Assessment of the Enabling Environment
for Civil Society Organizations in Mexico
This report was prepared for the Centro Mexicano para la Filantropía (Cemefi) by Consuelo Castro and Carlos Cordourier.

Financial and technical support to prepare this report was provided through the Civic Space Initiative in collaboration with the World Alliance for Citizen Participation (CIVICUS), the International Center for Not for Profit Law (ICNL), Article 19, and the World Movement for Democracy.

This (publication/report/information material) is partially financed by the Government of Sweden. The Government of Sweden does not necessarily share the opinions here within expressed. The authors bear the sole responsibility for the content.

Opinions expressed are the responsibility of the authors and the individuals that were consulted or interviewed, and do not necessarily reflect the opinions of the Government of Sweden or those of its associates.
## “Enabling Environment of Civil Society Organizations in Mexico”

### Contents

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>I Introduction</td>
<td>6</td>
</tr>
<tr>
<td>II Methodology</td>
<td>7</td>
</tr>
<tr>
<td>III Dimensions</td>
<td>10</td>
</tr>
<tr>
<td>1. Formation</td>
<td>10</td>
</tr>
<tr>
<td>2. Operation</td>
<td>28</td>
</tr>
<tr>
<td>3. Access to Resources</td>
<td>33</td>
</tr>
<tr>
<td>4. Expression</td>
<td>45</td>
</tr>
<tr>
<td>5. Peaceful Assembly</td>
<td>50</td>
</tr>
<tr>
<td>6. Government-CSO Relations</td>
<td>58</td>
</tr>
<tr>
<td>7. Taxation</td>
<td>67</td>
</tr>
<tr>
<td>IV. References</td>
<td>73</td>
</tr>
<tr>
<td>A) Bibliography and Source Materials Consulted</td>
<td>73</td>
</tr>
<tr>
<td>B) Legislation</td>
<td>75</td>
</tr>
<tr>
<td>C) Abbreviations</td>
<td>78</td>
</tr>
<tr>
<td>Annex 1. List of Participating Organizations</td>
<td>79</td>
</tr>
<tr>
<td>Annex 2. Summary of Responses to Assessment Matrix on Perception Questions</td>
<td></td>
</tr>
</tbody>
</table>
“Assessment of the Enabling Environment for Civil Society Organizations in Mexico”

Consuelo Castro
Carlos Cordourier

Section I: Introduction.

This analysis presents the results obtained in Mexico as part of the international research entitled Enabling Environment National Assessment (EENA), promoted by the Civic Space Initiative in collaboration with the World Alliance for Citizen Participation (CIVICUS), the International Center for Not for Profit Law (ICNL), Article 19 and the World Movement for Democracy.

Civil Society Organizations (CSO) contributions are certain not only because of the efficacy of their work on a wide range of general interest initiatives which improve the quality of life for individuals. Its importance relies not only because many of the population attended is in a state of vulnerability, but also because organized civil society contributes to reinforce the social network that permits to face the causes of public insecurity, whose recent deterioration is more concerning. We start from the premise that a society that fosters anti-social attitudes offers a higher resistance to social problems such as the growth of organized crime threatening social peace in a community, as has been the case in the country.

The field of action in which CSO’s perform, with no interest in profits and with a social role, is very diverse and ample. They are established to undertake social or philanthropic activities, as well as those of a cultural, educational, public safety, community development, environmental, scientific among other, with the purpose of contributing with the government for social development.

Given the relevant role of civil society organizations as an acknowledged actor in our society, the study of the conditions in the regulatory and institutional environments that enables their consolidation and growth is fully justified.

Following the proposal of the Comparative Project of the Not for Profit Sector at Johns Hopkins University, originally promoted by Lester Salomon and Helmut Anheier (1994), civil society organizations are defined as a result of the following features: private (that is, they are not part of a government and their board of directors are non-government dependent), formal (i.e., these are organizations composed by
citizens that are highly institutionalized\textsuperscript{1}; autonomous (i.e., these organizations freely generate their own by-laws and organizational regulations); non-profit (i.e., they do not distribute profits among their affiliates, associates or members, but profits are re-invested in their organization\textsuperscript{2}); and voluntary (i.e., although they may have professional and paid staff, these organizations are able to bring in volunteers that participate, to some extent, in their activities). In like manner, CIVICUS 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.”\textsuperscript{3}

Since their social purpose and the standards that regulate their incorporation and operation are different, for the purposes in this assessment CSOs do not include labor unions, trade unions, political parties or worship (religious) communities.

Section II: Methodology.

To assess the condition of the enabling environment, following the general guidelines for research developed by CIVICUS and ICNL, that considers its application in 16 countries in the course of two years. The research has five mandatory dimensions analyzed: (1) Formation, (2) Operation, (3) Access to resources, (4) Expression, and (5) Peaceful Assembly, since they are considered to be fundamental within all the contexts of the countries. In like manner, a proposal was made to select the following “optional dimensions”: (Government – CSO relations and Taxation.

This research stems from the central idea that institutional environment composed by formal and informal rules structuring human interaction, defines incentives, opportunities, characteristics, and possibilities of legal association in communities. In order to perform an analysis of the Mexican case, a study of the most relevant legislation that is linked to organized civil society, was made. In-depth interviews to a group of specialists, and a study on perceptions among members of civil society were performed. Ten personal interviews were conducted, plus a national consultation with an attendance of 70 individuals representing 39 organizations that was tape-recorded and transmitted via internet.

\textsuperscript{1} In this assessment, the term minimum institutionalism threshold indicates that organizations have an incorporation charter that allows them to perform as civil associations, or private assistance institutions, in accordance with the local legislation on civil matters.

\textsuperscript{2} It is important to note – due to the considerable confusion prevailing in Mexico with respect to the so-called Third Sector – that the not-for-profit character of this type of organization does not mean they do not properly produce economic income derived from their activities, and that their services are necessarily to be provided for free, but it means that every surplus or profit must be used to comply with the social purpose for which the institution was incorporated (for example, the protection of individuals in a condition of vulnerability, provision of educational or health services, scientific research, etc.)

The Mexico Country Report was commissioned to the Centro Mexicano para la Filantropía (Mexican Center for Philanthropy - Cemefi). One of the earliest activities in this project, was to select the dimensions to be analyzed. For that purpose, a ‘Panel of Experts’ was established, which was composed by 5 individuals with diverse specialties. As a result of a meeting held in which relevance in the current context, period for research, and resources for the study of the enabling environment of the sector were discussed, the following seven dimensions were selected:

1. Formation of a Civil Society Organization
2. Operation
3. Access to resources
4. [Freedom of] Expression
5. [Freedom of] Peaceful assembly
6. Government – CSO relations
7. Taxes / Taxation

It is worth noting that the Panel of Experts opted to reduce the research to the seven above dimensions since, given time limits. It was preferable to concentrate on seven topics. Having picked up too many topics, would have affected the quality of the information required to achieve the purpose of the research. Nevertheless, the study of other dimensions that may be interesting for this sector is still left pending.

The research team was composed by Consuelo Castro and Carlos Cordourier, with the support of Ximena Díaz as assistant.

Regarding the methodology, a proposal was made to respond to the so-called factual questions, which have a purpose to orient information on each one of the dimensions. For such purpose, existing bibliography on the legal framework and the regulations for CSO in the country, legislation and official sources statistical data were analyzed.

---

4 The Panel of Experts was composed by Aline Gras, a specialist in Fundraising and Institutional Development; Carlos Cordourier, University of Guanajuato professor; Guadalupe Hernández, Manager / Administrator for an Organization; Lydia Peinado, Executive Secretary for the Sinaloa Board of Private Assistance; and Claudia Martínez Casas, a member of various boards of directors and a specialist in organizational development.
Additionally, in order to understand the perception, as such, that the organizations have, 10 individual interviews were performed, as well as the completion of the questionnaire contained in the document called “EENA Assessment Matrix”.

In order to facilitate the completion of the Matrix, it was converted to a surveillance format with close-ended and open-ended answers, and applied to 96 individuals from different regions of the country and various fields of action. Collaborators from all organizations could voluntarily either provide identification of the organization they work for or provide and anonymous response. The list of names of the organizations whose names were identified can be found at the end of this work, as Annex 1. Also, the result of the Matrix is hereinafter included as Annex 2. This document contains the charts with the percentage of answers that are considered in each one of the questions, the perception of the environment as enabling (green), partially enabling (yellow), and impending (red).

With full attention to all answers, this document contains some of the comments found in the boxes, which reflect recurrent or emblematic perspectives on the perception of each one of the dimensions. In order to better understand the type of answers, we invite you to review the document marked as Annex 2, mentioned above.

Although EENA methodology included Focus group discussions, they were not conducted and were substituted by transmission of the National Consultation as another way of including regional perceptions of different types of CSO’s seen the limited time and resources of the EENA project. The size of Mexico and due to the limited time and resources, and seen the size of Mexico, preference was given to an in-depth survey in order to include regional perceptions.

Following you will find the results of the research for each one of the dimensions in this study.
Section III DIMENSIONS

DIMENSION No. 1: FORMATION

1.1 Legal framework for the incorporation of CSOs: Civil Association and Charitable or Private Assistance Institution

According to the Federal Constitution, Mexican citizens enjoy the right to assemble peacefully and the freedom of association for any legal purpose. \(^5\)

Therefore, individuals are freely and formally able to associate to incorporate a not-for-profit organization, in order to serve the various causes that benefit their community. For that purpose, particularly when they legally incorporate, they have the right to choose from one of two types of legal entities: as Civil Association (Asociación Civil) or as a Private Assistance or Charitable Institutions (Institución de Asistencia o Beneficencia Privada) in accordance with the legislation of the different states of the Republic (not at a national level). Each state in the Mexican Republic has its own Civil Code, and based on it, Civil Associations are established. In some states, the Civil Code opens the possibility for organizations devoted to assistance and charity, to be regulated under specific laws on the subject\(^6\). Thus, some states have enacted private assistance laws, while others have not. The states that have them are the following: Campeche, Coahuila, Colima, Chihuahua, Federal District, State of México, Guerrero, Hidalgo, Jalisco, Michoacán, Nuevo León, Puebla, Sinaloa, Sonora, Querétaro, Quintana Roo, and Yucatán.

Civil Associations are governed by the civil codes of can states where their legal domicile is located. Civil Associations are incorporated “[W]hen several individuals agree to assemble, in a way that is not fully transitory, to perform a common purpose that is not prohibited by the law and which does not have a mainly economic character” (Article 2670, Civil Code for the Federal District.

Any individual is able to establish an organization, if and when such individual is of age and has the legal capability to do so. Restrictions for such purpose are: legal personality, under age, and a state of interdiction. That is, individuals whose condition does not allow them to govern themselves, take care of themselves, or manage their property, and due to such condition are subject to a guardianship by a tutor.

As was mentioned above, to establish an organization the local laws and regulations are to be followed. Generally, organizations are established during the life of the individuals; however, private assistance institutions may also be created through a Last Will or Testament.

\(^5\) Article of the Political Constitution for the Mexican United States (Constitución Política de los Estados Unidos Mexicanos – CPEUM).

\(^6\) CASTRO, Consuelo, Disposiciones Legales y Fiscales de las Organizaciones de la Sociedad Civil en México, CEMEFI, México, 2005.
That is, the legacy of an individual may state that upon his/her death an institution to be established in accordance with provisions in his/her testamentary will in which the person donates property or goods for charitable purposes.

While in the case of a Civil Association, two or more individuals are required to establish a CSO and, the founding members are able to state in the by-laws the requirements for association to an organization.\(^7\) Having a specific amount of property (capital or patrimonial) is not a requirement to obtain the legal personality or to register a CSO.

It is important to formally undersign the organizational purposes and to grant the formation, it is not necessary to provide specific categories of purposes or objectives, if and when all of them are licit. However, it is worth noting that in case that the organization wishes to enjoy certain fiscal incentives or public resources, they must necessarily perform some of the activities provided for in the legislation.

So, in case the organization wishes to have access to fiscal incentives (such as Income Tax exemption) or government subsidies, they must fit within the assumptions specified by the federal or local fiscal law that is applicable. Some of the participants mentioned the definition of their social purpose as a problem to formally be incorporated. According to the comments of some of the persons interviewed, this is due to the restrictions they have to adapt their corporate purpose to the fiscal legislation or to the promotion or development law, so when the opportunity arises, they may be authorized to receive tax-deductible donations, or be able to receive public funds.

An important topic to be considered is the name given to the organization. The power to authorize the use or change of the name of legal entities has been conferred upon the Secretariat of Economy (Secretaría de Economía) of the Federal Government. Should the name of the organization be rejected, a new name must simply be selected. Such rejection over the use of a name is due to the fact that such name has already been chosen, or could create confusion with an already existing name. In order to avoid this, a previous consultation to the application for the name can be done by visiting the following web page: \url{www.tuempresa.gob.mx}. The application is usually completed through a Notary of the Public. None of the organizations mentioned having any problem for the authorization of a name to form an organization.

A civil association is established, as mentioned before by at least two founders. As a formality, the founders have to draw up a written contract and bylaws to govern the life of the organization be agreed upon. The contract that gives life to the organization is to be notarized by a Public Notary, who will, later or, register in the Public Registry (Registro Público de la Propiedad).

In relation to the registration in the Public Registry for the establishment of an organization, of all the organizations consulted we have no formal knowledge of any case in which such registration has been rejected, nor have we any report indicating that is was a problem. The

\(^7\) Op. Cit.
founding members of an organization must provide their personal data and an official ID, and a suggestion is made to individuals interested in establishing an association to previously agree on the following:

**Description of the social purpose**

- a) Activities to comply with the corporate or social purpose
- b) Name of the founding members
- c) If available, the initial endowment
- d) Governing and administrative rules
- e) Integration of the supreme governing body that is called the General Assembly of Associates and address.

As mentioned above, in the case of a Private Assistance Institution (*Institución de Asistencia Privada - I.A.P.*), the same can be established not only during the life of the individuals but also through a Will. The private assistance laws in the states that consider such legal figure, have a local governing authority called Assistance Board (*Junta de Asistencia - JAP*) that closely supervises this kind of institutions. The JAP authorizes the incorporation of an IAP since the establishment it provides for legal personality as of the declaration by the JAP.

Neither a civil association nor a private assistance institution have a requirement to periodically renew the CSO’s registration. To obtain the legal personality, register or inscribe a CSO, or any corporation, Notarial expenses and duties charged by the Public Registry must be paid. The cost of the process to obtain the legal personality and register a CSO represents that notarial expenditures and notarial fees must be covered, and they vary in accordance to the state where such services are required. In the Federal District, for example, they amount to an average of nine thousand pesos ($9,000 pesos MxCy), with an approximate equivalent of six hundred and ninety two U.S. dollars ($692 USD⁸). The period of time in which the first notarial certified copy of the incorporation charter is received, is approximately one month, and to have it properly inscribed in the Public Registry, it may take approximately six months.

There are cases of collaboration agreements between the Government and the Notaries to ease the way for incorporation. An agreement entered into by the Secretariat of Social Development for the Government of Mexico City and College of Notaries for the Federal District (*Secretaría de Desarrollo Social del Gobierno de la Ciudad de México y el Colegio de Notarios del Distrito Federal - Mexico City*), is one of

---

⁸ Considering a rate of Exchange of thirteen pesos to one dollar.
them. It is through this agreement that notaries commit themselves to offer fee discounts to organizations. It would be desirable that such agreements were promoted both by the federal government as well as by the states governments.

