

AGNA REPORT



VOICES FROM THE AFFINITY GROUP OF NATIONAL ASSOCIATIONS NETWORK

Each year as part of the State of Civil Society Report we carry out a survey of members of our Affinity Group of National Associations (AGNA), an international network of national and regional level civil society membership bodies. The 27 responses from AGNA members helped to inform our report's year in review sections, and the special thematic overview on civil society and exclusion. Alongside this, AGNA members contributed a wealth of fresh information on the relations between civil society and the state in their various contexts, and on the challenges civil society organisations (CSOs) currently face. The responses paint a picture of how in country after country, civil society is doing its best to engage with governments and develop positive relations, even in the face of some difficult obstacles.

SOME GROUNDS FOR OPTIMISM BUT CONTINUING CHALLENGES

In some contexts, members see cause for optimism in improvements in the relationship. In the **Dominican Republic**, Alianza ONG reports that:¹

There are, in general, good conditions for an enabling environment for CSOs in the Dominican Republic through public financing and institutional mechanisms that allow civil society to engage and dialogue with the government. Although 2014 saw limited improvements in the relationship and a strong need to continue improving the transparency and efficiency of public institutions, it slightly improved in 2015 with an enhanced dialogue on key public policies.

While in **Jamaica**, the Association of Development Agencies also sees some positive signs:

The most significant recent achievement of Jamaican civil society was that CSOs achieved greater respect from the government and private sector for our continuous advocacy stance on critical policy issues. CSOs now sit on the government and private sector International Monetary Fund Economic Oversight committee.

In **Liberia**, the National Civil Society Council of Liberia sees that an improved relationship has enhanced its the ability to resist attempted restrictions on constitutional guarantees of civic space:

The relationship between government and the CSOs has improved to a better position in 2015. With some government institutions, joint implementation of programmes were carried out, joint monitoring conducted and partnership policy between government and civil society developed. In 2015, during the spread of the Ebola virus, the government requested legislative powers to suspend a portion of the constitution under a state of emergency. This was not approved, because of CSOs' engagement with the legislators to deny the request of the president.

1 Quotations cited in this section of the 2016 CIVICUS State of Civil Society Report are drawn from responses to our annual survey of members of the Affinity Group of National Associations (AGNA). In some cases, quotations have been edited from the original contributions for reasons of brevity and clarity, and some have been translated into English from other languages. Any analysis and conclusions drawn are the views of the author, and are not necessarily those of the contributors.

While the **Samoa** Umbrella for Non-Governmental Organisations reports that civil society is working to improve its engagement:

The most significant achievement of civil society in our country was improved engagement with policy-makers and the provision of services that were not provided by the state.

In **Jordan**, Partners-Jordan points to some improvement, but the need for further change to broaden engagement:

In some areas the relationship has improved, such as in one of the projects implemented by Partners-Jordan on open budgets. But still the level should be increased more. The government still lacks a participatory approach with civil society; only a few organisations are in the loop regarding government participatory events.

The NGO Information and Support Centre in **Lithuania** notes that there have been some difficulties in the regulatory environment for CSOs, but it also sees signs of improvement:

Local governments, as well as a number of government agencies, did not always adhere to the legal definition of an NGO (non-governmental organisation) as established by the Law on the Development of Non-governmental Organisations, which in turn had practical implications for CSOs. However, with a number of initiatives underway, and civil society's growing capacity to advocate, lobby the government and gain public recognition and support, the environment for CSOs looks likely to continue to improve steadily. Although still slightly problematic, there was some positive evolution of the relationship between CSOs and local governments, with many increasingly engaging with CSOs in the co-design and co-delivery of public services.

In **Honduras**, a country that has seen mass protests against the president and the continued killing of civil society activists, the Federation of Non-Governmental Organisations for the Development of Honduras understandably sees challenges, but also some improvements in the regulatory environment:

The most significant challenge is the creation of enabling environments for civil society due to the current tax legislation regarding the collection of taxes, exemptions and billing schemes. The most significant achievement was the government's approach to creating an enabling environment and simplification of administrative procedures to facilitate the proper and legal functioning of CSOs, including legal status and registration.

Before its rightward turn in the October 2015 election, discussed in our section on civic space, **Poland's** government also took some positive steps to improve the regulatory environment for CSOs, as the Polish National Federation of NGOs records:

The new law on associations was accepted by parliament. The new law was created in a long participatory process which included hundreds of CSOs. The law makes it much easier to set up an association and restricts the administrative control on public administration on associations. There were also two other positive changes in law on public benefit. There has been a big debate on the law on assembly that still not ended. The idea of forbidding participants of demonstrations covering their faces has given rise to a lot of comments.

The situation in Poland has, however deteriorated since, and it will be important to track how the new law on associations is applied in practice.

