

Enabling Environment National Assessment

Country report Panama

Panamá, 2015

(Translated from Spanish)

Research team: Magaly J. Castillo, Luis Castillo Espinosa and Ramón Benjamín.

Acknowledgements: We extend our thanks to all the representatives of the civil society organizations that participated in the focal group discussions, interviews and the national consultation, which were part of this study.



Alianza Ciudadana Pro Justicia (ACPJ) is a network of organisations whose mission is to promote, from civil society, legal reform and the improvement of the Justice administration in the Republic of Panamá. ACPJ has been the main driver of the Criminal Accusatory System, of the need for a new Law on Judicial Careers and of a new transparent mechanism for the selection of Magistrates of the Supreme Court.



The Enabling Environment National Assessment (EENA) is part of the Civic Space Initiative, implemented by CIVICUS: World Alliance for Citizen Participation and the International Center for Not-for-Profit Law (ICNL), in partnership with ARTICLE 19 and the World Movement for Democracy, with support of the Government of Sweden.

This publication is wholly financed by the Government of Sweden. The Government of Sweden does not necessarily share the opinions here within expressed. The author bears the sole responsibility for the content.

Table of Content

Section I: Introduction	4
Section II: Methodology	5
Section III: Formation	6
Section IV: Operation	16
Section V: Access to Resources	20
Section VI: Expression	28
Section VII: Peaceful Assembly	33
Section VIII: Government – CSO Relations	36
Section IX: Access to Information	40
Conclusion	44
Bibliography	46
Annex 1: Assessment Matrix	48

Section I: Introduction

This report evaluates the political and legal environment in which Civil Society Organizations (CSOs) operate in Panama. This sector consists of a group of organized citizens ready to act, to participate, and to have an impact on public interest issues. To accomplish this goal, they come in contact with government institutions; without the objective to hold popularly elected offices nor government posts at any level.

This sector is formed by individuals or social groups such as: rural people, students, youth, women, professional associations, unions, citizen movements and non-governmental organizations; sexual diversity community, sporting, religious, ethnic and cultural diversity groups.

Compared to other sectors, civil society is defined by its exercise of the right to freedom of association; its participation in public issues; its independence from the government, political parties and economic power; its nonprofit structure and thematic diversity.

The State of Panama is obliged to respect, protect and guarantee the right to freedom of association and all the other necessary rights for this purpose - as is recognized in the following instruments of international law: the American Declaration on the Rights and Duties of Man (Article 22), the Universal Declaration of Human Rights (Article 20), the International Covenant on Civil and Political Rights (Article 22), the International Covenant on Economic, Social and Cultural Rights (Article 8), the International Convention on the Elimination of All Forms of Racial Discrimination (article 5), the Convention on the Elimination of All Forms of Discrimination against Women (article 7), the American Convention on Human Rights (Article 16), the Additional Protocol to the American Convention on Human Rights on Economic Rights, Social and Cultural Rights (Article 8), the Convention on the Rights of Persons with Disabilities (article 29) and the Convention on the Rights of the Child (article 15).

The National Assessment of the Enabling Environment (EENA) is part of the Civic Space Initiative, a project implemented by CIVICUS: World Alliance for Citizen Participation and the International Center for Not-for-Profit Law (ICNL) in partnership with ARTICLE 19, and the World Movement for Democracy. This publication has been funded by the Government of Sweden. However, the opinions expressed are the responsibility of the authors and those interviewed or consulted and do not necessarily reflect the views of the Government of Sweden or its partners.

Section II: Methodology

This research was based on the EENA research methodology and implementation of the evaluation, a tool developed jointly by CIVICUS and ICNL as part of The Civic Space Initiative. The research focuses on a series of specific questions associated in seven dimensions. Six mandatory dimensions were analyzed: formation, operation, access to resources, expression, peaceful assembly and Government-CSO Relations. From the optional dimensions, only access to information was identified as of significant impact on the enabling environment for civil society in Panama. It is currently a topic of interest for CSOs in the country.

The study was divided into three stages: (1) *desktop research*; (2) *the interviews of key informants* and (3) *focus group discussions*.

The first stage - *desktop research* - consisted of the review of existing research and the norms governing the legal framework for CSOs in Panama. It provides the answer, mainly, to factual research questions.

The second stage – *interviews with key informants* – consisted of ten in-depth interviews, focused on how laws and existing regulations are implemented in practice. Key informants included government officials, academia and representatives of CSOs. All the subjects were knowledgeable about the concerns and challenges faced by civil society in Panama.

According to the sector where they come from and their area of competence, the interviewed subjects were asked one or more questions based on the seven investigated dimensions. Interviewees answered factual questions on the application of the regulatory framework and perception questions, mainly of political nature.

The third stage - *focus group discussions* - was conducted with two focus groups formed by representatives of CSOs. They analyzed, more in depth, preliminary research results on the sector and identified points of tension between the existing laws and regulation, the administrative practice and the daily reality of these organizations. These focus groups were composed of eight people and lasted approximately for two hours. The participants reflected on ideas that generated debate.

Finally, a national consultation was held, where 56 representatives of CSOs from across the country gave their feedback on the report and participated in drafting an advocacy plan.

Section III: Formation

General Overview

In Panama, the sector of civil society sector is in constant development. The CIVICUS Civil Society Index (CSI) defines civil society as: “the arena, outside of the family, the state, and the market, which is created by individual and collective actions, organizations and institutions to advance shared interests.” It is a broad and inclusive definition.

Another and more extensive definition is the one used by the World Bank, which was created in collaboration with several research centers¹: “the term civil society to refer to the wide array of non-governmental and not-for-profit organizations that have a presence in public life, expressing the interests and values of their members or others, based on ethical, cultural, political, scientific, religious or philanthropic considerations. Civil Society Organizations (CSOs) therefore refer to a wide array of organizations: community groups, non-governmental organizations (NGOs), labor unions, indigenous groups, charitable organizations, faith-based organizations, professional associations, and foundations”.

Panamanian CSOs have understood the importance of their role as it helps to strengthen the exercise of the freedom of expression and association; promotes responsibility in a state of law and promotes pluralism and respect for differences. That is, active and participatory citizens are fundamental for the strengthening of the institutions of the state and the democratic system.

In Panama, the life of CSOs is regulated by the Political Constitution of the Republic, the Civil Code, Law 33 of January 8, 1984; the Executive Decree 524 of October 31, 2005 modified by Executive Decree 627 of 2006; the Executive Decree 615 of 2012 and Law 82 of October 24, 2013.

Analysis

The right to freedom of association is recognized in Article 39 of the Constitution of the Republic of Panama, as follows:

ARTICLE 39. It is allowed to form companies, associations and foundations that **are not contrary to morals or legal order**; these **may** obtain recognition as a legal entity. No recognition will be granted to associations inspired by ideas or theories based on the alleged **superiority of one race**

¹ Definition of civil society adopted by the World Bank and many research centers. Retrieved from: <http://web.worldbank.org/WBSITE/EXTERNAL/BANCOMUNDIAL/EXTTEMAS/EXTCSOSPANISH/0,,contentMDK:20621524~pagePK:220503~piPK:264336~theSitePK:1490924,00.html>

or ethnic group or that justifies and promotes racial discrimination. The capacity, recognition and regulation of companies and legal personality will be determined by Panamanian law.

This constitutional norm is developed in Article 64 of the Civil Code.

Legal persons are listed in Article 64 as follows:

1. The political entities created by the Constitution or by Law;
2. The churches, congregations, communities or religious associations;
3. Corporations and foundations of public interest established or recognized by special law;
4. Public interest associations recognized by the Executive Power;
- 5. Non-for profit private interest associations which are recognized by the Executive Power;**
and
6. Civil or trade associations to which the law grants a separate legal personality from each one of its associates.

Article 14 of Law 33 of November 8, 1984² mandates that “the formal recognition of associations and entities identified by the numbers 2, 4, and 5 of Article 64 of the Civil Code will be done through a resolute issued by the Ministry of Government and Justice. ”

The procedures and requirements for the recognition of associations and foundations of public interest as legal entities (paragraphs 2 and 5 of Article 64 of the Civil Code) are governed by Executive Decree 524 of October 31, 2005³, and its reforms. It is important to note that the Executive Decree 524 of 2005 does not regulate associations related to labor, sports, agriculture and co-operative societies which have their own regulations created by relevant bodies in such matters. Organizations related to sports are regulated and supervised by the Panamanian Institute of Sports; organizations related to agricultural issues are regulated by the Ministry of Agricultural Development; cooperatives are regulated by the Panamanian Institute of Cooperatives and those related to labor such as trade unions are regulated by the Ministry of Labor.

² Law 33 of November 8, 1984 which state administrative measures and dictated other dispositions. Retrieved from: http://www.mici.gob.pa/imagenes/pdf/4.9.2.1_12_ley_no._33_de_8_de_noviembre_de_1984..pdf

³ Executive decree N° 524 of October 31, 2005, which dictates dispositions for the granting of juridical personality to associations and non-profit private foundations. Retrieved from: http://gacetas.procuraduria-admon.gob.pa/25420_2005.pdf

CSOs can be founded by no less than five persons, natural or juridical, public or private, of Panamanian nationality as members of the Board, in accordance with the requirements of membership to the procedures established in the bylaws.

Article 2 of the law excludes foreign persons of this right, with no further explanation. Exceptions to this exclusion are officials of embassies, diplomatic staff, State bodies and any entity legally registered abroad who wishes to register a subsidiary in Panama.

An amendment introduced through the Executive Decree 615 of 2012 introduces another exception: "foreign people can form the board of a CSO by proving their international relevance in business, philanthropic, cultural, religious, educational, scientific, artistic and sporting spheres. In this case, they will only require one Panamanian on the board of Directors".

The procedure to obtain legal personality is explained in Articles 5, 20 and 21 of the Executive Decree 524 of 2005 and consists of submitting an application to the Ministry of Government which consults the competent institution in accordance to the goals of the organization. According to Article 12, the Ministry of Government has the authority to inspect the domicile of the entity before deciding on the granting of legal personality.

The application must include a series of documents mentioned in Article 2:

1. Legal power and application through a lawyer.
2. The articles of incorporation signed by the president and secretary of the association.
The name of the proposed entity shall not be the same as, nor similar as to cause confusion with, the name of any other existing entity.
3. The Act of approval of the bylaws signed by the president and secretary.
4. List of members of the Board of Directors; natural or juridical persons; public or private, no less than 5 members.
5. Bylaws signed by the president and secretary.
6. Work Plan for 5 years.
7. Two copies of all documentation.

Under Article 4, the essential organs required in the bylaws are the General Assembly and the Board.

The requirement of filing through a lawyer, the notary and registration procedures have been identified as barriers to obtaining legal personality. This is due to the cost of hiring a lawyer when it comes to small or new organizations.

According to Article 3 the bylaws must contain:

1. The name of the entity in Spanish or translated into Spanish by an certified public interpreter. The name of the entity may not be advertised in a way that can lead to confusion about its nature and objectives, that is, the name must not lead to confusion or misinterpretation.
2. Provide the exact address in the territory of the Republic of Panama.
3. Geographical area of operation.
4. A detailed presentation of its objectives and specific purposes, main activities and how they will be carried out, and explaining whether its purposes are beneficial, professional or of another nature. The objectives of the entity may not be contrary to the legal system, morals and good customs.
5. The amount of capital, activities to be developed (the entity must adhere only to those which were adopted in the bylaws).
6. Organ to set periodic income dues, if any.
7. Affiliation and de-affiliation procedures.
8. Duties and rights of each partner.
9. Governing bodies, election procedures, mode of making decisions, publications and internal operation.
10. Functions of each member of the Board.
11. Organ or associate who has legal representation.
12. Form of convoking each organ and constitution of quorum.
13. The process of reforming the bylaws.
14. Form of maintaining proper accounting records, specifying the generated and transferred funds.
15. The process of dissolution and liquidation.
16. Destination of goods once dissolved.
17. How to create clauses, should they have the power.

As a result of the efforts of women's groups in 2013, Law 82 of October 24 – more commonly as the Law on Femicide - was approved in Panama. Pursuant to Article 30, the Ministry of Government is obliged to establish as a requirement, in order for non-profit, civic and social associations to acquire legal personality,

that their constituent statutes allow the equal participation of women and men at all management levels, without any kind of discrimination against women.⁴

For the establishment of subsidiaries of international CSOs, requirements are set out in Article 6:

1. Power of attorney to and application through a lawyer.
2. Authorization of the president, legal representative or who directs the foreign entity to be established as a subsidiary in Panama.
3. Authenticated documentation of the entity legally registered abroad.
4. List of members of the Board of Directors.
5. Written document indicating who legally represents the entity in Panama, whether this concerns a Panamanian citizen or a foreigner residing in Panama.
6. Two copies of all documentation translated into Spanish by an authorized public translator if necessary.

Once the application for the establishment of subsidiaries of an international CSO is submitted, the Ministry of Government may make comments to the applicant, who has a period of three months from the date of notification to make the necessary adjustments. Failure to do so will result in a rejection of the application. The applicant can hereafter appeal the decision or request for reconsideration, with all documentation, hereby repeating the process. Although it is not shown in any regulation, sources from the governmental entities involved in the process indicate that in this case -called abatement of the instance - is punishable with a ban on the registration of an organization with the same name for one year.

*"When abatement of the instance is incurred. In other words, once the corrections and observations have been given and the interested party does not approach the legal department to make the necessary corrections, they will be sanctioned. For the duration of 1 year the nongovernmental organization cannot be registered with the same name."*⁵

Applications may be denied for not addressing the observations of the Ministry of Government or based on constitutional limitations: be contrary to morality or law and order, promote the superiority of one race or ethnic group, justify or promote racial discrimination. The Executive Decree does not expand on the matter,

⁴ Law 82 of October 24, 2013, which adopts the prevention of violence towards women and amends the Penal Code to criminalize femicide and to sanction the acts of violence towards women, article 30, paragraph 6. Retrieved from: <http://www.gacetaoficial.gob.pa/pdfTemp/27403/44177.pdf>

⁵ Interview N° 1 Government official, conducted for the Assessment of the Enabling Environment. Panamá, January 2015.

only in Article 3.4 it reiterates that the objectives cannot be contrary to the legal system, morality and "good manners". The limitation to be contrary to morality is considered too broad, therefore subject to the discretion of the authority. However, there are no records of this rule being applied.

Besides the above mentioned, there are no additional restrictions on the goals and objectives of associations. Article 23 of the Executive Decree establishes the appeal for reconsideration, aforementioned, of decisions issued by the Ministry of Government. This must be filed within a period of 5 working days from the date of notification.

The discretionary approach has been identified as an obstacle to the formation of CSOs. The lack of precise and defined terms in the rules governing the procedure for obtaining legal personality often result in a lack of pronouncement by authorities, hereby discouraging applicants from recurring to them or submitting an appeal. There are no data on the frequency and the results of appeals for reconsideration. If an applicant does not obtain legal personality, they tend to correct the application to the observations or re-apply.