In spite of the need to promote better economic conditions to incorporate organizations, it is important to note that an organization that is legally incorporated must foresee having the required resources for its operation: be able to contract an accountant, have staff contracts with the benefits provided by the law as well as those resources needed to comply with its purpose, among other. The lack of resources has been a seen as a barrier both for surveys as well as interviews.

In summary, to establish a CSO, following are the main steps that are required:

First: Apply before the Secretariat of the Economy (SE) of the Federal Government for an authorization to use of the Name (name) of the organization. This authorization may be required via internet. A Notary of the Public is also able to help in this process. Thus, usually the application for the use of a name is through a notary and simplifies the work of grassroot organizations that have no access to internet.

Second: Prepare the by-laws and obtain a notarial certification of them. This is done before a Public Notary. Before having the incorporation document registered at the Public Registry, the notary is able to provide certified copies so that the Association may continue with the fiscal process required.

Third: Register at the Federal Taxpayers Registry (Registro Federal de Contribuyentes – RFC) to obtain a Fiscal ID. This must be done at Local Legal Administration for Income of the Secretariat of the Treasury and Public Credit (Administración Local Jurídica de Ingresos de la Secretaría de Hacienda y Crédito Público - SHCP) of the federal government pertaining to the fiscal domicile of the Association. Some Public Notaries are also able to take care of this process on a provisional basis.

Fourth: (optional): Submit an application before the Tax Administration Service (Servicio de Administración Tributaria - SAT) at the Secretariat of the Treasury and Public Credit to obtain an authorization to receive income tax deductible donations.

Apart from all that need to be complied with to formalize the incorporation of a civil society organization, organizations have to comply with specific sectorial legislation (for example, regulations related to health, education, etc.). Also, in their operations, organizations have to comply with the standards contained in various legal provisions of civil, mercantile, social, fiscal and financial nature, among others.

---

9 This agreement can be consulted in the web page: www.consejeria.df.gob.mx
In relation to the perception that organizations have on how easy it may be to incorporate an organization, the survey carried out shows divided positions. On a question based on this topic, 51 per cent of participants considered that it was not difficult to form an organization. They add that when they follow the appropriate steps and requirements, it is a relatively easy process.

![Pie chart showing the difficulty of incorporating an organization](image)

**Is it difficult to legally incorporate an organization?**

- Yes 51%
- No 24%
- Partially 23%
- Other - 2%

On the other hand, an important percentage mentioned there is lack of information and lack of professionals to give enough support to organizations in this field, there is also bureaucracy, and high cost on Notarial fees.

There may be diverse reasons explaining the difference of opinion in relation to the difficulty to form an organization. One of them may be that urban organizations may find it easier to fulfill the necessary processes which the grassroot organizations find complicated in rural areas. Another reason may be that, in locations where private assistance institutions boards exist, ease of process may be less difficult to find, since respondents mention the support of the Private Assistance Board in the State of Sinaloa and the Jalisco Institute of Social Assistance having facilitated this process.

The capability of organizations to manage legal and fiscal requirements comes into play. An important part of those surveyed, as well as the personal interviews, show that the Public Notary whose assistance they sought, was not aware of the requirements that their by-laws must comply with according to the fiscal legislation. This lack of information was particularly referring to the description of their social purpose or object, and this created delays and additional processes to be authorized to receive tax deductible donations, which by the way are indispensable to obtain the necessary resources to fulfill their work.
Generally speaking, what barriers do you consider can affect the establishment of a CSO?

“That there is no public organization to guide the individuals to incorporate one by explaining which the existing options are, the requirements, etc. The fact that the services of a notary willing to cooperate to prepare the incorporation documents, the necessary processes to legalize the association, quite often is expensive.”

“... most of them is not aware a prior review of the incorporation document can be done at the SAT (Taxpayers Administration Service) which results in CSO’s need to notarize their bylaws 2 or 3 times [in order to obtain the authorization to receive tax deductible donations].”

Comments received in the survey.

The difficulty of having the by-laws initially adopted by the organizations at the time of their incorporation respond to the needs in later processes, became true for the participating organizations. However, it is worth noting that one of the solutions implemented by the fiscal authority, which most certainly is unknown for many individuals, is that Model By-Laws can be found in the SAT web page:

www.sat.gob.mx/terceros_autorizados/donatarias_donaciones/Paginas/autorizacion_donativos.aspx

1.2 Number of organizations and fields of action.

To be able to know the composition and dimension of CSOs in Mexico, several sources exist that give us a general idea on this sector. It is worth remembering that this paper has excluded the study of self-benefit organizations, such as professional organizations, or chambers of commerce that can also be incorporated as civil associations. Labor or trade unions, production or consumption cooperatives, religious associations, or mutual benefit associations were not included either.

Recently some important advances in statistical information on the not-for-profit sector have been made. At the Federal level, the National Institute of Statistics and Geography (Instituto Nacional de Estadística y Geografía - INEGI), undertook in an official manner a case study on the ‘Satellite Account of Not-for-Profit Institutions in Mexico’ (‘Cuenta Satélite de Instituciones Sin Fines de Lucro de México’), published in the year 2011. The study includes a spectrum of organizations that is larger than the one studied in this analysis. However,
among the most important findings in this detailed analysis of the non-profit Mexican sector, the dimension and economic impact of activities performed by non-profit organizations is found. The mentioned Satellite Account reports:

“In the year 2010, the GDP [Gross Domestic Product] of all the Not-for-Profit Institutions [ISFL - Instituciones sin Fines de Lucro] in Mexico, was 287,255 million pesos, amount equivalent to 2.30% of the national GDP. From that amount, 1.53% of the GDP of the ISFL was generated by public organizations that are ISFL, while 0.77% of the national GDP corresponds to the actions or the civil society organized in a not-for-profit manner (CSISFL, 2011).”

Other sources consulted for this study refer to the number of organizations registered in the Federal Registry of Civil Society Organizations (Registro Federal de las Organizaciones de la Sociedad Civil) and the number of organizations having authorization to receive tax deductible donations (hereinafter, authorized donees).

The Federal Registry of Civil Society Organizations was established as a result of the enactment of the Federal Law for Promotion of Activities performed by Civil Society Organizations (Ley Federal de Fomento a las Actividades realizadas por las Organizaciones de la Sociedad Civil) in 2004, hereinafter called Law on Promotion. According to this Law, the National Institute of Social Development (Instituto Nacional de Desarrollo Social - INDESOL), entity of the Secretariat of Social Development (Secretaría de Desarrollo Social - SEDESOL), is in charge of this registry. Usually, one of the requirements to compete for public funding is to have been the Federal Registry, which colloquially has been called Cluni.

In April 2014, the Federal Registry of Civil Society Organizations had 25,534 organizations registered. Table No. 1 shows disaggregate data on the number of organizations in each one of the 32 states of the Mexican Republic. On the other hand, the second column shows data on the population inhabiting each one of these states, and the third column shows the percentage represented by those state inhabitants in relation to the total population of the country. Finally, the fourth column has an estimate of the number of CSO that exist per every thousand inhabitants, in order to estimate the associative density for each state.

---

10 Apart from civil associations and private assistance institutions, the Satellite Account for not-for-Profit Institutions in Mexico includes, among other, religious associations, labor or trade unions, political parties, chambers of commerce, cooperatives, research centers, and universities.
Table 1.
Number of CSOs per state and associative density

<table>
<thead>
<tr>
<th>State</th>
<th>CLUNI</th>
<th>Number of Inhabitants</th>
<th>Associative Density (number of CSOs per 100,000 inhabitants)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Aguascalientes</td>
<td>306</td>
<td>1,184,996</td>
<td>25.8</td>
</tr>
<tr>
<td>Baja California</td>
<td>836</td>
<td>3,155,070</td>
<td>26.5</td>
</tr>
<tr>
<td>Baja California Sur</td>
<td>165</td>
<td>637,026</td>
<td>25.9</td>
</tr>
<tr>
<td>Campeche</td>
<td>190</td>
<td>822,441</td>
<td>23.1</td>
</tr>
<tr>
<td>Coahuila de Zaragoza</td>
<td>672</td>
<td>2,748,391</td>
<td>24.5</td>
</tr>
<tr>
<td>Colima</td>
<td>222</td>
<td>650,555</td>
<td>34.1</td>
</tr>
<tr>
<td>Chiapas</td>
<td>1,092</td>
<td>4,796,580</td>
<td>22.8</td>
</tr>
<tr>
<td>Chihuahua</td>
<td>822</td>
<td>3,406,465</td>
<td>24.1</td>
</tr>
<tr>
<td>Distrito Federal (Mexico City)</td>
<td>5,189</td>
<td>8,851,080</td>
<td>58.6</td>
</tr>
<tr>
<td>Durango</td>
<td>745</td>
<td>1,632,934</td>
<td>45.6</td>
</tr>
<tr>
<td>Guanajuato</td>
<td>721</td>
<td>5,486,372</td>
<td>13.1</td>
</tr>
<tr>
<td>Guerrero</td>
<td>536</td>
<td>3,388,768</td>
<td>15.8</td>
</tr>
<tr>
<td>Hidalgo</td>
<td>544</td>
<td>2,665,018</td>
<td>20.4</td>
</tr>
<tr>
<td>Jalisco</td>
<td>993</td>
<td>7,350,682</td>
<td>13.5</td>
</tr>
<tr>
<td>México</td>
<td>2,244</td>
<td>15,175,862</td>
<td>14.8</td>
</tr>
<tr>
<td>Michoacán de Ocampo</td>
<td>1,030</td>
<td>4,351,037</td>
<td>23.7</td>
</tr>
<tr>
<td>Morelos</td>
<td>623</td>
<td>1,777,227</td>
<td>35.1</td>
</tr>
<tr>
<td>Nayarit</td>
<td>283</td>
<td>1,084,979</td>
<td>26.1</td>
</tr>
<tr>
<td>Nuevo León</td>
<td>564</td>
<td>4,653,458</td>
<td>12.1</td>
</tr>
<tr>
<td>Oaxaca</td>
<td>1,552</td>
<td>3,801,962</td>
<td>40.8</td>
</tr>
<tr>
<td>Puebla</td>
<td>930</td>
<td>5,779,829</td>
<td>16.1</td>
</tr>
<tr>
<td>Querétaro</td>
<td>403</td>
<td>1,827,937</td>
<td>22.0</td>
</tr>
<tr>
<td>Quintana Roo</td>
<td>309</td>
<td>1,325,578</td>
<td>23.3</td>
</tr>
<tr>
<td>San Luis Potosí</td>
<td>345</td>
<td>2,585,518</td>
<td>13.3</td>
</tr>
<tr>
<td>State</td>
<td>CSOs</td>
<td>Population</td>
<td>Density</td>
</tr>
<tr>
<td>-------------</td>
<td>------</td>
<td>------------</td>
<td>---------</td>
</tr>
<tr>
<td>Sinaloa</td>
<td>371</td>
<td>2,767,761</td>
<td>13.4</td>
</tr>
<tr>
<td>Sonora</td>
<td>484</td>
<td>2,662,480</td>
<td>18.2</td>
</tr>
<tr>
<td>Tabasco</td>
<td>366</td>
<td>2,238,603</td>
<td>16.3</td>
</tr>
<tr>
<td>Tamaulipas</td>
<td>316</td>
<td>3,268,554</td>
<td>9.7</td>
</tr>
<tr>
<td>Tlaxcala</td>
<td>363</td>
<td>1,169,936</td>
<td>31.0</td>
</tr>
<tr>
<td>Veracruz</td>
<td>1,842</td>
<td>7,643,194</td>
<td>24.1</td>
</tr>
<tr>
<td>Yucatán</td>
<td>416</td>
<td>1,955,577</td>
<td>21.3</td>
</tr>
<tr>
<td>Zacatecas</td>
<td>294</td>
<td>1,490,668</td>
<td>19.7</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>25,534</td>
<td>112,336,538</td>
<td>22.7</td>
</tr>
</tbody>
</table>


The above Table shows that the largest number of CSOs is found in the Federal District, with 5,189 organizations. Next are, the State of México with 2,244, Veracruz with 1,842, Oaxaca with 1,552 and Chiapas 1,092. Considering the population criteria through the associative density indicator (i.e., the number of CSOs for every 100,000 inhabitants) the Federal District ranks first with over 58 organizations per 100,000 inhabitants, followed by Durango (45.6) and Oaxaca (40.8).

Map: Organizations with Cluni (May 2014)
The map above shows how entities such as Mexico capital, Mexico City (Distrito Federal) at the center has a large concentration of organizations with 5,189 that have Cluni or the Federal Registry with 58.6 of associative density (number of CSOs per 100,000 inhabitants).

The following chart provides an idea not only of the geographical distribution, but also of the amount of organizations that have registered as inactive, and considered as such until they comply with the obligation to submit their annual report to INDESOL.

Chart 1.

Source: Indesol
As mentioned before, another relevant source is the number of authorized donees (donatarias autorizadas - DA), organizations or trusts that have been authorized by the Tax Administration Service (SAT) of the Secretariat of the Treasury and Public Credit (SHCP) to receive tax deductible receipts.

To obtain such authorization associations must devote themselves to specific activities described in the fiscal legislation within the areas of assistance (charities), education, environment, human rights, scholarship grants, scientific and technological research, culture, entities that

<table>
<thead>
<tr>
<th>OSC CLUNI activas e inactivas...</th>
<th>CSO CLUNI active and inactive, as of May 23, 2014</th>
</tr>
</thead>
<tbody>
<tr>
<td>OSC CLUNI inactivas</td>
<td>CSO CLUNI inactive</td>
</tr>
<tr>
<td>OSC CLUNI activas</td>
<td>CSO CLUNI active</td>
</tr>
</tbody>
</table>
provide economic support to other organizations. In order to offer an idea of the growth on the number of donees, Table No. 2, below, reports the series for fiscal years 1995-2014.

Table 2.
Authorized Donees for the Fiscal Year (1995-2014)

<table>
<thead>
<tr>
<th>Year</th>
<th>Number of Authorized Donees</th>
</tr>
</thead>
<tbody>
<tr>
<td>1995</td>
<td>1,426</td>
</tr>
<tr>
<td>1996</td>
<td>2,714</td>
</tr>
<tr>
<td>1997</td>
<td>3,421</td>
</tr>
<tr>
<td>1998</td>
<td>3,948</td>
</tr>
<tr>
<td>1999</td>
<td>4,594</td>
</tr>
<tr>
<td>2000</td>
<td>5,044</td>
</tr>
<tr>
<td>2001</td>
<td>5,531</td>
</tr>
<tr>
<td>2002</td>
<td>5,681</td>
</tr>
<tr>
<td>2003</td>
<td>5,600</td>
</tr>
<tr>
<td>2004</td>
<td>5,432</td>
</tr>
<tr>
<td>2005</td>
<td>5,430</td>
</tr>
<tr>
<td>2006</td>
<td>5,754</td>
</tr>
<tr>
<td>2007</td>
<td>5,996</td>
</tr>
<tr>
<td>2008</td>
<td>6,364</td>
</tr>
<tr>
<td>2009</td>
<td>6,853</td>
</tr>
<tr>
<td>2010</td>
<td>7,004</td>
</tr>
<tr>
<td>2011</td>
<td>6,589</td>
</tr>
<tr>
<td>2012</td>
<td>7,632</td>
</tr>
<tr>
<td>2013</td>
<td>7,902</td>
</tr>
</tbody>
</table>

Source: Tax Administration Service (SAT), Secretariat of the Treasury and Public Credit (SHCP), Federal Government, Mexico.