WORSENING RELATIONS AND REGRESSIVE LEGISLATION

Elsewhere, the relationship is more difficult. Sometimes the challenge is that a distracted government is failing to give sufficient priority to working with civil society and upholding civic space. The protests that convulsed **Macedonia** in 2015 are covered in our section on protest and activism, but the Macedonia Center for International Cooperation points to the attention this drew away from the day to day business of government cooperation with civil society:

Due to the political crisis throughout 2015, communication and cooperation with public institutions was at a minimal level. Regarding the strategic commitment of the government towards civil society, the government failed to improve its track record in implementing its Strategy for Cooperation between the Government and Civil Sector 2012-2017. It left two key measures - establishment of a civil society council and regulation of budgetary support to CSOs - at the draft stage, and halfway through its implementation, 48 per cent of the measures in the strategy had no progress, and only two were completely realised. The unit for cooperation between the government and civil society is still not effective and supportive towards civil society, since the unit does not have funds for cooperation or implementation of its activities. CSOs are insufficiently involved in policy-making and law-drafting by state administration bodies. Numerous new laws, by-laws and amendments were adopted, without consultations with the public.

A similar lack of focus on the relationship is observed in **Tajikistan** by the Tajikistan National NGO Association:

So far there is no a legal definition of the concept of 'civil society' in the main strategic documents of the country, including the constitution. A number of fundamental strategically important documents and concept papers, such as the National Concept of Civil Society Development in Tajikistan, the Strategy of State Support to NGOs in Tajikistan and the National Concept on Social Partnership have not been adopted yet.

In **Argentina**, The Argentine Network for International Cooperation (Red Argentina para la Cooperación Internacional, RACI) notes that there have been recent legal changes, but these fell short of civil society expectations:

A key event that received high levels of participation of CSOs was the reform of the Civil and Commercial Code, enacted in August 2015. The reform could be called ambiguous. There is a significant gap with CSOs in regard to the promulgation of a legal framework and a specific tax that allows the social sector to act as such; this vacuum is a matter of debate and advocacy from civil society. In this context, the comprehensive reform of the Argentine Civil Code was a missed opportunity for the full recognition of CSOs and the production of public goods of social relevance.

These changes fall within a broader context in Argentina where there has been some tension between civil society and the government, experienced in particular around civil society accountability and advocacy functions:

A peak point for the tense relationship between CSOs and the government in 2015 was the setting up by civil society of a public agenda on the independence of the judiciary in Argentina. Apart from the development of joint activities to generate debate and contributions, the presence of various CSOs at international organisations presenting on the situation of the judiciary in Argentina was read by the government as an attack that fuelled negative opinions about participants, and sparked threats of public prosecutions against participating CSOs.

Some CSOs have had fluid contact with the Federal Government, especially under the management of social programmes associated with territorial decentralisation. This type of link has helped grassroots organisations develop social inclusion activities, but it also generated financial and programmatic ties that threaten the sustainability of actions, especially when these links have political alignments.

There are also a significant number of organisations that have their missions and visions aimed at developing a mix of activities coordinated with the state - as well as other resources - while holding critical positions around various aspects of national or regional public policies. Finally, many CSOs have been targeted by the media as opposition, having their advocacy work being systematically read by the government as attacks and vectors of particular interests. The CSO label has also been used by political actors with specific interests to hide party activities. This has been used as an excuse to get into the public agenda negative messages about CSOs in general, creating suspicions around their activities and transparency.

The worsened situation for civil society in **Turkey** is covered in more detail in our section on civic space, but The Third Sector Foundation of Turkey (Türkiye Üçüncü Sektör Vakfı, TUSEV) points to a lack of institutional dialogue processes as part of the problem:

The state of CSO-government relations has not been improved in Turkey in terms of the adoption of strategies and policies in this area. An overreaching national strategic document to create mechanisms for CSO-government cooperation is still missing in Turkey. In Turkey, public sector-CSO relations are not continuous and are left to the discretion of the public institutions' decision-makers. Despite the existence of relatively good but rare examples of cooperation between CSOs and public institutions by several ministries, the relationship between the public institutions and CSOs is limited mostly to information provision by the government, without extending to the levels of dialogue or partnership. CSOs are seldom able to participate in legislation, and when they do engage in law making processes, they are only able consult on a limited and one-way capacity. CSOs that are consulted prior to or during legislation are not provided regular updates on the progress of the legislative process and are excluded from the further or final steps of this process. According to recent research, the majority of public officials state that the dialogue between CSOs and public institutions is not efficiently maintained.

An under-developed legal environment is an issue in **Palestine**, and this is more explicitly rooted in poor relations between civil society and the state, the Palestinian Consultative Staff for Developing NGOs assesses:

There is a problem relating to Palestinian Association Law. The law needs to be developed and reviewed, because there are some items inconsistent with the right to forming associations, especially in the security survey conducted during registration of new associations. The right of peaceful assembly is guaranteed in Palestinian law, but unfortunately from the practical side, it doesn't exist. There have been dozens of violations of this right, with many associations prevented from assembly and holding peaceful demonstrations.

