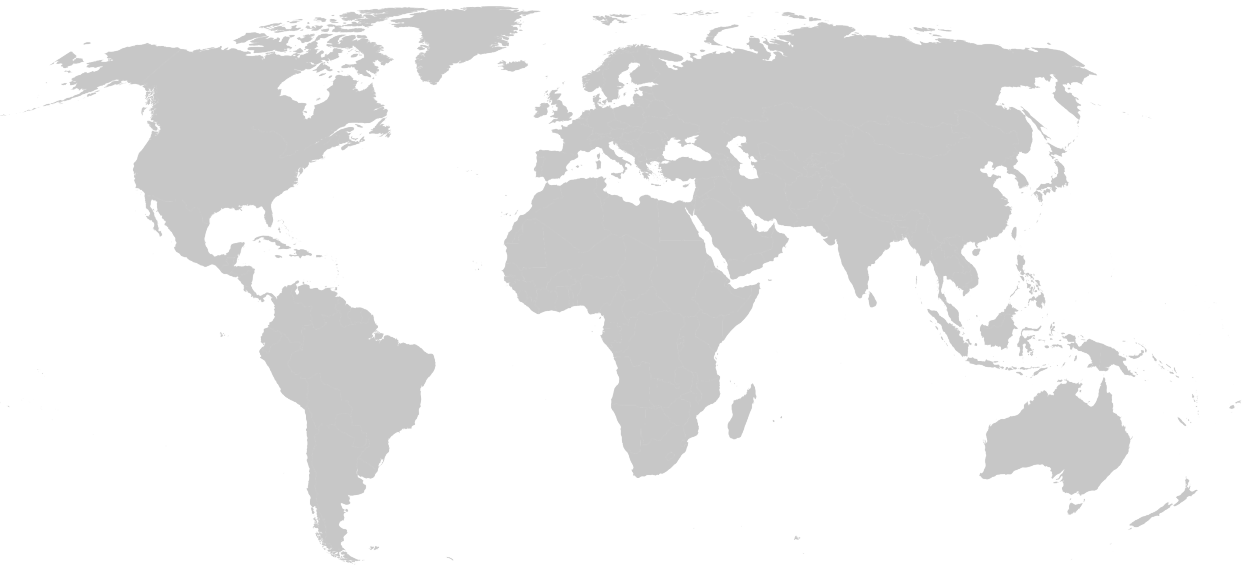

CONTESTED AND UNDER PRESSURE:

A SNAPSHOT OF THE ENABLING ENVIRONMENT OF CIVIL SOCIETY IN 22 COUNTRIES

CIVICUS

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CIVICUS

WHO WE ARE

CIVICUS is a global alliance of civil society organisations and activists dedicated to strengthening citizen action and civil society around the world. Founded in 1993, CIVICUS strives to promote marginalised voices, especially from the Global South, and has members in countries throughout the world.

Authored by Andrew Firmin, edited by Ine Van Severen. We wish to express our sincere thanks to ICNL and the 22 EENA national CSO partners

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INTRODUCTION AND METHODOLOGY

Between 2013 and 2016, civil society in 22 countries carried out an Enabling Environment National Assessment (EENA). The EENA is a civil society-led process that analyses the extent to which national conditions enable the work of civil society.[1] The EENA analysis explores in particular how laws and regulations relating to civil society are implemented in practice, and how they impact on civil society. The assessments, led by national civil society partners, employed a common methodology that encompassed interviews with key stakeholders, consultations, focus groups and desk research. In every country, six core dimensions were assessed: the ability of civil society groups to form, operate and access resources - all aspects of the freedom of association - plus the freedoms of peaceful assembly and expression, and relations between civil society and governments.

KEY OVERALL FINDINGS

Civil society organisations (CSOs) should be able to form and function independently and without having to seek permission from or notify state agencies: this should be recognised as international best practice. However, across the 22 EENA countries, CSOs of many kinds must register with or notify the authorities when they form, and seek legal existence. Several countries have notification regimes - in which CSOs can form, operate, hold events, communicate and receive resources without having to receive prior permission from state agencies - and, while falling short of best practice, these are recognised to be more enabling than approval regimes, in which CSOs must seek permission to carry out these core functions.

The EENA research reveals that in many cases, CSOs are not free to act without the state's permission. This is the case even in several countries where notification regimes exist on paper but do not apply in practice, as state agencies, officials and security forces assume powers to veto CSO activities. The impact of these constraints is to absorb the energy and resources of civil society, and reduce its ability to respond creatively to the challenges of the day.

Across the EENA countries, civil society's assessment is that the laws and regulations that affect civil society are often disenabling. Such laws and regulations frequently undermine provisions in constitutions that claim to recognise the importance of citizens' participation. In a number of countries, laws have been passed in recent years that worsen the environment for civil society by restricting the fundamental civil society rights of association, peaceful assembly and expression. Restrictions are often made on grounds such as the protection of national security and public order, and the prevention of terrorism, but they have the effect of making it harder for CSOs to form and function. Across the 22 countries, many more disenabling laws than enabling laws have recently been passed.

Challenges also arise from inadequate and incoherent legal and regulatory regimes that have not kept pace with the contemporary development of civil society. Laws and regulations are disenabling wherever they leave scope for their

1 The 22 EENA countries are: Benin, Bolivia, Brazil, Burkina Faso, Cambodia, Cameroon, Colombia, Honduras, India, Jordan, Lebanon, Mexico, Mozambique, Nepal, Nigeria, Panama, the Philippines, South Africa, Tajikistan, Tunisia, Uganda, and Zambia. See Annex 1 for a list of national partners and dates of assessments.

politicised and selective interpretation, and the exercise of discretion by political leaders and public officials.

The national environment is not uniform for CSOs. CSOs experience restriction more when they raise concerns with which governments disagree, or work on issues that are contested or seen as controversial. CSOs experience most restriction when they seek democracy, good governance and human rights, as opposed to when they prioritise charitable or social welfare activity, and when they engage in advocacy, express dissent or attempt to exercise accountability, compared to when they deliver services. In the worst cases, restrictions in the environment for CSOs suggest a deliberate attempt by governments to limit the roles that CSOs can play and the topics they can work on, and to constrain the autonomy and hinder the effectiveness of CSOs.

CSOs do not want an environment that is free of laws and regulations. Rather, they want laws and regulations that recognise their autonomy and the important role they play in society, and that help them to demonstrate their legitimacy and enable them to work more effectively. CSOs want laws and regulations that are predictable, manageable, transparent and free from political interference. Enabling legal environments are needed to help ensure that CSOs can play a full range of roles, including to partner with governments and others to advance social change.

FINDINGS ON THE SIX EENA DIMENSIONS

CSO formation: Laws and regulations on the formation and registration of CSOs are often complex, unwieldy, expensive and, in some cases, out-dated. Smaller, rural and less formal CSOs in particular can struggle with these. In countries where CSOs must register, there are many concerns about the predictability and neutrality of registration procedures, and the ways in which they can be politicised against CSOs working on contested issues. A lack of capacity of government agencies concerned with civil society regulation often presents a further challenge.

CSO operation: In some countries governments are insisting that CSOs align with their priorities and programmes. This undermines the autonomy of CSOs. There are also concerns that requirements that CSOs report to state agencies can be excessive and politicised, and that processes for the inspection, deregistration and dissolution of CSOs may be applied selectively for political reasons. CSOs may also have limited capacity to comply with reporting requirements.

Freedom of assembly: Even in contexts where CSOs are supposed to be free to hold peaceful assemblies, state agencies and security forces often abuse their powers and intervene to prevent or disrupt assemblies. Decisions on whether assemblies can proceed may be made on political grounds, and penalties for assembly organisers can be excessive. In several countries, recent moves can be observed to tighten laws in order to make it harder for citizens to hold public protests.

Freedom of expression: Constitutional guarantees on the freedom of expression are often undermined, including by recently introduced anti-terrorism laws in several countries. Laws on defamation, libel and slander often impose heavy sanctions, and may be subject to political manipulation. Non-state actors,

including extremist and criminal groups and large corporations, can also threaten the freedom of expression, while concentrated media ownership, and state intervention in the media, offer further challenges. The internet and social media have enhanced civil society's ability to share its points of view, but internet freedom is becoming more contested, and subject to new legislation that is often not enabling.

Access to resources: CSOs in many countries see their resourcing environment as declining or very difficult, with core resourcing particularly strained. In several countries the withdrawal of bilateral donors is causing difficulties, as many CSOs are highly dependent on these. At the same time CSOs are concerned about the high level of influence of donor policies, which can be disenabling and exclusionary. In some countries, governments have introduced restrictions on the receipt of international funding. In many contexts, there are also few prospects for CSOs to receive domestic state resources, and where these are available, they bring concerns about the potential for co-option, and the transparency of funding decision-making processes. CSOs report little domestic giving from philanthropy and corporate support, and assess that legal and tax regimes often do not enable giving.

Civil society-government relations: The EENA research highlights some positive examples of cooperation between CSOs and governments, but also many instances where relations are more hostile, particularly around contested subjects and actions. In most cases, there are few established structures for ongoing engagement, and where these exist, they often do not work well. Most often relationships are sporadic and ad hoc, with varying patterns of engagement across different areas and layers of government. This gives rise to concern about the transparency of dialogue, and raises the question of how open dialogue opportunities are to a wide range of civil society.

RECOMMENDATIONS

The EENA process demonstrates a willingness by civil society around the world to engage actively in improving the conditions for citizens' participation. It also indicates that in very diverse contexts, similar issues are being encountered, suggesting potential for enhanced cross-civil society working and the international sharing of good practice to overcome common challenges. In the light of the EENA analysis, the following recommendations are suggested as the basis for future advocacy:

- Promote, as international best practice, the removal of mandatory requirements for CSOs to register in order to carry out their activities. In cases where CSOs choose to register in order to obtain legal personality, notification regimes rather than approval regimes should be put in place.

- Affirm the right that CSOs should be free to organise meetings and events without any need for any prior approval or notification. When CSOs organise public protests and demonstrations, notification regimes rather than approval regimes should apply, as this enables CSOs to be assured that law enforcement services will guarantee public safety.

- Advocate for the inclusion of civil society practitioners in agencies responsible for the registration and regulation of CSOs.

- Seek greater accountability over the role of security forces, including in the management of assemblies and in the exercise of the freedom of expression, and encourage the sharing of good practice in the peaceful management of assemblies.

- Assert the right of CSOs to receive resources, including from international sources, as an intrinsic part of the right of association.

- Support the development of more enabling environments for domestic civil society giving, including through more enabling taxation regimes and policies to encourage individual and corporate giving.

- Encourage the adoption of structured, regular, transparent and broad-based engagement spaces between governments and civil society, including regular communication, and document and share learning about the impacts achieved for citizens as a result of high quality civil society-government engagement.

INTRODUCTION AND METHODOLOGY

This report brings together key findings of Enabling Environment National Assessments (EENA), held in 22 countries between 2013 and 2016.

The EENA is part of the Civic Space Initiative, implemented by CIVICUS: World Alliance for Citizen Participation with the technical support of the International Center for Not-for-Profit Law (ICNL), in partnership with ARTICLE 19 and the World Movement for Democracy, and with the support of the Government of Sweden. The aim of the EENA is to enable civil society to assess how conducive national conditions are for civil society organisations (CSOs) to exist, function and act. More specifically, the EENAs focus on assessing the legal, regulatory and policy environment for civil society at the national level.

A structured self-assessment was carried out in each country using a common methodology to build up a picture of the legal, regulatory and policy environment for civil society. Civil society in each country assessed six compulsory dimensions, concerning the ability of CSOs to form and operate, access resources, and exercise the freedoms of peaceful assembly and expression, as well as the relationship between CSOs and governments. Research, steered by a national expert advisory panel, included desk reviews of laws and regulations affecting CSOs, interviews with key stakeholders, focus group discussions and national consultations at the end of the research process. Depending on the country context, participants included people in key positions in civil society and academia, and where possible, government officials.

Countries in which assessments were held are: Benin, Bolivia, Brazil, Burkina Faso, Cambodia, Cameroon, Colombia, Honduras, India, Jordan, Lebanon, Mexico, Mozambique, Nepal, Nigeria, Panama, the Philippines, South Africa, Tajikistan, Tunisia, Uganda and Zambia. The EENA research therefore covers a variety of geographical regions, and a number of contexts in which relations between civil society and governments have shifted and CSOs have faced new challenges in recent years.

While each country has its own particularities, not least in the make-up of civil society and the range of different laws and regulations that affect diverse forms of CSOs, this report focuses on points of comparison and intersection. In doing so, it seeks to offer a snapshot of the environment for civil society, and the trends in civil society's ability to enjoy its essential rights of association, peaceful assembly and expression. A companion paper on civil society responses offers case studies of civil society action to address challenges in the enabling environment, with the aim of helping to inform civil society follow-up of EENA findings.

OVERVIEW

Overall the EENA assessments reveal a picture of an environment for civil society that is volatile, contested and often under pressure, but also with some optimism in some contexts about the potential for progress.

In several countries, including Bolivia, Cambodia, India, Uganda and Zambia, CSOs report that civic space is experiencing restrictions. A range of drivers have been identified behind these restrictions. For example, in Cambodia, where a restrictive Law on Associations and Non-Governmental Organisations (LANGO) was enacted in 2015, civil society sees the new law as coming in response to, and implicitly acknowledging the success of, the growing abilities of CSOs to mobilise citizens. In Uganda, CSO restriction is taking place alongside the concentration of presidential power. In Jordan, the government is viewed to be restricting the freedom of assembly in particular, and this is understood to be part of a policy of suppressing protest potential following the mass mobilisations, often referred to as the 'Arab Spring', seen in Jordan and elsewhere in the Middle East and North Africa in 2010 and 2011. In several contexts, CSOs are seen as a competitor for international resources with the government.

Cambodia's 2015 LANGO is one of a number of recently passed laws discussed in this report that constrain civil society. Other examples include Bolivia's 2013 law that regulates the granting of legal personality, Uganda's Non-government Organisations (NGO) Act of 2016 and Zambia's 2009 NGO Act, although the Zambian Act is suspended at the time of writing as a result of civil society advocacy, pending further dialogue between government and civil society about possible revisions. In other contexts, including Benin, India, Jordan, Nepal and Nigeria, the EENA reports indicate that existing laws are being reviewed or possible new laws are being discussed that have the potential to introduce new restrictions into the environment for civil society. A frequent complaint is that when laws are introduced, this comes without sufficient consultation with civil society. Cambodian civil society, for example, made this criticism in relation to the LANGO.

In other contexts, the problem is less the introduction of new laws than the continued existence of old laws, often from times of colonial rule in countries such as Benin, India, Lebanon and Zambia. In some countries, including India and Zambia, such laws were introduced with the intention of controlling civil society, when it was seen as a challenge to colonial authority. These therefore do not recognise the potential for CSOs to contribute to society as partners, or the importance of CSO autonomy. Further, as in Cameroon and Zambia, the legal environment may be complex and piecemeal, having grown over time, leaving gaps and vast disparities in the treatment of different forms of CSO that are registered and regulated by different laws.

Elsewhere, the challenge is that a country's constitution and laws are on paper permissive of civil society, but laws are poorly implemented in practice, or are interpreted selectively and in a politicised manner, in ways that are disenabling. This is assessed to be the case in Bolivia and South Africa, for example. In large countries, there may particularly be challenges with how laws are implemented at the local level: national level laws for civil society may be relatively enabling, but there may be an inadequate legal and regulatory environment at the sub-national level, characterised by gaps, inconsistences and a high level of discretionary power for local officials. This is assessed to be the case in Cambodia, Mexico and Mozambique, among other countries.

The direction of travel is not entirely towards restriction. The example of Zambia shows that civil society can push back against disenabling laws and win new opportunities for dialogue. In Mexico the Federal Law on the Promotion of Activities Undertaken by Civil Society Organisations, introduced in 2004, is acknowledged to have made the environment for civil society more enabling, something that has helped to underpin a growth in the numbers and roles of CSOs. It created a right for CSOs to participate in public policies and led to the establishment of new bodies to coordinate engagement. In Brazil, a new law, the Partnership and Cooperation Agreement, passed in 2014 and implemented from 2016, provides a framework for ongoing cooperation between the government and CSOs, including with CSOs that receive state funding. It is seen as a potential landmark by civil society in deepening relations with the government. Tunisian CSOs, having played a major role in defending democracy, preventing a slide back into conflict and developing the country's new constitution, are also broadly optimistic about the prospects for the enabling environment under the new constitution and the 2011 Law on Associations.