Chart No. 2 shows that from the year 1995 to the year 2000, the number of authorized donees had clearly ascending rates of growth. In contrast, the last decade, from 2000 to 2010, the trend had a more unstable behavior, even suffering a decrease in their total number for several years. This may be explained by several factors: on the one hand, the change in administrative standards established by the fiscal authority has represented a larger amount of obligations, whose non-compliance, for several reasons, has had as consequence that some
organizations have lost, either temporarily or definitively, their prerogatives. As an example, late in the year 2005, it took almost six months to obtain the authorization to become a donee and, as can be seen, the amount of donees shows a significant decrease. It is worth noting that year after year, the authorization system has improved quite considerably in such a way that presently it may take approximately one month and it can be done electronically, something that can be reflected in the increasing growth.

The administrative changes reflect in the variation in the amount of authorized donees. For example, in year 2011, the obligation of an annual notice changed to be presented by electronic means instead of a written document. Therefore, there was a negative impact at the time such that, due to ignorance about the new provisions, many organizations lost their authorization to receive tax deductible donation.

Chart 2.
Historical trend in the number of DAs (1995-2014)

Source: Source: Tax Administration Service (SAT), Secretariat of the Treasury and Public Credit (SHCP), Federal Government, Mexico.

The following table shows the distribution of these organizations according to the field of action they cover. As can be seen, most of them, over two thirds, are performing charitable purposes.
Table 3.

<table>
<thead>
<tr>
<th>Type of Organizations</th>
<th>Total</th>
<th>Relative Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Charity Organizations</td>
<td>5246</td>
<td>66.4%</td>
</tr>
<tr>
<td>Educational Organizations</td>
<td>1116</td>
<td>14.1%</td>
</tr>
<tr>
<td>Scholarship Granting Organizations</td>
<td>142</td>
<td>1.8%</td>
</tr>
<tr>
<td>Cultural Organizations</td>
<td>564</td>
<td>7.1%</td>
</tr>
<tr>
<td>Libraries open to the Public</td>
<td>10</td>
<td>0.1%</td>
</tr>
<tr>
<td>Museums Open to the Public</td>
<td>34</td>
<td>0.4%</td>
</tr>
<tr>
<td>Scientific and Technological Organizations</td>
<td>185</td>
<td>2.3%</td>
</tr>
<tr>
<td>Environmental Organizations</td>
<td>223</td>
<td>2.8%</td>
</tr>
<tr>
<td>Organizations devoted to conservation or reproduction of protected or endangered species</td>
<td>8</td>
<td>0.1%</td>
</tr>
<tr>
<td>Entities exclusively devoted to provide financial support to other authorized donees</td>
<td>275</td>
<td>3.5%</td>
</tr>
<tr>
<td>Organizations that provide donations and their yields to public works or services</td>
<td>99</td>
<td>1.3%</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>7902</strong></td>
<td><strong>100.0%</strong></td>
</tr>
</tbody>
</table>

**Source:** Tax Administration Service (SAT), Secretariat of the Treasury and Public Credit (SHCP), Federal Government, Mexico.

According to the above Table, it is obvious that the largest number of authorized donees is performing activities of a charity type (66.4%). In a country where the largest number of people is in a situation of poverty or various types of vulnerability, it is not surprising that efforts and activities of the organizations are precisely directed to support the relief of such population. Table 4 shows a disaggregation of the number of authorized donees existing in each one of the states of the Republic, for the year 2013.
<table>
<thead>
<tr>
<th>State</th>
<th>Donees 2013</th>
</tr>
</thead>
<tbody>
<tr>
<td>Aguascalientes</td>
<td>89</td>
</tr>
<tr>
<td>Baja California</td>
<td>249</td>
</tr>
<tr>
<td>Baja California Sur</td>
<td>56</td>
</tr>
<tr>
<td>Campeche</td>
<td>28</td>
</tr>
<tr>
<td>Chiapas</td>
<td>106</td>
</tr>
<tr>
<td>Chihuahua</td>
<td>366</td>
</tr>
<tr>
<td>Coahuila</td>
<td>208</td>
</tr>
<tr>
<td>Colima</td>
<td>76</td>
</tr>
<tr>
<td>Distrito Federal (Mexico City)</td>
<td>2299</td>
</tr>
<tr>
<td>Durango</td>
<td>49</td>
</tr>
<tr>
<td>Guanajuato</td>
<td>263</td>
</tr>
<tr>
<td>Guerrero</td>
<td>50</td>
</tr>
<tr>
<td>Hidalgo</td>
<td>97</td>
</tr>
<tr>
<td>Jalisco</td>
<td>542</td>
</tr>
<tr>
<td>México</td>
<td>623</td>
</tr>
<tr>
<td>Michoacán</td>
<td>255</td>
</tr>
<tr>
<td>Morelos</td>
<td>123</td>
</tr>
<tr>
<td>Nayarit</td>
<td>32</td>
</tr>
<tr>
<td>Nuevo León</td>
<td>493</td>
</tr>
<tr>
<td>Oaxaca</td>
<td>135</td>
</tr>
<tr>
<td>Puebla</td>
<td>209</td>
</tr>
<tr>
<td>Querétaro</td>
<td>192</td>
</tr>
<tr>
<td>Quintana Roo</td>
<td>76</td>
</tr>
<tr>
<td>San Luis Potosí</td>
<td>134</td>
</tr>
<tr>
<td>Sinaloa</td>
<td>189</td>
</tr>
<tr>
<td>Sonora</td>
<td>228</td>
</tr>
<tr>
<td>Tabasco</td>
<td>36</td>
</tr>
<tr>
<td>Tamaulipas</td>
<td>137</td>
</tr>
<tr>
<td>State</td>
<td>Number</td>
</tr>
<tr>
<td>----------------</td>
<td>--------</td>
</tr>
<tr>
<td>Tlaxcala</td>
<td>40</td>
</tr>
<tr>
<td>Veracruz</td>
<td>316</td>
</tr>
<tr>
<td>Yucatán</td>
<td>169</td>
</tr>
<tr>
<td>Zacatecas</td>
<td>37</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>7902</strong></td>
</tr>
</tbody>
</table>

Source: Tax Administration Service (SAT), Secretariat of the Treasury and Public Credit (SHCP), Federal Government, Mexico.

The largest number of authorized donees is found with a fiscal address in Mexico City, followed by the State of Mexico, Jalisco, Nuevo León and Chihuahua.

The organizations registered at the Federal Registry compared with those that have a character of authorized donee, the highest concentration is located in both cases in Mexico city. Nevertheless, it is outstanding that while the largest number of organizations with the Federal Registry (Cluni) is found in the states of Veracruz, Oaxaca and Chiapas, the largest number of authorized donees is located in the main cities of the country: the Mexico City, the State of Mexico, followed by Jalisco, Nuevo León and finally Chihuahua.

We could venture to develop some hypotheses on the reasons for such occurrence. For example, the regime for authorized donees implies compliance with multiple fiscal obligations that those organizations lacking a certain developed capability and infrastructure find difficult to comply with. One of them is the obligation to submit a fiscal report prepared by an auditor authorized by the Secretariat of the Treasury. Now, it can be said, that this obligation will be eliminated next year. On the other hand, the fact that being able to survive by donations and offer the incentive that such donations be considered tax deductible for donors, when this area has no donors interested in tax deductibility, makes more sense for donors that are located in large cities. Nevertheless, these possibilities open new opportunities for study in future research projects.

Another comparison that is significant is the growth of donees compared to the organizations having the Cluni registration (see Chart No. 3). Starting with an analysis of data for the 2005-2013 data, it is evident that the rate of growth has been more evident in the organizations inscribed at the Federal Registry (organizations that have the Cluni inscription) with respect to the evolution of the number of authorized donees. Part of an explanation of this situation is found in the requirements for access to public resources, since access to federal government public resources invitations specify the requirement to have a Cluni registration.
Starting with these data that allow an approach to the composition and size of the not-for-profit sector in the country, we may conclude that even with the significant progress that the past few years has shown in public acknowledgement to this sector, for instance through the Federal Law on Promotion and fiscal incentives granted through the authorization to receive tax deductible donations, these data refer to a sector whose size is still small to serve the needs and challenges of a country with the dimensions of Mexico.

More decisive policies to favor a higher involvement by organized citizens in the public area is required. To establish the bases for growth, development and consolidation of this sector, the need to have a legal and fiscal framework that promotes and facilitates the creation and sustainable development has been identified; such framework includes having the Law on Promotion be a homologous and harmonized law amiable with other regulations such as the labor laws; expansion of the social purpose in organizations that may become authorized
donees by the Federal Income Tax laws such as organizations devoted to actions to adapt and mitigate the environment; and a more general acceptance of the Federal Registry called Cluni for various processes at the federal public administration.

Also considered is the importance of promoting associationism and civic participation at all levels of government, not only the federal government. In this sense, the state and municipal levels require better institutional frameworks capable of fostering, in an effective way, the involvement of citizens in the public sphere.

**Conclusions**

In conclusion, it is essential to have promotion and fostering be translated into a favorable institutional environment in the three levels of government (federal, state and municipal), by means of laws, public policies and actions that provide for the necessary conditions to produce a strong, professional and committed sector that can collaborate with the government in the construction of a fair, prosperous and solidary country.

**Summary of Key Topics**

- The need to have guidance, financial support, training to form organizations by professionals and governments.
- Replicate the experience of best practices carried out in some States to promote the incorporation of new organizations.
- The need to expand collaboration or the Colleges of Public Notaries for instance in collaboration with public entities, to reduce the cost of the incorporation of an organization.
- The need to expand agreements of the various governments with Public Notaries with the purpose of distributing information on the requirements that organizations need to comply with before the various agencies.
DIMENSION No. 2: OPERATION

CSO regulations in Mexico are not only extensive and diverse but also scattered in various laws, codes, etc. To discuss the way an organization operates, as mentioned in other sections, it is necessary to highlight the constitutional freedom of association right.

To have a better understanding of the existing regulations that pertain to the subject of organizational operation and the way in which the government intervenes, or not, it is important to discuss the differences between the regulations of Civil Associations and Private Assistance Institutions, since there are significant differences.

a) Civil Associations
For a Civil Association, the supreme governing body is the General Assemblies of Member Meetings. The organization enjoys a higher degree of independence in terms of administration with no interference of the government in issues such as the appointment of its internal government bodies, such as the board of directors.

In general, Civil Associations are not required to report to the government on their General Assemblies Meetings or the board of directors meetings unless required by a specific legislation for a certain purpose. Their by-laws establish the guidelines for their operation, such as the way to call for meetings, how to conduct meetings, and the topics to be discussed. Apart from what is indicated in the by-laws, the Civil Code indicates that the members may call an Assembly meeting according to the bylaws, and in extreme cases, as whenever a request is made by at least five per cent of the members, should it be the case, by a Civil Judge.

Although in principle, organizations have no requirement to notify the government on their meetings, their Meeting Minutes need to be certified by a Public Notary.

b) Private Assistance Institutions
In the case of Private Assistance Institutions (Instituciones de Beneficencia o Asistencia Privada - IBP or IAP), in accordance to the State law, founding members commit their assets to create one or several institutions. The by-laws also define the Board of Trustees (patronos), since they may be in charge of the legal representation and the administration or management of the institutions.

The activities of the Board of Trustees are clearly outlined in the law. Founding members themselves may also act as Board of Trustees. Other possibility is that the by-laws indicate which mechanisms are to be used for the appointment and substitution of Board of Trustees. Nevertheless, in some cases the Private Assistance Board (Junta de Asistencia o Beneficencia Privada - JAP), that is a local government entity, may appoint and remove the Board of Trustees; for example in the case that a person has been appointed to a position in the public administration.
In relation to their meetings, they also need be certified before a Public Notary and must be notified to the JAP.

The JAP is the local state body empowered extensively to influence the internal government of a private assistance institution, since it is the agency empowered to oversee and control them. It may even appoint delegates, inspectors, auditors, or temporary or permanent inspectors that are to visit and inspect the institutions.

To be able to perform a considerable number of operations or activities, IAPs are subject to authorization or approval by the JAP, and this condition may yield as a result a constant intervention in the life of the institution, given the multiple powers that the law on the subject has granted the JAP. IAPs must submit all kinds of periodic reports to the local government.

c) Government Reports

Depending on their activities, and on the legislation on the subject, organizations must submit reports to the authorities. For example, all individuals as corporations being considered tax payers they must, in principle, comply with all fiscal obligations contained in the legislation on the subject before the Tax Administration Service of the Secretariat of the Treasury and Public Credit (S.H.C.P.).

Those organizations having authorization to receive tax deductible donations (authorized donees), regardless of the legal figure they have adopted, either AC or IAP, must file reports of various kinds, some of them annual and some monthly, as well as submit an audited report prepared by an S.H.C.P. authorized certified public accountant. Very important is that authorized donees have an obligation to submit a fiscal opinion whenever their income rises above the two million pesos. However, as the year 2015, this obligation will disappear given that SAT systems are every day more precise in processing information received by electronic means, and the fiscal authority trusts that for its fiscal vigilance no external audits will be necessary.

During the months of November or December of each year, authorized donees must make available to the general public all information related to transparency, as well the use and destination of donations received during the fiscal year immediately ending. This must be done through an electronic platform.

On the other hand, in accordance with the fiscal legislation, they must publicly display at their offices all information related to the authorization as done such as by-laws, accounting, evidence (or certificate) of operations, as well as all information on financial statements and a roster of all managers and employees.

They must also notify of any change or modification on their by-laws, legal representative, or any other requirement that was considered to grant such authorization. This provision is not new, and organizations are familiar with this obligation.
There are other administrative requirements that affect the operation of CSOs. For example, authorized donees, in principle, must allocate all their assets exclusively to the fulfillment of their social purposes, and cannot distribute benefits among its members or to any person. Nevertheless, donations to other organizations are permitted, if and when they have been authorized to receive tax deductible donations, or are in payment for services truly rendered by individuals or corporations. This means that such individual or business had been contracted to provide specific services.

At the time of dissolution of the organization, the endowment must be transferred to other entities that have been authorized to receive tax deductible donations.

Another provision establishes that organizations must not exceed 5% of the donations received in administrative expenses. Although there have not been reported any authorization to receive donations revoked\(^\text{11}\).

CSOs that are registered at the Federal Registry (Cluni) are also required to offer information. Therefore, CSOs must submit an annual report on their activities and the use of public resources received, as well as on any change in their address, by-laws reforms, or changes to their internal governing body (Board of Trustees, or Board of Directors).

It is worth noting that there is no obligation for a civil association to be a authorized donee or to be registered in the Federal Registry (Cluni). Nevertheless, should any organization choose to be in any of these cases, such CSO must be aware of the obligations it bears.