In general, the process of registration of a CSO can take months or years, with no criteria to justify this difference. According to government sources, the process should take between 3 and 5 months. They recognize the discretionary nature and accept the gaps in the norms.

"Yes it is discretionary. The requirements and considerations vary according to the discretion of each minister and even employees." 6

As examples of cases subject to the discretion of the authorities, we can mention the obstacles faced by associations of the LGBT⁷ community when trying to obtain legal personality. These obstacles were caused by an interpretation that classified this application as contrary to morality. The litigation lasted for years and reached the Supreme Court of Justice, the association was finally granted legal personality.

At the other side, the organization *Avanza Panama* obtained their legal personality in a few days during the 2009-2014 presidential term. This organization's sole activity was to conduct political campaigns in favor of the government of former President Ricardo Martinelli.⁸

6 Interview N° 1 Government official, conducted for the Assessment of the Enabling Environment. Panamá, January 2015.

7 The obtaining of legal personality of the organisation *Asociación Hombres y Mujeres Nuevos de Panamá*. Retrieved from: <https://es.groups.yahoo.com/neo/groups/ahmnp/info>

8 Movimiento Panamá Avanza. La Prensa News: Prieto's Association was created in five days. Retrieved from: http://impresa.prensa.com/panorama/Asociacion-Prieto-creo-dias_0_3763123834.html

Several respondents considered that the highly subjective rules allowed by the gaps in the legislation could result in arbitrariness, favoritism and other irregularities by the authorities. Including, but not limited to obtaining legal status depending on the level of antagonism between the applying organization and the government agenda. These are obstacles of a political, not a legal nature.

*"Although there are no systematic negative, there is a differential treatment for obtaining legal personality. In my experience assisting with the registration of two new NGO's, I noticed that the connections, influences and pressures were key instruments to speed up the process."*⁹

When the certificate of legal personality is issued by the Ministry of Government, it must be registered in the Public Registry to have legal validity -in accordance with Article 17 of the Executive Decree 524 of 2005. Then, a simple copy of this transaction must be submitted to the Ministry of Government to be registered with this institution (Article 11). This procedure is considered repetitive and unnecessary, especially affecting organizations based outside of Panama City, where all the transactions are made. Apart from the costs of registration, the applicant must cover the costs of transportation and other related costs repeated times. This centralization is also considered an obstacle to the formation of associations.

*"Clearly this stage of the process is repetitive and reflects a bureaucratic, slow and time consuming procedure."*¹⁰

Article 11 of Executive Decree 524 of 2005 was amended by the Executive Decree 627 of 2006 to include in the registry of the Ministry of Government all the private foundations formed under Law 25 of 1995. These are foundations with strictly social purpose as the founding act and are affiliated with the *City of Knowledge*.¹¹

There is no need to periodically renew registration. The lawyers' fees for handling legal personality transactions to non-profit associations are \$500¹², besides the costs of registration. The interviewed

⁹ Interview N° 3 with an academic, conducted for the Assessment of the Enabling Environment. Panamá, January 2015.

¹⁰ Study "Legal Environment of Civil Society Organizations in Panama". Citizens Alliance for Justice, Panamá. June 2011. Retrieved from: <http://www.icnl.org/programs/lac/Entorno%20Legal%20Panama%20ACPJ.pdf>

¹¹ The City of Knowledge is a knowledge management platform focused on enhancing the innovative and competitive capabilities of its users and is located on the former military base of Clayton, Panama City. Retrieved from: <http://ciudadelsaber.org/es/fundacion>

¹² Agreement N° 49 of 24 April 2001 by which the minimum fee of lawyers is approved in Panama. Retrieved from: <http://www.legalinfo-panama.com/legislacion/corte/tarifa-honorarios.pdf>

respondents estimate a total expense between \$750 and \$1,000, including costs of the Notary and Public Registry ranging between \$250 and \$500. This high cost has also been identified as an obstacle to the formation of CSOs with legal personality.

Currently, the Ministry of Government does not have a unique record of all CSOs in its registry. The only way to obtain that information is by the individual review of all entries in the Public Registry.

The low level of partnership culture in Panama affects the social cohesion, it also produces a lack of participation of citizens in public policy. There are exceptions in some rural areas of the country, where citizens more often come together to achieve common interests. Panamanians do not find in the community the opportunity to meet their needs.¹³ When it comes to the creation of organizations and the consolidation of an organized sector, several respondents considered that besides the legal, political, economic and administrative barriers, there are cultural barriers such as excessive individualism and the apathy of citizens towards issues of collective interest.

“Panama is one of the countries with the smallest social capital and less interpersonal trust. Citizens hardly get organized. It is a “cultural” difficulty, it is reflecting how elites understand the Panamanian society, a fiercely individualistic society, which overestimates the individual effort and considers the collective efforts as petty.”¹⁴

In recent years, due to serious environmental conflicts, communities have begun to organize to defend their rights. Law 25 of 2014¹⁵, which created the Ministry of Environment, recognizes the existence of community-based organizations as "nonprofit organizations that aim to represent and to promote values and specific interests of the community and to realize activities to establish an environmentally sustainable development" (Article 2.56), stating in Article 126-1 the following:

Article 126-1. The Panamanian government recognizes the value of the work of local communities for the environment by organizing activities to exploit natural resources sustainably.

13 Political Culture of Democracy in Panama, 2008. Orlando J. Pérez PhD Central Michigan University, Vanderbilt University. Retrieved from: <http://www.vanderbilt.edu/lapop/ab2008/panama1-es.pdf>

14 Interview No. 2 with an academic, conducted for the Assessment of the Enabling Environment. Panama, 6 of January, 2015.

15 Law 25 of August 18, 2014 which created The Ministry of Environment, amends law 41 of 1998, of the environment, and the law 44 of 2006. http://www.asamblea.gob.pa/sites/default/files/proyectos/2014_p_025_0.pdf

In this regard, the Ministry of Environment will have, within its authority, the attribution to recognize the legal personality of the community-based organizations (CBOs) engaged in environmentally sustainable development. These will be entered in a numbered registry. The procedure shall be governed by regulation, in which the principle that states that CBOs have the right to association according to the law, will be recognized. Their right to receive revenues as a result of their activities, as they are responsible for the care of the natural resources used for such development, is also recognized.

Community-based organizations related to the environment, are governed by a specific regulation. Within the Law of the Ministry of Environment there are articles intended to facilitate the registration process of these organizations: The National Environmental Authority (ANAM) has the power to grant legal personality. CSOs related to the environment that are not community-based will continue to fall under the Ministry of Government.

Challenges and weaknesses

The current legislation contains loopholes and leaves room for interpretation. This makes the process of formation of CSOs more difficult and poses serious obstacles to the full exercise of freedom of association in Panama.

We have identified the following weaknesses in the legal and regulatory framework:

- a. Regulations scattered in various legal instruments: laws, executive decrees and resolutions, which is little accessible to ordinary citizens.
- b. Centralization of the process in Panama City, which makes it difficult for applicants from rural areas.
- c. The requirement to submit the application through a lawyer.
- d. The high application costs (legal fees, notary fees, fiscal stamps, transport costs, etc.).
- e. Absence of a clear and simple guide of the process. Often the documents must be corrected.
- f. Time to obtain legal personality is subject to the discretion of the administration.

These weaknesses create a perfect scenario for discretion of the administration to turn into arbitrariness based on political and circumstantial criteria. In Panama it is easier to create a for-profit than a non-for-profit entity.

"Registering a profit making corporation takes hours; while a non-governmental organization to help the community can take 6 months to 1 year. Even foreigners, they cannot

register a non-governmental organization, however, they can register a corporation. Even in the number of people needed for the one or the other"¹⁶

For the formation of CSOs, one of the challenges is to make the regulations and norms less bureaucratic, while it is also important to make it more accessible to citizens and to offer guidance to those who are going through the process of obtaining legal personality.

Another challenge is to unify the legislation for the formation and functioning of CSOs, which is currently dispersed. Two other points that should be considered are: the decentralization of the service –currently only available in Panama City- to facilitate the paperwork submitted by organizations from rural areas and on-line registration which would help those who do not reside in Panama City.

16 Interview N° 1 with a government official, conducted for the Assessment of the Enabling Environment. Panamá, January 2015.

Section IV: Operation

General Overview

The operations of CSOs must promote respect for the rule of law; strengthen the exercise of freedom of association and freedom of expression; and strengthen the pluralism of ideas.

The right of association is recognized in article 39 of the Constitution of Panama. The operation of CSOs is governed by Executive Decree 524 of October 31, 2005 where all the regulations governing CSOs are stated and which acknowledges the Ministry of Government as the entity responsible for the application this legislation.

According to Article 9 of the Executive Decree 524 of 2005, CSOs are required to keep a minutes book to maintain updated records of the members of the organization and accounting record books. Article 10 obliges CSOs to maintain residency in owned or rented commercial space. Article 7 governs the merging of associations and article 19 the procedures to reform bylaws.

The revocation of the legal personality of CSOs by the government is regulated in ambiguous terms, which is of concern.

Analysis

The Executive Decree 524 of 2005 that regulates CSOs established the rules and requirements under which CSOs must function. There are no restrictions or limitations to the right of CSOs to operate freely, to choose their directors, to set goals and to define its form of financial resources.

There is no obligation to align the activities of these organizations with government priorities and national development plans. The same freedom applies in the operation of the organization once it is structured. There are no provisions requiring CSOs to notify the Ministry of Government about meetings, the candidates for the Board or the outcome of the elections, although it is mandatory to register any changes in Board in the Public Registry.

Organizations that receive tax deductible donations are required to submit a report on donations and payments to third parties to the General Directorate of Revenue of the Ministry of Economy and Finance. They are also required to maintain all necessary documentation accessible for the control of the Ministry of Government and the Comptroller General of the Republic. In addition, the financial information must be available on a website, subject to annual government inspections and audits, as stated in article 34 of Law

33 of 2010. The requirement to maintain a website is seen as an obstacle to the life of organizations, which often lack the technical and economic capacity to comply with this requirement.

The dissolution of CSOs is regulated in very broad terms by the government. This could be seen as a potential threat to CSOs, although no cases have been identified where these rules were applied. For example, Article 15 of Executive Decree 524 of 2005 mandates the Ministry of Government to complete the formalities for revocation or dissolution of the legal personality when "available information" indicates that the entity is engaged in illegal activities. The rule says "available information" without specifying the source or requiring verification of such information, which leaves a wide margin for discretion. The rule is also applied when these activities are lawful but contrary to the goals and objectives set out in its bylaws.

"This leaves the door open to the possibility of facing revocation of legal personality, even when the activities are lawful but not covered in its bylaws. Although this rule is not enforced due to the government not having the necessary mechanisms, it is clear that it is ambiguous. It allows discretion and does not establish basic guarantees against the possibility of revocation." 17

Article 16 gives the Ministry of Government the authority to revoke the legal personality of those entities that have been inactive for over 5 years or those that have not been registered in the Public Registry. The necessary research to determine the inactivity or non-registration is not being done, partly because of a shortage of staff. However, it is a discretion that may jeopardize the legal status of CSOs. The rule is unnecessary and could be applied at any time to an organization.

Article 22 also allows the Ministry of Government to dissolve an organization by ministerial decision when there are grounds to justify the dissolution, without further specifications or procedures. Article 23 gives the opportunity to file a Motion for Reconsideration over decisions issued by the Ministry, which must be filed within five working days from the notification.

Law 82 of October 24, 2013, known as the Law on femicide, was driven by women's groups. In accordance with Article 68, organizations, civic clubs, professional and non-profit associations with legal personality are obliged to have equality of men and women on conditions, income, participation, decision and access to all levels in management. All organizations must submit to the Ministry of Government the necessary

17 Study "Legal Environment of Civil Society Organizations in Panama". Citizens Alliance for Justice, page 26, section h.1. Panamá. June 2011. Retrieved from:
<http://www.icnl.org/programs/lac/Entorno%20Legal%20Panama%20ACPJ.pdf>

reforms of the bylaws that should clearly and explicitly establish the equal participation of women. Article 69 states that the Ministry of Government requires existing organizations to enforce these provisions or its legal personality shall be cancelled.¹⁸

Under this reform, the organizations that do not comply with this provision within three months will face cancellation of legal personality. This has not yet been enforced but when the Ministry of Government requires compliance, most CSOs in the country will have to hire a lawyer to complete the process before the Ministry of Government. This will involve costs related to the registration of changes to the bylaws of the organization at the Public Registry. This reform, while it is positive in terms of gender equality, will cause serious setbacks to CSOs.

Those interviewed considered that in general there is little permanent supervision on CSOs by state institutions. However, they agreed on the level of consistency with the political agenda of the government has an influence on authorities' decision to apply a more strict supervision. The most belligerent organizations have been targeted for political reasons. Information on these organizations and its members was released to the media as a form of harassment during the 2009-2014 presidential term.¹⁹

That is, the control and supervision is intensified when the organization's interests are contradictory or antagonistic to those of the government. In this case, the information collected by state institutions is not strictly used within the limits of the administrative law, but is arbitrarily used for political purposes.

"The instruments used by government officials for intimidation are many and varied: the use of pro-government media, tactics of smear campaigns in social networks and declarations and direct calls from the President of the Republic." ²⁰

Organizations can opt for self-dissolution, according to Article 22, "for the reasons set out in its bylaws, a previous agreement of the Board and the approval of the General Assembly". In case of self-dissolution, a notification should be sent to the Ministry of Government and needs to be registered in the Public Registry.

18 Law 82 of October 24, 2013, which adopts measures to prevent violence against women and reforms the criminal code to punish femicide and violence against women, Article 68 and 69. Retrieved from:

<http://www.gacetaoficial.gob.pa/pdfTemp/27403/44177.pdf>

19 The cost of dissent, La Prensa. Panamá May 22, 2013. Retrieved from: http://imprensa.prensa.com/panorama/costo-disentir_0_3667133340.html

20 The cost of dissent, La Prensa. Panamá May 22, 2013. Retrieved from: http://imprensa.prensa.com/panorama/costo-disentir_0_3667133340.html

Challenges and Weaknesses

The current legislation allows government discretion in the granting of legal personality, the dissolution of an organization and the use of their financial information. This gives the opportunity for government interference with the exercise of the right to freedom of association.

As mentioned earlier, there were cases where recognized or belligerent organizations were subject to some level of surveillance due to political reasons. Additionally, information of these CSOs was arbitrarily released to the media and used for political purposes during the 2009-2014 presidential term.

As stated in Article 34 of Law 33 of 2010, organizations are required to keep their financial information available on a website and are subject to an annual government inspection and audit. This regulation has been identified as a weakness, as this requirement can affect organizations that do not have the technical and financial capacity to comply with this. In addition, the requirement is not being complied with by the majority of CSOs in Panama. Authorities are not enforcing it, but can be used by authorities at any time.

Another weakness is the process of dissolution of CSOs. It is regulated in very broad terms and leaves a dangerous margin for discretion. Although no cases have been identified where these norms were applied, it is perceived as a potential threat to organizations.