CSOs in Nepal, on the whole, see the country's new constitution, passed in 2015, as opening up new space and opportunities for civil society, in contrast to the difficult context of conflict that preceded it. The extensive civil society consultation involved in developing the constitution is part of the reason for this. However, a draft bill on Association and Organisation under discussion in Nepal threatens to introduce new registration and reporting requirements, indicating that continuous engagement is required to uphold the environment for civil society.

THE SIX DIMENSIONS

A. FORMATION

The first dimension covered by the assessments examines how easy it is for CSOs to form, and in particular to register and become ready to begin operations, as an essential part of the freedom of association. It therefore particularly explores registration mechanisms established and run by governments.

In most contexts there are constitutional guarantees of the freedom of association. This usually comes with a statement of limitations that CSOs are not to act against the national interest, public order, national unity and public morality, or have objectives that impinge on the rights of other citizens or groups. These limitations are, however, not always well-defined. There are sometimes provisions to suspend certain constitutional guarantees under states of emergency, as in Tunisia.

Constitutional provisions are generally elaborated upon, but can also be undercut, by laws that regulate the registration and regulation of CSOs. In the majority of countries covered by the EENA research, there is a diversity of laws covering different types of CSOs, and often different agencies that govern the registration and regulation of CSOs of different types. For example, there are often different laws for cooperatives, religious bodies, not-for-profit companies, trade unions, youth and sporting associations, and CSOs classified as non-governmental organisations (NGOs), a special status in some contexts. This analysis largely covers the type of organisation classified variously as an association, society, NGO or voluntary organisation, as these make up the majority of CSOs engaged in the pursuit of development, democracy and human rights, which CIVICUS' past research establishes are those CSOs most likely to experience restriction.

VARIATIONS IN REGISTRATION ESSENTIALS

First it is important to be clear that in several contexts, and in line with international best practice, not all CSOs must be registered. In several countries, CSOs only need to become registered if they seek to operate at a certain level of formality or take on legal personality. For example, they may need to obtain resources from international donors or domestic government, enter into contracts, seek tax benefits or open bank accounts. This is, for example, the case in Bolivia, Nigeria, the Philippines and South Africa, all countries that have many small, unregistered CSOs.

In some contexts, including Benin, Burkina Faso, Cameroon and Mozambique, there is a special category of public benefit status that CSOs must register for in order to receive public funding. In some countries, such as Benin and Cameroon, this is connected to acquiring NGO status, required for access to particular funding or partnership opportunities, and comes with increased government oversight: in Cameroon only CSOs registered as NGOs or public benefit associations can legally receive resources in the form of gifts, donations and legacies.

Registration is voluntary in India and South Africa. In comparison, in Uganda, even community level CSOs are required to register with their local authority. There are different registration regimes for CSOs at different levels in Tajikistan:

smaller, local CSOs need only notify local authorities, while others must register at the national level, and some faith-based groups do not need to register. In Cameroon, not all CSOs need to be registered, but all CSOs that wish to have legal personality must be 'declared' at a sub-national government level. The ability to operate without registration benefits smaller CSOs in Cameroon, but it also makes it hard to identify legitimate CSOs.

For CSOs that work in contexts where registration is compulsory, or where CSOs must register because they need to operate at a formal level, a key distinction is between those countries where CSOs may form, gain legal personality and begin operations through a process of notifying authorities of their formation - a notification regime - and those where permission must be given by the authorities for a CSO to form legally - an approval regime. At least five EENA countries - Benin, Burkina Faso, Cameroon, Lebanon and Tunisia - have a notification or declaration regime for ordinary associations.. However, as discussed further below, for some countries where a notification regime exists on paper, state officials can act in ways that give them the power to approve or refuse a registration.

Some countries offer a notification regime for domestic CSOs but a stronger regime for international CSOs that seek to establish a domestic presence. In Cameroon, Lebanon and Tunisia for example, international CSOs are subject to an approval regime, compared to a notification regime for domestic CSOs. In Bolivia they must confirm a framework agreement with the Ministry of Foreign Affairs, and in Uganda international CSOs cannot register unless they have a project agreement with at least one government department. The documentation requirements for registering international CSOs are also higher than for domestic CSOs in Cambodia.

REGULATIONS ON FOUNDER MEMBERS

Often registration requirements establish a minimum number of people who can found a CSO, although there is no minimum requirement in Bolivia and Lebanon. There is wide disparity between the rules in different countries: a minimum of one founder member is required in Mexico and Nigeria, but seven are needed in Jordan and Nepal, and also Honduras and India for many CSO types. The requirement is particularly high in Mozambique and Zambia, where 10 founder members are needed, a stipulation that seems excessive by international comparison. Such provisions can work against the formation of smaller CSOs because of the practical challenges this creates when multiple people must obtain the correct paperwork and clear security checks.

In some contexts, including Nepal and Panama, although with some exceptions in the case of Panama, non-nationals are prohibited from being a founder member of a CSO. In Jordan, special prime ministerial approval is needed for non-nationals to be founder members. In Lebanon, residency requirements mean that members of the large Palestinian refugee population are not permitted to establish CSOs, contributing to the political exclusion of that part of the population. A majority of Philippine residents is needed to found the most common CSO type in the Philippines. In other contexts, such as Bolivia, Tajikistan and Tunisia, there is no restriction on foreign nationals founding CSOs, providing they are legally resident.

Often regulations set a minimum age for CSO founder members, and this is generally the national age of majority. People who are not of adult age cannot found CSOs in Jordan, Lebanon, Mexico, Mozambique, Nigeria and Tajikistan, for example, although young people are allowed to form youth organisations under

a separate law in Bolivia. Under 18s are not even allowed to form youth organisations in Mozambique. The challenge this suggests is that young people are not being afforded early opportunities to involve themselves in civic participation structures.

Another common stipulation is that a founder member must not have a criminal conviction. This is seen for example in Lebanon, Mozambique, Nigeria, South Africa and Zambia. Undischarged bankrupts are similarly barred from founding CSOs in Nigeria and Zambia. In Tunisia, people who hold central positions in political parties may not found CSOs, indicating a desire to separate party politics from CSO action. In some cases, the scope for government oversight of founder members seems excessive. State officials may reject proposed founder members in Zambia, and there are cases where this has happened. There are also examples of officials in India questioning the ethnic and caste backgrounds of CSO founder members, and of founder members in Lebanon being investigated on anti-terrorism pretexts.

Requirements that a CSO must have a minimum capitalisation are however rare. These exist under the Civil Code in Cambodia, but awareness of this is assessed to be low, and the extent to which this rule is being applied is therefore unclear.

CHALLENGES WITH REGISTRATION PROCESSES

It is common for different laws to cover different types of CSO, but some registration and regulation regimes are particularly complex. In India the situation is complex because civil society is not well-defined, and many other organisations, such as private hospitals and schools, are registered under the same acts that CSOs register under. A concern in Colombia, where the law defines some 21 different types of CSO, is that some CSOs are registered under the same regime as for-profit organisations. Similarly, registration for a common CSO type in the Philippines is handled by the same agency that registers for-profit companies. In Zambia, some types of CSOs and political parties register under the same laws. The mixture of laws under which CSOs can register is also assessed as highly complex in Cameroon, a country that has two legal systems, one derived from English law and one from French. This dual system offers ample scope for discretionary interpretation of laws and leaves the legal system confusing and hard to understand for many.

By comparison, the legal environment in Mozambique is seen as under-developed, in failing to appreciate the diversity of CSOs, leading to a broad brush approach in which different CSO types are subject to the same requirements. In Zambia laws are also seen as too narrow and restrictive in their definitions of civil society.

In some contexts, the concern is that registration regimes are scattered and incoherent, and that diverse laws and regulations are contradictory. This is assessed to be the case in Honduras and Panama, where a fragmented system is seen to offer a deterrent against CSOs seeking registration. Brazil also lacks a unified registry system for CSOs. The state in Zambia may vary the terms and conditions for the registration of individual CSOs at the time of registration, meaning that different CSOs may be registered under different terms and with different conditions.

There are also situations where there are multiple layers of registration that must be navigated. For example, CSOs in the Philippines, once registered, must undergo a second round of permission-seeking to obtain permits, including with local

authorities and the tax authorities, and with specific government departments, if they are relevant to their area of work; CSOs must have an additional accreditation with the Department of Social Welfare and Development if they engage in development and social welfare activities, for example, and the process of obtaining this can be lengthy. Multiple bodies are also involved in registration in Uganda, and CSOs are compelled to affiliate to a number of local and national bodies as part of registration in Nepal.

Wherever there is complexity, CSOs risk encountering challenges, as complexity strains the capacities of CSOs, and implies delays and additional work and costs. Across the assessments, it is a frequent criticism that registration processes place an undue burden on CSOs. Complex procedures also offer more scope for applications to be refused and for officials to exercise personal discretion.

Generally, paperwork that must be submitted as part of a registration application includes a CSO's by-laws, its mission and aims, a list of founder members, the minutes of its constitutive assembly and a work plan. In India, the number of documents that must be submitted is assessed to be high, and documentation requirements are also rated as burdensome in Honduras, Nepal and Uganda. In Cameroon, there is regional variation, and sometimes more documents are requested than the law stipulates.

In Honduras all 10 documents that CSOs supply must be legally authenticated, which adds to costs and acts as a barrier against smaller CSOs. Similarly, in Panama, the requirement to file application documentation through a lawyer offers an obstacle. Legal costs are also noted as a challenge in Jordan and Mexico. In Nigeria, as the registration process is complex and vulnerable to corruption, CSOs assess that legal assistance is essential in making an application. Legal help is also often required to understand registration processes in Brazil. Fortunately, some supportive law firms in Brazil offer free legal aid to CSOs. There are also some arrangements between sub-national governments and legal firms in Mexico to make discounted legal support available.

A related and frequently cited challenge is lack of information or poor quality information on registration processes. An absence of information is cited as a problem in some parts of India, and information is assessed to be confusing in South Africa. In Mexico it is reported that many CSOs struggle to develop their by-laws, but lack awareness of model by-laws available online that they could adapt. At the local level in Mozambique it is hard for CSOs to access registration documents, and local officials may offer an obstacle by not facilitating access to this information. Bolivian officials are also assessed to offer little useful advice to CSOs applying for registration, and officials in Mexico to offer inadequate support.

Sometimes the language that information is supplied in offers an obstacle. In Burkina Faso, while registration processes are assessed to be largely open and smooth, language and literacy are a challenge, with procedures on registration not accessible to many citizens because they are only available in French. Similar challenges with lack of local language translation are seen in India and Uganda. Terminology is an issue in Cambodia. The language of the Civil Code is not easy to understand, and while its provisions on civil society are important for CSOs, they form part of a much larger text that does not relate to civil society, which makes it hard to engage with. Further, in Cambodia, inconsistent use of terminology by state officials adds to complexity.

Poor information and the need for high levels of documentation lead to poor quality applications. For example, because of the lack of clear guidance on the application process in Panama, documents are often returned to CSOs for correc-

tions. Similarly, in India, requests for more information can delay the processing of applications. In South Africa, incomplete applications must be started afresh. It is reported that almost 95 per cent of applications made in Tunisia do not meet the documentation requirements, and the law does not establish the procedures to be followed in such cases.

Scanty support and poor information result in part because the state bodies that handle CSO registration and regulation often lack capacity. This is identified as a challenge in Cameroon, Honduras, Lebanon, Nepal, the Philippines, South Africa and Uganda, for example, and in Bolivia, where poor organisation is seen as going hand in hand with low official capacity. Lack of capacity means that in some countries, including in Benin and Tunisia, the authorities cannot even estimate how many CSOs exist. CSOs in Mozambique report that there is an absence of a government body with a clear mandate for working with CSOs. In almost all cases, there is a lack of representation by people from and with expertise in civil society in government bodies that handle CSO registration and regulation.

In Tunisia CSO registration is handled by a new body, the Directorate of Associations, established in 2012, reflecting a shift in how the state views CSOs since the 2011 revolution. A move from an approval regime to a notification regime that came after the revolution led to a large increase in registrations, but the Directorate is assessed to lack resources, staff and training. This has led to challenges when CSOs do not receive an acknowledgement of receipt of their registration, which can hinder their ability to operate. Lack of capacity also hampers the granting of NGO status for CSOs that apply for this in Cameroon. NGO status is granted by a decision of the NGO Commission, but this meets only sporadically, largely due to a lack of resources, and rarely grants NGO status. In Nigeria, it is assessed that because staff of the registration body do not always understand the purpose of some CSOs, they ask for more information, which causes delays in registration. In comparison, the relevant department in Burkina Faso is assessed to be adequately staffed, with a good level of expertise.

Along with lack of capacity in registration bodies there are also issues of political obstruction and corruption. Local officials can create obstacles in India, and officials in Uganda are seen to hold excessive power over small, local CSOs. There are cases of officials exceeding their authority in Tunisia, and regarding registration as dependent on their approval under what is supposed to be a notification regime. Tunisian officials may ask CSOs to modify their aims or statutes as part of the registration process. In the face of this, some CSOs withdraw. There can also be deliberate delays and alterations in publishing notices of registrations in the official gazette. This was not anticipated by the law, and so the law has no provisions to challenge it.

In Mozambique officials are assessed to have wide discretion in exercising their powers. At the local level, there are some officials that insist that CSOs periodically renew their registrations, even though this is not required by law. In Honduras, officials have been known to request amendments to by-laws, such as term limits for CSO governance bodies, before granting registration, even though there is no provision in the law for them to do so. Broad, vague provisions that leave considerable discretionary powers for ministers and officials are also cited as a challenge in Cameroon and under the LANGO in Cambodia and NGO Act in Zambia: in Cambodia, the new law has made registration requirements highly complex, and local and national government officials are given considerable powers, while there is scope for wide ministerial discretion in Zambia. Discretionary powers of officials are also assessed to be high in Jordan.

Public benefit status, without which CSOs in Cameroon cannot receive funding, is granted by presidential decree, but the procedures of application are opaque, not defined by any laws and subject to a high level of official discretion. It is reported that since 1990, not many CSOs have been granted public benefit status. Fortunately, at the administrative level, there is some tolerance that enables CSOs to receive funding without having this status.

Corruption is acknowledged in several of the assessments. Favouritism and corruption among officials is, for example, cited as a challenge in Cameroon and Nepal, while in Honduras, officials may be paid a bribe to ensure rapid processing of an application. In Cambodia as well, bribes often need to be paid to officials to receive the correct stamps on documents, at a cost of around US$300. Some CSOs accordingly work with agents who charge a fee to navigate this process. Failing to pay such unofficial fees can lead to officials being deliberately obstructive. Much may also depend in Cambodia on personal relations with the relevant officials. There may be a similar need to pay bribes in India, and sometimes officials agree to write CSOs' registrations applications in return for payment.

Beyond challenges at the level of individual officials, there are further obstacles that governments may impose. In Uganda the requirement that applications must include a letter of recommendation from a government body offers broad scope for state interference. This has led to cases of government officials asking CSOs to change their vision, mission and objectives, something also observed in Cambodia. There is also a requirement under the NGO Act in Zambia for a recommendation letter from a government agency, which before the Act was suspended, offered the state a veto on registration: a recommendation letter need not be granted, and could be considered unlikely for a CSO that proposed to hold the government to account. In Nepal, a recommendation from a District Administration Office may be required, depending on the objectives of a CSO, but this is left undefined.

The body that regulates CSOs in Nigeria specifies the aims that it is acceptable for a CSO seeking registration to pursue. In less democratic times applications were rejected for focusing on human rights and democracy, and even now, the list of what is deemed acceptable is narrow: for example, the promotion of democracy or human rights is not stated as an acceptable aim of a CSO seeking registration. Similarly, regulations in Uganda do not recognise advocacy as a legitimate CSO aim. Bolivian law recognises CSOs as bodies engaged in development or charitable activities, implying some scope for the government to limit the objectives of CSOs. Very few work areas are allowed for CSOs that seek to register as not-for-profit companies in Jordan.

Aside from what is set out in laws and regulations, political factors can obstruct registration. For example, Lebanon is assessed to have a relatively liberal registration regime, but it can become politicised at times of particular political contestation. In some parts of India, there is a sense that registration has become open to more scrutiny as relations between CSOs and government have worsened.

As an example of how political obstructions can be mounted to block CSOs working on contested issues, LGBTI CSOs struggle to obtain registration in several countries. In Panama one LGBTI CSO waited nine years and had to go to the Supreme Court before registration was granted. In Mozambique, the LGBTI CSO Lambda has been trying to get its application for registration accepted since 2007. Since 2014, the registration of LGBTI CSOs has been prohibited in Nigeria. In Lebanon LGBTI CSOs have been assumed to be illegal, although a 2014 court decision may open up the way to LGBTI CSOs gaining legal recognition.