CSOs must periodically notify the government for a myriad of other reasons, for example, whether they have obtained public funding or because their activity so demands.

As much as organizations are created out of the will of participants, generally speaking they may also be terminated for such reasons.

The reasons for a Civil Association to be dissolved or extinguished are due to the following:

a) The impossibility to achieve the purpose cannot be achieved according to the by-laws.

b) General agreement by the members.

c) The conclusion of the term provided by for its duration, and that it has fully complied with the social purpose it was created for.

d) For a decision ordered by the competent authority through a judicial process.

\(^{11}\) Article 110 of Income Tax Law Rules – (Reglamento de la Ley del Impuesto sobre la Renta)
In the case of a Private Assistance Institution, there are various causes for which it may be extinguished; such as the case in which the purpose becomes obsolete; or when the property involved is not enough to fulfill its purposes. However, above and beyond the decision of the founders or the board of trustees of a private assistance institution, the JAP Private Assistance Board, has the power to modify or extinguish it. The JAP may declare the authorization to dissolve an institution, whether by reasons considered in the Law, or by request of the Board of Trustees. In the case of extinction, another private assistance institution is to receive the property transferred, taking into consideration, as possible, the founder decision.

From the individual interviews we understand there is a concern that, although private assistance institutions are able to support the incorporation of an organization, their participation in the internal governance of an organization may be quite ample. In the words of one of the individuals interviewed, “there is no respect for their autonomy”.

Nevertheless, the considerations regarding each of the legal figures, 55% of the persons that participated in the survey, consider that documents requested by the government to permit operations is reasonable. And, in accordance with the following chart on perception of those interviewed, mostly oscillating between a level of moderate and mild surveillance, it indicates a 26%; that is, almost a third of them considers that government supervision is high.

![Pie chart showing the level of government supervision over CSOs](chart.png)

<table>
<thead>
<tr>
<th>Level of Supervision</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Moderate</td>
<td>40%</td>
</tr>
<tr>
<td>Low</td>
<td>34%</td>
</tr>
<tr>
<td>High</td>
<td>26%</td>
</tr>
</tbody>
</table>

The difference in opinions may be due to the fact that respondents are speaking as members of a private assistance institution, a charity, or a civil association. The former have less autonomy, since they must request authorization from the state’s entity called JAP (Private Assistance Board) on all kind of aspects, such as budgeting, entering into contracts, and even the dissolution, whereas civil associations do not have such limitations.

Conclusions
In Mexico there are two legal figures for incorporation: Civil Associations and Private Assistance Corporations. The former have a higher organizational autonomy whereas the latter are under strict surveillance and supervision by a government entity of the states where they are located (16 out of 32) having laws on the subject. Depending on the type of organization in case, organizations indicate a higher level of government supervision and surveillance.

**Summary of Key Topics**

- Organizations require guidance and professionalization for an improved operation and awareness of their rights and obligations.
- They need improved training on the regulations under which they operate.
DIMENSION No. 3: ACCESS TO RESOURCES

Mexico’s regulatory framework permits CSOs in Mexico to raise funds from the most diverse origins, whether private, public, national or international. This dimension is regarding access to resources mainly donations although we must be aware of the possibility that, apart from donations or funds, these organizations are able to have income from other sources, such as interests, leasing, or even commercial activities.

Upon the question of trustworthiness or consistency to obtain funds from government sources or private donors, the perception is that first place is taken by private donors.

<table>
<thead>
<tr>
<th>Source of Financing</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Government Funds</td>
<td>16%</td>
</tr>
<tr>
<td>Private Donations</td>
<td>62%</td>
</tr>
<tr>
<td>Other</td>
<td>10%</td>
</tr>
<tr>
<td>None</td>
<td>5%</td>
</tr>
</tbody>
</table>

Please find hereafter some peculiarities of each one of these sources that have been considered relevant.

a) Philanthropy

Philanthropic activities referred to in this section include not-for-profit activities directed to benefit the community. In this document, it is considered philanthropic organizations which are not created for the self-benefit of its founding members. Their purpose is to open its benefits to the population in general, and not to designate any beneficiaries in particular. In this sector it is possible to find organizations devoted to diverse fields of action, such as education, scholarship granting, culture, community development, science and technology, environmental, human rights, among many others. In Mexico there are corporate foundations but also there are corporate foundations, and also corporate philanthropic programs that, being part of a corporation, provide resources to philanthropic organizations aiming to contribute significantly to the communities and are not considered profitable.
However, in order to have development supported by citizens, there must necessarily be a philanthropic culture. That is, individuals must be willing to offer their resources, not only of an economic nature but also of their time and talent. In this sense, from the organization’s point of view, as can be seen in the following chart, in our country there are significant challenges.

CSOs in Mexico are allowed to receive funding not only from corporate philanthropy but also from individuals. Tax exemptions are granted to those developing philanthropic activities; in accordance with the field of action of the organizations they may be eligible of income tax exemption on their profits, as well as being able to receive tax deductible donations as will discussed in the section regarding the Dimension No. 9: Taxation System.

In order for organizations to receive tax deductible donations or grants, they need to be authorized by fiscal authorities and comply with all the specific requirements according to fiscal regulation. On the one hand, there is a limit on the percentage that can be tax deductible, whether the donor is an individual or a corporation. The percentage is restricted to 7% of profits¹².

“Many sources of funding require that the CSO has been in operation at least for the past five years, and recently established CSOs, which are the neediest, are thus excluded.”

“The image of institutions causes that people prefer to donate directly to the individual in need than to donate to an institution.”

“The percentage that corporations are able to deduct due to donations is very low for all present day needs.”

Comments obtained from our survey.

¹² Income Tax Law §27, 1
b) Government Funding

Governments, both federal and local, support CSE with public resources such as subsidies, donations, or any other type of economic support. Local support is very low and in some cases is provided jointly with the federal government. Regarding federal government support is generally provided by the Secretariats or Ministries. Among them we can mention Secretariat of Public Education (Secretaría de Educación Pública - SEP), Secretariat of Social Development (Secretaría de Desarrollo Social - SEDESOL), Secretariat of Economy (Secretaría de Economía - SE), Secretariat of the Environment (Secretaría de Medio Ambiente - SEMARNAT), Secretariat of the Treasury and Public Credit (Secretaría de Hacienda y Crédito Público - SHCP), to mention some of them.

The possibility to access public resources for CSOs is not new. Nevertheless, in the past decade, when the Federal Law for the Promotion of Activities Undertaken by Civil Society Organizations (The Promotion Law) was enacted in 2004, it served as a basis for granting federal public resources.

The Law establishes that organizations must be fostered and be able to access to public funds. As a matter of fact, in order for organizations to have access to federal public resources, a compulsory requirement in many of the public fund calls is to have been registered at the CSO Federal Registry (Cluni). Nevertheless rules of operation for public programs dictate specific criteria for the granting of resources by the various secretariats.

Also, in adherence to provisions in the Promotion Law, the Commission to Foster Activities by Civil Society Organizations (Comisión de Fomento de las Actividades de las Organizaciones de la Sociedad Civil) 13, composed by representatives from Secretariat of the Treasury and Public Credit, Secretariat of the Interior, Secretariat of Social Development, and Secretariat of Foreign Affairs must prepare and publish an annual Report on Fostering Actions and the Support and Encouragement Granted in favor of CSOs abiding by such Law. The report prepared by that inter-secretarial commission is also included as a section of the Annual Report that the President of Mexico delivers to Congress of the Union on the state of the nation.

---

13 The spirit of the Law to Foster is to facilitate the conditions for a better dialog among the sectors, government and CSOs. Thus the Law provides for the establishment of two dialog bodies that are key for transparency during the when applying the Law to Foster: the Commission to Foster the Activities of Civil Society Organizations and the Technical Consulting Board (Consejo Técnico Consultivo) for CSOs. The Commission was established to facilitate the coordination of the design, execution, follow-up, and assessment of actions and measures to Foster CSO’s activities.
As mentioned before, in principle there are funds that have been earmarked in the federal budget for specific programs which are subject to the rules of operation approved by the Legislative body, and according to which those resources can be allocated by means of public bidding. Those rules of operation can be consulted in the web page: www.coerresponsabilidad.gob.mx

Nevertheless, there are other items in subsidies and donations that remain open to discretionary spending by the agency of government unit, and which are not subject to the rules of operation.

Following, please find information contained in nine Annual Reports of the federal government with respect to the number of civil organizations supported and the amount of public resources received.

### Table 5.
**Number of Organizations with Cluni that received public resources 2005-2013**

<table>
<thead>
<tr>
<th>Year</th>
<th>Number of Organizations</th>
<th>Resources</th>
</tr>
</thead>
<tbody>
<tr>
<td>2005</td>
<td>7707</td>
<td>$1,232,992,843.06</td>
</tr>
<tr>
<td>2006</td>
<td>3124</td>
<td>$1,659,599,255.00</td>
</tr>
<tr>
<td>2007</td>
<td>2155</td>
<td>$2,201,282,340.00</td>
</tr>
<tr>
<td>2008</td>
<td>4493</td>
<td>$4,842,004,109.00</td>
</tr>
<tr>
<td>2009</td>
<td>3229</td>
<td>$3,199,205,283.00</td>
</tr>
<tr>
<td>2010</td>
<td>4110</td>
<td>$4,350,397,799.00</td>
</tr>
<tr>
<td>2011</td>
<td>5211</td>
<td>$4,565,365,343.00</td>
</tr>
<tr>
<td>2012</td>
<td>6016</td>
<td>$6,249,125,131.00</td>
</tr>
<tr>
<td>2013</td>
<td>9700</td>
<td>$5,408,922,719.00</td>
</tr>
</tbody>
</table>

Source: Internally prepared based on Annual Reports of Actions to CSO, 2005-2013.

Data registered in Table 5, nevertheless, requires clarification: not all resources reported by the federal government were allocated to not-for-profit civil society organizations. Amounts reported by the federal government also include resources to support of different kinds of
organizations engaged in agricultural, fisheries, producers, microenterprises among other fields. However, for CSO, generally speaking CSO must have the inscription of the Federal Registry in order to be able to participate in certain bidding processes of the federal government. In this sense, it is necessary to take rather cautiously the data derived from reports in order not to over-size the true magnitude of public resources received by civil society organizations.

With the purpose of approaching more precise information on federal public resources received by the not-for-profit sector, following is a chart showing the evolution of financial amounts reported by the Secretariat of Public Development, one of the most important entities in the public federal administration to lead public policies for enhancing the not-for-profit sector. As can be seen, in spite of being the branch of budget that provides most of the support to organizations, the amount of resources allocated had had registered a gradual annual increase which abruptly declined since the Promotion Law was enacted.

**Chart No. 4**

Financial support by the Secretariat of Social Development to organizations with Cluni registration (2005-2013)

Source: Internally prepared based on Annual Reports of Actions to Promote CSO 2005-2013.
The additional information that may well help to identify resources channeled to civil society organizations that are the purpose of the Promotion Law, are the resources distributed by the National Institute of Social Development (Instituto Nacional de Desarrollo Social - Indesol), which is dependent on the Secretariat of Social Development. This Institute has reported to have granted organizations the total amount of 290,167,950 in the course of the last year for (2013), which represents over one hundred million less than was distributed during 2012, when such amount reached 397,858,238 pesos.

It is important to mention that one of the main resources delivered to CSO is precisely through the Social Joint Investment Program (Programa de Coinversión Social) by the National Institute for Social Development as the responsible administrative unit. For the 2013 program, the total amount for CSOs added up to the amount of 322 million pesos, which provided support to CSOs in an average subsidy of $350,000.00 pesos per organization.

Within the institutional support provided by the Federal Government, apart from financial resources offered as subsidies and donations in cash, donations in kind, training, and consulting services are also considered.

The fifth article of the Promotion Law lists the following organization activities which, on adherence to the Law, must be encouraged.

I. Social assistance
II. Food support
III. Civic activities
IV. Legal assistance
V. Rural and indigenous development
VI. Promotion for gender equality
VII. Services to social groups with disabilities
VIII. Community development
IX. Support and promotion to human rights
X. Sports promotion
XI. Health care services
XII. Environmental protection
XIII. Educational, cultural, artistic, scientific and technological fostering
XIV. Improvement of economy for the relief of the poor.
XV. Participation in civil protection activities
XVI. Support to organizations creation and strengthening

XVII. Promotion and defense of consumers’ rights

XVIII. Strengthening of the social fabric and public safety

Nevertheless, the sector’s perception is that resources are insufficient and the donations and subsidies budget needs not only to be increased, but they also need to be subject to more transparent rules of operation and mechanisms for accountability. Another important issue is related to the timing in which resources are delivered and the period for the project to be implemented. When any financial support is approved, it must be spent in the course of the same year in which resources were received. However, resources are usually delivered with considerable delay, and very little time for project execution is provided. This can affect the efficiency and effectiveness of the results.

Therefore, the need quite often expressed by organizations is to have resources applied in a trans-annual basis. That is, that such resources need not be applied precisely in the course of the year in which they were received by the organization.

The perception is that support is limited or non-existent as shown in the following chart, where 45% of those surveyed indicated that funding is limited and a 20% indicate they are non-existent, although one third referred to have received government funding.

Apart from the Federal Law to Foster, as framework Law for promotion and regulation of CSOs, it is worth indicating that the main Law governing donations, subsidies and supports to CSOs in the Federal Law on Budget and Treasury Responsibility (Ley Federal de Presupuesto y Responsabilidad Hacendaria). For all purposes of federal government budgeting, the legal basis to prepare it is the above mentioned Law. Article second of this Law discusses donations, subsidies and supports to CSOs; thus this regulations must also be taken into consideration when analyzing the way in which the federal governments allocates resources to organizations.
In relation to the possibility of having organizations subject to public contracting, those cases would be subject to the same rules and regulations that any individual or corporation would be subject to, when a contract is assigned.

The fact that organizations are able to receive public funding, does not mean that CSOs are obligated to align their activities with the government priorities according to the objectives and goals included in the national, state or municipal development plans. However, if it is expected to obtain government subsidies or resources, the CSO projects have to be subordinated to government priorities and framed within the plans, programs and projects defined in accordance with the rules of operation, the criteria, guidelines or terms of calls for bids offering public resources, which are linked to budget development plans and budgeting objectives.

Complaints by organizations that have been expressed in surveys as seen in these answers, clearly pinpoints the conditioning for funding only a limited type of projects, and the decrease of resources. It is worth noting that this coincides with figures in Chart No. 4.

“[Governments] issue calls for bids although they do not have the necessary budget to support institutions submitting good projects.”

“Every time there are less government resources to support CSOs, and requirements to access them are, every time, broader.”

“Associations are seen as expenses objects and not as the work that the government should be doing.”

Comments obtained from survey applied.

c) **International Funding**

Another mean that organizations have to finance their activities, is to obtain resources coming from overseas. In our country, CSOs also look for the possibility to access international grantmaking if and when they are licit. Thus there is no additional criteria or requirement to access overseas funding sources.
There are no legal barriers to apply for international funding. Reporting requirements and recordkeeping should be complied with according to fiscal legislation. For instance, the donation receipts issued by authorized donees, are the same for whether it is a domestic or foreign donation.