The relationship is bad, for many reasons: there is a feeling by the government that civil society is a political and financial competitor for the government. There is a large dispute between them on human rights.

Negative attitudes by the state toward civil society in **Bolivia** are revealed in the state's suppression of protest, as discussed in our section on protest on activist. They can also be seen in legislation and regulation that restricts civil space in **Bolivia**, as the Foundation to Support Parliament and Citizen Participation (La Fundación de Apoyo al Parlamento y a la Participación Ciudadana, FUNDAPPAC) reports:

The main challenge for 2015 was to maintain and in some cases restore democratic institutions.

In general CSOs feel threatened because of the authoritarian tendencies of the current government in Bolivia, intended to restrict freedom of action based on a law adopted in order to control, and in many cases, eliminate the action of these organisations. The right to freedom of association has been severely restricted by Law 351 regulating the establishment of CSOs. According to this law, all existing CSOs must update their legal personality, and the conditions are so restrictive that of over 2,000 existing CSOs, so far only 20 have managed to upgrade.

Moreover, the government has introduced a new bill to regulate the operation of CSOs that has not yet been approved, but is outrageously restrictive, since it only allows the operation of organisations that support government policies.

A similar experience is seen in **Kenya**, where a number of regressive laws and policies have been introduced or threatened by the government in recent years. As the Kenya National Council of NGOs records:

The relationship between civil society and government is very poor. Poor government policies are leading to unfavourable working conditions and the shrinking of donor funding. The right to freedom of association is restricted, with some CSOs deregistered; the right to freedom of peaceful assembly is challenged, with some CSO meetings being broken up, such as during the World Trade Organisation summit in Nairobi; and the right to freedom of expression is poor.

Unfortunately in 2015 **Cambodia** finally passed its regressive civil society law, something that had been on the cards for years, despite widespread domestic and international condemnation. The Cooperative Committee for Cambodia locates this negative law within a broader context of restriction:

The new Law on Association and Non-governmental Organisations (LANGO) was promulgated. Many of its articles are strict and assert control over the status of civil society, including in registration and operation. Moreover, the political ideology of the ruling party and the control of power for the ruling party is infiltrated into all government work. CSOs are sometimes ignored or accused of opposition, particularly CSOs working on issues of advocacy and human rights. The government uses a new task group, known as security guards, formed by local authorities, instead of the police and military forces, to prevent or crack down on any peaceful assembly. The government also uses the police or military forces in places where CSOs mobilise.

In **Zambia**, the Zambia Council for Social Development observes that laws are being applied more tightly to squeeze civil society, but civil society has fought back:

The right to freedom of peaceful assembly has worsened. The government is indiscriminately applying the Public Order Act, preventing CSOs from freely assembling. The biggest challenge faced was insecurity in the form of re-registration as demanded by the NGO Act number 16 of 2009. CSOs however challenged this Act in the Zambian High Court, which resulted in the government suspending registration and beginning negotiations with CSOs.

In the **Dominican Republic**, while relations are generally assessed to be good, there is a particular challenge around the holding of public protests:

In the context of mobilisation and advocacy against corruption, peaceful protests have been forbidden by the police, blocking access to a public building hosting a public institution that was the object of the protest, even though the Superior Administrative Court had specifically authorised those protests. Movements organised human chains but police officials in civilian clothing were spotted taking pictures of all the participants. The same tactic was noticed during a peaceful march on 29 November 2015 on global climate change policy.

FREEDOM OF EXPRESSION

In a number of contexts, restriction of the freedom of expression emerges as a particular concern. This is seen in **Bolivia**:

The freedom of expression in Bolivia is being seriously affected by the massive takeover of the media by the government. At the moment, all the most important means of communication have been bought by pro-government forces, are being blackmailed economically with government advertising and tax, or are being persecuted. Nationwide there are only one or two truly independent media companies, and these are constantly harassed.

There are some similar issues in **Argentina**:

2015 was a period in which the freedom of expression occupied much debate, given structural problems in the exercise of this right. The exercise of the freedom of expression and the press has gone through its most adverse period since the return to democracy, according to international bodies specialised in this area. Problems include: discretionary use of advertising for the promotion of media linked to governments or to deter criticism both at national and sub-national levels; the use of public media for government campaigns; excessive instrumentation of the presidential national channel; pressures on and direct assaults of media workers in many parts of the country; and a persistence of gaps in the access to public information, due to a lack of a national regulation.

Freedom of expression also seems to be worsening in the **Dominican Republic**:

Although freedom of expression has generally been respected in the Dominican Republic in 2015, an increase in attacks and crime against journalists has been reported, from threats against lives to murder. A lack of improvement can also be highlighted with the long wait for a trial decision on various legal measures restricting the work of journalists.