A further obstacle that can make registration harder, slower and more expensive comes from the emphasis in some contexts on concentrating registration in capital cities. In Mexico it is assessed that registration is harder for rural CSOs compared to urban CSOs, and in Mozambique and Panama registration is assessed to be particularly difficult for grassroots CSOs. Registration processes are highly centralised in Honduras, Panama and Tunisia. The need to deposit a certificate of legal personality in the Public Registry in Panama entails a visit to the capital. There is also a need to file documents by hand in the Philippines, but there are only a limited number of field offices in which this can be done. Most contexts do not have electronic registration systems, and there are often challenges reported in the functioning of these where they exist. For example, the inefficiency of the online submission process in South Africa leads to CSOs needing to visit the capital. These challenges impose additional costs and travel burdens that deter rural and smaller CSOs in particular.

There are also examples of decentralised regimes, where registration is handled by officials based outside capitals. These can help smaller and rural CSOs, although the caveat should be stated that localised processes can play to the challenges of local variation in rules and corruption noted above. Decentralised registration processes are noted in Cameroon, Lebanon, Mozambique, Nepal, Nigeria and Tajikistan, for example. In India and Mexico, both federal states, there are laws and processes at the sub-national state level, leading to a patchwork of varying requirements. A regressive step in this regard was taken in Bolivia, where previously there was some decentralisation of bodies that could grant legal status to CSOs. Under the constitution passed in 2009, central government was given exclusive authority for CSOs that operate in more than one sub-national district.

There are other ways in which smaller and rural CSOs may find it difficult to navigate registration processes. For example, in Mozambique, rural CSO founders may struggle to obtain access to certification of their lack of criminal record, an essential part of registration. Similar issues are experienced in Jordan and Zambia.

In general, the high costs of registration are seen to be a barrier in Bolivia, Honduras, Mozambique, Panama and Zambia, particularly for smaller or rural CSOs. Costs for registering CSO umbrella organisations are assessed as particularly high in Bolivia. In some parts of India, costs are seen to have increased a great deal in recent years. Because of the costs, it is reported that some CSOs in Mozambique that begin registration processes do not complete them. In comparison, registration is assessed to be cheap in Burkina Faso, and costs are reported to be minimal in Tunisia. Registration of CSOs as non-profit organisations is free in South Africa. There are two registration regimes depending on CSO type in Colombia, one of which is free, but the other of which carries considerable costs.

As a result of these various challenges, it can take a long time for a registration decision to be made. Long delays are noted in India and South Africa, and stated time limits are not respected in Cameroon and Mozambique. A challenge in Cameroon is that it is hard for a CSO seeking registration to obtain information on the progress of its application. The time to issue a receipt of registration can vary in Lebanon, and there is no fixed time for registration to be concluded in Nigeria or Uganda. Different CSOs experience wide variation in the time it takes in Panama, with the implication that applications from CSOs that are seen to pose challenging questions are processed slowly, while applications from CSOs seen as well-connected to the government or supportive of it are processed rapidly. The challenges that CSOs experience in registration are contrasted with the relative

ease in registering a for-profit company in Panama and Nepal. In comparison, the process of issuing registrations is assessed to be fast in Burkina Faso. As well as being frustrating and preventing CSOs from beginning their activities, delays can block a CSO from receiving funding, as registration is often prerequisite.

REGISTRATION REFUSALS, RENEWALS AND APPEALS

There are some contexts where refusal of a registration is rare. For example, the Mexico assessment could not identify any cases of registration being rejected. However, there are others where refusal is more common, such as Jordan, where permission is reported as frequently being refused. In particular, applications to register trade unions are routinely refused in Jordan, leaving independent trade unions operating in a legal vacuum where they are vulnerable to restriction. This is seen to be consistent with a general atmosphere of government suspicion towards CSOs in Jordan.

It is common for there to be some kind of appeal procedure for when registration applications are refused. In South Africa, the reasons behind a refusal must be given, and there is a clear appeal process. This is also considered to be the case in Tajikistan. However, there are cases when reasons for refusal are not given, which makes it hard to mount an appeal. In Jordan no reason need be given, and there are no available criteria on how decisions are made in Uganda. It is also hard to appeal when state officials have wide discretionary powers, as is the case in Cambodia, Honduras and Panama. The Commission that decides on registration applications in Nigeria also has considerable discretion to refuse an application, and the criteria for doing so are not clear. A further concern in Bolivia, Cameroon and Nigeria is that there is a lack of clarity and information about appeal procedures. There is no apparent mechanism for appeals in Cambodia, and no examples of appeals being mounted could be given in the assessment.

Once registered, it is relatively rare that CSOs must periodically renew their registrations. No requirement to renew registration periodically is reported in Brazil, Cambodia, Mexico, Mozambique, Panama, South Africa, Tajikistan and Tunisia, among others. However, Zambia's NGO Act mandates re-registration every five years. According to regulations in Nepal, CSOs registered under one particular act, the Association Registration Regulation of 1977, must renew registration annually, which imposes an ongoing burden on CSOs. There are some variations at the sub-national government level about the need for periodic re-registration in India. In Cambodia international CSOs need to renew a Memorandum of Understanding (MOU) with the government every three years. Renewals tend to be a protracted process in Uganda, and it is assessed that there is favouritism and politicisation exercised in the renewal of registrations in Bolivia.

CONCLUSION

In summary, it can be said that while constitutions generally claim to uphold the freedom of association, regulations and processes on registration fall far short of the realisation of this. It is rare that CSOs are free to form and function without the need to notify or seek approval from state agencies. In too many contexts approval regimes are in place, and there are some notification regimes that operate more in the manner of approval regimes, given the obstacles CSOs can encounter. Registration processes are often complex, bureaucratic and sometimes incoherent. Provisions can be vague and give excessive scope for official discre-

tion, making the outcomes of applications unpredictable. CSOs often find them to be slow, expensive and labour intensive, and government agencies often lack capacity, or processes give scope for corruption and politicisation. Registration processes count against smaller and rural CSOs, including for reasons of costs, isolation from capitals and the power vested in local officials. In some contexts, it is not unusual for applications to be turned down, and appeal processes are sometimes lacking.

Suggested focal points for future advocacy on the basis of this analysis could be to urge a greater adoption of international best practice, in which CSOs neither need to notify or seek approval from state authorities when they form; to move from approval regimes to notification regimes for CSOs that seek legal personality; and to seek to bring civil society representation and expertise into registration bodies.

B. OPERATION

Once any registration hurdles are overcome, CSOs should be free to operate autonomously, guided by their mission and mandates and responsive to the needs of their constituencies. However, this is often not the case. This section examines three key issues relating to the freedom of association: the extent to which CSOs are free to pursue their aims independently of governments; the degree of government oversight of CSOs; and the level of government sanctions against CSOs for non-compliance.

The operation of CSOs is an area where new legislation currently in development threatens to introduce fresh restrictions in several countries. The Proposed Multi-State Society Registration law in India will increase government powers to bar CSOs from operation pending registration, and give the government new powers to investigate and dissolve a CSO, among other provisions. Laws are also being reviewed in Jordan, in a move that could see new limitations posed on the number of projects CSOs can run, among other restrictions, while the draft bill on Association and Organisation under discussion in Nepal would increase reporting requirements.

ALIGNMENT

In several contexts, there is some level of expectation that CSOs should align with plans and priorities set by the government. In Bolivia, under the 2013 law on legal personality, CSOs are expected to align with the government's economic and social development plans, and amend their statutes to reflect this. Failure to do so gives grounds for CSOs to be deregistered and dissolved. This clearly compromises the autonomy of CSO operations, and increases the potential threat they face. The requirement to align is more tightly stated still for international CSOs with a presence in Bolivia. Elsewhere, expectations of alignment are less strongly stated, but nevertheless can be present. For example, there is no legal requirement for CSOs to align with the government in Mozambique, but in some cases there may be heavy expectation among government officials that they do so.

In Nepal it is stated that CSOs should give priority to projects that match the priorities of their local government bodies. Many CSOs operating at the local level in Uganda are required to sign MOUs with local authorities, although in reality

this is not always enforced. CSOs that operate in more than one locality may be required to make a multiplicity of such agreements, which can add to the administrative burden for CSOs. The NGO Act in Zambia, before its suspension, required CSOs registered under it to align with government programmes, and gave the state the power to approve a CSO's activities and geographical areas of focus, and reject these if deemed not to be in the public interest, a term left undefined.

While there is no requirement to align with government priorities in Burkina Faso and Nigeria, alignment often occurs as a condition of funding from international donors. Elsewhere, as in Mexico, alignment needs to be demonstrated to benefit from tax advantages.

The trend seems to be towards a requirement for closer alignment. Two bills under discussion in Nigeria - the Foreign Contribution and NGO Regulatory Agency Bills - would see CSOs required to align with government plans and obtain approval from the government before implementing projects, although to date there has been little progress on these. A proposed law in Uganda, the NGO Amendment Bill, would extend government approval over CSO activities, use of resources and staffing.

As well as such stipulations, governments in some contexts have the power to block CSO activities pre-emptively. For example, there are strict rules on the need to give advance notice of activities in Uganda, and there are examples in Mozambique of CSO activities being blocked in such areas as monitoring natural resource management and defending the rights of communities. In Nepal, CSOs must obtain prior permission if they want to extend their work into other districts.

REPORTING AND OVERSIGHT

A distinction can be made between countries in which CSOs must report regularly to the government, and those in which there is no such requirement.

There is a stipulation for annual reporting in Nigeria, the Philippines and Zambia. In Nepal, there must be annual reporting to local government bodies, with failure to report offering grounds for non-renewal of registration. Annual government inspections and audits exist in Panama. CSOs registered as non-profit organisations in South Africa must submit annual reports and audited financial statements, and CSOs registered as public associations in Tajikistan must make annual reports. CSOs registered as NGOs must provide annual audited reports in Cameroon. Annual reporting is also required for CSOs registered as foundations in Brazil, but less stringent reporting requirements apply for other forms of CSOs. In Mexico, CSOs registered with the Federal Registry - which is not mandatory - must submit an annual report, and CSOs registered as private assistance institutions must periodically report to local government bodies, but other CSO types do not need to report.

CSOs must report every three years in Bolivia, accompanied by a plan for the next three years. In addition, international CSOs registered in Bolivia are assessed on their compliance with the framework agreement for cooperation with the government.

It is often a requirement, for example in Brazil, India, Mexico and Nigeria, that CSOs file an annual tax return, and in India, CSOs must submit audited accounts alongside this. Tunisian CSOs, if they have an income above a certain threshold, must appoint an auditor and publish financial statements. CSOs in Panama are

also required to publish financial information on a website, which is assessed to impose an additional cost on smaller CSOs. In Lebanon the Ministry of Finance reviews CSOs' annual budgets to check if they qualify for tax exemptions.

Under anti-money laundering rules, Nigerian CSOs must report any receipt of funds over US$1,000, and Honduran CSOs donations above US$2,000. Tunisian CSOs must notify the government of any funds that come from international sources. CSOs that receive tax deductible donations must report their donations and payments to the Ministry of Economy and Finance in Panama. There are similar requirements to report donations and expenditure annually in Bolivia and Mexico.

In Nigeria, a recent trend has been for the revenue service and banks to request the tax certificates of CSO trustees. The Anti-Corruption Law in Cambodia also commands CSO leaders to disclose their assets, although this has not yet been put into action.

There are provisions for random inspections of CSOs in Honduras, while in Lebanon, the state can inspect CSOs if it believes they are in breach of rules. Similarly, Nigerian CSOs may be subject to audits and inspections if the authorities believe they are not acting consistent with their stated purpose. Provisions for inspections exist in Zambia, but instances are rare because of low staff capacities in the relevant agencies. Inspections of CSOs are also reported to be rare in Tajikistan.

There are also often reporting conditions around CSO meetings, which affect the freedom of assembly as well as the freedom of association. Copies of decisions made at CSO general meetings in Jordan must be sent to the government within two weeks. In Nigeria, minutes of CSO general meetings must be sent to the government. In Mexico these must also be legally certified before being shared with the authorities.

It is common that CSOs need to inform the authorities of changes in their name, statutes or headquarters. Government approval is needed for changes of by-laws in Jordan.

CHALLENGES WITH REPORTING AND OVERSIGHT

It is harder and more time-consuming for CSO to comply with reporting and oversight requirements when these are discretionary, arbitrary and unpredictable. For example, challenges come in South Africa because of arbitrary changes to the reporting system, and a lack of communication of these changes. In Colombia, oversight is delegated to a wide range of national and sub-national bodies, leading to a lack of a standardised approach, as well as skills gaps.

There are broader issues of reporting and supervision processes being politicised. There is, for example, assessed to be a generally light oversight regime in Panama, but it can be politicised: supervision is increased when a CSO is seen as being at odds with the government. Politicisation in Panama also means that information gathered through reporting procedures may be deployed for political purposes, to form the basis of attacks on CSOs. There is a similar concern in India that, while there is little oversight of CSOs in general, those that are working on rights and advocacy, or working in areas where there is extremism, are singled out for oversight. Excessive oversight can include informal requests for frequent reports. Supervision of CSOs is seen to increase during times of political pressure in Mozambique, and there is a sense in Bolivia that oversight is increasing, partic-

ularly for CSOs that take stances on issues with which the government disagrees. The NGO Board in Uganda is also assessed to have very broad oversight powers.

Inconsistency in the application of laws on oversight is noted in Cambodia, which brings unpredictability and arbitrariness, particularly in the ways in which laws are interpreted at local levels. Local officials may particularly scrutinise human rights CSOs, and there are instances of officials ordering CSOs to halt activities. There is also varying application of the provision that CSOs should inform local authorities if they are working in a province other than that in which they are registered, ranging from neglect of this provision to some local authorities interpreting it as giving them prior approval power over activities. There is wide variation between different areas. Similarly, while reporting is not required under the law in Mozambique, in spite of this, some local officials insist on regular reports and supervision. There are also cases when local officials, on the basis that they do not feel sufficiently informed, have asked CSOs to pause activities.

COMPLIANCE OF CSOS

In some cases, the ability or failure of CSOs to comply with reporting and oversight requirements raises concerns.

There is assessed to be a lack of widespread information on reporting requirements in Cambodia: a guidebook on reporting is not widely circulated or known. This means that CSOs often do not understand the regulatory framework, and so CSO reporting often does not occur. Similarly, compliance capacity by CSOs is identified as an issue in Tajikistan, where CSOs find it hard to keep on top of the paperwork and largely lack legal capacity, and Cameroon, where CSOs may lack knowledge of regulatory rules. CSOs in Honduras may also struggle with the need to travel to the capital to submit annual reports, particularly as they often have their paperwork queried following its delivery. Inaccessibility of offices in the Philippines makes it hard for CSOs to report, as almost all reporting must be done physically. It is also difficult for smaller CSOs in the Philippines to prepare reporting documentation. Reporting requirements are assessed to be expensive in Panama and Zambia, where audit fees in particular are high, and there is assessed to be duplication in reporting and oversight procedures in Honduras.

There are concerns in several contexts, including Colombia, Lebanon and the Philippines, that annual reports are being submitted to the government, but these are not being read and reviewed: that the exercise is a formality. This means that the work of CSOs may go unrecognised and CSO lose the potential to use reporting as a starting point to influence the government.

In the Philippines, this lack of response has led to many CSOs not meeting reporting requirements. There is also some failure of CSOs to submit reports as required in Uganda, which raises the concern that this can leave CSOs vulnerable to subsequent intervention. Low capacity of CSOs in Zambia causes them to miss reporting deadlines as well.

A concern in Lebanon is that lenient oversight may enable fraudulent and extremist bodies to masquerade as CSOs, and CSOs to practise corruption. A light oversight regime is seen here to result from government weaknesses, and to be highly dependent on the personality of the relevant minister, rather than stem from trust in CSOs.

In India there is concern that the legal framework for CSOs registered as trusts is inadequate: non-CSOs operate as trusts and some of them are clearly oriented around profit. This can cause the legitimacy of genuine CSOs to be questioned. As in Lebanon, genuine CSOs would prefer a predictable, rules-based system that enables them to demonstrate their legitimacy.

A related concern in Tunisia is whether current structures, such as audit structures, have the capacity to cope with a growth in CSO numbers and influx of resources for civil society that have followed the 2011 revolution. This raises the fear in Tunisia that poor state oversight capacities allow fraudulent CSOs to prosper. It is felt that there is a need for new monitoring structures and harmonised reporting and accounting methods that are efficient, but that do not interfere excessively in the legitimate work of civil society.