On the other hand, it is important to mention there are very few bilateral or multilateral agreements facilitating access to international funding for CSOs. As of January 2994, Convention of the United States of America and the Government of the Mexican United States is one of them.

Article 22 of this Agreement provides for the possibility to have either individuals or corporations residing in the United States grant tax deductible donations to a not-for-profit Mexican institution, if and when deducted amounts come from income obtained in Mexico.

Although the opportunities offered by the Agreement have not been fully taken advantage of, it is taken into account by United States grantmaking foundations.

According to Reports by Authorized Donees (Reportes de Donatarias Autorizadas - RDA) official figures made public by the Secretariat of the Treasury and Public Credit have had a modestly ascending behavior, moving from a relative participation with respect to the total amount of donations mobilized of 5.15% to 6.7%, for fiscal year 2012 (RDA 2013).

<table>
<thead>
<tr>
<th>RDA</th>
<th>Total donations (overseas)</th>
<th>Total Donations</th>
<th>Percentage of overseas donations with respect to total reported</th>
</tr>
</thead>
<tbody>
<tr>
<td>2009</td>
<td>$1,696,945,600.00</td>
<td>$32,977,175,369.00</td>
<td>5.15%</td>
</tr>
<tr>
<td>2010</td>
<td>$1,551,868,754.00</td>
<td>$22,463,950,832.00</td>
<td>6.91%</td>
</tr>
<tr>
<td>2011</td>
<td>$1,942,502,357.00</td>
<td>$26,368,169,443.00</td>
<td>7.37%</td>
</tr>
<tr>
<td>2012</td>
<td>$2,037,440,707.00</td>
<td>$24,936,254,804.00</td>
<td>8.17%</td>
</tr>
<tr>
<td>2013</td>
<td>$2,207,583,751.00</td>
<td>$32,918,825,671.00</td>
<td>6.71%</td>
</tr>
</tbody>
</table>

Table 6. Total donations coming from overseas received by authorized donees. Authorized Donees Reports 2009-2013.

Source: Internally prepared based on reports by authorized donees, 2009-2013.
The “Federal Law for Prevention and Identification of Transactions with Funds from Illegal Sources” (Ley Federal para la Prevención e identificación de Operaciones con Recursos de Procedencia Ilícita) was recently enacted as well as the rules based on it. This implies there is a need to comply with new standards requiring donors, either individuals or corporations of domestic or foreign origin, to provide ample information, not previously required. Thus, for example, the legal representative of an overseas foundation must submit a copy of his/her ID (whether a passport, driver’s license, or any other). In case the organization is unable to obtain such information or document, the donation must be rejected according to article 21 of the above mentioned law. It is still too soon to determine the way in which resources obtained overseas will be now affected, and we hope donors will not object to providing the necessary information to support this new process.

“Actually, the anti-money laundering law, although acceptable in spirit, has determined that ALL donors willing to give donations in the amount considered within the concept of “vulnerable activities” and therefore are subject to extraordinary requirements.”

“International frameworks that are based on indicators are not in accordance with our realities in Mexico.”

Comments obtained from survey applied.

Organizations sense, according to the following chart, that the legal framework to mobilize resources is not favorable to them. In spite of the regulatory framework in which donations, funding obtained from other sources, activities permitting tax deductibility due to donations by corporations, and the flow of international resources is permitted, only 18% considered the legal framework enabling.
On the other hand, the scope on the future of the financing environment is split, as can be seen in the following chart, although it is biased towards a negative perspective of the scope.

**Legal framework support for resource mobilization**

- Effective 18%
- Moderately effective 22%
- Not effective 60%

**Do you see favorable changes in the financial environment at a national level?**

- Yes 54%
- No 33%
- Not know 11%
- Otro 2%

**Conclusions:**

One of the most important factors for which organizations find it difficult to maintain or sustain their work, is the lack of philanthropic culture in the country. Mobilization of philanthropic resources has diminished as well from overseas. On the one hand, there is a need to strengthen development skills or capabilities within the organizations for fundraising, whether individual, corporate, or foundation.
donations of a domestic or foreign origin. Government subsidies and donations need to be increased. And CSO are compelled to find other sources of income as well.

**Summary of Key Topics**

- Strategies to promote a larger national philanthropic culture.
- CSO training in fundraising skills and strategies from domestic and foreign sources.
- Increase public funding: Revert the process of federal and state public resources decrease for CSOs projects
- Increase government funding
- General granting of public funding, subject to CSO’s operation regulations
- Opportunities for support with resources to recently established organizations.
- Trans-annual funding by the government.
- Transparency and accountability in the granting of public funding
- Short, mid, or long term financing by national and foreign donors
- Creation of alliances by the corporate and the not-for-profit sectors for public purposes
- Earmarked funding by foundations and government for limited specific areas.
DIMENSION No. 4: FREEDOM OF EXPRESSION

The topic on CSOs possibility to freely express their opinions, as well as the regulations that guarantee this right, including access to internet, is discussed in this dimension.

In this sense, the Political Constitution of the Mexican United States guarantees the right to freedom of expression by any means, whether printed, by any electronic means (including internet). Transcribed hereafter are articles sixth and seventh of the agreement to the reform by means of decree that was published in the Official Journal on June 11, 2013.

Article 6. Expression of ideas shall not be submitted to judicial or administrative inquiry, except for the cases when such expression of ideas goes against the moral or third party’s rights, or causes perpetration of a felony, disturb law and order. The right of reply shall be exercised according to law. The State shall guarantee the right of information.

In order to guarantee the right to information, the Federation, the states and the Federal District, according to their powers, shall be ruled by the following principles:

I. All information in custody of any federal, state or local authority, entity or organ, is public. It may be reserved only temporarily due to public interest and according to the law. The principle of maximum disclosure shall prevail when interpreting this right.

II. Information regarding private life and personal data shall be protected according to law and with the exceptions established therein.

III. Every person shall have free access to public information and his personal data, as well as to their rectification, without the necessity to argue interest or justification.

IV. Free mechanisms to access information and review procedures shall be established. These procedures shall be formalized before specialized and impartial agencies, which shall have operational, managerial and decision making independence.

V. Government agencies shall keep their documents in updated administrative files, and shall disclose, through electronic media, the complete and updated information about the indicators of their management and the use of public resources.
VI. The law shall establish procedures for governmental agencies to disclose information concerning the use of public resources paid to natural or artificial persons.

VII. Failure to comply with these dispositions shall be penalized according to the law

The seventh article of the Constitution grants freedom of expression, very much like the sixth article above transcribed does, except that it refers to the freedom of writing and publishing any writ on any subject, with the condition that morals, third party rights, and public order be preserved. It is hereinafter transcribed:

Article 7. Freedom of writing and publishing writings on any subject is inviolable. No law or authority may establish censorship, require bonds from authors or printers, or restrict the freedom of printing, which shall be limited only by the respect due to private life, morals, and public peace. Under no circumstances may a printing press be sequestrated as the instrument of the offense.

The organic laws shall contain whatever provisions may be necessary to prevent the imprisonment of the vendors, newsboys, workmen, and other employees of the establishment publishing the work denounced, under pretext of a denunciation of offenses of the press, unless their guilt is previously established.

No law or authority may establish a prior censorship, nor can they restrict the freedom to distribute information, which has no other limitations than those provided for in the sixth article of this Constitution. In no case are goods employed for the distribution of information, opinions and ideas to be sequestered as an instrument of a crime.

Mexico has also ratified international treaties that also constitute important foundations on the public freedom of expression. This is how, in accordance with provisions in article 19th of the 1948 Universal Declaration of Human Rights, as of June 7, 1951, this date has been declared as the Day of Freedom of Expression in Mexico. Also, the International Covenant on Civil and Political Rights was adopted by Mexico in accordance with decree published in the Official Daily of the Federation on January 9, 1981, as well as the regional treaties on Human Rights.

Nevertheless, the right of freedom of expression may be restricted in certain circumstances to protect the rights and reputation of others, public morals, and public order. It is for such reason that the sixth article of the Constitution highlights that the expression of ideas must not be subject to any judicial or administrative inquiry, except in the case of an attack to morals, private life, or third party rights unless it is an offense or disturbs public order.
Thus, in principle, legal barriers on the right of expression for CSOs are minimal. Nevertheless, in accordance with bibliography consulted\textsuperscript{14} threats and other actions, including disappearances to hinder the information work have been denounced by media reporters.

It is also important to note that recently a Constitutional Reform in Telecommunications and Broadcasting has taken place, in order to strengthen the freedom of expression and information rights, and it was published in the Official Daily of the Federation on June 11, 1213. Among the regulatory reforms that took place ever since, the Federal Institute of Telecommunications (\textit{Instituto Federal de Telecomunicaciones – IFT}) was created. The Institute has a multi-sectorial composition and has the capacity to establish the technical criteria, and has powers to govern contents in the media. In the month of June of current year, discussions have taken place to decide on the regulations (\textit{secondary laws}) to telecommunications laws.

Some civil society movements have participated in public opinion as well as on discussions to this reform. We find here collectives such as \textit{Free Internet for All (Libre Internet para Todos)} (please visit \url{http://internetparatodos.mx/}) and #yosoyred (please visit \url{http://yosoyred.com/}). Their goal has been to avoid this reform imply a decrease on the freedom of expression related to issues like content censorship and blocking internet, twitter hashtags, blogs, or communities alleging national security reasons.

Organizations are, on the other hand, seeking that communications regulations permit the possibility to surpass the information technology and communication gaps existing in Mexico.

The topic of freedom of expression has for the past years been affected by circumstances that are not necessarily related to legal aspects. In spite of the constitutional guarantees mentioned above, the international treaties of which Mexico is signatory, and the means of telecommunication reform, freedom of expression in Mexico has been limited due to the situation the country is going through in relation to drug trafficking increase. Opinion leaders and reporters find themselves immersed in an environment of fear against retaliation by the drug cartels. Citizen safety is a circumstance that is directly linked to the capability of freedom of expression in the country. Newspaper notes are constantly denouncing this type of offenses. As an example, \textit{Animal Político} web site denounces that in the period running from the year 2000 through the year 2007, 70 reporters were assassinated by drug traffickers ((\url{http://www.animalpolitico.com/2012/05/van-70-periodistas-asesinados-en-12-anos/#axzz39OBymkm55}).

\textsuperscript{14} \textit{Report. Status of Freedom of Expression in Mexico presented by organizations before the Inter-American Commission on Human Rights - 128th Ordinary Period of Sessions.}
These deeds are due to situations or factors that, until now, had nothing to do with barriers in the legal framework on the subject. It is worth noting, that neither surveys nor personal interviews, in general, indicated the inexistence barriers for freedom of expression. Therefore, the following chart gathers the prevalence on non-existence or the existence of some barriers in this area, and only 5% referred the existence of multiple barriers.

<table>
<thead>
<tr>
<th>Are there any non-legal barriers limiting CSO capabilities to freely express their opinions?</th>
</tr>
</thead>
<tbody>
<tr>
<td>None</td>
</tr>
<tr>
<td>Some</td>
</tr>
<tr>
<td>Multiple</td>
</tr>
</tbody>
</table>

**Conclusions**

Exercising freedom of expression in our country is not only dependent on an adequate regulatory framework. Factors exist, such as organized crime that threaten communicators and tarnish the possibility of a total expression exercise and the right to information. On the other hand, the regulatory framework has evolved and it has recently seen an important Telecommunications Reform. Nevertheless, it is premature to assess the effect of its implementation on the practice of freedom of expression.

**Summary of Key Topics**

- Need to disseminate information on the progress and challenges produced by the recent Telecommunications Reform
- Create observatories to follow up the events and regulations that are developing regarding the exercise of freedom of expression.
- Ensure that civic spaces to exercise of the right of freedom of expression are not diminished by the recent telecommunications reform.
DIMENSION No. 5: PEACEFUL ASSEMBLY

Both domestic legislation and international treaties of which Mexico is a part, consider the right to peaceful assembly and association. Article ninth of our Magna Carta, that is Mexico’s Constitution, provide:

Article 9. The right to assemble or associate peaceably for any lawful purpose cannot be restricted; but only citizens of the Republic may do so to take part in the political affairs of the country. No armed deliberative meeting is authorized. No meeting or assembly shall be deemed unlawful which has for its object the petitioning of any authority or the presentation of a protest against any act; nor may it be dissolved, unless insults be proffered against said authority or violence is resorted to, or threats are used to intimidate or compel such authority to render a favorable decision.

In accordance with article 34 of the Political Constitution, citizen is to be understood as a person that has reached such status for being 18 years old, and has an honest means to support him/herself. Thus, should Mexican law be violated, or that individual has no honest means to support him/herself, citizen rights will be removed. This means that foreigners are able to participate in meetings if and when they have no political purpose, to avoid intervention in domestic issues.

The right to peaceful assembly includes labor unions. The undivided rights of freedom of expression and information; access to public information; public participation; defense of rights; peaceful protest, have been ratified by Mexico as a member of International Conventions and Treaties, such as:


Thus, in accordance with the Mexican legislation, individuals are free to meet for licit purposes and, therefore, only forbidden are those meetings with a purpose to affect public security and peace.
To accept and acknowledge a workers strike, prior notice must be submitted to Secretariat of Labor and Social Assistance (Secretaría del Trabajo y Previsión Social – STPS). The first step is to call on a strike. That is, there needs to be prior notice that should no agreement be reached, the strike would begin. In order to illustrate this point, the report by Secretariat of Labor and Social Assistance (informe de la Secretaría del Trabajo y Previsión Social)\textsuperscript{15} shows there were 9,122 calls to strike during 2013, of which a strike existed for 18 of them only. To initiate a workers strike, the call is a warning by the workers union that, should no negotiation favorable to the interest of workers be reached, the workers strike would take place. Thus, out of over nine thousand notices on a possible strike, only 18 became effective according to the above mentioned report.

Demonstrations, protests, or other means of public expression are also to abide by legal regulations, which support the freedom to carry them out, if and when their purpose is a peaceful one.

Whenever some demonstrations have turned aggressive or violent, governments have managed them through contention, as is explained below, and although in isolated cases individual police members have been involved in aggressions, police forces have a protocol that does not permit violent dispersion. It is worth to remember that tolerance to citizen demonstrations on the part of the government has not always existed in the Mexican contemporary history. It was particularly in 1968 that the government launched a violent repression of the student movement.

Nevertheless, as the regime has democratized itself demonstrations by the various social movements using demonstrations, street blocking, and sit-in protests are a daily experience, as is later exemplified, particularly for Mexico City dwellers. Recent examples of these demonstrations are those that daily take place in the city, like the one against the telecommunications initiative on April 8, 2014\textsuperscript{16}.

Minimal requirements are established by the General Law for the Public Security System (Ley General del Sistema de Seguridad Pública). And, initially, regarding the capital city, a 48-hour advance notice must be given to the Secretariat of Public Security for the Federal District (Secretaría de Seguridad Pública del Distrito Federal - SSPDF) to be able to prepare for the possible traffic problems in the City and guard these demonstrations. In other states, there are similar regulations, all of them based on the General Law for Citizen Security System, and the General Laws for Public Security in the states of Puebla, Jalisco, Tabasco, and State of Mexico to mention only a few. Limitations to the constitutional right of peaceful assembly are explained below.