The possibility of revocation due to a) proven inactivity that exceeds five years and b) failure to register in the Public Registry has also been identified as a weakness. This is an unnecessary provision, being a faculty only applicable in certain cases and not an obligation.

The main challenge is to repeal Article 34 of Law 33 of 2010 for being unnecessary. Most CSOs are required to make an annual report on donations and expenditures for the Directorate General of Revenue (DGI). The online publication of donors is sometimes counterproductive and it can lead to a situation where both the CSOs and the donors become targets of reprisals. Moreover, the elimination of this requirement would accommodate organizations that do not have the necessary technical and financial capacity.

Another challenge is to regulate the dissolution of CSOs in an unambiguous way. The regulations to revoke legal personality must be specific.

Section V: Access to Resources

General Overview

For the development of their activities, CSOs obtain financial support from various sources: funds from the state budget, foreign governments, national and international organizations, self-managed funds and donations. Financial sustainability is essential for the normal functioning of organizations.

Currently in Panama there is no available information about the donations or contributions made by companies to CSOs or political parties. Also, there is no information on the number of CSOs that are exempt from income tax collected by the Directorate General of Revenue (DGI) of the Ministry of Economy and Finance (MEF).

In general, international cooperation and private companies' donations are considered to be sources of a more consistent funding.²¹ Organizations that support children, family and are involved in poverty reduction among others causes obtain more often donations from private companies.

CSOs that promote democracy, justice, citizen participation and governance have little support from the private sector and have relied mainly on the support from international organizations. The Panamanian civil society has historically received substantial support from organizations committed to international cooperation on these issues. However, in recent years many have disengaged. According to some of these agencies and organizations this is due to the economic growth in Panama, which in theory indicates that the Panamanian economy can afford its own development.²² This has affected the operation of various CSOs.

The legislation establishes the possibility of getting tax deductions for charitable contributions with the aim of promoting corporate social responsibility and philanthropy.

Analysis

Legally there are no conditions or requirements that limit the access of CSOs to national or international funds.

21 Focus Group Discussion No. 1, conducted for the Enabling Environment National Assessment. Panamá, March 9, 2015.

22 Note explaining the departure of USAID from Panama on 2012. Retrieved from: <http://www.usaid.gov/where-we-work/latin-american-and-caribbean/panama>

According to Article 3 of the Decree 524 of October 31, 2015, organizations must declare in their bylaws the constitution of assets, the activities undertaken, accounting records and the destination of assets after dissolution. The law regulating the management of public funds received by the OSC is more specific.

Article 3 of Law 50 of 2003, amended by Law 49 of September 17, 2009 states that non-profit associations are obliged to keep a record of received and transferred funds, through a detailed log that justifies the nature of every donation and financial transactions.²³ This article also points out that these associations must present to the Ministry of Economy and Finance (MEF) an annual report consolidating all the donations received. This report must be submitted within the next 90 days after the end of each calendar year.

CSOs that receive public funds must follow the rules established by the Comptroller General of the Republic. Law No. 32 of November 8, 1984, by which the Organic Law of the Comptroller is adopted in Article 11, paragraph 2, states its power to monitor, regulate and control all acts of management of public funds and assets. CSOs that receive funding from the private sector, international cooperation organizations or foreign governments must keep accounting records of these donations.

Organizations have the option to request authorization to receive tax-exempt donations. CSOs must send a memorial to the DGI requesting to be included in the registry of organizations authorized to receive tax deductible donations. The following documents must be attached to the memorial: photocopy of the list of members, program to be developed during the next five years, a photocopy of the deed, information of the NGO's activities and a photocopy of the social security payroll. The DGI will then verify that the organization does not pursue to make profit and that according to its bylaws the income and assets are not to be distributed among its partners and members in the event of dissolution.

Article 11 of the Executive Decree 524 of 2005 was amended by the Executive Decree 627 of 2006 to include private foundations formed under Law 25 of 1995 in the registry of the Ministry of Government. These foundations are of strictly social purposes and are affiliated with *City of Knowledge*. Through Ministerial Decision of the Ministry of Government, these entities are recognized as nonprofit private foundations and are accredited by the Ministry of Social Development (MIDES) and the MEF, having access to the aforementioned tax benefits.

a. Government Funding

²³ Article 54 of Law 49 of September 17, 2009 which amends article 3 of Law 50 of 2003. Retrieved from: http://www.gacetaoficial.gob.pa/pdfTemp/26370_C/GacetaNo_26370c_20090917.pdf

Some state funds are channeled through civil society organizations. According to the Vice Minister Maria Luisa Navarro, from 2009 to 2014 government funding totaled \$ 22 million.²⁴ MIDES annually spent \$1.5 million of these funds in grants for food that was distributed to 37 meal centers, which is almost a third of the designated state funds.²⁵

Some of the government funding is strictly regulated, such as funds from the National Secretariat of Science and Technology that gives grants to organizations that have programs on research and scientific development.²⁶ Organizations must compete to obtain these funds.

On the other hand, the Directorate of State Subsidies within MIDES regulates and supervises the subsidies granted by the State to foundations, associations and nonprofit organizations, particularly those that develop social programs for the strengthening of the family, the community and vulnerable groups. Among the projects supported the following can be mentioned: shelters, child guidance centers, meal centers, medical care, rehabilitation centers, training centers and legal assistance centers.²⁷ The Directorate of State Subsidies is governed by the Executive Decree No. 54 of 16 July 2002. The requirements for obtaining these subsidies are:

1. Note to the Minister.
2. Subsidy application format - 01 format.
3. Notarized Power of the NGO
4. Request for Lawyer with B / .8.00 in stamps.
5. Copy of the ID of the legal representative, authenticated by the department of *cedulación*.
6. Copy of the protocol of the Board authenticated by the same notary where it was elaborated.
7. A copy of the resolution of recognition as a non -profit, authenticated by the department of Legal Advice.

After all these requirements have been submitted, the Directorate of State Subsidies evaluates the allocation of these funds. No information is available on the criteria used in this analysis.

24 Remarks by the Vice Minister Maria Luisa Navarro during the session of May 6, 2015 of the Universal Periodic Review, before the Human Rights Council of the United Nations. Geneva, Switzerland. Retrieved from:

<http://webtv.un.org/watch/panama-review-22nd-session-of-universal-periodic-review/4219640189001>

25 Six Schools cafeterias are closed down. by Urania Cecilia Molina. La Prensa, May 11, 2015. Retrieved from:

http://impresa.prensa.com/panorama/Cierran-comedores-Mides-inoperativos_0_4206329426.html

26 National Secretary of Science and Technology (SENACYT). City of Knowledge, Panama. Public Announcement.

Retrieved from: <http://www.senacyt.gob.pa/convocatorias/abierta/index.html>

27 Directorate of State Subsidies from the Ministry of Social Development. Government of Panama. Retrieved from:

http://www.mides.gob.pa/?page_id=824

"We have not accomplished a competition that is democratic, scientific and transparent and in the absence of such mechanisms political inclinations play a central role. Many social organizations of minor impact and recognition have benefited, while many popular, thematic, territorial, scientific and academic organizations do not get government support." 28

The interviewed respondents highlighted the lack of government support for programs on: innovation, advocacy and development of medium and long term public policy, human rights, transparency, judicial reform, the fight against corruption and the promotion of democracy. Given this situation, they agreed on the need to develop a public policy of grants to non-governmental organizations, to allow access to a reliable, regulated and transparent source with mechanisms of control and supervision.

"Regarding state funding: it is selective." 29

"It would be valuable to have a subsidy policy with clear criteria and the ability to compete on equal terms." 30

b. Philanthropy

Although the Panamanian private sector has supported social activities in the country, there has not been a history of philanthropy. It is not until the trend of Corporate Social Responsibility, initiated by the Global Compact, that awareness of entrepreneurs on the importance of support and funding of social causes for the development of the country was created.

Private funding comes from national entrepreneurs and companies. The majority of these funds is intended for social welfare, causes not related to politics.

The interviewees referred to this behavior as "selective philanthropy" encouraged by tax deductions, in order to sell a positive image to the public and to legitimize existing social relations.

28 Interview N° 3 with an academic, conducted for the Enabling Environment National Assessment. Panama, January 2015.

29 Interview N° 4 with an academic, conducted for the Enabling Environment National Assessment. Panama, January 2015.

30 Interview N° 7 with a representative of civil society, conducted for the Assessment of the Enabling Environment. Panama, January 2015.

"There is a degree of selective philanthropy, in other words, for welfarism; not for human rights and democracy." 31

"The legislation does not encourage donations but the fiscal incentive or the tax exemption to companies." 32

According to respondents, there is no private funding for the development of the critical thinking in innovation; advocacy and development of public policy; or for areas of democracy and human rights. These sectors of the civil society are depending on volunteer work, research, consulting or projects funded by international organizations.

"New ways of public financing are emerging like direct contributions from donors through a specialized third party. Another way is the financing of projects by large companies to comply with their corporate social responsibility policies." 33

An example of an organization using one of these new forms of financing is *Sumarse*, which is an association that promotes social responsibility and seeks to be a meeting point between various sectors of the Panamanian society. Through multi-sectoral partnerships, this association aims to bring the business sector, the public sector and the third sector together for the realization of projects that have a positive economic, social and environmental impact.³⁴

c. International Financing

To access international sources of funding, each donor or cooperation agency sets its own requirements and formalities that CSOs must follow to obtain funding. We could not find any additional requirements, political limitations or legal constraints.

Two obstacles to access to international funding can be identified: a) the economic crisis that affected donor countries and institutions, and b) the fact that Panama has satisfactory macroeconomic indicators, leading to it being classified as a middle income country, which is not a priority for international donors.

31 Interview N° 4 with an academic, conducted for the Enabling Environment National Assessment. Panama, January 2015.

32 Interview N° 3 with an academic, conducted for the Enabling Environment National Assessment. Panamá, January 2015.

33 Ibid

34 Sumarse. Local Global Compact Network in Panama. Retrieved from: <http://www.sumarse.org.pa/sumarse/>

"There are two problems, one is that there is a crisis in the world and it is harder to get resources, the other is that Panama is considered an upper middle income country and is no priority compared with other countries that have fewer resources." ³⁵

The organizations receiving funds from international cooperation are required to maintain accounting records of their income and expenses and present it annually to the DGI.

According to Decree 524 of October 31, 2015, international funds channeled through government institutions are subject to the monitoring of their management, destination and operation. This monitoring is conducted by the Comptroller General's Office and the Ministry of Government (Article 13). If the funds are intended to carry out public interest projects, they should be deposited into state-owned financial institutions; leaving the accounts and its handling subject to the control and audit by the Comptroller General of the Republic (Article 14).

The organization must have accounting and record journals, a minutes book and an updated list of their members (Article 9). All the documentation on the funds it handles must be available for inspections by the Ministry of Government and the Comptroller General of the Republic.

As mentioned earlier, Article 3 of Law 50 of 2003, as amended by Article 54 of Law 49 of 2009, establishes that nonprofit associations must keep track of the received, generated or transferred funds through detailed records of each operation, financial transaction or donation in order to justify the funds. The same article provides for the obligation to submit an annual report of all received donations to the MEF within the first ninety days of each year. Noncompliance could result in a fine that ranges from \$ 50 a first time offence to \$ 250 for repeated offences. The Ministry of Government will receive a copy of the ministerial decision of this offense, in case it persists, allows the MEF to submit to the Ministry of Government a request for revocation of the association's legal personality.

Article 34 of Law 33 of 2010, as mentioned before, adds a paragraph to Article 3 of Law 50 of 2003, which establishes the obligation of non-profit associations to maintain an updated website (with monthly updates) with the information on the donors. The associations must provide the DGI with the website's address and inform of any change on the portal or access to the information.

35 Interview N° 3 with an academic, conducted for the Enabling Environment National Assessment. Panama, January 2015.

In case of dissolution of the organization, according to Article 22 of the Executive Decree, funds and assets should be donated to charities with similar purposes or to invoke the provisions of Article 72 of the Civil Code:

Article 72. If by the expiry of the term for which it legally operated, or for the achieving of the purpose for which it was constituted, or it is impossible to apply the activity or to find the means available. Should the associations, foundations and corporations stop working, their assets will be given the use determined by the laws or statutes, or the fundamental clauses previously established. If nothing was concluded previously, such property shall be applied to the realization of similar purposes, in the interest of the region or municipality which should have mainly reaped the benefits of the extinct institution.

Challenges and weaknesses

CSOs in Panama face serious difficulties finding support from the state, private donors or from international organizations. Many organizations, including those with a long history and trajectory, already had to close their offices due to the lack of funding and limited experience in management.

In case of government funding, one of the obstacles is related to the inequality in the access to these funds. Government funds are managed by the Executive Body at its discretion, without mechanisms to ensure transparency and fairness in their allocation. There is no government support for innovation, advocacy and medium to long term public policy development programs.

In case of private funding, one of the weaknesses is that charitable donations is usually given for social care and other causes not related to politics. Philanthropy is encouraged by tax deductions and the desire of creating a positive public image. Private companies avoid issues such as democracy promotion, justice, transparency and accountability in order to avoid potential conflicts with governments.

Many international cooperation organizations have left the country in recent years, after many years of providing substantial support to civil society, due to satisfactory macroeconomic indicators and Panama becoming an upper-middle-income country. This means that Panama ceased to be a priority for international support.

In light of these developments, one of the main challenges is to develop a public policy of subsidies for non-governmental organizations. This would facilitate the access to reliable, regulated, and transparent resources; with mechanisms of control and supervision.

Finding other sources of assistance to replace the discontinued international cooperation is another challenge. In this sense, it could be useful to create a campaigns to promote corporate social responsibility, raising awareness amongst donors that there are many other causes besides social care, need support, such as: the strengthening of democracy, justice, transparency and accountability, among others.

Section VI: Expression

General Overview

The freedom of expression is a fundamental human right that ensures the free exchange of ideas and opinions in a democratic and pluralistic society, as established in the American Convention on Human Rights. The right of association goes hand in hand with the right of organizations and their members to freely express their thoughts and to unite with others in the defense of common interests.

The right to freedom of expression is guaranteed in the Constitution of the Republic and international treaties ratified by Panama. According to the Universal Declaration of Human Rights: "Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers."³⁶

Freedom of expression is not exclusive to journalists or the media; it is a human right of everyone on the planet. Without freedom of expression, there cannot be democracy.

The Inter-American Court of Human Rights has described freedom of expression as being of paramount importance for public debate and calls for this right to be respected; as established in Article 13 of the American Convention of Human rights. This article states that everyone has the right to freedom of thought and expression, and that the exercise of this right cannot be subject to prior censorship but to subsequent liability. The right to freedom of expression cannot be restricted by indirect methods, such as the abuse of government control or other means that impede the communication and circulation of ideas and opinions.³⁷

The freedom of expression in Panama is threatened by the abuse of political power and the application of economic sanctions. During the administration of former president Ricardo Martinelli (2009-2014), representatives of active or belligerent CSOs were subjected to threats, retaliation, pressure and intimidation.³⁸

Analysis

The right to freedom of expression is enshrined in Article 37 of the Political Constitution, as follows:

³⁶ Universal Declaration of Human Rights. United Nations. Retrieved from: <http://www.un.org/es/documents/udhr/>

³⁷ Article 13, paragraph 1-3 of the American Convention on Human Rights. Retrieved from: http://www.oas.org/dil/esp/tratados_B-32_Convencion_Americana_sobre_Derechos_Humanos.pdf

³⁸ The cost of dissent, La Prensa. Panamá. May 22, 2013. Retrieved from: http://imprensa.prensa.com/panorama/costo-disentir_0_3667133340.html

Article 37. "Every person may freely express his opinion verbally, in writing or by any other means, without prior censorship; but there are legal responsibilities when by any of these means is prejudicial to the honor or reputation of persons or against social security or public order."