PENALTIES, DEREGISTRATION AND DISSOLUTION

In most contexts there are systems where CSOs can be penalised for falling foul of regulations. In general, countries have an ascending scale of fines, suspension, deregistration and dissolution, with some level of judicial oversight and some means of appeal, which offer a level of protection for CSOs. Dissolution, as the final sanction, can generally be made on such grounds as violation of laws, threat to peace, security or public safety, or long-term lack of activity. There are however concerns in several contexts about broad provisions for sanctions and the politicisation of these.

In Bolivia, divergence from activities consistent with a CSOs' aims is established as offering grounds for dissolution, something that causes concern, given the breadth of this provision, and the fact that it sits at odds with the dynamic and evolutionary nature of civil society. There is also concern that a current climate of worsening relations could see forced dissolutions increase, given the leeway for government action that the law provides. Some CSOs in Burkina Faso have also been threatened with withdrawal of tax benefits; significantly, these were CSOs that were seen to be causing difficulties for the government.

In Panama, the law also offers broad grounds for dissolution. In practice, the state in Panama is not pursuing the dissolution of CSOs, but the law remains a potential future threat. Some illegal dissolution of CSOs occurred in Lebanon during past times of political contestation, but dissolution is now rare. The state also has wide powers to suspend and dissolve CSOs in Cameroon.

In Jordan, the government may dissolve a CSO's board and appoint a new one - and there are several instances of this happening - as well as impose fines and dissolve CSOs. A further concern is the lack of judicial oversight over these provisions. There is also an absence of mechanisms for appeal against deregistration, suspension or dissolution in Cambodia, and vague grounds for the termination of the activities of international CSOs. The grounds available for de-registration are considered broad in Zambia, and there is no guarantee that an appeal will receive a hearing.

There are also concerns about other excessive forms of sanction. Ugandan CSOs are held responsible for any acts of their employees or members, and there are criminal sanctions for non-compliance with regulations in Cambodia and Zambia. In Zambia, the vulnerability of CSO officials to criminal sanctions is contrasted with the protection that laws offer officials, which perpetuates an unequal relationship. There is limited awareness among CSOs in Honduras of the potential for

the government to impose sanctions, including fines, suspension and dissolution, and of the wide discretionary powers that officials have to apply these.

In Tunisia, a number of organisations have been closed on the basis that they are believed to support terrorism. They have, however, been shut down for formal violations of the law, such as failure to comply with reporting requirements, which would not normally be expected to give grounds for dissolution. While it is important to distinguish legitimate CSOs from fake ones that act as fronts for terrorism, scrutiny will be needed to ensure that such breaches of established dissolution procedures do not become more widespread. In Zambia, for example, CSOs have been de-registered as threats to state security when many suspect the real reason was that they had taken positions contrary to those of the government. The Law Against Terrorist Financing in Honduras is another measure that contains strong provisions to dissolve CSOs that offer potential for misuse.

CONCLUSION

In summary, laws on operation often undermine the freedom of association. There is civil society concern about provisions in some contexts that CSOs should align with government priorities and programmes, and some apparent movement towards mandating closer alignment. There are also challenges with oversight regimes, including imposed and excessive reporting requirements and politicised use of reporting processes, and with the compliance capacity of CSOs and associated poor quality of reporting. Finally, sanctions for non-compliance may be excessive, broad and applied for political reasons. Oversight is exercised most strongly against CSOs that engage in advocacy and accountability activities, and CSOs that seek human rights, good governance and democracy.

Suggested focal points for future advocacy could be on restating the autonomous role and contribution of civil society, and replacing compulsory reporting regimes with more constructive, meaningful and equal dialogues between CSOs and governments.

C. FREEDOM OF ASSEMBLY

Along with the freedom of association, most countries have constitutions that uphold the right to peaceful assembly. As with the freedom of association, constitutions often introduce limitations, typically relating to state security, public order and morality. And again, there are often significant gaps between the constitutional and legal position and the experience in practice.

In terms of laws, the key distinction is between countries in which CSOs must obtain prior permission to hold a public gathering, and those in which they must only notify the authorities that an assembly will take place.

Countries in which there is a notification regime include Burkina Faso, Jordan, Lebanon, Panama and South Africa. These have varying periods for notification of local authorities or police: seven days in advance in South Africa, three days in Burkina Faso, two days in Jordan and Lebanon, and one day in Panama. Notifications generally must include details of the date, timing, location, route (for marches), content and organisers of an event. In Nepal, spontaneous assemblies

are allowed without notification, and the culture towards demonstrations and protests is seen by civil society as relatively permissive.

Compared to this, CSOs in Tajikistan must seek approval from local authorities, which can change the dates, timing and location of events. In Uganda approval must be sought from the police. Permits are also required in Honduras. The approval regime is assessed to be quite difficult in India, with permission commonly required to hold events, including public meetings, rallies, demonstrations and international civil society meetings. Magistrates are permitted to prohibit assemblies of over 10 people, and there are many instances of permission being refused, often on grounds of potential breach of the peace. Further in India, requirements to inform authorities about meetings that include the public, state officials or international participants are sometimes seen as bringing excessive oversight, to the extent that it is reported that it is now difficult to organise international assemblies. It can also be hard to obtain permission in Tunisia, but many unauthorised assemblies take place regardless, albeit sometimes attracting police attention.

Sometimes government officials can insist that they are invited to CSO meetings, which may impose a chilling effect on debate. In Jordan, CSOs registered as associations must inform authorities two weeks in advance of the dates of their general meetings and allow state representatives to attend. In Tajikistan, government officials are allowed to attend any public event convened by CSOs registered as public associations.

In several contexts, the law on freedom of assembly has been fluid in recent years, with recent changes and challenges. A proposed law currently under discussion in Colombia, the Bill to amend the Code of Police, would increase restrictions: holders of demonstrations would have to apply to their local mayor five days in advance, who could refuse the application within three days. The police would be given broad powers to refuse or break up an assembly, and to change its date and location. In Tunisia, given the changes since the revolution, there is now a lack of fit between the provisions of the new constitution, which explicitly recognise the need to protect the freedom of assembly, and laws that pre-date it, which are highly restrictive. While a new bill has been developed that would bring laws on assembly more closely into line with international standards, its adoption has not been made a priority. This leaves civil society in an uncertain position.

More positively, under the Public Order Act in Nigeria a permit was needed to hold an assembly, but this was challenged through the courts and ruled as unconstitutional in 2007. Following this, assembly organisers may notify the authorities only if they seek police protection; however, the power of local authorities to prescribe the route and timing of a demonstration remains as part of the law.

Some recently introduced restrictions can be seen to have the aim of making it harder to organise protests that entail the occupation of public spaces, a successful protest tactic that has been seen in many parts of the world in recent years. In Colombia, demonstrations to block roads or access to infrastructure are prohibited; in Tajikistan, a law on meetings, rallies, demonstrations and street processions passed in 2014 prohibits the wearing of masks, the creation of obstacles and traffic blocks, and the setting up of temporary structures. The Tajikistan law further sets broad and vague restrictions on what may be said on protest banners and posters. There are also prohibitions on obstructing streets in Nepal and Panama. However, in Mexico, where there is a robust protest culture in Mexico City in particular, regulations to prevent the blocking of streets are not applied.

The location of assemblies is often a particular concern of laws and regulations. Permits are required in the Philippines, but only if the assembly is held in a public place, and the law also designates 'freedom parks' in which assemblies may be held freely. In both Burkina Faso and Lebanon, there are designated areas in which protests are prohibited, such as the area around the parliament and presidential palace in Lebanon. CSOs may respond to tight regulations by shifting the locations of assemblies: civil society meetings in Jordan and Zambia often take place in private spaces to avoid police attention.

While the divide between notification regimes and approval regimes seems clear, in practice in some contexts, state agencies are excessively interventionist and move to prevent assemblies once notified of them. Some local authorities in South Africa have turned what it supposed to be a notification regime into an approval regime: they have been known to request additional documentation beyond that which the law requires. These have the effect of making it harder to organise a legal protest, and make it more likely that protests will be held without authorisation, which then have a higher chance of being met with violence. In Zambia, the police may impose conditions on the date, time, place, duration and manner of assembly. If they deem these conditions not to have been met, they may halt the assembly, in effect giving the police a veto. In Burkina Faso, the authorities may issue additional regulations that prevent the holding of assemblies, and examples of the closure of meeting venues have been observed. The climate is also assessed to be one of creeping restriction in Cameroon.

In Cambodia, organisers of an assembly must notify local authorities at least five days in advance, but in practice this functions as a process of authorisation, as permission is sometimes refused. Sometimes CSOs in Cambodia and South Africa believe the grounds given for refusal of permission are spurious, with the real motive being the prevention of the voicing of dissent.

The police are criticised for having wide powers to break up assemblies in Honduras, Jordan and Tajikistan. In some contexts, including South Africa and Zambia, it is assessed that security forces sometimes exceed their mandates, and assume the power to prevent or suppress public meetings. Despite the formal absence of an approval regime in Mozambique, many peaceful demonstrations have been blocked or violently broken up. In Uganda there is a growing problem of police interference and unlawful obstruction of gatherings, with participants and organisers arrested and detained. Cambodian police forces can also be highly interventionist, including in disputing the size, location and routes of demonstrations.

Excessive security force intervention goes hand in hand with violence. The assessments report violence between security forces and protestors in Bolivia, Brazil, Lebanon, South Africa and Tunisia, and against unauthorised events in Jordan and Mozambique. In some parts of Mexico, the police are allowed to use firearms to disperse demonstrations, and in Honduras, demonstrations are often accompanied by an intimidating armed security force presence, with aggression resulting.

In Burkina Faso, CSOs have accused the authorities of acts of provocation in order to generate violence, which is then used to justify suppression of protests. In Nigeria, there are reported cases of violence being instigated by people paid by the state, with the police withdrawing protection to enable violence to occur. Cambodian security forces have also been accused of using unprovoked violence against demonstrations. There are also instances of peaceful demonstrators wrongly being deemed to be aggressive and being met with violence and detention in Lebanon, Nigeria and Zambia. A further concern, in Cambodia, Tunisia and Uganda, is

that when complaints are made against excessive use of force by the police, these are often not investigated thoroughly or transparently.

Most countries covered by the EENA research impose fines and jail sentences on protest behaviour deemed to be illegal. A common criticism, seen for example in Cameroon, Honduras, India, Jordan and Zambia, is that the punishments available for assembly organisers and participants are broad and harsh. Laws in Burkina Faso, Jordan and South Africa hold assembly organisers responsible for criminal offences committed during demonstrations or protests. Cambodia and Lebanon are among countries in which the organisers of assemblies are required to be identified individually; this makes protest organisers feel vulnerable to investigation and arrest. South African civil society argues that such provisions have a chilling effect on assemblies.

Compared to this, the law in the Philippines prohibits security forces from interfering in assemblies, unless they are held without a permit, when this is required, or become violent. The Philippines Supreme Court has found in favour of a 'maximum tolerance' approach to the policing of assemblies. Correspondingly, the police are assessed to have become more aware of human rights and the proper policing of assemblies. Notwithstanding this, there are occasionally violent incidents.

As with other fundamental civil society rights, the right to freedom of assembly is sometimes enabled or denied selectively, depending on the issue at stake. In Burkina Faso, Cameroon, South Africa and Zambia it is assessed that CSOs that adopt positions supportive of the government experience fewer barriers against their freedom of assembly, while CSOs that are more critical of the government face more restrictions. Permission may be refused in Cambodia if the authorities decide that the focus of an assembly is politically sensitive. Events seeking to demand human rights and call attention to abuses have received bans in Uganda, and experienced a range of responses including hostility, violence and bureaucratic interference.

In Sub-Saharan Africa in particular there is a particular challenge around LGBTI assemblies. These have been forcibly broken up in Uganda. Since 2014, meetings of LGBTI clubs and societies have been banned in Nigeria, while the status of LGBTI assemblies remains a grey area in Zambia, since a population that is criminalised is unlikely to notify the authorities of the intent to hold a meeting.

A class dimension is observed in how assembly participants are treated in Panama and South Africa: demonstrations are most at risk of restriction and security force violence if participants are poorer people. In Jordan, the law does not treat everyone equally: non-nationals and people with past criminal convictions are excluded from organising or participating in demonstrations and protests.

Access to information about and understanding of the right of assembly and relevant laws is seen as a barrier against poor and excluded people mobilising in South Africa. It is not always well understood or accepted that citizens should have a right to protest, even in democratic contexts where formal means of political participation are available. Because the right is not well recognised by the authorities in South Africa, and heavy handed security force response generates violence, the authorities may characterise civil society as a source of violence and use this to disparage civil society in general. In Jordan, while, a notification regime is in place for assemblies, it is difficult to organise spontaneous demonstrations, which are not seen as legitimate, even though such protests are an important

part of how dissent is expressed. In Brazil, a further challenge is that CSOs lack the financial resources to mobilise and promote meetings and events properly.

The right to assembly is not always enjoyed equally within countries. In Honduras, there are some regions with a great deal of insecurity, and curfews are imposed, further restricting the freedom of assembly. Similarly, challenges are greater outside the capital districts in Mexico and Mozambique and in some parts of Cameroon, and local administrators sometimes restrict gatherings in Nepal. Challenges that may be experienced from local government officials and local political and business interests in the Philippines contrast with the generally permissive approach of national government. A lack of awareness of national level laws and an absence of local political willingness to apply them may both be issues here. There is also a challenge in Tunisia of key rights such as the freedom of assembly being suspended in times when a state of emergency is declared.

CONCLUSION

International best practice, in which CSOs should be free to organise and hold events without notifying or seeking approval from state agencies, is largely lacking. Again, a clear divide emerges between approval regimes and notification regimes. However, even where a notification regime is in place, the reality is often more complex, with government authorities and security forces abusing their powers. Decisions on who is to be allowed to hold public events, and which kinds of events are acceptable, are often made on politicised grounds. Penalties for organisers and participants, including fines and jail sentences, are often broad-ranging, excessive and highly discretionary. There is no strong tolerance of spontaneous demonstrations in many contexts.

Suggested focal points for advocacy could include moving from approval regimes to notification regimes, and the urging of greater accountability over the actions of security forces, along with better training of security forces in the policing of assemblies.

D. FREEDOM OF EXPRESSION

As with the freedoms of association and assembly, there are generally strong constitutional guarantees of the freedom of expression, with limitations made on the basis of protecting national security, public order and morality, and ensuring the rights and reputations of others. However, in several contexts, there is, once again, a gap between constitutional and legal provisions and the reality. Other laws, such as those on secrecy, defamation, libel and slander, can undermine the freedom of expression.

There are some examples of better practice. In the Philippines, strong constitutional provisions on the freedom of expression have been upheld by a number of Supreme Court decisions. Although there are local level challenges, discussed further below, the freedom of expression is understood to apply broadly, encompassing various media and the wearing of protest symbols, and in the main, the assessment reports that CSOs feel free to criticise the government openly.

The denial of key freedoms, including the freedom of expression, fuelled the revolution in Tunisia, and this is reflected in the country's new constitution, which

states that the freedom of expression, opinion and information will not be subjected to prior censorship, providing these do not impact on the rights of others, and with the other usual caveats noted above. The constitution states that any limits should be proportionate and should respect the essence of rights. A law passed in 2011 prohibits prior censorship, something that is also prohibited by the constitution of Mexico, apart from when the freedom of expression impinges on privacy, morals and public peace.

Elsewhere, a challenge is that constitutional provisions on the freedom of expression are excessively undercut. For example, while Nepal's new constitution upholds the freedom of expression, civil society is concerned that the state's power to limit it, as set out in the constitution, is too broad, including on the grounds of undermining the sovereignty of Nepal, jeopardising harmonious community relations, or contravening 'decent public behaviour or morality'. The constitution also allows the president to suspend the freedom of expression during a state of emergency. Further, a challenge for civil society is that the constitution only confers freedom of expression on individual citizens, and not organisations. While Nepali CSOs tended to see the political culture at the time of writing as quite permissive, and felt largely unencumbered in expressing their views, the challenge is that the constitution may provide insufficient protection for CSOs if politics take a more regressive turn, given constraints made on the freedom of expression under past regimes.

Similarly, while the constitutions of Jordan, Tajikistan and Zambia seem permissive, there are numerous grounds on which the freedom of expression may be limited, including those introduced by other laws. In Honduras, constitutional provisions on the freedom of expression, and a law on freedom of opinion, are not well realised. They are undermined by other laws, including two laws passed in 2013, the Law on Telecommunications and the Law of Classification of Public Documents Related to Security and National Defence. These are assessed to foster media censorship. Aspects of the Penal Code in India, enacted during colonial British rule and predating India's republican constitution by 90 years, cut across freedom of expression provisions. Elsewhere, imprecise language gives ample scope for officials to impose restrictions, such as vague provisions in laws in Lebanon on limitations in relation to public ethics, religious feelings and national unity. Laws on the media in Cambodia lack clarity and are inconsistently applied.