According to newspapers, during the year 2012 Mexico City had a total of 7,319 demonstrations, while during the year 2013 there were 7,910\textsuperscript{17} against other states in the Republic where there were less demonstrations compared to those occurring in Mexico City, as is

\textsuperscript{15} Please visit reports in the web site for Secretaría del Trabajo y Previsión Social http://www.stps.gob.mx
\textsuperscript{16} La Jornada newspaper, April 28, 2014, p. 41
further ahead explained. With respect to Mexico City, given the everyday large amount of demonstrations, several legislative initiatives have been suggested in order to regulate demonstrations and try to have them take place in public areas, to avoid affecting the development of activities in various areas of the city. One of them was the Bill to Regulate Protests and Marches along Streets in Mexico City (Iniciativa con Proyecto de Decreto por el que se Crea la Ley que Regula las Manifestaciones y Marchas en Vía Pública en el Distrito Federal) was submitted by Partido Verde Ecologista on November 13, 2012. Nevertheless, and in spite of having certain support by the capital city dwellers suffering the effects of demonstrations, none of the initiatives so far have been successful.

Somehow, there seems there is a certain omission on exercising authority in relation to specific vandalism actions, which constitute local offenses, such a theft, damaging stores and third party property that eventually happen during demonstrations. Citizens are poorly informed on the course of the legal process against those committing vandalism actions. A recent sample of a failing legal process is the day that Peña Nieto President took office on September 1st, 2012. Police members detained members of the demonstration due to vandalism actions. In spite of having all the evidence in video recordings, for actions of theft, damaging stores and third party property, 56 of those initially detained were liberated and 13 individuals were prosecuted and taken to court, but no information was provided on media about the result of such court process.

On March 25, 2013 the Government of Mexico City published in their Official Gazette (Gaceta Oficial del Distrito Federal) the “Protocol for Police Actions of the Secretariat of Public Security to Control Crowds”. This instrument states that in case of a demonstration, police members must initially call the group members and advise not to block any streets or avenues; and as final option, should an individual with an disorderly, aggressive or violent conduct be detained, the use of force be considered to isolate and separate such individual from the crowd.

Such protocol has not been enacted by the Mexico City government, which is the location where demonstrations are more frequently organized, even by protesters or demonstrators against the government of other states. Such is the case of street and avenue blockings by a segregated section of the Teacher’s Union, Coordinadora Nacional de Trabajadores de la Educación (CNTE) that took place several days in the course of the year 2013. They were protesting against the Educational Reform, and causing traffic chaos in various parts of the city.

---

18 CNN note: “Manifestantes en 14 estados se unen a la protesta de la CNTE” September 11, 2013
where Mexico City authorities opted for permissiveness. CNTE blocked for 50 days the area of the Monument to the Revolution and immediate areas, and caused businesses to close and affecting the right to access to streets and sidewalks of individuals in the area.\(^{20}\)

The Constitution provides for situations in which the exercise of civil rights, such as the right of assembly, can be restricted, and such limitations imposed by the authority are conditioned to those cases in which public order is disturbed, and in which the rights are suspended as mentioned in the following article:

**Article 29.** In the event of invasion, serious disturbance of the public peace, or any other event which may place society in great danger or conflict, only the President of the Mexican Republic, with the consent of the Council of Ministers and with the approval of the Federal Congress, and during adjournments of the latter, of the Permanent Committee, may suspend throughout the country or in a determined place the guarantees which present an obstacle to a rapid and ready combatting of the situation; but he must do so for a limited time, by means of general preventive measures without such suspensions being limited to a specified individual. If the suspension should occur while the Congress is in session, the latter shall grant such authorizations that it deems necessary to enable the Executive to meet the situation. If the suspension occurs during a period of adjournment, the Congress shall be convoked without delay in order to grant them.

Decrees issued are not to restrict nor suspend the exercise of the rights of non-discrimination, acknowledgement of legal personality, right to live, personal integrity, family protection, name and nationality, the rights of children, political rights, freedom of thought, conscience and religion, the principle of legality and retroactivity, the prohibition of the death penalty, the prohibition of slavery and servitude, the prohibition of forced disappearance and torture, or the judicial guarantees that are indispensable to protect such rights.

Restriction or suspension of the exercise of rights and guarantees must be based and motivated by the terms established by this Constitution, and be proportional to the danger to be faced, always bearing in mind the principles of legality, rationality, proclamation, publicity and non-discrimination

When the restriction or suspension of the exercise of rights and guarantees terminates, be it because the term is completed or because it is so decided by Congress, all legal and administrative steps taken during that period must be immediately ineffective. The Executive cannot protest the decree by means of which Congress revokes the restriction or suspension.

\(^{20}\) Aldaz, Penelope and Ruth Rodríguez, “Se repliega la CENTE: Libera Vialidades” El Universal Newspaper, November 11, 2013.
Decrees issued by the Executive during the restriction or suspension are to be reviewed as a rule and immediately by the Supreme Court of Justice for the Nation, which must as soon as possible decide its constitutionality and validity.

The right of peaceful assembly that has been exposed above can be seen tarnished by the adoption of the so-called #LeyBala in the states of Chiapas, Puebla and Quintana Roo. This type of regulation is concerning because it allows police forces to use fire arms and other non-lethal weapons to disperse demonstrations.

On May 19 of current year the state of Puebla published in its official daily, the “Law to protect Human Rights and Regulate the Legitimate Use of Force by Members of the State Police Forces” (Ley para Proteger los Derechos Humanos y que Regula el Uso Legítimo de la Fuerza por parte de los Elementos de las Instituciones Policiales del Estado). This responds to a peaceful demonstration by dwellers of San Bernardino Chalchihuapan, a small town along the Puebla-Atlixco toll road, which was dispersed with 12 mm rubber bullets and other artifacts that produced around 50 wounded. They are undoubtedly are putting at risk individual guarantees and it is expected that with the support of other organizations and bodies, this trend will be reverted, probably among other reasons, by constitutional controversies.

“In the Puebla case, demonstrations by educators and producers that, opposing mine-extracting, hydraulic, and hydrocarbon pipe-laying projects, have already had three leaders detained for unclear reasons or for no reason at all. A law has also been decreed to allow police to even use fire arms to repress public demonstrations.”

Comments obtained from survey applied.

This recent topic has called the people’s attention. Nevertheless, the perception that freedom to demonstrate exists is prevailing. At the question posed below it can be seen that most of those surveyed considers there are no cases of violence, or there are some isolated cases against peaceful demonstrators. Only 6% mentioned that these were frequent and 11% accepted to be unaware on the topic.
This is also worth an analysis from the perspective of the international treaties or agreements of which Mexico is a part of, to be able to infer the intention of congruence with the constitutional guarantee of freedom of peaceful assembly.

Now referring to international instrument where Mexico is signatory, they are many and of diverse nature. Following are some of them, which in principle show the interest in the compliance with international standards related to human rights.

**Those of a Regional Nature:**

**Civil and Political Rights**
- Extradition Convention (OAS, Montevideo, Uruguay, December 26, 1933).
- Inter-American Convention on the Forced Disappearance of Persons (OAS, Belem, Brazil, June 4, 1999).

**Economic, Social and Cultural Rights**

**Prevention of Torture**

Are there cases of government violence or aggression against peaceful demonstrators?

- No 49%
- Some Cases 35%
- Frequently 6%
- Not know 11%
• Inter-American Convention to Prevent and Punish Torture (OAS, Cartagena de Indias, Colombia, December 9, 1985).

**Right of Asylum**

• Asylum Convention (OAS, La Habana, Cuba, February 20, 1928).
• Political Asylum Convention (OAS, Montevideo, Uruguay, December 26, 1933).

**Women Rights**

• Convention on the Nationality of Women (OAS, Montevideo, Uruguay, December 26, 1933).
• Inter-American Convention on the Granting of Civil Rights to Women (OAS, Bogotá, Colombia, April 30, 1948).
• Inter-American Convention on the Granting of Political Rights to Women (OAS, Bogotá, Colombia, May 2nd, 1948).
• Inter-American Convention on the Prevention, Punishment, and Eradication of Violence Against Women "Convention of Belem do Pará" (OAS, Belem do Pará, Brazil, June 9, 1994).

**Rights of Children**

• Inter-American Convention on Conflict of Laws Concerning the Adoption of Minors (OAS, La Paz, Bolivia, May 24, 1984).
• Inter-American Convention on International Traffic in Minors (OAS, México, D.F., March 18, 1994).

**Discrimination**

• Inter-American Convention on the Elimination of All Forms of Discrimination Against Persons with Disabilities (OAS, Guatemala, June 7, 1999).

**Those of a Universal Nature**

**Civil and Political Rights**


Economic, Social and Cultural Rights
- Convenio on Biological Diversity (UN, Rio de Janeiro, Brazil, June 5, 1992).

Torture
- Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (UN, New York, U.S.A., December 10, 1984).

Conclusions
Generally speaking, the freedom of peaceful assembly exists. Along the year, particularly in Mexico City, our capital city, thousands of demonstrations take place. CSOs perceptions are divided in relation to such freedom. On the other hand, because of recent events CSOs are alert to the steps that local governments have implemented in order to maintain public order, given the lack of governability in some locations due to insecurity created by organized crime. In this sense, one has to be aware of any law enactment that may go against the freedom of peaceful assembly.

Summary of Key Topics
- Following up the Laws that Regulate Public Order and act as observer of their implementation.
- Fostering the establishment of human rights organizations.
• Strengthening of organizations devoted to human rights.
DIMENSION No. 7: GOVERNMENT- CSO RELATIONS

The relations among Governments in the various areas, federal, state and municipal with CSO, are complex; this work is limited to the referral of some general topics for such relationship that may offer a general idea.

Generally speaking, the perception organizations have is mostly that of a harmonious relation. Nevertheless, one third considers it controversial and 8% even considers it antagonistic.

<table>
<thead>
<tr>
<th>How is the Government – CSO relation characterized?</th>
</tr>
</thead>
<tbody>
<tr>
<td>Harmonious 59%</td>
</tr>
<tr>
<td>Controversial 33%</td>
</tr>
<tr>
<td>Antagonistic 8%</td>
</tr>
</tbody>
</table>

There is no doubt that the growing importance of the CSO sector and its relationship with the various levels of government lies in the vocation of service CSOs have in order to collaborate to the social development of the country. The work performed by these organizations is reflected in the country’s Gross Domestic Product and in the Satellite Account for Not-for-Profit Institutions statistics kept by INEGI. The report indicates that Not-for-Profit Social Institutions represented 0.71% in 2008. The growing importance of CSOs in the economic area will permit a better government acknowledgment.

Flow of resources is not only directed from the government to CSOs, a topic that has been discussed in Dimension No. 3, but CSOs also devote resources to governments in their various levels. For instance, Fundación Gonzalo Río Arronte, I.A.P. (Gonzalo Río Arronte Foundation) has the mission to support public health. By serving its mission, this foundation reported in its Annual Activity Report for

---

21 ‘Cuenta Satélite de instituciones Sin Fines de Lucro de México’ INEGI, 2008
granting in a single year the amount of $181,136,286.50 pesos (approximately equivalent to $13,933,560.50 USD) to public health entities such as hospitals and specialty institutes.

Something that is also interesting about government-CSO relations is the possibility of participating in public policy making and the legislation process. In the course of a decade, the main political parties presented various initiatives for constitutional reform on the political system of the country. Academic institutions like CIDE, collective organized movements like the one called #ReformaPoliticaYa participated in the discussion and offered specific proposals by lobbying before the Legislative. In this sense, one of the results of the political reform published in the Official Daily on August 9, 2012, is to offer tools so that citizens or their organizations are able to exercise the right to submit bill projects before the House of Representatives, Congress, the local Congresses, and the Mexico City Legislative Assembly.

It is in this way that the possibility consigned in the Political Constitution of the Mexican United States exists for a group of citizens to submit a bill project before legislators, to be studied and discussed, and should it be the case, approved. Article 35 is herein transcribed:

**Article 35.** The citizen has the rights to:

VII. Initiate laws, as per the terms and with the requirements stated in this Constitution and the law of Congress.

According to the current text of Constitutional article 71, the right to initiate laws does not only correspond to the President of the Republic, the Members of the House of Representatives and Senators in the Congress of the Union; the States’ Legislatures, but also to the citizens in an amount equivalent to, at least, 0.13% of the nominal voters list, as per the terms of the laws. The nominal voters list refers to those voters having the voters’ registry ID, whose number is approximately estimated to be close to 76 million.

Secondary laws on articles which more clearly define the process to submit a citizens bill project, or one by the CSOs, are still pending being promoted by collective movements such as #Reformapoliticaya, and an important effort in the institutional architecture is needed

---

22 Informe Anual de Actividades 2012-2013 published by Fundación Gonzalo Río Arronte, México DF.
24 For further information, please visit:
http://sergioaguirre.wordpress.com/2011/06/12/articulos-y-documentos-sobre-reformasya-reformapoliticaya-y-acampadacongresomx/
so citizens and their organizations can effectively make use of the right to influence legislation process. Opportunities are slowly being opened to organized citizens themselves to submit bill projects. Based on the Constitutional Reform, on February 23, 2013 the first citizen initiative was submitted to the legislative, under the name “Internet para Todos”.

On the other hand, the last Reform to the Income Tax Law (December 2013) also creates an area for authorized donees to be able to undertake lobbying activities, if and when such activities are not paid and are not conducted in favor of individuals or sectors that have granted donations.

Apart for the regulatory framework permitting lobbying or influencing actions in public policies, institutionalized dialog mechanisms are transcendental to have CSOs participate in decision making processes.

There are diverse spaces that vary from public consultation, consultative forums, audiences, to multi-sectorial work groups. Possibilities are many. As an example reviewing all contents in the Indesol Bulletin that is published in the following web site: www.indesol.gob.mx is recommended. Nevertheless, it is frequent that organizations themselves are skeptical to the impact of their participation in such spaces. Institutionalized or formal spaces offer opportunities to participate in decision making processes, which adopt different forms. Among them, CSO participation is frequently presented through Committees or Consultative Boards.

In the past few years, Consultative Boards established by the federal government have represented a step forward in the consolidation of the government-civil society relationship. While its character is only to assess and not to deliberate, most of the organizations have a perception that a true incidence in public policies participation is far from being a reality. Most of the organization, a 45% of organizations consulted showed skepticism related to a possibility that government consulting with CSOs are translated into an effective influence, as can be seen in the following chart. However, a small margin of 42% shows that the opinion of the organization is that some decisions will consider such participation. Only 13% have the perception that the consultations are positive.

http://www.youtube.com/watch?v=HHgw7CNxxx8

25 Please visit: http://internetparatodos.mx/
The following phrase expressed during a personal interview, is representative:

“The Government does consult, but does not take you into consideration at all.”

Interview

In spite of the limitations, and given the advisory nature of the boards, these represent a certain threshold of opportunity for CSOs, particularly for those with an inclusive and representative character of the sector’s interests in the national area, to follow up on public policies and have an influence on them.

Given the short term the life of some of these boards have had, it would not be fair to offer concluding opinions on the favorable quality or the failure of these boards, particularly referring to the possibility of an effective participation in public policies. It is a fact, nevertheless, that those organizations that are more involved in dialoguing with the government are trying to improve participating mechanisms.