In addition to what is established in the Constitution, there is no other mechanism that journalists, human rights advocates and CSOs could use to guarantee the full exercise of this right.

"There are no legal restrictions, but politically and culturally is hard ... you can legally say everything."³⁹

In 2007, a new Penal Code of the Republic of Panama was approved through Law 14. Title IV, Chapter 1 of this Code, in Articles 193 and 194, criminalizes defamation. Article 193 sanctions anyone who offends the dignity of a person in writing or any other form with a 60 to 120 day-fine, while Article 194 punishes anyone who gives a false report of committing of a punishable act with 90 to 180 days-fine.

Article 196 of the Criminal Code precludes criminal responsibility "when in the conduct described in the preceding article, the alleged victim is one of the public servants covered by Article 304 of the Constitution: elected officials or governors." That is, the President and the Vice President of the Republic of Panama, the judges of the Supreme Court, as well as the ordinary and special courts; the Attorney General for Administration, Nation's Attorney General, Judges, Ministers of State, the Comptroller General of the Republic, the President of the National Assembly, the judges of the Electoral Tribunal, the Judges of the Court of Auditors, the Electoral Attorney General, the Ombudsman, the General Managers, Managers or Heads of Autonomous Entities, and National and Provincial Directors of Police Services.

In the past few years, there have been 24 criminal prosecutions for defamation and eight civil lawsuits against journalists. In 2012 alone, nine lawsuits were filed against journalists and the media, four of them against *Corporación La Prensa*, seeking compensations totaling \$ 19.5 million.⁴⁰

39 Interview N° 2 with an academic, conducted for the Enabling Environment National Assessment of Panama, January 2015.

40 Criminal and civil cases reach 33 journalists, La Prensa. Panamá. January 7, 2013. Retrieved from: http://imprensa.prensa.com/panorama/Procesos-penales-civiles-alcanzan-periodistas_0_3565893412.html

Article 198 of the Penal Code excludes from the definition "discussions, criticisms and opinions about official acts or omissions of public servants concerning the exercise of their functions, as well as literary criticism, artistic, historical, scientific or professional".

There is no regulation regarding the access or control on the internet. The only restriction is found in Article 195 of the Penal Code, as it imposes an aggravated sentence between 6 and 18 months or its equivalent in day-fines for libel and slander when these are made "through oral, written or using a computer system".

The media and journalists are not the only ones to face difficulties in the exercise of the right to freedom of expression; human rights advocates and CSOs have to deal with this as well.

The political and economic powers dominate what is released in the media. Therefore, a CSOs ability to exercise their right to freedom of expression has more to do with two factors: their position in the social structure and whether their views match those of the above mentioned sectors.

“The domination of the mass media by the same sector is a problem for social organizations. A non-governmental organization with a critical point of view will hardly be broadcasted; it will depend on the policy of each media group.”⁴¹

Previous administrations have not been tolerant and respectful towards the criticism of their government policies and practices. As a concrete example, in a statement by former Minister Alma Cortes (2009-2014) she discredited civil society groups and suggested a census of all these associations to find out where they were located and who they represented. She wanted to find out who was signing, editing and collaborating in CSOs. According to her, they could become a defamatory and injurious instrument.⁴²

When democracy is inaccurately perceived as the will of the majority and not as an opportunity for the development of citizenship through debate or to maintain respect for human rights; dissent and criticism will generate discredit, alienation and exclusion. It will eventually inhibit the practice of this right within the population.

41 Interview N° 5 to member of the academic, conducted for the Enabling Environment National Assessment. Panama, January 2015.

42 Minister Cortes discredits civil society, La Estrella de Panamá, April 7, 2010. Retrieved from: <http://laestrella.com.pa/panama/nacional/ministra-cortes-descalifica-grupos-sociedad-civil/23700085>

"When there is criticism towards the government, it gets everyone's attention, but when there is criticism towards the system, suddenly, there is no space in the media. We are convinced that the country is homogeneous and we have an unquestionable, logical and rational economic model. Democracy is understood by consensus; there is no dissent, then in the name of "consensus" dissidents have to hold back." 43

As noted before, some organizations that have criticized government's policies and practices have been victims of smear campaigns. During the 2009-2014 presidential term, private information of these organizations and their representatives was publicly disclosed and published by the media as a form of harassment. For instance, the Foundation for the Development of Civic Freedom reported that on 6 April 2010, Alma Cortes - the then Labour Minister - disclosed confidential information on Angelica Maytín, and activist of the CSO. According to the report, Minister Cortés filed an accusation of financial wrongdoing against Maytín. These accusations proved that the Minister had examined Maytín's income statement, which is a confidential document. The Foundation claims that the executive branch tried to discredit, disqualify and silence its critics; especially when they are part of the civil society.⁴⁴

There have been cases where information collected by state institutions in their normal process of control and supervision, has been used arbitrarily for political purposes. This intensified in case of a conflict of interests. One case is that of Guillermo Adames, owner of Radio Omega Stereo. He recalls: "They sent tax inspectors after I questioned the government on the radio show and newspaper *La Prensa*". This can be interpreted as intimidation as to prevent criticism.⁴⁵

The interviewees considered that the general public and civil society organizations are aware of their right to freedom of expression, although they might not be aware of all the dimensions of this right as it is recognized in international human rights instruments.

The debate on the right to freedom of expression is limited to the freedom of the media and the practice of journalism without encompassing the right to access to information and the freedom of expression of the greatest part of the population under conditions of equality and non-discrimination.

43 Interview N° 2 to an academic, conducted for the Enabling Environment National Assessment. Panama, January 2015.

44 Minister Alma Cortes not telling the truth in public opinion show. Statement of the Foundation for the Development of Civic Freedom, Panamanian Chapter of International Transparency. Retrieved from: <http://www.libertadciudadana.org/archivos/actfund/comunicado%20abril%202010.pdf>

45 Panamanian opposition criticizes Martinelli's harassment towards the press, José Meléndez, El País Internacional, SJ, Costa Rica. Retrieved from: http://internacional.elpais.com/internacional/2011/12/29/actualidad/1325192117_519724.html

"This right is not promoted by either the educational system or by the philosophy of the media and other socialization institutions. There is not a public institution responsible for encouraging the exercise of this right. Rather than the large mass communication enterprises, are the journalists and other individuals who are victims of violations of the right. The law protects the freedom of expression of legal persons more than it does for natural persons." 46

Some interviewed subjects believe that the free expression of ideas has to face a cultural background of alleged homogeneity of thinking about the political and economic model.

"There is a strong background of alleged homogeneous thinking and intolerance of dissent. This holds anyone from expressing themselves. Here, our problem is our acceptance of dissent and how we understand democracy and the country." 47

Challenges and Weaknesses

Although there are laws and regulations that clearly establish the right to freedom of expression, in reality, this right may be affected by the political power and the possibility -for citizens or the media- of receiving economic sanctions.

The main identified weakness involves harassment and smear campaigns, mainly suffered by CSOs that have criticized government's policies and practices. As mentioned before, confidential information collected by government officials was arbitrarily used for political purposes during the 2009-2014 presidential term.

The main challenge is to get government administrations to respect the right to freedom of expression. Another challenge is to start a campaign to educate people about the extent of the right to free expression. To inform the community that this right does not only cover the media and journalism; but also the access to information and the freedom of expression of the general population, under conditions of equality and non-discrimination.

46 Interview N° 3 to an academic, conducted for the Enabling Environment National Assessment. Panama, January 2015.

47 Interview N° 2 to an academic, conducted for the Enabling Environment National Assessment. Panama, January 2015.

Section VII: Peaceful Assembly

General Overview

The right to peaceful assembly is guaranteed in the Constitution of the Republic of Panama and in international legal instruments ratified by Panama. It is regulated through the administrative and criminal codes.

Currently, there are no major obstacles to the exercise of the right to peaceful assembly and protest. During the 2009-2014 presidential term, there have been incidents where excessive force was used in the face of protests against the implementation of laws that affect their rights. Some of the main cases included the massacre of Bocas Del Toro and the violent repression of protesters in Colon and the community of Ngäbe Buglé.

Analysis

The State of Panama has ratified the main international legal instruments that protect the right to peaceful assembly and protest, enshrined in Article 38 of the Constitution, in the following terms:

Article 38. The inhabitants of the Republic have the right to assemble peacefully and without arms for lawful purposes. Protests or meetings outdoors are not subject to consent. A twenty-four hour notice in writing to the local administrative authorities is required.

Police action can be taken in order to prevent or punish abuses in the exercise of this right: when the manner of protesting causes or may cause disruption of traffic, disturbs the peace or violates third party rights.

This right has not had many regulations in the domestic legal order, except restrictive rules in the Administrative Code and additions to the Criminal Code by Law 14 of April 13, 2010, popularly known as the Jailhouse Law:

Administrative Code. Article. 1344 Prohibited:

1. To form meetings or processions that may impede traffic on the streets or public squares, without prior written permission of the Mayor. Religious processions and pilgrimages can only be banned in times of epidemics and disturbance of public order;

Administrative Code. Article. 1348. It is understood that the permission of the authority referred to by some articles of this paragraph, shall be granted with the same prerequisites, necessary so that there is no harm to the public or nuisance in public roads.

Penal Code. Article 167-A. Who, abusing their right of assembly and demonstration by the use of violence, impedes or obstructs the free movement of vehicles on public roads in the country and causes damage to public or private property, shall be punished with imprisonment from six months to two years.

The prohibition in the Administrative Code refers to proceedings that are contradictory to the Constitution, while the limitations in the criminal law include elements of form and consequences of meetings and protests in public spaces.

During the previous administration, these norms were applied but equally cases of abuse against demonstrators were also registered such as the events in the province of Bocas del Toro, Colon and the community of Ngäbe Bugle. In Bocas Del Toro, President Ricardo Martinelli deployed police and military force that brutally massacred banana workers in Changuinola. The workers were protesting against the implementation of Law 30, known as the Chorizo Act. The repression left a toll of four dead, 78 maimed for life and more than 700 wounded.⁴⁸

Public demonstrations in Panama are usually peaceful, turning into street closures when protesters do not receive a response from the authorities. Some road closures have led to clashes between demonstrators and police units.

"There are numerous cases of aggression by the government towards peaceful demonstrators, regularly without legal consequences or reparation for victims of government violence. It depends on the social class of the protesters. The few demonstrations by groups or sectors of the upper middle class, associated with power groups, are usually not in danger."⁴⁹

48 Report on the violation of human rights in Changuinola from the 7th to 11th of July, Human Rights Everywhere, Panama. Retrieved from: <http://hrev.org/wp-content/uploads/2011/02/Informe-Bocas-6.pdf>

49 Interview N° 3 to an academic, conducted for the Enabling Environment National Assessment. Panama, January 2015.

Protesters and leaders of the organizations that convene these gatherings or provide support have been subject to criminal proceedings for damage to property or disruption of public order, and in some cases, the application of the Jailhouse Act or procedures before the administrative authorities.

Challenges and weaknesses

The main weakness in this dimension involves the additions made to the Penal Code, with Law 14 of 13 April 2010. The wording of Article 167-A may be interpreted arbitrarily and carry sanctions up to two years in prison for protesters who allegedly abuse their right of assembly.

Thus, a major challenge would be to promote the elimination of Article 167 -A of the Penal Code, which could be used arbitrarily to suppress the right to peaceful assembly.

Section VIII: Government-CSO Relations

Overview

In recent years, citizens have demanded more participation in public affairs, especially on issues related to the fight against corruption, transparency and citizen participation. Also, they have called for greater access to information on the activities and formulation of government policies.

Although historically there have been opportunities for dialogue on various issues, during the term of 2009 to 2014 the relationship between government and civil society was very tense. The government of Ricardo Martinelli was marked by a constant confrontation and fostered a climate of discreditation and harassment towards representatives of CSOs, social activists and union leaders among others. In August 2009, the then Minister of Government made disrespectful statements against civil society: only two months after taking office he declared that the government would not co-govern with civil society.⁵⁰ The deterioration in the relationship between government and civil society became evident when a particular spaces for dialogue were suspended, namely the State Commission for Justice and the National Coalition for Development.

With the arrival of the administration of Juan Carlos Varela in July 2014, the relationship between civil society and the government has substantially improved, although it still needs to recover some lost ground. In its plan of government, the new administration promised to improve the dialogue, consultation on important decisions and to implement a citizens' observatory on the design, implementation and evaluation of public policies.⁵¹

Analysis

Generally CSOs do not participate in the electoral process through the nomination or support of candidates, although there is no prohibition against it. They do not get directly involved, because it is not their nature while it represents a huge risk considering the general discredit into which politics and its party system are thrown in. Nevertheless, during the last two elections there has been a phenomenon of "independent" organizations supporting presidential candidates.

"There are people who are not precisely civil society; they are the "independent" supporters close to political parties. You cannot tell what they are. They present themselves

⁵⁰ Mulino does not have respect for civil society, La Estrella de Panamá, May 5, 2010. Retrieved from:

<http://laestrella.com.pa/panama/nacional/mulino-respeta-sociedad-civil/23702880>

⁵¹ People First Alliance, Government Plan 2014 – 2019, Juan Carlos Varela. Retrieved from:

<http://partidopopularpanama.com/assets/1.-Versi%C3%B3n-Illustrada-del-Plan-de-Gobierno-20-puntos.pdf>

as civilians, independent society, but several of their most important members are considered for positions in the government, and even begin to postulate their candidates; not through regular means but through the media. Every time they are not selected, they claim civil society must be interviewed; but if they get elected, nobody mentions civil society." ⁵²

"In Panama, there are many civil society organizations closely associated to political parties and economic powers that will eventually fund and even manage them. Many of these groups were created under the category of civil society organizations but they are nothing but an instrument of power groups. This hinders and obstructs the role of real social initiatives." ⁵³

Mainly from the city of Panama, CSOs with the most experience, facilities, and budget, have relations with State sectors and the private sector. They are part of the political process and participate through advocacy in the formation of laws and public policy development. This results in a higher influence of their views in the political and legal processes that affect the whole country.