In some contexts, recently introduced laws impose new limits on the freedom of expression. These include laws on terrorism. Jordan's 2006 Anti-Terrorism Law gives particular scope to restrict the freedom of expression, and Tunisia's 2015 anti-terrorism laws are broad: some journalists have been accused of promoting terrorism in the light of this law. Similar challenges apply in Cameroon, where under anti-terrorism legislation passed in 2014, civilians can be put on trial by military courts and journalists may need to obtain prior government permission before publishing stories. Since the law was passed, several journalists have been detained on terrorism-related charges and undergone military trials.

A law introduced in 2010 against racism and discrimination in Bolivia has been criticised by some in civil society for potentially giving the state broad scope to restrict the freedom of expression, including the power to close down media outlets and impose criminal sanctions on journalists. In South Africa, CSOs are concerned about the government's attempt to introduce a new secrecy law, the Protection of State Information Bill, which would cut across the freedom of expression. The proposed law contains a broad definition of what constitutes national security. The issue remains a source of profound disagreement between the government and CSOs.

The absence of freedom of information laws and procedures are a related concern. There is a lack of freedom of information law in Cambodia and the Philippines, despite several efforts and intensive civil society advocacy. While Uganda has an Access to Information Act, it makes a number of exceptions, and government agencies lack guidance on how to implement it. Processes are also expensive and bureaucratic. Similarly, in South Africa, it is assessed that there are barriers put in place by the state against the use of freedom of information provisions, which contribute to their insufficient use by civil society. By comparison, India has a now well-established law on the freedom of information, although it still prohibits the disclosure of some documents under the Official Secrets Act.

Heavy sanctions for offences can exert a chilling effect on the freedom of expression. Lebanon's 1962 Press Law, for example, authorises prison sentences for offences committed by journalists. In Cambodia, the Penal Code's provisions on incitement to commit felony are regularly used to instigate proceedings against CSOs and activists that criticise the government. Lebanon's legal system is similarly used to sanction journalists, activists and citizens who criticise political figures and expose governance deficits. In Honduras, CSOs report being threatened with increased scrutiny, fines and potential deregistration if they criticise government policies in the media.

Many assessments draw attention to the limiting effect of provisions in defamation, libel and slander. These have been observed to restrict the freedom of expression in Cameroon, Mozambique and Zambia, with several cases in Zambia of government figures using libel laws to silence critics. In Tunisia out-dated laws on criminal defamation, libel and slander sit at odds with the constitution's guarantee of the freedom of expression. These have given scope for politically-driven lawsuits to be used in an attempt to silence independent media outfits and practitioners. In Jordan, defamation, criticism of the king, the denigration of government officials and the incitement of sectarian strife are all criminalised. Penal Codes in Lebanon and Zambia specifically criminalise the defamation of the president. In Benin, the 2015 Information and Communication Code provides for heavy fines for defaming the president and the heads of state or ministers of foreign affairs of foreign countries. Penalties for defamation are high in Cambodia, Cameroon and Lebanon; in Lebanon heavy fines have been levelled against investigative journalists who exposed corruption. Criminal sanctions for defamation also exist in Nigeria and Panama, and Panama has seen numerous criminal defamation cases brought in recent years. There are also assessed to be inadequate legal mechanisms that enable journalists to protect sources in South Africa, and specific challenges posed by the interpretation of laws to prevent hate speech. Even the prospect of being taken to court, and the expenses and energy this entails, can exert a chilling effect on the freedom of expression.

As with the freedom of assembly, the police and security forces can overstep their mandates to restrict the freedom of expression, including through force. In Uganda, the police have attacked and harassed journalists. Security forces overstep the mark sometimes in South Africa as well. In Zambia, the police may exploit the out-dated Public Order Law's provisions on the spreading of false information to restrict the freedom of expression. Laws that remain on the books from the apartheid era in South Africa also restrict the freedom of information, for example, relating to locations regarded as relevant to national security.

Sometimes CSOs have their freedom of expression restricted because they work on particularly contested issues. In Bolivia it is reported that CSOs that experience particular restriction and harassment include those that seek to protect indigenous people's rights and CSOs that have been working to oppose a large road

development project, along with CSOs that work in the field of communications and journalism. Land rights campaigners have also experienced restriction and attacks in South Africa. In Jordan, CSOs that are related to the Muslim Brotherhood and that question the monarchy have their freedom of expression particularly restricted. Again, LGBTI CSOs can face particular restriction. LGBTI groups in India are limited in their freedom of expression, and in Nepal, the police have acted to suppress movements on issues including LGBTI rights and the status of Tibetan refugees.

Journalists and activists seeking to exercise the freedom of expression are vulnerable to harassment and violence in several contexts. Because of drug trafficking and organised crime, violence is high in some parts of Mexico, with high levels of impunity. This undermines constitutional provisions that should guarantee the freedom of expression. In Colombia, there are districts with high levels of aggression and attacks on journalists, and heavy impunity: state protection systems that are supposed to protect people who are vulnerable from attack are criticised for being disorganised and weak. Activists and journalists also experience attacks, ranging from death threats to killings, that limit the freedom of expression in Brazil.

Despite strong constitutional provisions on the freedom of expression in the Philippines, the country has experienced a spate of extrajudicial killings of activists and media practitioners, and a culture of impunity offers an entrenched threat to the freedom of expression. Large corporations and their security forces pose a particular threat. The current president, inaugurated in 2016, has stated that the killing of 'corrupt' journalists is justified.

Extremism impinges on the freedom of expression in some areas of India, particularly when security forces conflate CSOs with extremist forces and restrict their freedom of expression as part of anti-extremism measures. Similarly, despite strong constitutional provisions in Tunisia, reactionary and extremist forces have harassed and attacked activists and media practitioners, and this goes alongside government attacks on media sources that criticise it. Tunisia's National Union of Journalists has called attention to repeated encroachments on media freedom, with increasing numbers of media practitioners being put on trial and jailed.

Nigerian CSOs report experiencing harassment from state officials that impinges on their freedom of expression. Smear campaigns have been mounted against CSOs in Panama. CSOs and journalists have been threatened by both government and private sector sources in Mozambique. Threats were particularly experienced during 2014, an election year, which saw growing political polarisation, with threats coming particularly when CSOs and the media criticised prominent politicians or raised sensitive issues.

Attacks on CSOs can indirectly impact on the freedom of expression by causing CSOs to self-censor to avoid further attacks. This is reported to be the case in Bolivia, where government hostility towards CSOs fuels a climate of intimidation that encourages self-censorship; some CSOs believe that the government has no tolerance of criticism. In Honduras as well, civil society remains cautious, mindful of the attacks made on it during the 2009 coup, and is careful not to be seen to be attacking the government directly. Cambodian CSOs have generally learned which criticisms are likely to be tolerated and which will not, and tend to avoid criticising particular government officials. CSOs in South Africa also report making tactical choices about what they criticise and what they refrain from criticising.

In Panama there is said to be a lack an appreciation of the culture of dissent, with little popular understanding of and education about the freedom of expression,

and the right to information. Cultural factors in South Africa, such as patriarchal relationships, and in Zambia, such as notions of respect for elders, may also inhibit equal access to the freedom of expression.

In the Philippines, there is concern that the ability of civil society at the national level to exercise the freedom of expression is not reflected at the local level, where powerful elites can dominate local governance. This is also assessed to be the case in Cameroon and Colombia, where attacks on the media and civil society are concentrated in particular locations. In South Africa, it is assessed that circumstances influence a citizen's ability to enjoy the freedom of expression: poor people living in townships are less able to exercise this right, because local power structures prevent it. People may live in areas that the constitution and laws do not reach in reality. Similarly, in Jordan, the middle classes are more easily able to enjoy the freedom of expression. In Zambia, foreign CSO workers are wary about expressing their opinions, as they risk deportation.

TRADITIONAL MEDIA

In some countries, vibrant and independent print and broadcast media offer platforms for debate and dissent, but experience some state pushback. Cameroon has a wide number of privately-owned newspapers that are often critical of the government, although the country has also seen independent journalists arrested and some media outlets banned. Similarly, civil society sees Uganda's media as a still relatively young and growing sector, with a dynamic privately owned radio and newspaper culture. However, there is civil society concern about growing government interference with the media on dubious national security grounds. There is also little reporting of CSOs and their work in Uganda. In Benin, the EENA assessed the media to be independent and pluralist, but noted that it is hampered by a number of politicised interventions of the state regulator.

The attitudes of the media towards civil society can also make it harder for civil society to enjoy the freedom of expression: the media may run stories that are hostile towards civil society, spread misinformation about it, or deny civil society a platform. For example, the media may run stories that position CSOs as inefficient, corrupt or partisan. The assessment in Brazil, informed by ongoing media monitoring, is that the media is broadly positive when it mentions civil society as a whole, but negative about individual CSOs.

Poor civil society access to the media may result from low media capacity, and patterns of concentrated media ownership. In Cambodia, it is assessed that local media have weak capacity to report on CSOs' activities in the national Khmer language. Lack of training and an expectation of payment in return for coverage are related issues. This results in an absence of objective reporting on civil society. A lack of journalism skills is also identified as a challenge in Uganda.

CSOs in Panama find it difficult to get their messages across in a media that is dominated by the economically and politically powerful. Similarly, in Mexico, an oligarchical concentration of media ownership makes it hard for civil society to make its voices heard. The state and ruling party are seen to dominate media ownership in Bolivia and Cambodia. Government dominance in Bolivia produces a fearful and compliant media, and in Cambodia there are few radio stations or newspapers that are not run by political parties or individual politicians; the state has intervened to take some independent broadcasts off air. In Zambia as well, the government has restricted the ability of critical radio stations to broadcast,

and has threatened to remove licences. This makes radio stations less likely to broadcast critical voices from civil society.

In Uganda, there are broad grounds on which state authorities may refuse to issue media licences. The Ugandan government is also able to dictate the timing and duration of some broadcasts, and in 2014 mandated that all radio stations must reserve two hours per week to transmit government programmes. Newspapers are not allowed to publish without a licence from the statutory Media Council. The related law, the Press and Journalist Act of 1995, amended in 2010, provides harsh sanctions of fines and jail sentences for publishing without a licence or publishing prohibited material, something that is broadly defined. It seems clear that provisions framed as intended to uphold national security are rather applied to silence dissent.

Challenges such as these can leave CSOs mistrusting media outlets and not seeing them as a suitable locus for engagement.

INTERNET AND SOCIAL MEDIA

Given challenges with conventional media, many CSOs have turned to embrace the possibilities of social media.

In several contexts, such as Bolivia and Panama, the law has not kept pace with the growth of internet access. An absence of regulation can work in civil society's favour, seen for example in Cambodia, where relative internet freedom contrasts with the significant restriction of conventional media. CSOs are seen to have taken advantage of this potential. However, a lack of laws can also challenge civil society: in the absence of relevant laws in Lebanon, it is noted that the courts tend to classify information shared on the internet as publications rather than private correspondence, meaning that more serious sanctions apply. In Tajikistan, the development in internet access and usage is considered to have outstripped the pace of the law, leaving a need for a consolidated internet and freedom of information law.

Greater attention is now turning to the policing of the internet and social media, seen for example in Honduras and Mexico. The growth of social media in Honduras is seen to have given citizens new scope to express their opinions, but CSOs also report having social media pages blocked with no explanation. There seems in the Philippines to be a creeping use of the 2012 Cybercrime Prevention Act's provisions on libel to suppress civil society work to expose the malpractice and negative impacts of large companies. There is also concern about the potential application of the 2010 Interception of Communications Act and the 2011 Misuse of Computers Act in Uganda. In Nepal, it is a criminal offence to publish illegal material on the internet. Amendments to the law in Jordan introduced in 2012 mean that prior permission must be sought to publish electronic publications, extending the government's reach. In Nigeria, it is alleged that there is large scale internet surveillance carried out by a private company contracted by the government, and new proposals have been brought forward to intercept communications.

The regulation of the internet and social media remains an evolving area. Cambodia's government has drafted a law to regulate internet use and prevent cybercrime, which gives rise to concern that new restrictions will be introduced. At the time of writing the draft legislation in reported as being in a process of revision. The president of Bolivia has also stated a desire to introduce stronger regulation of social media. More positively, a new law in Brazil, the Civil Rights Framework

for the Internet, was passed in 2014 following extensive civil society advocacy, and introduces new protections for online freedom of expression. In Mexico, civil society has recently been involved in consultations on regulatory reform of telecommunications, although the effects of this reform are yet to work through.

CSOs also in general face the challenge of how to get their voices across in a crowded social media market place, and of limited capacities to engage with social media, and the media as a whole.

CONCLUSION

The freedom of expression is being contested in many contexts, with constitutional guarantees being subject to too many exceptions and undercut by other laws. In some contexts, there is political interference in the media, including state control, and state and non-state forces harass, attack and criminalise civil society activists and journalists when they use their freedom of speech to express dissent and raise critical issues. Such measures can encourage self-censorship. The make-up and ownership of traditional media is not always conducive to civil society access, and social media offers an alternative, but is increasingly becoming contested and more tightly regulated.

Suggested focal points for advocacy could include supporting networks of independent journalists, and making connections between these and CSOs, and advocating on the importance of pluralist media ownership and internet access and freedom.

E. ACCESS TO RESOURCES

The EENA identifies access to resources as a key enabling factor for CSOs, since without resources, most CSOs cannot sustain their operations. The assessments looked in particular at the extent to which CSOs are able to obtain funding from international donors, their domestic governments, domestic philanthropy and the corporate sector.

In most contexts, the picture painted by the assessments is that CSOs are experiencing an enduring struggle for resources, including as a consequence of restrictions on civil society that make it harder to receive funding, as well as changing donor priorities. In Honduras, both domestic state and international support are assessed to be in decline, and in many other contexts, including South Africa and Zambia, CSOs report that funding for civil society is dwindling. A lack of funding in Panama has seen several long-standing CSOs forced to close down, while many Cameroonian CSOs survive on a month-to-month basis.

Core support in particular is under strain. For example, CSOs in Cambodia, the Philippines and Zambia report that there is a lack of support for the governance functions and staff costs of CSOs. In India and the Philippines, flexible funding for CSOs is reported to be falling, with most grants to CSO short-term and project-specific. CSOs in Burkina Faso assess that the project orientation of much of the funding available is not conducive to the long term development of civil society and the public sphere.

Not all trends are negative. In Brazil and Mexico, for example, the conditions for domestic state support to CSOs are assessed to have improved in recent years, albeit these countries have simultaneously seen international funding sources decline.

INTERNATIONAL RESOURCING

In most contexts, the preeminent funding relationship for CSOs that took part in the research is with international funders, and specifically bilateral and multilateral donors. The importance of international donors is such that in several countries, the relationship can be characterised as one of dependency. For example, it is assessed that 60 per cent of CSO funding in Cambodia comes from international donors, and international donors are also cited as the key source of CSO funding in Cameroon, Honduras, Nepal, the Philippines, Tajikistan, Tunisia and Zambia. A heavy dependence by CSOs on funding from the European Union (EU) in particular is reported in Lebanon, and on international CSOs as well as bilateral and multilateral donors in Mozambique.

In many contexts, this reliance on foreign funding is now being exposed as donors withdraw from countries that have progressed from least developed country status, consistent with the general trend identified in past CIVICUS research of donors becoming more strategic and concentrating their support on fewer countries.[1] This is noted in diverse contexts, including Bolivia, Cambodia, Colombia, India and Panama. In the Philippines, funding is seen to have declined in the last decade, compared to previous decades, when donors made the restoration of democracy a priority of their support. A similar pattern applies in Brazil. As is noted in South Africa and Zambia, this withdrawal comes even when there has been very little growth of domestic funding to substitute for international resources. There has been a recent shift of support in Lebanon away from CSOs oriented around human rights, advocacy and accountability towards humanitarian support for refugees from Syria. In Bolivia, it is also suggested that growing state interference with CSOs may also be deterring donors.

While a general shortage of funding is observed in the Philippines, it is noted that there are donor funds available for some themes, such as disaster risk reduction and management, but the challenge is that most CSOs lack the capacities to implement successful projects: there is a mismatch between donor priorities and CSO capabilities. The availability of donor funding on some themes has led to CSO work in other important areas, such as community organising, to decline, because it lacks donor support and CSOs focus on activities for which funding is available. The concern in the Philippines is that such changes could undermine CSOs' ability to undertake advocacy work on behalf of local communities, and the legitimacy that CSOs enjoy with citizens.