A mention must be made on the fact the Promotion Law establishes as a right for CSO to participate in public policies in accordance with its sixth article fraction XI. Derived from this law, two bodies that are of interest to organizations were created: (Commission for the Promotion of the Activities conducted by Civil Society Organizations (Comisión de Fomento de las Actividades de las Organizaciones de la Sociedad Civil) and the Technical Advisory Board of the Law on Promotion (Consejo Técnico Consultivo de la Ley de Fomento).
The Commission for the Promotion of CSO is composed by representatives from Secretariat of the Treasury and Public Credit (SHCP), Secretariat of the Interior (SEGOB), Secretariat of Social Development (SEDESOL) and Secretariat of Foreign Affairs (SRE), and its purpose is to facilitate the coordination in the design, implementation, follow up, and steps to foster CSO activities.

“Before this Law we had no information on how much the government supported organizations. Now, at least, they have an obligation to report.”

Interview

The second organization, the Technical Advisory Board (Consejo Técnico Consultivo), is an assessment and consultation body of an honorary type. It is composed by nine representatives from the academic, professional, scientific and cultural sectors; two representatives from the Federal Legislative Power, both the House and the Senate. They have a 3-year position. The purpose is to propose, render opinion, and issue recommendations related to administration, direction, and operation of the Registry, as well as render a joint report with the Commission of actions and policies of fostering CSO.

Ten years after enactment of Promotion Law, through clear and shady areas, some progress in the federal government-CSO relationship can be seen. According to article 12 in Law, Secretariat of Social Development (SEDESOL) is in charge of maintaining the link with Federal Public Administration agencies and entities in relation to gathering information on encouragement and support given to CSOs.

In the past regimes, governments have pretended to grant relevance to boosting citizen participation in public policies through the establishment of multiple Advisory Boards. The table below shows some of the government boards in which CSO representatives are integrated, in order to maintain the government-civil society relationship.
List of Boards with Civil Society Organizations participation at a federal level (selection).

<table>
<thead>
<tr>
<th>Board</th>
<th>Agency or Entity</th>
<th>Legal Framework</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Consejo Consultivo Ciudadano de Desarrollo Social</td>
<td>Secretaría de Desarrollo Social (SEDESOL)</td>
<td>AGREEMENT by which Consejo Consultivo Ciudadano de Desarrollo Social is established as a consulting body of Secretaría de Desarrollo Social.</td>
<td>DOF (Official Daily of the Federation) * 7-XII-1998 abrogated DOF 20-VI-2004</td>
</tr>
<tr>
<td>Consejo Consultivo de Desarrollo Social</td>
<td>Secretaría de Desarrollo Social</td>
<td>DECREE by which Consejo Consultivo de Desarrollo Social is created.</td>
<td>DOF 20-VI-2004</td>
</tr>
<tr>
<td>Consejo Técnico Consultivo (CTC)</td>
<td>Comisión de Fomento a las Actividades de las Organizaciones de la Sociedad Civil</td>
<td>Ley Federal de Fomento a las Actividades Realizadas por Organizaciones de la Sociedad Civil Regulations for Comisión de Fomento de las Actividades Realizadas por Organizaciones de la Sociedad Civil Regulations for Ley Federal de Fomento a las Actividades Realizadas por Organizaciones de la Sociedad Civil</td>
<td>DOF 9-II-2004 DOF 23-XI-2004 DOF 7-VI-2005</td>
</tr>
<tr>
<td>Consejo Ciudadano Consultivo</td>
<td>Sistema Nacional para el Desarrollo Integral de la Familia (SNDIF)</td>
<td>Ley de Asistencia Social Regulations for Consejo Ciudadano Consultivo del Sistema Nacional para el Desarrollo Integral de la Familia DECISION to publish a public bid to elect members of Civil Society Organizations (CSO) to become members of Consejo Ciudadano Consultivo del Sistema Nacional para el Desarrollo Integral de la Familia for the period 2006-2009</td>
<td>DOF 2-IX-2004 DOF 29-XI-2006 1-III-2007</td>
</tr>
<tr>
<td><strong>Description</strong></td>
<td><strong>Details</strong></td>
<td><strong>DOF</strong></td>
<td></td>
</tr>
<tr>
<td>-----------------</td>
<td>-------------</td>
<td>---------</td>
<td></td>
</tr>
<tr>
<td><strong>DECISION by means of which Consejo Consultivo Nacional and six Regional Consejos Consultivos are created.</strong></td>
<td></td>
<td><strong>21-IV-1995 Reforma 21-XI-2002</strong></td>
<td></td>
</tr>
<tr>
<td><strong>DECISION by means of which Consejo Consultivo Nacional, six Regional Consejos Consultivos and thirty two Consejos Consultivos Núcleo para el Desarrollo Sustentable are created.</strong></td>
<td></td>
<td><strong>14-III-2008</strong></td>
<td></td>
</tr>
<tr>
<td><strong>Consejo Nacional para la Prevención y Control del SIDA</strong></td>
<td><strong>Secretaría de Salud (SS)</strong></td>
<td><strong>DECREE by means of which Consejo Nacional para la Prevención y el Control del Síndrome de la Inmunodeficiencia Adquirida is reformed, and the one creating Consejo Nacional para la Prevención y Control del Síndrome de la Inmunodeficiencia Adquirida, published August 24, 1988 is abrogated.</strong></td>
<td><strong>DOF 3-VI-2001</strong></td>
</tr>
<tr>
<td><strong>Consejo Mexicano para el Desarrollo Rural Sustentable</strong></td>
<td><strong>Secretaría de Agricultura, Ganadería, Desarrollo Rural, Pesca y Alimentación (SAGARPA)</strong></td>
<td><strong>Ley de Desarrollo Rural Sustentable</strong></td>
<td><strong>DOF 7-XII-2001 Reforma 02-II-2007</strong></td>
</tr>
<tr>
<td><strong>Consejo Nacional de Participación Social en la Educación (CONAPASE)</strong></td>
<td><strong>Secretaría de Educación Pública (SEP)</strong></td>
<td><strong>Secretarial Decision number. 260</strong></td>
<td><strong>DOF 13-VIII-1999</strong></td>
</tr>
<tr>
<td></td>
<td></td>
<td><strong>Internal By-laws for CONAPASE</strong></td>
<td><strong>DOF 2-XII-1999</strong></td>
</tr>
</tbody>
</table>
One of the most recent participation areas is “Mechanism for the Dialogue of Civil Society Organizations” (Mecanismo de Diálogo de las Organizaciones de la Sociedad Civil) sheltered by Secretariat of the Interior in accordance with Decree published in the Official Daily of the Federation in the year 2012. Outside of organizing some events, in practice this space has not been able to the desired results to enable a better framework for organizations. This means that no public policy can be attributed to negotiations by this means so far.

Another aspect of interest refers to the possibility of having CSOs participate in the political or electoral process. Although the political electoral reform is forthcoming, it may be said that CSOs in Mexico have limitations in their possibility to participate in political-electoral activities, particularly when they receive public subsidies or incentives.

Organizations authorized to receive tax deductible donations, or those inscribed in the Federal Registry in accordance with Law on Promotion, are banned from participation in political party activities, including electoral processes.

Organizations receiving no government incentives or encouragement sometimes participate as observers in electoral processes, and they receive great visibility and produce an impact, as is the case of Alianza Cívica, A.C.

“Every 6-year term begins with new practices and provisions; but processes have not been institutionalized and there is no continuity.”

“Only a few government instances have accepted a dialog; other (ex.: SAGARPA) do not even take into consideration the work performed by CSOs. In SEDESOL, it takes place through INDESOL and the Collegial Body [Technical Consultive Board] created by the Promotion Law; in SEGOB, it is beginning through Mecanismo de Vinculación; at SSA, through CSOs recognized with the Acción Voluntaria y Solidaria Award.

“This is frequently sterile; a lot of word, few proposals, and nothing gets done. Little importance is given to CSOs needs.”

Comments taken from interviews.
Conclusions

Perception on the Government relations is divided. The general view coincides that the Government has a controversial and even antagonistic relationship. But there are organizations that perceive the relation as one of cooperation and harmony.

Summary of Key Topics

- Promote effective mechanisms for CSO participation that allow participation in public policies
- Organizations’ participation in federal and state governments budgeting
- Increase Government transparency and accountability for funds granted
- Increase fostering by state governments
- Avoid discretion making in public funds granting by subjecting them to CSO rules of operation
- Increased government-CSO collaboration through alliances and agreements
DIMENSION No. 9: TAXES / TAXING SYSTEM

In the Mexican taxing system, income tax is one of the major contributions to tax collection that the Government uses to support public expenditures. In the Income Tax Law determines the contributions to be levied to either individuals or corporations.

One of the strategies employed by the government to stimulate specific sectors, according to their importance, is tax reduction or exemption. In this section, an a general explanation of such tax incentive to CSO is given.

Depending on the type of organization, fiscal incentives and certain type of prerogatives may be provided. Title III of the Income Tax Law refers to Not-for-Profit Organizations. Article 79 describes those organizations that are, in principle, considered as tax exempted, among which some CSOs such as associations for neighborhood development, author’s rights, professional colleges, labor unions, among other are included.

Also included in this section of the Law are not-for-profit organizations with activities that because of the benefit to the community, apart from being tax exempted, are eligible to receiving tax deductible donations in compliance with the established requirements. These institutions are usually called “authorized donees”, and they are not-for-profit associations, private assistance institutions or trusts that have been authorized by the Tax Administration System (Sistema de Administracion Tributaria - SAT). In the fiscal year of 2013, over all the country only 7,902 associations hold such status. This represents approximately seven organizations for every 100,000 inhabitants.

Donees cannot distribute their profits and, in case of dissolution, their endowment must be transferred to another authorized donee. Should there be a case that it is also inscribed in the Federal Registry, in accordance with the Law on Promotion, whenever liquidated it must also transfer all its properties to a donee that is as well registered in the Federal Registry.

Thus, tax exemptions are only granted to certain CSO categories. The Fiscal Reform that recently took place, as well as the last reform to the Income Tax Law that was published in the Official Journal on December 11, 2013. As a result of this reform to the Income Tax Law, the corporate purposes to accept authorize donees were expanded.

The following CSO categories can be authorized to receive tax deductible donations:

A) Welfare institutions whose population is composed by individuals, sectors and regions, with low income, native communities or age, gender, or handicapped vulnerable groups, whose activities are centered in:
   • Serving the basic subsistence requirements for food, clothing or shelter.
   • Medical assistance or rehabilitation.
   • Legal assistance.
• Alcohol and drug addicts rehabilitation.
• Funeral services support.
• Social consulting on health, family, food, or the prevention of intra-family violence.
• Eliminate economic exploitation to children, dangerous labor for children, and promote education or training for labor.
• Support for the development of native peoples and communities.
• Provision of services to serve social groups of handicapped individuals.
• Actions to promote an improvement in popular economy.

B) Social development:
• Promotion to citizens’ organized participation in actions to improve their own subsistence conditions to benefit the community, or the promotion of actions related to citizen security.
• Support to defend and promote human rights.
• Civic activities oriented to promote citizen participation in public interest issues.
• Promotion to gender equality.
• Promotion of sustainable development at a regional and community level, in urban and rural areas.
• Participation in civil protection actions.
• Rendering support services to create and strengthen CSOs in agreement with Federal Promotion Law.
• Promotion and defense of consumers’ rights.

C) Educational, that have been authorized or have official validity recognition as per the terms of the General Education Law

D) Scientific or technological research institutions inscribed in the National Registry of Scientific and Technological Institutions

E) Cultural

F) Environmental
• Wildlife conservation
• Support to natural resources benefits
• Environmental balance preservation and restoration
• Environmental education

G) Scholarships

H) Grant making entities of other authorized donees
I) Support to public works and services, through agreements with public entities

One of the changes that has been seen along the past years, has been the provision of more open information to the general public on the procedure to receive tax deductible donations, and it may be consulted in the following web site: www.sat.gob.mx/terceros_autorizados/donatarias_donaciones/Paginas/autorizacion_donativos.asp

Apart from having informative texts, it contains a sample of for by-laws that may serve as model for other organizations. While this research was taking place, the specialized telephone line service was established.

CSOs have the possibility to support themselves through various income sources: donations, subsidies, investment interests, sale or lease of real estate property, as well as self-generated resources such as the sale of services or products.

Organizations authorized to receive tax deductible donations have some limitations. However, authorized donees may perform activities that are complementary to their purpose, as long as all the income received is devoted to fulfill such purpose. Article 80 states that:

*Corporations and trusts that have been authorized to receive tax deductible donations may also obtain income for activities that are different to the purpose that created them, if and when such income does not surpass 10% of their total income in the fiscal year in question. Not considered as income for activities different to those specified, those received as donations, support or encouragement provided by the Federation, by federal entities or municipalities; by the sale of their property in their assets or intangibles; membership fees; interests; patrimonial rights derived from intellectual property; temporary use or beneficial use of real estate property; or yields obtained from stock or other credit titles sold to investors in accordance with the terms which by means of general character rules are determined by the Tax Administration Service. In case that income not related to the purpose for which the organization was created, in order to receive such donations that exceed the indicated limitation, the mentioned corporations are to consider the income tax that corresponds to such excess, in accordance with provisions in the above paragraph.*

Thus, donees must pay income tax in case income due to activities not related to their corporate purpose is received; that is, whenever their commercial activities surpass 10% of their income. In spite of the issuance of the Decree that compiles miscellaneous fiscal benefits and provides for administrative simplification measures published December 26, 2013, the same indicates that tax exemption to support the economy for these organizations will become effective until the year 2015.

Given the recent Fiscal Reform, the feasibility of short term changes in provisions in the Law itself is rather low. Nevertheless, changes directed to an improved administrative simplification are expected. For example, the obligation to submit a fiscal opinion by an authorized CPA will be
eliminated in the year 2015. Expected is also a modification to the Regulations to the Income Tax Law. Nevertheless, the initiative has not yet been known. Expected is the possibility to have one of the changes refer to the 5% limitation on administrative expenses that is allowed for authorized donees.

Apart from the income tax there are other taxes and duties that are of interest to CSOs. This is the case of the Value Added Tax (IVA) and custom duties for foreign trade operations.

Regarding the Value Added Tax, all activities related to sale of property, rendering of services, granting temporary use of property, that is rentals, and property or services importation, are subject to taxation.

It is for this reason that, regardless of the type of organization in question, whenever any of the mentioned activities are performed, unless tax exempted, the Value Added Tax must be paid.

There are also Value Added Tax exemptions. According to articles 8 and 15 of the Law in question, the following activities are not taxed:

a. Those rendered without charge, except when beneficiaries are the members, partners or associates of the corporation rendering the service.

b. Those given to its members as regular collaboration for their fees, if and when the services rendered are only related to their own purposes. In the case of civil associations or societies, organized for scientific, political, religious and cultural purposes; except for those that render services in sports facilities when the value of these represent over 25% of the total in the facilities.

c. Public entertainment

d. Professional services in the field of medicine, when rendering such services requires a professional MD title in accordance with the law, if and when those services are rendered individually or through civil societies.

Organizations may also be subject to tax exemptions on foreign trade taxes, that is from donations in kind received from overseas; if and when the appropriate requirements and procedures are complied with. There is even a mechanism for donation through the federal fiscal office, by means of which not only is the tax exemption permit in an expedite manner but also import processes are simplified and the need to have a customs broker may be avoided.