While in **Liberia**, notwithstanding the improvements in CSO-government relations noted above, freedom of expression is a lingering concern:

Some journalists have been imprisoned for using their freedom of expression. Speaking on critical national issues has led to the death of an advocate by unknown person. There is surface freedom of expression, but care must be taken in terms of what you are speaking about and who are your targets.

In **Zambia** too, this is a worry:

The right to freedom of expression has worsened. Media freedom is non-existent, and the government has monopolised the public media, which is the only media outfit with nationwide coverage.

As it is in **Palestine**:

The right to freedom of expression is guaranteed in Palestinian law, but unfortunately on the practical side, there are grave violations against opinion leaders and journalists. In recent years, there were hundreds of violations against journalists, arrests, the prevention of the publication of articles, and observation of peoples' opinions in social media.

CIVIL SOCIETY RESOURCING

The resourcing environment for CSOs was the special theme of the 2015 State of Civil Society Report, and remains a critical area for CSOs. The ability to access resources is affected by civic space and civil society relations with the state, and where resources are more challenged, civil society struggles.

Resourcing is identified as a particular challenge in a range of very different contexts, from large countries to small, and the global north to the global south, including in **Nigeria** by the Nigerian Network of NGOs:

Funding has been reported as a major challenge for civil society in 2015, including the capacity to manage CSOs and fundraise.

While in **Samoa**:

The most significant challenge faced by civil society in our country was the lack of funding opportunities and sustainability of programmes.

In **Japan**, a particular constraint encountered in securing domestic funding is the bureaucracy surrounding the qualification for exemption from taxation of donations, an issue on which civil society is campaigning, as the Japan Association of Charitable Organizations (JACO) reports:

JACO advocated towards the national tax office to improve the tax system for charities, finally getting it partially relaxed. Our final goal is to remove the Public Service Test regulation from our system. It is a mess of our taxation system.

Resourcing is a major concern in the **Dominican Republic**, with falling international support and scarce public support:

The most significant challenge faced by civil society in the Dominican Republic in 2015 related to the financial sustainability of CSOs, with a lack of opportunities to strengthen their work. CSOs have been worrying about the sustainability of their organisations and activities in a context of diminished international cooperation support and the absence of any improvement in public funding.

Issues of poor domestic support are also seen in **Macedonia**:

In 2015, still CSOs depend heavily on foreign funding, and the system of state support remained unreformed, thus not supporting the development of CSOs.

In **Tajikistan**, there is a sense that the funding environment has worsened:

The organisational capacity of CSOs in Tajikistan in recent years has deteriorated markedly. This is primarily due to the limited financial capacity of the organisations. Many CSOs do not have a permanent, well-trained professional staff. Many organisations work from grant to grant. Programmes are directly dependent on the amount and availability of funds from foreign donors. The lack of funds hinders CSOs from long-term strategic planning. Tajik CSOs are almost 100 per cent still dependent on foreign donors. Other sources of funding - state, private sector, income from business activities of CSOs, philanthropy, membership fees - remain unused and are not involved enough.

In **Jordan**, a change to the law has worsened the funding environment for CSOs, while competition between issues and among CSOs has worsened the situation:

A challenge was the amendment of the Association Law in the articles that deals with the approval regulations on external funding; the law is stricter now, and the process is longer. More of the portion of international funding resources was directed to relief activities as a response to the crisis of Syrian refugees, which caused higher competition over a smaller amount of funding resources allocated for development activities. The number of CSOs in Jordan continued to increase, which also increased competition on funding opportunities.

While in **Uganda**, the Uganda National NGO Forum report, restricted civic space has led to donor withdrawal which has worsened the conditions for civil society:

Civil society was challenged by inadequate funding that came with the withdrawal of funds by some donors, due to uncertainty with threats against lesbian, gay, bisexual, transgender and intersex (LGBTI) activists, and the run-up to elections to 2016.

It is significant that no examples of improving resourcing conditions were offered. Given recent changes in Official Development Assistance from donor governments, which may make it harder for some CSOs to access donor funding, as discussed in our section on civil society at the global level, the outlook on resources remains challenging.

CONCLUSION

In summary, the responses to the annual AGNA survey describe an experience of national-level relations between CSOs and governments that is at best mixed. There are attempts at developing constructive institutional dialogue with governments, although there is usually room for improvement in these. In the worse examples, restriction is heavy and increasing. In many cases, even when not deliberately restrictive, the laws and policies that impact on civic space and regulate relations between governments and CSOs are insufficient, dysfunctional or inadequately resourced. Civil society continues to seek improvements, but there must be particular concern about the limited freedom of expression and poor resourcing of CSOs, as these hinder advocacy, among other CSO functions.