The example of the Philippines highlights a danger that high CSO reliance on international support can make CSOs seem donor-driven, as CSOs orient to fulfil donor priorities and requirements, and risk being seen as essentially contracted to deliver donor missions. This is, for example, a concern in Cambodia and Zambia, and in Lebanon, where it is stated that domestic CSOs have little control over a civil society resourcing agenda that is largely determined by international funders. It is also an issue in Tunisia, which has seen an influx of donor funding following the 2011 revolution, and where it is reported that donors may impose conditions that change the goals and nature of an activity as a condition of pro-

1 CIVICUS Essay', 2015 State of Civil Society Report, CIVICUS, http://www.civicus.org/documents/reports-and-publications/SOCS/2015/summaries/SOCS2015CIVICUSEssay.pdf

viding funding. CSOs in Nepal are also concerned that the imposition of donor agendas is hindering the autonomy of civil society.

If CSOs are overly influenced by donor policies, it calls into question the autonomy of CSOs, and their ability to root themselves in the concerns of communities. It also plays to criticisms of civil society, particularly those made by governments, that civil society agendas are overly influenced by foreign governments, and that CSOs act in effect as the agents of foreign powers, rather than advance domestically grounded agendas. These criticisms can undermine public trust in CSOs, and thereby their legitimacy. This is acknowledged as an issue in Uganda, where some CSOs heavily supported by donors have weak social bases. There are also concerns, raised for example in South Africa, that the receipt of donor funding can cause CSOs to self-censor, so as not to damage their relations with their donors.

The receipt of international funding has been strongly questioned in India over recent years, where increased government hostility towards the advocacy and accountability functions of civil society have combined with a withdrawal of some donors, making it harder for CSOs to access resources. The Foreign Contribution Regulation Act (FCRA), introduced in 2010, tightens controls by banning CSOs from receiving international funding for activities that are deemed to be of a political nature or against the public interest. It also uses vague terms such as 'security, scientific, economic and strategic interest of the state' that can be easily invoked to deny funding to organisations uncovering high level corruption or widespread human rights violations. These are broad categories that lack definition. The FCRA also states that CSOs must re-register every five years in order to continue to receive contributions, and gives wide scope to reject applications to register. Since its introduction many CSO have their registrations under the FCRA withdrawn, preventing them from receiving international funding. Because of delays these actions have caused in accessing international funding, some Indian CSOs have had to suspend activities or cancel planned events. The state has also aggressively pursued the Indian arm of Greenpeace through the courts to freeze its bank accounts and try to close its operations in India.

India is not alone in restricting CSOs' access to international funding. In Jordan, CSOs must receive prior government approval to receive international funding. Similarly, in Nepal, for any amounts of more than approximately US$2,000, agreements between CSOs and donors must be approved by the Social Welfare Council, unless they relate to emergency relief. Zambian CSOs are also supposed to obtain presidential approval to receive funding from a foreign government, although in practice, this regulation is not strictly adhered to.

Further, and consistent with the growing emphasis on alignment outlined in the earlier section on CSO operations, Nepal's Development Cooperation Policy of 2014 requires projects that receive funding to be aligned with national development priorities, for the project proposal to be coordinated with the relevant government ministry, and for the government to determine how the project is implemented. Affiliation with the Social Welfare Council is mandatory for all CSOs that receive international or domestic state funding. Applications for permission may be rejected on grounds that they are against the national interest, which is not defined. As in India, as well as impinging on the autonomy of CSO operations, such stipulations have practical repercussions: the lengthy process in gaining approval mitigates against CSOs securing rapid or short-term funding. In Jordan as well, permission is often delayed and sometimes refused, which makes it harder for CSOs to develop and sustain relations with donors, and has caused the loss of some funding.

In Tunisia, the 2011 Decree-Law on Associations stipulates the acceptable funding sources of CSOs registered under it, limiting them to membership subscription, state support, revenues generated by activities and domestic and foreign donations. CSOs registered under the Act cannot receive support from states that do not have diplomatic relations with Tunisia, or from organisations linked to those states.

At the time of writing, a draft law before the legislature in Nigeria, the Foreign Contributions Bill, would require CSOs to be registered and receive prior approval for the receipt of international funds, and mandate that all funded projects must be approved by the state. The bill would also introduce a new agency to monitor how CSOs spend funds received from donors. Civil society advocacy has helped to slow the progress of this bill, which threatens to restrict severely the ability of CSOs to access resources.

In contrast no legal restrictions on the receipt of funds were reported in Lebanon, Mexico, Mozambique, Panama, the Philippines, South Africa and Tajikistan. Often the requirement, as in Panama and Tajikistan, is that CSOs must keep a register of funds received and report periodically to the authorities. While there are also no restrictions on the receipt of funds in Bolivia, the reporting requirements are more stringent: quarterly reporting of the spending of all donations must be made, accompanied by supporting documentation.

In Tunisia, notwithstanding the limitations noted above, other aspects of the law on CSOs' receipt of funding can be seen to be more enabling: the bank accounts of CSOs can only be frozen with prior judicial decision, and rather than seek permission, CSOs need only maintain a register of different resources received and publish details of foreign funding received in print. However, very few CSOs adhere to this stipulation, and this gives rise to a concern specific to the context, relating to the legitimacy of CSOs. There is concern among Tunisian civil society about the existence of fake CSOs, which provide fronts for corruption, the financing of political parties or terrorism financing. As discussed earlier in the dimension on CSO operations, legitimate CSOs in Tunisia are keen for greater enforcement of good governance guarantees, so that they can distinguish themselves from illegitimate organisations, not least in the eyes of citizens who may be growing more sceptical about civil society. One challenge here is that laws relating to the prevention of terrorism and money laundering overlap with laws on CSO regulation, and are vaguely stated, giving rise to differing interpretations and contradictions.

There are also concerns that the availability of international funding in Lebanon has fuelled corruption among civil society. Elsewhere, laws introduced to prevent money laundering and terrorism financing impact on civil society. Anti-money laundering regulations in Uganda make it harder to receive funds, as they introduce more stringent requirements to document the sources and uses of funding. An anti-money laundering law has also been recently introduced in Mexico. Its repercussions for civil society are yet to be seen, and this will be an important area to monitor.

While CSOs in Honduras do not need prior permission to receive funds, more restrictive policies have been introduced following legislation to prevent money laundering and terrorism financing. International donors are now only able to support CSOs that are deemed by the government to have complied with its standards, giving the state a veto on which CSOs can receive international funding. The Honduras EENA reports that these restrictions are causing donors to decrease or withdraw their support to Honduran CSOs.

Donors may also have the inadvertent effect of reinforcing other restrictive laws and regulations. For example, a Zambian CSO campaign to boycott registration under the restrictive NGO Act was partly stymied by donor insistence that any CSOs they support should be registered under the domestic registration regime. Such policies pay little heed to the quality of the registration regime. Further, in Zambia the government pressured donors to only support CSOs that were registered under the NGO Act, before it was suspended, which impinged on the autonomy of CSOs and donors by, in effect, stipulating a list of CSOs deemed acceptable for funding.

There are broader issues around registration and receipt of funding. Registration is also a prerequisite for CSOs to receive funding in Panama, but because of the challenges in registration discussed earlier, the effect is to exclude many small, community-based or nascent CSOs from qualifying to receive funding. Similar challenges apply in Honduras and Mozambique. This can effectively lock CSOs into exclusion from funding that would help them grow. Unregistered CSOs also face this challenge in Cambodia and Uganda, but in those contexts CSOs are often able to circumvent it by partnering with registered CSOs.

In many contexts, donor policies are assessed to work against new and small CSOs. It is reported that in Mexico, donors tend not to support newly formed CSOs because of requirements that they must have been in existence for a minimum number of years, and that in Mozambique they do not support CSOs that lack a demonstrable track record. Similarly, in Nepal, it is reported that new CSOs find it difficult to establish relations with donors, which tend to support a small circle of well-established CSOs and international CSOs with a presence in Nepal.

The donor funding that is available for CSOs in the Philippines is seen to favour larger CSOs and consortiums of CSOs, rather than smaller CSOs, and to be driving competition between CSOs. An unequal competition for resources between smaller and larger CSOs is also observed in Cameroon, South Africa and Zambia, where locally registered international CSOs are seen to have an advantage over domestic CSOs. CSOs in Burkina Faso report that many international funds, such as those of the EU, predominantly support international CSOs with a presence in the country, rather than domestic CSOs. The policies of donors, when they insist that CSOs provide part-funding from alternate sources, are seen as exacerbating this inequality. In Mozambique, donor trends of funding consortiums of organisations and channelling funds through intermediaries – which may be international CSOs or private consulting firms, which retain some resources – has led to many individual CSOs experiencing declining funding. A move to basket funding and consortium approaches in Uganda has also decreased the number of funding opportunities available for CSOs. Small CSOs tend to struggle to develop the management systems that donors expect to see in Uganda.

Limited CSO capacity to make proposals to donors is identified as an issue in Bolivia, Cambodia, Mozambique, Nigeria, South Africa and Uganda, particularly for smaller CSOs. Language is a challenge in Tajikistan, with most donors using English. Related issues in Mozambique include limited capacity to implement donor-funded projects, and limited information about the available funding opportunities.

There are concerns in Mozambique and Tajikistan about a lack of transparency on how funding decisions are made, with an absence of feedback that would encourage learning. CSOs that have personal connections to donors are seen to have stronger opportunities in Mozambique. There are also concerns in Nepal about the lengthy procedures involved in obtaining donor funding.

A further dynamic is being seen in global south countries that have also become contributors of official development assistance (ODA). While the governments of Brazil and India are now providing ODA, it is difficult for CSOs in those countries to send money abroad or establish presences in foreign countries. This makes it hard for CSOs to partner with their governments in international activities. Further, in India CSOs report that they have little opportunity for influence over their government's ODA decisions, which are seen as largely opaque and erratic.

DOMESTIC STATE RESOURCING

Overall, there are few countries among those covered by the research in which there is considered to be an enabling domestic state resourcing environment. In several contexts, there is no domestic state funding available for CSOs, or it is very limited. In contexts where funding is available, it is often for a narrow range of themes related to social welfare, service delivery and humanitarian actions, and in the form of contracts to provide services for projects tightly defined by the state.

Government funding is not available to CSOs in Nigeria, and there is no established structure to provide public support to CSOs in Mozambique, with little domestic state funding apart from for some specific areas, such as HIV/AIDS. Zambia also lacks a policy framework for state resourcing of CSOs, while state funding is seen as a still emerging area in Tajikistan, and a unified legal framework has not yet been developed. There is a lack of a partnership structure in Cambodia that would enable funding cooperation between CSOs and the state, compared to structures for cooperation between the government, the private sector and donors. There are however some international funds channelled through the government of Cambodia that are available to CSOs. Processes for accessing such funds are seen to be clear, but still bureaucratic, and many CSOs do not succeed in accessing these.

There is little state funding in Burkina Faso, and what is available is tied to specific development themes. In Uganda, there is some limited sub-granting by the government for service delivery, but CSOs observe that this does not support their development.

Some state funding is available in Cameroon, India, Lebanon and Panama, but not for CSO activities associated with the promotion of human rights, democracy, transparency and accountability, the development of policy and the tackling of corruption.

There is only one state funding stream available in Bolivia, the Indigenous Fund, which has been accused of poor management and corruption, and there are some competitive bidding processes for development projects funded by international donors, for which CSOs can apply. However, given strained relations between many CSOs and the government, there are concerns about the implications for the perceived autonomy of CSOs should they accept domestic government funding.

Concerns about CSO autonomy are seen in several other contexts. For example, in Mozambique, CSOs are required to have registered for public benefit status to receive state funds. This means declaring that they are pursuing the national interest and cooperating with the public administration. Such a declaration can act as a deterrent for CSOs, as they may be seen as having been captured by the state. Challenges often arise when CSOs partner with the government, and re-

ceive state funds, typically to provide services. The partnership is rarely an equal one, and the risk for CSOs that receive domestic state funds is that they can become viewed as an arm of government, and are seen to concede some degree of autonomy. For example, in India and South Africa it is considered that the government views CSOs that it supports and works with as essentially sub-contractors, rather than partners. There are also concerns about the instrumentalisation of CSOs receiving state funds in Mexico, and in Colombia this issue at the heart of civil society concerns about proposed new contract-based procedures that are being introduced for cooperation between the state and CSOs. When CSOs are relegated to the status of sub-contractors, their autonomy is compromised and their value as a source of solutions and alternatives is diminished.

Concerns about a lack of transparency in state funding decisions and the potential this creates for favouritism and corruption come out strongly across the assessments. In Tunisia, CSOs can apply for tenders issued by the state authorities, and broadly, CSOs see funding decisions as being made in a politically neutral way, but the criteria are not clear. There is also concern about the lack of clear civil society representation in the body that makes decisions on state funding, and the role of some state officials who also have a role in a CSO, which may lead to favouritism. Further, CSOs assess that application processes are complex, opportunities are often not well advertised, and it is frequently a condition that funding may not go to CSOs that have not previously received funding. Such provisions can serve to lock in selective support and privilege. State funding is reported to have increased in Tunisia since the 2011 revolution, but there is a lack of clear information on what amount of state funding is going to CSOs and how many CSOs receive it, in part caused by some lags in CSO reporting. Given this lack of transparency, there is some concern that much funding is going to CSOs in which government officials play a role.

Favouritism is also identified as an issue in Cameroon and Mozambique, where few CSOs benefit from state funds, and are considered to have privileged access, and Burkina Faso, where there are CSOs headed by people close to the government that are viewed to be best placed to access funds. In India, public officials are alleged to have created pseudo CSOs for the purpose of accessing state funds, and in Jordan, organisations linked to the royal family are said to enjoy better access to funds and more freedom from regulation. There is also concern that CSOs in Jordan and South Africa may self-censor when they have funding relationships with the state.

In Nepal and South Africa the distribution of state funds is also criticised for being opaque, unpredictable and characterised by favouritism, with few CSOs able to benefit. There are similar concerns about transparency in the allocation of state funding in Panama, while in Lebanon a lack of transparency fuels allegations of favouritism and corruption, with the implication that access to resources is dependent on personal connections and political considerations. Criticisms about opaque and lengthy application procedures, which generate accusations of selectivity and favouritism, are also made in India, where excessive bureaucracy is identified as a further problem. Concern about privileged access leading to corruption also manifests in Colombia. In Honduras, it is assessed that access to state funding is impossible for most CSOs, which are unable to undergo excessive application and compliance procedures; only large CSOs can benefit, and only then if they have good political connections.

A major challenge in Jordan is that procedures for accessing the single available source of state funds change frequently, making decisions unpredictable. In Colombia and Panama, complex procedures to win contracts are exacerbated by

competition from businesses, which may be better positioned to succeed. In Colombia it is assessed that the private sector is much more easily able to access state funding than civil society.

In the Philippines the constitution recognises that CSOs may benefit from government funds, providing they submit to official audits. However, most CSOs still rely on non-government funds. This is in part because the process of obtaining funding is complex, and the requirements highly rigorous. New rules introduced after a recent corruption scandal involving fake CSOs mean that CSOs are required to undergo an accreditation process before they can receive any state funds. This is bureaucratic and lengthy, and many CSOs lack the knowledge to navigate the process. As an indicator of these difficulties, several government projects that mandate partnerships with CSOs have been put on hold because of low uptake by CSOs.

However, the EENA assessments reveal some more positive recent experiences in accessing state funding for CSOs. The growth of cooperation between CSOs and the government in Brazil, which sees CSOs accessing state funds, has led to the development of new, more enabling law to govern relations, the Partnership Cooperation Agreement of 2014. The new law provides clear guidance on the regulation of government funding partnerships with CSOs, and enables CSOs to propose projects for state funding, as well as bid for funding to implement government projects. CSOs generally see the new law positively, and are committed to making it work. However, they acknowledge a need now to cultivate other sources of funding to complement state funds. It is also noted that historically the proportion of state funds that goes to CSOs compared to local government structures is low.

CSOs in Mexico also report that they are able to obtain funds from the federal government, and the trend has mostly been one of increasing support. However, they encounter challenges, because the procedures for obtaining funding can be onerous, and the amounts of funding given are often inadequate: the ambitions of funding schemes are not matched by the resources available. Further, delays in the release of resources, coupled with requirements that funds be spent in the same financial year, can hinder the efficiency and effectiveness of CSO actions. Delays in receiving committed state funds are also recognised as causing challenges in India.

In Nepal, a further challenge is that the levels of funding available from government agencies are low. While the existing legal framework does not place barriers on domestic state support of CSOs, and the law makes provision for CSOs to receive resources to carry out services when they can do so more efficiently than the state, there is not yet an established culture of providing government funding to CSOs. It is reported that there is a lack of a policy of using CSO services to achieve efficiency gains, and a practice instead of turning to expensive professional consultancy services. There is, however, some optimism that funding relations are gradually improving, consistent with the general upward improvement in CSO-government cooperation in Nepal, discussed further below.