On the other hand, apart from federal or national taxes, CSOs are also subject to local taxes, both state and municipal. Among those taxes is the property tax, the payroll tax, the real property acquisition tax. On the possibility for organizations to have access to incentives on these taxes, it may be said that, the various states composing the Mexican Republic, organizations that have been incorporated as private assistance institutions, have received the payroll tax deduction.

Civil society organizations, both civil associations and private assistance institutions, located in the Federal District may have access to a 100% tax reduction for Federal District taxes, such as property tax, acquisition of real estate tax, and payroll tax, according to articles 283 and 282 of the
Fiscal Code for the Federal District. Some states in the country, like Sinaloa and Jalisco, offer only payroll tax exemption.

In relation to the states, organizations do not provide in their comments, or in the survey or the personal interviews, the possibility to have local governments grant incentives, and comments are only referred to the federal government.

Although there has been significant progress in the above mentioned topics, the mention of specific items, like those following, is highlighted as expressed in the following comments:

“Increase fiscal incentives and establish less restrictions to possible donors, to reward those that help.”

“Tax deductible receipts must favor donors, to make donation attractive.”

“Eliminate non-deductible expenses representing benefits granted to workers; expand the 5% for administrative expenses; and increase the 7% limit on corporate donations, that corporations offer from their profits, to donees.”

Comments received during survey.

Conclusions:

The taxing system CSOs are subject to, has a direct impact on their sustainability. As an example, to be considered an authorized donee and have the possibility to receive fiscal incentives like offering corporate deductibility on donations, either for companies or individuals, is fundamental to obtain resources to perform and comply with works and services proposed. Progress has been made towards administrative simplification to obtain such authorization, such as expanding corporate purposes, distribution of a by-laws model, having an orientation and guidance hotline, a shorter processing time. Nevertheless, some important challenges are still to be solved, such as the difficulty to obtain work accreditation evidence on the part of government entities. The growing trend to increase fiscal obligations and the difficulties to comply with them, may hinder the achievements that have so far been reached.
Summary of Topics

- Expand or eliminate the 5% limitation expenses permitted for administrative purposes
- Increase the 7% that corporations grant from their profits to donees
- Eliminate non-deductible expenses on benefits granted to workers
- Acceptance of Cluni as accreditation for work in the process to obtain the authorized donee status
- Increase administrative simplification

GENERAL CONCLUSIONS

In the field of institutional development, Mexico is a country with a large diversity of organizations. Some states in the Republic have an extremely reduced number, or are devoted to everyday tasks with no immediate preparation or interest to participate in the agenda to improve the regulatory framework for the sector, or participate in public policies.

The perception of people surveyed or interviewed for this work, showed a variety of answers not only due to personal experiences but also to information such person may have. Related to perception regarding challenges faces by the sector with respect to the regulatory framework that may encourage its development has been in many cases dissimilar.

Nevertheless, if each one of the dimensions is analyzed, generally speaking the environment seems to be enabling or partially enabling for the development of organizations, as they identify the challenges that in the future represent reachable areas of opportunity.

This research compiles novelty data and information that allow the view of new horizons and challenges, and to propose positions in which a common front is sought by creating the necessary synergies by means of the expression of the various dimensions tackled.

In summary, this study offers a space for opportunity and continuity for exchange and reflection to perform joint actions in the future.
IV BIBLIOGRAPHY AND SOURCE DOCUMENTS CONSULTED

A) BIBLIOGRAPHY

Acuerdo la Secretaría de Desarrollo Social del Gobierno de la Ciudad de México y el Colegio de Notarios del Distrito Federal


CASTRO, Consuelo, Disposiciones Legales y Fiscales de las Organizaciones de la Sociedad Civil en México, CEMEFI, México, 2005.


Informe de Actividades 2012-2013, Fundación Gonzalo Río Arronte, I.A.P., México 2013


PIÑAR MAÑAS, José Luis (director) et. al., *El Tercer Sector Iberoamericano: Fundaciones, asociaciones y ONGs*, Tirant Lo Blanch, España, 2001.


B) LEGISLATION CONSULTED:

- Código Civil para el Distrito Federal (CCDF)
- Código Civil de los Estados Unidos Mexicanos
- Código Civil (CC) del Estado de:
  - Aguascalientes
  - Durango
  - Nayarit
  - Sonora
  - Baja California
  - Guanajuato
  - Nuevo Leon
  - Tabasco
  - Baja California Sur
  - Guerrero
  - Oaxaca
  - Tamaulipas
  - Campeche
  - Puebla
  - Tlaxcala
  - Chiapas
  - Jalisco
  - Querétaro
  - Veracruz
  - Chihuahua
  - México
  - Quintana Roo
  - Yucatán
  - Coahuila
  - Michoacán
  - San Luis Potosí
  - Zacatecas
  - Colima
  - Morelos
  - Sinaloa
  - Hidalgo
- Código Administrativo del Estado de Chihuahua (Cod. Adm. Chihuahua)
- Código Fiscal de la Federación
- Constitución Política de los Estados Unidos Mexicanos
- DECRETO que compila diversos beneficios fiscales y establece medidas de simplificación administrativa publicado en el Diario Oficial de la Federación.
- Informe. Situación de la Libertad de Expresión en México que presentan organizaciones a la Comisión Interamericana de Derechos Humanos en su 128º Periodo Ordinario de Sesiones, julio 2007, México.
- Ley Aduanera
- Ley del Impuesto al Valor Agregado
- Ley del Impuesto Sobre la Renta (LISR)
- Ley de Instituciones de Asistencia Privada para el Distrito Federal (LIAPDF)
- Ley de Instituciones de Asistencia Privada del Estado de México (LIAP México)
- Ley de Asistencia Social y Privada para el Estado de Quintana Roo
- Ley de Instituciones de Beneficencia para el Estado de Baja California (LIBP BC)
- Ley de Instituciones Beneficencia Privada del Estado de Nuevo León
- Ley de Instituciones de Asistencia Privada del Estado de Campeche
- Ley de Instituciones de Asistencia Privada para el Estado de Guerrero
- Ley de Instituciones de Asistencia Privada del Estado de Michoacán
- Ley de Instituciones de Beneficencia Privada para el Estado Libre y Soberano de Puebla (LIBP Puebla)
- Ley de Instituciones de Asistencia Privada para el Estado Libre y Soberano de Puebla (May 19, 2014)
- Ley de Instituciones de Asistencia, Promoción Humana y Desarrollo Social Privadas del Estado de Oaxaca (Decreto 312 Oaxaca)
- Ley de la Junta de Asistencia Privada del Estado de Chihuahua
- Ley para el Fomento y Regulación de las Instituciones de Asistencia Privada del Estado de Querétaro
- Ley sobre Fundaciones y Asociaciones de Beneficencia Privada para el Estado de Durango
- Ley del Impuesto al Valor Agregado (LIVA, or, in English, VAT)
- Ley de Inversión Extranjera
- Ley General de Cambio Climático
- Ley General de Educación
- Ley General de Títulos y Operaciones de Crédito (LGTOC)
- Ley General del Sistema de Seguridad Pública
- Ley Federal de Fomento a las Actividades Realizadas por Organizaciones de la Sociedad Civil (Federal Law for the Promotion of Activities Undertaken by Civil Society Organizations) (Promotion Law) [Spanish] [English]
- Ley de Fomento a las Actividades de Desarrollo Social de las Organizaciones Civiles para el Distrito Federal (LFADF)
- Ley de Fomento a las Actividades de Bienestar y Desarrollo Social para el Estado de Baja California
- Ley de Fomento a las Actividades de las Organizaciones Civiles del Estado de Morelos
- Ley de Fomento a las Actividades de las Organizaciones Civiles del Estado de Tamaulipas
- Ley de Fomento a las Actividades de Desarrollo Social de las Organizaciones Civiles para el Estado de Veracruz-Llave
- Ley que Regula el Otorgamiento de Recursos Públicos a las Organizaciones Sociales del Estado de Tlaxcala
- Ley de Fomento a las Actividades Realizadas por la Organizaciones de la Sociedad Civil en el Estado de Zacatecas y sus Municipios
- Ley de Monumentos sobre Monumentos y Zonas Arqueológicos, Artísticos e Históricos
- Ley para Proteger los Derechos Humanos y que Regula el Uso Legítimo de la Fuerza por parte de los Elementos de las Instituciones Policiales del Estado
- Ley que Crea el Instituto Nacional de Bellas Artes y Literatura
- La Ley para la Protección de Personas Defensoras de Derechos Humanos y Periodistas
- Reglamento del Código Fiscal de la Federación
- Reglamento de la Ley del Impuesto al Valor Agregado
- Reglamento de la Ley del Impuesto Sobre la Renta (RLISR)
- Reglamento de la Ley Federal de Fomento a las Actividades Realizadas por Organizaciones de la Sociedad Civil
• Reglamento para las Instituciones de Asistencia Privada del Estado de Sonora
• Resolución Miscelánea Fiscal 2004
• Convenio entre el Gobierno de los Estados Unidos Mexicanos y el Gobierno de los Estados Unidos de América para Evitar la Doble Imposición e Impedir la Evasión Fiscal en Materia de Impuestos sobre la Renta (Convention of the United States of America and the Government of the Mexican United States for the Avoidance of the Double Taxation and the Prevention of the Fiscal Evasion with Respect to Taxes on Income)
<table>
<thead>
<tr>
<th>Abbreviation</th>
<th>Acronym</th>
</tr>
</thead>
<tbody>
<tr>
<td>Asociación Civil</td>
<td>AC</td>
</tr>
<tr>
<td>Centro Mexicano para la Filantropía</td>
<td>CEMEFI</td>
</tr>
<tr>
<td>Comisión Nacional de Derechos Humanos</td>
<td>CNDH</td>
</tr>
<tr>
<td>Consejo Nacional para la Ciencia y la Tecnología</td>
<td>CONACyT</td>
</tr>
<tr>
<td>Diario Oficial de la Federación</td>
<td>DOF</td>
</tr>
<tr>
<td>Distrito Federal</td>
<td>DF</td>
</tr>
<tr>
<td>Impuesto del Valor Agregado</td>
<td>IVA</td>
</tr>
<tr>
<td>Institución de Asistencia Privada</td>
<td>IAP</td>
</tr>
<tr>
<td>Instituto de Desarrollo Social</td>
<td>INDESOL</td>
</tr>
<tr>
<td>Instituto Nacional de Estadística y Geografía</td>
<td>INEGI</td>
</tr>
<tr>
<td>Instituto Mexicano del Seguro Social</td>
<td>IMSS</td>
</tr>
<tr>
<td>Instituto Nacional de Mujeres</td>
<td>INMUJERES</td>
</tr>
<tr>
<td>Instituto Mexicano de la Juventud</td>
<td>IMJ</td>
</tr>
<tr>
<td>Junta de Asistencia Privada</td>
<td>JAP</td>
</tr>
<tr>
<td>Ley del Impuesto al Valor Agregado</td>
<td>LIVA</td>
</tr>
<tr>
<td>Ley del Impuesto sobre la Renta</td>
<td>LISR</td>
</tr>
<tr>
<td>Ley de Instituciones de Asistencia Privada para el Distrito Federal</td>
<td>LIAPDF</td>
</tr>
<tr>
<td>Organizaciones de la Sociedad Civil</td>
<td>OSC</td>
</tr>
<tr>
<td>Secretaría de Educación Pública</td>
<td>SEP</td>
</tr>
<tr>
<td>Secretaría de Hacienda y Crédito Público</td>
<td>SHCP</td>
</tr>
<tr>
<td>Secretaría de Relaciones Exteriores</td>
<td>SRE</td>
</tr>
<tr>
<td>Secretaría de Salud</td>
<td>SS</td>
</tr>
<tr>
<td>Servicio de Administración Tributaria</td>
<td>SAT</td>
</tr>
<tr>
<td>Sistema Nacional para el Desarrollo</td>
<td>SAT</td>
</tr>
<tr>
<td>Integral de la Familia</td>
<td>DIF</td>
</tr>
<tr>
<td>Organizaciones de la Sociedad Civil</td>
<td>OSC</td>
</tr>
</tbody>
</table>
ANNEX 1. INFORMATION ON PARTICIPATING ORGANIZATIONS

These participants permitted to take part either anonymously or mention the name of the organization the work with. Following is the list of those who decided to be identified:

Albergue Estudiantil de Mocorito, I.A.P.

Amigos Sin Frontera, A.C.

Asilo Vivir de Amor, F.B.P. UNIFRAT, I.A.P.

Asociación Pro Personas con Parálisis Cerebral de Culiacán, I.A.P.

Asociación Pro-Formación y Orientación de la Mujer, I.A.P.

Banco de Alimentos de Culiacán, I.A.P.

Banco de Alimentos de Los Mochis, I.A.P.

Capacitando con Valores, I.A.P.

Casa Down de Mazatlán, I.A.P.

Casa Hogar Abrázame, A.C.

Casitas Mazatlán, I.A.P.

Centro Comunitario Pro-Valores Los Alamitos, I.A.P.

Centro Médico San Vicente, I.A.P.

Centro Ocupacional y Recreativo, I.A.P.

Centro Terapéutico Emmanuel, I.A.P.

CESDER-PRODES, A.C.

Cinco Panes y Dos Peces, A.C.

Consejo Civil Mexicano para la Silvicultura Sostenible, A.C.

CRUZROSA ABP Banco de Ropa y Enseres de Culiacán, I.A.P.

En Acción solo por Amor, I.A.P.

Esperanza de Luz, I.A.P.

Estado de Morelos (solo identificó lugar)

Estrella Guía, I.A.P.
Fundación Ale Mazatlán, I.A.P.
Fundación Carlos Elizondo Macías, I.A.P.
Fundación Casa de Santa Hipólita, A.C.
Fundación Castro Limón, A.C.
Fundación Comunitaria Oaxaca, A.C.
Fundación Grupo LALA, A.C.
Fundación Healy, A.C.
Fundación Hogar del Anciano María Auxiliadora, A.C.
Fundación Merced Coahuila, A.C.
Fundación Merced Querétaro, A.C.
Fundación Mexicana para la Planeación Familiar, A.C.
Fundación Renal Hidalguense Bicentenario México A.C.
Fundación Roberto Ruiz Obregón A.C.
Fundación Tarahumara José A. Llaguno, A.C.
Junta General de Asistencia (gobierno no identificado)
KLABU, S.C.
Leones de Los Mochis I.A.P.
Shriners del Estado de Sinaloa
Luz de Vida, I.A.P.
Niños y Niñas de la Sierra, I.A.P.
Operation Smile México, A.C.
Orfanatorio de Mazatlán, I.A.P.
Organismo de Nutrición Infantil, A.C.
Papalote Museo del Niño, A. C.
Procura, A.C.
Renovación, Unión de Fuerzas Unión de Esfuerzos, A.C.
Save the Children Sinaloa, I.A.P,

Siempre Verde Piña Palmera Elisabetta Redaelli, I.A.P.

Sociedad con Valores, I.A.P.

Sociedad Jardín Botánico de los MOCHIS, I.A.P.

Ver Mejor I.A.P.

Vida y Familia Sonora I.A.P.