"It depends on the public policy. In politics, there are matters where the participation of civil society organizations is more welcome than in others. For example, security policy is very restricted. There is more openness in social policy, except if it involves crucial reforms to the system in areas such as education and health. Generally, they have the possibility to participate in a wide range but this does not mean a greater impact on public policy." ⁵⁴

Some of the mechanisms for participation in decision-making processes are: through the National Directorate for Citizen Participation of the National Assembly⁵⁵, subcommittees and commissions during the first debate in the National Assembly, workshops and round-tables with specific institutions according to sectoral interests; for example: a table to discuss public health policies. These round-tables were often created as the result of conflicts in sensitive issues. There are also legally instituted spaces for public participation that are not operational, such as the advisory committees of environment and the watershed committees, both created by the Environment Authority to dialogue with communities. In general, it is

52 Interview N° 2 to an academic, conducted for the Enabling Environment National Assessment. Panamá, January 2015.

53 Interview N° 3 to an academic, conducted for the Enabling Environment National Assessment. Panamá, January 2015.

54 Interview N° 3 to an academic, conducted for the Enabling Environment National Assessment. Panamá, January 2015.

55 Retrieved from: <http://www.asamblea.gob.pa/participacion-ciudadana>

considered that there is little interest on the part of the government to establish or operationalize mechanisms of participation.

*"Civil society organizations express their views about topics they are aware of, there is little effort to convene by the government. There is simulation in the assembly, but participation must go beyond this. CSOs must be part of the construction of projects, not only consulted."*⁵⁶

Accessing mechanisms and opportunities for participation in the government is not the only problem. There is disregard for public opinion, the work and proposals of organizations by public authorities. The effectiveness of the participation of CSOs was identified as weak by most of those interviewed, who also believe that the government perceives them as a threat.

*"Relations between the government and civil society have indeed deteriorated over the past two years. The deepening of co-optation, coercion, patronage and cronyism suggests the need to reshape the triangulation state-citizens-democratic regime. The state must guarantee conditions of peace, tolerance, coexistence, justice and democracy. However, the degree of deterioration and strong authoritarian roots of the Panamanian State requires a transformation in the nature of the state, so they can give the necessary conditions for a legitimate and healthy relationship and between the state and civil society. The problem of the elite model of democracy is that it is a model that was only useful in the post invasion period, but today, it can only predict the succession of political crises."*⁵⁷

Although no major changes have been detected in the relationship between CSOs and the government, there currently exists a scenario with less conflict than in the past years. The 2009-2014 administration was characterized by constant open confrontation between the government and the CSOs.

Challenges and weaknesses

The necessary elements for a better relationship between the two sectors are: mutual understanding, responsibility, the proper exercise of roles and operating mechanisms such as institutionalized spaces for

56 Interview N° 8 to an academic, conducted for the Enabling Environment National Assessment. Panamá, January 2015.

57 Interview N° 3 to an academic, conducted for the Enabling Environment National Assessment. Panama, January 2015.

consultation and citizen participation that enable dialogue and coordination for the creation of plans, strategies, programs and projects for the long term.

One challenge is the creation of a mechanism that permits for collaboration between CSOs and the government. One mechanism that was abandoned by various governments is the National Coalition for Development which was composed of a wide plurality of organizations: political, business, entrepreneurs, religious, professional, social. Created in 2007, they reached an agreement on its objectives, goals and strategies for a democratic, prosperous, equitable and environmentally sustainable country. Here, the main challenge is to reactivate the National Coalition for Development.⁵⁸

⁵⁸ National Coalition for Development. Retrieved from <http://www.concertacion.org.pa/>

Section IX: Access to Information

General Overview

Access to information is one of the pillars of democracy. In Panama, this right is guaranteed by the Political Constitution of the Republic in its article 43. Additionally, Panama has signed international conventions on the subject. The American Convention of Human Rights establishes the right to seek and receive information. The Inter-American Court of Human Rights affirms that a society that is not well informed is not a society that is truly free.

Despite all the above, Panama has come a long way regarding this particular right, which was initiated in the late 1990's with two important milestones. The first one occurred in 1998 when the Inter-American Convention against Corruption⁵⁹ was ratified and the second when Law 6 of Transparency in Public Management was approved on 22 January of 2002.⁶⁰ These actions were achieved thanks to a citizen movement that called for more transparency and access to information.

In 2004 the National Council of Transparency against Corruption was created, as a consultative and advisory body of the Executive Branch for public policies of transparency and the prevention of corruption, and which functioned with the participation of civil society.⁶¹ Later this Council became the National Authority of Transparency and Access to Information (Antai), established by N° 33 Law of April 25 2013.⁶² Antai promotes transparency, ethics, citizen participation and the publication of information. However, with the new law in 2013 the participation of the civil society was eliminated.

Analysis

The right of access to information is enshrined in article 43 of the Constitution, as follows:

Article 43. Everyone has the right to request public access information of public interest that rests in public databases or public records, under the care of government employees or private individuals providing public services. Provided that the access has not been limited by a written order or mandated by an Act and to demand fair treatment and rectification.

⁵⁹ Law N° 42 of July 1, 1998 which ratifies the Inter-American Convention against Corruption.

⁶⁰ Law of transparency in public Administration, Law N° 6 of January 22, 2002. Retrieved from: <http://www.antai.gob.pa/publicaciones/Ley-6-de-22-enero-2002.pdf>

⁶¹ Executive Decree No. 179 of October 27, 2004 whereby the National Council Against Corruption is created.

⁶² Law N° 33 of April 24, 2013 which creates the National Authority of Transparency and Access to Information. Retrieved from: <http://www.antai.gob.pa/publicaciones/ley33-25-abril-2013.pdf>

The right to access to information is further specified in Law 6 of 2002 that provides rules of Transparency in Public Management, establishes the Habeas Data action⁶³ and other provisions. Law 35 of 2013 created the National Authority of Transparency and Access to Information (Antai), and seeks to ensure access to information held by state institutions or by private companies that provide public services, with the exception of information classified as confidential or restricted.

According to Article 14 of Law 6 of 2002, the information defined as restricted cannot be disclosed for a period of ten years. According to this article, cases considered to be restricted are the following:

1. Information relating to national security, run by security sectors.
2. Trade secrets or confidential business information obtained by the State as a result of the regulation of economic activities.
3. Issues related to judicial processes or developed by the prosecution and the judiciary, which are accessible only to the parts of the process until after the case is decided.
4. The information of investigative processes undertaken by the Public Ministry, the Public Force, the Judicial Technical Police, the Directorate General of Customs, the National Security Council and Defense, the Department of Patrimonial Responsibility of the General Comptroller of the Republic, the Department of Finance for the Prevention of Money Laundering Analysis, the Commission on Free Competition and Consumer Affairs and the Regulator of Public Services.
5. Information on the existence of mineral and oil deposits.
6. The reports, memos, correspondence and documents related to diplomatic, trade and international negotiations of any kind.
7. The documents, files and transcripts that friendly nations provide to the country in criminal, police or other investigations.
8. The minutes, notes, files or records of discussions or activities of the Cabinet, the President or Vice-Presidents of the Republic, except for those corresponding discussions or activities related to the approval of contracts.
9. The transcript of meetings and information obtained by the committees of the Legislative Assembly, when they meet in the exercise of their functions to gather information that could be included in the preceding paragraphs.

Public information may be requested by any person without justification or motivation (Article 2 of Law 6) without costs and therefore no reproduction needed (Article 4), as long as it is on plain paper, without

⁶³ Habeas Data. Chapter V, Article 17 of the Law on Transparency in Public Administration, Law No. 6 of January 22, 2002
Retrieved from: <http://www.antai.gob.pa/publicaciones/Ley-6-de-22-enero-2002.pdf>

formality, without lawyer specifying as much as possible what is required (Article 5). The government employee has a period of 30 calendar days to respond, to report if he does not have the required information, to indicate to the applicant if another institution has or may have the information, or to request an extension for up to (30) thirty additional days, in case the information requested is too extensive or complex (Article 7).

If the government employee does not supply the information requested or does so insufficiently or inaccurately, the applicant may use the habeas data action (Article 17 of Law 6 of 2002). The resource is based on Article 44 of the Constitution, in the following terms:

Article 44. Any person may recourse to the action of habeas data in order to guarantee the right of access to their personal information collected in databases and official or private records, when the latter involves companies providing a public service or engaged in providing information. This action may be brought, likewise, to assert the right to access to open or public information, in accordance with the provisions of the Constitution. With the action of habeas data the person can request their personal information to be corrected, updated, rectified, or kept confidential. The law will regulate the competent courts to access the habeas data which will be extracted in a summary proceeding without the need of a legal representative.

If the applicant feels the procedures and terms for the exercise of the right to access to information are not being followed, the applicant has the right to file a claim before the National Authority of Transparency and Access to Information or before province governorates if outside the province of Panamá (Article 36 of Law 35 of 2013), without interfering with the right to promote the habeas data action (Article 39 of Law 35 of 2013).

Those interviewed believe that despite the simplicity of the procedure, public institutions tend to evade or deny the delivery of relevant and complete information in a timely manner. This occurs because the citizens are not familiar with the law.

““Harmless” information or that must be public by internationally binding regulations, is easily accessible. The information that could provide greater control of the government by citizens is not available, sometimes when it is, the process is arbitrary and slow” ⁶⁴

64 Interview N° 3 to an academic, conducted for the Enabling Environment National Assessment. Panama, January 2015.

The writ of habeas data has been described as slightly or moderately effective, as it involves unnecessary costs in time and resources to achieve the realization of the right. The process of filing the claim with the administration has been underutilized.

"The process seems simple, but is avoided. If organizations do not know all the mechanisms and do not have legal advice, the response times to their requests are extended and can even be evaded. We have had to file habeas data. It has worked, but we had to incur expenses; sometimes there is not enough resources to cover all the follow up costs." ⁶⁵

Interviewees also pointed out that there is no service culture in public institutions to facilitate the access to information. Access to the government employee that could provide the information depends on the person, the subject, the circumstances and sometimes the characteristics of the applicant.

Challenges and weaknesses

There are difficulties regarding the right of access to information, especially due to the lack of clarity in that accountability means free access to information and transparency and not the mere act of publication of institutional payrolls.

As a first step, it is important that public institutions update their websites to comply with the minimum requirements of the Transparency Act and also, the creation of Internet portals that promote citizen access to information on public policies.

Equally necessary is that CSOs and the media educate the public about the transparency law and emphasize the importance of government accountability.

⁶⁵ Interview N° 10 to an academic, conducted for the Enabling Environment National Assessment. Panama, January 2015.

Section X: Conclusion

Every day, civil society contributes to the protection and promotion of human rights in Panama. A range of organizations such as NGOs, community organizations, academic institutions and charities work with vulnerable groups and are together in the search for justice, equality and respect for human dignity.

Civil society actors contribute to human rights in various ways: monitoring their communities, promoting the peaceful resolution of conflicts, requesting information, defending and denouncing human rights violations; assisting victims of abuse, launching campaigns for promotions of morals and educating for peace.

These organizations operate in a not-so-friendly legal environment with legal gaps that allow for interpretations that leads in some cases to the prevention of the formation of CSOs. In addition, the legislation is scattered in several legal instruments, laws, executive orders and resolutions. Furthermore, the centralization of services in Panama City makes it difficult for the rest of the country to register a society.

Current legislation leaves the door open for discretion in the granting of legal personality, the dissolution of CSOs and the use of financial information of organizations. This has allowed the government to interfere in the exercise of the right to freedom of association, which must be corrected.

One of the main problems of the Panamanian CSOs is funding, whether it comes from private donors, the state or international cooperation agencies. Many organizations, including those with a long history and trajectory, have had to close their offices due to the lack of funding and little management experience.

On the one hand, there is unequal access to state funds and, on the other hand, several international cooperation organizations have withdrawn from the country. After many years of providing substantial support to civil society, Panama has ceased to be a priority for international donors, due to the fact that the country has satisfactory macroeconomic indicators and is classified as a middle income country.

In this sense, it is necessary to launch a campaign for entrepreneurs to not only see corporate social responsibility as welfare and handouts, but also as a contribution to the strengthening of democracy.

The smear campaigns and harassment of CSOs have decreased in the last year due to a change of government, but remains a problem in the Panamanian society. The only way to confront this is with public education campaigns.

Urgent solutions are needed for the weak mechanisms of dialogue and collaboration between CSOs and the government. The report therefore reiterates the need to create an enabling legal framework, unified, simplified and not restrictive, that governs the formation, operation and access to resources as well as the exercise of the right to assembly, freedom of expression and participation of civil society organizations.

It is necessary that civil society becomes active promoting the repeal of Law 14, of 13 April 2010, which is a latent threat and could be used arbitrarily to suppress the right to peaceful assembly. The repeal of Article 34 of Law 33 of 2010 should also be requested. This law makes CSOs and their donors potential targets of reprisals and it is unnecessary as most CSOs are required to make an annual report on donors and expenses to the DGI.

The impetus of this proposal corresponds, in first instance, to civil society. Therefore, this sector needs an integral strengthening through the attention to diversity and social inequalities. A way to move forward is by resuming the discussion of the project of citizen participation that was presented on the National Assembly in 2008.

Bibliography

Political Constitution of the Republic of Panamá of 1972 and Reformatory Acts, Official Gazette, N° 25,176 of 15 November 2004.

Civil Code of the Republic of Panamá, Judicial Systems, S.A. Updated edition, 2002.

American Convention of Human Rights “Pact San José de Costa Rica” 1969, Panamá adheres through Law 42 of 1 July 1998.

Political culture of democracy in Panamá, 2008. Orlando J. Pérez PhD Central Michigan University, University of Vanderbilt.

Study “Legal Framework of Civil Society Organizations in Panamá”. Alianza Ciudadana Pro Justicia, Panamá. June 2011.

Guide for NGOs. Audit, tax and advisory. Alberto Diamond. Socio Director de KPMG. Panamá, April 2009.

Laws

Executive Decree N° 524 of 31 October 2005, establishing provisions for the recognition of legal personality of associations and of private non-profit foundations.

Executive Decree N° 179 of 27 October 2004, creating the National Council of Transparency and Against Corruption.

Law 33 of 8 November 1984, establishing administrative measures and other provisions.

Law 82 of 24 October 2013, adopting measures of prevention of violence against women and the reform of the Penal Code to establish femicide and to criminalize violent acts against women.

Law 25 of 18 August of 2014, creating the Minister of Environment.

Law 49 of 17 September 2009, article 54 modifying article 3 of Law 50 of 2003.

Law N° 42 of 1 July 1998 that ratifies the Interamerican Convention against Corruption.

Law of Transparency in Public Management, Law N° 6 of 22 January 2002.

Law N° 33 of 25 April 2013, creating the National Authority of Transparency and Access to Information.