CSOs in Brazil and Mexico also assess that there is a less enabling funding environment and much less funding available at the sub-national levels of government.

PHILANTHROPY AND INCOME GENERATION

Given the challenges in receiving international and domestic state funding, CSOs are often urged to diversify their funding bases and obtain more support from non-state sources, including by accessing philanthropy and corporate social responsibility (CSR), and generating their own income. It however remains a common concern across different countries that there is little domestic giving to civil society, both from citizens and businesses.

For example, in Bolivia, Cameroon, Panama and Zambia, assessments find that there is little domestic culture of philanthropy towards CSOs. The same applies in Mexico, where most individual giving goes to other individuals in the form of charity. In Tajikistan, philanthropy is particularly linked with religion, and in Cambodia, giving tends to go to religious causes or political parties rather than CSOs. Philanthropy exists in Nigeria, but it mostly goes to sport, health and education causes. Philanthropy is not seen as a realistic prospect in Uganda because of difficult economic conditions and low incomes, apart from current practices of donating to faith-based organisations. A further reported challenge in Burkina Faso is that state officials may put pressure on potential donors to deter them giving to CSOs with which the government disagrees.

When it comes to CSOs generating more of their own income, there is gradual recognition of the need for this in Mozambique, and there are some limited attempts in Uganda, including through developing consultancy services. Some Ugandan CSOs, in fields such as agriculture, conservation and tourism, have been successful in generating income, but overall self-generated funds constitute a small part of CSO income. Similarly, some CSOs in Zambia are generating income through service fees and consultancy work, although there are capacity challenges here. There has been a growth in income generation in Cambodia, with some CSOs morphing into social enterprises.

If CSOs are to seek donations from individuals and companies and generate more of their own income, they need a supportive tax regime. But often the tax environment does little to encourage giving to CSOs, or give CSOs tax relief on revenues they receive and expenses they incur. The existence of some tax incentives is recognised in Mexico, Panama and Nepal. Individual donations are also tax exempt in Tajikistan, and CSOs are exempt from paying tax, unless they receive profit from a business activity. However, there are limitations on tax exemptions in many contexts. The tax relief on donations to a CSO in Nepal only covers approximately US$1,000 of donations, while in Mexico and Panama, CSOs have to go through an additional process of submitting documentation to qualify for tax exemption.

There are further challenges in Nepal: while CSOs are generally held to be exempt from Value Added Tax (VAT), VAT registration is required to access public funding, which adds a burden to CSOs. Microfinance activity is taxed, and there has been dispute about the tax exempt status of CSOs registered as not-for-profit companies. Overall, taxation regulations on CSOs in Nepal are assessed to lack detail, and it is burdensome to apply for tax exempt status. Similarly, while tax exemptions are granted to Honduran CSOs, the process of qualifying, as with any process of registration in Honduras, involves a lack of coordination and duplication of work between several different government agencies, and is criticised for being expensive, lengthy and offering considerable scope for government discretion. This means that many CSOs choose not to go through the process of seeking an exemption. Tax exemption is also often denied on donations if a donation is seen

to not to match a CSO's purpose. In India, the tax regime is regarded as complex and not enabling, and in Tunisia, laws on tax exemption are unclear and reported to be beyond the competence of most CSOs to understand and apply.

Elsewhere, tax exemptions and tax incentives to encourage donations are seen as largely lacking. There are some in Bolivia, but these are assessed to not be set up to encourage giving. In Brazil, they are minimal. There are no reported tax incentives to promote individual giving in Cameroon or Nigeria, while almost all tax exemptions for CSOs were removed in Zambia in 2013. Recent tax reform in Colombia has also become less enabling for philanthropy, by lowering the percentage of donations that are exempt from tax.

In addition to these deficits, in some contexts there are specific laws that make it harder for CSOs to seek and generate income. For example, in India, the law makes even small scale fundraising activities taxable, and imposes a limit of five years on the holding by CSOs of surplus income, which makes it hard for CSOs to build up reserves to cover core costs and to bridge between periods for which they have project funding. In Bolivia, the law also forbids CSOs from making any profits on their activities, with the punishment being the removal of a CSO's tax exempt status. The law is more obstructive still in Jordan: CSOs must obtain prior government approval to run domestic fundraising campaigns, a month in advance, and cannot hold more than two fundraising campaigns for the same project within one year. The legal emphasis that CSOs should be non-profit in Zambia is also assessed to deter CSOs from developing alternative income streams. In addition, there is concern in South Africa about new regulations on direct marketing that are coming into force, which could make it harder for CSOs to seek donations.

Such challenges in generating income can be contrasted with the situation in Nepal, where apart from restrictions on those CSOs registered as not-for-profit companies, there are no specific limitations on CSOs receiving or distributing income and profits, and earning income from membership fees and donations from members of the public. In Tunisia as well, CSOs are allowed to raise revenues, for example, from the disposal of property.

An alternative approach is offered by a scheme in Brazil, the National Fund for Children and Adolescents, which channels donations from citizens that are given as part of their income tax, from which CSOs can benefit. Discussion is under way about the creation of further such funds. However, a challenge here is that citizens often want to know precisely what they are donating to. Similar barriers to philanthropy identified in Nigeria include concerns over misuse of funds, transparency and accountability, and a wish by the giver to see clear impact. It can be particularly hard for CSOs engaged in work to uphold human rights and democracy, enhance accountability and undertake accountability to respond to such concerns, compared to CSOs that deliver services and offer charitable activity.

One response to such challenges has been made in the Philippines, where a CSO self-certification scheme exists. This aims to demonstrate that CSOs fulfil good governance standards that qualify them as acceptable organisations to receive donations. However, many CSOs involved in this scheme do not believe it has led to increased donations, and as a result, around 20 per cent of CSOs certified under the scheme allow their memberships to lapse. The scheme on its own has not been sufficient to enable CSOs that have not previously benefited from philanthropy to tap into it.

CORPORATE SOCIAL RESPONSIBILITY (CSR)

It is assessed that CSR is also limited in many contexts, and there is often competition between CSOs and private sector foundations.

Little awareness of the potential of CSR is reported in Bolivia and Burkina Faso. Further, in Bolivia there are assessed to be few companies of sufficient size that would be able to give at a significant scale. Compared to this, in Mozambique there is seen to be more potential, with the presence of several large and multinational companies, but procedures to qualify for CSR are complex, counting against many CSOs, and there is a lack of information about opportunities.

Inevitably, suspicions also occur that CSR is principally concerned with improving the public image of corporations, a view expressed for example in Panama. There is also concern in Brazil and Zambia about how CSR can be linked to the promotion of businesses, and with the potential for businesses to seek to instrumentalise the CSOs they donate to in Brazil.

In India, a law to mandate large corporations to give two per cent of average profits to CSR might have been expected to generate fresh revenue for CSOs, given that high levels of economic growth have led to an increase in interest in both individual and corporate philanthropy in recent years. But the law, introduced with little civil society input, has not led to material benefits for CSOs that work in fields such as human rights and governance, and that pursue accountability and advocacy activities. Most often, it has resulted in large companies setting up corporate foundations rather than channelling resources through civil society, and the activities that such foundations fund are overwhelmingly charitable and oriented around social welfare, rather than activities focused on the realisation of rights. Much of the resourcing has also gone into faith-based causes or causes associated with political elites. It is also noted that there is a lack of fit in values and worldviews between rights-oriented CSOs and many large corporations, particularly extractive industries; CSOs may be working to hold large corporations to account and expose them for human rights abuses and poor governance and accountability practices, which makes them unlikely partners to receive corporate resources. A reluctance of companies to support CSOs that advocate for human rights and good governance is seen elsewhere, including in Brazil and Panama.

One consequence of the new law in India has been some increased civil society division, between those CSOs that accept funding from corporations with poor reputations or try to work with private foundations, and those that stand against this. A further development has been the loss of some CSO staff to private foundations, as they can afford to pay staff more than CSOs.

Competition between CSOs and private foundations is seen elsewhere: in Brazil, large companies also tend to set up private foundations, which compete with CSOs for visibility and recognition. It is estimated that over two-thirds of Brazilian CSR goes to corporate-managed projects. The limited funding that companies in the Philippines provide for CSOs, as opposed to support that is channelled to their private foundations, tends to go to a few areas of activity, such as disaster response and education. In Honduras, it is also assessed that the legal framework encourages corporations to set up private foundations rather than give to CSOs.

CONCLUSION

The EENA assessments identify challenges of restrictions on the receipt of international funding, including new restrictions being imposed by governments, exacerbated by the withdrawal of international donors from some situations. Meanwhile, domestic state funding is limited in its scope and availability, particularly for CSOs working in areas of human rights and governance, and procedures for accessing domestic state funds are often opaque, unpredictable and incline towards corruption and favouritism. Domestic philanthropic environments tend to remain weak, with limited cultures of individual giving, poor tax incentives and some competition between CSOs and private sector foundations. Smaller and newer CSOs generally face particular problems in accessing funding.

Suggested focal points for future advocacy could be the setting of more enabling standards on the receipt of international funding and the development of more enabling taxation and philanthropy laws to encourage greater giving to CSOs.

F. CIVIL SOCIETY–GOVERNMENT RELATIONS

The above analysis suggests that the ability of CSOs to access essential rights and resources is highly dependent on the prevailing state of relations between governments and CSOs. The assessments paint a mixed picture of relations between CSOs and governments, with growing hostility in some contexts, cautious optimism in others, and in some countries, the development of new structures for cooperation, which show promise but also have challenges.

POLITICAL PARTICIPATION

One aspect of the relationship that the EENA examines is the extent to which CSOs are able to participate in political processes in order to advance their missions. This includes undertaking advocacy, which is possible to some extent in every country assessed. The potential for successful advocacy depends on the quality of relations, the availability and openness of dialogue structures, the nature of the advocacy attempt and the capacity of civil society to engage, issues that are explored further below. There is also the question of the extent to which CSOs are able to engage around elections, including through election monitoring and advocating for candidates that share CSO positions. Countries broadly fall into two camps here: those where some kind of political activity is permitted, and those where it is strictly prohibited.

As raised in the earlier section on registration, political parties register under the same law as some forms of CSOs in Zambia, suggesting some grey areas, while other Zambian CSOs take part in election monitoring and related activity around elections. CSOs are active in the political sphere in Burkina Faso, including by offering training in electoral participation, advocating for quotas for people from excluded groups to hold office, and working to support independent candidates.

CSOs in the Philippines are allowed to support candidates in elections, although when they do so, they face challenges of asserting their non-partisan nature. There are no specific laws in Honduras that regulate the participation of CSOs in

electoral processes, and CSOs are allowed to nominate candidates for political office. The law does, however, state that CSOs are to be non-partisan.

CSOs are free to express their views during election campaigns in Tunisia, but otherwise there is a clear demarcation between CSOs and political parties. Signalling a desire to move on from a polarised pre-revolutionary era, in which CSOs closely connected to the ruling regime were tolerated but others were restricted, the law in Tunisia prohibits people who have senior roles in political parties from founding or managing CSOs. Tunisian law also prevents CSOs from giving financial support to political parties, but not other forms of support. In elections following the revolution, there was some movement of CSO activists into elected political positions, but otherwise, CSOs hold strongly to the notion of political neutrality. Similarly, there are no explicit provisions preventing the political engagement of CSOs in Nepal, but the culture amongst civil society tends to be one of political neutrality, and this is often reflected in the statues of CSOs. There is also a culture of non-partisanship among CSOs in Panama, although there are some non-autonomous bodies that position themselves as part of civil society but support parties and politicians; this can damage the credibility of legitimate civil society. In Lebanon, some CSOs advocate for the electoral process to be improved, but tend to stay out of politics.

CSOs can take part in election observation in Bolivia, but it is a condition of being allowed to receive international funding that they do not support political parties or candidates. A firmer line is taken in Mexico, where CSOs that are registered with the Federal Registry of CSOs under the 2004 Law on Promotion or are authorised to receive tax deductible donations are banned from electoral and political participation. Other CSOs are however free to do so.

In Nigeria, apart from election observance, CSOs have no role in the political process, and are prohibited from making any gift or donation to a political party or for a political purpose, or endorsing or opposing any candidate. Similarly, in Benin, CSOs that are registered as NGOs are not allowed to undertake any partisan political activity. Further, CSOs that have signed up to the Benin CSO Charter, a voluntary, civil society led initiative to encourage good governance standards, undertake that their directors will report annually on any political affiliation, and that CSO directors must resign if they take up a political post. A concern in Jordan is that prohibitions against CSOs taking part in political activities are broad and ill-defined, leaving considerable scope for discretion by officials.

In summary, therefore, while laws vary, even when they are more permissive, CSOs tend to be cautious about engaging in the political sphere, and in the main hold to practices of non-partisanship.

RELATIONS OF MISTRUST

More generally, there are several contexts, including Bolivia, Honduras, India and South Africa, where there is assessed to be a level of government hostility towards CSOs, and mutual distrust. There is CSO scepticism and distrust about the quality of engagement opportunities in Jordan, and in Honduras, CSOs have little faith that their opinions will be taken into account. In Panama, CSOs believe the government has no real interest in opening itself up to public input, including through engagement with CSOs. Relations are assessed to be deteriorating in Uganda, and they worsened in Zambia during the process of developing a new constitution, which fuelled polarisation. In India, attacks have been made on

CSOs in political speech, with frequent government questioning of the role that CSOs should play. This has affected the ability of CSOs to operate: government accusations that CSOs have a negative impact on development and the economy have been accompanied by increased restrictions on the work of international CSOs in India and the ability of Indian CSOs to access international funding, as discussed above.

Amid a context of political polarisation in Bolivia, which sees a divide between CSOs associated with the government and those that are not, the government tends to regard CSOs that refuse to align, and that seek human rights, as enemies. Similarly, in South Africa, relationships can be characterised as being of either subservience or hostility. Class and status is seen to be a vector in South Africa, with both grassroots campaigning organisations and organisations of middle class intellectuals more likely to be viewed with hostility, because they are seen to challenge government narratives. In Cambodia, because a small number of CSOs sided with the political opposition, the government now tends to accuse all CSOs that disagree with it of being opposition supporters. In Jordan and South Africa, public protests, against poor governance and services, are assessed to have caused governments to become more suspicious of CSOs.

Relations often vary depending on what the missions of CSOs are, and how they work to achieve their goals. The general pattern, as suggested by the earlier section on CSO operation, is that governments tolerate and often welcome the work of CSOs to deliver services, support development projects and engage in social welfare and charitable activities, but become more hostile when CSOs seek to advance human rights, promote good governance and accountability, and engage in advocacy. This is observed, for example, in Cambodia, India, Mozambique, Nigeria, Panama, South Africa, Uganda and Zambia. In some contexts, including India, Jordan, South Africa, Uganda and Zambia, government hostility towards some CSOs that engage in accountability and advocacy work, and that receive international funding to support such work, sees CSOs described as the agents of foreign powers.

When governments divide and constrain civil society in this way, it offers a challenge to civil society's autonomy: civil society may be viewed as a gap-filler or sub-contractor, rather than an equal partner with a range of legitimate roles to play. The danger is that civil society's ability to fulfil a full range of roles is being challenged. The provision of services to impoverished and excluded people is a valuable function of civil society, particularly as civil society can reach populations that governments cannot, but often a grounding in work with impoverished and excluded people will naturally lead civil society to seek policy change, greater accountability and the rebalancing of power. These should be seen as connected and equally legitimate functions, but in several contexts, attempts are being made to narrow down civil society's role. As discussed earlier, challenges can particularly arise when CSOs are involved in funding partnerships with their governments.

There has been hostility and attempts to challenge the autonomy of CSOs in Lebanon, although a gradual, more positive shift in relations is observed, albeit relations still fall short of genuine partnership. Notably, some of this shift has come at the instigation of international donors. This connects to a concern raised in Nigeria, about the space for engagement being externally defined by donors. When good relations are dependent on donor interventions, this also raises troubling questions about the autonomy of civil society and the sustainability of the space for engagement.

GAPS BETWEEN POLICY AND PRACTICE

Sometimes positive statements about the role of CSOs are not reflected in policies for engagement, and often there is a gap between what policies say about engagement and the reality in practice. The key concerns that arise are with tokenism - that engagement opportunities do not provide real opportunities for influence, and may be used to legitimise flawed processes - the lack of structured, ongoing opportunities for engagement, and government control of participation in engagement processes, leading to accusations of selectivity, favouritism and patronage.

