inventati*
204. A civilian and a soldier engaged in discussion. *Source: Deutsch Laender*
205. Protest against conflict in Darfur. *Source: Maria Chily*
206. Central African rebels. *Source: Inventati*
212. Couple in turbulent weather in Southeast Asia. *Source: Arvind Jain*
214. Medical professional holding child. *Source: Cj Madson*
220. Gypsy beggars. *Source: Venus*
221. Men dressed as police officers embracing each other at Gay Pride. *Source: Jammick*
222. Gay pride march in Israel. *Source: Jammick*
235. A workshop organised by the Foundation for the Peoples of the South Pacific Islands. *Source: Foundation for the Peoples of the South Pacific Islands.*
237. Two women from the Pacfic region. *Source: Wikicommons.*
240. Drawing of hands. *Source: Global Fund for Community Foundations.*
242. Smiling girl from Southeast Asia. *Source: Meena Kadri*
243. Participants in a community project. *Source: The Global Fund for Community Foundations*
247. AWID Poster at protest. *Source: AWID*
248. Women at protest. *Source: AWID*
250. Women protesting. *Source: AWID.*
259. Painting of person crying. *Source: ITUC*
262. Young workers protesting. *Source: ITUC*
263. Robin Hood Tax protest. *Source: ITUC*
267. South African beggar. *Source: Shay Riley*
269. The aftermath of the Marikana massacre. *Source: Shawn Hattingh via amandla.org*
270. Policeman pointing rifle at miners on the ground. *Source: Timeslive*
274. Launch of Free The World campaign. *Source: PEN International.*

276. PEN South Korea staff. *Source: PEN International*
281. Camera crews at the joint Press Conference given by the Congress of local and regional authorities and the ODIHR, in Tbilisi, Georgia. *Source: Wikicommons*
282. Radio Netherlands budget cuts. *Source: Carlos Latuff*
288. APC team. *Source: APC*
291. Cover of the Global Information Society Watch report. *Source: APC*

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