Web pages

<http://www.icnl.org/programs/lac/Entorno%20Legal%20Panama%20ACPJ.pdf>

<http://web.worldbank.org/WBSITE/EXTERNAL/BANCOMUNDIAL/EXTTEMAS/EXTCSOSPANISH/0,,contentMDK:20621524~pagePK:220503~piPK:264336~theSitePK:1490924,00.html>

<http://ciudadelsaber.org/es/fundacion>
<http://www.legalinfo-panama.com/legislacion/corte/tarifa-honorarios.pdf>
http://impresa.prensa.com/panorama/costo-disentir_0_3667133340.html
<http://www.usaid.gov/where-we-work/latin-american-and-caribbean/panama>
<http://webtv.un.org/watch/panama-review-22nd-session-of-universal-periodic-review/4219640189001>
http://impresa.prensa.com/panorama/Cierran-comedores-Mides-inoperativos_0_4206329426.html
<http://www.senacyt.gob.pa/convocatorias/abierta/index.html>
http://www.mides.gob.pa/?page_id=824
<http://www.sumarse.org.pa/sumarse/>
<http://www.un.org/es/documents/udhr/>
http://impresa.prensa.com/panorama/Procesos-penales-civiles-alcanzan-periodistas_0_3565893412.html
<http://laestrella.com.pa/panama/nacional/ministra-cortes-descalifica-grupos-sociedad-civil/23700085>
<http://www.libertadciudadana.org/archivos/actfund/comunicado%20abril%202010.pdf>
http://internacional.elpais.com/internacional/2011/12/29/actualidad/1325192117_519724.html
<http://laestrella.com.pa/panama/nacional/mulino-respeta-sociedad-civil/23702880>
<http://partidopopularpanama.com/assets/1.-Versi%C3%B3n-Ilustrada-del-Plan-de-Gobierno-20-puntos.pdf>
<http://www.asamblea.gob.pa/participacion-ciudadana>
<http://www.vanderbilt.edu/lapop/ab2008/panama1-es.pdf>
http://www.asamblea.gob.pa/sites/default/files/proyectos/2014_p_025_0.pdf
<http://alianzaprojusticia.org.pa/>
<http://www.antai.gob.pa/publicaciones/>
http://www.gacetaoficial.gob.pa/pdfTemp/26370_C/GacetaNo_26370c_20090917.pdf
http://www.mici.gob.pa/imagenes/pdf/4.9.2.1_12_ley_no._33_de_8_de_noviembre_de_1984..pdf

Annex 1: Assessment Matrix

EENA Assessment Matrix			
Mandatory Dimensions			
<i>Dimension #1: Formation</i>			
Factual Questions	Green Flag	Yellow Flag	Red Flag
1. What legal instruments (laws, regulations, decrees, etc.) currently govern(s) the formation of Civil Society Organizations (CSOs) ⁶⁶ ?	Few enabling legal instruments; clear, non-overlapping regulatory regimes	Several legal instruments; some overlap, lack of clarity in regulatory regimes	Many legal instruments; unclear, overlapping regulatory regimes
2. Who is legally permitted to serve as a CSO founder? Who is excluded from serving as a founder?	Minimal eligibility requirements (e.g., residency of founders) Foreigners cannot be founding members.	Extensive eligibility requirements (e.g. residency and citizenship of founders)	Extremely burdensome eligibility requirements (e.g. citizenship and clean criminal record or license/occupation of founders)
3. What minimum number of individuals is required to form a CSO? What are the requirements of membership?	5 people; Minimum eligibility requirements.	5-10 minimum members; extensive eligibility requirements	More than 10 minimum members; extremely burdensome eligibility requirements
4. What procedures are required to register/incorporate a CSO? (A comparison can be made with registering business entities.)	Minimal registration procedures; comparable with registration of for-profit legal entities	Significant requirements for registering. It is easier to register a limited company.	Extremely burdensome registration procedures
5. Is there a minimum capitalization requirement to register a CSO?	No minimum capitalization requirement (except for a reasonable requirement for foundations)	Nominal minimum capitalization requirement for most CSOs and/or burdensome capitalization requirement for foundations	Burdensome minimum capitalization requirement for associations and/or foundations

⁶⁶ A Civil Society Organization (CSO) is defined, for the purposes of this assessment, as a formalized group of individuals that are independent of government and do not function as for-profit businesses. Owing to the fact that different legal frameworks govern their formation, CSOs in this assessment do not include trade unions, political parties, or communities of worship.

6. What are the specific grounds for rejecting a CSO's application for registration/incorporation? Are such grounds sufficiently detailed?	Minimal, clearly defined grounds for rejecting a CSO's application	Numerous, somewhat unclear grounds for rejecting a CSO's application	Many causes and unclear and vague grounds for the rejection of an application for a CSO (excessive room for the discretion of the officials in charge of registration)
7. Must CSOs adhere to certain categories of purpose before being allowed to form; or are some CSOs with certain agendas (human rights protection or democracy-promotion, for example) forbidden from forming?	There are no restrictions on the purposes a CSO can pursue.	Requirement that CSOs adhere to purposes stated in the law	Restrictions on CSO's purpose; prohibition of certain purposes
8. Can registration decisions be appealed? If so, how frequently are registration decisions appealed? What are the results?	Clear, available means for unbiased appeal	The procedures for an appeal are not entirely clear or accessible; the review may be biased (it is up to the discretion of the government employees) there is no available information on the matter.	No means for appeal
9. What documentation is required for a CSO's incorporation/registration?	Minimal documentary requirements (such as basic contact information and bylaws)	Significant requirements of documentation (charter, certificate of incorporation, detailed declaration of purpose and activities)	Extremely burdensome documentary requirements (contact information for all board/members/staff/participants, workplans, statement of assets)
10. Are CSOs required to regularly renew their registration?	No requirements of registration renewals.	Renewal required every few years	Renewal required annually
11. What registration fees are required?	No or nominal registration fees	Nominal registration fees; comparable with private sector registration fees	Burdensome registration fees; excessive compared to private sector registrations fees

12. What is the approximate cost to register a CSO, and how long does the process typically take?	Nominal registration costs; clear deadlines in the law; less than 30 days	Minimal costs for the payment of lawyer's fees, which could be seen as significant. Deadlines and expiries are not clear and the process may take between 30 and 90 days	Prohibitive registration costs; unclear or no deadlines for the registrar; more than 90 days
13. How many CSOs are currently registered?	There is no accessible information about this subject.		
14. Are there draft laws or regulations that, if adopted, would restrict or, alternatively, ease the formation of CSOs? If so, please summarize the content of the key provisions and in what stage of the legislative process it currently stands.	Pending legislation/regulations that will significantly ease the formation of CSOs	There are bills and regulations pending for approval that could restrict the formation of CSOs	Pending legislation/regulations that will severely restrict the formation of CSOs
Perception Questions	Green Flag	Yellow Flag	Red Flag
1. Is the entity responsible for registering CSOs sufficiently funded and staffed?	Yes	Some lack of capacity/resources	Unable to fulfill mandate
2. Is registration easily accessible? E.g., are there sufficient locations/centers around the state for registering CSOs, or is the process all done electronically?	Yes	The process of registration is inaccessible for many CSOs. There are registration offices only in the city. It cannot be completed on line.	Registration accessible to only a few CSOs
3. What non-legal and/or non-governmental barriers, such as slow or ineffective bureaucracies, inability to access funds, or difficulty	No non-legal or non-governmental barriers to formation	Other barriers not related to laws and regulations such as bureaucratic delays make it difficult for the formation of a CSO.	Prohibitive non-legal and/or non-governmental barriers to formation, such as banks refusing to work with CSOs, that create a significant barrier to entry

buying/leasing property, affect the formation of CSOs?			
4. To what extent is there a perception of excessive discretion, favoritism (political, ethnic, religious, etc.), and/or corruption in the registration process?	None	Some perceived unfairness (discretion, favoritism, corruption)	Widespread perceived unfairness (discretion, favoritism, corruption)
<i>Dimension #2: Operation</i>			
Factual Questions	Green Flag	Yellow Flag	Red Flag
1. What law(s) directly govern(s) the operation of CSOs? Do any other laws affect or influence the operation of CSOs?	Few enabling laws; clear, non-overlapping regulatory regimes	Certain laws. Some overlap and there is a lack of clarity in some regulatory systems. There are several laws that affect.	Many laws; unclear, overlapping regulatory regimes
2. Are CSOs required to notify the government of any meetings? If so, of each meeting or only key meetings? Are they required to notify the government of the list of candidates for the board of directors? Of the results of elections?	No, and the information required is minimum. (for instance, it must only be reported to the Public Registry when there is a change on the board or the legal representative of the CSO)	Some notification requirements beyond the minimal ones	CSOs required to notify the government of all meetings, elections, election results
3. Are CSOs required to submit periodic reports to the government? What kind of reports – e.g. activity or financial reports –, and how often?	An annual report of income and expenditures must be presented to the General Directorate of Income.	Multiple and/or extensive annual reports required	Extremely burdensome, frequent reporting required
4. Are CSOs required to periodically report to the government for any other	No. The reports required are minimum.	Some other reporting required	Extremely burdensome, frequent other reporting required

reasons? What reasons and how often?			
5. Are CSOs subject to government audits or inspections? How often, and what types?	Annual audits; smaller CSOs are exempt. There are no known inspections.	Annual audits regardless of size; risk of unwarranted inspection	Frequent and/or politically-motivated audits, unwarranted inspections
6. What types of information are CSOs required to publicly disclose?	No/minimal other disclosure required (e.g., use of public resources)	Some information other than the minimum (for instance the name of the donors)	Extensive other disclosures required (e.g., names of all members)
7. What administrative requirements affect the operation of CSOs?	Minimal, clear administrative requirements, such as basic documentation of the CSO and a contact person	Several, somewhat unclear administrative requirements, such as certifications from multiple sources	Many, unclear administrative requirements making it prohibitively difficult to abide by the rules
8. Are CSOs mandated to align their activities with governmental priorities as defined in national development plans?	No alignment required	Some alignment required (e.g. for certain types of CSOs)	Full alignment required; and/or non-alignment is penalized
9. On what grounds is the government legally permitted to terminate or dissolve a CSO? Is there an opportunity to appeal this decision?	Very limited grounds for termination/dissolution; sufficient opportunity to unbiased appeal	There are some bases for the government to dissolve a CSO, there are not clear. Limited access to opportunities of appeal.	Extensive, vague grounds for termination/dissolution; no means for unbiased appeal
10. On what grounds can a CSO be voluntarily dissolved?	There are no restrictions on the voluntary dissolution of a CSO.	Some limitation on voluntary dissolution	Voluntary dissolution prohibited
11. Are there draft laws or regulations that, if adopted, would restrict – or, alternatively, ease - the operation of CSOs? If so,	There are no projects for the reform.	Pending legislation/regulations that may restrict the operation of CSOs	Pending legislation/regulations that will severely restrict the operation of CSOs

<p>please summarize the content of the key provisions and in what stage of the legislative process it currently stands.</p>			
<p>Perception Questions</p>	<p>Green Flag</p>	<p>Yellow Flag</p>	<p>Red Flag</p>
<p>1. What level of oversight does the government have over CSOs? Extensive, moderate, or light?</p>	<p>Slight. For instance only an annual report of donors must be presented to the General Directorate of Income. Additional surveillance is rare.</p>	<p>Moderate, e.g. frequent reporting requirements, permits for certain activities, and/or frequent inspection or auditing</p>	<p>Extensive, excessive reporting and permission requirements and near-constant oversight;</p>
<p>2. In practice, do the legal and administrative requirements referred to above act as impediments to the productive operation of CSOs? Are they helpful to the daily operation of CSOs?</p>	<p>Administrative requirements do not affect the development of CSOs (for instance the documentation regarding tax exemptions is reasonable)</p>	<p>Administrative requirements somewhat impede CSO's operation (e.g., requests for additional information once the legally required reports are submitted; slow bureaucracy holds up CSO activities etc.) and/or more than 20% of total staff time devoted to compliance.</p>	<p>Administrative requirements severely impede CSO's operation (e.g. detailed reports on CSO events required for the government; frequent audits on a range of regulations - labor, tax, social security etc.); and/or more than 50% of staff time devoted to compliance.</p>
<p>3. Are there non-legal grounds that, in practice, the government uses or cites to terminate or dissolve a CSO? In practice, how have such terminations been conducted: according to the law or otherwise?</p>	<p>There are no legal reasons for the dissolution of a CSO. We have not heard of cases where a CSO was dissolved this way.</p>	<p>Non-legal grounds, such as policy directives, sometimes used to terminate/dissolve CSOs</p>	<p>Non-legal grounds, such as action without any stated justification, frequently used to terminate/dissolve CSOs</p>
<p>4. Is there a history of state harassment of CSOs for allegedly not adhering to administrative and/or legal requirements? Is there a</p>	<p>No cases have been reported for administrative harassment.</p>	<p>Some history of harassment</p>	<p>Frequent harassment</p>

history of state harassment of CSOs for other reasons or in general?			
<i>Dimension #3: Access to Resources</i>			
<i>a. General questions about the funding environment</i>			
Factual Questions	Green Flag	Yellow Flag	Red Flag
1. Which financial resources do CSOs have legal access to: State funds? Earned income? Donations? Foreign donor funding? Other?	There are no limitations to funding or sources of funding.	Some limitations on funding (e.g., legal requirements related to certain income types or volumes of income)	Burdensome limitations on funding (e.g., key funding sources of CSOs are inaccessible)
2. What legal barriers hinder access to each of these potential sources of funding?	There are no legal barriers for the access to funding.	Some legal barriers to funding (e.g., must register to receive foreign funding; must establish a company to generate any earned income;)	Burdensome legal barriers to funding (e.g. may not receive foreign funding; may not engage in economic activities)
3. Do laws and/or regulations prohibit CSOs from distributing profits or otherwise providing inappropriate private benefit to officers, directors, or other insiders?	There are clear regulations regarding the re-distribution of revenue or private benefits.	Somewhat unclear regulation of profit distribution, private benefit	Vague regulation of profit distribution, private benefit
4. Upon dissolution or termination, what happens to a CSO's assets? What laws and/or regulations affect distribution of assets upon dissolution?	Few laws regarding the fate of the assets of a CSO in the event of dissolution.	Multiple or unclear laws on CSO assets after termination/dissolution; some space for governmental discretion on use of assets	Nonexistent or vague laws on CSO assets after termination/dissolution; ample space for governmental discretion on use of assets
5. Are there draft laws or regulations that, if adopted, would restrict – or, alternatively, ease – CSOs access to resources? If so,	Pending legislation/regulations that will significantly ease CSOs' access to resources	Pending legislation/regulations that may restrict CSOs' access to resources	Pending legislation/regulations that will severely restrict CSOs' access to resources

please summarize the content of the key provisions and in what stage of the legislative process it currently stands.			
Perception Questions	Green Flag	Yellow Flag	Red Flag
1. What non-legal and/or non-governmental barriers hinder access to each of the potential sources of funding for a CSO?	No non-legal or non-governmental barriers to funding	Some non-legal and/or non-governmental barriers, such as an under-developed banking system, lack of CSO fundraising capacity	Burdensome non-legal and/or non-governmental barriers, such as financial transaction restrictions, lack of CSO fundraising capacity
2. How reliable is a CSO's access to legally permissible funds? And how freely available are these funds?	Reliable, available funds	Is unreliable and the availability of funding is relative or little.	Extremely unreliable, limited availability of funds
3. How much does a CSO's financial sustainability depend on government oversight and approval?	Not at all (as long as CSO complies with reasonable regulations)	Somewhat (e.g., government can exercise discretion in approving or influencing access to certain sources for CSOs)	Entirely (e.g., government has control over key resources of CSOs; and/or resources are prohibited)
4. How effectively does the legal and policy framework support the mobilization of local resources?	Effectively, e.g., the government takes measures to encourage local philanthropy	Somewhat effectively, e.g., the laws allow donations but do not incentivize them	Not at all effectively, laws hinder philanthropy or it is otherwise not possible to practice philanthropy
5. Does government and donor funding support the full range of CSO programming and activities, including e.g., innovation, core funding, policy development and advocacy?	Yes, such funds are generally available	Limited availability of such funds (e.g., only from a couple of donors or for a few types of CSOs)	Such funds do not exist or are restricted to a very small group of CSOs
6. What type of source of funding are CSOs most dependent on?	A variety of funding sources	Very few and unsustainable sources of funding. Mainly international cooperation.	One or no funding source