For example, in Jordan the government may describe CSOs as partners in its official rhetoric, but some CSOs and activists have also received threats from state security agencies. Similarly, in Honduras, government discourse about the partnership role of civil society sits at odds with the government's increasingly authoritarian actions. Consequently, while the government of Honduras has created some dialogue spaces, when civil society attempts to use these to raise concerns on key issues, including human rights and governance, the government disregards these and keeps them off the agenda. In Mexico, notwithstanding the development of opportunities, discussed below, civil society scepticism that consultations can influence decisions remains high.

The legal framework in South Africa appears enabling for engagement, but is undercut by poor relations between CSOs and the government. South African CSOs largely see themselves as on the margins of decision-making, and may view consultations as tokenistic. Current plans concerning cooperation in Cambodia are top-down in their design and do not foresee CSOs playing a full partnership role, and there are also concerns about selectivity, tokenism, lack of trust and limited space and time for engagement. Challenges noted in Cameroon include selectivity and a lack of openness in some processes, and this may be indicative of a broader government absence of trust in CSOs that mean that CSOs that ask questions about governance are perceived as being unsupportive of the government. In Burkina Faso as well, the reality of engagement is assessed to be less enabling than it appears on paper.

There is a lack of public policy on dialogue in Jordan, and the only institutionalised dialogue body, the Jordan Economic and Social Council, is selected by the government, under-utilised and lacking in influence. Institutionalised processes are assessed to be lacking in Nigeria, with at best tokenistic opportunities available; there is some CSO participation in specific government committees, but this is at the behest of government and lacks credibility, while participation in government organised events is variable. There is an absence of an overall framework to manage engagement in Mozambique, and the government is assessed to be reluctant to share information that would help engagement, in a situation where the state is seen to distrust many CSOs. CSOs may be invited into law and policy-making arenas in Lebanon, but this tends to be sporadic, and there is no obligation to take the views of CSOs into account.

Functioning mechanisms for dialogue are also lacking in Cambodia: some existing structures are not convened regularly, including those that were considered most open to civil society input, while Technical Working Groups are usually limited to a single CSO representative. Similarly, sessions of the Observatories of Development in Mozambique, which are supposed to foster engagement, are held only when the government wishes, and are often postponed or cancelled. There are also some non-operational mechanisms in Panama, and Colombia, where dialogue is assessed to be fragmented, with several mechanisms mandated by

the constitution not functioning, because of mistrust and limited understanding of these opportunities among both CSOs and the government. The established mechanism in Lebanon, the Economic and Social Council, is not being convened.

In Zambia, while there are some dialogue processes, these are assessed to be undermined by a lack of trust between CSOs and the government. Even in Nepal and Tunisia, where relations have recently improved, CSOs assess that there is a lack of institutionalised dialogue. In Nepal, dialogue is mostly conducted on the basis of an agenda set by the government, with no guarantee that the government will heed the input of civil society. In Tunisia, engagement comes mostly when civil society demands it, rather than by a conscious decision of the government to involve civil society proactively. Cooperation is assessed to be growing gradually in Burkina Faso, but with some continuing reluctance by state officials towards involving civil society.

Bolivia's new constitution and the corresponding Participation and Social Management Law of 2013 make legal provisions for civil society participation in the design of laws and policies, and give CSOs the right to propose these. This entails the establishment of new structures for engagement. However, this is undercut by the principle of alignment, as discussed earlier, which seeks to limit CSOs to the framework set by the country's plans, policies and systems. Further, it has been observed so far that participation has not led to influence, and there has been little feedback on proposals made by CSOs. To date, consultations have been on laws that have already been created, suggesting an approach to consultation that is formal rather than deep, and a selective approach to participation is being taken, with only CSOs that support government policies invited. Influence is sometimes elusive in Colombia as well, because civil society input is treated as only advisory, and need not be heeded.

While Uganda has a National NGO Policy that sets mechanisms for CSO input to the National Development Plan and other programmes, CSOs note that invitations to meetings often come at short notice, giving them little time to prepare, and often the crucial decisions have been made before CSOs are consulted, in what remains a top-down process. This leads to criticisms of tokenism, and of patronage relationships with selected CSOs. Short notice and lack of time to prepare is also an issue in Zambia.

In Cambodia, the practical effects of a lack of dialogue on the environment for civil society are well understood: because it is not directly exposed to civil society critique, it is easier for the government to pass poor or ill-considered laws and regulations that negatively impact on the environment for civil society. In Cambodia, pseudo CSOs, organised by the government (often referred to as GONGOs, government-organised NGOs), were also used to confer an air of apparent legitimacy and crowd out the concerns of legitimate civil society on consultations held on the LANGO.

INFORMAL RELATIONS AND RELATIONS AT DIFFERENT LEVELS

The absence of structured mechanisms for CSOs to engage with the government in Jordan leaves CSOs relying on their informal, personal connections with officials and decision-makers to advance civil society agendas. While this shows civil society ingenuity and flexibility in difficult circumstances, such informal methods lack transparency and clear criteria, and miss opportunities for broader civil society collaboration that could be enabled by more structured processes of engagement.

It is assessed that the extent of cooperation in the Philippines often depends on the inclination of key officials, who act as gatekeepers to processes, and there is enduring concern that opportunities for CSOs remain vulnerable to changes in political office holders. There is concern in India, Lebanon and Nepal as well that access to engagement opportunities for CSOs depends on the attitudes of individual ministers and officials, with some office holders much more favourably inclined towards civil society than others.

It is also harder in the Philippines for CSOs to engage at the local government level, where clear policies on CSO participation are often not properly implemented by officials, who may limit participation, exercise favouritism or involve CSOs in tokenistic ways, to the point that some CSOs are concerned that they are being used to legitimise flawed processes. Similarly, in Tunisia, some CSOs assess that engagement is harder at the local level, where CSO participation is often only formal and favouritism is exercised. CSOs report that they are hindered in addressing these challenges by a lack of knowledge on processes and procedures to settle disputes. There is also assessed to be little local level interaction in Lebanon and Nigeria, and greater suspicion of CSOs and stronger interference at the local government level in Uganda. A need to strengthen relationships at the local level is also identified in Tajikistan.

In comparison, while relationships are often characterised by hostility at the national level, Cambodian civil society finds more positive working relationships at sub-national levels of government, and with individual ministries with which they engage in the course of their work. In Zambia as well, partnerships are assessed to be stronger at the local level, with a recent trend of creating sub-national coordinating committees.

There may also be more space to engage with parliaments than with the executive, something that is assessed to be the case in Mozambique. In comparison, Ugandan CSOs feel that the space to engage with parliament is limited.

MORE POSITIVE EXAMPLES

There are, however, some more positive recent examples of the development of structured cooperation between CSOs and the government, although these all give rise to further challenges. A strong recent example comes from Brazil, with the development of the Partnership Cooperation Agreement, as discussed in the section on access to resources. The new law holds promise to encourage government officials to see CSOs as full partners and enable CSOs to make proposals to government. It can be seen to be building on routines and practices of cooperation that have developed in recent decades, in which CSOs have played a part in proposing and advocating for laws. The process has been one of gradually building trust and respect for the autonomous contributions of CSOs. Such partnership ways of working were intended to be formalised in the Social Participation National Policy and the National System of Participation, but Brazil's currently polarised politics have seen these most recent developments stalled. Notwithstanding progress, there also remains some criticism that participation mechanisms are still geared more towards discussion than action, and that much depends on the attitude of particular officials and government structures at different levels.

CSOs in Nepal assess that the new constitution, passed in 2015, has potential to mark a decisive break with the country's history of civil conflict and provides new opportunities for collaboration and improved relations. There are now numerous government committees and other spaces across a wide range of government

bodies in which CSOs participate. For example, the Ministry of Women, Children and Social Welfare has established a new team on civil society, and there are CSO desks in many local government bodies. Nepal's new law on local government also mandates local government bodies to work with, encourage and provide assistance to CSOs. Nepali CSOs feel they can claim credit for helping to secure economic, legal and social policy changes, and relations between CSOs and the government are also said to have been strengthened as a result of effective cooperation in responding to the April 2015 earthquake.

In Tunisia, CSOs have had to move from a position of protest to one of participation, as relations have transformed, from polarised and adversarial to more positive and cooperative relations, following the revolution. Civil society was recognised as playing an essential role in the aftermath of the revolution, in steering the country towards relative peace, a functioning democracy and a new constitution that is much more pluralist than before, and which positions Tunisia as a participatory democratic republic in which the role of civil society is recognised. This is realised in part through a new ministry for constitutional bodies, civil society and human rights.

Tunisian CSOs have engaged in tripartite dialogue with the government and EU representatives, and can see that they have been able to influence both the government, for example on bringing forward legislation on gender-based violence, and the EU's relations with Tunisia. As part of the new democratic settlement in Tunisia, CSOs are able to propose and submit bills to parliamentary committees, and take part in hearing sessions with the national assembly. CSOs have developed the capacities to make practical recommendations to decision-makers that are framed by the constitution and Tunisia's international obligations, and can see that their engagement has influenced some new laws. The government also shows signs of acknowledging that it is easier to introduce new measures when it has civil society support.

Against this, well-argued civil society inputs are sometimes rejected in Tunisia for political reasons or reasons that are poorly communicated, while dialogues sometimes produce no results. Tunisian CSOs also criticise the limited information made available on the development of new legislative measures, and on the opportunities for civil society input in these. There are also current concerns that, after a positive period, relations are deteriorating and the range of what may be discussed is narrowing. This serves as a reminder that CSO-government relations are always dynamic and subject to a range of influences, and need ongoing monitoring and nurturing.

The relationship in the Philippines is also assessed to have progressed from a previously adversarial one to a relationship that now sits on a spectrum from critical engagement to cooperation, with some partnerships. Government officials are seen to have become more open to the involvement of CSOs, in the implementation of government projects and in participation in decision-making processes. This is seen as a gradual realisation of constitutional provisions that recognise the right of civil society to participate in economic, political and social decision-making, and mandates the state to create consultation mechanisms. In Mexico as well, opportunities are seen to have gradually opened for CSOs and citizens to propose and advocate for legislation.

In the Philippines, there are also structured mechanisms of cooperation, including the National Anti-Poverty Commission, in which CSOs and government representatives work together, and there was significant CSO participation in the draft-

ing of the Philippine Development Plan, a role that came about as a result of CSO advocacy. The government's bottom-up-budgeting initiative has in addition created opportunities for CSOs to participate in budgeting and budget monitoring. It is mandatory for national agencies to consult with CSOs on a range of agricultural and environmental issues, and CSOs are members of numerous public bodies, chiefly those concerned with agricultural, environmental and planning issues.

Relations have however been strained in the Philippines by the difficulties that CSOs now experience in obtaining domestic state funding under new regulations, and suspicion of CSOs that has grown following the fake CSOs corruption scandal, discussed earlier.

There are also concerns about the capacity of CSOs to cooperate in the Philippines, as CSOs may lack the skills and knowledge required to play their role properly, such as legal expertise and knowledge of local government procedures. There is very little funding available to develop this capacity. CSOs in Colombia, Lebanon, Mozambique, Nigeria and Uganda, and to a lesser extent in Cambodia, also assess that they have weak capacity to undertake activities such as engaging and monitoring.

CONCLUSION

In summary, it can be said that views are mixed on CSO-government relations. There are some good examples of growing cooperation, but also political hostility by some governments towards CSOs. In general, CSOs are less tolerated when they aim to promote human rights and good governance, and engage in advocacy and accountability activity. Even when there are solid structures for cooperation, there are concerns about how open, transparent, inclusive and meaningful those structures are, and in other contexts, the lack of ongoing, institutional structures is a problem. Relations may vary between individual ministries and office holders, with a consistent partnership approach across governments generally lacking. There are also concerns about how the autonomy of civil society can be preserved when partnering with governments.

A suggested focal point for future advocacy could be the research, documentation and dissemination of successful models of engagement, which identifies the benefits that strong engagement has unlocked for governments and citizens, and the encouragement of greater adoption of good practice.

CONCLUSION

The overall picture revealed by the EENA research is one of gaps. There are gaps between international best practice, which recognises the autonomy of civil society, and laws and regulations that impinge on this. There are gaps between the enabling language of constitutions, which promise to uphold the fundamental civil society rights, of association, peaceful assembly and expression, and laws and regulations that undercut these and place excessive restrictions on those rights. There are gaps between the stated purpose of laws and how laws are applied in practice, with broad and vague provisions in laws often giving governments and officials wide scope for discretion. There are gaps between national level policies and the practices at the local level, which are often less enabling in some regions of countries. Additionally, policies and practices are vulnerable to discrimination, politicisation and corruption.

On many of the key dimensions assessed in this study, there seems to be a clear distinction between notification regimes and approval regimes. While failing to respect the autonomy of civil society sufficiently, notification regimes can leave CSOs with the space to start themselves up, operate, secure resources, hold events and express their viewpoints. Approval regimes on the other hand impose the state as gatekeeper at every step, giving the government the power to interfere, amend or block CSO activity, slowing down the inherent creativity and dynamism of civil society. Where notification regimes apply, they need to exist in reality and not just on paper; in practice, even under notification regimes, governments and officials often have scope to interpret a requirement to notify as a request for approval.

Not all CSOs are affected equally. In the main, these challenges are visited far more on CSOs that take stances on issues with which governments disagree than those that hold positions supportive of governments. CSOs that seek human rights, democracy and good governance fare worse than those that deliver social welfare and development services. Urban and large CSOs may have advantages that enable them to navigate hurdles, cover costs and cultivate relationships in difficult regulatory environments; rural, small, new and informal CSOs may fare worse in disenabling environments.

By and large, CSOs do not seek an environment entirely free of regulation. The existence of enabling regulation as part of a broader enabling environment helps CSOs to prove that they are genuine and legitimate, that they spend money wisely and serve their constituencies. Enabling regulation can be the starting point for deeper and more constructive relations between CSOs and governments that lead to strong partnerships. It can help CSOs distinguish themselves from bodies that lack legitimacy, or that are corrupt or defunct. But the lesson of the EENA research is that too often CSO regulation is far from enabling. When it should be transparent, predictable and inclusive, it is opaque, erratic and selective. It is often motivated by a determination to control and constrain civil society, rather than a desire to enable it. Where the environment for civil society is disenabling, CSOs face increased challenges of cost, time and energy, and the scope for discretion, favouritism and corruption increases at the government level, undermining the rule of law.

The EENA research has revealed that, in very different contexts in diverse parts of the world, there are some remarkable similarities in the challenges that CSOs face. The positive side of this is that CSO responses to disenabling conditions that

prove successful in one context may hold potential for adaption and replication in others. As this report's accompanying paper on civil society response strategies makes clear, civil society is fighting back, working collectively and winning some important gains. An understanding of these should form the basis for future action to make the environment for civil society more predictable, functional and enabling.

ANNEX 1:
ENABLING ENVIRONMENT NATIONAL ASSESSMENTS PARTNERS

COUNTRY	NATIONAL PARTNER	YEARS OF ASSESSMENT
Benin	Groupe d'Action pour le Progrès et la Paix (GAPP)	2015-2016
Bolivia	Fundación Construir	2013-2014
Brazil	Associação Brasileira de Organizações Não Governamentais (ABONG)	2014-2015
Burkina Faso	Réseau des Organisations de la Société Civile pour le Développement (RESOCIDE)	2013-2014
Cambodia	Cooperation Committee for Cambodia (CCC)	2013-2014
Cameroon	Collectif des ONG pour la Sécurité Alimentaire et Le Développement Rural (COSADER)	2014-2015
Colombia	Confederación Colombiana de ONG (CCONG)	2015-2016
Honduras	Federación de Organizaciones No Gubernamentales para el Desarrollo de Honduras (FOPRIDEH)	2015-2016
India	Voluntary Action Network India (VANI)	2013-2014
Jordan	Phenix Center for Economic and Informatics Studies	2014-2015
Lebanon	Arab NGO Network for Development (ANND)	2013-2014
Mexico	Centro Mexicano para la Filantropía (CEMEFI)	2013-2014
Mozambique	JOINT - Liga de ONGs em Mocambique	2014-2015
Nepal	NGO Federation of Nepal (NPN)	2014-2015
Nigeria	Nigeria Network of NGOs (NNNGO)	2014-2015
Panama	Alianza Ciudadana Pro Justicia	2014-2015
Philippines	Caucus of Development NGO Networks (CODE-NGO)	2015-2016
South Africa	Human Rights Institute of South Africa (HURISA)	2014-2015
Tajikistan	Tajikistan National NGO Association	2015-2016
Tunisia	Al Kawakibi Democracy Transition Centre (KADEM)	2015-2016
Uganda	Uganda National NGO Forum (UNNGOF)	2013-2014
Zambia	Zambia Council for Social Development (ZCSD)	2013-2014

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