7. What is the perceived reliability of different sources of funding? (or what source of funding is more reliable for CSOs)	A variety of reliable funding sources	Very few sources of funding. The most reliable is International Cooperation.	No reliable funding sources
8. Are you seeing any recent changes in the funding environment at the national level? What are the impacts of any changes on CSOs?	Funding environment is improving or already enabling and likely to remain so	Funding is deteriorating and there is a risk of further deterioration because International Cooperation considers that Panama has satisfactory macroeconomic indicators.	Funding environment significantly deteriorating
b. Government funding			
Factual Questions	Green Flag	Yellow Flag	Red Flag
1. Is government funding currently available for CSOs? If so, is it available for any type of CSO or are there special types of CSOs that are supported by the government?	Government funding generally available	Government funding is moderately accessible (CSOs dedicated to help children, homeless, and meal centers among others; are the ones who receive more support.)	Practically no government funding available
2. In what form and at what levels is government funding available? E.g. are grants, subsidies, institutional (core) support provided at the central level and/or at the local level? Is there a special funding mechanism (e.g. a fund) for CSO support? Are there examples of contracting with the government by CSOs?	A variety of government funding options at both central and local levels	Limited options of government funding. The level of funding of the local government is far behind. There are special mechanisms for funding available on the Ministry of Social Development.	One or no form of government funding at any level
3. What are the laws, rules and policies currently governing	Few, clear enabling laws/rules/policies governing government funding,	Unclear or imprecise regulations on government	Many and/or vague laws/policies governing government funding; too restrictive or no specific rules

government grants and subsidies of CSOs?	including those ensuring transparency in awarding grants or contracts to CSOs	funding. Too much discretion and lack of transparency.	for awarding public funds to CSOs
Perception Questions	Green Flag	Yellow Flag	Red Flag
1. To what extent is the legal framework conducive to government funding of CSOs? What are specific legal and non-legal barriers to increased, more efficient or more transparent government support?	Legal framework is conducive to government funding; no significant legal or non-legal barriers to transparent government support	Legal framework somewhat conducive to government funding; some legal and/or non-legal barriers to transparent government support (e.g., a law that allows funding of CSOs but no clear implementation mechanisms; or: calls for proposals do not respond to CSO priorities)	Burdensome legal framework for government funding; prohibitive legal and non-legal barriers to transparent government support (e.g., unreasonably strict criteria for CSOs to be eligible for support; highly discretionary decision-making)
2. Is the dispersal of government funds seen as predictable, transparent, easily understandable and impartial?	Generally yes	Dispersal of government funds is seen as somewhat unpredictable, opaque, confusing and/or biased	Dispersal of government funds is seen as extremely unpredictable, opaque, confusing and/or biased
3. Has government support decreased or increased within the past years? What is expected in the following years?	Government support steady or increasing; expected to continue increasing	Government support not increased recently; not expected to increase	Government support decreasing; expected to continue decreasing
<i>c. International funding</i>			
Factual Questions	Green Flag	Yellow Flag	Red Flag
1. Are there different standards/requirements for accessing foreign sources of funding versus domestic sources of funding?	No additional criteria/requirements for foreign funding	Some additional criteria/requirements for foreign funding (e.g., separate registration requirement)	Burdensome additional criteria/requirements for foreign funding (e.g., need to align activities to government plans)

2. What are legal barriers to accessing and using foreign resources by a CSO, if any? E.g. is there government notification and/or oversight required to acquire foreign funding? Are there additional reporting requirements when using foreign funding?	No legal barriers to foreign funding	Some legal barriers to foreign funding (e.g., notification requirement)	Burdensome legal barriers to foreign funding (e.g., permission and onerous reporting requirements)
3. Are there bilateral or multilateral agreements in place that affect foreign donors' ability to donate and establish partnerships with CSOs? If yes, what kind of agreements are they (statement of medium to long-term commitment to a relationship; funding framework, etc.)	Bilateral and/or multilateral agreements facilitate access to foreign funding	No bilateral or multilateral agreements that facilitate the access to international funds are known.	No or restrictive bilateral or multilateral agreements regarding foreign funding
Perception Questions	Green Flag	Yellow Flag	Red Flag
1. What non-legal barriers to receiving foreign funds exist in practice?	No non-legal barriers to foreign funds	Some non-legal barriers to foreign funds (e.g. complex application and reporting processes)	Prohibitive non-legal barriers to foreign funds (e.g. complex application and reporting processes; dramatic decrease in donor funding)
2. Has the overall state of governance and rule of law in the country affected donor's contribution to CSOs? If so, how?	Overall governance and rule of law encourages donors	Overall governance and rule of law a risk for donors	Overall governance and rule of law prohibitive for donors
d. Philanthropy			
Factual Questions	Green Flag	Yellow Flag	Red Flag

1. What are the laws and/or regulations specifically addressing philanthropy?	Few, clear laws/regulations encourage philanthropy	Multiple, somewhat unclear laws/regulations regarding philanthropy	Many and/or vague laws/regulations regarding philanthropy
2. Are tax exemptions available to those who engage in philanthropy?	Tax exemptions easily available	Limited tax exemptions available	No tax exemptions available
3. Are CSOs permitted to be the recipients of both corporate and individual philanthropy?	Yes, under reasonable criteria (e.g., charitable purposes)	Some unreasonable or unfavorable restrictions on CSOs as recipients of corporate and/or individual philanthropy (e.g. must provide a report to every single donor)	Burdensome restrictions on CSOs as recipients of corporate and/or individual philanthropy (e.g., annual re-registration as charity to be eligible)
Perception Questions	Green Flag	Yellow Flag	Red Flag
1. Does the legal and regulatory framework encourage philanthropy? If so, how? If not, how?	Yes - – basic laws are in place to provide tax benefits for donations, options to create foundations and endowments, volunteering	There is some type of promotion. For instance, donations and volunteer work is allowed, but there are not enough tax incentives.	No – prohibition (in law or in practice) of donations and/or volunteering (e.g., lack of legislation resulting in a de facto prohibition)
2. Is there a philanthropic tradition? What encourages it? What discourages it?	Yes	There is some philanthropy, but no sufficient tax incentives.	No
3. Do CSOs regularly fundraise from the domestic public or corporations? Do CSOs have fundraising capacity? Or capacity to diversify their funding?	Yes - e.g., there are established practices or well-known examples of domestic fundraising, and an increasing level of CSO income is from domestic philanthropic sources	There are some cases. For instance, there is a growing awareness on the importance of local funding and there are some “pioneer” organizations with successful programs on which the strengthening of CSOs could be based.	No – e.g., the vast majority of CSOs are not allowed to conduct, or neglect to conduct domestic fundraising
4. Do individuals regularly donate to CSOs?	Yes – e.g., people regularly donate to a variety of CSOs or there is at least a broad	Somewhat – e.g., there is a growing trend in donations to	No – regular donations are insignificant in the income of most CSOs

	segment of CSOs that receive such donations (e.g. humanitarian, children's etc.)	CSOs, e.g., with a focus on more "popular" causes	
5. Do corporations regularly donate to CSOs?	Yes – e.g., companies regularly donate in various forms (money, in-kind, expertise) to a variety of CSOs	Somewhat – e.g., there is at least a group of companies that introduced giving programs	No – company donations are insignificant in the income of most CSOs
<i>Dimension #4: Expression</i>			
Factual Questions	Green Flag	Yellow Flag	Red Flag
1. What laws affect a CSO's ability to freely express their opinions? What rights are guaranteed under the existing legal framework, including the constitution, with respect to expression, including access to the Internet?	No, the restrictions to the right to freedom of expression of CSOs are minimal and in line with international standards. From a legal perspective, there are no restrictions.	Some restrictions on CSOs' expression	Stifling restrictions on CSOs' expression; clear violation of international norms
2. Which international treaties have been ratified that affect the ability to publicly express oneself? What treaties have been ratified that affect the right to access the Internet?	All relevant treaties have been ratified (the Universal Declaration of Human Rights, The international Covenant on Civil and Political Rights and the Regional Human Rights Treaties.)	All or most relevant treaties are or will be ratified in the near future	Few or no relevant treaties have been ratified or are likely to be ratified in the near future
3. What laws and/or regulations regulate the content of expression? What restrictions are placed on this content (i.e., restrictions for national security, "fighting words", commercial speech, obscenity)?	Few, clear laws place minimally regulate expression in conformity with international norms	Multiple and/or somewhat unclear laws regulate expression	Many and/or vague laws stifle expression

4. Are there time, place and manner restrictions placed on expression?	No. Or the restrictions are minimal in time, place and manner.	Some time, place and manner restrictions	Burdensome/stifling time place and manner restrictions
5. What legal barriers, if any, hinder a CSO's ability to openly express its opinions, particularly on matters critical of government policies?	No. The legal barriers to the right to expression of CSOs are indeed very concrete.	Some legal barriers to CSOs' expression	Prohibitive/stifling barriers to CSOs' expression
6. Are there draft laws or regulations that, if adopted, would restrict – or, alternatively, ease – CSOs' freedom of expression? If so, please summarize the content of the key provisions and in what stage of the legislative process it currently stands.	There are no draft laws seeking to restrict the right to freedom of expression.	Pending legislation/regulations that may restrict the expression of CSOs	Pending legislation/regulations that will severely restrict the expression of CSOs
Perception Questions	Green Flag	Yellow Flag	Red Flag
1. What non-legal barriers hinder a CSO's ability to openly express its opinions?	No non-legal barriers to expression	Some non-legal barriers to expression (e.g. limited number of independent media outlets that will give space to CSO voices)	Prohibitive/stifling non-legal barriers to expression (e.g., fully government controlled news and internet media)
2. Is open criticism of government policies and practices tolerated? What, historically, has been the reaction of the government to such open criticism?	Public criticism is tolerated	Public criticism of government practices and policies is frowned upon by the government and sometimes retaliated.	Public criticism is prohibited by the government and if it happens, it is promptly retaliated
3. Are individuals and CSOs aware of their rights with respect to expression? Does the political culture openly support these rights? Or are	Individuals and CSOs are aware of their rights; political culture supports free expression	Many individuals and CSOs are aware of their rights; political culture frowns on free expression	Few individuals and CSOs are aware of their rights; political culture hinders free expression

they actively suppressed regardless of legal protections?			
<i>Dimension #5: Peaceful Assembly</i>			
Factual Questions	Green Flag	Yellow Flag	Red Flag
1. What laws address the rights to peaceful assembly, including domestic legislation/regulations and international treaties to which the country is a signatory?	Few, clear enabling laws governing assemblies; all relevant treaties have been signed and ratified	Multiple, somewhat unclear laws governing assembly; some relevant treaties have been signed and ratified	Many, vague laws governing assembly; many relevant treaties have not been signed or ratified
2. Are there limits placed on who can assemble? Are groups with certain agendas or orientations forbidden from assembling?	No. The limits on who can meet are minimal. The limitations are in conformity with international standards.	Some limitations on who can assemble; limitations may be unreasonable, vague or allow for government discretion	Prohibitive limitations on who can assemble (e.g. groups promoting certain issues or affiliations are not allowed to assemble); clear violation of international norms
3. Are individuals or CSOs planning a strike/protest required to seek permission or notify the government in advance of the strike/protest?	No permit is required, only a reasonable notification to authorities, for instance if the protest will hinder traffic or if protection is required. However, spontaneous demonstrations are allowed.	Advance notice always required and/or should be provided to multiple authorities; spontaneous assembly not allowed	Permission required
4. Are there limits on the time, place and manner that individuals or groups can assemble, strike, protest or otherwise publicly (and peacefully) express their views?	No/minimal limits on time, place and manner of assembly	There are some limitations in time, place and manner on the right to assembly. There is a rule that gives prison sentence if public order is disturbed. But the rule is not being enforced.	Prohibitive limits on time, place and manner of assembly

5. How are aggressive/violent demonstrators dealt with in the law and in practice?	Violence is avoided and contained; security response is proportionate	Violence is not restrained properly, police response is not appropriate. In the past government term protesters were suppressed.	Violence is escalated; security response is disproportionate
6. Are there draft laws or regulations that, if adopted, would restrict – or, alternatively, ease – individuals and/or CSOs right to peacefully assemble? If so, please summarize the content of the key provisions and in what stage of the legislative process it currently stands.	There are no draft laws pending for approval that would have a positive or significant impact on the right to peaceful assembly.	Pending legislation/regulations that may restrict assemblies	Pending legislation/regulations that will severely restrict assemblies
Perception Questions	Green Flag	Yellow Flag	Red Flag
1. Is there a history of government-led violence or aggression against peaceful demonstrators, activists and/or strikers?	No history of violence or aggression	There were cases of violence and aggression on the 2009-2012 presidential term.	Frequent instances of violence or aggression
In practice, are groups who gather to openly criticize the government through protest, strike or other form of peaceful demonstration tolerated?	For now there is some level of tolerance of criticism and protest.	Criticism and protest are condemned	Criticism and protest are met with reprisals
Optional Dimensions			
<i>Dimension #6: Internet Freedom</i>			
Factual Questions	Green Flag	Yellow Flag	Red Flag
1. What laws, if any, protect internet freedom? What legal restrictions are placed on the	No laws on internet freedom are known; no restrictions on the access to internet.	Multiple, somewhat unclear laws governing access to the	Many, vague laws governing internet access; severe restrictions on internet access

ability to access the World Wide Web?		internet; some restrictions on internet access	
2. Are there technical barriers (e.g. centralised infrastructure, state-run monopolies, state control of fibre optic cables and copper wires) to internet access?	No technical barriers to internet access	Some technical barriers to internet access	Prohibitive technical barriers to internet access
3. Are there technical barriers (e.g. centralised infrastructure, state-run monopolies, state control of fibre optic cables and copper wires) to mobile phone access?	No technical barriers to mobile phone access	Some technical barriers to mobile phone access	Prohibitive technical barriers to mobile phone access
4. Does the state place limits on internet content by blocking access to information on the World Wide Web concerning social and political issues?	No. Minimal content is blocked by the state (e.g., child pornography, other explicitly criminal content)	Some content is blocked by the state (moral or politically objectionable content is sometimes blocked)	State severely limits access to content on the internet (dissent or non-traditional social practice is mostly blocked)
5. In times of political crisis, has there been a shutdown of the internet or mobile phone access?	Internet and mobile phone access have never been shut down by the state	On February 2012, the state discontinued cellular service in Indian regions to deal with protests.	Internet and mobile phone access have been shut down by the state once or more times
6. Are there draft laws or regulations that, if adopted, would restrict – or, alternatively, ease – internet freedom? If so, please summarize the content of the key provisions and in what stage of the legislative process it currently stands.	There are no bills to promote the restriction of internet freedom.	Pending legislation/regulations that may restrict internet freedom	Pending legislation/regulations that will severely restrict internet freedom
Perception Questions	Green Flag	Yellow Flag	Red Flag

1. In practice, what level of Internet freedom is tolerated in the country?	High level of internet freedom is tolerated	Some internet freedom is tolerated	Internet freedom is severely limited
2. Is internet - email, social media tools - used as a common tool by CSOs and citizens for advocacy and mobilization purposes?	Internet commonly used for advocacy and mobilization	Internet occasionally used for advocacy and mobilization	Internet rarely used for advocacy and mobilization
<i>Dimension #7: Government-CSO Relations</i>			
Factual Questions	Green Flag	Yellow Flag	Red Flag
1. To what extent are CSOs permitted to engage in the political (electoral) process? E.g., are they permitted to nominate candidates for public office? Support or oppose political parties/candidates? Fundraise for political parties/candidates? If so, under which conditions?	CSOs generally permitted to engage in political process; few, clear enabling laws governing CSOs and the political process, which establish reasonable limitations (e.g., CSO may not be eligible for tax benefits if engages in the political process; must disclose funding provided to a political party)	CSOs are generally allowed to engage in the political process but there are multiple and/or unclear laws governing CSOs and the political process that allow for government discretion	CSOs prohibited from engaging in the political process; or total lack of legislation / many, vague laws governing CSOs and the political process resulting in a de facto prohibition
2. To what extent are CSOs allowed to participate in public policy activities? Are they allowed to advocate (campaign) and lobby for legislation? If so, under which conditions?	CSOs are allowed to participate in public policy activities; advocacy and lobbying are permitted with no restrictions	CSOs are partially allowed to participate in public policy activities; vague laws allow for government discretion; there are some unreasonable restrictions on advocacy and lobbying activities (e.g., must obtain government permission to organize an event)	CSOs, or a significant segment of CSOs, are forbidden from participating in public policy activities, including advocacy and lobbying
3. What are legal / institutionalized opportunities	Multiple legal/institutional opportunities for CSOs to	CSOs have limited legal or institutional opportunities to	No or insignificant legal/institutional opportunities

for CSOs to participate in the decision-making process? E.g., are there open hearings, consultations, multi-stakeholder working groups?	participate in decision-making processes on a regular basis	participate in decision-making processes.	for CSOs to participate in decision-making processes
4. To what extent are there compacts, liaison officers, committees, or other similar mechanisms to promote cooperation and communication between government and civil society?	At least one well-functioning mechanism available to promote cooperation and communication between government and civil society	There is public participation in advisory committees in some institutions.	No mechanisms available to promote cooperation and communication between government and civil society
5. Are there draft laws or regulations that, if adopted, would inhibit – or, alternatively, ease – government-CSO relations? If so, please summarize the content of the key provisions and in what stage of the legislative process it currently stands.	Pending legislation/regulations that will affect the government-CSO relations	Pending legislation/regulations that may restrict government-CSO relations	Pending legislation/regulations that will severely restrict government-CSO relations
Perception Questions	Green Flag	Yellow Flag	Red Flag
1. In general, what is the nature of the relationship between the Government and CSOs? Contentious? Harmonious? Somewhere in the middle?	Harmonious or “live and let live” relationship between government and CSOs	The relationship between CSOs and the Government is somewhat controversial or problematic. Mainly in environmental issues.	Antagonistic relationship between government and CSOs
2. Is there regular communication between CSOs and the Government? How can the quality of the dialogue between the Government and CSOs be characterized?	There is regular, productive communication between CSOs and government	There is limited, often ineffective communication between CSOs and government	There is minimal, ineffective communication between CSOs and government

3. Are the opinions of CSOs taken into account when drafting legislation, or more generally, anywhere in the legislative process?	Relevant CSOs opinions are routinely taken into account	CSOs opinions are sometimes taken into account	CSOs opinions are rarely or never taken into account
4. Are there timely consultations with civil society organizations in order for them to impact government decisions?	Yes	Some	Rarely or never
5. Is there full transparency and accountability for development priorities, strategies, plans and actions by government?	Yes, or there is a participatory process in place to develop such transparency and accountability	There is some transparency and accountability (internet portals with minimal information)	There is little or no transparency and accountability
6. Do CSOs have a mechanism to dispute or appeal certain government decisions at the central or local level? Is this mechanism a reliable, genuine and effective way for CSOs to voice their dissent to particular government decisions? In practice, has this mechanism been successfully utilized by CSOs to produce a fairer result?	Yes, several such mechanisms exist and at least one has proven successful	CSOs have limited mechanisms for appeal; these mechanisms are not reliable and CSOs are usually unsuccessful	CSOs have no mechanisms for appeal, or in practice such mechanisms have never produced any results
7. Does the Government view CSOs as partners and allies in their own work, or as potential threats to their agenda?	CSOs are viewed by government as partners	The government sometimes sees CSOs as allies, sometimes as a threat and sometimes these are not taken into account. On environmental and anti-	CSOs are generally viewed by government as a threat

		corruption issues CSOs are seen as a threat	
8. Are CSOs capable of participating in a broad range of public policy initiatives and activities, or are they restricted by non-legal barriers to a narrow range of circumscribed activities?	No/minimal non-legal barriers to CSOs public policy participation (e.g., government denounces CSOs but does not prevent them from participating)	Some non-legal barriers to CSO public policy participation depending on the type of activity or policy issue involved (e.g., participation mechanisms only exist in a few “less sensitive” areas, such as humanitarian aid or child welfare)	Severe non-legal barriers to CSO public policy participation (e.g., raiding CSO premises, harassment or incarceration of CSO leaders and members; CSOs lacking basic capacity to participate)
9. Have there been any significant changes in relations between civil society and the government in your country in the last two years? If so, please describe these.	Relations between civil society and government have improved in the last two years	Relations between civil society and government have deteriorated somewhat in the last two years	Relations between civil society and government have deteriorated significantly in the last two years
10. Have any global events or processes in the past two years affected state-civil society relations at the national level? If so, how? (i.e. The Aid effectiveness debate, etc.)	Global events / processes affected state-civil society relations in a positive way (e.g. government involved CSOs in planning for development)	Global events/processes have not affected state-civil society relationship; or have had a controversial effect (e.g. a restrictive draft law that was successfully rebuked)	Global events or processes had an adverse effect on state-civil society relations (e.g., a restrictive law on foreign funding was adopted as part of an international counter-terrorism initiative)
11. What conditions do you feel need to be in place to allow for a good and effective relationship between state and civil society?	To strengthen mechanisms for participation.	To reactivate opportunities for dialogue such as the National Coalition for Development.	
<i>Dimension #8: CSO Cooperation and Coalition</i>			
Factual Questions	Green Flag	Yellow Flag	Red Flag
1. Do(es) the law(s) governing CSO operations similarly	There are no significant obstacles for its formation.	Law inhibits coalitions (e.g., participation opportunities are	Law forbids coalitions directly or indirectly (e.g., legal entities may

regulate coalitions of CSOs working together? Does the law(s) allow or prohibit such groupings? Does it encourage or hinder without outright prohibiting such groups?		only open for individual CSOs, not coalitions);	not form an association; mandatory registration of groupings etc.); or enforces coalitions (e.g. prescribes a nation-wide CSO umbrella body with mandatory membership)
2. Are domestic CSOs legally able to partner with foreign CSOs, and vice versa? If not, what are the conditions for cooperation? What level of government oversight/notification is required, if any, for such alliances?	International partnerships are allowed or facilitated	Some restrictions on international partnerships (e.g., government notification required)	Burdensome restrictions on international partnerships (e.g., government permission or presence required)
3. Are coalitions, platforms or similar voluntary groups of CSOs, common? Are such coalitions often found working together for a common agenda?	Coalitions are widespread and mostly effective	Coalitions are rare and sometimes ineffective	Coalitions are rare and/or usually ineffective
4. Have CSOs adopted any means of voluntary self-regulation? ⁶⁷ If so, please describe this shortly.	CSOs have adopted clear, enabling, and effective means of voluntary self-regulation; or those are now being developed through an inclusive, participatory process	CSO self-regulation is not voluntary (e.g., undertaken to fulfill government expectations) and/or effective (e.g. principles were adopted but are not complied with)	No voluntary CSO self-regulation
5. Are there draft laws or regulations that, if adopted, would restrict – or, alternatively, ease – CSO	There are no draft laws pending for approval that could affect the cooperation	Pending legislation/regulations that may restrict cooperation and coalition-building	Pending legislation/regulations that will severely restrict cooperation and coalition-building

⁶⁷ Here self-regulation generally refers to the Istanbul Principles: <http://www.cso-effectiveness.org/istanbul-principles,067>. Please specify any other form of self-regulation that you may include.

cooperation or coalition-building? If so, please summarize the content of the key provisions and in what stage of the legislative process it currently stands.	between CSOs and the formation of coalitions.		
Perception Questions	Green Flag	Yellow Flag	Red Flag
1. What is the nature of the relationship between and among CSOs? Are they able and willing to cooperatively work with one another? Are there certain sectors (e.g. environment, women, human rights etc.) where this is more typical than others?	In general CSOs cooperate with each other. Some sectors with good models are imitated by others. There is a network of human rights.	There are some examples of cooperation, but it is generally a challenge; well-organized sectors are isolated from the rest of the organizations	CSO cooperation is rare; there are factors that severely restrict cooperation (e.g., security, government harassment); and/or there are deep divisions in the sector that prevent it from cooperation
<i>Dimension #9: Taxation</i>			
Factual Questions	Green Flag	Yellow Flag	Red Flag
1. What taxes are imposed on the income of CSOs? Do they affect their earned income, grants, investments, or purchased goods and services?	There are very few clear and enabling laws that provide exemptions on the non-economical income of CSOs (CSOs do not pay income tax)	Multiple, somewhat unclear tax laws; non-economic income may be taxed - regulations allow for government discretion in determining taxable income	Many, vague tax laws and regulations; all CSO income is taxed regardless of its source or purpose
2. Are CSOs subject to VAT and customs taxes?	No. Charitable donations are tax exempt.	Yes; regulations are unclear, allowing for government discretion	CSOs are subject to prohibitive taxation (e.g. must pay VAT on a grant that is not an allowable expense for the donor)
3. Are CSOs subject to local taxes, fees or charges, in addition to federal taxes? Are any other level of taxes	CSOs are generally tax exempt, or are eligible to receive tax exemptions (e.g. based on charitable activities)	CSOs face some taxation in addition to federal taxes; any criteria or procedures for exemptions are not clear and allow for discretion	CSOs face prohibitive local taxation

imposed (regional or state taxes, for example)?			
4. What are the tax and regulatory requirements on CSOs that engage in economic activities?	Few, clear tax laws/regulations enabling CSOs to engage in economic activities through partial exemptions	There are many laws or tax regulations; some are unclear regarding the participation of CSOs in economic activities. In general, economic activities are subject to pay taxes and the exemptions are minimal.	CSOs may not engage in economic activities; or there are many, vague tax laws/regulations on CSO economic activities
5. Are tax exemptions granted to all CSOs? Are only certain categories of CSOs granted tax exemptions?	Exemptions are available to all CSOs or to those with a public benefit (charitable) purpose; there are clear criteria and procedures for acquiring tax exemptions	Exemptions are available on a select basis to CSOs (e.g. yes for humanitarian organizations but not for human rights CSOs); criteria and procedures for receiving exemptions are unclear / discretionary	Tax exemptions are not available or available only to a very limited number of CSOs (e.g., international organizations only); exemptions fully based on government discretion
6. Are there draft laws or regulations that, if adopted, would affect the taxation of CSOs? If so, please summarize the content of the key provisions and in what stage of the legislative process it currently stands.	There are no bills that could affect CSOs' tax regulations.	Pending legislation/regulations that may increase CSOs' tax burdens	Pending legislation/regulations that will severely increase CSOs' tax burdens
Perception Questions	Green Flag	Yellow Flag	Red Flag
1. Have taxes been used by the state as a form of repression of CSOs practices? If yes, how so?	No	Sometimes / arguably	Yes, regularly
2. Is CSOs financial sustainability affected by taxes, duties and/or fees? Does	Financial sustainability is not affected by tax issues.	Tax legislation has an ambiguous effect on CSO sustainability depending on	Tax legislation has a stifling effect on CSO sustainability, e.g., by prohibiting economic

tax legislation facilitate or impede CSOs in achieving sustainability in their finances?		the type of CSO or government discretion	activities or levying prohibitive taxes or duties on core activities
3. To what extent are the tax laws/ regulations enforced? Are taxes regularly paid? What is the capacity of the government to enforce tax payments?	There is an affordable and accessible system to pay taxes that is enforced by the government	Government struggles to enforce tax laws/regulations and payments; paying taxes is a cumbersome and costly process	Government has little capacity to enforce tax laws/regulations and payments; avoiding taxes is the norm
<i>Dimension #10: Access to Information</i>			
Factual Questions	Green Flag	Yellow Flag	Red Flag
1. What laws and/or regulations govern or affect a CSO's access to information? Do they vary based on the type of information being sought?	Few laws govern CSO access to information	Multiple, somewhat unclear laws govern CSO access to information	Many, vague laws govern CSO access to information; laws fail to establish a clear right of citizens to access information
2. Is there an appeal process for information? Has it been denied?	There is a fair and effective appeal process	There is the Habeas Data	There is no opportunity for fair or effective appeal
3. To what extent are government officials themselves accessible to the public? What opportunities exist for the public, including CSOs, to meet with government officials about their personal or organizational interests and needs?	Government officials are generally accessible	Some opportunities exist for public to access government officials	Minimal opportunities for public to access government officials
4. Are there draft laws or regulations that, if adopted, would restrict – or, alternatively, ease – CSOs'	There are no draft laws that could affect CSOs' access to information	Pending legislation/regulations that may restrict access to information	Pending legislation/regulations that will severely restrict access to information

<p>access to information? If so, please summarize the content of the key provisions and in what stage of the legislative process it currently stands.</p>			
<p>Perception Questions</p>	<p>Green Flag</p>	<p>Yellow Flag</p>	<p>Red Flag</p>
<p>1. Is the process of obtaining government information transparent, smooth, sufficiently easy to navigate, and based on the rule of law, or is it difficult, seemingly arbitrary, slow, and mired in bureaucratic red tape?</p>	<p>Process for obtaining information is transparent, smooth, easy and based on the rule of law</p>	<p>The process for getting information takes time.</p>	<p>Process for obtaining information is arbitrary, slow and mired in red tape</p>